

SAMPLE JUDGMENT-PROOF LETTER

Attached is a sample letter to stop calls from collection agencies and let them know that you are judgment proof. The letter is for you to use as a guide to draft your own letter. We are not attorneys, and we cannot give you legal advice. You should consult an attorney for all legal advice, including a determination to make sure you may be “Judgment-Proof.”

WHAT DOES IT MEAN TO BE JUDGMENT-PROOF?

Some kinds of income cannot be garnished by creditors. Examples of income that cannot usually be garnished are TANF, GAU, SSI, SSDI, SSA, food stamps, child support received by you, and private pensions of many kinds. In addition, only part of your net wages can be garnished; (in 2010) your net wages are exempt from garnishment up to either \$217.50 per week or 75% of your net wages, whichever is **greater**. Net wages means your gross pay minus taxes, social security and other mandatory deductions.

If your income is protected from garnishment and you have no assets (house, property, savings) with which to pay your debt, you may be “Judgment-Proof.” If any money you have in a bank account came from exempt sources, it may be exempt as well.

If you owe child support debts, tax debts or certain other claims by the state or judgments for any part of the purchase price of a piece of personal property, you may not be “Judgment-Proof” for these debts.

JUDGMENT-PROOF LETTERS

- Use the attached letter as a guide to draft your own judgment-proof letter. Writing a letter in your own words is usually best.

- Explain why you cannot pay the bill and describe your sources of income.
- Include your name, address, account number, and the date.
- State that you are exercising your rights under the Fair Debt Collection Practices Act (15 U.S.C. 1692). (Collection agencies are also regulated in Washington under the Collection Agency Act, with prohibited practices listed at R.C.W 19.16.250).
- State that you want the creditor to stop calling and writing you. If you are willing to accept mail, but want no more calls, you can state that instead. Either way, save all the mail, including envelopes, you get from the collection agency. If you are sued by the collection agency, make sure to bring all of the mail they have sent you to court. It is important to have a paper trail and to be able to present this during your court appearance.
- Be very cautious about agreeing (saying) in any way that you owe the debt. If the debt was discharged in bankruptcy, or is so old that it was cancelled by law in the state where it occurred (this varies by state; in Washington the statute of limitations is either three or six years, but an attorney would need to tell you when that time period started in your particular situation) you do not owe it anymore. If you agree to pay it, however, you may have “reaffirmed” the debt, and may owe it all over again.
- Describe why your income is exempt from garnishment (i.e. why you are judgment-proof). For example: “I am living on a railroad pension and social security which are exempt from garnishment under federal law.” Some other kinds of income, like Crime Victim’s Compensation funds, state retirement pensions, private retirement pensions, and other specific types of income are also exempt from garnishment.

- If the original creditor is contacting you, mail the letter to the address for “correspondence” listed on the back of the monthly credit card statement. If a collection agency (or a law firm acting as a collection agency) is contacting you, send the letter directly to the collection agency.
- Send the letter certified mail, return receipt requested, and keep the receipt and a copy of the letter for your files. Make sure to keep copies of all the letters you send to your creditors.
- Be patient. It can take a few weeks or months for your letter to be processed and for telephone calls from your creditors to stop.
- Be aware that the creditor may sell the debt to a debt collection agency or to a different debt collection agency. If another debt collection agency contacts you, follow the same process and send another judgment-proof letter.
- Be aware that the creditor may still try to sue you to collect the debt. If you receive court papers, be sure to talk to a lawyer and respond to the lawsuit. If you don’t respond to a lawsuit, the creditor wins automatically, and you lose any chance to present your defenses.

ADDITIONAL RESOURCES

- Washington Law Help - www.washingtonlawhelp.org; select “consumer and debt.”
- Federal Trade Commission - www.ftc.gov; select “credit and loans.”
- King County Bar Association Neighborhood Legal Clinics - call (206) 267-7070, Mon-Thurs, 9 AM – 12 Noon to make an appointment with a volunteer attorney for advice and consultation only.
- CLEAR SR. – King County residents who are 60 years of age or older can call -1(888)387-7111 to speak with an attorney.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DATE:

TO: Company _____ Address _____ _____

RE: Name: _____ Account No: _____

I am writing in regards to my current financial situation. You contacted me about a bill, claiming I owe a \$_____ debt for _____.

- I dispute that I owe this debt.
- I am unable to pay the debt that you are claiming I owe.
- This debt was discharged in bankruptcy.

Even if I owed this debt, I could not both pay the bill and meet my necessary expenses, as my income is only _____ from _____,

which is exempt from execution and garnishment by state and federal statutes. (Describe source(s) of income). Any money I may have in the bank is from that source of income as well.

Unfortunately, I don't foresee any change in my financial situation in the future. The income that I have, and any money in the bank from this source, is exempt from collection under state law, federal law or both.

In accordance with the Fair Debt Collection Practices Act (15 U. S. C. 1692) and Washington State Collection Agency Act (RCW 19.16), I am requesting that you stop calling and writing to me. If you do not immediately comply with my request I will file complaints with the Federal Trade Commission and with the Washington State Attorney General.

Thank you for your cooperation.

Sincerely,

_____	(Signed)
_____	(Print Name)
_____	(Address)
_____	(City, State, Zip)