

Dealing with Debt Collectors

Federal and state laws are in place to prevent abusive behavior or harassment by debt collectors. If a debt collector contacts you, you have rights!

Are There Any Limitations on Debt Collectors?

There are various federal and state laws that limit what actions debt collectors can take. For example, there is a federal Fair Debt Collection Practices Act. In California, there is also the Rosenthal Fair Debt collection Practices Act.

Debt collectors generally CANNOT:

- Lie to you. For example, they cannot lie to you about who they are or how much you owe, or say that they are going to sue you when they have no intention of doing so
- Imply that you can go to jail for not paying a debt
- Pretend to be calling from the police or the IRS
- Use or threaten use of physical force
- Call a failure to pay a debt a “crime” or threaten to have you arrested
- Use obscene/profane language
- Call repeatedly
- Call too early or too late: before 8am or after 9pm
- If you tell collectors not to contact you at work they must stop calls to your workplace.

Debt collectors can contact friends or family members to find out your contact information **BUT** they can't contact anyone more than once and can't discuss your debt with anyone other than you or your spouse.

Remember, a debt collector is NEVER allowed to lie to you, threaten you, use profane language or harass you. And, unless a debt collector sues you and wins, it cannot garnish your wages, take money from your bank account, or put a lien on your property.

NOTE: This is not a complete list. If you feel that you are being harassed or that a debt collector is doing something illegal, contact Legal Aid at 1-877-534-2524.

What Are My Options If I Am Being Contacted by a Debt Collector?

You can decide whether you want to respond to a debt collector's phone calls or letters. You can choose to do nothing, try to settle, or maybe consider bankruptcy. You can also try sending a letter to stop them from contacting you or to ask them for more information. See below for sample letters:

- If you do not believe that you owe the debt, use this sample letter from the Consumer Financial Protection Bureau (CFPB): [I do not owe this debt.](#)
- If you do want more information about the debt, use this sample letter from the CFPB: [I need more information about this debt.](#)
- If you want the debt collector to stop contacting you, use this sample letter from the CFPB: [I want the debt collector to stop contacting me.](#)
- If you want the debt collector to only contact you through your attorney, try this sample letter from the CFPB: [I want the debt collector to only contact me through my lawyer.](#)
- If you want to tell the debt collector how it can contact you, use this sample letter from the CFPB: [I want to specify how the debt collector can contact me.](#)

Send the letters as early as possible in the process and send them certified, with return receipt requested. Make copies of everything that you send so that you have a written record just in case.

What if They Don't Stop?

