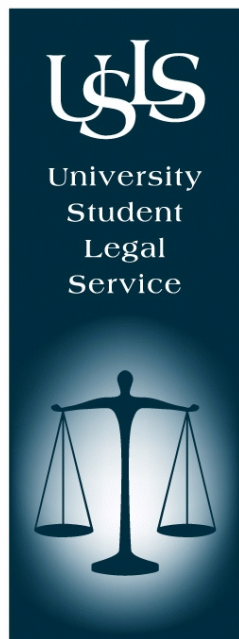


Consumer's Guide to Debt Collection

UNIVERSITY OF MINNESOTA



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Many creditors retain outside agencies to collect unpaid debts on their behalf. The best way to avoid contact from collection agencies is to be very cautious about incurring unnecessary debts which extend beyond your ability to pay. However, when circumstances arise which result in overdue bills, there are legal protections from certain abuses by debt collectors.

The Federal Fair Debt Collection Practices Act applies to collection agencies and attorneys who regularly collect debts on behalf of the original creditors. It does not apply to creditors collecting their own debts. This law makes it illegal for debt collectors to:

- refuse to identify themselves or their company;
- make repeated, harassing, or abusive phone calls or use offensive or obscene language;
- contact you directly if they know you are represented by an attorney;
- call you at work if you tell them you can't receive personal calls;
- threaten to misrepresent your credit record or prevent you from obtaining employment;
- falsely imply that you have committed a crime;
- discuss the debt with your friends or relatives, or threaten to do so;
- demand a postdated check and then deposit it before the intended date.
- repossess your property or threaten to do so, without legal or contractual authority;
- use false, misleading, or deceptive means to collect a debt or obtain information.
- refuse to verify the accuracy of a debt which you dispute in writing.

The first oral and written communications from a debt collector must include a warning that they are attempting to collect a debt and any information will be used for that purpose. If a collector calls you, keep a record of all conversations, including the date and time, the name of the caller and the company, and what is said. Be cautious about disclosing any personal information about yourself or your finances, such as the name of your bank or employer. If the caller uses offensive language or tactics, demand that they speak politely, and end the conversation if they do not. Keep all written records, including notices, bills, letters, envelopes, and canceled checks or money orders.

Within 5 days after a debt collector first contacts you they must send you a written notice which includes:

- the correct amount of the debt and the name of the creditor;
- a prominent statement that you may dispute the debt in writing within 30 days and they will obtain verification and send you a copy.
- a prominent statement that they will assume the debt is valid unless you dispute in within 30 days.

To dispute the debt, it must be in writing within 30 days after receipt of the collector's notice. The collector must then:

- respond to your request for verification that the debt is valid;
- stop all collection efforts until they send you verification;
- make no reports to credit bureaus until they respond to you.

The right to obtain verification is designed to minimize the instances of mistaken identity, errors in accounting, and false claims resulting in unfair credit problems for consumers.

Verification of a disputed debt may take different forms, depending on the nature of the dispute. It may include a copy of a court ordered judgment, a history of charges and payments to a credit account, or a copy of a contract.

Your failure to dispute the debt within 30 days may not be used against you in court as an admission of liability.

Minnesota law requires all debt collectors doing business in this state to be licensed by the department of commerce. A statement to that effect must be included in the collector's first communication by mail to the debtor. This is true even if the collector is located in another state. Minnesota law also makes it illegal for a debt collector to:

- give legal advice, or threaten legal action by an attorney unless it has actually retained an attorney;
- send letters or bills which falsely appear to come from a lawyer, governmental agency, or which look like court papers;
- publish or give out names of debtors;
- accept cash without giving a receipt.

You can stop all contact from a debt collector by sending a cease and desist letter.

If you decide that further communication serves no purpose, send a letter instructing the debt collector not to contact you again. Date it and keep a copy. After you send the letter, the debt collector or the original creditor may still sue you in court, and your credit report may still show the debt is unpaid.

If you believe a collection agency has violated the state or federal laws outlined above, you may be able to sue the debt collector for actual damages and/or punitive damages of up to \$1000 for each violation. But in most cases you must do so within one year of the violation. It is advisable to consult with an attorney. The following is a list of government organizations you may contact:

Minnesota Dept. of Commerce, Licenses & Enforcement
85 - 7th Place East, Suite 500,
St. Paul, MN 55101
612-296-2488 or 1-800-657-3602
www.commerce.state.mn.us

Minnesota Attorney General, Citizen Assistance
445 Minnesota Street, Suite 1400
St. Paul, MN. 55105
651-296-3353 or 1-800-657-3787
www.ag.state.mn.us

Federal Trade Commission, Consumer
Response Center, 600 Pennsylvania Avenue
Washington, DC 20580
1-877-382-4357
www.ftc.gov

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Remember: The law changes often and each case is different. This brochure is meant to give you general information, not specific legal advice.

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USLS has a full-time staff of attorneys, legal assistants, and support staff to help students with legal problems. Any University of Minnesota Twin Cities student who is currently paying the student services fee is eligible. USLS can handle cases in the seven-county metro area.

USLS can help with the following:

- ▶ Landlord/Tenant
- ▶ Collection
- ▶ Consumer Problems
- ▶ Employment
- ▶ Immigration
- ▶ Family Law
- ▶ Misdemeanors/DUI
- ▶ Name Changes
- ▶ Power of Attorney
- ▶ Wills

To make an appointment, please call our office at 612/624-1001. The receptionist can explain our eligibility requirements, answer questions about the scope of our practice areas, and refer you to other services or agencies that might be able to help.

Please note that USLS cannot take cases where the adverse party is the U of M or any of its departments, staff, or students.

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