

property or wages, unless such actions are lawful, and unless the creditor or the collector fully intends to take such action.

- Threatening to take actions that are illegal or that are not intended. To verify a collector's intention to file suit, you could ask the local court clerk to help you check the plaintiffs index to see whether the company making the threat has a history of filing similar suits. Suit is less likely the smaller the debt (e.g. less than \$500), the more distant the collector, and the stronger your basis to dispute the debt.

- Other common threats that may be false are that the collector will refer the action to a lawyer, harm your credit rating, or repossess household goods.

- Using any false representation or other deception to collect or to attempt to collect any debt or to obtain information about you.

- Failing to disclose in communications that the collector is attempting to collect a debt.

- Using unfair or unconscionable means to collect debts.

- Collection of fees or charges unless expressly authorized by the

agreement creating the debt and permitted by law.

- Depositing post-dated checks before their date. The collector also must give at least three days but not more than ten days notice before depositing the postdated check, or using the check for the purpose of threatening or filing criminal charges.

- Causing expense to another party while concealing the purpose of the communication, for example, by making collect telephone calls and sending collect telegrams.

- Threatening self-help repossession without the legal right to do so, or if the collector has no present intent to do so.

- Using any communication, language, or symbols on envelopes or postcards that indicate that the sender is in the debt collection

More information on your legal rights and debt strategies is provided in *Surviving Debt*. The handbook is available for \$17.00 from National Consumer Law Center, 11 Beacon St., Boston, MA 02108. (617) 523-8010.

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**Legal Aid  
Society  
Of Hawai'i**

## Illegal Debt Collection Conduct

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Legal Aid Society of Hawai'i

**For More Information, Call the Legal Aid In Your Community.**

Legal Hotline open Monday - Friday  
9:00am to 11:30am  
1:00pm to 3:30pm

Oahu call 536-4302 Hilo call 934-0678  
Maui call 242-0724 Kona call 329-8331  
Molokai call 553-3251 Kauai call 245-7580  
Lanai call 565-6089

**Or visit our Web site <http://www.legalaidhawaii.org>.**

## Illegal Debt Collection Conduct

*This brochure lists many types of illegal debt collection harassment. This will help you to demand that the collector stop its harassment. If you suffered financial, physical or even emotional harm from the illegal collection harassment, you might consider suing the collector. In a successful debt collection suit, you can recover all your damages, no matter how large they are. Even if you are not damaged by the illegal collection activity, you can also sue the collector for up to \$1,000 plus all of your attorney fees.*

*The major law specifying illegal debt collection conduct is the federal Fair Debt Collection Practices Act (known as the "FDCPA"). The FDCPA requires collection agencies to take the following actions:*

- The collection agency must stop contacting you if you so request in writing or if you dispute the debt in writing.

- The collection agency, in its initial communication or within five days of that communication, must send you a written notice. That notice identifies the debt and the creditor, and gives you the right to dispute the debt or to request the name and address of the original creditor, if different from the current one. If you raise a dispute, the collector must suspend collection efforts on the disputed portion of the debt until the collector responds to the request. (Note that your failure to dispute a debt is not an admission of liability. The collector would still

have the burden of proof in any court action to collect the debt.)

- Any lawsuit by a collector must usually be brought in the same country or other judicial district where you reside or signed the contract.

The following collection agency conduct also violates the FDCPA:

- Communicating with third parties, such as your relatives, employers, friends, or neighbors, about a debt unless you or a court has given the collector permission to do so. Several narrow exceptions to this prohibition apply. Collectors may contact creditors, attorneys, credit reporting agencies, cosigners, your spouse, and your parents if you are

a minor. Third-party contacts are also permitted if the contacts are solely for the purpose of locating you and do not reveal in any way the contact's underlying purpose.

- Communicating with you at unusual or inconvenient times or places. The times 8:00a.m. to 9:00 p.m. are generally considered convenient (in the time zone where you live), but daytime contact with a consumer known to work a night shift may be inconvenient.

- Contacting you at work if the collector should know that the employer prohibits personal calls, or contacting you at other inconvenient places, such as a friend's house or the hospital.

- Contacting you if you are represented by a lawyer, unless the lawyer gives permission for the communication or fails to respond to the collector's communications.

- Contacting you when you write a letter asking the collector to cease communications. The collector is allowed to acknowledge the letter and to notify you about actions the creditor or collector may take.

- Using Obscene, derogatory or insulting remarks.

- Publishing your name.

- Telephoning repeatedly and frequently.

- Telephoning without disclosing the collector's identity.

- Making communications that intimidate, harass or abuse you, such as a threat to conduct a neighborhood investigation of you, or telling you that you should not have children if you cannot afford them.

- Making false, misleading or deceptive representations in collecting debts, such as pretending that letters carry legal authority.

- Falsely representing the character, amount or legal status of a debt, or of services rendered or compensation owed.

- Falsely stating or implying a lawyer's involvement, such as where form letters written on an attorney's signature in fact came from a collection agency and were not reviewed by a lawyer.

- Threatening arrest or loss of child custody or welfare benefits.

- Stating that nonpayment will result in arrest, garnishment or seizure of