

# The Debt Defense Handbook



**STOP**  
HARASSMENT

From Debt  
Collectors

Larry Disparti, Thomas Hargreaves and Vince Khan

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The law is constantly changing. Information is fluid. We are continuously updating this book as new processes, laws, and research are discovered. Chances are, the copy you have may be out of date.

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We've taken all the notes for you!

Please, just sit back and read the narrative. It's an easy story full of flowing dialogue and we didn't want you to stop often to jot down important things. We have compiled a free companion workbook you can download that will help you deal with debt collectors. It's full of bullet-pointed important facts and written scripts you can use on the phone with debt collectors.

To download the workbook, simply come to:

<http://www.debtdefenseprograms.com/workbook>.

## Foreword By An Attorney



My name is Larry Disparti. My firm was started in 1978 by my grandfather in Tampa, FL. I took over the firm in 2001 and, since that time, I have made it my mission to help level the playing field for my clients against big corporate interests, the government, and insurance companies. My firm operates in Florida, Illinois, and Washington D.C., though we also handle cases nationwide.

My firm's initial primary focus was helping people with their social security disability and personal injury cases. Over the last few years, though, I have personally witnessed and heard gut wrenching stories from my clients about how they were being treated by debt collectors. I was horrified. That's when I decided

to take action and help my clients fight back against these debt collectors. The more I learned about these debt collectors dirty tactics and ruthless ways, the more I wanted to go forth and help as many people as I could who were dealing with these problems.

As a result, over the years, not only have I handled many cases against these collectors, I have also accumulated a vast amount of knowledge as to how these debt collectors operate.

From my personal experience, I have seen far too many incidences of debt collectors acting as though they are above the law. To them, my clients are nothing more than dollar signs and they treat them with absolutely no dignity. As such, my firm and I have helped countless clients file actions against these debt collectors and win. What does it mean to win? It means restoring peace back in their lives, it means wiping out their debt, it even means putting money in my clients' pockets for the harm that was caused.

The reason I'm involved in writing this book is because I am just, to put it plainly, disgusted with how these debt collectors operate. I want to help educate as many people as possible about their rights when life deals them a bad hand. I want to put an end to this industry that trades in human misery.

I've read a fair share of legal texts in my life and, frankly, they are very hard to wade through. That is why, when we started this project, we wanted to do something unique and special. We wanted a book everyone can read -- and possibly enjoy -- despite having fallen on hard times. This book is written in a fictional story format that is poignant and concise.

I sincerely wish that you enjoy the book and pass it on to as many people as possible so we can help put a quick demise to the debt collection industry.

Sincerely,

Larry Disparti,  
Attorney At Law  
Disparti Law Group

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**Seriously, this is not your “standard disclaimer.” Don’t believe a word we say. Do your own research and discover your own truth.**

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## Prologue

Ring, ring...

Every time the phone rings, I freeze. My stomach clenches and I feel like vomiting. I look at the clock and notice it's 9:30pm – prime time for *those* calls. The only people that call this late bear bad news. Gingerly, I pick up the phone.

“Hello?”

A heavily accented Indian voice asks, “Hello, is this Angela?”

“Yes. Who's this?”

“My name is John from the legal department of Acme Collections. I am calling in regard to your outstanding credit card debt. We intend to file a lawsuit against you if I cannot get a resolution regarding the \$5041.26 you owe on this loan. I want to inform you that we are a debt collections company and this is an attempt to collect a debt. Information discussed during this call will be used to collect a debt.”

The blood drains from my face and I feel light-headed. Not again. I take a tight breath, swipe at the tears forming, and respond, “John, I lost my job six months ago and I've not had an income since then. I am living on savings and am borrowing money from my family for food and rent. I simply do not have the money to pay you right now. I wish I could. I am a good person and I want to repay my debts.”

John sighs dramatically, “I am sorry, Miss Angela. Unless you can make good on the debt outstanding, I am going to have to proceed with the lawsuit first thing on Monday morning. You will be receiving the summons in a couple of days after that. The lawsuit will garnish any and all of your wages... I know you are unemployed right now but, when you get a job, it will garnish all your money until our debt is paid off. Otherwise, we may have to sell off your assets such as your computer, your cellphone, and/or your car so that we can be paid. Is this what you want?”

With hysteria creeping in as I imagine all the horrific things they are going to do to me, I summon what little breath I have left and whisper, “Please stop. I have nothing to give you. I told you, I lost my job and I am living off of borrowings from my family.”

John then said, “Well Miss Angela, maybe you can borrow from your family or take a cash advance from your other credit cards to pay us off. Otherwise, I will have no choice but to proceed with this lawsuit.”

I don't know what to do. I don't know what to say. In full panic now, I stutter, “I-I--I'm sorry. I c-c-can't,” and hang up on John.

I slump to the kitchen floor and cry.

## How To Use This Book ← **Seriously, read this. It's really cool.**

The debt collections industry is a multi-billion dollar industry that trades in human misery. These companies prey on unsuspecting people who are down on their luck and use lies and deception to extort money from their victims. These people's goal is to exact blood money from their victims through a **clever racketeering system that they don't want you to know about.**

We've seen far too many people suffer unnecessarily at the hands of debt collectors. This is why we have decided to come forth and expose their dirty little secrets. Secrets of which they prefer you remain ignorant.

Debt collectors are in the business of collecting money from uneducated victims. While there are specific laws that protect consumers in what they can say and do, most people are simply too depressed by their circumstances or too ignorant of their rights to take action. As a result, debt collectors figuratively get away with murder.

Debt collectors often act as though they are above the law. To them, collecting money from unsuspecting debtors is just business as usual. To you and me, they are causing undue distress that can be considered harassment. People have been phoned upward of twenty times a day through the use of auto-dialers. They have been called derogatory names and treated with utter disdain and disrespect. If you have ever been delinquent on your debts, this will not come as a surprise to you.

One of the most important axioms of life is this; if you don't know your rights, then you don't have any. Conversely, if you don't exercise your rights, you might as well not have any. With these principles in mind, we felt that it was important that we educate people and share what we have discovered when dealing with debt collectors. **Frankly, as you will discover, the whole thing is a scam.**

Debt collectors will have you believe that you are a deadbeat and worthless. We disagree. People's lives are dynamic. Frankly, "shit happens" to the best of us. Divorces, death, injuries, or losses of jobs occur. Many of these curve balls are out of your control and, just because these things happen and you are unable to make good on your debt, this does not make you a bad person.

The following letters are from the files of Tom, one of the authors of this book. Tom has not only been able to successfully challenge the debt, he's been able to have it removed from his credit report – multiple times.

800-669-9940

www.creditmgt.com

**CREDIT**  
*Credit Management*

P.O. BOX 589

WAUKESHA, WI 53187

July 20, 2009

Thoi . . .

RE: CMC file # HI7894  
Creditor, T-Mobile

Dear Mr. . .

This is in response to your correspondence received July 16, 2009.

Credit Management Control, Inc. was in receipt of correspondence on or around July 1, 2009 in which a copy of the contract/validation was requested. Because T-Mobile no longer had the original contract available per your request, collection efforts ceased.

On July 9, 2009 our office submitted a deletion request to the credit bureau(s) and mailed a copy of such to your attention. Please note that it takes the bureau(s) up to 90 days to complete the request. The above was completed prior to your July 12, 2009 letter.

Credit Management Control, Inc. at no time violated any part of FDCPA, FCRA or state laws governing collection agencies and therefore a settlement is not warranted.

I hope this assists in the resolution of this matter. Should you need additional information, please feel free to contact me.

Sincerely,



Jim Brick  
President

WAUKESHA, WI • 877.225.7243 • FAX: 262.542.6601

GREEN BAY, WI • 866.844.2357 • FAX: 920.435.6791

**RJM ACQUISITIONS LLC**  
**SUITE 224**  
**575 UNDERHILL BLVD**  
**SYOSSET, NY 11791**  
**1 (800) 541-0824 Toll Free**  
**Fax # (516) 714-1325**

April 29, 2010

Mr. Thomas :

Eugene, OR 97406-1303

**Original/Previous Creditor:** Target Stores-Retailers National Bank  
**Target Account Number:** Ending w/3990  
**RJM File Number:** 1022557550

Dear Mr. :

RJM Acquisitions LLC is in receipt of your recent letter dated April 5, 2010 concerning the above account.

After completing our investigation, RJM Acquisitions LLC denies that the reporting of the above referenced account is inaccurate.

Regardless, RJM Acquisitions LLC has closed the account.

In addition, RJM Acquisitions LLC is sending an update to the credit bureaus to which we report (Trans Union and Experian) instructing them to delete the RJM Acquisitions LLC trade line pertaining to this account. In accordance with the Fair Credit Reporting Act, a credit reporting agency has up to 45 days to update any changes.

If you have any questions, please feel free to contact us.

Very truly yours,

  
Douglas J. Greenberg  
Director of Compliance

THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

*Has Never Been Listed  
on ANY Credit BUREAUS*

*Notice How they deny  
their info is wrong, just  
before they close the acct.  
I never heard from them  
again. and nothing  
listed from Target or  
RJM is on my credit reports*

*Tom*

These are just two examples of many such letters we have accumulated through the years.

You will discover as you read the book that what these debt collectors are doing is morally wrong. It is our hope that you feel as disgusted about their actions as we are and that you help awaken others, too. It is our goal to put an end to all debt collectors. But in order to do this, we need your help. We need more people to be aware of this and expose their scam as common knowledge.

More importantly, you have the power to turn the table on debt collectors. You see, the U.S. Government has put certain laws in place to protect debtors against unscrupulous debt collectors. Did you know debt collectors are liable for \$1000 fines when they violate these laws? This means that once you know your rights, you can then document the instances debt collectors violate the law and turn the tables on them. We will not only show you how to do this, we will **connect you with eager attorneys who specialize in this area of law who will sue debt collectors on your behalf... with zero out of pocket to you.**

Some of you might be thinking that this is just too good to be true. The reality is, an attorney needs an injured party before they can file a lawsuit. There are lawyers just waiting for documented cases like yours so they can take action. Once a lawsuit is filed and won, all attorney fees will be paid by the losing party. That's how these lawyers earn their money – *after* they win for you.

When you know your rights and you are able to document the instances where these debt collectors have violated them, it's like bringing a photo of a man with a bag of money pointing the gun at a banker's face to court. When you arm your attorney with documented evidence for them to build a solid case on your behalf, it's a no-brainer deal.

Look, attorneys charge a lot of money per hour. When you walk into a lawyer's office to discuss your case and you are armed with solid evidence, they know that they can win against a defendant (the debt collectors) who has a lot of money. The attorney knows that she can easily collect her attorney fees from the debt collector. It's an ideal situation for the attorney. It's an even better situation for you. With no money out of pocket, your attorney can not only get the harassment to stop, more than likely, they will have the debt collector send you a settlement check (and possibly even have the debt removed from your credit report as part of the settlement).

