

PAST DUE

Secrets to Drafting Effective Demand Letters

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A demand letter, also known as a letter of demand (LOD), is a document expressing a claim for something that is considered to be past due. In the field of debt collection, letters are sent from a collections agency in order to demand payment of a debt as well as any interest and late fees that have accumulated.

Collectors are paid in one of two ways. First, the creditor may pay the collector a percentage of the debt that is collected. Second, the creditor may sell the debt to the collector. The collector then keeps all the money received from the debtor. Regardless of the agreement between the collector and the creditor, the collector has a big interest in getting debtors to pay their debts. This occasionally leads collectors to act recklessly. Some actions are ineffective while others are actually illegal.

Demand letters that are sent by collections professionals must adhere to the strict requirements of the Fair Debt Collection Practices Act (FDCPA). Breaches of this law can be reported, and collections professionals can even be sued for failure to adhere to its requirements. These requirements should be understood prior to writing a demand letter. All demand letters should be reviewed and compared against the FDCPA.

Collectors may contact debtors by phone or mail. They must announce who they are whenever they make contact in order to identify themselves as debt collectors. Collectors must present the following in writing within five days of the first contact: the amount of debt, the identity of the

creditor, and what debtors can do if they disagree with the debt assessment.

If the collector contacts someone other than the actual debtor, it must be only to locate the debtor. In the event that a legal remedy is sought, the collector can only sue within the jurisdiction of the debtor's home or where the contract was signed in the first place.

There are many enumerations as to what collectors may not do. Even inadvertently breaking these rules can result in a lawsuit from the debtor.

Collectors cannot contact debtors before 8 a.m. or after 9 p.m. without the consent of the debtor. Collectors are not permitted to contact debtors at work against the employer's wishes. A debtor may write a letter to the collector to stop all contact.

Collectors are also not allowed to make the debtor's debts known to any other parties. They may not threaten the debtor's property or reputation, nor may they threaten to have the debtor arrested. Profanity, obscenities, and harassment by means of overly frequent communication are also prohibited.

Dishonesty of any kind is not permitted. This includes forged legal or official documents, the use of a false identity, and accepting payment that exceeds the debt plus legal interest and late fees.

Finally, collectors may not call collect or deposit post-dated checks early. They are also not allowed to communicate with debtors using postcards nor with envelopes

that identify the contents as having to do with debt collection. A letter of demand must be sent inconspicuously.

Legal concerns are important, but not all legal letters of demand will be effective. Within the legal framework of debt collection, demand letters must be written in the right format and in the right mood. By pairing these two factors, a legal demand letter becomes significantly more likely to result in the desired response of debt payment.

The format of a demand letter is fairly simple. It should contain three distinct parts: history, expectations, and the next step. This can be understood as the past, present, and future of the debt account.

The debt's past, or the history of the dispute, should make up the first part of the letter. This explains the amount of debt incurred and the identity of the creditor. Brevity is important here. Collectors should show considerable knowledge of the debt history without going into complete detail. If debtors require more information, they may contact the collector.

The collector's expectations represent the debt's present situation. Collectors need to explain what they currently expect to happen based on the history. Of course, collectors expect the debt to be paid. Collectors should identify a specific amount that is due by a specific date. If a collector is unreasonable, the debtor is unlikely to even try to pay the debt. By beginning with a request for a small sum, the debtor is put in the position to make

a decision. If the debtor pays the first amount demanded, the collector should continue working with the debtor, periodically increasing the amount demanded. If the debtor makes no effort to pay the small amount demanded, the collector should understand that the debtor probably has no intention of paying off the debt.

The third and final portion of the body of the letter should include the future of the debt. This is an explanation of what the collector plans to do if the debtor does not pay the amount demanded. Collectors should describe the legal options that are available, but they should not say anything that could be construed as a threat. Simply stating that the collector can sue for payment is non-threatening and factual.

After ensuring legality and a proper format, collectors should look for ways to set their demand letters apart. With all of the templates on the Internet, most demand letters are basically different versions of the same thing. Debtors are likely to receive a plethora of demand letters every month from different collectors. Most of the time, a debtor has to choose which collector to pay because there is insufficient money to pay them all. By following these eight simple tips, collectors can draft more effective demand letters.

1. Keep it brief. The demand letter should be short enough to motivate the debtor to read it, but it should also be long enough to address each of the three vital points of a demand letter. By employing brevity, a collector shows the debtor the seriousness of the

situation. Long-winded letters will go to the bottom of the pile immediately.

2. Avoid negativity. Debt is not a happy topic, but it doesn't need to be blown out of proportion. Debtors are less likely to work with collectors who seem to be attacking them. Collectors should express confidence that the debt can be repaid. The confidence should specifically be in the collector's plan. If the collector demands a \$30 payment, the collector should express confidence that such a demand is realistic. This will help keep emotions out and will prevent accusations of harassment.

3. Be bold. A collector who is polite and courteous can also be bold. Collectors should never hesitate to demand payment that is past due. Looking open to negotiations will put a collector last on the debtor's list of people to pay.

4. Do not sound overly legal. Such jargon is usually just seen as gibberish. Collectors who sound like a template will be treated like a template. A template can easily be transformed into a personalized letter. In addition, legal jargon gives the impression that a lawyer wrote the letter. Collectors should try to keep lawyers out of the situation unless there is no alternative but to sue.

5. Look professional. Letterhead goes a long way in making a letter look important and professional. It also identifies the collections agency. Collectors should format the layout of the letter according to generally accepted rules of letter etiquette. Use correct margins and spacing. Choose a simple, easy-to-read

font. Always sign with a real pen.

6. Attach supporting documents. People may not understand the source of all their debt. An itemized bill can be attached to a demand letter to show why payment is deserved. This can also help debtors who might object to the collector's debt assessment. By showing that the debt can be proved in court, collectors encourage debtors to prevent a legal remedy.

7. Give a reasonable deadline. Collectors should not be too generous, but giving two to three weeks gives debtors enough time to make a payment. A fair deadline requires debtors to be accountable for their decision to pay or not to pay.

8. Mention the evidence. As was previously mentioned, an itemized bill shows a debtor that the collector can prove the amount of debt in court. Collectors shouldn't stop there. Collectors can mention evidence all throughout the demand letter to persuade the debtor to pay. The history portion can describe that the collector has logged all previous attempts to contact the debtor. The expectations portion can justify the legal reasons that payment is required. The final part of the letter can confirm that the collector is prepared to bring all evidence to court if a lawsuit is deemed to be necessary.

Success in debt collection is sometimes portrayed as being hit and miss. By focusing on the legality, format, and mood of a demand letter, collections professionals can have increased success in persuading debtors to pay their debts.

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