



How to Handle Your Debts

with

Sharon Campo, Esq. Supervising Attorney



Who we are and what we do...



*Doing What's Legally
Possible to Create a Just
World Since 1966.*



- Over 6,000 legal cases each year
- Direct representation, phone consultations
- Brief service or referrals
- Offices in Hempstead, Islandia, Riverhead
- Case handling staff includes attorneys, paralegals and social workers
- Partnerships with Community Agencies

Nassau Suffolk Law Services *Programs*



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Family

- Domestic Violence Family Court Project (Suffolk)
- Child Support Project

Disability & Health-Related Projects

- HIV Unit
- PLAN Cancer Project (Nassau)
- Mental Health
- ICAN - Advocates in Managed Long-Term Care
- Education and Disability Rights (Special Education and Rights of Developmentally Disabled)
- Disability Advocacy Project (SSD/SSI Appeals)

Nassau Suffolk Law Services

Programs ctd.



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Housing

- Civil Unit (Eviction Prevention)
- Adult Home Project
- Foreclosure Project

Other

- Consumer Debt
- Veterans Rights
- Re-Entry Project
- Public Benefits
- Senior Citizen Project (Nassau)
- Pro Bono Project (Suffolk)
- Volunteer Lawyers Project (Nassau)
- Community Legal Help Project (Suffolk)



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Just a Note...

Nassau/Suffolk Law Services makes every effort to keep legal educational materials up to date. However, laws do change. The information contained in this material is not legal advice. Legal Advice depends upon the specific facts of each situation. These materials cannot replace the advice of competent legal counsel.

Agenda and Learning Objectives

Part 1: Collection letters/phone calls

Part 2: Credit Report Rights

Part 3: Credit Card Debt

Part 4: Medical Debt Rights

Part 5: Student Loan Rights

Part 6: Car Debt Rights

Part 7: Debt Options

Part 8: Court Process

Part 9: Judgment Consequences

Part 1: Debt Collection Phone Calls/Letters

- Response to Debt Collector Phone Calls
 - Do not give any personal information over the phone
 - Request something in writing regarding alleged debt
- Response to Debt Collector Letters
 - Request verification of debt
 - Dispute Debt
 - Cease Dunning (must honor)
 - <https://www.daisydebtapp.org/>
 - See sample dispute letters with handouts



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SAMPLE DEBT COLLECTION DISPUTE LETTER

Last updated February 2022

Long Island residents can use this letter to dispute a debt, to verify a debt under New York law, and to tell a debt collector to stop contacting them.

Your Name
Your Street Address
City, State ZIP Code
Date _____

1 CERTIFICATE OF MAILING

Collection Agency's Name
Collection Agency's Address
City, State ZIP Code

2 Re: Name of Company you owe money to, Account Number: (insert your account number here)

Dear Sir/Madam:

I am disputing the above-referenced debt. Please verify this debt as required by the Fair Debt Collection Practice Act (FDCPA) (section 1629g). Federal and state regulations require all debt collectors to send specific written documentation verifying the debt. Under these rules, verification requires all of the following:

- Proof of my agreement to pay the original creditor;
- A copy of the final account statement issued by the original creditor;
- A breakdown of the total amount due, showing principal, interest, and other charges; and
- For all other charges, the date of and basis for each charge.

3 I dispute this debt because

Because I am disputing this debt, you should not report it to the credit reporting agencies. If you have already reported it, please notify the credit reporting agencies that the debt is disputed and/or delete the tradeline from my credit report. Reporting information that you know to be inaccurate, or failing to report information correctly, violates the FDCPA and the Fair Credit Reporting Act.

Aside from verifying the debt, do not contact me about this debt. The FDCPA requires that you honor this request. Thank you.

Sincerely,

(Your name and signature)

4 cc: (Insert Name of Company)
Consumer Financial Protection Bureau

1 Make sure to mail your letter with a certificate of mailing and keep the proof of mailing for your records.

2 Fill in the name of the company the collection agency says you owe money, and the account number. If you do not know this information, give the collection agency some other information so that it knows what debt you are talking about.