We want to point out that we are in no way suggesting that you defraud a legitimate original creditor (the entity that issued you the original loan) or the owner of a legally transferred loan. We will discuss how they are compensated for their loss in this book. What we are talking about, specifically, are third party debt collectors who we will expose as nothing more than wolves in sheepskins.

This is a dirty underbelly of society that we would like to see disappear; yet we cannot do it alone. We need your help. If, after reading this book, you agree with what we have to say, **we hope that you pass this book along to at least 3 other people.** Just

forward it to them so they can be educated, too. Chances are, they are being preyed upon themselves or they know someone this book will help.

Thank you for your kind support.

Larry, Tom, and Vince

## Chapter 1: The Debt Collector Scam Exposed

The next day when my phone rang, I felt that all-too-familiar tingle in my spine. My hand shakily pulled my phone from my pocket. I turned my head slightly and looked at the screen from the corner of one eye. The relief was palpable. It was my friend Kim.

“Hi Angela. This is Kim. I wanted to check in on you. I know you’ve been having a tough time and I wanted to see if you want to hang out. How about I buy you a pizza at Gino’s?”

With nothing better to do on a Saturday, I decided to have some fun with Kim. I’d been holed up in my house for what seems like months. It’s hard to justify leaving the house with no money to spend, and it’s embarrassing spending time with friends and listen to them talk about new clothes and planned vacations when I have to decide between heat and food.

When I arrived at Gino’s, Kim jumped up and gave me a warm, and much needed, hug. Kim kept one arm wrapped around my shoulders as she ushered me to our table where a delicious Chicago-style pizza was already waiting.

As she sat down, Kim said, “I’m sorry Angela. I was too hungry and I knew you wouldn’t mind if I ordered for you. I chose our favorite with extra cheese.

“So how are you? How’s the job hunting going?”

“Oh, so-so,” I replied. “I had an interview last week. It went pretty well, but you know how it is... It’s hard to tell. Kim, I am so glad you called and invited me out. I have been so depressed lately. I lost it yesterday when a debt collector threatened to sue me. I am so scared, I don’t know what to do.”

Kim scrunched her face in concern, “Wow. I’m so sorry to hear that Angela. Tell me what happened.”

After a fortifying bite of pizza, I told Kim about yesterday’s phone call.

When I finished, Kim pointed her fork at me, made a few small circles in the air with it as she finished chewing, then said, “Angela, I am familiar with debt collectors. I was down on my luck a few years ago and had a similar issue. I was lucky because I had my friend Tom who is an expert on these sorts of things. Tom was able to coach me through the whole thing. I ended up with the entire debt wiped off my credit report and I have never heard from the debt collectors again.

“In fact,” she set her fork on the table and pulled out her phone, “why don’t I give Tom a call and see if he can come join us. Who knows, we might get lucky.”

Kim chatted with Tom a moment and invited him to share his expertise in exchange for deep dish with extra cheese.

“Good news! Tom was just finishing his shopping and is in the neighborhood, he’ll be coming straight over.”

I blushed. “Ummm... Is it a good idea to invite your friend Tom into this? I’m feeling quite ashamed about not being able to pay my debt. I don’t know Tom and I don’t exactly want everyone to know that I’m a deadbeat.”

Kim smiled warmly, “Relax Angela. You’re not a deadbeat. This sort of thing happens all the time. Life is unpredictable. People lose jobs, bad things happen to good people. It’s not like you intentionally and deliberately set out to defraud the credit card company. You had a steady income and there was no way for you to predict you’d be “downsized” when your company merged with their competitor. That’s not your fault.”

“I know.” I fiddled with my napkin. “Still, it’s not what I was brought up to do. My parents instilled good values in me as I was growing up. One of those values was that I should honor my debts.”

Kim’s face rippled with sympathy. “I know. I felt exactly the same way when Rick died a few years ago. Between the hospital debts and... well, you know what happened.” Kim shook off those thoughts and continued, “There is so much about the debt collections industry you don’t know. It was a real eye-opener when Tom told me the truth about it. These companies use the moral foundations of good people as leverage against us. Debt collectors are relying upon us wanting to do right as they twist the guilt knife in deeper.

“You were a straight-A student Angela, yet no one teaches you about these things in school. You need some School of Hard Knocks Real Life education. Do you know that financial institutions buy insurance against credit defaults? This means, if a consumer defaults on a loan, the financial institution is protected. And financial institutions are legally required to write off the debt a certain number of days after the customer hasn’t made any payment on the loan.”

That was news to me. Perplexed, I asked for clarification, “Huh? Why does my credit card company need to write off my debt? I thought it would exist out there forever until I pay it.”

“It’s simple accounting to them, Angela. You and I know that credit cards have very high interest rates calculated daily. This means the balance grows exponentially, very quickly. So, let’s say you take out a loan for \$1000. After a year, it could end up being \$1400. After five years, that amount could be well over \$4000. If the loan isn’t repaid, the institution can then take a massive bad debt tax write-off against their profits, thus saving them a lot of money against their profits for a hypothetical phantom debt that is

ever-accumulating. As a counter, the government has established that **after 180 days, a debt must be written off** to stop this from running away.

“When a company writes off a debt, they can offset this entire amount against future profits. So if it writes off \$1000 against a bad debt, it is able to take \$1000 off of its taxable income.

“What this means is, **once a company has written off a debt, the debt is forgiven. It’s wiped off its books. It can no longer collect on the debt. If it continues to collect on this debt, it will be committing tax fraud.**”

“Hold on... can’t my credit card company assign the debt to someone else like this Acme Collections company?”

“Of course it can,” Kim replied, “but that’s not how things usually work. Financial institutions realize that they can make far more money writing the debt off than selling it to someone else. Defaulted debts are often bought 3-cents to 10-cents on the dollar, whereas the corporate tax rate is 39%. Which would you rather have if you were a financial institution?”

“So let me get this straight,” I put the glass of water I’d been holding on the table. “If I am a corporation, and I have a bad debt worth \$100, I can either sell it on the open market for \$3 or I can receive a credit of \$39 against my taxes?”

“That’s right,” Kim nodded. “So as a matter of course, financial institutions simply write off the bad debt. Of course, it will try its best to recover the loan internally within the first 60 days of delinquency. After that, it knows that the chances of recovering the debt falls off dramatically past the 60-day mark, so, they often just write it off.”

“So then how do debt collectors like Acme get involved?”

Just then, Tom arrived. After giving Tom a hug, Kim made introductions.

Once we were all settled back at the table with pizza and drinks, Kim brought Tom into the conversation, “Tom, Angela and I were just discussing the debt collections industry. Angela had a recent run-in with a debt collector. They are threatening to sue her and bring her to court.”

Tom smiled with sympathy. “Before I say anything else, Angela, I want to tell you that I am not an attorney. I’m just sharing with you the information I have discovered during my years researching and fighting to defend myself. You should always do your own research and never take what either Kim nor I have to say at face value.

“Having said that, I completely understand where you’re at, Angela. I’ve been in your same predicament and have not only received threats, I actually went to court and fought my debt collectors – and won.”

Kim interjected, “Tom, I was just telling Angela about how financial institutions write off bad debts and Angela was asking me about how debt collectors become involved. Perhaps you can explain that whole process for us.”

Tom grimaced, “It’s a dirty little secret that the multi-billion dollar **debt collections industry does not want you to know**. They operate solely because most people don’t know their rights and they are simply playing a numbers game.

“Basically, once your debt is written off the books of the original creditor, that company can turn around and sell the information about your loan to a third party company -- the debt collector companies. It’s horrible that they can sell such sensitive information about your debt on the open market, yet it’s legal and it happens all the time. The debt collector then tries to collect money from the debtor using the information they just bought. If a debt collector buys a debt for, say, 3-cents on the dollar, then turns around and only collects 50% of what’s owed, they are still way ahead of the game. Let’s get some definitions straight. We need to make a distinction between a collections agency and a debt collector.

“A collections agency is retained by an original creditor to collect a debt on its behalf. So let’s say you owe ABC Corporation \$1000. ABC Corporation may not have the staff for the collections effort because it is in the business of running a credit card company. So, ABC retains another company who will try to collect the debt on its behalf, but the debt ultimately belongs to ABC. This usually happens to debt without payment within the first 60 to 90 days of the delinquency. Collections agencies are hired after ABC has exhausted their internal collections efforts and before the debt is considered worthy of being written off yet. These collections agencies make a percentage of what they are able to collect on the institution’s behalf. They never claim to own the loan; they say they work for the original lender.

“A debt collector is a whole different beast. After an institution has written off the debt, it then sells your information on the open market to the highest bidder.”

Tom leaned forward and said, “You need to understand that this is an industry that exists simply to prey upon people who are too ignorant, or too busy, or too stressed to know their rights. As a matter of course, these companies violate many laws on a regular basis to operate their business, however, because people are too distressed and distracted with their debt issues, they don’t realize that these debt collectors are taking advantage of them.

“As Kim explained, the debt is often already written off. This means that these third party debt collectors are merely playing a skill game. They are merely businesses gambling on numbers. Like I said earlier, if they buy your debt information at 3-cents on the dollar and then were only able to collect 50% of the debt, they are way ahead of the game. They realize that a certain percentage of people won’t pay, yet there is a percentage of people who will be able to make alternative arrangements. Oftentimes,

the first payment will be enough to cover the cost of buying the debt in the first place and any additional payment is pure profit.

**“These companies are acting as if they own the debt** to get you to believe them so you feel obligated to pay. Actually, **these debt collectors are nothing more than extortionists and bullies**, and the best thing to do with a bully is to stand up to them.

“This is why I do what I do. I’ve seen too many of my friends destroyed by these debt collectors. They merely exist to profit from the misery of others.

“The government learned about this practice years ago and they enacted a law called ‘The Fair Debt Collections Practices Act’ or FDCPA for short. This body of law governs what debt collectors are allowed to do and say.

“Unfortunately, most people are unaware of the law and, as a result, these bottom feeders are able to do what they do. If more people know their rights, then these companies will find it unprofitable to continue to break the law and that industry will go out of business.”

Tom sat back in his seat. “The FDCPA does have a provision to allow victims of these schemes to sue the violators for up to \$1000 when they break the law. It’s the government’s hope that this will a) act as a deterrent for would be violators, and b) give consumers the power and framework to protect themselves.”

I cleared my throat and asked Tom, “If this is the case, then how do they get away with being able to sue debtors in court?”

