

Never Make a Partial Payment

They can admit the debt and will restart the clock

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Suppose you get called by a debt collector about a debt that you *might* want to pay. That is, you think it's legitimate, you think the company calling you may be legitimate (subject, always, to proof!), and for other reasons you're inclined to pay. But you don't have enough money. "Not a problem!" says the debt collector. "You owe us \$2,500, but why don't you just make a payment of \$75 tonight? Then you can pay the rest whenever you can afford it."

Should you do it?

What you should do

This is a made-up situation, of course, but some variation of it occurs many times every day all over the country. The collector is either nice, and you want to help him out by chipping in "just a little" to help his statistics, or the debt collector is mean, and you think that making a payment will be the fastest way to get her off the line.

Of course you know they're paid to make you feel the way you do, but that doesn't really matter. There are times when the way you feel trumps whatever you know – and the debt collectors are paid to know about that, too.

The question is, should you make that little payment?

To Pay or Not to Pay

The question you need to answer first is NOT whether you want to pay. The first question you must ask yourself is whether you can see exactly how you will be able to pay – and not just the payment you're being asked to make, but all the rest of it. The debt is \$2,500. Can you see how you would pay all of that? Can you think of terms that would actually work – as you can see at the moment and without hoping for something surprising and unusual happening?

To be frank, most people being contacted by a debt collector on a bill they thought they should pay can't see a way to pay it. If that's you, you should not pay any part of it.

If you can see a way to pay the debt and believe you should, and if the debt collector will agree – in writing – to the terms you think are necessary, THEN you can ask whether you think it's the right thing for you to do. Often people may conclude it is, for a variety of reasons, and if this is you, then make the deal and whatever payments you agree to. We're not here to tell you not to pay legitimate debts – only to make sure the debt collectors don't crucify you.

Why Should You Act as we Suggest?

You should ask the questions in the way we suggest, and act according to the answers you come up with because making a payment is not a legally neutral act. It has major legal consequences.

Making Payment CAN Admit the Debt

We tell people all the time that one of the biggest difficulties debt collectors have is establishing by legitimate evidence that you owe them the debt. Can you see how making a payment seems like admitting you do? The debt collectors will argue that it is an admission, and some courts will buy that argument. Your argument that you only made the payment to make the debt collector feel better or to get them off the phone will cut no legal mustard because that is not a *rational* thing to do. The courts will hold you to a standard of reasonability, often, that ignores either your compassion or fear or desire for peace and quiet. Paying someone you don't owe isn't rational, and there's a good chance the court will view your payment as admitting you *do* owe.

Making Payments WILL Restart the Statute of Limitations

One thing most courts agree is that making any payment at all will restart the statute of limitations. That is, if the debt is four years old and the statute of limitations is set to run out next month, your payment of any amount will give them four more years to harass and possibly sue you. And the fact that you paid them will almost guarantee that they'll use the opportunity since they know you'll roll over.

I have argued that making a partial payment that does not “cure the breach” (isn't enough to say you haven't broken the contract) should not restart the statute of limitations because the breach still dates back to the time you failed to make payment. I think that makes sense, but as far as I know, no court has ever agreed. Every decision I've seen on the issue has held that any payment starts the clock running from the very beginning again.

And this is a large part of why debt collectors are so eager to get you to make a payment. It's also why I emphasize that in asking whether you can afford to pay, I refer to the entire debt. *Making a partial payment is a commitment to paying the whole thing whether you mean it that way or not.*

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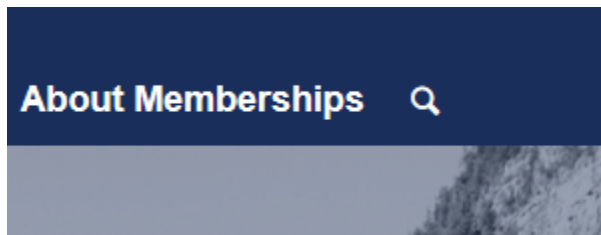
All the above factors suggest that, for almost every person being contacted by a debt collector, making a partial payment is a terrible idea. If you are that rare “other person” and can afford to pay the whole thing – and want to – then it’s fine if you do. Most people should steer far clear of the temptation. You can hang up on an angry caller and even make them stop calling. And the nice caller will find her victim somewhere else. Don’t let it be you.

Your Legal Leg Up

[Your Legal Leg Up](#) is a website and business dedicated to helping people defend themselves from debt lawsuits without having to hire a lawyer. As you can see below, we have a number of products as well as memberships that should help you wherever you are in the process. In addition to that, our website is a resource for all. Many of the articles and materials are reserved for members, but many are available to everyone.

Finding Resources

Our website is both a business and a public resource, and you can use it to find information on a wide variety of debt law-related topics. While many of our resources are restricted to members, of course, many more are free to the public. Please feel free to use it. Every page has a site search button in both the header and footer. It’s a little magnifying glass icon that looks like this:



Click on the magnifying glass icon, and a small window opens. Put in a key word – a word you think relates to what you’re looking for – and enter. You will get a page of results.

Memberships

We have quite a few products that will help you with specific issues (you can find them by clicking on the “products” button in the top menu of every page on the site), but most people should consider starting with a membership.

Members get discounts on all products as well as unlimited opportunities to join our regularly scheduled teleconferences. This gives invaluable real-time assistance, answers to questions, help with strategies, and encouragement. You also get the Litigation Manual for free with membership. Find out about memberships by clicking the "About Memberships" link in the menu at the top of any page on the site.

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What you will not receive is any marketing from other people – or much from us, either. Our goal is to make the site more useful to members and visitors, not to swamp anyone with sales materials. The information we send will have links to information or products that we think may be helpful.