FIVE SECRETS DEBT BUYERS DON'T WANT YOU TO KNOW: AND HOW KNOWING THESE SECRETS CAN HELP YOU WIN YOUR CASE!

INTRODUCTION

Debt buyers are flooding our Alabama courts with lawsuits where they claim to own the debt that they are suing on. Often, when the consumer is sued he or she is confused as the consumer never did business with the debt buyer (Midland Funding, Asset Acceptance, Unifund, and many others) but yet the consumer is in the middle of a lawsuit.

The debt buyers say that they "stand in the shoes" of the original creditor so if the consumer owes, for example, Bank of America or Chase or Capital One, then the consumer owes the debt buyer.

This is now a huge business – suing consumers on purchased debt or "junk debt". This business results in hundreds of judgments against consumers every month which then leads to garnishments of bank accounts and paychecks.

The debt buyers win approximately 90% of their cases. They have tons of money and lawyers who specialize in nothing but suing consumers and collecting the judgments by garnishments.

From the standpoint of a consumer who gets served with a summons and has 14 days (or 30 days) to respond to the lawsuit, it appears hopeless. How can the consumer possibly win?

The truth is there are five secrets that debt buyers are praying that you never find out because if you do then you can improve your chances of winning your case.

We have discovered these secrets and want you to know what they are so you won't be a victim like 90% of consumers are but instead you can put yourself in a position where you can fight back against the debt buyers.

DISCLAIMER

This report is not intended to be nor is it actual legal advice. No lawyer can advise you what to do in your specific situation without knowing your specific facts. The information provided in this report is for educational purposes only and does not contain all of the exceptions that may apply to your particular unique situation. Therefore, you should not rely upon the information in this report. Instead you should consult with a knowledgeable attorney who can fully explain your options when dealing with a debt buyer lawsuit.

The *Alabama State Bar* requires this disclaimer:

"No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers."

SECRET NUMBER ONE – ANSWER THE COMPLAINT AND YOU DRAMATICALLY INCREASE YOUR CHANCES OF WINNING YOUR CASE

Debt buyers are counting on you not answering the complaint against you. They don't care why you don't answer – they just don't want you to answer it. It may be procrastination (no-one likes to deal with bad news), it may be fear (it is scary being sued), or most likely it is that you believe there is nothing you can do once you are sued. Whatever the reason, the debt buyer wants you to not answer the complaint. Because if you don't answer the lawsuit you will almost certainly lose – a default judgment will be entered against you.

Here's the first secret that debt buyers are hoping you will never find out – if you answer the complaint with a denial then your chances of winning go up dramatically.

It sounds obvious but if you don't show up to the game, then you can't win! But if you show up to the game (answer the complaint) then you have a chance to win.

While we can't tell you how to answer in your case (as every case is different), we have not met any clients who agree they owe money to the debt buyer as normally our clients don't even know who the debt buyer is or what the

supposed debt is that they are being sued for. So our clients deny the allegations of the debt buyers.

This is what the debt buyers don't want you to do because it tells the court that your case needs to be tried. When a case is tried the debt buyer must prove that it is entitled to get a judgment against you. This idea of proof leads to the next secret that debt buyers don't want you to know…..

SECRET NUMBER TWO – THE DEBT BUYER MUST PROVE IT OWNS THE DEBT – "SHOW ME THE TITLE!"

Now that you have answered the lawsuit, the court will normally set the case for trial. Make sure you show up to trial. Trial is time for debt buyers to "put up or shut up". They can't just claim or wish or hope – they now have to prove. One of the most basic things they must prove is something they do not want for you to know. This is the second secret they hope you never discover – that the debt buyer must prove it owns the debt!

Some of us remember the old Wendy's commercial that had the tag line "Show me the beef!" when the old lady saw a hamburger with hardly any meat on it. In the same way we can tell debt buyers to "show me the title!" to the debt. They really don't want to be put in this position.

If you were buying a car from someone, before you handed them any money, what would you want to see? Even after checking the car out, figuring out if the price was good, what would be an absolute must for you to have before you would give over your cash? The title of course!

Well, why would you agree to give over your hard earned cash to a debt buyer who won't, in a court of law, on the day of trial, show you that it has title to the debt?