Tom shook his head sadly, “It’s the same shill game, Angela. These people bank on the fact that over 95% of the people they sue never even show up to defend themselves. As a result, they will receive what’s called a ‘Default Judgment,’ meaning a judge never even sees the case. It’s rubberstamped because the defending party never shows up.”

“Okay, Tom,” I pushed my plate aside, disinterested in food, and leaned forward, “Yesterday, when the debt collector called me, the person identified himself as coming from the legal department and they threatened to sue me today if I don’t pay them. If they are a debt collector, then how can they say that?”

Tom nodded, “Here’s the thing Angela, these people will **say anything to get you to pay**. They will lie, threaten, and intimidate their victims to force them to pay. They are paid on a percentage of the amount they are able to collect. Chances are, these people are calling from a call center working out of a small cubicle. Some even operate overseas.”

“Yes, the person calling me had a strong Indian accent. He identified himself as John and insinuated he was an attorney. He said that if I didn’t pay up, he was going to file a lawsuit against me and garnish my future wages.”

“Did they call you on your cell phone?”

“Yes.”

“Excellent!” Tom clapped his hands, “Did you know that under the **Telephone Consumers Protection Act** it’s illegal for a company to use an auto-dialer to call you on your cell phone? Furthermore, each violation is worth \$500 if the consumer sues that violator? Unless company can show the court that they manually dialed your phone number with their fingers, then they are using an automatic dialer which is redirected to the next employee available in a call center somewhere in the world.

“Now do you see what I mean about understanding your rights? These people are operating outside the law and are operating on the premise that the people they harass don’t know their rights.

“You see, debt collectors work on a numbers game basis. They know that the vast majority of the people they prey upon will give in to their demands in one form or another. Most do not challenge them legally. For the small percentage that do, they will either defend in court and pay the legal fees or just settle out of court. They simply write this off as part of the cost of doing business.”

Kim bounced in her seat. “Ohhhh... I wish I had known this years ago, Tom. I had to declare bankruptcy before I married Rick because I couldn’t pay for my **student loans** and the credit cards I lived off during my university days.”

Tom growled under his breath. “I know. I see red whenever I hear that people file bankruptcy unnecessarily due to these debt collectors. This practice of thuggery doesn’t just apply to credit card debts, **it applies to all debt**, even mortgages. The mortgage situation is a lot more complex, so I won’t get into that here. You can read about that in Vince Khan’s book, “The Foreclosure Defense Guidebook,” which you can get for **free** at <http://www.consumerdefenceprograms.com>.

Kim’s mention of student loans piqued my interest. “Tom, can you tell me about how student loans work? I have some of them outstanding, too.”

“I’d be glad to,” Tom laughed, “but first let’s finish this pizza before it gets cold.”

## Chapter 2: Understanding Your Rights

After a drink of water to wash down the pizza, Tom sighed with contentment. “Boy, that was delicious. Before I talk about student loans, I want to talk to you about the difference between an original creditor and a third party debt collector. Kim, do you want to have a shot of explaining the difference?”

“Gladly. An **original creditor** is the person with whom you had the original contract. Oftentimes, it is the financial institution who’s name was on the loan application. Sometimes, the original creditor will hire a Collections Agency to collect the debt for them. They don’t actually own the debt, they are legally collecting on behalf of the original creditor.”

“Okay, what about the debt collectors, then?” I prompted.

“**Debt collectors** are third party companies who buy the information about loans, not the loans themselves. They don’t legally own the loan, though they try to make you think they do so you’ll pay them,” Kim finished.

“Very good, Kim,” said Tom. “All these parties have to follow the rules as governed by the Fair Debt Collections Practices Act (FDCPA).”

You can get a free copy of the Fair Debt Collections Act by going to: <http://www.debtdefenseprograms.com/workbook>

“It’s important to understand the various different entities involved in the game of debt to understand how the game is played. Under the FDCPA, a company attempting to collect on a debt cannot make false or misleading statements about the debt.

“When you are dealing with a party who is collecting against you, the most important things to do are to ascertain who and what they are, and whether they are the original creditor, a collection agency, or a debt collector.

“The original creditor does have the right to collect from you. If the original creditor were to sue you in court, there are ways to defend against them, specifically if a tax write off has been performed on the debt. If the debt has been written off, then it cannot be collected. If an original creditor pursues you, then I suggest you discuss this matter with an attorney who specializes in debt defense. As is usually the case, however, it is extremely rare for an original creditor to sue the debtor, they typically just write it off. If you want a referral to a debt defense attorney, just contact your local BAR association. I can also recommend attorneys that I have worked with that are aggressively defending

clients in these matters. You can find out more by going to <http://www.debtdefenseprograms.com/attorney>.

“What we have found through our experience and research is that most original creditors follow the law. They have too much to lose if they don’t. Most of their activities for following-up happen within the first 60 days of delinquency.

“The vast majority of the legal violations are associated with these third party debt collectors. That is why you need to know who you are dealing with when you are contacted by someone with regard to the debt. It is important that you ask them for their name, the name of their company, their address (in case you need to sue them), and their phone number. Most importantly, you have to ask the person with whom you are speaking for their social security number.”

Perplexed, I asked, “Why?”

“This puts them on notice that you are serious. They will invariably protest. However, if they are going to harass you, you need to know who specifically they are so if you need to sue them, you have the right person.”

I raised an eyebrow. “So, what if they protest or refuse to give me their social security number?”

“Then say, ‘I understand. I just need to know you are who you say you are. In the event that we end up in court, I don’t want to sue the wrong person. Before we can proceed with this conversation, please mail me a copy of your driver’s license. Also, please send me a copy of the bill of transfer that documents the formal transfer of the debt to you or your organization. Under the Uniform Commercial Code, the transfer of a promissory note will need to be formally endorsed and assigned on a document with my wet ink signature. I will need to see this too.’”

“What if they don’t have it?”

“Then inform them that as the collector, **they have the burden of proof** to show you (and to the court if it gets to court) that you actually owe them the debt. If they cannot prove to you who they are and that the debt has been assigned to them, how can you know that they are the legitimate creditor and not just a scammer trying to defraud you of your hard earned cash?

“While you have them on the phone, you should also ask them to state for the record the claim they have against you. Specifically, did they buy the actual debt? Has the debt been written off by the original creditor? Ask if they have a license to do business in your State as required by law. Ask to see the contract with your signature on it. Ten out of ten times, when we ask to see the contract, they simply cannot produce it. For obvious reasons, neither the original creditor nor any other party we have dealt with has been able to produce a copy of the original contract with your signature on it.

“Remember, it is illegal for a debt collector to make false or misleading statements about the debt. If you are contacted by phone, ask for them to send the information about their claim via mail. This way, should you decide to take them to court, you have hard evidence against them. Also, this will make the case against them all the stronger because you can also get them on mail fraud if they violate any of the FDCPA rules, and mail fraud carries both criminal and civil penalties.”

“Tom, what’s the difference between a criminal verses a civil penalty?”

Tom held out his left hand, “A criminal penalty is when you violate a law that is under the jurisdiction of the State. This is when the Attorney General for the State or the Police are involved. If the debt collector does not own your debt or did not legally buy your debt information, it’s a crime for them to solicit money from you. It’s considered a scam. They can go to jail if they are found guilty of committing mail fraud, as well as experience monetary penalties, property seizures, and possibly jail time.

“A civil liability,” Tom held out his right hand, “is when one party has been injured by another party and seeks the court to redress the damage done to right the wrong. This usually involves a breach of contract situation. Collecting on a debt is essentially a breach of contract cause of action.

“When a third party debt collector misrepresents a claim against you and tries to collect, then this is a civil matter that needs to be resolved through the court system.” Tom waved his right hand. “These matters are usually very straight forward; either the debt collector sues the debtor and the debtor doesn’t show up and wins by default, or the debtor sues the debt collector for one or more FDCPA code violations, and the debt collector pays the settlement and moves on. It almost never goes to trial.”

“Tom, you said that under the law, a debt collector isn’t allowed to make false or misleading representations. What if they represent as if they were an attorney?”

“Under the FDCPA, a debt collector cannot make false pretense or implications that they are an attorney if they are not, nor threaten to sue you if they cannot, especially if they do not actually intend to sue. They cannot send the police after you nor make you go to jail. Settlement of debt is a civil matter.” Tom nodded at his right hand. “The police only handle criminal matters. Failure in one’s ability to pay a debt is not a crime.”

Aghast, I exclaimed, “Oh my goodness! That’s exactly what Acme did to me last night!”

Tom narrowed his eyes, “What time did they call you?”

“About 9:30pm.”

“That’s another violation, though of a different law,” Tom said gravely. “You see, **companies cannot call you after 9pm local time unless it’s for an emergency –**

and by an emergency I mean someone you know is in the hospital and they have to get ahold of you quickly. An emergency is not 'you need to pay me by tomorrow.' This is a violation of the Telephone Consumers Protection Act (the TCPA)."

"Tom, the person said they were going to file a lawsuit against me today. Should I be worried?"

"If in a few days time you haven't received a summons for the lawsuit, then you can file a claim against Acme for false representation because they failed to follow through on their threat. As a matter of fact, I can almost guarantee you that the person who called you is not an attorney and is not from a law firm or any legal department. They likely work in a small cubicle and churn out calls for a living."

I digested this for a moment then asked, "Tom, you said I can file a lawsuit against Acme. How do I do that? Isn't it difficult? And isn't it my word against theirs?"

"Let's not get ahead of ourselves. I will go into that in a little bit," replied Tom, laying his hands back on the table. "I want to address your concern about your word against theirs first. It's very simple. **All you need to do is to write down your recollection about the event, what was said, who you spoke to, the date and time of the incident, and sign it.** Just title the document 'A Sworn Affidavit By' and your name. For extra protection, sign the document in front of a Notary Public (or Justice of the Peace). This should stand up in any court of law. If you were to sue them, it will be the other side's burden to prove that they did not say or do the violations listed in your affidavit. Usually, this will mean that they will have to come up with the recording of the conversation. Chances are that they will not have that recording or the recording will contain condemning evidence that their attorney will not want the court to hear.

"Of course, if you are dishonest, and your affidavit contains falsehoods, then you will be guilty of committing perjury. It's a very serious crime, especially when you are presenting the affidavit in court.

"As I said before, the debt collectors are playing a shill game of extortion. They may not own the loan and you may not owe them any money yet, they will say whatever they can to convince you to pay them. When they violate laws like the FDCPA and TCPA, that's when you've got them.

"Also, once you've asked the debt collector to provide proof you owe them money and they refuse, **you have the right to tell them to stop calling you** – by law. If they persist in calling, that's another violation of the FDCPA. You see how these violations can stack up?"

"What?!?" I gasped. "These people have been calling me several times a day, every day, for the last two weeks. You mean to tell me that if I tell them to stop they have to?"