3 Explain why you are disputing the debt. Here are a few reasons why you would dispute the debt:

- (1) You do not owe the debt;
- (2) You do not recognize the debt;
- (3) You are a victim of identity theft;
- (4) The debt has been paid;
- (5) You never received the item or service for which you were charged;
- (6) The debt is past the statute of limitations (too old).

4 Send the original letter to the collection agency. You should make at least one copy of the letter to keep for your records, along with your proof of mailing. You may also want to send copies to the original creditor and this agency:

Consumer Financial Protection Bureau
P.O. Box 4503
Iowa City, Iowa 52244

5 You may want to attach copies of these documents that support your dispute, such as payment or a police report.

Part 1:
Debt Collection Phone
Calls/Letters ctd.

Fair Debt Collection Practices Act (FDCPA)

- Collection agency can only contact between 8am and 9pm
- Cannot threaten to tell employers or neighbors about debt
- Cannot falsely threaten to take illegal action (i.e., arrest)
- Cannot harass, threaten, embarrass, or intimidate
- Consumer can sue for FDCPA violations

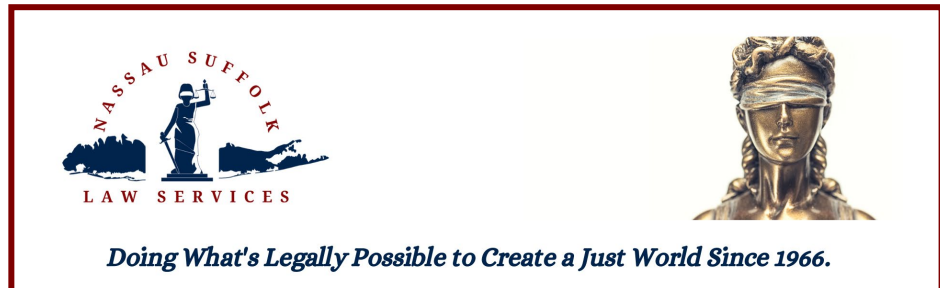


Part II Credit Reports

Normal--Free copy of credit report from all three bureaus (Experian, Equifax, TransUnion) every 12 months

Current--Request one free copy from 3 bureaus every week until December 31, 2022. More information on the [FTC's website](#).

- Get your credit report by going to www.annualcreditreport.com, or 1-877-322-8228, or print form at www.ftc.gov/credit and mail to: Annual Credit Report Request Service, PO Box 105281, Atlanta, GA 30348-5281
- Through 2026, residents in the U.S. can get 6 free credit reports per year. Visit the Equifax website <https://www.equifax.com/personal/credit-report-services/free-credit-reports/> or dial 1-866-349-5191
- Errors or credit information older than 7½ years should no longer be on report



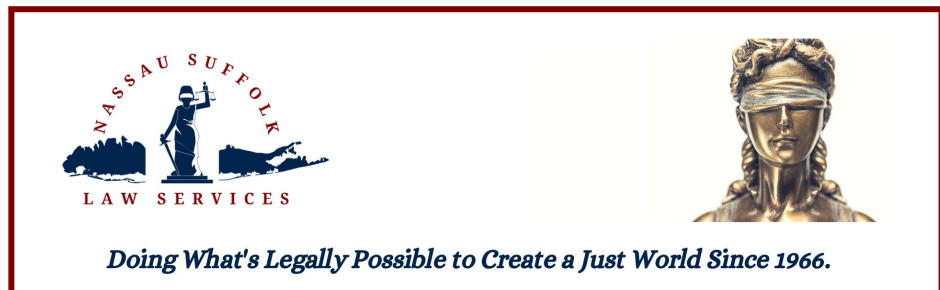
Credit Reports ctd.

