

Appendix C Case Preparation Checklists

This Appendix contains three forms to use with clients to develop the facts of their fair debt collection claims. These forms are also available on the companion CD-Rom to this volume.

C.1 General Interview Checklist for Debt Collection Harassment¹

Client's Name:
Date of Interview:
Name of Interviewer:

C.1.1 General Questions

First question

- I understand that you have a problem with a debt collector. Please tell me about it.²

Background of debt problems

- When did you first have difficulty paying this debt?
- What caused you to have difficulty paying this debt?

Overview of collection contacts

- When you were first contacted by the debt collector, was it by mail, telephone, or personal visit?
- How many times did you hear from the debt collector altogether? Give approximate dates, time of day, method of contact (e.g., mail, telephone, personal visit), and name of person and company.
- Did anyone else contact you regarding this debt? Give approximate dates, time of day, method of contact (e.g., mail, telephone, personal visit), and name of person and company.

Were other bills involved?

- Do you have any problems with any other bills or debt collectors?³ Give name, amount, and type of bill.
- For each other bill or debt, how many times have you been contacted? Give approximate dates, time of day, method of contact (e.g., mail, telephone, personal visit), and name of person and company.
- Do any bill collectors ever use false names or not tell you their names when they contact you? Give approximate dates, time of day, and method of contact (e.g., mail, telephone, personal visit) when someone contacted you about a bill but you were not sure whom the person represented. Add any other relevant comments.

¹ This checklist is intended solely for purposes of demonstration. It must be adapted by a competent professional to meet actual needs and local practice.

² See §§ 2.1, 2.2, *supra* (initial interviews of clients with debt collection harassment problems).

³ This and the next two questions deal with the issue of causation and potential intervening causes of suffering.

C.1.2 Client's General Objectives⁴*Is the client willing to sue?*

- What is it you would like me to do for you?
- If necessary, are you willing to have me sue the debt collector to get money damages for you?
- Are you willing to go to court and testify?

Is the client interested in helping other consumers?

- If there is an important principle involved in your law suit, do you want to establish the principle even if it means postponing getting your money damages?
- If the debt collector's behavior has affected other consumers, do you want to represent them in a suit to stop the debt collector's illegal acts even if it means postponing relief for you?

C.1.3 Contacts by Letter

NOTE: Complete this section for one collection letter, go to the questions in C.1.5 concerning that letter, and then return to C.1.3 for each additional abusive letter received by the client. Try to go in chronological order.

Locating debt collection letters

- Did you bring the letter(s) with you?
- If not, do you have the letter(s)? If so, will you get the letter(s) to me? If not, what happened to the letter(s)?
- Do you have the envelope(s) in which the letter(s) came? If not, what happened to the envelope(s)?

Content of letters

- If you no longer have the envelope(s), do you remember if anything was written on the envelope(s) other than your name and address and the address of the debt collector?⁵
- If you no longer have the letter(s), do you remember what was said in each letter? Please describe, including the date of each letter.
- Did the letter(s) threaten you? What were the threats?

Did others see the letters?

- Did you receive any of the letter(s) somewhere other than your home? Where?
- Did anyone else read the letter(s)? Who? Give name, address, phone, and relationship to you.

Impact on client

- When you read the first letter that bothered you, how did you feel (angry, embarrassed, guilty, scared)?⁶ What did you do? Were any others with you? What did you say to them? What did they say to you? What did you do next? Did you take any medication?

C.1.4 Contacts by Telephone or Personal Visit

NOTE: After completing this section for each telephone call or personal visit, go to the questions in C.1.5 and then return to the questions in C.1.4 for each subsequent call or visit.

Content of contacts

- Please describe what was said in each telephone call or personal visit and the manner (e.g., calm, angry, mean) in which it was said. Give date, time, name of person calling or visiting, and description of conversation.

⁴ See § 2.2, *supra*.

⁵ See, e.g., §§ 5.2.1, 5.6.8, *supra*.

⁶ See § 2.1.2, *supra*.