Tom smiled smugly, “That’s right. It’s really that simple. You’d be surprised how many people are ignorant of this fact. Look it up yourself. It’s under section 805 of the FDCPA [15 USC 1692c]. You can tell them to stop over the phone, though it’s best to have it in writing.”

“What if they ignore my request and continue to harass me?” I asked.

“Oh, that’s when things get really interesting,” Tom’s smile broadened further. “Under the FDCPA, there is a specific provision that allows you to sue the violator for up to \$1000 for any violation under this act.”

I paused to gather my thoughts. “So, if I understand this correctly, I need to keep a detailed journal of the events that take place, recording things like the names of the people I speak to, when, and what they said, including any abusive language used? And if they continue to call me after I have told them to stop, then this is only going to make my case stronger against them?”

Tom beamed at me. “Now you’re getting it. Can you see that once you know your rights, you can not only get them to stop, you can also bring the pain right back to them? I would imagine having a thousand dollars in your pocket right now would bring a smile to your face. ”

“Definitely!” I said without any hesitation.

Tom continued, “One person I worked with received over 200 phone calls on his cell phone from a debt collector. He sued them not only on the Fair Debt Collections Practices Act violations but also on the Telephone Consumer Protection Act (TCPA). He ended up receiving a settlement check for \$61,000 from the debt collector, his debt wiped, and it was removed from his credit report.”

“Tom,” Kim asked, “what’s the **Telephone Consumer Protection Act**? How does that protect the debtor from debt collectors?”

“Simply put, it is illegal for a third party debt collector to call a consumer **on their cell phone** using an auto-dialer without the written consent of the consumer **if they do not have a prior business relationship with them**. Tell me Angela, have you ever done business with Acme or spoken to them before this issue?”

“Of course not!” I answered.

“Then would you say you do not have a prior business relationship with them?” Tom asked.

“I would say that I have never spoken to them, nor had any prior dealings with them, until they contacted me via phone.”

“Then this most likely constitutes a violation of the TCPA.

“Most of these debt collector operations use a computer system to dial out. It is far too inefficient to dial with their fingers since they are running off huge lists of possible victims. For the most part, when you receive a phone call from a third party debt collector to your cell phone, that’s more money in your pocket.”

“How much money?” I asked with some excitement.

“Under the TCPA, a company that violates the law is liable for \$500 per violation. In fact, this amount goes to **\$1500 per violation** if it can be proven that the company knowingly and willfully commits these violations as a matter of course.” answered Tom. “Remember that client I mentioned? He was able to show a call log of over 200 phone calls made to his cell phone by the debt collector. When he threatened to file suit, the debt collector knew they were in trouble. The company knew they couldn’t defend their actions in court so, instead of accumulating more legal fees, they simply made him an offer to pay him off to keep his silence.”

I felt hope blooming in my chest. “Wow! This is amazing. I feel a thousand times more positive about life than when I woke up this morning. Thank you so much for this information Tom!

“Before you go, would you mind telling me about student loans?” I asked.

“Sure. All debt works pretty much the same way, as I have explained it, though the situation with most student loans is slightly different. **Student loans are either loans from the government or from a private institution.** If it is from the government, and if the government attempts to collect on it when you default, then the government is considered the original creditor.

“The government also has to follow the laws as governed under the FDCPA and it’s rare for them to sell the loan or write it off. However, if the loan is a private student loan, then it generally follows the same process as credit cards.”

“Mine is called a Perkins Loan,” I offered.

“A Perkins Loan may sound like it’s a government loan, actually, it’s a private loan. The school is often the lender and, just like credit card debts, these schools typically write off the bad debt and sell the information off to a third party debt collector.

“There is a huge brokerage network that buys and sells debt information. Companies buy bad debts on a regular basis to offset their taxes, regardless of whether they start life as credit cards, mortgages, student loans – it doesn’t matter to them.”

“How does that work in the favor of the companies?” I asked. “It seems like all these loans would add up to much more than the taxes.”

“You’ve heard that corporations often pay very little in taxes, right?” asked Tom.

“Yes,” I responded.

Tom continued, “This is one of those schemes corporations use to reduce their tax burden. They buy these bad debts for 3 to 10-cents on the dollar, then declare it as a bad debt and write it off against the full amount. So, for example, they might buy \$100,000 worth of bad debt for \$3,000. If they were to pay taxes at the going corporate tax rate of 39%, they would be paying \$39,000 on that \$100,000 in profits. Instead, they write off that \$100,000 against their profit.”

“So,” I finished the calculations, “this means the company ends up paying just \$3,000 as opposed to \$39,000 in taxes? Wow, \$3,000 is a whole lot less than \$39,000.”

“Very true,” he nodded solemnly.

I shook my head and made a sour face, “That’s terrible.”

Tom slapped the table with his palm, “This is why we need to get this information to as many people as possible. This practice doesn’t just hurt people in debt, it’s also a tax loophole that is placing an unfair burden on taxpayers.”

“Tom, you mentioned something about your Coaching Program. Can you tell me a little more about that? I realize how little I know and it is really important that I understand this better. I’m far from the only one I know in this situation with credit.”

“It’s all well and good that you know the basics of how this works, please realize it can become quite complicated when it comes to actually taking action. I used to help people on a one-on-one basis and I quickly discovered that I would say the same things over and over. I talked to a friend and he helped me with the tools to put my process into an automated Coaching Program. This program teaches people step-by-step what to expect and how to deal with debt collectors. It begins with an overview of the process, then it coaches you on what documents to send when, and how to word everything. The whole process usually takes about three months to turn the table on debt collectors. Remember, the goal is to not only make them stop harassing you, **more importantly; it’s to aid you in collecting from them for any violations they’ve committed.**

“For example, we have sample letters that guide you to write your own letter so debt collectors will cease contacting you. We find that, oftentimes, the first letter is enough to make them go away. If they persist, we teach you how to compile the evidence so that you can go after them in court and collect judgments against the debt collectors. As you can see from our conversation, these judgments can be quite substantial. If you think about how many phone calls you’ve received from debt collectors in recent weeks and multiply that by \$500 per phone call, **that adds up to serious money.** Not everyone has

the know-how to file a lawsuit. We have easy fill-in-the-blanks template letters and lawsuit complaints that are very effective. We've seen debt collector companies crawling back to people apologetically. Also, many people don't feel comfortable going to court, nor do they want to confront their tormentors. **Through our Coaching Program, we can even connect you with a network of attorneys nationwide who are eager to represent you for zero out of pocket.** These attorneys are paid on a billable hour basis and, when you have a winning case, the losing side has to pay the attorney of the winning side their attorney fees. Attorneys love these cases and won't take them unless they feel they have a really good chance of winning – which you will have if you follow all the suggestions and instructions we provide in the Coaching Program. We can connect you with attorneys with a great track record who specialize in this area of law.

“The most important thing about our attorney referral network is that these attorneys are experienced in dealing with debt collectors and their slimy tactics. They know how to **negotiate settlements for the maximum amount** to make the debt collectors hurt as much as possible.”

“That sounds great! How do I find out more about your Coaching Program?”

“Just go to <http://www.debtdefenseprorgams.com/coaching> if you want more information.

“Angela, since you are Kim's friend, this has become personal to me. I would like to help you deal with Acme. In fact, I want to introduce you to my friend, Larry Disparti. He's an attorney who defends clients against third party debt collector violations on a regular basis. More than likely, he can even help you file a lawsuit against Acme with zero out of pocket for you.”

With both relief and excitement, I said, “Wow Tom, that would be amazing! I am looking forward to meeting Larry. I am so sick of being a victim and shaking with fear every time the phone rings. I want to make sure Acme doesn't harass me or anyone else.”

“Great! I will see when Larry is available and set up a time for you two to meet.”

## Chapter 3: Meeting With an Attorney

Tom called me later that day and told me that he was able to arrange a meeting with Larry first thing Monday morning.

Monday arrived and I met Tom in the waiting room of Larry's office. He gave me a hug and we stepped into the next room where he introduced me to Larry.

"Larry, I would like you to meet Angela. Angela has been harassed by debt collectors and she wanted to talk to someone knowledgeable who can make them stop."

Larry shook my hand, "Nice to meet you Angela. Have a seat, please, make yourself comfortable. Would you like something to drink?"

After I declined the offer of a beverage, Tom asked Larry, "Could you please tell Angela what you do, Larry?"

"Sure. My office has been dealing with a lot of debt collector cases. We've had a lot of success in not only stopping them from calling, we've also been able to help our clients collect settlements from the debt collectors based on their violations," Larry responded as he settled across from me in a plush chair.

"As I am sure Tom has mentioned to you, these debt collector outfits **buy the information** about your debt from original creditors who have already written the debt off. Any money that is collected does not go back to the original creditor, the default of the debt isn't erased from your record, and there is no benefit to you in paying them if they cannot prove they own the debt.

"Under the Fair Debt Collections Practices Act (FDCPA), it is illegal for a debt collector to falsely state the amount and the nature of the debt owed. The debt collector cannot add anything to the amount. No fees, no interest, nothing. Oftentimes, these are the scams they perpetrate. They'll call you and tell you the debt was for \$5000 and now you owe them another \$200 in processing fees and interest. The thing is, most of the people who work for debt collectors are regular folk in call centers and they are told to do whatever it takes to collect money from debtors. The debt collection company knows that most people are too ignorant about the law and they can pretty much get away with saying anything they want to persuade people to pay. In fact, the call center collectors are usually paid based on how much they are able to collect. It's what motivates them.

"My office has been very successful in going after debt collectors for these FDCPA violations. For us, it's easy money. It is worth \$1000 per case against any FDCPA violation, plus attorney fees. Our office loves handling these cases. In almost every case, we are able to get the other side to settle out of court. The clients often see their debt wiped clean and the stain removed from their credit report. Furthermore, our clients often receive money from the debt collector from the settlement. It's very satisfying to see justice done to right the evil doings of these debt collectors.

“It’s a rare instance that we can’t spot a violation or two from the cases we have encountered. We love these FDCPA cases, so much so, that we often do them with no money upfront from our clients. We are paid when we win or settle on the case, so you can bet we work hard to make sure we win.”

“Larry, I want to make sure I understand. You will take my case for free. Not only will you be likely to see my debt wiped and have it removed from my credit report, I may even receive a check from the debt collector?”

“Free to you, absolutely!” chimed Larry. “Remember, we are paid after we win the case. It’s really important that, before we agree to accept the case, we review the supporting evidence to make sure we have a strong case with every chance of winning.”

With thinly veiled excitement, I asked, “What sort of evidence do you look for?”