Medical Debt

- [Per Credit Karma, of 20 million members, \\$45 billion is medical debt in collections \(August 2020\)](#)
- Medical Debt must be in collections to be reported
- Starting September 2017, 180-day grace period to allow time for consumers to resolve medical debt prior to appearing as past due on credit report
- Credit bureaus expected to erase 70% of medical collection debt from credit reports starting July 2022—medical debt that's been paid will not be on these reports starting July 1, 2022
- Starting July 1, 2022, grace period before reporting medical debt collection will increase to one year (previously 6 months)
- Starting in 2023, medical collection debt less than \$500 will not be included in credit reports

Judgments/Liens

- Starting July 2017, civil judgments and tax liens will be removed if missing basic identifying information (i.e., name, address, social security, and date of birth)
- Need at least 3 of 4 to be reported
- [Result is that all civil judgments and tax liens have been removed](#)



Credit Reports ctd.

Disputes

- Dispute information with each individual credit bureau via online, in writing, or on phone
- <https://www.consumer.ftc.gov/articles/0151-disputing-errors-credit-reports>
- Dispute with medical provider/collection agency who is reporting incorrect information

Id theft

- [Freeze credit report](#)
- [Fraud Alert with Credit Bureaus](#)
- File police report
- <https://www.identitytheft.gov/>

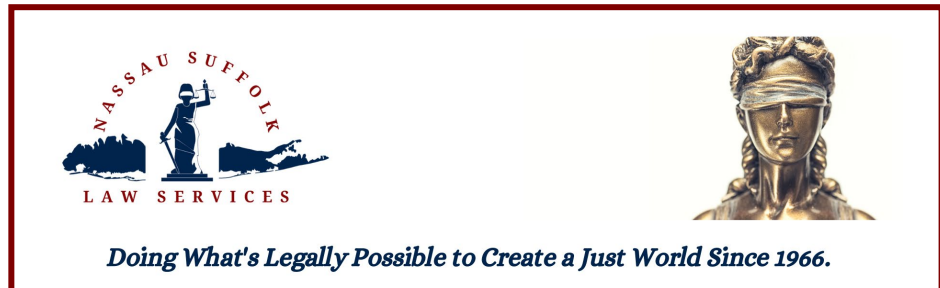


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Part III
Credit Card Debt

Pre-lawsuit: See if credit card company has financial relief program related to pandemic or another program. If already in “collection status,” can get reduction by offering lump sum. If old debt, check statute of limitations prior to making any payments. Note on Debt Settlement Companies: credit card companies are not legally obligated to speak to these companies and you will most likely be sued in the process.

Post-lawsuit: If original creditor, try to enter into reasonable payment agreement, can get a lump sum reduction. If a debt buyer, standing defense (needs to prove owns debt), can get significant reduction on lump sum or monthly payment plan.



Part IV
Preventing
Medical Debt
Rights: Medical Debt
With Insurance- the
Surprise Bill Law

Prior to March 31, 2015

- In-Network Providers Cannot Balance Bill
- Out-of-Network Providers Balance Bill (ER, Anesthesia, Referral from In-network provider)

NY Surprise Bill Law in Effect as of March 31, 2015

- Out-of-Network Providers cannot balance bill without written consent where seen through referral, emergency room, etc.
- Does not apply to self-insured coverage (e.g., coverage through union)
- See more information https://www.dfs.ny.gov/consumers/health_insurance/surprise_medical_bills.



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*Medical Debt
With
Insurance- the
Surprise Bill
Law ctd.*

New Federal No Surprises Act as of January 1, 2022

- Consumers with self-insurance are now protected if their policy was renewed or issued after January 1, 2022. You are only responsible for paying your in-network cost-sharing (copayment, coinsurance, or deductible) for a surprise bill.
- Ban surprise bills for most emergency services, even if you get them out-of-network and without approval beforehand (prior authorization).
- Ban out-of-network cost-sharing (like out-of-network coinsurance or copayments) for most emergency and some non-emergency services. You can't be charged more than in-network cost-sharing for these services.
- **This is not retroactive**
- <https://www.cms.gov/newsroom/fact-sheets/no-surprises-understand-your-rights-against-surprise-medical-bills>



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*Medical Debt
With
Insurance-
Receiving a Bill*