- Did anyone overhear your conversation? If yes, please give his/her name, address, phone number, and relationship to you.
 - Did any of the telephone call(s) or personal visit(s) involve threats, insults, or embarrassment to you? What happened? Were any late at night or otherwise inconvenient?
- Did others hear the communications?*
- Were any of the telephone call(s) or personal visit(s) at a place other than home? If yes, where? Who else was there? Give date, place and address, and others present (name, address, and telephone).
- Impact on client*
- After the first telephone call or visit that bothered you, how did you feel (e.g., angry, embarrassed, guilty, scared)?⁷ What did you do? Were any others with you? What did you say to them? What did they say to you? What did you do next? Did you take any medication?

C.1.5 General Questions on Damages⁸

NOTE: A fuller listing of common types of injuries and losses commonly associated with abusive collection activities is set out in § 2.4.2, *supra*.

- Emotional impact*
- Did you feel badly after being contacted by the debt collector? On more than one occasion? Describe each occasion: what you felt and what you did.
 - Did you ever fear for your own personal safety? Why?
 - Did you discuss your feelings with anyone else (e.g., a friend, a doctor, a priest, your social worker, your spouse)? Give the name, address, telephone number, and relationship of each to you, and note when you discussed your feelings with them.
- Physical symptoms*
- After the debt collector contacted you, did you feel sick? Were you nauseous? Did you vomit? What did you do for this?
 - After the debt collector contacted you, did you feel tense? Were you anxious? Did you have headaches? Did you take aspirin or other medication?
 - After the debt collector contacted you, did you have trouble with normal day-to-day activities (e.g., sleeping, eating, working, intimate relationships)?
 - When did you begin to feel better?
 - Did you ever feel like this before? When? Did you see a doctor then? What did the doctor do?
 - Did you see a doctor after the debt collector contacted you? For what did you see the doctor? Did you discuss this debt problem with the doctor? If so, what did the doctor do about it or say? If not, why not?
- Impact on job*
- Did you take time off from work to see the debt collector, to recuperate from illness, to visit a lawyer, or for any other reason due to this debt? If so, describe the number of days of absence or vacation taken, and how much you would have earned each day if you had worked.
 - Were you able to do your job as well after these collection activities as before? If no, please explain.
 - If no, did your boss or coworkers notice? What did they say or do?
- Out-of-pocket expenses*
- Did you go to the collector's office to discuss the bill? When? How did you get there? How much did it cost?

⁷ See *id.*

⁸ See §§ 2.4, 6.3, *supra* (fuller listing and discussion of common types of injuries and losses commonly associated with abusive collection activities).

Appx. C.1.6

Fair Debt Collection

- Did you make any long distance telephone calls or receive any collect calls as a result of this activity? How much did it cost?
- Did you pay for medication, drugs, or doctor's or hospital services because of the collection contacts? How much did it cost?
- Do you have receipts or bills for any of these expenses?

Aggravating factors

- Did you ever tell the debt collector that there was a mistake in the bill? If so, what was said?
- Did you ever tell the debt collector that you could not afford to pay the debt? When did you tell the debt collector this?
- Did you tell the debt collector that his telephone calls or letters were making you feel bad or more ill? When did you tell the debt collector this?
- Did you ask the debt collector to stop contacting you?

C.1.6 Third Party Contacts⁹

NOTE: After completing this subsection for each third party contact, go to the questions in C.1.5 and then return to the questions in C.1.6 for each subsequent third party contact.

Nature of contacts

- Did the debt collector ever call, write, visit, or talk to other members of your family? Neighbors? Someone at work? A friend? Your social worker? If so, please give the date, name of the person contacted, and the person's relationship to you, and describe the event.
- Were messages ever left for you by the debt collector at a neighbors's, relative's, or friend's house or at work? What did the messages say? Did the debt collector discuss the debt with the person who took the message? What was said?

Impact on consumer

- How did you feel when you learned that the debt collector talked to your friend, neighbor, or other person who knows you (e.g., angry, embarrassed, tense)? What did you do after you found out? What did you do next? Did you discuss your feelings with anyone else?

C.1.7 Miscellaneous Collection Abuses

Deceptive locating activities

- Have you moved since you have had debt problems?¹⁰
- If yes, have you recently received any postcards or letters promising money, an inheritance, or a prize and requesting information on you and your address? Do you still have the letter?

Legal process

- Have you received any letters, notices, or documents from a lawyer, court, or judge?¹¹ Do you have them still? What did you do after you received them?

Threats

- Did the debt collector threaten to contact your employer, social worker, or someone else?
- Did the debt collector threaten to sue you, injure your credit rating, repossess your furniture, or garnish your wages?