“It’s important that you gather anything and everything you have with regard to the debt collector: any written correspondence you have received from them; your list of documented phone calls (times received and what was said). Ideally, it’s great if you can record these calls – providing your state allows calls to be recorded. If not, just write down in a journal who you spoke to, their name, time, date, and what they said. We specifically want to know if they used any derogatory language or threats. For example, be sure to note if they say they intend to sue you, or they are threatening to have you arrested.

“To make life easier, my team has developed an app that you can download to your smart phone that you can use like a journal to record what was said in your own words while the conversation is fresh. You can then forward the information to my office so we can review your case. This app is available to people in Tom’s [Coaching Program](#). All the evidence you compile is the key to a strong case. That’s why Tom’s Coaching Program is so important. It trains you how to make your case a sure-fire win.”

Larry sipped some water and continued, “Under the FDCPA, there are certain things a debt collector can and cannot do.

“In summary, here are some of the rules they must follow under the Fair Debt Collections Act:

*(1) They must not use or threaten the use of violence or other criminal means to harm you, your reputation, or your property.*

*(2) They may not use obscene or profane language against you.*

*(3) They cannot make any false representation or implication that they are part of the government or are vouched for by the government.*

*4) They cannot make any false representation of the amount or the legal status of the debt.*

*5) They cannot charge you any additional fees in the collection of the debt.*

*6) They cannot make any false representation or implication that they are an attorney or that any communication is from an attorney (if they are not).*

*7) They cannot threaten or imply that nonpayment of any debt will result in arrest or imprisonment. Or threaten to seize your property or garnish your wage without a lawful order from the court if they have no intention of following through.*

*8) They cannot imply and represent that you have committed a crime because you are unable to pay the debt or disgrace you.*

*9) They cannot provide any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.*

*10) They cannot use any business, company, or organization name other than the true name of the debt collector's business, company, or organization.*

*11) They must disclose to you in all written or oral communication that they are attempting to collect a debt and that any information obtained will be used for that purpose.*

“There’s a whole lot more to this code though, for the sake of this conversation, these are the biggies. As you can see, there are a lot of things a debt collector cannot do. If they violate any of these things, then you can sue them for up to \$1000 in damages plus attorney fees.

“One of the things I want to bring to your attention is that debt collectors are required to tell you that they are attempting to collect a debt and any information you provide will be used for that purpose.”

I thought about that for a moment and said, “That sounds a bit like Miranda Rights, when a person is being reminded that anything they say can and will be used against them.”

Larry nodded and said, “The sad thing is, most people just hear it and continue to say stuff that will incriminate themselves. It’s the same thing with debt collectors. They will use anything you say to collect the debt from you. Let me ask you, Angela, what do attorneys advise their clients in criminal situations when they are arrested in TV shows?”

“Well, usually attorneys advise their clients to remain silent because anything they say will be used against them.”

“It’s the same here,” continued Larry. “When you talk with a debt collector, they really don’t care about your situation, your pleas, or mitigating factors. All they want to hear, and all they are trained to hear, is, ‘*I have access to money somewhere.*’ They will then hone in on that statement so they can exact their pound of flesh. For example, if they hear that you have a job then they might threaten to garnish your wage. If they hear that you are living off of credit, then they want you to borrow more money to pay them. The best thing to do when you talk to a debt collector is to not give them any information. Turn the tables and ask them questions instead. Respond to a question with another question. As we have discussed earlier, you have the right to ask questions specifically about the debt and require that they send any communication to you in writing.”

“Larry, if I were to find a job during all this, can they call my employer and discuss the debt with them, or possibly bring shame to me and get me fired?”

“They cannot contact anyone else about the debt,” Larry said with finality. “Debts are private and they have no right to do so. If they threaten that, make sure to note it in your log. They are only allowed to contact an employer to verify your employment. That’s it. If you are terminated as a result of their actions, you will be able to sue them for additional damages as well as collect on FDCPA violation liabilities.

“Again, **the best thing to do is not to tell them you are employed or tell them where you are employed.** Give them nothing to latch onto. This is the biggest tip I can give you. They are trained to react to these clues like Pavlov’s dog.”

“You mean the dog that was trained to salivate every time a bell is rung?” I asked.

“Exactly. They drool whenever they hear that you have access to money. This means they have someone they can file a lawsuit against and collect garnishments.

“My office has been doing this for a long time. We’ve seen all sorts of nasty tricks these debt collectors try to spring on our clients. They’ve even threatened to have our clients arrested – they say that they have a warrant for their arrest and that they have the sheriff on the other line. This is a common biggie.

“You have to understand, debt issues are a civil matter, not a criminal matter. This means that any settlements of debt issues will not involve the police or the State. It has to be resolved through the court system. In other words, they can not have the police arrest you for not paying your debt.”

“Larry, in my case, they threatened to file a lawsuit against me if I didn’t pay them. The person said he was from the legal department.”

Larry smiled, “They said they were an attorney? Yet they won’t back it up with proof? Oh, we’ve seen this many times. We’ve even filed cases against debt collectors on this

exact issue. As I mentioned earlier, most of the time, these people calling you are regular folk, not attorneys. Attorneys are paid far too much money to act as debt collectors. A valid original creditor is actually well within their rights to sue you. Actually, a lawsuit is the only way legal creditors have to resolve matters of debt if mediation fails. Nine times out of ten, however, these are hollow threats. Here's why; in order for them to collect on their winnings (assuming that they win the lawsuit), they have to make sure you have something worth collecting. The biggest clue is, if they know that you and/or your spouse is working, then they will try to garnish that wage. If they know you have assets such as computers, smart phones, or anything of value, then they might try to go after you. If, however, they find that you are dead broke and that, even if they win their case they will be trying to squeeze blood from a stone, they'll likely not pursue you. It's too futile and costly and makes no business sense. Most debt collection firms understand this. They also know that it costs attorney time and money to pursue a case, so they only will do so if they know that they have a fat cat before they take this path.

"Back to my point, most of the time, these are regular folk. They use these tactics simply to scare people into paying them.

"If they say they are a lawyer and they are not, then that is a violation of the FDCPA. If they threaten to sue you but do not or can not follow through, then that is another violation of the FDCPA."

"And that's worth \$1000 to me?" I asked.

"Exactly!"

"Wow, I would sure appreciate another \$1000 in my pocket right now."

"Here's the thing, Angela," Larry continued. "We've been winning debt collection cases for quite some time. Whenever we challenge the violations, invariably, the debt collector backs down – especially when it comes from a law firm like ours.

"Under the FDCPA, any debtor can challenge the violations and ask for a debt to be verified. While the violations are being verified, all debt collection activities must stop. Oftentimes, the left hand doesn't talk to the right hand. Invariably, we find that these debt collectors continue to harass our clients. This is another violation that we can bring to the court.

"Also, under the FDCPA, whenever a debt collector is informed that a client is represented by an attorney, all communication must go through the client's attorney. Again, many debt collectors ignore this. We use this violation to establish a pattern of willful negligence on the part of the debt collector.

“In all my years of practice, when we ask for a copy of the contract on a debt collection case, we never receive one from the debt collector. **To this date, I have never seen one single copy of the contract returned to our offices.**”

“Larry,” I asked, “what does that mean? Why is that a big deal?”

Larry apologized, “I’m sorry Angela. I should have explained myself more clearly. Basically, we need to see the contract that says you owe these people the money. You see, when one party sues a second party on a debt, it involves a Cause of Action known as a ‘Breach of Contract.’”

“What’s a Cause of Action?”

“A Cause of Action is simply a request that they answer the question, ‘Why are you suing this party?’ They are clearly taking an action, we want to know their cause.”

“In order for a case to sustain a sufficient Cause of Action, the injured party – in this case that would be the debt collector – has to show there is a Breach of Contract. This is important because if the debt collector merely bought the debt information and not the actual debt, they will be unable to produce the evidence of the original contract to the court. If they cannot produce a copy of the original contract, then they cannot claim a Breach of Contract.

“Essentially, we are asking them to back their claim that you owe them money by showing the contract you signed with them and note what clause in the contract was broken. If they can’t do that, then the case has to be dismissed.”

“Larry, Tom mentioned that, most of the time, debt collectors sue people because they know that 99% of the people they sue don’t show up to defend themselves. Is that true?”

Larry nodded. “That’s absolutely true. Many debt collectors even use schemes like forcing people to go into arbitration with their pet arbitrator. This person lives in their pocket and pretty much rubberstamps their cases. It is a lot less expensive for them to go through arbitration than to file a case with the court. This makes it much more convenient for them to collect on their victims.”

I shuddered. “Larry, can a debt collector just garnish my wage to collect their debt?”

Larry frowned, “Absolutely not. What typically happens is, somewhere during the conversation, the debt collector finds out that their prey is employed. They then find where the person is employed. Next, they file a case through arbitration, win by default, and then get a judgment. With this judgment, they then go to the person’s employer to have the victim’s wage garnished. This is why I tell you that you should be very careful what you tell these debt collectors. They are not your friends. And just like the cop shows on TV, anything you say can and will be used against you.”

“Larry, in my case, Acme threatened to garnish 100% my future wages. Can they do that?”

Larry’s face twisted in disgust, “Absolutely not! It’s things like this that keeps a fire in my belly! This is why I do what I do. I know people hate lawyers, yet I feel I’m on the front lines fighting to make a positive difference in people’s lives. I feel like I am a superhero, defending the rights of the average citizen.

“Every State differs on how much garnishment can be taken out of someone’s wage. Typically, only a maximum of 25% can be taken from someone’s wage for garnishment purposes. They can’t imply they control the percentage garnished from your wage!

“Debt collectors really boil my blood. I’ve seen far too many people’s lives ruined by these people. I’ve seen people declare bankruptcies unnecessarily over debts from debt collectors.”

I recalled my conversation with Acme and I wanted to pick Larry’s brain about what to do in the event that Acme actually does sue me. “Larry, what are my options to defend myself from Acme?”

“I’m glad you asked. I was about to get to that.”

## Chapter 4: Legal Matters

“By now, you’ve learned that what debt collectors do involves 99% lies and intimidation. These people operate on the fringe of the law and often above the law,” stated Larry.

“One of the tactics debt collectors use is to file rubberstamp lawsuits against unsuspecting victims who often never show up to defend themselves. As such, they win default judgments,” he continued. “This is how they are able to collect against their victims and garnish people’s wages.

“If you are being sued by a debt collector, the best thing to do is to talk to an attorney who is familiar with debt defense law. Be sure to interview the attorney to make sure they are on your side and understand defenses that can be raised based on the Fair Debt Collections Practices Act (FDCPA).

“Another thing you can do is to ask for Discovery if you are actually being sued.”

“Larry, what is Discovery?” I asked.

