

Arizona Lags Behind in Protections Against Debt Buyers

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In January the [State Senate in California passed legislation](#) aimed at debt buyers like [Midland Funding, LVNV Funding, and Portfolio Recovery](#) who sue people over debts without adequate documentation to prove that they own the debt or that they are even suing the right person. This new legislation would prohibit debt buyers from obtaining a judgment in a [debt collection lawsuit](#) unless the debt buyer can prove that they own the debt, what the balance is, the date of default or last payment, the identity of the owners, and the name and address of the person on the original records. Further, the debt buyer must have the original contract that was provided to the consumer while the account was active.

While this is a significant piece of legislation that will help protect consumers, in reality the Rules of Evidence the govern civil lawsuits already require most if not all of these documents. The trouble is many of these types of lawsuits go unanswered, resulting in a default judgment, or judges simply ignore the rules and grant judgment without the supporting documents.

This new legislation will help those living in California, but what if you have been sued by Midland Funding, LVNV or one of the other debt buyers and you live in Arizona? Arizona does not have a similar consumer protection law. You are left to defend yourself in court. The good news is, in many cases there are strong legal defenses you can raise in court and many times people are successful in defending such lawsuits. The debt buyer has the burden of proving that they own the debt and that you are responsible. If they can't do that they can't win.

In the past I believe that many people, including judges (they are people too!) believed that if a person was sued on a credit card debt or some similar type debt that they probably owed it. With the dramatic increase in lawsuits by debt buyers that are filed with little to no documented support this assumption is no more. I have represented clients that literally had no connection with a debt they were being sued on other than their name being similar to someone who actually owed the debt.

When people are wrongfully sued they are put in the difficult situation of having to prove they didn't do something. This can be more difficult than it seems. If you have been sued by Midland Funding, LVNV, Portfolio Recovery or one of the other debt buyers it is important to seek out legal representation immediately. Failing to respond – or just as bad- responding but failing to do so in a proper manner can result in garnishment of wages, bank accounts and damage to your credit score. If you have been sued, act. Don't delay.

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Related posts:

1. [Are You Being Sued by Midland Funding? Why You Should Fight Lawsuits by Debt Buyers. \(8.3\)](#)
2. [Midland Funding, Portfolio Recovery, LVNV Funding. The Debt Buyers and Why You Should Fight. \(8\)](#)