Debt buyers buy debt from original creditors. They also buy it from other debt buyers. Sometimes they claim to own a debt at the exact same time another debt buyer is claiming to own the debt. How do you protect yourself from fraudulent claims? The same way as when you are buying a car or a house – you want to see the chain of title. To make sure there is good title from whomever you are buying from. With debt buyers you want to see the proof that the debt buyer who is suing you actually owns the debt. If it bought the debt from some other debt buyer then you need to see the proof that the other debt buyer owned the debt at the time it sold it to the one suing you. Sometimes there are multiple debt buyers – they all need to prove that they owned the debt.

We have not seen a situation where the debt buyer proves it owns the debt but even if it does, that is merely the first step. The third secret is something that comes next and debt buyers definitely don't want you to know this dirty secret in the industry that debt buyers…..

SECRET NUMBER THREE – THE DEBT BUYER OFTEN DOES NOT EVEN HAVE THE CONTRACT YOU ARE BEING SUED ON!

It seems obvious that if you are being sued on an old credit card debt, then the debt buyer should have the written contract or the terms of the agreement, right? The debt buyer should be able to show you what the terms of the deal were – such as interest rate, late fees, which law applies, etc. Well, the dirty secret that debt buyers hope you will never discover is that often they don't even have the contract when they sue you and, even more shockingly, they often don't have the contract when they are standing in front of a judge at trial!

In the typical credit card deal, there is not a signed contract. But there are terms that bind the parties. You will be sent these when you receive your credit card. From time to time, the terms will be changed or modified. These are the little sheets of paper you receive with the bill that says something along the lines of "If you use your card after today, you hereby agree to the modifications in the terms of agreement". The changes may be on the interest rate or the late fees or when a payment is late or anything else that governs the deal.

Amazingly debt buyers will sue you for breaking the deal but when we ask the lawyers for the debt buyers at trial what the terms of the deal were, they look sheepish and admit they don't know. But they are confident our client broke the

terms even though they don't know what those terms are! We see so many unrepresented consumers settle cases at the courthouse never knowing that the debt buyer not only can't prove it owns the debt (secret number two) but that it doesn't even know what the terms are that the consumer supposedly broke.

Every now and then, a debt buyer's lawyer will have in his or her file a "specimen" copy that is supposedly similar to the one that you received. On these few occasions that we actually have seen a debt buyer show up to court with their specimen copy – it doesn't even match the time period our clients used the card! Our clients may have used a Chase credit card from 2001 to 2004. The lawyer will show up with the terms of agreement dated 2008. This is worthless.

Even if the lawyer for the debt buyer has the right terms and all amendments that are applicable, the debt buyers normally don't have a way to prove their case because….

SECRET NUMBER FOUR – THE DEBT BUYER OFTEN HAS NO WITNESS

Debt buyers normally show up to district court and small claims court with NO witness. No one. Imagine suing somebody and going to court without a single witness. It makes no sense. Except it does. From a business perspective.

Think of it this way – about 90% of all debt buyer lawsuits result in a default judgment against consumers. The others get settled. The few that don't get settled go to trial but normally about 50% of the people who have made it to trial don't show up. So they lose. The ones that actually show up normally discuss the case with the debt buyer's lawyer and assume and trust that the debt buyer really owns the debt and that the consumer really owes it. So they settle.

Given all of this, why would a debt buyer "waste" time and money by sending a witness with proper evidence to every case trying? Not just in Alabama but all over the country. Some of these debt buyers file over a 100,000 lawsuits a year in the country. That would be a lot of witnesses flying back and forth and renting cars and staying in hotels. So, from an economic perspective most of the time the debt buyers decide it is just not worth the effort to bring somebody.

Also, they think that they can get you to admit that you owe the debt buyer money. We will discuss this more in our report we send to clients regarding how

to answer questions when on the witness stand in a debt buyer lawsuit but here's the short version – don't speculate. Don't guess. When the lawyer says "You owed Citibank some money, didn't you?" You can answer "Yes" if that's true. But when the debt buyer lawyer says "So you agree you owe my client money, don't you?" You remember that you are not to speculate. Unless you have seen absolute proof that the debt buyer owns the debt (and here's a hint – the bogus papers they bring to court that don't even list your account on some alleged bill of sale don't count!) you should not speculate. The only truthful answer is "No".