⁹ See §§ 5.3.5, 8.3.5, Ch. 10, *supra*.

¹⁰ See §§ 5.3.6, 5.5.12, 5.5.13, *supra*.

¹¹ See §§ 5.5.3, 5.5.6, 5.5.8, 5.5.11, 5.5.15, 5.5.16, 8.3.1, 8.3.8, 8.3.9, 8.3.10, 8.3.12, 11.2, 11.3, *supra*.

Correspondence to debt collector

- Have you written any letters to the debt collector?¹² Do you have copies of them? If not, what did they say?
- Have you signed any documents for the debt collector?¹³ Do you have copies of them? If not, what did they say?

Post-dated checks

- Were you ever asked to give a check with a date in the future?¹⁴ Did you give one? Why? What happened?

C.1.8 General Questions on Underlying Debts¹⁵

History with the creditor

- Is the debt you just told me about your first debt with this company?
- When did you first owe money to this company?
- Why did you go to them rather than to another company?
- What was the debt for?

Relationships with particular creditor employees

- What is the name of the person who originally assisted you in getting this debt?
- Is the person who originally assisted you in getting this debt still involved with your account?
- Have you spoken with any other people at that office regarding your account?
- If so, what are their names and what did you talk about?

Creditor using false name

- Has this office ever made loans to you or collected from you when it used another name?
- If so, what are all the names it has used?

Refinancing and flipping

- Have you been encouraged to borrow more from them? Have you had difficulty paying before?
- How many times have you had a debt or a debt renewal with this company?
- When did you make them?
- Have you ever paid off a debt in full with this company, without owing any more money?
- If so, when did this happen?

Recent debt history

- When was the last time you made payment? How much was it?
- Do you have the debt documents with you or at home?

C.1.9 Current Debts

NOTE: Answer the following questions for each current debt.

Nature of the original loan

- Do you have the debt papers? If not, what was the date of the loan or sale?
- What was the debt for?
- How much money did you borrow?
- What was the amount of each payment supposed to be?
- Was there a down payment or deposit?
- How much cash did you receive as a result of the loan?
- Were the payments to be weekly or monthly?

¹² See, e.g., § 5.7, *supra*.

¹³ See, e.g., § 5.3, *supra*.

¹⁴ See, e.g., § 5.6.4, *supra*.

¹⁵ See § 2.1.3, *supra*.

Appx. C.2

Fair Debt Collection

Debt's current status

- Did you pay off the debt or do you still owe money?
- What is the amount you now owe?
- What is the amount of any payments you are making now?
- How often are you making payments?

Disputes relating to the debt

- Was there any insurance sold with the debt? Did you ever file a claim on it?
- Have you ever disagreed with the amount the creditor said you owed?
- If so, did you inform the creditor?
- Did the creditor or a debt collector ever bother you about repaying this debt?

C.2 Chronology of Debt Collection Contacts

Client's Name:

Case Number:

Debt Collector:

Insert below the chronology of debt collection communications:

Date of Contact	Collector Making Contact	Consumer & Witnesses Contacted	Method of Contact	Substance of Contact
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C.3 Fair Debt Collection Act Violations Checklist (15 U.S.C. §§ 1692 to 1692o)

C.3.1 Coverage

- § 1692a(5) Does this involve a consumer (not commercial) agreement?
 _____ YES _____ NO
 OTHER: _____
- § 1692a(6) Does this involve a debt collection agency, a lawyer, or a repossession company as a forms writer?
 _____ YES _____ NO
 OTHER: _____
- § 1692a(6)(A)–(F) Does this involve a person not generally covered: a creditor using its own name, corporate affiliate, government officers, process server, nonprofit counselor, or servicing company?
 _____ YES _____ NO
 OTHER: _____

C.3.2 Notice Violations

- § 1692e(11) Does the first communication, either written and oral, fail to contain the consumer warning: “This is an attempt to collect a debt and any information obtained will be used for that purpose.”?
 _____ YES _____ NO
 OTHER: _____
- § 1692g Did the debt collector fail to send the consumer a validation notice within five days of the initial communication?
 _____ YES _____ NO
 OTHER: _____
- § 1692g Does the validation notice fail to contain all the required information?
 _____ YES _____ NO
 OTHER: _____
- § 1692g Does the demand for payment overshadow, or create confusion about, the disclosure of the consumer rights in the validation notice?
 _____ YES _____ NO
 OTHER: _____
- § 1692g Does the validation notice and/or debt collection warning appear on the reverse side of the demand letter or in another document without reference thereto?
 _____ YES _____ NO
 OTHER: _____
- § 1692g Has the client failed to request validation? *If so, request validation by certified mail.*
 _____ YES _____ NO
 OTHER: _____
- § 1692g If the consumer made a timely validation request, did the collector continue collection activities?
 _____ YES _____ NO
 OTHER: _____