- Balance Billing?
 - Contact health insurance
 - Contact provider
 - Will not correct Surprise Bill Violation? Contact NY Dept. of Financial Services- (800) 342-3736;
<https://www.dfs.ny.gov/complaint>
 - Contact NY Attorney General Health Care Bureau for other billing issues- <https://ag.ny.gov/bureau/health-care-bureau>; (800) 428-9071
 - Negotiate lower and affordable amount
- Unaffordable Deductibles/Co-insurance/Copays?
 - Contact Provider to request reduction, affordable payment plan, financial assistance (hospital)



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*Medical Debt
With
Insurance-
Receiving a Bill
ctd.*

Insurance payment never given to doctor

- If patient sees out of network medical provider, typically the insurance will send the payment directly to the patient and then patient then must forward the payment to the medical provider
- If the patient does not forward the payment to the medical provider, the medical provider could then potentially bill the patient for the entire amount due (over the negotiated rate) plus interest
- Typically, see this when clients get gastric bypass surgery, anesthesia, plastic surgery, etc.



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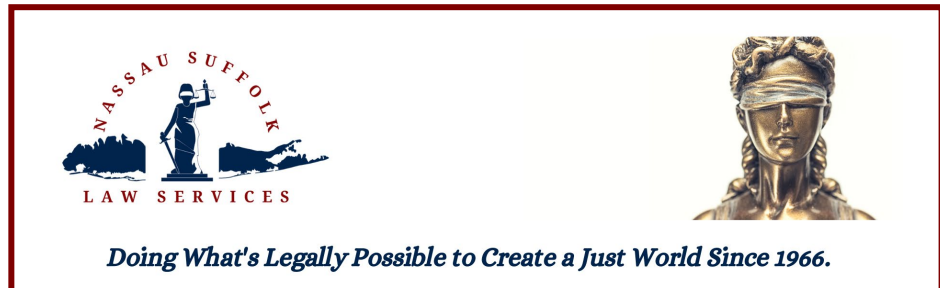
*Medical Debt
With
Insurance-
Receiving a Bill
ctd.*

Bills received when had Medicaid

- Medicaid recipients are not allowed to be billed
- Medical provider would have to have something in writing from recipient stating they agreed to privately pay

Bills received when had Medicare- should only receive bills for co-pays

*** Always check your Explanation of Benefits (EOBs) or the Medicaid/Medicare equivalent to ensure you are being billed correctly**



Medical Debt Without Insurance

If you are uninsured, or you are insured but you don't plan to file a claim with your health plan, health care providers must give you a good faith estimate of what their expected charges will be before you get health care services.

Providers must give you the good faith estimate:

- For services scheduled at least 3 business days ahead of time, within 1 business day of scheduling the service;
- For services scheduled at least 10 business days ahead of time, within 3 business days of scheduling the service; or
- When you ask for the good faith estimate, within 3 business days of you asking for the estimate.



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*Medical Debt
Without
Insurance ctd.*

The good faith estimate will include:

- A description of the service you will be getting;
- A list of other services that are reasonably expected to be provided with the service you are getting;
- The diagnosis and expected service codes; and
- The expected charges for the services.

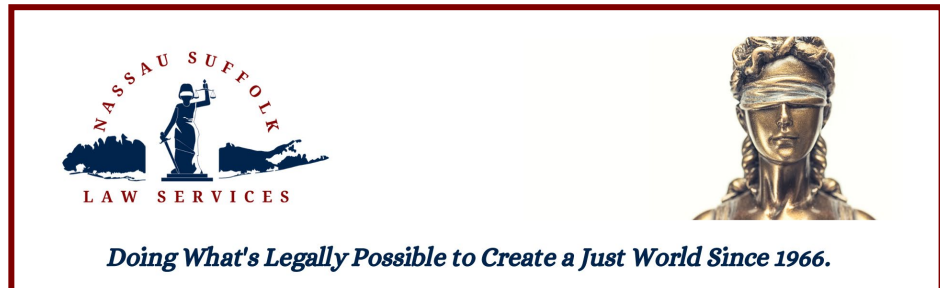
For more information about good faith estimates, visit the [CMS No Surprises Act website](#).