“Discovery is a phase in a legal proceeding in which the parties have the right to uncover more evidence or details against each other in the case before it goes to trial. You must understand, one of the most important principles about going to court is this: ‘he who accuses has the burden of proof.’ In other words, if the debt collector were to sue you, then they bear the burden to prove that you actually owe them any money.”

I frowned. “How do I do that?”

“Remember Angela, these people file lawsuits and anticipate that 99% of the time the debtor never shows up in court. So, when you do respond and challenge their lawsuit, it really becomes interesting,” Larry smiled impishly.

“How so?” I asked. “When I think about going to court, I equate it with going to the dentist or filing my taxes.”

Larry chortled. “I know many lawyers who feel the same way. Seriously, though, the knife cuts both ways. These people file lawsuits expecting their victims not to show so they can win by default, however, when they are challenged in court, then everything becomes truly official. It’s like playing poker. The person who was bluffing just got called on their bluff.

“When the debtor defends the case against the debt collector and the debt collector can’t prove their case, then the debt collector loses. The losing side will have to pay for court fees, attorney fees, and possibly damages – depending upon the situation. Again, I want to remind you, the burden of proof is on the accuser. In legal language, the accuser is the damaged party and is called the **Plaintiff**. The accused person – the

person who supposedly injured the Plaintiff – must defend himself or herself and, as such, is called the **Defendant**.

“There are two key discovery processes that a Defendant can use when they are being sued. The first is the Request for Production of Documents and the second is The Request for Admissions.”

“The Request for Production of Documents is a formal way in which the Defendant asks the Plaintiff, the accuser, to share their paperwork with you -- all the evidence and signed papers that backup their case. Remember, this all happens prior to the trial. In 95% of these cases, it never makes it to trial because the debt collector fails to substantiate their claim -- especially when the alleged debtor knows what questions to ask to demand proof.

“Go on the Internet and find a sample document called a ‘Request for Production of Documents.’ You will need to fill it out and request the Plaintiff produce the supposed proof of the debt against you. In other words, you legally say to the debt collector, ‘If you are accusing me of owing you money, then prove it.’

“If you don’t feel comfortable creating your own ‘Request for Production of Documents’ court document, then you can use Tom’s. He has it in his Coaching Program. It’s all written out and ready to go. You just simply fill in the blanks.

“If you do decide to make your own, be sure the Request for Production of Documents asks the Plaintiff for:

- A copy of the Original Contract with your signature on it.
- Any assignment and Chain of Title to prove that the Plaintiff is the Real Party of Interest.
- A sworn affidavit from an employee of the Original Creditor who has first hand knowledge of the facts that states they have:
  - a) Sold the debt to the Plaintiff
  - b) Have not taken any tax write-off against the debt.

“If the debt collector cannot prove that they are a Real Party of Interest, then they have no business suing you.”

“Larry, can you define what is a Real Party of Interest for me, please?”

“In law, we have this principle called Standing,” Larry explained. “I am sure you have heard of it. As an example, if John owes Bob money, can Bob sue John for the money?”

“Of course,” I said.

“What about Mary? Can Mary sue John?” Larry asked

“I’m sorry. Who is Mary? She has nothing to do with Bob nor John,” I said.

“Exactly! That’s my point. In legal terms, Mary is a third party who has nothing to do with the grievances between John and Bob. As such, we say Mary has no Standing in the controversy. She is not a Real Party of Interest in the matter. It’s none of Mary’s business.”

“So what you are saying is,” I attempted to summarize, “we want to ask the debt collector what business he has to sue me, the Debtor, um... the Defendant?”

“Precisely! If the debt collector – the Plaintiff – cannot prove that they are a Real Party of Interest, then they have no business suing and trying to collect on a debt that does not belong to them.

“Okay, I think I understand the basics. Still, I don’t know if I feel comfortable writing out this Request for Production of Documents,” I confessed. “What if I send the wrong form, or say something wrong?”

“Don’t worry. We’ll get to that in a minute. Tom has a simple solution that makes the Debtor’s life much easier,” soothed Larry.

“I want to explain the other discovery document I mentioned, The Request for Admissions. In this document, we ask the other side to admit or deny certain factual statements about the debt. For example, whether or not they actually own the debt. The purpose of all these legal documents is to force them to validate their claims against you.”

“How do I compose a Request for Admissions document?” I asked.

“Your Request for Admissions document should be phrased in a ‘The Plaintiff did ABC/XYZ, Admit or Deny’ format. Again, you can find sample Request for Admissions documents off the Internet or from Tom’s Coaching Program. Here’s an example of a few questions you would want to put into a Request for Admissions:

‘The Plaintiff bought information about the debt from the original creditor but the actual title of debt was never transferred to the Plaintiff. Admit or Deny.’

‘The Plaintiff is not the Real Party of Interest and is attempting to collect a debt that they have no real ownership in. Admit or Deny.’

‘The Original Creditor took a tax write off for the debt and received tax credit to offset against future profits. Admit or Deny.’

“The Plaintiff usually has 30 days to respond, depending upon which State the lawsuit is filed in. If they do not respond within 30 days, then they fully admit to all the items listed. Once admitted, the court has to treat these admissions as facts.”

“This sounds very reasonable, yet I’m already feeling overwhelmed trying to find a job,” I sighed. I recalled my earlier conversation with Tom and turned to him, “Tom, what about your Coaching Program? Does it cover these things?”

“Yes. This is why I created the Coaching Program,” Tom explained. “The Coaching Program contains all the legal documents such as the **Request for Admissions** and the **Request for Production** documents. It also contains sample court responses where you can simply fill in the blanks and submit it to the court. My program provides step-by-step instructions on how to file a response and what to say when you go to court. Many people have used this process to send debt collectors scurrying back under their rocks. You can use the Coaching Program to prepare your case before choosing a lawyer, or to do it on your own if you don’t want to hire your own attorney or are unable to find an attorney who can defend you for zero out of pocket upfront.”

Larry smiled warmly at Tom. “My law firm works closely with Tom and the program he developed. I have set up and trained a network of attorneys across the United States who are willing to work for zero upfront to help defend against debt collectors. We happily take referrals from Tom’s Coaching Program clients and can usually find someone geographically close to the debtor.

“We like to work with people from Tom’s Coaching Program because they almost always come pre-trained and well prepared. They provide us with all the ammunition we need to win the case – and win a handsome settlement.”

I mused, “Larry, it seems like a no-brainer to me. If I’m being pursued by a debt collector, I can join Tom’s Coaching Program, gather the evidence, and be referred to an attorney who will work for me with zero out of pocket. If we win, I receive a check from the debt collector and, if we lose, the attorney bears the risk. Is that right?”

Larry beamed. “You’ve got it Angela! It really is a sweet deal. Everyone wins -- except the debt collector!

“With that said, I want to clarify. Our office is not set up to handle cases for free once a debtor has been sued. We can only do this BEFORE they are named as a defendant in a case. Of course, we’d still gladly represent the client, though a financial arrangement will need to be made up front. Honestly, my advice is, if you have any dealings with a debt collector and, if you feel that you have suffered a sufficient number of violations, then join Tom’s Coaching Program and sue the debt collector before they sue you. This way, we can represent you with zero out of pocket.”

Tom added, "Or you can just defend yourself in court using the forms provided in the Coaching Program. This way, you don't need to pay for an attorney if you are already named as a defendant."

Larry agreed, "Good point."

I hesitated. "Larry, the notion of going to court makes me a bit nervous. I was never trained how to act in a court, so I'm scared I'll make mistakes. Is there anything else you can give me if I were to go to court?"

Larry clapped his hands for emphasis, "Angela, I've saved the best for last. There's a little secret that many attorneys don't want to tell their clients."

I leaned forward, "Oh? What's that?"

Tom exclaimed joyfully, "Attorneys can't testify unless they have firsthand knowledge of the facts!"

"That's right," said Larry. "In law, it's called Hearsay. If and when you go to court, you will never see the debt collector that called you. They are too busy shaking down other victims. Invariably, the only person who shows up is the debt collector's attorney."

"In law, it is universally acknowledged that you cannot testify to facts of which you do not have firsthand knowledge. The debt collector's attorney will start spouting off certain facts about the case as if she knows that the facts are true from her firsthand knowledge."

"So what do I do if that happens?" I asked.

"It's simple. There's one key phrase you will need to memorize. Every time the debt collector's lawyer says something, you say, 'Objection Your Honor. Counsel has no firsthand knowledge of the fact. Her statement is hearsay and has to be struck from the records.'

"It really is that simple. Whenever the debt collector's attorney makes any statement and tries to represent it as fact, you just object. They will hate you for it because it just shuts them down right there and then. They have no fuel left."

"Wow, that's pretty neat," I smiled. "I never knew how things worked in court. This is very insightful. Thank you, Larry."

"That's not all," Larry continued to coach me. "Another trick I have learned from years of practicing law is that you never admit anything in court. **Always say, 'I don't recall.'** Remember, the debt collector who is suing you has the burden of proof. Don't make their job easy by admitting to anything. Sometimes, judges will try to bait you into admitting to certain facts about the case. Your best course of action is to say, '**I don't**

**recall.** Judges are forced to make rulings strictly on the facts presented in the case. If you don't admit or don't recall the actions you are being accused of in a case, then those actions can't be considered in deciding the case. For example, the judge might ask you, 'Did you or did you not have a credit card with ABC corporation?'

"I don't recall!" I volunteered.

"Exactly!" grinned Larry.

## Chapter 5: Turning The Table Against Debt Collectors

“Debt collectors have been preying on millions upon millions of unsuspecting victims for years,” Larry stated. “It’s time we expose their dirty little scams and put an end to their businesses.”

I nodded. “I agree. I don’t want anyone else to feel victimized and scared like I have been! We have to inform as many people about this as possible. If more people know about their scam and stand up to them, then the debt collectors will not only find it harder to collect from their victims, it might even drive them out of business because it will become unprofitable for them!

“Larry, another reason I’ve been so scared is that my friend Emma is currently having her wages garnished by a debt collector. The exact thing you said happened; she lost her job, was sued by a debt collector, then she was too scared and too depressed to show up, and they won by default. Now that she’s working again, they are garnishing her wage. Is there a way to turn this around for her?”

“That depends,” Larry responded. “Many of these judgments can be overturned. In legalese, we call that Vacating or Voiding a Judgment.”

Curious, I asked, “How does that work? Once a judgment has been entered, isn’t it sort of like, permanent?”

Larry lifted a finger, “Yes and No. In most States, a judgment can be voided if the Defendant (or the debtor) can show one of two things to the court. The first is Improper Service. Improper Service means that the notice you were supposed to have gotten when you were being served your summons was never properly received. The second is when new evidence is found that proves that the claims against you were false or fraudulent.”

“Larry, can you explain improper service in more detail? I am a bit confused about that.”

