

## **CHECK LIST FOR SETTLING COLLECTION DEBTS AND COLLECTION LAWSUITS**

### **YOU RECEIVED A DEBT COLLECTION LETTER**

#### **[ ] Receiving a debt collection letter.**

Create a Floor and a Ceiling. You want to control this so come in with a low amount and in your head, the highest you will be able to go to settle the debt.

At no time should you admit ANYTHING. Don't agree you owe the debt, and just move on to settling it like you did not hear them. They will use anything you say against you in the lawsuit.

Always keep repeating in the conversation from the very beginning, this conversation is being started to settle this debt. This communication is for settlement purposes. The Court rules don't allow settlement discussion from either side to be held against settling parties so there are no fears about settling a case.

#### **[ ] Don't let the debt collector control the path of the discussion and be short and sweet and polite-you are being taped. Be all business like.**

#### **[ ] Employ the "Strike Three" Rule:**

If it appears that after three attempts to settle the process is going nowhere, make your final offer that you say is open until a specific date and leave it at that.

Debt Collectors send letters called "pre-suit" letters as they are setting up to sue you anyway so cutting off the process won't cause them to sue you generally. The truth is, it is easier and most of the time cheaper for you to wait for a lawsuit. Not telling you to want to be sue, but I have done the math. Lawsuits Settle cases and usually at less cost if you follow certain rules.

#### **[ ] You are settling a lawsuit before the Answer is filed.**

Have a calendar set up from the date of service with your date of 10-15 days from the date of service of the complaint. Check your court rules in your state when the Answer is due.

1. Contact the debt collector/law firm to try to work out a deal. They will quickly try to get information from you that only helps them collect the debt. Stay politely on track and quickly assert your inability desire to settle the debt and for how much. Maintain constantly that this is a settlement offer and in no way should you admit to owing the debt or why you could not pay and went into default.
2. Make your offer, employ the three strike rule. Give them a time limit to continue or close negotiations and that you will file an Answer by a certain date. You have a little hand until you file the lawsuit, and they know then that they will not get a default, and their legal costs will now rise.

**[ ] STICK TO THE Three Strike Rule AND LEARN TO WALK AWAY TO SHOW THE OTHER SIDE YOU ARE NOT A VICTIM-ALL ABOUT THE VICTIM MENTALITY:**

**[ ] Tips to settle the debt for the lowest amount:**

Things to touch upon in negotiations: All your debts and other lawsuits can show them you don't have much to pay, and your eventual settlement will be lower.

Fill this out before you get on the phone and offer to send to the other side to show hardship:

**BILLS AND INCOME:**

**Monthly Income:**

Some Federal Pension and Social Security is Protected from Liens

Social Security: \_\_\_\_\_

Protected Pension: \_\_\_\_\_

Monthly Amount from Job: \_\_\_\_\_

Total Amount you Receive a Month Protected: \_\_\_\_\_

Total Amount you Receive Not Protected: \_\_\_\_\_

**Monthly Bills:**

Utilities: \_\_\_\_\_

Car Payments: \_\_\_\_\_

Mortgage or Rent: \_\_\_\_\_

Divorce or Support Payments: \_\_\_\_\_

Insurance: \_\_\_\_\_

College/Tuition: \_\_\_\_\_

Other Debts: \_\_\_\_\_

Judgments: \_\_\_\_\_

Miscellaneous: \_\_\_\_\_

Total Monthly amount owed: \_\_\_\_\_

Compare the Monthly Income and Bills and that is the amount you might have to spend on the debt with the debt collector. Rough approach but helpful to show hardship.

### **[ ] Settlement Tips:**

- a. Keep pushing your offer and parameters. Cite your debts and job loss or divorce or problems in your life
- b. And don't take an offer where you have to admit you owe the debt. Generally, settlement discussions are protected from coming into court, so keep saying and reminding the person on the other end of the line **This is a Settlement Offer," "These are Settlement Discussions." "I am trying to Settle this debt for peace of mind, and I am not admitting fault."**
- c. You can tape your discussion, just let the other side know first and ask permission.
- d. Always assume they will change facts or lie about what you admitted in their notes so act accordingly. Keep it simple and only talk settlement. Don't give away ANY personal info.

