

## Consumer Debt Litigation Index

### Top Recommendations for Reform in Oklahoma

**Oklahoma's Score: 17/100**

**Oklahoma's National Rank: 33rd**

Consumer debt lawsuits dominate civil court dockets across the country. In an overwhelming number of cases—more than 70% in many places—the people sued do not respond or defend themselves. As a result, courts often enter default judgments without determining whether the defendant even knows about it, it is timely, or has merit. In turn, people face high fees and interest, onerous payment plans, seizure of wages and possessions, and potential imprisonment. States across the country have established laws and practices aimed at reducing unjust lawsuits and producing fairer outcomes. To support states in their respective efforts, the National Center for Access to Justice in 2024 created the Consumer Debt Litigation Index in consultation with a panel of experts. The Index ranks the states on their progress in adopting 24 best policies (“benchmarks”) for fairness. See our Top Recommendations and Complete Findings, below.

#### 1. Establish Pleading Requirements (Benchmark 6)

**Why:** People facing debt collection lawsuits often have difficulty understanding the claim against them. Lax pleading requirements also invite illegitimate lawsuits. Requiring complaints to name the original creditor, demonstrate ownership of the debt, and break out the specific amounts sought can deter meritless filings and enable defendants to assert legitimate defenses, promoting fairness. Delaware, New Mexico, New York, and Washington, D.C. all require complaints to include these key elements. Oklahoma, however, does not yet have these key pleading requirements in place.

**How:** Oklahoma should adopt a law or practice that requires plaintiffs in consumer debt cases to allege: (a) the name of the original creditor; (b) the plaintiff’s standing (e.g. the chain of ownership of the debt); and (c) an itemization of the amount sought, including debt principal, interest, fees, costs, and other charges to date. If it does so, the state's score would increase 10 points.

#### 2. Require Authenticated Business Records for A Default (Benchmark 7)

**Why:** Creditors too often bring legally insufficient cases, relying on the likelihood that many defendants will not respond (or “default”) and that the merits of the creditors’ claims will never be assessed by a court. Requiring creditors to establish — before a default judgment may be entered — (a) proof of service, (b) validity of the debt using authenticated business records, and (c) itemized amounts sought, also using authenticated business records, promotes fairness, as these required elements deter lawsuits that lack merit and lower the number of unwarranted default judgments. Alaska, Maine, New York, Washington, D.C., Washington State, and Wisconsin all require creditors to prove these essential elements before a court may enter a default judgment. Oklahoma, however, does not yet have these key requirements in place.

**How:** Oklahoma should adopt a law or practice that requires plaintiffs in consumer debt cases to establish the following before a court may enter a default judgment: (a) proof of service; (b) validity of the debt through authenticated business records (e.g. contract, account statements, or other evidence of obligation); and (c) amount of the judgment through authenticated business records, itemizing damages, court fees, attorneys' fees, and interest. If it does so, the state's score would increase 10 points.

### **3. Ensure that Garnishment Exemptions Are Self-Executing (Benchmark 14) and Update Garnishment and Attachment Exemptions (Benchmark 15)**

**Why:** Without sufficient protections, garnishment and attachment orders to seize money or assets from a debtor to pay a creditor can leave people unhoused, unable to keep a car to drive to work, and stuck in cycles of poverty. Federal law exempts some funds from garnishment and some property from attachment, but debtors often do not learn what funds and property are exempt or how to assert exemptions. Further, the federal exemptions are out of date and inadequate to preserve even a very basic standard of living. Many states—including California, Idaho, Maryland and Wyoming—make some exemptions “self-executing”, meaning that a bank must protect exempt funds even when the debtor does not assert exemptions (Benchmark 14). Other states have increased garnishment and asset exemptions (Benchmark 15). For example, in consumer debt cases Texas has garnishment exemptions that protect 100% of a person's wages, and attachment exemptions that protect a home (of any value) and personal property (including a car) up to a value of \$100,000 for a family or \$50,000 for an individual. Oklahoma, however, does not have self-executing bank account exemptions, and it has not increased garnishment and attachment exemptions sufficiently.

