

HOW TO DISPUTE NEGATIVE ITEMS ON YOUR CREDIT REPORTS

Strategies For Small Business is not authorized or licensed to be your credit report consultant, but we are happy to give you some brief information on how to attempt correction of some of the negative items on your credit report. Be prepared to spend some time on this, especially since the credit reporting bureaus are not the easiest companies to deal with. But you'll thank yourself for doing so—it is extremely beneficial for your credit standing and ability to receive credit/loans with lower interest rates. We find that the people that are willing to spend the time in this process, can substantially help their credit standing.

In the credit world, there are three major credit reporting services you will be dealing with: **Experian, Equifax, and TransUnion.**

You must have an abundance of patience in dealing with these companies. You cannot always get quick answers or responses. However, our experience is that great benefits come to the diligent among us. Keep trying and you will thank yourself for the effort. So what is the point? While it is theoretically possible to dispute items by phone or mail, this is the longer and more difficult method (especially with Experian). Since it will not do any good unless you make changes to all free credit reporting services, our experience indicates **the best way to register your dispute is online.**

According to law, after you make your dispute to the reporting service, they will notify the creditor and give them approximately 30 days to respond. They can either state the information is correct or is erroneous. If the creditor does not respond or admits it is erroneous, the good news is the information will have to be deleted.

Disputes Online:

Step 1: Get a current copy of your credit report. To get a free credit report (free once a year) that covers all three reporting services, go to "www.annualcreditreport.com". You'll need to do this even though you have a recent copy in your file, because this has the required report numbers that the credit reporting services needed. Follow the online instructions to receive your report.

Step 2: Dispute online.

Experian: Go to "www.experian.com/disputes/index.html" and click onto "Click here to request a dispute online". You will need an Experian report number that should be on the free credit report that you received from the "annualcreditreport.com". If not, click onto—"Order a current copy of your personal credit report". When you get that report with the report number, go back into the system and go through the process online.

TransUnion: Go to "www.transunion.com" and click onto: "First Time? Click Here". Fill out the personal information and create an account. Proceed through the system.

Equifax: Go to www.equifax.com/online-credit-dispute/. Enter your zip code and follow the instructions.

Disputes by Phone

The success under this method depends a lot on which representative you contact and their level of knowledge or authority. Equifax and TransUnion are pretty easy to deal with by phone, although you do need some patience.

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Step 2: Dispute by Phone.

Experian: It will do absolutely no good unless you have an Experian report number (see above). This can take a while. Get a good book to read and try these numbers: 1-714-830-7000 (best number to use). 1-800-493-1058 (press 0, or say "speak to an agent" or "I want to speak to a live person"); 1-800-854-7201 (ask for switchboard).

TransUnion: Go to www.transunion.com. Click "Phone". You will be able to speak with someone, but you will need: a) your TransUnion acct. number (off your free credit report), although this is optional, b) the company name of the disputed item (as listed on the credit report), c) the account # of the disputed item (as listed on the credit report), and d) the reason for the dispute, such as it is not my account, I have never been late, the account is closed, the account is paid, etc.

Equifax: See the toll free number on your free credit report.

Disputes by Letter

We do not recommend doing this through Experian. With Equifax and TransUnion, it can be done by mail.

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Step 2: Dispute by Mail (see attached sample letter)

Experian: Not recommended. If you insist, give this address a try: Experian, Disputes, P.O. Box 9701 Allen, TX 75013. Good luck.

TransUnion: Go to www.transunion.com and click onto "Dispute", "Mail", "United States", and then print out the request for investigation form and mail it to the address on the form. There is no need to prepare a formal letter. Just use of their form.

Equifax: You do not need a confirmation number and can simply mail a detailed letter regarding the dispute, the full company name of the creditor(s), and mail it to: Equifax Information Services, P.O. Box 740256, Atlanta, GA 30374.

Disputes by Small Claims

Introduction: As mentioned above, one way to dispute items is to write a protest letter to the reporting services and see if the creditor responds within 30 to 45 days. If the creditor does not notify the reporting service that the charge is a valid, or ignores the request, the negative information must be taken off. As you might imagine, this is somewhat of a problematical method because you're never certain what the response will be.

The only thing that is certain is if you have a judgment in your favor stating that you do not owe the bill or that it should be taken off your credit report, the agencies must immediately take it off. It is clearly the most powerful and cogent redress you can have under the circumstances. You don't have to worry about arguing with them, giving further explanation, or offering additional evidence. As soon as they receive a copy of the judgment they must act immediately with no questions asked.

For some reason, most people do not want to go to the time and effort of bringing a small claims action even though it is clearly the best way to precede. You do not have to have a lawyer, the fees are very small, and you can usually get into court within four to six weeks.