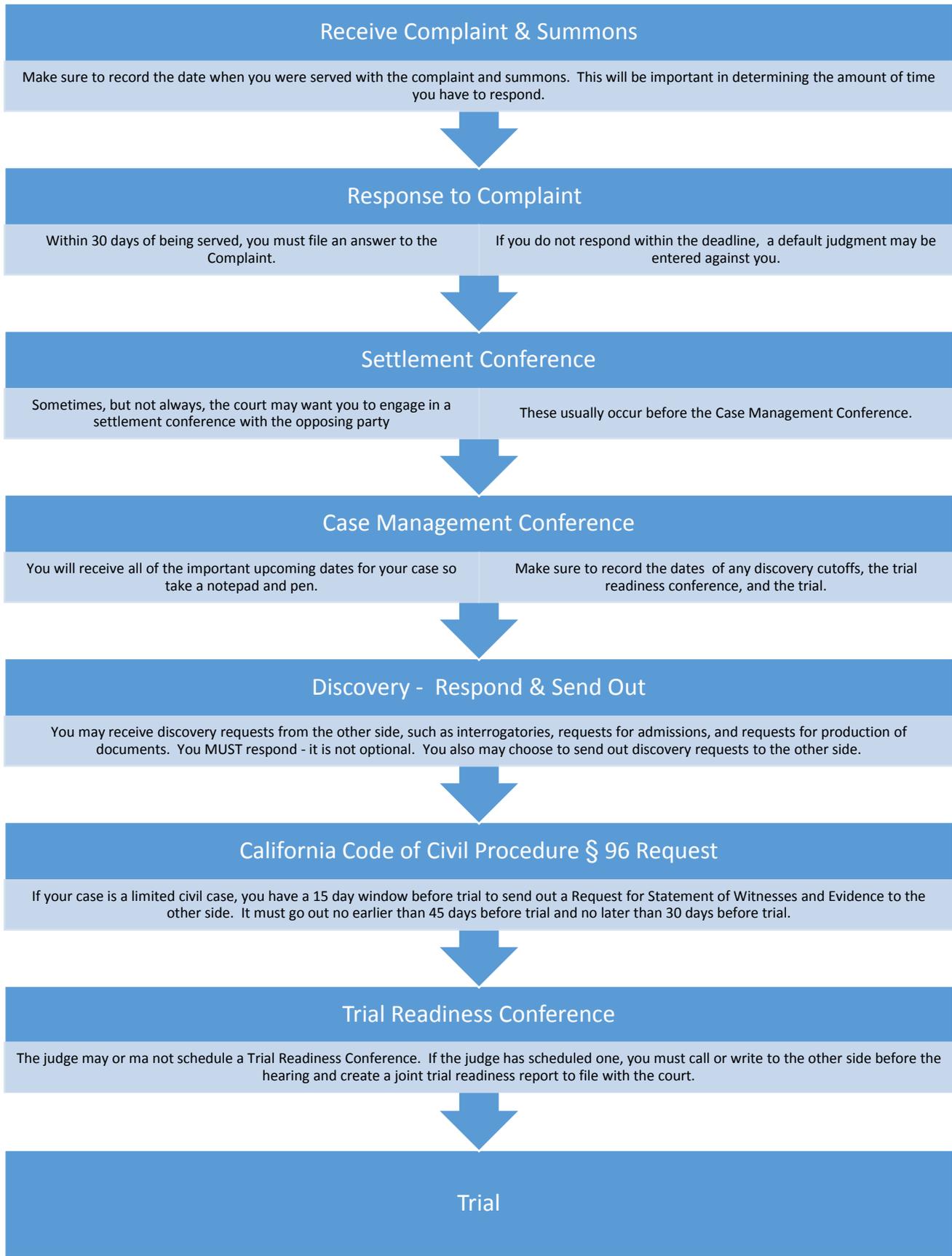
- If a debt collector will not stop, consider filing a complaint with the Federal Trade Commission, the state Attorney General's Office, and/or the Consumer Financial Protection Bureau.
- If they are doing things they are not allowed to, you may be able to file a lawsuit against them.
- Go to a consumer attorney to discuss your options – this page is a good starting point to finding an attorney: <https://www.nclc.org/for-consumers/how-to-get-legal-assistance.html>
- Fill out a [Fair Debt Collection Practices Act Questionnaire](#) (available on our main page) to see if there may be any potential issues. Take the completed questionnaire if you see an attorney.

What to Do First If You Get Sued

I Just Received a Complaint and Summons - Now What?

- **Keep track of your dates!** The courts are very strict about deadlines and there are often serious consequences for missing them. Make sure you stay on top of them.
 - **Start making a list of all important dates.** Record the dates for any court hearings, as well as any deadlines to respond to a complaint or to discovery.
 - **Use the Register of Actions.** It can be accessed at: <https://roa.sdcourt.ca.gov/roa/>
The San Diego Superior Court has a helpful website where you can check the status of your civil case online. It also shows you upcoming court dates. You can search by case number or by your name. There may be a small delay between when you file something and when it shows up on the website.
 - **Regularly check the Register of Actions because court dates sometimes change.**
- **Show up to all court dates.** Court dates are never optional! You must show up, no excuses.
- **Start gathering all the documents you have that may relate to the lawsuit.** The more information you have about what you are being sued on, the better. You also may need to provide these to the other side during the discovery process.
- **Keep an eye out for mail from the opposing party or the court.** During the process, you may receive letters from the court or from the people suing you.
 - **Immediately open all mail you receive.** You may receive notifications of upcoming hearings from the court, or there may be time-sensitive items such as discovery inside. Not knowing because you did not open the envelope is not an excuse.
 - **Keep everything you receive.** You never know when you might have to refer back to something.
- **Be patient.** Although the litigation process is different for everyone, it probably will take at least a year or more to sort things out. If you have an attorney or if you are being assisted by the Legal Aid Society of San Diego, Inc., you may need to make several office visits.

Overview of a Typical Debt Collection Limited Civil Case



In General:

- **Record when and how you were served the Complaint and Summons.** Did you receive it in the mail? Did someone hand it to you? Did someone give it to a family member who passed it on to you? Write down the date and method of service and keep that information in a safe place.
- **Prepare a safe place for your documents.** Consider putting all of your documents into a folder or an envelope. Remember, from now on, you will need to save all mail you receive from the court and the other side. The litigation process will be easier if you keep all of your documents together and organized.
- **Create a calendar or list to keep track of all upcoming dates.** Throughout the litigation process, there will be various deadlines that you need to meet and court hearings you will need to attend. A calendar or list can help you to avoid missing any important dates.

