

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.