The only problem is you can use this avenue only if you have a good chance of showing the court that the negative item is their fault. So, here are examples (there are many such instances and these are illustrative only) of situations in which it would be beneficial to go to small claims court:

Examples--Decent Chance to Win in Court

- ✓ **"It is not my bill"**. This is used in cases of identity theft, fraud, mistaken identity (especially if you have a common name such as "Smith"), or if someone orders products or services without your knowledge. But you cannot use this defense if you are jointly liable and signed the original credit application. So, if A and B both signed the credit application, but B alone incurred the bill and never pays it back, A is also liable (even though that person never made any charges).

- ✓ **“I never ordered it”**. If you showed an initial interest in a product or service, such as a promotion, trial basis, direct mail offer, or solicitation, but did not actually sign a contract. Billing you for it would be improper.
- ✓ **“I was charged an improper cancellation fee”**. An example would be canceling a cell phone service, paying everything that you were owed, but then being assessed a cancellation fee that was never disclosed.
- ✓ **“I don’t even know who this company is”**. There are rare cases in which the credit reporting service has flatly made a mistake and has you down for a delinquency from a company that you have never dealt with. In most cases, however, the name that appears on the credit report is a collection agency you may not recognize, although you did in fact incur the bill. You need to call that company, tell them your name, and find out who the original creditor was.
- ✓ **“I was double billed”**. These are cases in which you ordered the product or service, but got charged more than you had originally requested. An example would be ordering two bottles of vitamins for \$50.00 but getting shipped four bottles and charged \$100.00.
- ✓ **“I never got the discount I was promised”**. This is a case in which you order the product but they told you it came with a discount or additional free material which never came. As a result you have refused to pay for it and it is now showing as delinquent on your report. Using the vitamin example above, this would apply if you were told that the purchase of \$50.00 worth of vitamins would also come with free skin care products, you never received them, and so refused to pay for any of the product. This usually involves a long standing dispute, with letters and phone calls back and forth, but never having been resolved.
- ✓ **“I have an improper finance charge or interest assessment”**. You have been religiously sending in your payments and have verification either by certified mail or a FedEx receipt, but the creditor always claims it comes in late. Because of that creditor’s disorganization, selling to another company, or other causes, it always seems you are hit with a late charge. Bear in mind that many companies make a lot of their money by assessing late charges and so they’re rather zealous in claiming them.
- ✓ **“I was the victim of misrepresentation”**. An example would be agreeing to sign-up for a credit card under an introductory offer that said the interest rate would never exceed 12%. When you receive the card and read the fine print, it turned out it was 18%. You tried to cancel but were assessed a fee.
- ✓ **“I paid it, but it’s not showing up”**. There is nothing more disconcerting than paying off a creditor and then finding out that they in turn did not report this to

the credit reporting service. The best approach is to issue a strong demand letter to immediately report the payment and if this is not forthcoming, bring the small claims action.

- ✓ **“This was included in my bankruptcy”**. All delinquencies included in a bankruptcy that has been finalized and discharged can be deleted from your credit report. Such creditors are usually listed in a schedule F (if you filed a Chapter 7). You will know you have been discharged because the last paper you receive from the bankruptcy court is called the Order of Discharge. If you used a lawyer, many times they have a standard letter sent to the credit reporting services demanding all such items be deleted. If this hasn't been done, you can write your own letter followed up by the small claims action if nothing is done.

Sometimes a credit reporting service keeps the delinquency on the report with a statement it has been discharged or in another section of the report simply list bankruptcy as a matter of public record. You should demand that it be taken out of the report completely.

- ✓ **“I paid this before it went into collection”**. This is in cases in which you paid the original creditor everything they wanted and later it went into collection anyway. You shouldn't have to deal with a collection agency when the obligation has already been paid.
- ✓ **“This is an old account that should be taken off the report”**. By law, derogatory credit can stay on your report only for certain periods of time: bankruptcy, ten years after the discharge date (Fair Credit Reporting Act Section 605(a)(1)), civil judgments, seven years after entry of judgment (605(a)(2)), paid tax liens, seven years from payment (605(a)(3)), charge-offs or collection agencies, seven years (605(a)(4)), other delinquent accounts, seven years (605(a)(5)).
- ✓ **“A second collection agency has reported a delinquency after the expiration date”**. Assume you have an account that went to collection in 1997. Seven years later in 2004, it was taken off your report. Suddenly in 2005, it was assigned to a second collection agency which re-entered it and put it down as an obligation that became due in 2005. This is illegal “re-aging” and you should have it immediately removed.