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Medical Debt Without Insurance ctd.

- Hospital Debt? Apply for Charity Care/Financial Assistance
 - Must apply within 110 days of medical service
 - Mandatory for patients under 300% of the Federal Poverty Level
 - Repayment agreements cannot require more than 10% of the patient's gross monthly income
- Apply for Medicaid
 - Medicaid is three (3) months retroactive from date of application (if eligible at time of medical service)
 - NY State of Health: (855) 355-5777
- Many medical providers will reduce their rates for private pay so it helps to negotiate a lower amount with a payment plan



Medical Debt Without Insurance ctd

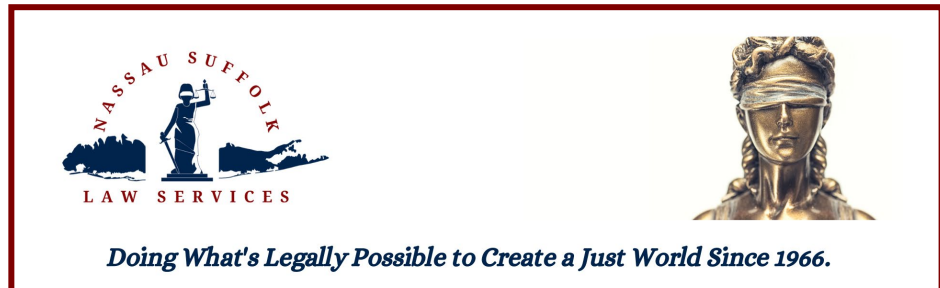
- If you are billed for an amount that is at least \$400 more than the amount on the good faith estimate you got from your health care provider, you (or your authorized representative) may dispute the charges in the Federal patient-provider dispute resolution process. You have to ask for the review within 120 days of getting the bill. An independent reviewer will look at the good faith estimate, the bill, and information from the provider to decide the amount, if any, that you have to pay for each service.
- You can use the Federal patient-provider dispute resolution process starting in 2022 for billing disputes with the provider that scheduled the service for you. Later, the process will allow you to dispute bills from other providers that gave you related services.



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Medical Debt Without Insurance ctd

- If your provider doesn't give you a good faith estimate and you feel the charge is unreasonable, you may qualify for an independent dispute resolution (IDR) through New York State by submitting an IDR application to dispute the bill. To be eligible, services must be provided by a doctor at a hospital or ambulatory surgical center and you aren't given all the required information about your care.
- Complete an [IDR Patient Application](#) and send it to NYS Department of Financial Services, Consumer Assistance Unit/IDR Process, One Commerce Plaza, Albany, NY 12257.
- Visit www.dfs.ny.gov for more information.



Part V: Student Loan Debt

Federal Loans vs. Private Loans

Federal Loans:

No need to go to court to get judgment
for collection

Can take SSD or retirement (but not SSI)

Several repayment options (e.g., Income
Based Repayment)

Several discharge options (e.g., Total and
Permanent Disability Discharge)

Easy to get out of default

Contact loan services

Payments currently suspended through
August 31, 2022

Private Loans:

Must sue to get judgment for collection
and must be within statute of
limitations

Cannot take exempt benefits

May not have income-based repayment
plans

May not have discharge options



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Part V: Student Loan Debt ctd.

Neither federal nor private student loans can be bankrupt unless an undue hardship can be proven. Speak to a bankruptcy attorney if you think this is the only way for you.