**How:** Oklahoma should make bank account exemptions self-executing. Further, the state should update and expand on garnishment and attachment provisions so that they protect at minimum: (a) Income of at least \$576.92 per week, the minimum to keep a family of four above the federal poverty level, as defined by the U.S. Federal Poverty Guidelines in 2023; and (b) a car valued up to at least \$15,000. If it does so, the state's score would increase 7 points.

## **What Would Happen if Oklahoma were to Implement these Recommendations?**

These three recommendations, if adopted by the state, would substantially increase Oklahoma's score and ranking. For more on how Oklahoma can do better, see the complete findings below and visit NCAJ's

Consumer Debt Litigation Index at <https://ncaj.org/state-rankings/consumer-debt> or reach out to NCAJ at [NCAJ@fordham.edu](mailto:NCAJ@fordham.edu).

# Complete Consumer Debt Litigation Index Findings for Oklahoma

## I. Issue Area: Help people know when they are being sued and where to find help.

### 1 - Government Notice of Lawsuits

Score: 0/5

Does the state respond to the problem of ineffective or fraudulent ("sewer") service in consumer debt lawsuits by: a. Public Official Service - requiring that a public official (e.g. the court or the sheriff) handle service? or, b. Court Supplemental Notice - requiring the court to send the defendant, by first class mail, supplemental notice of a new consumer debt lawsuit and deny default judgment if that notice is returned as undeliverable?

No

Oklahoma does not meet this benchmark because it does not meet either sub-benchmark 1a or 1b. First, it does not meet sub-benchmark 1a because Oklahoma allows service by mail or by personal delivery by someone licensed to serve. See generally Okla. Stat. tit 12 § 2004 (2014). Oklahoma does not meet sub-benchmark 1b because Oklahoma does not require the court to send supplemental notice of a new consumer debt lawsuit by first class mail and deny default judgment if such notice is returned as undeliverable. See generally Okla. Stat. tit. 12 § 2004. However, Oklahoma does require denial of a default judgment where service is executed through mail and the notice is returned as undeliverable. See Okla. Stat. tit. 12 § 2004(C)(2)(c) ("Service by mail shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant.").

### 2 - Guidance on Finding Help

Score: 0/5

Does the state require that notice to the defendant in a consumer debt lawsuit include guidance on where to seek help, including free legal assistance?

No

Oklahoma does not meet this benchmark because Oklahoma does not require that notice in a consumer debt lawsuit provide guidance to defendants on where to find help. See Okla. Stat. tit. 12 § 2004(B)(1).

## II. Issue Area: Make it easier to respond to a lawsuit.

### 3 - Simplified Answer

Score: 0/2

Does the state provide a simple Answer process by making available an Answer form for use by unrepresented persons in consumer debt lawsuits?

**No**

Oklahoma does not meet this benchmark because it does not provide an Answer form for use by consumer debt defendants. See Okla. Stat. tit. 12 § 1753.

#### 4 - No Notarization Requirement to Answer

**Score: 2/2**

Does the state make it easier to respond to consumer debt lawsuits by never requiring defendants to have an Answer notarized before filing?

**Yes**

Oklahoma meets this benchmark because it does not require that a pleading be verified except when specifically required by rule or statute. See Okla. Stat. tit. 12 § 2011(A). No such rule or statute applies to an Answer in a consumer debt litigation.

#### 5 - No Fee to Answer

**Score: 5/5**

Does the state permit the filing of an Answer in consumer debt lawsuits without charging a filing fee?

**Yes**

Oklahoma meets the benchmark because the state does not charge a filing fee for answers; rather the state does charge a filing fee for counterclaims in civil cases. Okla. Stat. Ann. tit. 28, § 152.1 (West) (stating that the clerk shall collect \$20.00 in the filing of counterclaims for civil claims).

### III. Issue Area: Require the creditor to provide evidence of a valid debt claim.

#### 6 - Pleading Requirement

**Score: 0/10**

Does the state require consumer debt complaints to allege all of the following: a. Name of original creditor; b. Basis of plaintiff's standing (e.g. chain of ownership of debt); and c. Itemization of amount sought including debt principal, interest, fees, costs, and other charges to date?