Examples--Little Chance to Win in Court

You can't expect to be successful in court by simply disputing everything that you would like to have off your report. There are simply instances in which nothing can be done. On the other hand, some people take the position of “why not give it a chance?”, especially

since large corporations don't like to appear in court and you may be successful in getting a default judgment. This means winning by default because the other side does not show up. But there is a catch: if you have an exceptionally weak case, the judge will probably insist you give evidence and prove at least a prima facie case before he/she makes an award. If the judge finds the case unmeritorious, he/she may rule against you anyway. Even worse, a judgment against you, under the principles of res judicata will prevent you from ever disputing the case in court again. So, here are some common examples of when not to go to court:

- ✓ **Slow pay.**
- ✓ **High credit card balances.**
- ✓ **Good moral excuse but bad legal excuse.** You may have the best reasons in the world for being behind on your bills but it won't help you legally in court. Common examples are injuries, health problems, casualty losses, divorce, loss of employment, caring for parents, and death and the family.
- ✓ **Co-signing.** As long as you have agreed to be liable, there is no defense even though someone else is running up the bill. For example, you could co-sign on a car purchase with your adult child and that person may fall behind or even have the car repossessed. Even though you were not personally involved in the bill paying, you're still liable.
- ✓ **Voluntary repossessions.**
- ✓ **Totaling of your car.** In some cases the insurance does not cover the entire value--then you are hit for the excess.
- ✓ **Insurance disputes.** If you have a dispute with your insurance company and the medical bill goes unpaid, you are still liable.
- ✓ **Uninsured.** It is common to have medical collections because you urgently needed the medical care but were uninsured and didn't have the funds to pay for it. Although our sympathies are with you, the courts are not.
- ✓ **Business is slow.**
- ✓ **Verbal promises or representations never put in writing.** If you've ever watched Judge Judy, you will see that most disputes involve "He said--she said ". Nothing was put in writing and it's a question of who believes who. So, you buy a stereo system and the salesperson has promised you two or three times in the store that your first payment will be July 1st. But the signed contract clearly states March 1st. Good luck proving that one.

Procedures to take.

Step 1: Write a demand letter to the credit reporting agencies. The first statement out of the mouth of the judge will probably be: "Have you attempted to contact any credit reporting agency or this creditor and asked if they would remove this item before coming to court today?" Judges like to see you exhaust administrative remedies before going into court. It's possible they may not ask this but if they do, you could be dead before you begin.

As a consequence, it is recommended you first write a demand letter to 1) the disputed creditor and 2) all three credit reporting services. The addresses of those agencies are listed above. You can send these letters simultaneously. For proof of delivery, send them certified. Use the attached sample letter.

I know what you're thinking: you just told us Experian cannot be counted on to respond to your letters. But that is their problem. By law they are required to do so and most importantly, if they do not respond within 45 days of your letter, as a matter of law, the item must be removed. In a way, you don't care about a non-response. You have the proof that you sent the letter and that is all that matters.

Step 3: Wait 45 days. The Federal Fair Credit Reporting Act requires the credit agencies to respond to your request within 30 days (to get an answer from the creditor) and an additional five working days thereafter to respond to you. With the time it takes for mail delivery, wait 45 days to be safe.

If they do not respond to you, as a matter of law, the information must be deleted. Then you are ready to go into small claims court to get a judgment forcing them to do this.

If they respond telling you the item has been deleted, you have won the battle and there is no need to go to court.

If they respond stating the item will not be removed, go to court anyway and prove your case. If the judge orders it removed, they must comply with this court order.

Step 2: Go to Small Claims Court.

Assuming you have a decent chance of prevailing, collect all your evidence, especially written documentation, including letters, receipts for payment or delivery, bills, printouts, canceled checks, your demand letters to the creditor and the reporting services (see Step 1 above) and the like. Get the exact legal name of the creditor and the address of their main office. It's best to use the location of one of their offices which is staffed by real people in your state. Then go to the small claims court in the county in which you reside. Call first to find out exactly what you need and how much it will cost. You can almost always fill out the forms at the counter. They can help you with service of process which in many cases can be done by certified mail. Some clerks will even help you to identify who the agent for service a process is as to large multi-state companies.

You'll be asked to fill out a brief statement of your case. Make sure you include the phrase "Fair Credit Reporting Act". An example of such a statement would be: "Dispute with Acme phone service for \$232.00 under the Fair Credit Reporting Act".

What are my chances? There is a big difference between asking for the negative information to be removed from your credit report and actually suing the creditor for damages. If you have a reasonable dispute and are only asking for it to be removed from your report, there is a good chance they will not show up. However, we have heard that even with large companies, if you are suing them for damages, they will make a point of showing up as a matter of principle.

If your file has been closed or sent to collection, the local office will probably no longer have your file. This means it would have been transferred to the main office of the company. The point is, if the local office no longer has the file, they may not be in a position to readily show up in court and argue the case. Further, there might be a reluctance for the main company to fly someone out to appear against you.

