

Debt Collection Arbitration



If you don't pay your bills, a debt collector may begin legal proceedings against you. Debt collectors can sue you in court to try to collect the debt. Or, if your credit contracts require that disputes go through arbitration, debt collectors can begin that process to try to collect the debt. In arbitration, the parties submit their dispute to an arbitrator – a private third party – rather than to a judge. While arbitration is generally less formal than going to court, the arbitrator's decision is binding and enforceable in court.

Arbitration proceedings can be filed on behalf of original creditors as well as debt collectors who purchased the debt.

Arbitration decisions have a significant effect on your rights. The Federal Trade Commission (FTC), the nation's consumer protection agency, says it's important to understand how debt collection arbitration works and what your rights are. With this knowledge, you can make an informed decision about whether you want to enter into a contract that requires arbitration to settle disputes. It also can save you time, money, and aggravation during an arbitration proceeding.

Why do some disputes go to arbitration rather than court?

Contracts for some goods and services – for example, credit cards, cell phones, and medical services – often require people to use arbitration rather than the courts to settle disputes.

As a result, when you shop for goods and services, read the terms of the contract to see if it requires arbitration in case

of disputes. If you want to keep your options open, look for a contract that doesn't require arbitration or one that offers a provision that allows you to decide not to use arbitration if a dispute arises.

Who are the players?

A company that administers the arbitration process is called a "forum" or "provider." It appoints the arbitrators, schedules the hearings and phone calls, and manages the flow of information between the parties and the arbitrator until the dispute is resolved. A forum "case manager" may serve as your point of contact.

A forum and its employees must be fair and impartial. They are not allowed to help you present your side of the story or recommend a lawyer. You aren't required to have a lawyer represent you in arbitration, but you may decide that it's a good idea: arbitration is a legal proceeding, and the resolution can have serious and long-lasting consequences. Your local bar association or legal services organization can refer you to a lawyer.

How does arbitration work?

If a debt collector believes that you owe money, it may begin an arbitration proceeding against you by sending you an arbitration notice in the mail or through a delivery service. If you don't understand the notice or recognize the debt, call the forum or the debt collector for more information. The name of the sender may be unfamiliar if the notice is sent by the forum or the debt collector, rather than the original creditor. You also may wish to contact a lawyer.

Once you are involved in an arbitration, read everything the forum or the collector sends. Contact the forum or a lawyer about anything you don't understand. Keep a copy of everything you send to the forum or the collector. Send your documents by certified mail, and request a return receipt: it's proof of what the forum or the collector received and when.

Rules called "protocols" or "procedures" govern the arbitration process, including deadlines, obligations, and costs. You may want to ask your case manager for a copy, but these rules generally are also available on a forum's website. Ask for a "fee schedule," too. It explains which fees and costs each party must pay. If you can't afford your portion of the fees, ask if the forum offers "fee waivers" and how to apply. Ask whether there's an option to have a hearing in writing, by phone, or by email. A written or telephone hearing may cost less than an in-person hearing.

At the hearing, each party has a chance to explain its side of the dispute to the arbitrator. The arbitrator considers each side's evidence and submissions and then makes a decision. The arbitrator's decision is binding even if you don't participate in the process.

What are the consequences of arbitration?

If the arbitrator issues an award stating that you owe money, the debt collector must go to court and ask it to "confirm" the award as a court judgment before it can collect on the arbitration award. The court judgment can be used to try to collect payment from you. The court may issue a garnishment order against you that allows money to be withdrawn directly from your paycheck or bank account.

Certain types of funds cannot be garnished, including some federal benefits.

If you disagree with the award, you have two options: You can challenge the collector's request that the court confirm it or you can go to court yourself to contest the award. Either way, you have a limited number of reasons for challenging the award, like arbitrator misconduct, and you may have a short period of time to do so. You might wish to consult with a lawyer for more information about challenging an award.

The results of an arbitration proceeding can have a negative impact on your credit report and credit score. That, in turn, can affect whether you can get a loan, and how much you will have to pay to borrow money.

For More Information

The FTC works to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or get free information on consumer issues, visit [ftc.gov](https://www.ftc.gov) or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261.

Watch a video, *How to File a Complaint*, at consumer.ftc.gov/media to learn more. The FTC enters consumer complaints into the Consumer Sentinel Network, a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

Choosing among arbitration forums

If you can choose among several arbitration forums, do your research. Look at each forum's website, and any documents or publications the forums will give you. You also can check out a forum by entering its name in a search engine online. Read about other people's experiences with the forum. Try to find out how many times a forum or arbitrator has worked with the particular debt collector, how the forum or arbitrator is paid, how much the process will cost you, and how often people got favorable decisions from the particular forum or arbitrator.

An arbitration forum and arbitrators should be impartial. They should not share any financial interests with the debt collector. In addition, the forum should:

- have and enforce rigorous ethical standards;
- ensure that notices of arbitration and other communications reach consumers;
- ensure that arbitration costs are affordable, disclose them clearly and prominently, and spell out which costs you may be required to pay;
- encourage consumers to participate in the arbitration process;
- explain the law the arbitrator used, how the law was applied to the facts, and how the arbitrator calculated the final award amount; and
- disclose its procedures in a clear and understandable manner.



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