**No**

Oklahoma does not meet the benchmark because it does not require a consumer debt complaint to include (a) the name of the original creditor, (b) the basis of the plaintiff's claim, or (c) an itemization of the amount sought. See 12 OK Stat § 12-2008(A) (establishing the pleading requirements for civil complaints, which do not contain special requirements for consumer debt actions).

#### 7 - Authenticated Records for Default

**Score: 0/10**

Does the state require the following be established before a default judgment can be granted: a. Proof of Service b. Validity of debt through authenticated business records (e.g. contract, account statements, or other evidence of obligation); and c. Amount of judgment through authenticated business records, itemizing damages, court fees, attorneys' fees, and interest?

**No**

Oklahoma does not meet the benchmark or any of its sub-benchmarks. Oklahoma courts may grant default judgments pursuant to Oklahoma District Court Rule 10. This rule does not impose any of the requirements in sub-benchmarks (a) to (c). In addition, there is no Oklahoma statute that separately imposes requirements regarding the entry of default judgments.

## IV. Issue Area: Require consumer debt collection actions to be brought within a reasonable time of non-payment.

### 8 - Burden on Plaintiff to Allege Timeliness

Score: 0/2

Does the state place the pleading burden on the consumer debt plaintiff to allege in the Complaint the timeliness of each claim, including each of the following: a. applicable statute of limitations; b. date that claim accrued; and c. date that statute of limitations expires?

No

Oklahoma does not meet this benchmark because the statutes and rules of Oklahoma do not place the burden of pleading timeliness on the plaintiff and do not require that a debt collection complaint include (a) the applicable statute of limitations, (b) the date the claim accrued, or (c) the date that the statute of limitations expires. See 12 OK Stat § 12-2008(C).

### 9 - Four Year Statute of Limitations

Score: 0/5

Does the state require 4-year (or shorter) statute of limitations for the causes of action most commonly used to pursue consumer debt collection: breach of contract (written or oral), open account, account stated, unjust enrichment, conversion, bad check?

No

Oklahoma does not meet this Benchmark because it does not impose a 4-year (or shorter) statute of limitations for all consumer debt claims. In particular, Oklahoma has the following limitations periods: • breach of written contract: 5-year limitations period (12 OK Stat § 95(A)(1) (2022)); • breach of oral contract: 3-year limitations period (12 OK Stat § 95(A)(2) (2022)); • open account: 5-year limitations period (Sesow v. Swearingen, 552 P.2d 705, 707 (Okla. 1976)); • account stated ("an action for any article charged on an account in a store"): 5-year limitations period (Simpson Properties, Inc. v. Oexco, Inc., 916 P.2d 853, 858 (Okla. App. Div. 3 1996)); • unjust enrichment: 3-year limitations period (12A OK Stat § 3-118(g) (2022)); • conversion: 3-year limitations period (12A OK Stat § 3-118(g) (2022)); and • passing a bad check: 3-year limitations period after dishonor of the draft or 10-year period after date of the draft, whichever expires first (12A OK Stat § 3-118(c) (2022)).

### 10 - Prohibit Revival of Time-Barred Claims

Score: 0/2

Does the state prohibit revival of time-barred consumer debt claims, even where defendant makes subsequent payment toward a debt?

No

Oklahoma does not meet this Benchmark because it makes consumer debt claims subject to revival even after the statute of limitations has run, when, for instance, a debtor acknowledges the debt in writing, makes a subsequent payment toward the debt, or expresses a new promise in writing to pay the debt. See 12 OK Stat § 101 (2022). Such "conscious and voluntary act[s] of the debtor" are treated as a new promise to pay that "revives

the debt, no matter how old the debt may be." See Central Nat. Bank and Trust Co. v. Stettinisch, 821 P.2d 1066, 1067 (Okla.App. Div. 3, 1987).

## V. Issue Area: Prohibit attorneys' fee shifting, and cap interest.

### 11 - Prohibit Attorneys' Fees Shifting

Score: 0/3

Does the state prohibit attorneys' fee shifting in consumer debt lawsuits regardless of contractual provision or reciprocity in fee shifting?

