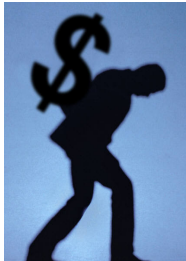




LAET COMMUNITY NEWSLETTER



Debt Collections and FDCPA

Overview

Debt collectors are regulated by numerous state and federal laws in their debt collection activities. Most people know that debt collectors cannot abuse them on the phone or in writing — what many people don't know is that they have a lot of other legal rights, too. Most importantly, you have State and Federal rights to be free from collector harassment whether you do or do not owe a debt. Your "debt" is not the issue, the question is whether debt collectors have violated your rights. If they have then you can **FIGHT BACK**.

For example, a debt collector generally cannot call you at work. Debt collectors cannot contact you if they know you are represented by an attorney. Debt collectors cannot tell others about your debts, like your next door neighbor or your co-worker. Debt collectors also must be licensed in the State of Tennessee if they are collecting the debts of others. These are just a few of the numerous protections you have against debt collectors regarding your consumer debt(s).

The Federal Fair Debt Collections Practices Act ("FDCPA")

As a consumer, you are entitled to file a lawsuit against any debt collector who violates your rights under the FDCPA. In short, the FDCPA allows a consumer to recover their actual damages, statutory damages of up to \$1,000, and their attorney's fees and costs. While this may be a modest amount, or a more substantial amount depending on the facts; to debt collectors who violate the law there is much more at stake: Increased insurance rates, decreased collection rates, potential governmental regulatory action, and the spiraling costs of defending a lawsuit for their illegal conduct.

The deck is stacked against consumers facing sophisticated debt collection tactics. As a consumer, you should not hesitate to shield yourself from these sharp practices and exercise your rights under the FDCPA. The FDCPA prohibits any collection efforts which violate any law. That means that amongst other things, a collector must tell the truth, be respectful to you, and cease communicating with you when you have a lawyer. Your legal right to fair, legal, and honest debt collection activity cannot take a back seat to any debt collector's violations of state and federal law.

Who is Covered: Some Definitions

Consumer. Any person who owes or is alleged to owe a consumer debt.

Debt Collectors. According to the FDCPA, a debt collector is any person, other than the creditor, who regularly collects debts owed to others and includes attorneys who regularly collect debts.

Covered Debts. Any debt that is primarily for personal, family, or household purposes are covered under the FDCPA. Business and commercial debts are not covered. Alimony, child support, criminal fines, and tort claims are generally not considered debts within the meaning of the FDCPA.

Table of Contents:	Page No.
Debt Collection and FDCPA	1-3
Your Rights to Fair Housing	3
Erlanger Health System Health Law Partnership	3

If you are interested in receiving future newsletters electronically, please contact Legal Aid of East Tennessee through our website—<http://www.laet.org>

How a Debt Collector Can Communicate With You

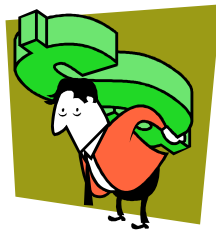
Communications Generally. A debt collector may communicate with you by mail, in person, by telephone or telegram. A debt collector cannot contact you at times or in places that they know are inconvenient to you, such as at work, if your employer does not permit it, or during daytime sleep hours if you work nights. A debt collector cannot contact you before 8 a.m. or after 9 p.m.

Stopping Communications. If you send a written request to a debt collector demanding that they stop contacting you, the debt collector must stop contact immediately, but they may send one last communication to you advising you that they intend to take a specific action against you including filing a lawsuit.

Attorney Representation. If you are represented by an attorney concerning a consumer debt (e.g., a consumer rights attorney, a bankruptcy attorney, or a family attorney), the debt collector cannot communicate directly with you except through your lawyer.

Contacting Others. A debt collector cannot contact any third party about your debt. This means that they cannot call your sister-in-law, your grandson, or your neighbor about the debt. Debt collectors are not allowed to tell anyone but you and your attorney that you owe anyone else money.

Locating You. A debt collector has a right to contact other people once, and only once, in an effort to locate you. Debt collectors are not permitted to ask neighbors to bring you phone messages, ask you to come across the street for a phone call, or tell other people that they are attempting to collect a debt from you.



Debt Validation

30-Day Validation Notice Requirements. Within five days after you are first contacted, a debt collector must send you a written notice telling you the following:

- The amount of the debt.
- The name of the creditor to whom the debt is owed.
- A statement that unless you, within thirty days after receipt of the notice, dispute the validity of the debt, or any portion of it, the debt will be assumed to be valid by the debt collector.
- A statement that if you notify the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against you and a copy of such verification or judgment will be mailed to the consumer by the debt collector.