“Gladly. When someone is being sued, it is absolutely critical that they are served properly. Every effort must be made by the Plaintiff (the debt collector) to make sure that the complaint is served to the Defendant (the debtor). For example, if you used to live in Alaska but have since moved to California, and the debt collector sues you and sends the complaint to your last known address in Alaska... you never received the proper notice that you were being sued and, therefore, there was no possible way that you could have defended yourself. This is the most common and most successful form of defense against a default judgment because it has no statute of limitation of real substance.

“When you are sued, each State has a set of rules on how service must be performed. In legal terms, this is called Perfection of Service. Often, it will require a notice to be sent certified mail with your signature required upon receipt. If the Plaintiff cannot show

the court that they have received a certified mail return card with your signature on it, then it is NOT considered Perfection of Service and the case can be dismissed. Another method of proper service is through a Process Server, someone who specializes in serving legal notices to a Defendant. They arrive in person, hand you the summons, and certify that they delivered the summons into your hand. That signature from the process server is required to prove to the court that the Defendant was given proper notice and an opportunity to defend herself.”

I wondered, “How would I find out if a case has Perfection of Service?”

“All cases have case files that are held in the court’s archives. You will need to go to the courthouse and look for your case. Look at the case folder to see if there is a service card enclosed with the case. If there isn’t, then it is quite likely that service was not perfected. Other things that can prove that service was not perfected are if there is proof that the defendant was out of the country at the time, or if they were serving military duty, or other obvious things that makes it impossible for them to receive proper service.”

“Like being in a hospital?” I asked.

“Exactly. The downside is, the Defendant (the debtor) has the burden of proof to prove to the court that the service was not perfected. This can be tricky if the other side dotted their i’s and crossed their t’s. Because of our extensive experience, we can easily find if these cases do not have proper service and can be dismissed because we know exactly where to look for this evidence. We can often help these victims so they no longer have their wages garnished.”

“I see,” I responded. “You said there were two things you can do to vacate a judgment. What is the other?”

“The other way to vacate a judgment is through the uncovering of new evidence or the discovery of fraud. This varies from State to State, so it is best you consult with a local attorney. Otherwise, you can try searching on the Internet for ‘rules for vacating a judgment in...’ and your State. For example, ‘rules vacating a judgment in Florida.’ If you are not already working with a lawyer, the other thing I recommend is joining [Legal Shield](#) (previously known as Prepaid Legal). This service is insurance for legal matters. For less than \$20 a month, you have an attorney at your beck and call that you can ask any legal questions you want and talk to as long as you want. Most people embroiled in legal matters find Legal Shield invaluable. Any time they have need, they can consult with an attorney expert in that field of law.

“If you want to join Legal Shield, go to:  
<http://www.debtdefenseprograms.com/legalshield>

“As an attorney, I know there are many things that can go wrong when people try to handle their own case. It’s essential that you have someone who will look over your shoulder and coach you to make sure you are doing things correctly.”

“Wow,” I nodded, “for less than \$20 a month I can talk to an attorney on these or any legal matters? That seems like a no-brainer.”

“As much as I am a proponent of doing things yourself, in this particular situation, I would recommend that anyone trying to Vacate or Void a Judgment consult an attorney.

“So, what do I tell my friend who is currently having her wages garnished?”

“The best thing to do is to have her go to Tom’s Coaching Program website. His program has step-by-step guides to gather the evidence she needs to present to an attorney. The reason I push Tom’s program is because he’s made everything so logical and easy to follow. He thoroughly prepares clients to talk to an attorney. Attorneys have only so much time and resources, so a well-prepared client who already has basic training and a solid case of evidence is always accepted and we can quickly find justice for them.”

Satisfied, I said, “Wow Larry, this is amazing. I am so grateful to have found you and Tom. I have learned so much in the last couple of days. Can we summarize what we’ve discussed so I can have a definitive action plan to defend myself against these people?”

“Absolutely!” said Larry. “Actually, why don’t you handle this one, Tom?”

“Gladly,” Tom replied.

## Chapter 6: It's All in Your Head

Tom began, "One of the key things to understand when you are being pursued by a debt collector is that it's really a mind game, very much like a game of poker.

**"The debt collector may not have any actual claim against you, yet they are trying to convince you that they do.** They will use threats and say anything to convince you to pay them their blood money.

"The first thing you need to do when you are being harassed by a debt collector is to turn your approach inside-out. Instead of associating the harassment call with fear and anxiety, think of every phone call as an opportunity for them to violate the FDCPA and TCPA."

"Huh," I mused. "You mean, instead of hearing the 'ring, ring' of my phone with dread, I should be saying 'cha ching, cha ching' in my head when the debt collector calls?"

"Exactly!" cheered Tom. "See, it's all in your head and how you think about it! You now know that debt collectors have a number of strict laws they need to follow. Almost every one of them breaks these laws on a regular basis. I encourage you to download a free copy of the **Fair Debt Collections Practices Act** from our website. Read it. Memorize it. Keep it by your bedside.

"Also, understand that every unsolicited call going to your mobile phone is worth \$500 per offense. This is covered under the **Telephone Consumer Protection Act**. Again, you can find a free copy of both the Fair Debt Collections Practices Act and the Telephone Consumer Protection Act:

<http://www.debtdefenseprograms.com/workbook>

"Understand your rights. Understand what the debt collector can and cannot do. If possible, record every phone conversation you have. Remember, we have a special iPhone and Android app you can download when you join our Coaching Program that you can use to journal the call, plus printable forms you can use if you want to write it all down and take it to a notary to use as an affidavit. Be sure to note who you spoke to, the date, time, and what they said... specifically if they violated any laws or made threats. For example, if they use profane language against you, if they call you after 9pm, or any of the many other no-no's we have covered previously. Each one of these things is worth real money that you can collect from these people.

"Ask for the person with whom you are speaking to give you their social security number and a copy of their driver's license. This allows you to research them and, when you sue them, you have someone specific to bring to court. With their social security number, you will be able to garnish their wages when you win the lawsuit against them. See how they like it when the table is turned against them.

“If they say they are from a law firm or that they are an attorney, then ask to see credentials. If they threaten to have you arrested or to sue you, then document these threats. With their driver’s license, you can research to see whether they are or aren’t a real attorney. Again, the whole point here is to build a case against them.”

“So do I have to sue them myself?” I asked. “Will you show me how to do this?”

“You don’t have to do this on your own if you don’t want to,” Tom soothed. “When you join my Coaching Program, I will provide you with sample fill-in-the-blank complaints that you can use if you want to do it yourself. Alternatively, I can connect you with someone in Larry’s attorney network who will do it for you. Remember, the attorney is only paid out of the settlement. If you come equipped with a ‘no-brainer’ case that is full of violations, it’s an easy win for Larry’s team. I have to make a disclaimer here: Larry’s team is not under any obligation to take all cases. Right, Larry?”

Larry nodded. “Right Tom. The case has to have sufficient substance before it makes financial sense. It has to be a win/win situation for all.”

“Except for the debt collector,” I grinned.

I continued, “Tom, at the restaurant, you said I should write everything down and have it ready to present as a signed affidavit. You said my word is stronger than theirs. I should really make a point of taking good notes during phone calls if I can’t record them. Am I missing anything?”

Tom reminded me, “If you receive any demands from a debt collector, then you should ask them to send it to you in writing. Again, we want to gather as much evidence as possible so we can build a strong case against them.”

“Okay, Tom, I just want to make sure I can confidently confront my tormentor the next time Acme calls. Can you do a quick role play session with me?”

“Sure. Ring, ring.” Tom didn’t skip a beat.

I fake answered, “Hello?”

“Can I speak to Angela please? My name is Tom. I am a debt collector. I am calling from the legal department of Acme Collections. I am attempting to collect on the debt you owe for \$5000.”

With all I learned from Tom and Larry, **I decided right then and there that I would no longer be afraid of these people.** It was like a switch had turned on inside my head.

I said, “Hi Tom. Before we talk about settling the debt, I am going to record this call. <beep>,” I chimed.

“Can you please give me your full name?” I asked.

“Why do you need to know?” asked Tom, role-playing.

“Well Tom. There are a lot of scammers out there. I just want to make sure I am talking to the right person and that you are who you say you are,” I replied.

“Okay. My name is Tom Hargreaves.”

“Now Tom, did you say you are an attorney?” I asked.

“No. I said I was from the legal department.”

“Oh, so you’re not an attorney. Can I have the name of your attorney and his BAR number? If you are calling from the legal department, you have an attorney in your department correct?” I stifled a snicker.

“I can’t give you that information. Angela, I need you to pay on this debt. Otherwise, we will be filing a lawsuit against you. In fact, I have the police on the other line on standby waiting for my say-so to have you arrested. Is that what you want, Angela?”

I didn’t bother to hide my laughter this time. “Tom, let me get this straight... You know that you are being recorded right? You know that under the Fair Debt Collections Practices Act, you cannot threaten me with arrest. Resolving a debt is a civil matter not a criminal matter. I want you to know that you have just violated the law.”

Tom played it cool, “Whatever, Angela. Are you going to pay the debt or not. Otherwise, we will sue you and have your wages garnished.”

Impressed with Tom’s tenacity, I continued, “Tom, calm down. Like I told you. I just want to make sure you are who you say you are and that you are really the person I owe the money to. I just want to make sure are the real owner of the debt. Is that reasonable?”

The corner of Tom’s mouth turned up as he persisted, “Yes. I can assure you, we own the debt. Are you going to pay or not?”

“If you’re the owner of the debt, then you won’t have a problem mailing me the original document where I signed for the loan and any supplemental documentation that the debt was fully transferred to you. Right?”

Tom paused. The wait for Tom to answer seemed to take forever. The silence was deafening.

“Are you still there, Tom?” I asked.

Tom's bottom lip quivered to prevent a smile just before he shouted, "Are you going to pay the debt or not, you dead beat?"

My hand flew to cover my mouth. I met Larry's eyes as I calmly said, "Tom, as I told you, before I settle any debt, I need to know you are a Real Party of Interest. I just need you to verify the debt with me. Oh, and Tom, I want to again remind you, this phone call is being recorded. Under the Fair Debt Collections Practices Act, it is illegal to use profane and insulting language when you are on the phone trying to collect on a debt. You've now violated the law at least twice. So, before we can proceed, I will need you to send to me the following in writing:

"A sworn affidavit from the original creditor. Someone who has firsthand knowledge who can testify that the debt was never written off as a tax write off, and that the debt was formally transferred to you.

"I would like to see a copy of the original contract. If you are claiming that I owe you money, you have the burden of proof to prove to me beyond a doubt that you are the person I owe the money to.

"Oh, and I will need your social security number and a copy of your drivers license."

Tom raised his voice like he was about to lose his last thread of patience, "Why do you need my driver's license and my social security number?"

