

# Proving Ownership of the Debt

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## How Big a Deal is it in Debt Defense?

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## Proof of Ownership of the Debt – How Hard Can it be?

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I get comments like this all too often: “A debt collector got a judgment without even proving ownership of the debt.” It makes me feel bad, but it makes me angry, too. Let’s talk about proof of ownership and then segue to a larger point – the point that ever person being sued by a debt collector MUST LEARN.

### Proof of Ownership

It is not hard to prove ownership in the law. For a car or piece of real property (land), you just need a title (car) or (deed). You get them, essentially, by the seller giving the buyer a bill of sale which in turn gets verified by the state.

The state procedures complicate things a little bit, but it’s basically a very simple, rubber-stamped process. It is a mistake to regard this process as much of a hurdle or legal protection against the collectors. It isn’t in anybody’s interest to make it difficult or unpredictable – on the contrary.

Selling a *debt* is easier than selling a car. You need a bill of sale that identifies the thing being sold. And that’s all. Our commercial system favors a simple sales process because people believe that where there is easy and rapid commerce, there will be more commerce, and that makes everybody better off. That’s the theory, anyway.

## It is Possible to Blow it

Now, as it happens, debt collectors sometimes do not satisfy this very simple process. How? By not identifying the thing being sold.

A typical debt bill of sale document says, “I, Bank, hereby assign all rights to the following debts to Debt Collector. See Attachment A for the debts assigned.” Sometimes – and quite often, actually – the debt collector, in attempting to prove it owns the debt, neglects to attach the “Attachment A” to its proof. That leaves the bill of sale unconnected to any specific account and thus fails to prove that the debt collector owns the debt.

The courts should always take that failure seriously, as it really does mean the debt collector did not prove it owned the debt. If it happens at trial, and you demonstrate the failure of proof, it should result in instant dismissal of the case because you have shown that the plaintiff has not established a constitutional requirement – that it be a true party in interest.

Still, you can see how it is basically a technicality, and you should know that the courts don’t like technicalities that help people avoid debts.

## Chain of Title

Now let’s go one step further. Suppose a debt collector buys a debt and then sells it to another debt collector. That happens all the time. If *either* of the bills of sale forget to attach “Attachment A,” then you say that the debt collector cannot prove a “valid chain of title.” That’s because with rare exceptions, a party that does not own a valid title cannot sell a valid title.

Again, though, not all courts are sensitive to the justice of this “technical” rule. It is NOT really a “technical” rule. Proof of title is critical to making sure that the plaintiff is the correct party in interest, as a bogus suit which manages to get a judgment against you will not bind the person with a legitimate title. If they scam you enough to get a judgment, then this will not stop the person with the legitimate title from suing you. Why should it? And that means you might have to pay twice.

Nevertheless, the courts have treated this requirement as if it were a technicality because it can look like the debt collector simply overlooked that element of the proof. You will be burned sometimes if this is all you depend on. Even though in my opinion you should always win.

## The Bigger Issue of Attacking on ALL Fronts

Okay. Now let’s move on to the bigger issue. We put out a video called “The Most Dangerous Myth for People in Debt” which may give you some insight into this question. The point there is that is that you cannot depend on other people – not courts, debt collectors, or opposing lawyers – to help you. You can’t depend on them to do the right thing.

In the real world, what you have to do is pile up as many reasons to do the right thing as possible and hope that one of them works.

If they don't legitimately prove ownership you should win and probably will win more than 50% of the time. If that's all you've got, you go with it, right?

But if you've got a debt collector, you know the chances are strongly against them having legitimate, admissible evidence of the amount of the debt.

So you attack that, too.

They probably don't have good evidence that you owe any debt, or that the original creditor ever sent you statements, so you attack those things, too.

Any time you *stop* attacking before you *run out* of things to attack, you're depending on someone else to take care of you. You're hoping they'll do the right thing without having been told all of the reasons to do so.

And how do you know what to attack? By doing discovery, by probing, researching, thinking... by doing everything you can, in other words, to find out what to attack. Our materials help you develop a full plan of attack and help you at every stage in implementing that attack, from answering the petition and submitting discovery, to motions and eventually trial.

Whether you use our materials or not, make sure you keep attacking the debt collector's case until there's nothing left to attack. *Then* you can hope to win.

## Your Legal Leg Up

[Your Legal Leg Up](#) is dedicated to helping people defend themselves from debt lawsuits without having to hire a lawyer. Lawsuits have a number of points where specific action is called for, and we have products to help you deal with most of these situations. We also have memberships that give you access to more materials and better training, and also provide a regular opportunity to ask questions and get answers in real-time. You can use this time to find out what the debt collectors are trying to do and what you might do in response, and you can get guidance on the issues that matter and how to think about and address them.

In addition to that, our website is a resource for all. Many of the articles and materials are reserved for members, but many others are available to everyone. Every page has a site search button in both the header and footer. Put in a key word – a word you think relates to what you're looking for – and enter. You will get a page of results.

## Products Related to this Article

There are no specific products related to this article because it addresses a strategy you should use throughout your defense. You might consider our memberships or our new program that we're going to call Vision 20-20, out soon.

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