



## **FDPCA BASICS**

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## **IMPORTANT INFORMATION—PLEASE READ THIS FIRST**

Just because you use these materials does not mean that I'm your lawyer. I'm only your lawyer if we both sign something that says I'm your lawyer.

These free materials are information, not legal advice. If you want legal advice, talk to a lawyer privately about your specific situation. If you live in Minnesota, feel free to contact me about your case.

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The Fair Debt Collection Practices Act—or FDCPA—is a federal law that prohibits debt collectors from using harassing, abusive, and deceptive practices when collecting a debt. In passing the FDCPA, Congress recognized that illegal debt collection tactics create four big problems for consumers:

- loss of jobs;
- marital instability;
- unnecessary bankruptcy filings; and
- invasions of personal and financial privacy

Congress designed the FDCPA to prevent these social maladies by giving consumers the right to hold debt collectors that violate the FDCPA accountable for their illegal conduct. **Even if you owe the debt, you can still sue a debt collector that violates your rights under the FDCPA.**

It's important to understand two important things about the FDCPA. First, it only applies to consumer debts. A consumer debt is one that was incurred for personal, family, or household purposes. In other words, business debts are not covered by the FDCPA. Second, the FDCPA only applies to someone who is collecting the debt of another. For example, if you have an unpaid Capital One credit card and Capital One themselves is trying to collect the debt, they aren't collecting the debt of another and the FDCPA doesn't apply.

With those two things in mind, it is a violation of the FDCPA if a debt collector:

- lies or misleads you;
- yells, shouts, swears, calls you names, or uses racial slurs;
- calls your friends, family, co-workers, or neighbors and tells them that you owe a debt
- threatens to sue you or garnish you when they have no intention to do so
- calls you at work after you've told them not to
- tells you that you can be arrested or go to jail if you don't pay the debt
- calls you when they know you have a lawyer
- threatens you with violence
- calls you—or even just causing your phone to ring—repeatedly
- any other conduct that is unfair, untrue, undignified, or disrespectful.

If a debt collector violates the FDCPA, you have the right to sue them, and if you win the case, receive up to \$1,000.00, plus any actual damages that you've suffered. And the debt collector must pay your attorneys' fees and any out-of-pocket costs. **In other words, if you win your case, you get \$1,000, any provable actual damages, a *free* lawyer, and your litigation costs paid for.**

If you're getting debt collection calls or letters, here are a few things you should do to protect your rights:

- Save every letter you get from a debt collector, including the envelope
- Take detailed notes of every conversation you have with a debt collector. Use the attached form and feel free to make more copies.
- Save every voice-message left by a a debt collector
- **Contact me if a debt collector has done any of the things listed above, or if they do anything that just doesn't seem right to you. I can help you figure out whether the debt collector has violated the FDCPA. If they have, we can discuss whether suing them is the best option for you.**

## COLLECTION CALL LOG

Date of call	Time of call	Conversation or message?	Collection agency and individual collector's names	What did the collector say? How did it make you feel? (be detailed—use the other side if necessary)

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