C.3.3 False or Misleading Representations

- § 1692e(1) Does the communication give the false impression that the debt collector is affiliated with the United States or any state, including the use of any badge, uniform or facsimile?
_____ YES _____ NO
OTHER: _____
- § 1692e(2) Does the communication contain a false impression of the character, amount, or legal status of the alleged debt?
_____ YES _____ NO
OTHER: _____
- § 1692e(3) Does the communication give the false impression that any individual is an attorney or that any communication is from an attorney?
_____ YES _____ NO
OTHER: _____
- § 1692e(4) Does the communication give the impression that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action?
_____ YES _____ NO
OTHER: _____
- § 1692e(5) Does the communication threaten to take any action that cannot legally be taken or that is not intended to be taken (e.g. suit, harm to credit reputation)?
_____ YES _____ NO
OTHER: _____
- § 1692e(6) Does the communication give the false impression that a sale or other transfer of any interest in the debt will cause the consumer to lose any claim or defense to payment of the debt?
_____ YES _____ NO
OTHER: _____
- § 1692e(7) Does the communication give the false impression that the consumer committed any crime or other conduct in order to disgrace the consumer?
_____ YES _____ NO
OTHER: _____
- § 1692e(8) Does the communication communicate or threaten to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed?
_____ YES _____ NO
OTHER: _____
- § 1692e(9) Does the communication simulate or falsely represent the document to be authorized, issued or approved by any court, official, or agency of the United States or state?
_____ YES _____ NO
OTHER: _____
- § 1692e(12) Does the communication give the false impression that the debt has been turned over to innocent purchasers for value?
_____ YES _____ NO
OTHER: _____

- § 1692e(13) Does the communication give the false impression that documents are legal process?
 _____ YES _____ NO
 OTHER: _____
- § 1692e(14) Does the communication contain any name other than the true name of the debt collector's business?
 _____ YES _____ NO
 OTHER: _____
- § 1692e(15) Does the communication give the false impression that documents are not legal process forms or do not require action by the consumer?
 _____ YES _____ NO
 OTHER: _____
- § 1692e(16) Does the communication give the false impression that a debt collector operates or is employed by a consumer reporting agency?
 _____ YES _____ NO
 OTHER: _____
- § 1692e preface and e(10) Has the debt collector used any other false, deceptive, or misleading representation or means in connection with the debt collection?
 _____ YES _____ NO
 OTHER: _____

C.3.4 Unfair Practices

- § 1692f(1) Does the debt collector attempt to collect any amount (including interest, attorney fees, collection costs or expenses) not authorized by the agreement creating the debt or permitted by law?
 _____ YES _____ NO
 OTHER: _____
- § 1692f(2)–(4) Has the debt collector accepted, solicited, deposited, or threatened to deposit any post-dated check in violation of the Act?
 _____ YES _____ NO
 OTHER: _____
- § 1692f(5) Has the debt collector caused any charges to be made to the consumer, e.g., collect telephone calls?
 _____ YES _____ NO
 OTHER: _____
- § 1692f(6) Has the debt collector taken or threatened to unlawfully repossess or disable the consumer's property?
 _____ YES _____ NO
 OTHER: _____
- § 1692f(7) Has the debt collector communicated with the consumer by postcard?
 _____ YES _____ NO
 OTHER: _____
- § 1692f(8) Is there any language or symbol other than the debt collector's address on the envelope that indicates the communication concerns debt collection?
 _____ YES _____ NO
 OTHER: _____

Appx. C.3.5

Fair Debt Collection

§ 1692f preface

Does the debt collector use any other unfair or unconscionable means to collect or attempt to collect the alleged debt (e.g., collecting time barred debts, filing suit without legal authority)?

