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Debt Collection Practices and Lawsuits

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In 2024, Americans owed about \$17.94 trillion in total household debt. Most of this debt comes from mortgages. However, due to inflation and rising prices, credit card debt increased by 17.4% from 2022 to 2023. More people are now being taken to court for debt than ever before.

From the time a person stops paying a debt to the end of a court case, there are laws that protect the person who owes money. This guide explains those laws and gives helpful information about debt collection and lawsuits.

When a Debt Collector Contacts You

Two important government agencies protect consumers:

- Federal Trade Commission (FTC)
- Consumer Financial Protection Bureau (CFPB)

These agencies make sure businesses treat people fairly. They also make sure that debt collectors follow the law.

Debt collectors must follow the Fair Debt Collection Practices Act (FDCPA). This law says they cannot lie, threaten, or harass you. It also gives you the right to ask for proof that you owe the debt and to dispute it.

The CFPB offers helpful information, including:

- [What information does a debt collector have to give me about a debt they're trying to collect from me?](#)
- [What can I do if a debt collector contacts me about a debt I already paid or don't think I owe?](#)
- [What laws limit what debt collectors can say or do?](#)
- [What is harassment by a debt collector?](#)
- [When and how often can a debt collector call me on the phone?](#)
- [Can debt collectors tell other people, like family, friends, or my employer, about my debt?](#)
- [How do I get a debt collector to stop calling or contacting me?](#)
- [SAMPLE LETTERS | What should I do when a debt collector contacts me?](#)

You may also file a complaint with the CFPB online by clicking [here](#) or submit a complaint via phone. Help is available in more than 180 languages.

☎ Call: 855-411-2372

☎ TTY/TDD: 855-729-2372

☎ Hours: 8 a.m. to 8 p.m. ET, Monday through Friday (except federal holidays)

If You Are Sued for a Debt

A debt collection lawsuit usually begins with two documents:

- A summons, which tells you that you are being sued
- A complaint, which explains what the creditor says you owe and why

You must respond with an Answer, which is your written reply to the court. In it, you may include your side of the story or any defenses. If you do not respond or do not go to court, the court may decide in favor of the creditor. This is called a default judgment.

It is important to know that you cannot go to jail for owing money. Debt collection cases are civil matters, not criminal ones.

The law requires that you be properly notified about the lawsuit. This is called service of process. There are specific rules for delivering the summons and complaint to make sure you know about the lawsuit. If the rules were not followed, the court might not be able to rule on the case. If you believe you were not properly notified, you may wish to speak with a lawyer.

If the deadline to file an Answer has already passed, you may still be able to file one late. Explain why it is late—such as not receiving the papers, being in the hospital, or misunderstanding what to do.

If you ignore the lawsuit, the court may give a default judgment to the debt collector. This means they can try to collect the money through actions such as:

- Wage garnishment (taking part of your paycheck)
- Bank account levy (taking money from your bank account)
- Lien on your property (placing a claim on your property)

There is a simple Answer Form you can use to respond to the summons. You can download it as a PDF. A helpful guide from LawNY is also available.

After the Debt Collection Lawsuit

If the court decides that you owe the money, the debt collector can take steps to collect it. This is called income execution. They may do the following:

- Garnish wages – Your employer takes part of your paycheck and sends it to the creditor.
- Freeze bank accounts – Your bank may freeze your money, and the creditor may take funds.
- Place a lien – The creditor can put a legal hold on your home or property.

New York State Limits

If your case is in New York:

- Debt collectors must leave at least \$3,000 in your bank account if your case started between April 1, 2021, and April 1, 2024.
- 90% of wages you earned in the past 60 days is also protected.

Example:

- Bank account balance: \$5,000
- Debt owed: \$3,000
- Income from last 60 days: \$1,000
- 90% of that income is \$900 and is protected
- Debt collector may take: \$1,100
- You are left with: \$3,900
- You still owe: \$1,900

Before the funds are taken, your bank will notify you. You will usually have about 27 days to object.

Wage Garnishment Rules

In New York:

- If you earn less than \$465 per week after taxes, your wages cannot be garnished.
- If you earn \$465 or more, a creditor may take up to 10% of your gross pay.
- Only one creditor may garnish wages at a time.
- Your employer cannot fire you for your first wage garnishment.

Protected Income

Certain types of income are protected and cannot be taken by debt collectors. These include:

- Social Security and SSI
- Public assistance (welfare)
- Child or spousal support ordered by a court
- Unemployment benefits

- Disability and workers' compensation
- Veterans' benefits
- Retirement accounts (pensions, 401(k), IRAs)
- 90% of wages earned in the past 60 days
- Money from private trust funds (90% of payments)

If your bank account only has money from these sources, it cannot be taken.

Liens on Property

A lien is a legal claim on something you own, like your house or land. If you owe someone money—like a debt collector—they can ask the court for a lien after winning a lawsuit.

Let's say you want to sell your house, but a debt collector has a lien on the house. Before the sale can happen, you may have to pay the debt first to remove the lien. Sometimes buyers aren't interested in houses because of the lien on the property. Other times the buyer will still want the house but only if you pay off the lien using the money you get from selling the house.

In some cases, the debt collector might even ask the court to force the sale of your property to get their money.

If a Default Judgment Was Entered Without Your Knowledge

You may not know you were sued until your wages are taken or your bank account is frozen. This may mean a default judgment was entered.

You may ask the court to vacate (cancel) the judgment. If the court agrees, the case will be reopened, and you will have the chance to respond.

Common Reasons to Vacate a Judgment

1. Excusable Default

- You had a good reason for missing court (e.g., illness, not receiving the papers).
- You have a legal defense (e.g., you do not owe the money).
- You usually must ask to vacate within one year of the judgment.

2. Improper Service (Lack of Personal Jurisdiction)
 - You were not properly notified of the lawsuit.
 - There is no time limit for this type of request.

How to Request to Vacate a Default Judgment

You can use this [free online tool](#) from NYCourts.gov and LawHelp to complete the forms to ask a court to vacate a default judgment. If you need help, visit a local library, [legal aid group](#), or [Court Help Center](#).

If the judge agrees to review your request, a new court date will be scheduled. Be on time and bring all necessary documents. If the judge vacates the judgment, the case starts over and you will have a chance to defend yourself.

Prepared by LawNY®. Unless otherwise noted, source material is from LawNY®, NYCourt.gov, the CFPB, and the FTC. Debt statistics for 2024 are from USA TODAY, Average American Debt Statistics, <https://www.usatoday.com/money/blueprint/debt/average-american-debt-statistics/> (last visited Apr. 15, 2025).

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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