

Debt collectors are harassing me. Is this legal? A federal law called the Fair Debt Collections Practices Act makes it illegal for debt collectors to:

- Make false statements or use offensive language.
- Tell you that failure to pay your debt is a crime, or threaten you with jail time.
- Threaten to collect the debt from a third party, like your family or neighbors.
- Threaten to take your homestead or your paycheck.
- If it's a collection agency, they are not legally allowed to call you at work or call you between 9 pm and 8 am (unless you agree).

You can also send a **“cease and desist” letter** to the debt collector by certified mail demanding that they stop harassing you at your home or work. Keep a copy for your records. If the debt collector continues to harass you, you may have grounds for a lawsuit.

How can I defend myself against a lawsuit from a creditor? *Know your rights:*

- A creditor must file the lawsuit within *4 years* of the date of your last minimum payment or your promise to pay. If the creditor misses this window, they can't sue you to collect even if you owe the debt.
- The creditor must send you a *written* demand for payment (“demand letter”) at least 30 days before filing a lawsuit against you.
- If you don't owe the debt or the amount is wrong, reply to the demand letter within 30 days. For a form reply, go to www.nedap.org/resources/documents/DisputeLetterwithElectronicForm.pdf.

Collection agency must provide copy of creditor contract if you ask for it: If the creditor has sold your debt to a collection agency, the agency is required to keep a copy of the contract between you and the original creditor on file that shows your account number with the original creditor. You have a legal right to ask for a copy of this contract to make the collection agency prove that they have the authority to collect the debt. Often the debt collection agency would rather not go through the trouble of locating, copying and sending you a copy of the creditor contract and will stop simply collection efforts against you rather than go through these extra steps.

How will I know if I'm being sued? You will be served with legal papers by mail or by a process server. The first page is the “citation”, which will say: “You have been sued...” Read the documents, identify who is suing you and how much they claim that you owe. File a *written answer* with the court before the deadline (answer date). If you miss the deadline for answering, the creditor wins by default.

What is an “Answer”? It is your first response to the lawsuit. Your answer can be a handwritten letter to the court that says you do not agree with the lawsuit. Include your case (cause) number, mailing address and any *defenses* to the lawsuit, for example, the amount they claim you owe is incorrect, the account isn't yours, or the debt is older than 4 years.

When is my “Answer Date”? The citation will state when you must file an answer. In Texas *county/district court*, the answer is due on the Monday following 20 days from when you're served; in *JP/Justice Court*, the answer is due 14 days from when you're served

Along with the lawsuit, the creditor may have included “discovery requests” in the form of Requests for Admissions, Interrogatories, or a Request for Production asking you for documents. You have 50 days to comply with these requests. If you do not answer the Request for Admissions, you will automatically lose the lawsuit. An attorney is not required for you to answer the lawsuit or send discovery, but it's a good idea to contact a lawyer if you have defenses or claims against the creditor.

What if I ignore the lawsuit? The creditor wins by default and can get court-ordered money judgment against you that they can try and collect by seizing your property. By law, your homestead, income, and certain other kinds of property are exempt from seizure by third-party creditors. If everything you own is exempt, you may be “judgment proof.” If you agree that you owe the debt and have no legal defenses try to negotiate a payment plan with the collector. A credit counselor can act as a go-between and help negotiate a payment plan. For tips on finding a credit counselor, go to www.consumer.ftc.gov/articles/0153-choosing-credit-counselor.