Or after being served, they may suddenly and miraculously wake from their stupor and give you customer service. They may call or write you stating that they have immediately removed the item. If that's the case, you need not appear in court.

Step 4: If you win, serve a copy of the judgment on the reporting agency and the creditor.

Typically, you will receive your judgment in the mail and if it is in your favor, send a copy to all three agencies by certified mail with the following statement:

"On _____ I wrote this agency demanding that derogatory information be immediately removed from my credit report. I am enclosing a copy of that letter. After (choose one) no response / unsatisfactory response, I served you and went to court.

As you can see from the attached copy of the judgment, the court agreed with me and has ordered that any derogatory information regarding this account be deleted and removed. Demand is hereby made that you immediately take steps to remove this. Within five days of receipt, I will expect to receive a copy of an updated credit report reflecting this deletion. If not, I will bring an appropriate complaint with all appropriate Federal agencies and the Better Business Bureau. This may also involve the assessment of attorney's fees and costs, as well as civil liability for as much as \$1,000.00. "

Good Luck. Sue Malone.

REQUEST FOR CREDIT INVESTIGATION

<p>TO EXPERIAN (ATTENTION DISPUTES):</p> <p>_____</p> <p align="center">(address—no. and street)</p> <p>_____</p> <p align="center">(address—city, state, zip)</p> <p>MORE INFORMATION:</p> <p>_____</p> <p align="center">(Social Security No./Date of Birth)</p> <p>_____</p> <p align="center">(previous address—no. and street)</p> <p>_____</p> <p align="center">(previous address—city, state, zip)</p>	<p>FROM REQUESTING CONSUMER:</p> <p>_____</p> <p align="center">(full legal name)</p> <p>_____</p> <p align="center">(address--no. and street)</p> <p>_____</p> <p align="center">(address--city, state, zip)</p> <p>_____</p> <p align="center">/</p> <p align="center">(fax/phone)</p> <p>_____</p> <p align="center">(E-mail)</p> <p>PLEASE RESPOND BY:</p> <p align="center">Mail Fax Email</p>
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I am writing to dispute information contained in my credit report. (Choose one) I have circled
the disputed items on the attached copy of my report and give the reasons below; A copy of
my report is not attached—I have simply described the basis of the dispute(s) below:

<p>_____</p> <p align="center">(Company name of original creditor)</p> <p>_____</p> <p align="center">(Account #)</p> <p>_____</p> <p align="center">(Company name of collection agency)</p> <p>_____</p> <p align="center">(Account #)</p>	<p>_____</p> <p align="center">(Company name of original creditor)</p> <p>_____</p> <p align="center">(Account #)</p> <p>_____</p> <p align="center">(Company name of collection agency)</p> <p>_____</p> <p align="center">(Account #)</p>
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This is not my account Never been late
Account is closed Account in bankruptcy
Account paid in full I never ordered it
Erroneous charge Improper finance charge

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Account is closed Account in bankruptcy
Account paid in full I never ordered it
Erroneous charge Improper finance charge

Other: _____
Describe the dispute: _____

Other: _____
Describe the dispute: _____

Dated: _____
_____ (Consumer signature)

<hr/> (address—no. and street)	<hr/> (full legal name)
<hr/> (address—city, state, zip)	<hr/> (address—no. and street)
MORE INFORMATION:	<hr/> (address—city, state, zip)
<hr/> (Social Security No./Date of Birth)	<hr/> /
<hr/> (previous address—no. and street)	<hr/> (fax/phone)
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Describe the dispute: _____ _____ _____	Describe the dispute: _____ _____ _____

Dated: _____

 (Consumer signature)

REQUEST FOR CREDIT INVESTIGATION

<p>TO TRANSUNION (ATTENTION DISPUTES):</p> <p>_____</p> <p align="center">(address—no. and street)</p> <p>_____</p> <p align="center">(address—city, state, zip)</p> <p>MORE INFORMATION:</p> <p>_____</p> <p align="center">(Social Security No./Date of Birth)</p> <p>_____</p> <p align="center">(previous address—no. and street)</p> <p>_____</p> <p align="center">(previous address—city, state, zip)</p>	<p>FROM REQUESTING CONSUMER:</p> <p>_____</p> <p align="center">(full legal name)</p> <p>_____</p> <p align="center">(address—no. and street)</p> <p>_____</p> <p align="center">(address—city, state, zip)</p> <p>_____</p> <p align="center">/</p> <p align="center">(fax/phone)</p> <p>_____</p> <p align="center">(E-mail)</p> <p>PLEASE RESPOND BY:</p> <p align="center">Mail Fax Email</p>
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Other: _____
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Dated: _____
_____ (Consumer signature)