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## Do debt collection laws go far enough?

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Paula Newland says the bill collectors started hounding her in January after she missed two weekly \$60 payments on her used 2005 Chevy Impala.

The 30-year-old laid-off factory worker from Edwardsburg, in southwestern Michigan, said collectors from two companies called her friends, neighbors, family members -- even the mother of her husband's ex-wife -- and told them Newland was behind.

Newland said the collectors posted information about the debt on her MySpace page on the Internet, threatened to camp out on her lawn until she paid up and even called the woman who holds the land contract on her home to see if Newland was behind on her note.

"It was humiliating," Newland said. "I was a nervous wreck and still am."

Newland called Birmingham consumer lawyer Dani Liblang, who sued both companies in Oakland County Circuit Court in March for alleged violations of state and federal debt collection laws.

"Collection agencies have a right to collect a debt, but they don't have a right to harass and shame people," Liblang said.

A lawyer for the lender, Advanced Equity Inc. of Elkhart Ind., denied the allegations and said in court papers that Newland had threatened to hide the car.

"Ms. Newland's complaint contains erroneous, misleading and completely false allegations and information," said attorney Ward Powers of Northville. "Sadly, there are instances of abusive collection practices -- but this is certainly NOT one of them."

Felipe Ossa, general manager of Dallas-based Assets Recovered LLC, which also tried to collect the debt, said its side of the story would come out in court: "We demand that our employees sign and abide by a code of ethics. ... We train staff that each and every individual we contact has to be treated with respect."

Push for change

The Federal Trade Commission told Congress in February that debt collection complaints are on the rise because of the nation's economic downturn. While

saying that it's important for consumers to pay their debts to keep credit flowing, it urged lawmakers to put more teeth into the federal Fair Debt Collection Practices Act to deter unethical conduct.

The law was enacted in 1977 to protect consumers from abusive, unfair and deceptive practices by third-party collectors, who collect debts on behalf of others. The law also was designed to prevent unethical collectors from gaining an unfair financial advantage over honest collectors.

The FTC said most complaints that it receives involve harassing phone calls, misrepresentation of the nature and extent of debt, repeatedly calling third parties to find debtors and using profanity or making false threats of legal action.

The FTC urged Congress to amend the law to force collectors to provide consumers with more information about their debts and their legal rights.

It also wants Congress to increase the statutory damages consumers can collect if they win lawsuits against **debt collectors**. The \$1,000 limit, worth \$3,600 in today's dollars, hasn't changed in 30 years.

If consumers win, the **debt collector** must pay any actual damages, such as lost wages and medical bills, resulting from the abusive behavior. The collectors also must pay the consumer's legal fees and court cost, an arrangement Congress enacted so private lawyers would have an incentive to take on cases to help the FTC police the collection industry.

Michigan has a similar debt collection statute that provides lower damages.

'You get more by being smart'

James Hoppin, vice president of an Oakland County collection agency and chair of the Michigan Collection Practices Board, which licenses **debt collectors** and occasionally disciplines them for unethical behavior, said there's no good reason to harass debtors.

"You get more by being smart, listening, paying attention and working with them to get the money," he said, adding that going to court to collect is time-consuming and costly.

ACA International, the nation's largest collection trade group, said it endorses most of the FTC's proposals.

It said it favors increasing the statutory penalties in civil lawsuits if Congress adopts a standard that lets judges weigh the seriousness of the violation and the harm to the consumer in setting damages.

The group also favors FTC proposals that would allow collectors to use social networking sites, text messages and e-mail to communicate with consumers, and to allow collectors to withdraw money from consumers' bank accounts -- with the consumers' approval.

"We are the good guys," ACA spokesman John Nemo said. "We don't condone illegal, unethical or deceptive tactics. It's simply unacceptable."

A bigger problem

Minneapolis consumer lawyer Peter Barry, who trains lawyers to sue **debt collectors**, said the problem is more pervasive than the ACA thinks.

"If you have the highest number of complaints of any industry, that's a prima facie case for more regulation," he said.

One of Barry's former students, [FDCPA attorney Rex Anderson](#), said he has filed about 50 debt collection lawsuits in the past 12 months, an increase over previous years.

"Within the last month, I've had five people call me in tears telling me that the **debt collector** told them the police were on the way to arrest them at their home, place of employment or at a grocery store," he said.

