

Two Kinds of "Verification" or "Validation" – FDCPA and FCRA

And how to use them to defend your rights from debt collectors and creditors

By Ken Gibert and Your Legal Leg Up

The information in this article is designed to help people being bothered or sued by debt collectors, or who are concerned about their credit reports and wish to take action to protect their rights.

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Two Kinds of Verification and How to Use them to Protect Your Rights

We have spent much of our time talking about "verification" on our site and videos, and what we have meant in most of that has been the "verification" process provided by the Fair Debt Collection Practices Act (FDCPA). But there is another kind of validation you can use - validation as permitted by the Fair Credit Reporting Act.

We talk about that below and discuss how you can use both forms of validation, together or separately, to your advantage in defending yourself from the debt collectors and in repairing your credit.

The two kinds of verification are different rights. They apply in different circumstances, to possibly different "persons" under different circumstances, give different rights, and have different time requirements.

You can use them both, but they are completely separate. It is important to keep them straight.

Make sure you keep track of everything you do under either statute, and make sure that the response you get is appropriate for the statute you used for the specific right you invoke.

Rights under the FDCPA

Under the FDCPA, when a debt collector *first* contacts you on a debt, it is required by law to notify you of your right to dispute the debt and require "validation" or "verification." The two words are used interchangeably, and the requirement is quite simple in general:

- First, the debt collector must notify you of the right to dispute within 30 days (along with giving you the "mini-Miranda" warning – that anything you say may be used for collection of a debt) within five days of first contacting you.
- And then, the debt collector must "verify" the debt if you ask within the thirty days provided.

Just to make clear, it is YOU who have 30 days to dispute after getting the notice of your rights. The debt collector does not literally even have to do anything at all and also has no time limit. It's just that, if you dispute and request verification, it cannot make further attempts to collect on the debt until it has verified it.

Exactly what verifying it is, is not exactly clear.

It would appear that contacting the original creditor and "establishing" that the debt is yours would be enough. That's because the purpose of the requirement is not to require a separate lawsuit, but just to protect consumers from harassment based on typos or mistaken identities. The debt collector has to take some action to connect you to the debt if you dispute it under the FDCPA.

Even this low burden often seems to be too much, and possibly that is because the second owner of the debt (if there is one) has no relationship to the original creditor and simply cannot get the debt verified. Whatever the reason, asking for verification is often enough to make them go away. If they try to collect without having verified, that violates the FDCPA. And that in turn might allow you to stop a lawsuit brought against you.

Remember, however, that when the debt collector immediately files suit against you, this is not a "first contact" which triggers your right to notice and dispute. If you get served, you have to answer (or move to dismiss). It is not enough to request verification.

Disputing under the Fair Credit Reporting Act

There is another kind of validation, and it is completely different from the FDCPA, although you can use it to fight debt collectors, too. It is the validation provided for by the Fair Credit Reporting Act (FCRA).

This is your right to "dispute" an item on your credit report.

You do this after looking at your credit report and seeing something that is not positive. Let's say you see a debt collector reporting that you owe a debt. Remember your right to verification under the FDCPA comes when the debt collector *first contacts you* to try to collect the debt. You can dispute a line item on your credit report at any time.

There are rules, and there are better and worse ways to do it. But it does not depend on the other side being a debt collector or having tried to collect the debt. It simply requires that they have put some bad information on your credit report.

When you seek verification under the FDCPA, the debt collector has to verify the debt before making further attempts to collect. When you "dispute" the debt under the FCRA, it doesn't affect collection. Instead, you are forcing the company to "investigate" the debt and show that what it is saying to the credit reporting agencies is true.

If the company reporting you cannot validate the debt, it is just required to withdraw the offending credit reference. But it could still try to collect the debt.

If it does keep trying to collect the debt after withdrawing a bad credit reference, that might be a type of admission that it can't prove the debt if the case goes to a lawsuit. But it probably isn't controlling on the case because "validation" of a credit report is not the same thing as proving that the debt is valid.

A Helpful Strategy

Here's a strategy that might be helpful. If you receive a bill from a junk debt buyer - a company that bought your debt from the original creditor, in other words - you should send a request for verification under the FDCPA right away. **Then** you should and get your credit report and look at it.

If the debt collector is reporting your debt on your credit report, you will want to dispute the credit report and seek validation under the FCRA. Separately.

Remember these are completely different rights. Your sending two different disputes may confuse the debt collector, but remember that under the FDCPA it must provide proof as to your identity and its right to bug you, while under the FCRA it must explain why the information it put on your credit report was correct. The debt collector may not verify under the FCRA, in which case you can clear your credit report.

If it DOES try to validate, it will probably give you information that it would object to having to provide if it were suing you for the debt – so it's a shortcut to some discovery in that situation.

You should not try to do the FCRA verification first because it takes too much time.

To do the credit dispute right you have to get your credit report and dispute it with the credit bureau before you dispute it with the debt collector under the FCRA if you want to protect all your rights. You don't have time to work your way through the FCRA before asserting your FDCPA rights.

On the other hand, if the company does not verify under the FDCPA, that would be worth mentioning as a basis for your credit dispute.

We should add that when you get the first letter from the debt collector you may not even know whether it is reporting you on your credit report. They often do not, so you won't know whether or not you will have anything under the FCRA. But if they are contacting you, you have the right under the FDCPA. Since it only lasts for 30 days, you need not to delay in disputing.

We always recommend sending your disputes by certified mail (and keep all the proof). You don't have to do this legally, but these things often come down to a question of what you can prove, and having proof from the postal service is a very good investment.

About Your Legal Leg Up

Your Legal Leg Up is a business dedicated to helping people fight debt collectors without having to hire expensive lawyers to do it. We offer you everything you need to defend your rights – with special help through our membership services to help make the process smoother, easier, and less worrisome. YourLegalLegUp.com has been in operation since 2007. Before that, Ken Gibert practiced law representing people being sued for debt among other types of consumer law.

If you would like to get a personalized evaluation of your situation, follow this link: <https://yourlegallegup.com/pages/evaluation>.

For further help, consider our [Manuals and Memberships](#). We have materials on [debt negotiations and settlement](#), [forcing debt collectors to leave you alone](#), [credit repair](#), and many other issues that arise when you are facing debt trouble.

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