

## Consumer Debt Litigation Index

### Top Recommendations for Reform in Nevada

**Nevada's Score: 11/100**

**Nevada's National Rank: 46th**

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. Although with respect to complaints brought by a purchaser of credit card debt Nevada requires that the complaint include the name of the original creditor, in the form of the card issuer, Nevada does not apply this requirement to other types of debt. Further, it does not require plaintiffs in any consumer debt cases to plead the basis of their standing or an itemization of the amount sought.

**How:** Nevada should adopt a law or practice that requires all consumer debt complaints to allege the basis for plaintiff's standing and 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. Although Nevada does require proof of valid service before granting a default judgment, it does not require proof of the validity of the debt or of the amounts sought for a default judgment in consumer debt cases.

**How:** Nevada 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. Update Garnishment and Attachment Exemptions (Benchmark 15) and Require Prior Notice of Garnishment (Benchmark 16)

**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. Some states have increased garnishment and asset exemptions (Benchmark 15). For example, in consumer debt cases Texas has adopted 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. Some states—including Indiana, Massachusetts, New Jersey, New Mexico, and Ohio—require that notice be sent to a debtor prior to actual garnishment that explains exemptions, how to challenge the garnishment or attachment, and how to assert the exemptions (Benchmark 16). Nevada, however, has not yet increased its garnishment and attachment exemptions sufficiently. Nevada also has not yet required that creditors send notice to the debtor of an impending garnishment or attachment before it begins.

**How:** Nevada should update and expand on garnishment and attachment provisions so that it protects, at minimum, 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. Further, it should require notice to a debtor before garnishment or attachment begins that explains (a) potential exemptions; (b) how to challenge the order; and (c) how to assert exemptions. If it does so, the state's score would increase 10 points.

## What Would Happen if Nevada were to Implement these Recommendations?

These three recommendations, if adopted by the state, would substantially increase Nevada's score and ranking. For more on how Nevada can do better, see the complete findings below and visit NCAJ's [Consumer Debt Litigation Index](https://ncaj.org/state-rankings/consumer-debt) 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 Nevada

## 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**

Nevada does not meet this benchmark because it does not meet either sub-benchmark 1a or 1b. First, Nevada does not meet sub-benchmark 1a because Nevada law permits service of process by "any person who is at least 18 years of age and not a party to the action." See Nev. R. Civ. P. 4(c)(3). Second, Nevada does not meet benchmark 1b because it does not require supplemental notice of a new consumer debt lawsuit and prohibit entry of default judgment if such notice is returned as undeliverable.

### 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**

Nevada does not meet this benchmark because Nevada does not require that notice in a consumer debt lawsuit provide guidance to defendants on where to find help, see Nev. R. Civ. P. 4(a)(1), although notably, Nevada's court website contains a self-help tab that links to extensive guidance for consumer debt defendants. See <https://nvcourts.gov>

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

### 3 - Simplified Answer

Score: 2/2

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

Yes

Nevada meets this benchmark because its court website contains a self-help tab that provides links to an extensive guidance website including fillable forms for the Answer and Affidavit of Service. See <https://nvcourts.gov/>.

### 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

Nevada meets this benchmark because it does not require that a pleading be verified except when specifically required by rule or statute. See Nev. R. Civ. P. 11(a). No such rule or statute applies to an Answer in a consumer debt litigation.

### 5 - No Fee to Answer

Score: 0/5

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

No

Nevada does not meet the benchmark because, depending on the county, there is a filing fee for answers. See, e.g., Official Fee Schedule, Lyon County. <https://www.lyon-county.org/DocumentCenter/View/7505/District-Court-Fee-Schedule?bidId=>

## 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

Nevada does not meet the benchmark because although with respect to complaints brought by a purchaser of credit card debt to collect on such debt, Nevada requires that the complaint include (a) the name of the original creditor, in the form of the card issuer, see Nev. Rev. Stat. § 97A.165, it does not apply this requirements to other types of debt and does not require (b) the basis of the plaintiffs' standing or (c) itemization of the amount sought for any consumer debt complaints.