And many of them don't realize they have the right to be treated with dignity, he said.

Anderson cited the case of Robert Levander, 36, a Grand Blanc automotive heating and air-conditioning engineer who fell behind on a \$1,200 credit card bill and other debts after his adjustable-rate mortgage ballooned.

In May 2008, Levander said I.C. System Inc. of St. Paul, Minn., called him 185 times on his cell phone.

He said Levander received 20 calls simultaneously on his home phone and cell phone at the very moment he and a large gathering of friends and family members were about to sing "Happy Birthday" to his 7-year-old daughter.

"It was embarrassing," Levander said. "Everyone wanted to know what was going on, but when I realized who was calling, I just turned off the ringers."

Levander said he declared bankruptcy to get the calls to stop and sued in federal court. The case was settled for \$1,000.

Levander said he didn't realize the excessive calls violated the law.

"I didn't know my rights," he said. "I just figured I was being punished for getting behind on my bills."

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What to do if the **debt collectors** contact you

Challenging the debt

Within five days of contacting you, a collector must send a written notice telling you how much you owe, to whom and what you can do to contest the debt. You have 30 days to send a letter challenging the debt or asking for verification. The collector must stop contacting you until that's done.

You also can send a letter telling the collector to stop contacting you. After that, they can call you only to say they will comply, or that they intend to sue you or

take other legal action. Your letter doesn't relieve you of the debt or prevent the collector from taking you to court to collect.

#### How to sue violators

You can sue in state or federal court within one year of a violation. If you win, the judge can order the collector to pay you up to \$1,000, your legal fees, plus whatever damages you incurred because of the violations, such as lost wages and medical bills.

If you sue on behalf of a group, you can recover up to \$500,000, or 1% of the collector's net worth, whichever is less.

#### If you are sued

Get a lawyer and respond promptly. If you lose, the creditor or collector can get an order to garnish your paycheck or get funds from your bank account. Most federal benefits are exempt from garnishment.

#### Reporting violators

Contact the Federal Trade Commission at [www.ftc.gov](http://www.ftc.gov) or 877-382-4357. The FTC occasionally takes legal action against **debt collectors** and enters complaints in a database used by law enforcement.

You also can file a report with the Michigan Attorney General's Office at [www.mi.gov/ag](http://www.mi.gov/ag), or call 877-765-8388.

You can file a complaint with the Department of Energy, Labor & Economic Growth by calling 517-241-9202 or by downloading a complaint form at [www.dleg.state.mi.us/bcsc/forms/enf/lce-992.pdf](http://www.dleg.state.mi.us/bcsc/forms/enf/lce-992.pdf).

To learn more, go to [www.ftc.gov/credit](http://www.ftc.gov/credit).

#### Tips

Keep a log of all contacts with collectors and copies of all letters or notices.

Save all phone messages and voice mails, and make a note of your conversations with collectors. In Michigan, you can record any calls you participate in.

If you think your rights have been violated, call a lawyer.

Sources: Federal Trade Commission, State of Michigan

#### Collection practices prohibited by federal law

Using obscene, abusive or profane language, or threatening violence.

Calling relentlessly or at unusual hours (between 9 p.m. and 8 a.m., without permission).

Calling you at work after you've told them not to.

Calling without identifying themselves.

Continuing to call you after you've told them in writing to stop or after you've told them to call your lawyer.

Misrepresenting who they are, the amount owed or the legal status of the debt.

Sending documents that simulate court orders or records.

Threatening to take action that cannot legally be taken.

Falsely accusing you of committing a crime, threatening to have you arrested or threatening to seize property or garnish wages unless they intend or have the legal right to do so.

Causing you to incur charges for collect calls, travel expenses or postage fees.

Doing anything to embarrass you publicly.

Trying to collect more than is owed or a debt that is beyond the statute of limitations.

Calling friends, neighbors and others to discuss or collect the debt. They can call others once to find out how to contact you.

Giving false credit information to a credit reporting company or others.

What state law says

Michigan's Collection Practices Act is similar to the federal law but has lower statutory damages -- as little as \$50 for inadvertent violations.

The Michigan Department of Labor & Economic Growth licenses **debt collectors** and investigates complaints against them for violating state law.

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