

What to Do When the Creditor Knocks



Case Studies

• **Jeff Smith** has two young children. His wife, Ellen, recently lost her job as a teacher's aide. Without Ellen's income, they are having trouble making ends meet. Jeff and Ellen are several months behind on their payments to a local appliance store, which has turned their bill over to a collection agency. The agency made harassing telephone calls to Jeff's supervisor, the Smiths' neighbors and the school where Ellen worked. In each of these calls, the agency indicated that Jeff and Ellen have a past-due bill. The agency also called them late at night several times concerning the bill.

• **Bill Brown** is working on the construction of a commercial building during the summer and expects to continue working through the fall until the building is completed. On payday, the foreman tells him that his wages have been garnished and that he will not receive a paycheck. The foreman also tells Bill that he will be fired unless the problems with the creditor are cleared up.

What can these people do?

The worst thing would be to ignore the situation and hope it will go away. Delay will only make their problems worse and may lead to repossession of their cars, foreclosure on their home, bankruptcy and damage to their credit score.

Fortunately, the Smiths and Bill Brown have options. An attorney can explain these options and advise them on the best course of action. For example, Jeff and Ellen Smith have a variety of rights and protections under the law. First, an attorney can stop the collection agency from making harassing calls to the Smiths' employers and neighbors. The Fair Debt Collection Practices Act makes it illegal for collection agencies to call people late at night, early in the morning or to constantly ring the telephone at any time. Most importantly, once the Smiths have an attorney, he or she will contact the collection agency. After this point, the agency may communicate only with the Smiths' attorney—not their friends, neighbors or employers.

Debt problems are not uncommon. It is important to remember that debt problems are legal matters and a lawyer can provide assistance working with creditors. People often feel ashamed, helpless and frustrated when debts pile up and collectors begin calling. The following case studies will show that you have rights and options which an attorney can help you understand.

Bill Brown has some idea what garnishment is but is not sure of his rights. Like the Smiths, Bill Brown has many legal rights and protections. His attorney will explain that garnishment refers to a court proceeding in which a portion of a worker's wages are set aside to pay a creditor for a debt owed by the worker after a court ruling. The attorney will determine if the creditor took all the required steps in court to obtain the garnishment. If the proper procedures were not followed, the attorney may be able to have it lifted. Additionally, most states will not allow garnishment of an entire paycheck and require that a portion of the wages remain so the individual may support himself. Therefore, even if the garnishment is valid, the attorney may be able to reduce the amount deducted from Mr. Brown's check. Finally, many states have laws which protect a worker from being fired solely because his wages have been garnished. Mr. Brown's attorney can advise him as to the laws in his state.

Like many Americans, the Smiths and Bill Brown did not know what to do when the bill collectors came knocking at their doors. Fortunately, there are laws that protect consumers and people in debt. With an attorney's help, they can find a solution to their credit problems.

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