

Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act is a federal law designed to protect consumers from abusive debt collection practices. Debt collectors have historically used abusive practices to collect debts. Those abusive practices have increased the number of bankruptcies, caused lost jobs, and hurt families, Congress acted to prevent at least some of these practices. If a debt collector is breaking this federal law, you have significant rights.

Below are some categories of prohibited conduct and some specific examples of the practices that collection agencies and collection attorneys engage in that frequently violate this law.

Harassment or Abuse by a Debt Collector

Federal law prohibits harassment and abuse by debt collectors. They are not allowed to do anything that has the natural consequence of harassing, oppressing, or abusing any person to collect a debt. Some examples of prohibited conduct include:

- Using the threat of violence or criminal means to physically harm a person, harm his or her reputation, or harm his or her property.
- The use of obscene language to abuse the hearer or reader,
- Publishing a list of consumers who allegedly will not pay debts (under most circumstances),
- Advertising the sale of a debt to force payment of the debt,
- Repeatedly calling a person on the phone to annoy, abuse, or harass any person at the called number,

- Making telephone calls without disclosing the caller's identity (under most circumstances).
- Contacting third parties for any reason other than to locate a consumer.

False or Misleading Representations

Aside from generally not being allowed to abuse those they are trying to collect a debt from, debt collectors also are specifically prohibited from using false or misleading representations in order to collect a debt. This means that, amongst other things, they cannot:

- Make a false representation or falsely imply that they are vouched for or affiliated with the U.S. government or a state government.
- Make false representations about the amount or legal status of a debt, or about any services rendered or compensation they may receive for the collection of the debt.
- Falsely claim that they are attorneys or that their communication is on behalf of an attorney.
- Falsely claim that nonpayment of a debt will result in arrest or imprisonment.

Unfair Practices

Debt collectors are also not allowed to use unfair means to collect a debt. This specifically includes, but is not limited to the following things:

- Soliciting a postdated check for the purpose of threatening a criminal prosecution.

- Depositing or threatening to deposit a postdated check prior to the date on the check.
- Causing charges to be made for communications by concealing the true purpose of the communication (for example, tricking you into accepting a collect call or telegram).
- Communicating regarding a debt by post card.

Statute of Limitations

The Statute of Limitations is the amount of time after an event (usually a default in payment) in which a legal action can be initiated. When this period passes, a claim can no longer be filed without being subject to dismissal if raised by the consumer. The statute of limitations may vary from one civil consumer action to another, depending on the nature of the case, but generally it is either four years (for auto deficiencies) or six years (for credit cards, loans, or other written contracts, etc.). The purpose and effect of statutes of limitation is to encourage the plaintiff to take action while evidence is still available and fresh. In Georgia Sometimes the statute of limitations can be under seal and in those cases may be 20 years.

Your Remedies when a Debt Collector violates the FDCPA

The Fair Debt Collection Practices Act allows you to sue debt collectors for breaking this law. You can recover any actual damages you suffer plus additional statutory damages determined by the Court up to an additional \$1,000.00. If you are successful in suing under this law, the debt collector will also be forced to pay both the court costs and your attorney's fees. Because of this last provision, Skaar & Feagle is able to assist many consumers with relatively minor collection abuse claims or where the damages are relatively

small and which would otherwise not merit economically feasible litigation.

Supplemental State Law Claims

If there is a violation of the FDCPA, it will likely be a violation of Georgia's Fair Business Practices Act. This can significantly affect the recovery as violations under this statute, if found to be willful, allow juries the option to treble the damages.

Additionally, if the debtor is over 60 years of age or disabled when they are contacted, there may also be a violation of Georgia's Elder Abuse which may even further enhance the judge's

How Skaar & Feagle Can help you with Abusive Collection

Our firm has sued hundreds of collection agencies, collection attorneys and debt purchasers for their violations of Fair Debt Collection Practices Act ("FDCPA"). Collectively, the attorneys in our firm have filed more debt collection cases than any other firm in the state of Georgia. This Federal law protects consumers from debt collection harassment. Often there are supplemental state law claims, e.g. if the collection activity was malicious or if you are elderly or disabled. You can always send us an email to make an inquiry or you can simply Call our office for a free telephone consultation with an experienced attorney.

If our firm accepts your case, we work on a contingent basis and we are paid only at the successful conclusion of the case, as the FDCPA provides for the recovery of attorney's fees and costs from the violating debt collector. We promise that if there is no recovery, then there is no fee. We advance all your costs which will only be

repaid to us if there's a recovery for you. We don't take on cases that we don't think we can win. We want to make things right for you and with approaching 100 years of combined consumer litigation experience, you can be assured we'll do our very best legal work for you.