General information:

<http://www.studentloanborrowerassistance.org/>

Federal info-

<http://www2.ed.gov/fund/grants-college.html?src=pn> or dial

1-800-557-7394



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Part VI: Car Debt- Buying a car

The New York State New Car Lemon Law provides a legal remedy for consumers who are buyers or lessees of new cars and certain "used" cars that turn out to be "lemons." If a car does not conform to the terms of its written warranty and the manufacturer or its authorized agent is unable to repair the car after a reasonable number of attempts, a consumer is entitled to a refund or replacement. Lemon Law applies to:

NY dealers

- Car with new warranty and less than 18K miles
- Used car with warranty and
 - between 18,001-36K miles, for 90 days or 4K miles
 - between 36,001-79,999 miles, for 60 days or 3K miles
 - between 80K-100K miles, for 30 days or 1K miles

Watch for “bait and switch” contracts. If car is in default, it can and will be repossessed without breaching the “peace.” To gain access after car repossession, must make demand in writing. Must be notified of repossession, auction, and sale. Can be sued for monies remaining on contract. Complain to NY Attorney General 1-800-771-7755



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Part VI: Car Debt ctd- Leasing a Car

Look Before You Lease -- Upon request, the leasing company must provide you with a sample lease before you sign.

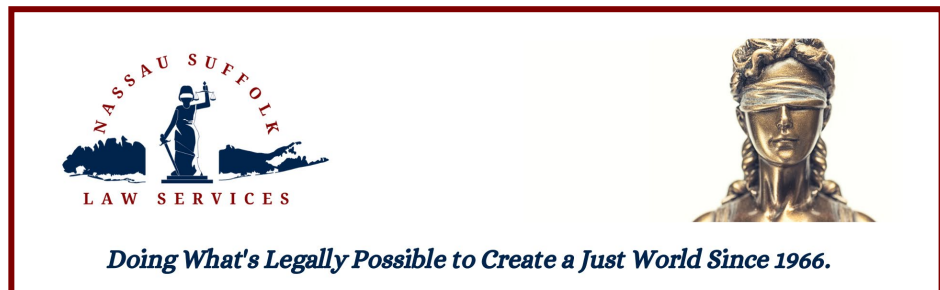
Worth a Second Chance -- If you default on a monthly lease payment, you have the right once during the lease term to reinstate the lease. You must make the required payments within 25 days after receiving notice of your reinstatement rights.

There's a Limit -- Early termination charges must be reasonable and are limited under the law. The earlier you terminate your lease, however, the higher these charges will be.

Open-Ended Leases -- Beware of leases that make you pay the difference between the estimated vehicle value when you signed the lease and the "realized" or real value when the car is returned. This can amount to a lot of money!

Wearing Thin -- You may dispute an excess wear and damage claim by using the Attorney General's arbitration program set up to hear such complaints.

1-800-771-7755 www.ag.ny.gov



Part VII: Debt Relief Options

- Bankruptcy
 - Chapter 7 (“straight bankruptcy”)
 - Chapter 13 (“debt adjustment”)
- Debt Counseling
 - NYLAG (if you work in NYC)
 - <https://www.nylag.org/financial-empowerment-advocacy/>
 - CDC LI Financial Counseling Workshops
 - <http://www.cdcli.org/programs/financial-education-credit-repair/>



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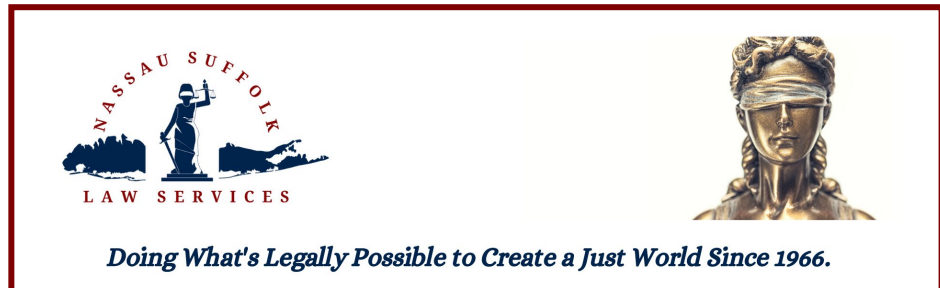
Part VIII: The Court Process; *The Lawsuit*

Anything outside of suing for credit card can be filed in county where debtor resides, the procedure took place, or where the Plaintiff resides. Credit card lawsuits must take place in the county in which the debtor resides.

