



Tip of the Month January 2021

A Worthwhile Endeavor: Helping Clients with Creditor Harassment

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One of the great honors of my life was to receive the Volunteer of the Year award from the Volunteer Lawyers Network (VLN) a couple years ago for my pro bono work writing letters to creditors. Because that work is so rewarding, I thought I would share some of my experiences in the VLN Tip of the Month, with the hope of inspiring other volunteers to assist with writing letters to creditors on behalf of these clients. It's extremely moving to be able to give help to these clients who so desperately need assistance because of unfortunate circumstances in their lives due to loss of a job or their health.

VLN provides all the resources volunteers need to stop harassing debt collection phone calls and letters to their clients. The resources include thorough instructions, a prepared representation agreement, suggestions for your initial communication with the client regarding expectations and understandings, a template for letters to creditors, links to outside resources regarding debt collection law and procedures, and VLN staff members who will assist you with any questions that arise.

The foremost concern of clients is their fear that every time the phone rings, they will be confronted by a debt collector "hounding" them for payment, for information, forever. The overwhelming relief in a client's voice is obvious from the very minute you call to introduce yourself and take on their case. VLN will provide you with a checklist of issues to discuss from the outset of your representation, including their rights, their options, confidentiality, and expected outcomes. Generally, clients are so inundated with collection efforts that they are overcome with emotion upon finally getting legal representation. Contacting new clients is a very moving and rewarding experience.

During the initial telephone contact with clients, I explain the process we will be undertaking, but I also follow up in writing. When I send them a letter repeating what we discussed, I send a typed list of their creditor information, including creditor name, address, and account numbers for the clients to carefully read over and be sure that the information is correct. I also ask them to update the list with newer creditors that may have arisen since their first intake with VLN – creditors often sell accounts to other debt collectors, so there are generally new creditors to add to the list by the time I take their case.

In addition, I give the clients my direct phone number and email address and let them know the hours that I can be easily reached. Many clients do not use email, and I have found that texting works well for clients who are difficult to reach or worried about answering the phone. That way, the clients can get back to me when they have time. Texting also seems less intrusive to some clients and gives me a chance to leave a message, for those who do not have a voicemail set up because of all the harassing creditor messages. I have found that clients are so relieved to have someone listen to them, help them, and be a resource to answer their questions or allay their anxieties. Clients are also often proud to say they have a lawyer assisting them, and it empowers them in dealing with their creditors during telephone calls.

The VLN template for letters to creditors is straightforward and generally is successful in warding off the creditors for at least six months. After that time, I just send more letters if they continue to pursue collection. More than likely, however, creditors will have employed another debt collector or sold off the account to another collector, and then the process starts again. Generally, creditors respond in writing,

indicating either that they will comply with the request to cease their collection efforts because they are fruitless or that they need more information.

Creditors may make settlement offers that increase in generosity over time. However, generally, clients are unable to pay even a greatly reduced amount offered to settle the debt. Nonetheless, some clients may wish to pay one account in order to preserve some credit. In that case, I will negotiate with the creditor to obtain the best deal for my client and make sure we receive a statement of satisfaction of the debt. However, offers of settlement have been few and far between in the last couple years, perhaps because it is more advantageous for the creditors to simply write off the debt.

There are some die-hard, aggressive debt collectors that insist on issuing a summons and complaint regardless of the client's inability to pay or the futility of obtaining a judgment against a client that is basically judgment-proof. Once the collection process gets to that point, I no longer represent the client for that account. I inform the clients upfront about that possibility.

A particular issue I encounter frequently is that many clients have been misled on options for repaying student loans. Some clients will have simply stopped making payments on their student loans or have signed up with private debt consolidators who have promised to assist them with paying off the loans. I have had several clients who were making minimal payments to the consolidator, but most of that money went to the consolidator rather than paying on the loans. Sadly, student borrowers do not always know about the income-based repayment plans offered by the federal government, which allows borrowers to repay their student debt over 25 years, based on their income, after which the remaining debt is forgiven (but taxable as to the remainder). Even if the client can pay only a minimal amount, the years of minimal payments will count toward the 25-year end date. Therefore, I urge the clients to get into such a plan even during a time when they have only a meager income.

After a year of representation of a client, VLN requests that the file be closed for administrative purposes, with the allowance that you may continue to represent the client as the need arises. I have found that some clients panic when I tell them I'm going to be closing their files, so it's important to let them know by telephone that I am not withdrawing totally from their lives. In fact, I still occasionally get telephone calls from clients whom I have assisted many years ago. After I make sure they still qualify for free representation, I continue to assist them. Some of them still like to call just to keep in touch. The most rewarding part of my work for these clients is how grateful they are for any help and support I can provide.