



**MEDICAL LEGAL  
PARTNERSHIP**  
*of southern Illinois*

**Land of Lincoln Legal Aid – Carbondale**

**618-457-7800 Ext. 6127**

**[mlpsi@lincolnlegal.org](mailto:mlpsi@lincolnlegal.org)**



**LAND OF  
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**-LEGAL AID-**

*Breaking Barriers to Justice*



# Consumer Basics Training



I. Definitions

II. Rights of Consumer

III. Court Ordered Collection

IV. Exemptions

V. Consequences of Debt



# Definitions:

- Secured vs. Unsecured Debt
  - e.g. Car loan vs. Medical bill
- Original Creditor
  - e.g. Discover
- Debt Collectors
  - Secondary debt holder

# SAMPLE LETTER TO DIRECT CREDITOR

Date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dear Sir or Madam:

Re: \_\_\_\_\_

Account #: \_\_\_\_\_

Recently, I received a debt collection communication from your company regarding the above-referenced account. This letter is to inform you that I understand that your records indicate that I am currently behind on this account, but, my present income does not allow me to make any payments on this account. I am requesting that you stop communications to me about my account.

This letter should not be considered as an admission as to the validity or the correctness of the amount you state that I owe nor as a waiver of any rights I may have under Illinois or Federal law to dispute the amount owed.

You should also be aware that currently, my income and personal property are exempt from attachment or garnishment under Illinois and Federal law and cannot legally be taken from me to pay a judgment if one is obtained against me in a court of law.

I will try to take care of this matter when I am financially able to do so. In the meantime, I appreciate your cooperation.

Sincerely,

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# Fair Debt Collection Practices Act (FDCPA)

- FDCPA provides protections to consumers by regulating the actions of collectors
- The FDCPA does not apply to the conduct of individuals, businesses, or services engaged in collecting their own debts.
- A debt collector regularly collects past- due debts
- Lenders (bank or credit card) are not debt collectors

# Most Common FDCPA Collection Violations

- C o n s t a n t

- O b s c e n e

- L y i n g

- T h r e a t s

# Collectors Must:



- Identify themselves when calling.
- Inform the person about the debt
- Send a follow up letter within 5 days of call stating:
  - Amount owed
  - Who the debt is owed to, and
  - Steps to take if there is a disagreement regarding debt



# Rights of Consumers

- **If You Do Not Owe The Debt:** Send Letter Disputing Debt
- **To Stop A Debt Collector From Contacting:** Send Cease and Desist Letter (see example)
- **If A Debt Collector Violates the FDCPA:** You may be able to sue
- **You May Recover:** statutory damages up to \$1,000, actual damages, costs and attorney fees.

# SAMPLE CEASE AND DESIST LETTER

Date: \_\_\_\_\_

BY CERTIFIED MAIL RETURN RECEIPT REQUESTED:

\_\_\_\_\_

Dear Sir or Madam:

Re: \_\_\_\_\_,

Account #: \_\_\_\_\_

Recently, I have been contacted by you by phone or by mail regarding the account number I have listed above. Pursuant to the Federal Fair Debt Collection Practices Act, I am directing you to cease all further communications with me about this account.

You should be aware that, currently, all my income and personal property are exempt from attachment or garnishment under Illinois and Federal law and cannot legally be taken from me to pay a judgment if one is obtained against me in a court of law.

I appreciate your cooperation.

Sincerely,

\_\_\_\_\_

CITATION TO DISCOVER ASSETS  
&  
RULE TO SHOW CAUSE

# Citation to Discover Assets

- **How does the creditor enforce the judgment?** A Citation to Discover Assets is filed with the court.
- **What is a citation to discover assets?** An order to appear in court to give testimony about assets.
- **Citation hearing testimony:**
  - Income
  - Bank accounts
  - personal property, and
  - real estate.
- **What if you do not attend the hearing?**  
The judge will issue a Rule to Show Cause

# Rule to Show Cause Hearing

**At The Rule To Show Cause Hearing You Must Show:**

- Reason for not appearing at Citation Hearing
- Reason you have not complied with the Court's Order.

**If You Miss The Rule to Show Cause Hearing:**

**YOU WILL LAND  
IN JAIL!!**



Can the You go to jail just for owing  
money on a Judgment?

**NO!**

**BUT**

- You **CAN** go to jail if you fail to appear at  
a Rule to Show Cause Hearing  
**OR**
- You refuse to follow court orders

# What if You cannot afford to make Payments?

- Exemption laws protect people who cannot afford to pay their debts.
- A court cannot order people to use exempt income or property to make payments
- People should tell the judge if their income or property is exempt

## Exempt Income:

- Social Security
- Supplemental Security Income(SSI)
- Public Aid and General Assistance
- Unemployment Compensation
- Pension(s)
- Veteran's Administration Benefits
- Worker's Compensation Benefits
- Black Lung Benefits
- Crime Victim's Award
- Greater of :45x the IL Minimum Wage or 85% of gross weekly wages

## Exempt Personal Property :

- \$4,000 worth of property, including money in a bank account (WILD CARD)
- \$2,400 interest in a motor vehicle
- Health aids prescribed by a physician
- Necessary clothing, a Bible, school books, and pictures
- \$1,500 worth of equipment, professional books or tools of your trade
- Money From the sale of exempt property



# Homestead Exemptions

- \$15,000 (Single)  
or
- \$30,000 (Couple) of equity  
in your primary residence
- Stacking: Do not have to  
pick one exemption type



\* Exemptions: may not apply to certain debts  
(Government Super Creditor)

# Consequences of Debt

- Aggressive Collection Tactics
- Doctors have a right to refuse to further treat patient
  - Applies to Patients who are exempt and non-exempt
- Attachment of judgment for debt

# Potential Solutions

- Budgeting
- Charity Care
- Bankruptcy

# Questions?





**Diane Goffinet** (Managing Attorney)

• 618-457-7800 ext. 6117

**Lana Crawford** (Senior Supervisory Attorney)

• 618-457-7800 ext. 6119

**Madison Olsen** (MLPSI Paralegal)

• 618-457-7800 ext. 6127

**Angie Bailey** (Community Benefits Manager, SIH)

• 618-457-5200 ext. 67834

**Sandra Schwartz** (Community Health Coordinator, SIH)

• 618-457-5200 ext. 67837