As of April 3, 2020, medical debt actions must be filed within three (3) years of the date of the service. This is **most likely** not retroactive. Previous, statute of limitations was six (6) years.

Small Claims (under \$5000)

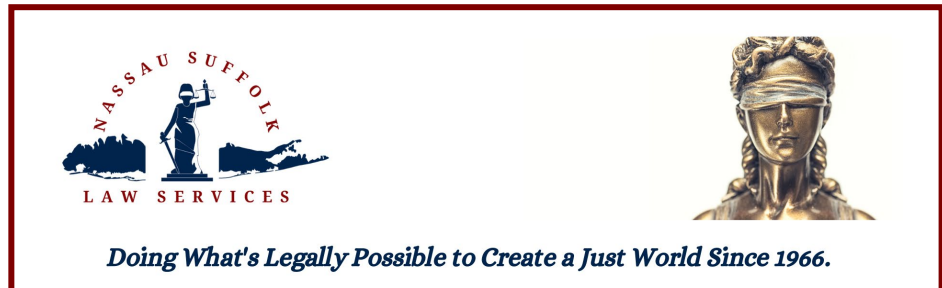
- If small claims, there will be a court date on the notice served- must appear or judgment will be entered; need to bring all supporting documents and make all arguments at hearing



The Lawsuit ctd

District Court (under \$15000) and Supreme Court (any amount)

- Summons served “in-hand”=20 days to respond
- Summons served via “suitable age and discretion” or via “nail and mail”=30 days to respond
- Respond by going to court and filing answer and sending copy to Plaintiff’s attorneys
- There will not be a court date until after answer filed (unless small claims)



After File Answer...

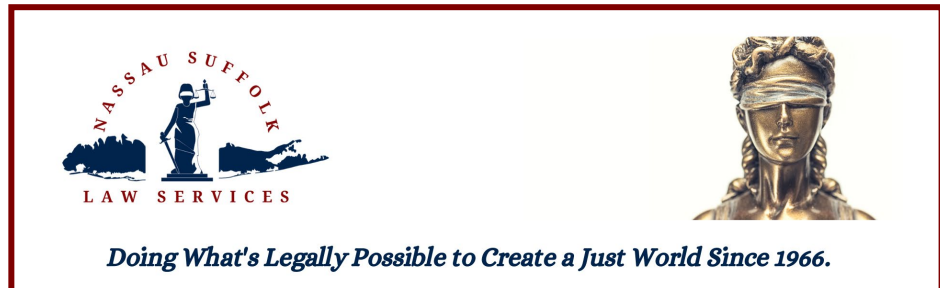
- Arbitration (district courts)
- Conference
- Hearing
- Motion for Summary Judgment
- If no defenses: try to get reduction and enter into affordable payment plan.
 - Request stipulation to include “grace period” (e.g., if payment not received by due date, Plaintiff will notify Defendant in writing and Defendant will have 10 days from date of notice to submit payment)



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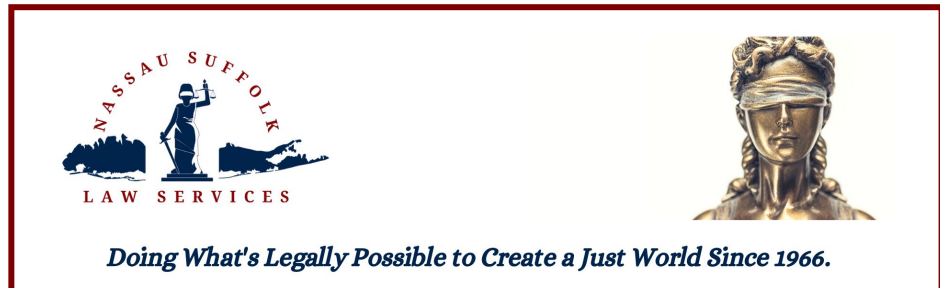
Part IX: Judgment Consequences

- Judgments can be collected upon for 20 years and renew for another 20 years every time a payment is made
- Must respond to information subpoenas within 7 days of receiving them
- Wage garnishment: Wages can be garnished if your disposable income (income after taxes or deductions required by law) exceeds \$420/week. Up to 10% of gross income (income before tax) or up to 25% of net income (disposable income) can be garnished. A modification from the court can be requested if it causes hardship.