I batted my eyes as I sweetly told him, "Well Tom, since you are caught on record violating my rights under the Fair Debt Collections Practices Act, I will be suing you and your company. I want to make sure I have your proper information so I can give this to my attorney. You wouldn't want me to sue the wrong person, would you?"

Tom and Larry both lost it then. They laughed for a few moments before Tom raised his hands in surrender. "Okay, stop. You got me. Very good, Angela! I'm impressed. See how you were able to turn the conversation around?"

Larry beamed, "Yes. I like the fact that you turned this conversation from something potentially hostile to one in which you left the debt collector powerless and afraid of you. Nicely done."

Tom added, "I liked how you didn't say you weren't going to pay. You just forced the debt collector to answer some very reasonable questions while you managed not to answer any of his questions. It was very non-confrontational. You kept your cool the whole way through. It even sounded like you were enjoying yourself toward the end."

I practically glowed with confidence from the praise. "Tom, you said that we have the right to ask for the debt to be validated. The way I see it, the debt collector will either cross me off his list after that call, or they'll pursue. What can I expect from them in terms of Validating the Debt?"

“I am glad you asked. Under the FDCPA, a debtor may ask for the debt to be validated. During this validation period, all debt collections activities must cease. This means no phone calls and no written communications unless it is in response to the debt validation. The debt collector has 30 days to provide you with proof that they have a valid debt against you. A bank statement is not a validation of debt. They must show there is a proper transfer of title of the debt under the Uniform Commercial Code (UCC).

“You can go online and find some templates for a debt validation letter, however, I’ve developed a number of much more specific and more powerful Validation Letters that **have proven time and time again to make debt collectors go away**. My letters specifically ask them questions that show them that I know their game.”

“And how do I access these letters?” I asked.

“You can get them from my website. Just go to:

<http://www.debtdefenseprograms.com/coaching>

“To be perfectly frank with you, Angela, from all the people I’ve helped, nine out of ten times, once my debt Validation Letter has been sent, my students usually never hear from the debt collectors again.

“We teach people is that it’s not enough, though, that these people go away, we want to make sure that they learn their lesson so they find it less profitable to continue to shakedown other victims. This is where the second part of my program comes in: **We sue the debt collectors**.”

Larry interrupted, “I have something to say about that, please allow me to chime in here.

“This is when my law firm steps in. Typically, when we receive a referral for a client who has a well-documented case, we compile a simple lawsuit. Since we’ve done this many times, it’s quite easy for us to do. After the lawsuit has been filed, we usually receive a phone call from the debt collector’s attorney to discuss settlement terms. It is extremely rare that we go to trial.”

Impressed, I said, “Wow, Larry, it sounds like the illegal practices of debt collectors are a real money-maker for your firm. Plus, you are helping people at the same time!”

Larry sighed, “Actually, Angela, I would be happier if I didn’t have to take these cases. I didn’t start my career with debt collection cases, I moved into this area because I saw the need. Honestly, I would prefer that this whole industry just go away forever. However, until more people take pro-active action against these people, they will continue to prey on more victims. This is why I do what I do. I am sick of seeing people hurt by these debt collectors.

“What we have found is, when a debt collector receives a communication from a law firm like mine, they suddenly take things very seriously. We’ve developed somewhat of a reputation in this industry. What we’ve found is that these debt collectors all use a handful of attorneys. We communicate with the same few attorneys regularly. I can almost always predict how they are going to act in a case.”

“Is that a good thing?” I asked.

“They tend to address me by my first name,” he laughed. “I pick up the phone and I hear, ‘So how much does it take to make this case go away, Larry?’ Since the other side is familiar with what we do, they know it’s not worth their time to spend valuable billable attorney hours to fight cases from my office.”

“So let me get this straight,” I sat forward. “If I join Tom’s Coaching Program, I will have access to Tom’s Debt Validation process. Not only that, if I can find proof that the debt collector has violated the Fair Debt Collections Act or the Telephone Consumer Protections Act, I can be referred to an attorney in your network, and they will handle the rest **with no money out of my pocket?** I just sit back and wait for the settlement check?”

Tom looked over at Larry and Larry added, “It’s a little more complicated than that, though, essentially yes. Of course, there has to be one or more violations made before we can get involved.”

“Obviously,” I replied. “I must say, I love what you’re doing Larry. You are really helping people. I want to resolve my case and help you inform others.”

“It is my deep desire,” confided Larry, “to put all these debt collectors out of business by suing them into oblivion. Before we can sue them, we need to find more people who have been injured by their nefarious acts. Even while we resolve your case, I need you to tell all your friends about what you have discovered. Tell them that they no longer have to fear debt collectors. In almost all cases, they can actually turn things around and collect money from these low-life companies. In most situations, my law firm is set up to take these cases free for the clients because we are paid by the debt collectors at the end. We just need more people to be aware of their rights.”

“I love it, Larry. I will definitely be telling all my friends about this!”

## Epilogue

*Six months later...*

It's a beautiful, sunny day as Kim and I walk to the door of Gino's Pizza. Inside, the fragrant scents of Italy greet me. We choose a table by the picture window just in time to see Emma exiting a new Toyota Prius. I smile. Emma's previous car was barely held together with bailing wire and duct tape.

Emma spots us immediately and we exchange hugs.

"Nice car!" I exclaimed. "Life must be going pretty well with you."

Emma beams a huge grin at me. "Oh Angela, I'm so happy. I just received the check for my returned garnishments and I was able to use that as a down payment on a new car. I can't believe this feeling of freedom!"

"Oh? Tell me about it," I prompt.

"Well, shortly after you called me, I joined Tom's Coaching Program. I spent some time gathering all the old paperwork and copies of my paystubs where they had garnished my wage. I told Tom I had a folder of evidence and he set a meeting for me to talk with one of Larry's legal team. Once I had spread all the paperwork before her, we found a number of disturbing irregularities that hadn't been presented in my case. For starters, I was improperly serviced. Then we found violations of both the FDCPA and the TCPA acts. Larry's team worked their magic. When we sued the debt collector, we were able to show the harm they caused me due to the garnishment and their meddling. Instead of going to court, Larry's team was able to settle and return all my garnished wages to me."

"Wow, that's great! I'm so happy for you," I cheer! "I had a similar success, though not quite as big. Nevertheless, it's a win in my books."

"Definitely a win," grins Kim. "Why don't you tell Emma how you did this on your own using the Coaching Program!"

"I joined Tom's Coaching Program," I began, "and I sent a Debt Validation Letter to Acme. I didn't stop there. I also sent them an Admissions Letter. That forced Acme to reply to me within 30 days, otherwise, they were admitting they don't own a valid debt against me."

"Did they respond?" Emma asks.

"No, they didn't," chimes Tom's voice as he arrives and sits next to Kim. Emma, Kim, and I lean in and give Tom a hug.

After the pleasantries, Tom adds, “In the debt Validation Letter, she also included language that the debt collector was attempting to collect a debt that didn’t belong to them and that if she doesn’t hear back from them with complete Debt Verification and a complete bill of transfer from the original creditor, then the debt collector agrees to relinquish the debt in its entirety and remove it from her credit report.”

I grin. “And it was super easy to do! I just followed Tom’s Coaching Program, used his form letters, and built a solid case against my tormentor.

“Anyway, 30 days pass and there wasn’t a peep from Acme. No calls, no letters, nothing. I found a follow-up letter in Tom’s Program that I sent Acme giving them another 5 days to supply proof. Guess what? Still nothing. It was then I knew I had them.

“I talked to Tom and Larry, then I sued Acme. I provided my Admissions Letters as evidence along with their original letter, all the notarized affidavits that showed derogatory language, threats, and the many calls after 9pm. I received a phone call from Acme’s lawyer, Mark, after I filed the suit and he offered me a nice settlement sum.

“You know what the funniest thing in this is?” I bait.

“What?” Kim and Emma chime in unison.

“I asked the Acme lawyer, Mark, what John’s last name was. You know, John from those original harassing phone calls? John who claimed to be from Acme’s legal department?”

“And?”

I laugh. “Mark said there wasn’t anyone named John working there. He said it was probably just someone from their call center in India.

“So, I also filed a case with the Federal Trade Commission as well as the Attorney General’s Office. I want to make sure the government is aware of these outfits and that they have an opportunity to do something about it. Hopefully, these government bodies take action and shut these guys down.”

Tom grins at me. “I’m so proud of you, Angela!”

The waitress brings a pitcher of lemonade to the table and takes our order. Once she leaves, I raise my glass and propose a toast to our victories and the satisfaction of taking charge rather than be bullied. We all whoop and clink our plastic cups of lemonade.

**PLEASE HELP US PUT AN END TO DEBT COLLECTORS.**

**SHARE THIS BOOK WITH YOUR FRIENDS.**

## Glossary of Terms

**Breach of Contract** – A legal Cause of Action in which a binding legal agreement isn't honored by one or more involved parties.

**Cause of Action** – Legal request that the other party state why they are suing.

**Collections Agency** – Company hired by the owner of the loan to try and collect the money for them. Collections Agencies do not own the loan, they work on behalf of the owner of the loan.

**Debt Collector** – Third Party company who bought the *information* on the loan, not the loan itself.

**Debtor** – The person who took out the loan.

**Defendant** – The person who allegedly injured the Plaintiff.

**Discovery** – Prior to civil action, criminal action, or trial, this is the phase in which one party requires the other party to disclose all information they have which is essential for the preparation of their case.

**FDCPA (the Fair Debt Collections Practices Act)** - A body of United States law that governs what debt collectors are allowed to do and say.

**Improper Service** – Proving to the court the summons to court issued against you was never properly received.

**Jurisdiction** – A legal right over something.

**Original Creditor** – The first owner of the loan.

**Plaintiff** – The accuser who claims they were damaged by a party.

**Real Party of Interest** – One of the people/corporations/entities directly involved with the case. No Third Party may involve themselves.

**The Request for Admissions** – Requires Plaintiff to answer in writing whether they actually own the debt.

**The Request for Production of Documents** – Prior to the trial, the Defendant asks the Plaintiff/Accuser to produce the documents they plan to use as evidence against them in court.

**Standing** - A Real Party of Interest in a controversy in a legal action.

**TCPA (the Telephone Consumers Protection Act)** – A body of United States law that says it's illegal for a company to use an auto-dialer to call your mobile phone. Every violation is worth up to \$500 in court.

**Vacate / Void a Judgment** – A proceeding to overturn a court's ruling by showing there was an error due to Improper Service or Discovery of new evidence.

**Validation Letter** – Under the FDCPA, a debtor may ask for the debt to be validated by the creditor. They have 30 days to provide proof of a proper transfer of title of the debt against you to them, during which they must cease collections contact with you.