No

Oklahoma does not meet the Benchmark because it permits attorney fee collection by creditors in consumer debt cases. Okla. Stat. Ann. tit. 14A, § 2-413 (West). By statute, the attorney's fees must be no more than 15% of the outstanding debt, and attorney's fees may not be charged when the amount financed is \$1000 or less in 1973 dollars and the annual interest rate is greater than 10%. Okla. Stat. Ann. tit. 14A, § 2-413 (West); Okla. Stat. Ann. tit. 14A, § 1-106 (West). No reciprocal right is provided.

### 12 - Interest Caps

Score: 0/3

Does the state cap interest in consumer debt lawsuits (regardless of any contractual provision) as follows: a. Pre-judgment interest for debt buyers capped at an annual rate of 7% (or less); and b. Post-judgment interest for all creditors capped at 5% (or less) of the judgment?

No

Oklahoma does not meet this benchmark because it does not satisfy the requirements of sub-benchmarks (a) and (b). With respect to prejudgment interest, Oklahoma law states: "For purposes of computing prejudgment interest as authorized by this section, interest shall be determined using a rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified to the Administrative Director of the Courts by the State Treasurer on the first regular business day in January of each year." Okla. Stat. tit. 12, § 12-727.1 I. (2022). Thus, Oklahoma does not limit prejudgment interest to 7% or less (as is required to meet sub-benchmark (a)). With respect to post-judgment interest, Oklahoma law states: "For purposes of computing post judgment interest as authorized by this section, interest shall be the prime rate, as listed in the first edition of the Wall Street Journal published for each calendar year and as certified to the Administrative Director of the Courts by the State Treasurer on the first regular business day following publication in January of each year, plus two percent (2%)." Okla. Stat. tit. 12, § 12-727.1 I. (2022). Thus, Oklahoma does not limit post-judgment interest on debt to 5% or less of the judgment (as is required to meet sub-benchmark (b)).

## VI. Issue Area: Reduce the likelihood that consumer debt collection actions leave people homeless, or perpetuate a cycle of debt.

### 13 - Require Court Order to Garnish or Attach

Score: 5/5

Does the state in consumer debt lawsuits require a court order for garnishment and attachment?

Yes

Oklahoma meets the benchmark because a court must issue an order of attachment or a garnishee summons. Okla. Stat. Ann. tit. 12, §§ 1152; 1172.1.

**14 - Bank Account Garnishment Exemptions Are Self Executing****Score: 0/2**

Does state law require in consumer debt lawsuits that garnishment exemptions for bank accounts are self-executing?

**No**

Oklahoma does not meet the benchmark because it does not require financial institutions to protect money deposited in bank accounts unless a judgment debtor asserts an exemption. See Okla. Stat. Ann. tit. 31, § 1.1 ("The debtor may file with the court an application requesting a hearing to exempt from such process by reason of undue hardship that portion of any earnings from personal services necessary for the maintenance of a family or other dependents supported wholly or partially by the labor of the debtor.") See also Okla. Stat. Ann. tit. 31, § 1(18) ("Seventy-five percent (75%) of all current wages or earnings for personal or professional services earned during the last ninety (90) days" are exempt from debt collection.)

**15 - Essential Exemptions****Score: 0/5**

Does the state prevent people from becoming impoverished, unhoused, or unable to work by exempting income and assets from attachment and garnishment, as follows: a. Income of at least \$576.92 per week, the minimum to keep a family of four above the federal poverty level, as defined by the U.S. Federal Poverty Guidelines in 2023; b. Home, regardless of value, or at least the median price of a home in the state; and c. Car value, state exemption for, at least, the first \$15,000 in value?