_____ YES _____ NO

OTHER: _____

C.3.5 Harassment or Abuse

§ 1692d(1)

Has the debt collector used or threatened the use of violence or other criminal means to harm the consumer or his/her property?

_____ YES _____ NO

OTHER: _____

§ 1692d(2)

Has the debt collector used profane language or other abusive language?

_____ YES _____ NO

OTHER: _____

§ 1692d(3)

Has the debt collector published a list of consumers who allegedly refuse to pay debts?

_____ YES _____ NO

OTHER: _____

§ 1692d(4)

Has the debt collector advertised for sale any debts?

_____ YES _____ NO

OTHER: _____

§ 1692d(5)

Has the debt collector caused the phone to ring or engaged any person in telephone conversations repeatedly?

_____ YES _____ NO

OTHER: _____

§ 1692d(6)

Has the debt collector placed telephone calls without disclosing his/her identity?

_____ YES _____ NO

OTHER: _____

§ 1692d preface

Has the debt collector engaged in any other conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of the alleged debt?

_____ YES _____ NO

OTHER: _____

C.3.6 Communications with the Consumer and Third Parties

§ 1692c(a)(1)

Has the debt collector communicated with the consumer at any unusual time or place or time or place known or which should have been known to be inconvenient to the consumer?

_____ YES _____ NO

OTHER: _____

§ 1692c(a)(2)

Has the debt collector communicated with the consumer after it knows the consumer to be represented by an attorney?

_____ YES _____ NO

OTHER: _____

- § 1692c(a)(3) Has the debt collector contacted the consumer's place of employment when the debt collector knows or has reason to know that the consumer's employer prohibits such communications?
 _____ YES _____ NO
 OTHER: _____
- § 1692c(c) Has the debt collector contacted the consumer after the consumer has notified the debt collector in writing that the consumer refuses to pay the debt or that the consumer wishes the debt collector to cease further communication?
 _____ YES _____ NO
 OTHER: _____
- § 1692b(1) In contacting persons other than the consumer, has the debt collector failed to identify him/herself, or failed to state that he/she is confirming or correcting location information concerning the consumer?
 _____ YES _____ NO
 OTHER: _____
- § 1692b(2) In communications with persons other than the consumer, has the debt collector stated that the consumer owes any debt?
 _____ YES _____ NO
 OTHER: _____
- § 1692b(3) In communicating with persons other than the consumer, has the debt collector contacted that person more than once (unless requested to do so)?
 _____ YES _____ NO
 OTHER: _____
- § 1692b(4) In communicating with any person other than the consumer, has the debt collector utilized postcards?
 _____ YES _____ NO
 OTHER: _____
- § 1692b(5) In communicating with any person other than the consumer, has the debt collector used any language or symbol on any envelope or in the contents of any communication indicating that the sender is in the debt collection business?
 _____ YES _____ NO
 OTHER: _____
- § 1692b(6) In communicating with any person other than the consumer, has the debt collector done so after knowing the consumer is represented by an attorney?
 _____ YES _____ NO
 OTHER: _____

C.3.7 Other Violations

- § 1692i(a)(2) Has the debt collector brought any legal action to collect the debt against the consumer in a location other than (1) where the contract was signed or (2) where the consumer resides?
 _____ YES _____ NO
 OTHER: _____

Appx. C.3.8

Fair Debt Collection

§ 1692i

Have forms been designed, compiled and/or furnished knowing that such form would be used to create the false belief in the consumer that a person other than the creditor of such consumer is participating in the collection of or in the attempt to collect a debt?

_____ YES _____ NO

OTHER: _____

If any of the foregoing questions have been answered “yes”, read the cited statutory provision to confirm violation.

C.3.8 Damages

§ 1692k

What out-of-pocket damages has your client incurred?

_____ Telephone Calls	_____ Mailings	_____ Copying
_____ Medication(s)	_____ Doctor Bills	_____ Lost Work
_____ Travel Expenses	Other _____	

Describe any emotional distress. These items may include anxiety, indignation, irritability, nervousness, fear, worry, loss of happiness, headaches, loss of sleep, insomnia, nightmares, night sweats, crying, loss of appetite, nausea, etc. (Advise the client to note the contacts of the debt collector and the client’s reaction and keep a diary if appropriate.)

C.3.9 Documents

In addition to the documents listed on the first page, list all documents regarding debt collection, damages, and the underlying debt.