

The next question, obviously, is 'can you pay it'? If yes, do so, and quickly, preferably to the original creditor, even if it means borrowing money from family or friends. If you must pay the agency, *do not* pay with a personal check. Your account information would become part of their records. Mail a money order, and keep the receipt for your own records. Also, request a 'paid in full' receipt from the agency.

If you *cannot* pay the debt in full, but could send a one-time reduced amount, send a brief explanation of why and offer a 'settlement in full'. This puts the ball back in their court, and they must decide what their 'return on investment' might be, but this could be a risky strategy. They may push for the balance in full.

Can you make payments on the full amount? If so, briefly explain your circumstances; send a money order in an amount you can afford, along with a 'promise to pay' the same amount every month until paid in full, and stick to it. If they accept payments for three months in a row, this becomes an 'implied contract', and they must continue to accept them. If you do not follow through, they certainly will. Also, know that they will reject a \$5 per month offer on a \$1,000 debt. Be realistic.

In a worst-case scenario, you may not be able to pay the debt at all. In this economy, there is no shame in pleading indigence. This may not have any influence on your creditor, since they will want to 'charge off' unpaid accounts, but it may well discourage a collection agency. They would much rather chase 'good money'. In this situation, you need to convince the agency that you really cannot pay the debt.

If the agency persists (usually 'just because they can'), fight back. If you are served with a 'summons and complaint' to appear in court, you have a right to file an answer as to why you cannot pay the debt. The agency may try to secure a judgment against you, but it may not matter in the overall scheme of things. If you truly do not have anything, they cannot take anything from you. On the other hand, if they have verified an asset, such as a paycheck or active bank account, you risk losing that asset.

Through it all, remember that you do have rights, and there are laws to protect you from abusive practices by collection agencies. If you feel a collector or agency has violated those rights, you can file a formal complaint with the Attorney General Consumer Fraud office, as well as the Collection Agency Board. It is their function to investigate complaints and make a determination as to their validity. Take advantage of it.

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Collections 201

By Brett Newmyer

While 'Collections 101' covered the basics in dealing with collection agencies, this will address strategy and a game plan. Again, these are general guidelines, not legal advice. Now you have some decisions to make. As 'Rush' said, 'If you choose not to decide, you still have made a choice'. If you choose to ignore this situation, someone who does not have your best interests in mind will make decisions for you. Think of this as a 'flow chart' with a series of yes or no questions; if the answer is 'yes', take this course of action and if 'no', then something else. In any case, take notes, make copies of *everything*, and start a file folder to keep this organized. You may need it later. Ultimately, your goal is to end this matter without going to court. If not, it could haunt you (and your credit), for the next seven to ten years. Remember, the best defense is a good offense.

First, keep your communications to a minimum. Resist the impulse to call the collection agency to give them a piece of your mind. This would be like pleading your case to a biased jury; you cannot win this argument. It also provides the agency with a valid phone number to reach you on a daily basis, because they all have caller ID. As much as possible, keep it in writing.

Bear in mind, the collectors' only objective is to make money, usually in commissions. In a recession, they will get more aggressive. They will try to gather as much personal information about you as possible, known as 'full and complete', or 'F and C'. If you call them, they will want to know where you work, a phone number for your employer, if you are married, where your spouse works, where you bank, if you own your property, etc. They are looking for assets in order to generate a lawsuit if you do not pay up. You are not obligated to provide any of this information, no matter what they say, so do not make it easy for them. Tell them you are single, unemployed and sleeping on a friends' couch if you want. It is perfectly ok to lie to them, but you had better be good at it. As such, this is not a particularly good strategy.

The first question should be 'is this a valid debt'? Either way, you want verification for your records. This is why you must request 'proof of the debt' *in writing*. 'Proof of the debt' is usually a copy of the original bill; name of the original creditor, goods or services and date(s) provided. As noted earlier, do not procrastinate on this; you have up to 30 days, but do not wait until the last minute. If the answer to this question is no, send a dispute, *in writing*, along with any documentation you have to back you up. If it *is* a valid debt, go to the next step.

Nothing says you cannot call the original creditor yourself. They may or may not talk to you, depending on your relationship with them. If you have a good history with them, ask them to recall the account from the agency. If they value your business, they may prefer arranging repayment with you directly. If not (credit card companies come to mind), you will need to deal with the agency.