

\$1.5 Million Awarded Over Profane Debt Collection Calls: Arizona Bankruptcy Attorney

By Arizona Bankruptcy Attorney John Skiba

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42. That is the record number of phone calls a client of mine received from collection agency in a single day. For those who have fallen behind on payments of any sort often one of the most difficult consequences to deal with is the near constant barrage of collection agencies calling their home. What a lot of people don't know is that there are rules that govern collection agencies, what they say to you, and when they can call. These laws are found in the Fair Debt Collection Practices Act ("FDCPA").

Last year a man named Allen Jones from Texas sued a collection agency for FDCPA violations. The collection agency would begin calling at 6:30 a.m. and continue to call up to 11:00 p.m. at night. They used racial slurs, profanity, sexual messages about Mr. Jones' wife, and even continued making the calls after the debt was resolved. After a two-week jury trial, the jury found collector Advanced Call Center Technologies in violation of the FDCPA and awarded Mr. Jones \$1,500,000 in damages.

So what kind of regulations does the FDCPA place on collection agencies? First, it only applies to collection agencies or third party collectors. This means that if a person or company is collecting its own debts that the FDCPA does not apply. If they outsource their debt collection to a third party, that third party is covered under the FDCPA. Here are a few of the other restrictions placed on debt collectors:

- **Contacts at Inconvenient Times:** There is a presumption that any phone call received between 9:00 p.m. at night and 8:00 a.m. the next morning is inconvenient. Further, if a debt collector knows you work nights but insist on calling you in the middle of the day, that would be considered an inconvenient time as well. If you are receiving collection calls before 8:00 a.m. or after 9:00 p.m. that collector is violating the FDCPA.
- **Contacts at Inconvenient Places:** The big one here is the workplace. If a collector is contacting you at your workplace there is a presumption that the collector has violated the FDCPA.
- **Collector May Not Contact You If You Are Represented by an Attorney:** As a bankruptcy attorney I run into this one quite a bit. Even though my clients have told the collector that they are now representing by counsel, they continue to call and harass my clients. If the collector knows that you are represented by an attorney, but continue to contact you directly, they are violating the FDCPA.
- **Contacting Friends, Neighbors, Relatives Prohibited:** Debt collectors may not contact friends, neighbors or relatives and share information about your debt. If they are sharing your information with others they are in violation of the FDCPA.

These are just a few examples of restrictions placed on collection agencies. If you are receiving calls from a collection agency in violation of the FDCPA I would recommend that you keep a log of when the call occurred, whom it was from, and what was said. It is important to keep details such as time of call, length of call, etc. The FDCPA has statutory damages that you can be awarded for their violation and it mandates that the collection agency pay any attorney's fees. Because of these provisions I handle these cases on a contingency basis — meaning there is no charge to you unless I collect on your behalf.

Bankruptcy

The filing of a bankruptcy will stop all collection calls. Immediately upon filing your bankruptcy case the bankruptcy court issues an order that stops all collections efforts against you. This means no calls, no letters, no garnishments, no law suits, nothing. All collection activity must stop. However, even if you need to file for bankruptcy you can still go after collection agencies that have violated the FDCPA and obtain a damages award.

I offer a free bankruptcy consultation where we can discuss any possible FDCPA violations as well as bankruptcy options. Arizona bankruptcy attorney John Skiba can be reached at (480) 464-1111.