**No**

Oklahoma does not meet the benchmark because sub-benchmarks (a) (income) and (c) (car) are not met. Oklahoma law provides as follows: (a) Income: Oklahoma does not meet sub-benchmark (a) because it exempts 75% of a person's aggregate weekly disposable earnings or 30 times the federal minimum hourly wage in effect when the person is paid, whichever is greater, subject to a certain limited exception. Okla. Stat. Ann. tit. 14A, § 5-105(2); Okla. Stat. Ann. tit. 31, § 1.1 (exemption may be increased if a person can show undue hardship in court). Thirty times the federal minimum wage (\$7.25 per hour in 2023) is only \$217.50. State Minimum Wage Laws, U.S. Dep't of Labor (Sept. 30, 2023), <https://www.dol.gov/agencies/whd/minimum-wage/state>. (b) Home: Oklahoma meets sub-benchmark (b) because it exempts one home, including a manufactured home, that is the principal residence of a person, regardless of value. Okla. Stat. Ann. tit. 31, §§ 1(A)(1)–(2); Okla. Stat. Ann. tit. 31, § 2 (limiting, however, the number of exempt acres to 160 of land or 1 acre in a town or city). (c) Car: Oklahoma does not meet sub-benchmark (c) because a person's interest in one car is exempt only up to a value of \$7,500. Okla. Stat. Ann. tit. 31, § 1(A)(13). For more information on garnishment exemptions see Michael Best and Carolyn Carter, No Fresh Start 2023, National Consumer Law Center (Dec. 2023), [https://www.nclc.org/wp-content/uploads/2023/12/2023\\_Report\\_No-Fresh-Start-3.pdf](https://www.nclc.org/wp-content/uploads/2023/12/2023_Report_No-Fresh-Start-3.pdf).

**16 - Require Prior Notice of Garnishment****Score: 0/5**

Does the state require notice to debtor prior to actual garnishment that explains all of the following: a. potential exemptions? b. how to challenge the order? and c. how to assert exemptions?

**No**

Oklahoma does not meet this benchmark because even though it requires notice to the judgment debtor before the garnishee turns over any property, and that notice lists available exemptions and explains how to assert them, the notice does not explain how to challenge the garnishment order, suggesting instead that the judgment debtor consult an attorney if it believes the garnishment order is incorrect. [https://www.oscn.net/forms/aoc\\_form/adobe/Garn.-Notice-Garnishmt-and-Exemptions.pdf?d=20241099](https://www.oscn.net/forms/aoc_form/adobe/Garn.-Notice-Garnishmt-and-Exemptions.pdf?d=20241099) oSee Okla. Stat. tit. 12, §§ 1172.2(A), 1172.4 (2022).



## VII. Issue Area: Eliminate debtors' prison.

### 17 - Prohibit Incarceration for Failure to Obey a Court Order to Pay Consumer Debt

Score: 0/5

Does the state prohibit incarceration for contempt for failure to obey a court order to pay all or part of a consumer debt judgment?

**No**

Oklahoma does not meet the benchmark because, although Oklahoma law prohibits incarceration for contempt for failure to obey a court order to pay all or part of a debt judgment using future earnings, it does authorize a court to hold a person in contempt for failing to comply with an order to produce property in the debtor's "possession or under his control to be applied toward the satisfaction of the judgment to satisfy a debt." 12 Okl. Stat. Ann. § 850. The Oklahoma Constitution states that, "Imprisonment for debt is prohibited, except for the non-payment of fines and penalties imposed for the violation of law." Okla. Const. art. II, § 13. The Oklahoma Supreme Court, in *Lepak v. McClain*, 844 P.2d 852, 855 (Okla. 1992), held that a court may not use the threat of contempt to require a judgment debtor "to set aside and deliver a portion of his/her future income toward the satisfaction of the judgment debt." However, the court also held that "orders directing delivery of future earnings must be distinguished from orders directing delivery of earnings in the possession of the judgment debtor at the time of issuance of the turn over order." *Id.* at 857.

### 18 - Prohibit Incarceration for Failure to Obey a Court Order to Appear at a Debtor's Examination, Unless Nonappearance Was Willful

Score: 0/5

Does the state prohibit arrest and/or incarceration for contempt for failure to appear at a debtor's examination (i.e. a judgment enforcement proceeding), unless the person's failure to appear was willful?

**No**

Oklahoma does not meet the benchmark because the law provides that if a person has been personally served and fails to appear for a debtor's examination, "the judge issuing the order may authorize the issuance of either a contempt citation or a bench warrant for the judgment debtor's failure to comply with the order." 12 Okl. St. Ann. § 842.