**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**

Nevada does not meet this benchmark or any of its sub-benchmarks. Nevada courts may grant default judgments pursuant to Nevada Rule of Civil Procedure 55 which requires proof of service but does not impose any of the requirements in sub-benchmarks (b) and (c). In addition, there is no Nevada 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**

Nevada does not meet the benchmark because it does not place the burden of pleading timeliness on the plaintiff and does not require that a debt collection complaint include (a) the applicable statute of limitations, (b) the date that the claim accrued, or (c) the date that the statute of limitations expires. See Nev. R. Civ. P. 8(c) (1).

**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**

Nevada 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, Nevada has the following limitations periods: • breach of written contract: 6-year limitations period (Nev. Rev. Stat. § 11.190(1)(b) (2022)); • breach of oral contract: 4-year limitations period (Nev. Rev. Stat. § 11.190(2)(c) (2022)); • open account: 4-year limitations period (Nev. Rev. Stat. § 11.190(2)(a) (2022)); • account stated ("an action for any article charged on an account in a store"): 4-year limitations period (Nev. Rev. Stat. § 11.190(2)(b) (2022)); • unjust enrichment: 4-year limitations period (see *In re Amerco Derivative Litig.*, 127 Nev. 196, 228, 252 P.3d 681, 703 (2011) (relying upon Nev. Rev. Stat § 11.190(2)(c) presumably because the claim is based upon liability not founded upon a written contract)); • conversion: 3-year limitations period (Nev. Rev Stat § 104.3118(7) (2022)); and • passing a bad check: 3-year limitations period (Nev. Rev Stat § 104.3118 (2022)).

**10 - Prohibit Revival of Time-Barred Claims****Score: 2/2**

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

**Yes**

Nevada meets this Benchmark because it does not make consumer debt claims subject to revival after the statute of limitations has run based on payment toward the debt. Although a debt claim may be revived by an express acknowledgement or new promise with respect to the existing debt made in writing and signed by the debtor, Nev. Rev Stat § 11.390 (2022), Nevada does not permit renewal or revival of those expired debt claims by subsequent payment toward debt. See *Stimpson v. Midland Credit Mgmt., Inc.*, 347 F. Supp. 3d 538, 545 (D. Idaho 2018), *aff'd*, 944 F.3d 1190 (9th Cir. 2019) (“Under Nevada law, a partial payment on a time-barred debt does not revive the statute of limitations.”) (citing *Riff v. Kowal*, 76 Nev. 271, 273–74 (1960)).

**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**

Nevada does not prohibit fee shifting. The state law does not squarely address the issue. Note: The state does authorize a reciprocal right to attorneys' fees for a prevailing defendant. See Nev. Rev. Stat. § 97B.170.

**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**

Nevada does not meet this benchmark because it does not satisfy the requirements of sub-benchmarks (a) and (b). With respect to prejudgment interest, the Nevada code states that “parties may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees.” Nev. Rev. Stat. § 99.050(1) (2022). The Nevada code states that when “there is no express contract in writing fixing a different rate of interest, interest must be allowed at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the transaction, plus 2 percent, upon all money from the time it becomes due” in cases involving express or implied contracts, the settlement of book or store accounts, and certain others. Nev. Rev. Stat. § 99.040(1) (2022). Thus, Nevada does not limit prejudgment interest to 7% or less (as is required to meet sub-benchmark (a)). With respect to post-judgment interest, the Nevada code states: “When no rate of interest is provided by contract or otherwise by law, or specified in the judgment, the judgment draws interest from the time of service of the summons and complaint until satisfied, except for any amount representing future damages, which draws interest only from the time of the entry of the judgment until satisfied, at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent.” Nev. Rev. Stat. § 17.130(2) (2022). Thus, Utah 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: 0/5

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

No

Nevada does not meet the benchmark because the law provides that "the sheriff, upon instructions from the creditor and without requiring an order of court, shall serve a writ of garnishment in aid of execution upon the party in whose possession or control the property is found." Nev. Rev. Stat. Ann. § 21.120.

### 14 - Bank Account Garnishment Exemptions Are Self Executing

Score: 2/2

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

Yes

Nevada meets the benchmark because it requires financial institutions to leave accessible to the judgment debtor "\$400 or the entire amount in the account, whichever is less" when a garnishment is levied on a personal bank account. Nev. Rev. Stat. Ann. § 21.105(2).