Judgment Consequences ctd.

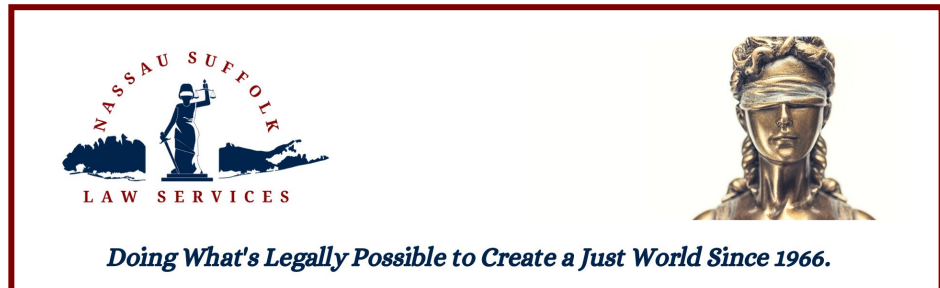
- Frozen bank account: The first \$3,360 in account is exempt from lien. If exempt funds (i.e., Social Security, Public Assistance, child support, etc.) are direct deposited to account, then more than the \$3360 could be exempt. Banks are guided by the Exempt Income Protection Act.
- Property liens: Initially 10 years, can be renewed for another 10 years. Homestead exemption is \$179,975. Motor vehicle exemption is \$4,825. Exemption for motor vehicle equipped for use by disabled debtor is \$11,975
- New York Attorney General will garnish New York tax refunds for State Hospital judgments



QUESTIONS?

NSLS Consumer Debt Legal Assistance Project

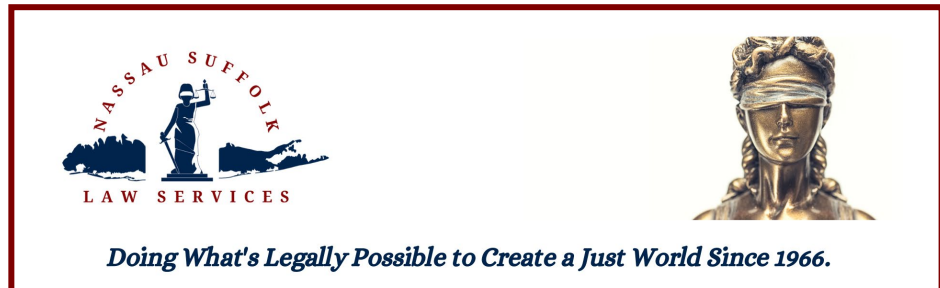
- Nassau: 516-292-8100
Suffolk: 631-232-2400
- The Consumer Debt Legal Assistance Project provides legal assistance to persons who are experiencing consumer debt problems, especially in the matters of medical and credit card debt.
- Services may include litigation defense and representation, phone advice, and/or referral for further services, including bankruptcy where appropriate.



NSLS Suffolk Pro Bono Project

Suffolk: 631-232-2400

- The Suffolk Pro Bono Project provides pro bono attorney referrals for representation and other legal assistance to low-income clients. Pro Bono Project matters usually involve bankruptcy (Chapter 7) or divorce, although other cases are considered including child support for both petitioners and respondents. Due to the great demand for divorce representation, defendants and victims of domestic violence are given priority. However, we cannot guarantee that everyone will be placed with an attorney. Plaintiffs in divorce cases are considered according to availability of pro bono attorneys. Applicants should please call (631) 232-2400, extension 3315.



Thank you!



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Clients seeking legal assistance can call the office closest to them:

(516) 292-8100 (Nassau)

(631) 232-2400 (Suffolk West of 112)

(631) 369-1112 (Suffolk East of 112)

Check out our website at www.nslawservices.org and follow us on social media @nslawservices or @nassausuffollawservices