### **[ ] Watch out for the Default Trap:**

Debt Collectors big goal is to default you on the lawsuit and get a quick judgment with the fewest legal costs.

Some collectors will engage you in a slow approach and purposely delay things and make wild promises and not follow through all to get you over the magic 21 days and they default you. So, stick to a timeline. Filing an Answer protects you and puts you in control and gets you to the promised land: Better Settlement Offers.

### **[ ] Know your rights and look at the complaint for violations of law or failure to prove ownership of the debt:**

Stick to your timeline and file an Answer and your counter affidavit on the date you promised and serve on them that day. When you Answer they lose the default power over you and if it is a small debt, they won't make money having to go to court. This becomes really about the comfort zone of the attorney on the file and not jones v credit card company. In the end it is all human. So, you will get a better deal out of an overworked attorney that can avoid going to Podunk county by settling with you. Just give them a

violation of deficit in their case to give the attorney something to hang his settlement hat on.

Know your rights, hint that the collector broke specific rules under the FDCPA if there is room that they did. You are becoming somebody different to them and not be messed with and maybe to be worried about by doing what you said you would do when you answered the lawsuit. Be a problem. Most collection attorneys are overworked and will do whatever it takes to get a problem of their desk. **Be a Problem.**

**[ ] Dirty Little Industry Secret: Collectors love payment plans.**

If you are able, settle for a cash/lumpsum amount. It will generally be lower as it gets money into the collector pocket without spending any more money to get the money,

If Don't have the lump sum. Settle for an amount with payments. You will sign a Consent Order with a default mechanism. You miss one payment; you owe the original amount with interest etc. and have no right to object to anything.

**[ ] Tips for a Consent Order:**

[ ] Have it say all collection efforts stop as long as payments are timely.

[ ] Grace period, but short one, it's a bad habit to rely upon-we all do it.

[ ] Have the case be dismissed without prejudice but to become with prejudice after the last payment is made in the Consent Order. Have the Consent Order say the collector will file the Dismissal paperwork with the Court within ten days of your last payment.

[ ] Have them provide a good address or payment portal in the Consent Order.

1. Maybe have the Debt Collector send you a payment book or reminder-you can ask.
2. Date of Payments to start a month after the Order is signed.  
That's about six weeks when everything is done and agreed to.
- 3.

**[ ] Pocket Judgements are best.**

Get the debt collector to agree to a pocket judgment that does not get filed with the court unless you are late. Your settlement stays off the court record and the case just looks like it ended without payment.

**PRO TIP:**

The amount you want with something you don't want really or can't get. Generally, credit card (original creditors) can't knock off the debt from the credit report as debt buyers. But if you know that and ask to settle for \$1400 plus credit removal, then they just give you the \$1400, you won that, and the other side feels they won something by not giving you everything.

**That's a human tip.**

**It's all about Parameters.**

**Here are the three stages of Settlement of a collection lawsuit:**

**THE PRE ANSWER STAGE: Again, be argumentative and a problem.**

Negotiate for up to ten or fifteen days and remind the collector that you will file your answer on a drop-dead date. Most attorneys do their work at the last minute so keep reminding the collector of the drop-dead date and as it gets closer, the attorney will loosen up to the date. There are always fires burning. It's not Show Friends, it's Show Business. These people are not your friends-they want your money. BE A PROBLEM. **Make that answer a good one pointing out obvious faults and problems in the lawsuit-there always are. The attorney won't like it, but he will want you out of his hair.**

**COUNTER AFFIDAVIT STAGE- USE ASS BE AN ASS.**

ASKING THEM FOR MONEY-THEY WONT NOTICE AN MCL 600.2145 appears to say, they owe you on any counter claim they don't object to. You could ask for enough to cover the whole debt, they claim you owe them.

**File the Answer, serve the collector and tell them, in ten days I file a Counter Claim STAGE.** You will get red flagged in their system as a problem and will get an attorney on your file. Better for you.

**Then, negotiate again up to the date of the counter claim.** You got more hand; this is turning around. Any FDCPA violations? You have Hand.

**Still not settling, wait for the Pre-trial** where they have to spend more money, and ask for discovery from the Court. The case will settle generally, way before then. Its not a lock but there are many human factors-BE A PROBLEM. See above factors to employ.