Let's say that you have won your collection case because first, you answered the complaint. Second, you forced the debt buyer to "show me the title". Third, you pointed out the debt buyer doesn't even have the contract it is suing you on. Finally, you recognized when the debt buyer doesn't even have a witness and you answered truthfully without speculating. The case is over and the debt buyer did not appeal. What happens next? Does this debt stay on your credit reports? Debt buyers say "Yes – we may have lost but we can still report this on your credit reports." Here's what they don't want you to know – and it's our last secret revealed in this report – the debt buyer must ….

SECRET NUMBER FIVE – WHEN DEBT BUYERS LOSE, THEY MUST CORRECT YOUR CREDIT REPORTS

When you win your debt buyer lawsuit it normally means that you do NOT owe the debt buyer any money. A judge has ruled that there is no obligation for you to pay the debt buyer. If you don't owe the debt buyer any money, then the debt buyer must take this off of your credit reports. They hate doing this!

The reason they hate doing this is because leaving false information on your credit reports is one of the best ways to force you to pay something you don't owe. We call this "parking an account" which gives you a sense of what and why they are doing. They leave or "park" this false information on your credit reports in the hopes that one day when you go to refinance a house or buy a car or apply for a bank job or military job that this will prevent you from getting the loan or the job. Your only quick solution, they believe, is for you to pay this false debt. It's as if they parked a broken down car in your front yard. Eventually a time will come when you will pay to get rid of this even though it is not yours.

But now you know their dirty secret that they cannot keep this on your reports. So, what should you do? You have several choices:

1. Do nothing and hope that the debt buyer does the right thing;
2. Contact the debt buyer directly and ask the debt buyer to do the right thing; or
3. Dispute this false account with the consumer reporting agencies (Equifax, Experian, Innovis, and Trans Union) using a Fair Credit Reporting Act dispute.

The words that come to mind on the first option are "Good luck." We have seen clients who handled (and won!) the debt buyer case on their own and who come to us six or nine months later and the false information is still on their credit reports.

The second option has some appeal as the debt buyer might realize you know about the obligation for the debt buyer to correct your credit reports but here is the problem. Under the Fair Credit Reporting Act (FCRA) you can't sue the debt buyer for putting false information on your credit report unless you have first disputed with the credit reporting agencies. You can sue under the Fair Debt Collection Practices Act (FDCPA) but we have seen debt buyers taking the bizarre position that the FDCPA does not apply to them when it comes to credit reporting. Bottom line, some debt buyers believe they can intentionally put false information on your credit reports and you can't touch them until you do a proper dispute under

the FCRA. This is a bogus position they take but some do take it which means the false information on your credit reports will stay. This leads us to the third option.

The third option, doing a dispute under the FCRA, is the safest approach. Sometimes the credit reporting agencies actually remove false information. It's rare but it does happen occasionally. Sometimes a debt buyer will realize that you know this fifth secret and will remove the false information. But if the credit bureaus and the debt buyers don't follow the law, then you can sue them. That's why we like this approach the best – it gives the debt buyers a chance to do the right thing. If they do, then great. If they don't, that's ok also as we can sue them to encourage them to follow the law.

CONCLUSION

You now have a huge advantage over the typical consumer because you know these five secrets that debt buyers want to keep hidden. But just knowing them is not enough. You (or your lawyer) should consider taking action:

1. Answer the complaint;
2. Demand to see proof at trial of the ownership of the debt;
3. Point out that the debt buyer does not have the contract;
4. Use the fact that the debt buyer doesn't have a witness and proper evidence to show the court that it has not proven its case; and
5. Make sure and send out proper FCRA dispute letters right after you win the collection trial.

We hope and trust this report has been helpful in giving you a better understanding of how you can increase your chances of being successful when sued by a debt buyer. We know this report may not answer all of your questions so we welcome you contacting us. Do make sure we have your full contact information (email, name, address and phone numbers) so we can send you our newsletters, other reports, and email alerts. This will enable you to improve your knowledge when dealing with consumer issues. We look forward to continuing our journey with you!