Rights While Debt Under Dispute. If you dispute a debt in writing within the 30-day validation period, a debt collector cannot continue to collect on the debt until they have sent you proof of the debt or a copy of the judgment.

What a Debt Collector is Prohibited From Doing to You

Collection Fees Prohibited. A debt collector may not charge you interest, fees, or collection charges, except those amounts that were authorized by the agreement with the creditor to whom the debt is owed.

Harassment Prohibited. A debt collector may not use any language, communication, or conduct to harass, oppress, or abuse any person. This includes prohibitions on:

- Use threats of violence or harm to the person, property, or reputation.
- Advertise your debt or publish a list of consumers who refuse to pay their debts, except to credit bureaus.
- Use obscene or profane language.
- Repeatedly use the telephone to annoy someone or ring the telephone constantly.
- Call people without identifying themselves.

Continued on page 3...

False Statements Prohibited. A debt collector may not use any false statements when trying to collect a debt. This includes:

- Filing False paperwork in General Sessions Court
- Falsely implying that they are an attorney or government representative.
- Falsely implying that you have committed a crime by not paying a debt.

Source:

*Mechem Law Firm, Attorney at Law
220 Broad Street, Suite 206
Kingsport, Tennessee 37660
www.mechemlaw.com*

Edited by Legal Aid of East Tennessee

YOUR RIGHTS TO FAIR HOUSING

Housing Discrimination

The Federal Fair Housing Act prohibits the denial of housing to a person based on the person's membership in one or more of the classes protected under the Act. The protected classes are race, color, religion, national origin, sex, familial status, and handicap.

It is therefore illegal to discriminate against a person in the provision of housing because of a person's membership in a protected class in the following situations:

- the sale or rental of most housing;
- the terms, conditions, privileges of sale or rental, or provision of services or facilities in connection with the sale or rental of most housing;
- the advertising of a sale or rental of housing;
- the representation of the availability of housing for rental or sale;
- the provision of reasonable modification to a dwelling for persons with a handicap at their expense when necessary for the full use and enjoyment of the dwelling;

- The provision of reasonable accommodation to the rules, policies, practices or services when necessary to provide persons with a handicap the equal opportunity to use and enjoy the dwelling.
- the financing or refinancing of housing; and,
- the provision of real estate brokerage services.

In addition, it is illegal to coerce, intimidate, threaten, or interfere with a person in the exercise of enjoyment of rights provided or protected by the Fair Housing Act or because a person aided others to enjoy rights provided or protected by the Act.

Legal Aid of East Tennessee Opens up New Office at Erlanger Hospital in Chattanooga!

This new service is called **Erlanger Health System Health Law Partnership (eHLP)**.

The patients served by the Erlanger Health Law Partnership face many barriers to accessing the services of an attorney, including the lack of transportation, lack of knowledge about the availability of services, language barriers, and mistrust of the legal system. To address the poverty-stricken risk factors that affect asthma and other health conditions, EHLP was founded to provide legal services to Erlanger patients.

Erlanger Health Law Partnership places an attorney into the medical setting, mitigating these barriers and building on the trust developed in the physician-patient relationship. By placing a poverty law attorney from Legal Aid of East Tennessee directly into Erlanger's main location on the Baroness campus, EHLP aims to help patients with issues such as sub-standard housing, lack of access to public support programs, and family violence.

Erlanger Health Law Partnership can assist with legal issues such as:

- Public benefits, such as food stamps
- Domestic violence
- Housing
- Education
- Employment, such as Family Medical Leave Act (FMLA)
- Consumer
- Power of attorney and advanced directives

The LAET Community Newsletter is made possible in part with funding from Legal Services Corporation, Tennessee Bar Foundation, The Area Agency on Aging and Disability, Department of Human Services, and the Tennessee Supreme Court.

The LAET Community Newsletter is published biannually by Legal Aid of East Tennessee, 535 Chestnut Street, Suite 360, Chattanooga, TN 37402. Send comments to Russell Fowler, Editor, 535 Chestnut Street, Suite 360, Chattanooga, TN 37402.

For legal assistance, contact the Legal Aid office in your area as listed below:

Chattanooga	423-756-4013 or 1-800-572-7457
Erlanger eHLP	423-778-7807
Johnson City	423-928-8311 or 1-800-821-1312
Knoxville	865-637-0484
Maryville	865-981-1818
Morristown	423-587-4850 or 1-800-831-1309
Hispanic Hotline	1-866-408-6573

Title VI of the Civil Rights Acts prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance.



NONPROFIT ORG.
U.S. POSTAGE PAID
JOHNSON CITY, TN
PERMIT NO. 49