Where Can I Go for More information?

- The San Diego Superior Court website allows you to access information about court hours, court locations, contact information for specific departments, and much more. You can access the website at www.sdcourt.ca.gov/.
- The California Courts website has an online Self-Help Center with useful information. It also has links to PDF versions of most court forms. The website is located at <http://www.courts.ca.gov/home.htm>. Click on “Forms & Rules” to access the forms.
- The San Diego Law Library has several locations throughout the county where you can obtain free access to legal resources. Its website also contains resources in English and Spanish. You can access the website at <http://sandiegolawlibrary.org/>.

Filing an Answer

What are my options when I get sued?

In general, you can:

- 1) Do nothing.
- 2) Try to settle the case. You can try to settle at any point in your case, before and after you file an answer.
- 3) File for bankruptcy.
- 4) Defend yourself by filing an answer.

Do I really need to file an answer to the Complaint?

Although filing an answer is not the only action you can take if you get sued, filing an answer may give you more time to think about your options. Keep in mind that if you do not answer, a default judgment can be filed against you. Once a default judgment has been entered, the other side can try to collect on the judgment using various methods, such as by taking money from your paychecks, taking money from your bank account, or putting a lien on your house.

When is my answer to the Complaint due?

Your answer is due thirty days after the date you were served with the Complaint. The thirty days includes weekends, but not court holidays. You can usually look at the court website to find out what days are court holidays. If day thirty falls on a day the court is closed, you have until the next business day to file your response.

What information will I need to file an answer to the Complaint?

You will need:

- A copy of the Complaint;
- Your case number;
- The name of the opposing party;
- The causes of action on the Complaint; and,
- Any information or documents you have about the alleged debt you are being sued on.

What if I lost my copy of the Complaint?

If you have lost your copy of the Complaint, you can get a new copy. There are a few ways you can get a new copy:

1. Get a new copy from the Register of Actions:
 - Go to the San Diego Register of Actions. <https://roa.sdcourt.ca.gov/roa/>
 - Read and accept the terms.
 - You will then be led to a search page. To find your case you have two options:
 1. If you know your case number you can type it into the “case number” box.
 2. If not, click on the “participant name search” tab.
 - a. Type in your first and last name in the required fields, then go to the drop down box titled “case category” and choose “civil”
 - b. Click search
 - This should bring up your case. When you see your case, click on it.
 - Look at the case title - if it says [IMAGED] next to it, you can purchase a copy of the Complaint from the Register of Actions.
 - To do this scroll down and find the Complaint.
 - Once you find it, click on the “Add to Cart” icon on the right.
 - Next go to the top of the page and click the icon that says “View Cart.”
 - Once there, click “Proceed to Checkout” and follow the instructions given.
2. Get a new copy from the Civil Business Office:
 - To do this, you will need to know your case number and the location where the Complaint was filed.
 - If you do not know your case number or the location where the Complaint was filed, go to the San Diego Register of Actions (<https://roa.sdcourt.ca.gov/roa/>) and follow the steps above.
 - Once you have all of this information you can go to the courthouse.
 - At the courthouse, go to the Civil Business Office.
 - At the Civil Business Office you can make copies of the Complaint.

What forms do I need to answer to the Complaint?

If you decide to file an answer, you may want to find a lawyer to help you. If you want to do it yourself, you can file an answer using the General Denial form. You may also want to add some affirmative defenses to your answer.

Generally, you will need to pay a filing fee when you file your answer. If you do not have enough money to pay the filing fee, you can try filing a “Request to Waive Court Fees”. If you decide to file a “Request to Waive Court Fees,” make sure

you also file an “Order on Court Fee Waiver” so that the court can notify you whether they have granted or denied your request for a fee waiver.

- General Denial Form (PLD-050) - <http://www.courts.ca.gov/documents/pld050.pdf>
- Request to Waive Court Fees (FW-001) - <http://www.courts.ca.gov/documents/fw001.pdf>
- Order on Court Fee Waiver (FW-003) - <http://www.courts.ca.gov/documents/fw003.pdf>

Once you have filled out your answer, make 2 copies. File the copy with the original signature with the court. You generally can go to the Civil Business Office of the courthouse listed on your papers to file the documents. Take the second copy with you to the courthouse and have it stamped with the date and time. This copy will serve as your “proof” that your answer was filed on a certain date and time. Finally, mail the last copy to the other side to the address listed on your complaint and summons.

The Request to Waive Court Fees and Order on Court Fee Waiver should only go to the court, since they contain confidential information about your finances. Make one copy of these documents. File the originals with the court and get the copy stamped with the date and time.