

Debt Negotiation Q & A

Creditors

Q: The creditors keep calling me, I thought you were going to stop them from communicating with me, they are calling me everyday?

A: We can not keep creditors from contacting you. We do try to communicate with them and have them call us but sometimes the creditor prefers to deal with you because they believe they can scare you into paying. When an account goes to a different department or is transferred to a law firm or collection agency, the new company will not have the information that we are handling the account for you. The best thing for you to do is to let us know who is calling you. Give us the name and number of the company and we will get in communication with them. Try not to enter into a conversation with a creditor; you will only make it harder on yourself. Let the call go to voice mail and retrieve the messages that way, it is the safest way to go. (Remember, that if it is a credit card that is owned by Citibank, we will not get in contact with them for the client until the account goes to a collection agency.)

Q: A collection agency just called me and told me that they were going to sue me and garnish my wages, what do I do?

A: First of all, it is against the Fair Debt Collection Practices Act for a creditor to threaten you with garnishing your wages if they do not have a judgment against you. Also, they better start the legal process because it is also against the law for them to threaten you with a law suit if they don't intend on suing you. The best thing to do is to take their name and number, thank them for calling and tell them that someone will be in touch with them. Do not enter into a conversation with them so that they can not get to the point of upsetting you with threats. Another thing you can do to handle this is to not answer your phone or better yet, change your phone number. Also, read the Fair Debt Collection Practices Act so that you know what they can and can not do and say, it really helps! You have chosen a hard road out and it is going to take some time, the best thing to do is to avoid the abusive collector at all cost. Let us handle them, we don't mind at all.

Q: This creditor keeps calling me at work, my boss told me that I would be fired if I keep getting personal phone calls, what do I do?

A: (Find out if it is an original creditor or a collection agency, if it is an original creditor you can have the client send the creditor a cease and desist letter to stop calling him at work. The problem with this is sometimes if the creditor gets a cease and desist letter they will send the account to a legal office. Another option is to have us call the creditor and see if we can get them to stop calling. If it is Citibank the only thing that can be done is for the client to try to handle them as best as they can.) What you need to do is send a cease and desist letter to the creditor so that they stop calling you at work. You can try to just let them know to stop calling or you can let us know and we will call them for you to try to get them to stop. (If it is at a collection agency or law firm), All you have to do is tell the creditor to stop calling you at work. By law they have to do this according to the Fair Debt Collection Practices Act. Make sure you document this very well, record it if you can that way if they call you again at work you can turn it around on them and you can actually sue them for violating the FTCPA laws.

Credit

Q: Will my credit be affected?

A: Yes, you will have many derogatory marks that are added to your credit report throughout the program. Right now you are probably overextended and even though you could have perfect credit, you could also have a low credit score because your credit cards are close to the limit. Once we start settling your debt, one at a time, your score will start to rise again. After you complete the program you will have no more debt. Even though your accounts will show, Paid not as agreed, Settled instead of Paid, or others marks, you will still show that you no longer have balances on your cards. It will also show that you did it all yourself because there is nothing on your credit report that indicates a third party is helping you. By the end of the program we have had clients that have been able to buy a house or a car when they were never able to do so before because they were completely out of debt and the Mortgage company would accept them because they were a much lower risk than the person with a lot of credit and high balances.

Q: Am I going to be able to get another credit card?

A: Well first of all, do you really want one? Isn't that the reason you got into this situation to begin with? Ok, we have seen many instances where our clients account was settled and the same credit card company would send them another solicitation for a credit card at a better interest rate. Most of our clients turn them down because they don't want to get into the same situation again, but we have seen it happen many times.

Q: What if there is an emergency and I need a credit card to bail myself out?

A: We suggest that you keep a credit card with a credit limit of \$500. for emergencies. Nothing more than that because the creditors that are being settled will want you to do a cash advance and pay them in full if you have the available credit to do so.

Q: What does it mean when a creditor tells me that the account is going to “charge off”?

A: By law credit card companies have to “charge off” their accounts after a certain amount of time, usually between 4-6 months of going delinquent. When the credit card company charges off an account it is reported on your credit report as “charged off” all this means is that the credit card company just got a tax break and they have to send the account to a third party for collection. Sometimes they keep the account at the credit card company but in another department. It is just part of the process of being on this program.

Legal

Q: A creditor just called and told me that he was going to sue me, I thought by being on this program that anything like that would not happen to me?

A: Anybody can sue anybody for any reason at any time. You are not paying your creditors, they will use any means to collect a debt, including filing a law suit. Besides that is the oldest threat in the book. We are not concerned unless you actually get served with a summons and complaint. If that happens call and let us know.

Q: What is a summons and complaint?

A: A summons is a document that summons you to court on a specific day and a complaint is the document from the creditor with the amount of money you owe to them. In most states you have to be served personally and will be served by a process server or

a sheriff. This is when we have to make a determination as to what we are going to do to handle your account. Usually we would ask you a number of questions that would help us in determining the correct course of action to take in dealing with the creditor. Ideally we would settle the account and get it over with that way.

Q: Can a creditor garnish my wages? How much can they get?

A: Yes, in most states a creditor can garnish your wages but only after they get a judgment. There are a few states where a person's wages can not be garnished, you should check with your local courthouse or a local attorney to find out the laws in your state. A creditor gets a percentage of your gross or net wages, this is dependant on the state you live in, you will have to check with your payroll department, your local courthouse or an attorney to determine what that is. We try to get a payment arrangement or your account settled way before they try to garnish, but it is possible.

Q: Can I go to jail if I don't pay my creditors?

A: In most cases no, there are a few states that have laws that if a client doesn't appear in court they will file a warrant for your arrest but this is easily handled with communication with the courthouse and the attorney's office.

Q: Will I have to go to court?

A: If we settle your account or set up a payment arrangement most of the time you would not have to appear. Even though there is a summons to appear most people that get sued by creditors do not appear and the creditor gets a "default Judgment." This just means that the creditor got the judgment because you didn't show up. We do try to encourage the clients to appear in court so that they can present their case to the judge, in some cases our clients will get better arrangements if they do appear and other times they do not. It is up you as to what you want to do about it.

Q: Can a creditor take my personal belongings and sell them to get their money?

A: There are a handful of states where the sheriff can go into a clients home and take their personal belongings to sell at auction and apply toward the debt, however, we have never seen where it has actually been done, only the threat has been there. In most states, there is no law about this and the creditor can not do anything to you in this case.

Q: Can a creditor put a lien on my property?

A: Yes, a few states have homestead exemptions and these homes are protected against certain liens, but most properties are vulnerable to creditors putting liens on your property. The only way to do this is to first get a judgment against you. After the judgment is entered then the lien can be placed against the property. The only way a creditor can get paid on the judgment lien is if you sell or refinance your house. So, if you do not intend on selling or refinancing your house during the time that you are on the program then the lien will just sit there until we settle it. Once it is settled the law firm will file a release with the courthouse and the lien will be released.