### 19 - Provide Right to Counsel

Score: 5/5

Does the state provide a lawyer without charge in any contempt or other proceeding in which incarceration is a potential outcome in a consumer debt lawsuit?

**Yes**

Oklahoma meets the benchmark because it provides a right to counsel in civil contempt proceedings "which may result in the incarceration of a defendant." Okla. Stat. tit. 12, Chap. 2, App., Rule 29.

## VIII. Issue Area: Prevent government from undue intervention on behalf of creditor.



**20 - Prohibit Collaboration Between Creditors and Prosecutors****Score: 0/2**

Does the state prohibit relationships (including financial relationships) in which prosecutors lend the authority of their offices to facilitate the activities of debt collectors (e.g. payments by creditors to prosecutors who threaten or bring criminal prosecutions in bad check cases)?

**No**

Oklahoma does not meet this benchmark because there is no statutory or judicial prohibition on relationships or financial arrangements between prosecutors and debt collectors. See Okla. Stat. tit. 21, § 1541.1.

**21 - Prohibit Paying Bail/Bond to Creditor****Score: 0/2**

Does the state prohibit use of bail to pay the creditor in all contempt proceedings, or in other proceedings in a consumer debt lawsuit in which incarceration is a possible outcome?

**No**

Oklahoma does not meet the benchmark because state law explicitly provides that bail shall be used to pay a creditor. Okl. Stat. tit. 12, § 68.

**22 - Limit Frequency of Examinations****Score: 0/5**

Does the state in consumer debt litigation schedule or otherwise limit financial examinations to no more than once per year?

**No**

Oklahoma does not meet this benchmark because the law provides that a judge shall order the judgment creditor to appear before the court at any time after a final judgment on application of the judgment creditor. The law does not limit the frequency of such examinations. 12 Okl. St. § 842. Furthermore, for small claims under \$10,000, Oklahoma does not meet the benchmark because a judgment creditor may require the debtor to appear and answer interrogatories regarding assets. The law does not limit the frequency of such examinations. 12 Okl. St. § 1772.

**IX. Issue Area: Collect data to improve the system.****23 - Data Collection: Number of Lawsuits****Score: 0/3**

Do state courts at least annually collect and publish statewide data on number of consumer debt lawsuits?

**No**

Oklahoma does not meet the benchmark because Oklahoma's state courts do not collect and publish statewide data on the number of consumer debt lawsuits or the disposition of consumer debt lawsuits. The Annual Report of the Oklahoma State Judiciary, created and submitted by the Administrative Office of the Courts (AOC), categorizes cases as: civil, small claims, divorce, Victim Protective Orders (VPO's), domestic all other, adoptions, probate, mental health, guardianship, marriage license, licenses all other, felony, misdemeanor, traffic, juvenile. None of the categories — including small claims — are defined to include consumer debt lawsuits, or the subtypes of consumer debt. See 2021 Annual Report of the Oklahoma State Judiciary: <https://www.oscn.net/static/annual-report-2021.pdf>.

**24 - Data Collection: Disposition of Lawsuits****Score: 0/2**

Do state courts at least annually collect and publish statewide data on types of dispositions of consumer debt lawsuits?

**No**

Oklahoma does not meet the benchmark because Oklahoma's state courts do not collect and publish statewide data on the number of consumer debt lawsuits nor the disposition of consumer debt lawsuits. The Annual Report of the Oklahoma State Judiciary, created and submitted by the Administrative Office of the Courts (AOC), categorizes cases as: civil, small claims, divorce, Victim Protective Orders (VPO's), domestic all other, adoptions, probate, mental health, guardianship, marriage license, licenses all other, felony, misdemeanor, traffic, juvenile. None of the categories — including small claims — are defined to include consumer debt lawsuits, or the subtypes of consumer debt. See 2021 Annual Report of the Oklahoma State Judiciary: <https://www.oscn.net/static/annual-report-2021.pdf>.

To learn more about the Consumer Debt Litigation Index, including how other states fared, visit <https://ncaj.org/state-rankings/consumer-debt>.

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