

Debt Collectors – Civility on Both Sides is Best for All Parties Involved

Recently there was an article in The New York Times about debt collectors and their desire to be paid a little respect (June 12, 2011 issue). This brings up an interesting subject, not just in debt collection but also generally on how we communicate. In today's world of cellphone, email, instant messaging and social media the need to be aware of the context in which your message comes across is even more important than in the past. Because of the lack of face-to-face social interaction and the void that is being spanned with new electronic communications, individuals need to step back and think before they hit that send button. The cellphone can make bullies out of each of us. Too many times people say things that they would not say if the person they were talking to was standing in front of them. The electronic wall makes everyone a little bit more daring and bold.

When it comes to debt collectors the key is to remember that they are people also and they are tasked with doing a job. Common courtesy and manners go a long way in getting what you want and generally that includes stopping the harassing calls. There is an old axiom that stays "it's not what you say, but how you say it." This is never truer than today when it comes to electronic communications.

That being said, you, as a consumer, should never have to be harassed, belittled, yelled at or talked down to. As they are trying to do their jobs, debt collectors need to be understanding and professional as well. Many people do not know that consumers are protected from debt collectors by the Fair Debt Collections Practices Act. The Federal Trade Commission has prepared a pdf file of the complete Act that is available for download at <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre27.pdf>.

The Fair Debt Collections Practice Act, FDCPA for short, sets out the federal standards by which debt collectors must conform. Many states have supplemented the FDCPA and enacted their own set of rules and regulations concerning the collection of debts. In North Carolina it is contained in Article 2 of Chapter 75 of the North Carolina General Statutes, referred to as "Prohibited Acts by Debt Collectors." Consumers should consult their local communities to see if their particular state has enacted additional legislation.

The FDCPA is in place to protect consumers from harassment, abuse, false and misleading information and unfair practices by debt collectors. The act also provides for civil liability for violating the provisions of the FDCPA. North Carolina also has similar protections and liability which runs concurrently with the federal protections of the FDCPA.

Consumers are protected from calls by a debt collector during unusual hours, generally referred to as after 8:00 pm and before 9:00 am debtor local time. If a consumer is represented by an attorney and the debt collector has knowledge of that representation, than they are not permitted to contact the consumer, with a couple of small exceptions.

Finally, the debt collector cannot contact the consumer at his place of business if they know or should have reason to know that the consumer is not permitted to receive such communication at their place of work.

These are just a few of the limitations placed on debt collectors, there are many more prohibitions and restrictions on what can be said and how it can be said.

When dealing with debt collectors a consumer should take the offensive and not feel afraid or threatened. You the consumer have just as much right to ask questions and quiz the collector on their practices and your debt as they have to question you.

Remember, the number one thing is to remain calm, cool and professional. If you have received collection calls in the past or expect to receive calls take time to write out a list of questions that you want to find out. For example, the debt collector should know exactly what you owe and whom you owe. A half dozen prepared questions can provide you and your attorney with great information should you need to work out a negotiated settlement or need to file bankruptcy. In addition, this information is very helpful should you have to pursue a complaint for a violation of the FDCPA or your state statute.

Some examples of questions would be:

1. What is the legal name of the debt collection company?
2. What is the name of the company you are attempting to collect for?
3. What is your account number and what is the account number for the company that you are trying to collect for?
4. How much is the current debt and how was that calculated?
5. How much do I need to provide to pay off or bring the debt current? How long is this number good for?
6. What is the address to make a payment too? What is the address for sending correspondence?

Don't forget to ask for the name of the person that you spoke to. In some cases debt collectors are afraid to give out their real names because of fear of threats or reprisals for their collection efforts, so make sure to ask if that is their real name and if they have an ID number so you can reference the conversation in the future.

Make sure that you keep good notes of the time and date of the call and the questions you asked and the responses they gave. In some states it is permissible to record the conversation. Check your local laws to see if it is legal and then get the debt collectors consent to record the call, they do it so you should to.

There are a lot of stories of the tactics that debt collectors use to try and get consumers to pay. These go from threatening arrest, judgments, civil and criminal prosecution to bodily harm. There are also cases where foul language, intimidation or racial slurs have been used. In most cases this is not the norm, but they do happen and when they do it is important that you have documented the calls so that you can use it to pursue a violation against the debt collector. However, if you are not professional or if you get into threats or use unpleasant language yourself, your chances of recovery and having the collection efforts curtailed becomes more of a problem for you or your attorney.

Remember, that debt collectors are not to be feared. They cannot threaten, harass or mislead you into paying the debt. If they violate their standards of conduct, you have rights and protections under the FDCPA and possible local laws. Be calm, listen to what they are saying, document the call and then contact an attorney that can help you stop the abuse.

For more information about bankruptcy, Chapter 7 or Chapter 13, contact Dennis Jay Sargent Jr, at 919-654-4545 or visit us on the web at <http://www.SargentLawNC.com>. Dennis Jay Sargent Jr is a North Carolina attorney that focuses his practice in consumer bankruptcy. The Law Office of Dennis Jay Sargent Jr, PLLC is a debt relief agency, helping people file for Chapter 7 or Chapter 13 bankruptcy relief under the United States Bankruptcy Code. We are also a proud member of the National Association of Consumer Bankruptcy Attorneys and the American Bankruptcy Institute.