### 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

Nevada does not meet the benchmark because sub-benchmark (a) (income) is not met. Nevada law provides as follows: (a) Income: Nevada does not meet sub-benchmark (a) because it exempts 82% of a person's weekly disposable earnings if the person earns \$770 or less in gross weekly salary or wages on the date the most recent garnishment was issued, 75% of a person's weekly disposable earnings if the person earns more than \$770 in gross weekly salary or wages on the date the most recent garnishment was issued, or 50 times the federal minimum hourly wage in effect when the person is paid, whichever is more. Nev. Rev. Stat. Ann. § 21.090(g). Fifty times the federal minimum wage (\$7.25 per hour in 2023) is only \$362.50. State Minimum Wage Laws, U.S. Dep't of Labor (Sept. 30, 2023), <https://www.dol.gov/agencies/whd/minimum-wage/state>. (b) Home: Nevada meets sub-benchmark (b) because a home, including the land on which the home is located, is exempt up to a value that is at least the median price of a home in the state (exemptions up to a value of \$605,000) subject to certain limited exceptions. Nev. Rev. Stat. Ann. § 115.010(2). (c) Car: Nevada meets sub-benchmark (c) because a person's equity in one car is exempt up to a value of \$15,000 subject to a certain limited exception. Nev. Rev. Stat. Ann. § 21.090(f). 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**

Nevada does not meet this benchmark because a judgment debtor is only required to be mailed notice of a writ of execution by the next business day after a writ of execution is served. See Nev. Rev. Stat. Ann. §§ 21.076, 31.260 (LexisNexis 2023). Additionally, even if served prior to garnishment, the state would not meet the benchmark because its notice does not meet sub-benchmark (b) requiring that notice to judgment debtor describe the manner in which the order can be challenged. See id. at § 21.075.

## 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**

Nevada does not meet the benchmark because it does not expressly prohibit incarceration for failure to obey a court order to pay a debt. The Nevada state constitution states: "There shall be no imprisonment for debt." N.R.S. Const. Art. 1, § 14. However, there is no case law addressing whether imprisonment for contempt for failure to obey a court order to pay a consumer debt violates the constitutional prohibition. Nevada courts have addressed related issues, including determining that neither child support nor alimony payments constitute "debt" for purposes of the constitutional bar on imprisonment for debt. See, e.g., *Lamb v. Lamb*, 83 Nev. 425, 428 (1967).

### 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**

Nevada does not meet the benchmark because failure to appear at a debtor's examination need not be willful to constitute contempt. The law provides that if a judgment debtor fails to appear for a debtor's examination they may be punished for contempt. Nev. Rev. Stat. Ann. § 21.270. It defines contempt as "disobedience or resistance to any lawful writ, order, rule or process issued by the court or judge at chambers." Nev. Rev. Stat. Ann. § 22.010. Contempt may be punishable by incarceration. Nev. Rev. Stat. Ann. § 22.100.

### 19 - Provide Right to Counsel

Score: 0/5



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?

**No**

Nevada does not meet the benchmark because it does not provide a right to counsel in contempt cases in which incarceration is possible. Nev. Rev. Stat. §§ 171.188(1); 22.090; 193.050.

## 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**

Nevada does not meet this benchmark because it explicitly allows prosecutors to lend authority to private entities in "bad check" collection cases. Nev. Rev. Stat. § 205.471.

### 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**

Nevada does not meet the benchmark because its laws do not include an express prohibition on the use of bail or bond to pay a creditor. See Nev. Rev. Stat. Ann. § 21.270.

### 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**

Nevada does not meet this benchmark because "a judgment creditor, at any time after a judgment is entered, is entitled to an order from the judge of the court requiring the judgment debtor to appear and answer upon oath or affirmation concerning his or her property." The law does not limit the frequency of such examinations. Nev. Rev. Stat. § 21.270.

## IX. Issue Area: Collect data to improve the system.

### 23 - Data Collection: Number of Lawsuits

**Score: 3/3**

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

**Yes**

Nevada meets Benchmark 23 because the state courts collect and publish statewide data in the category of "contract cases" which is defined as: "cases that deal with an alleged failure to perform any promise that forms the whole or part of a contract; includes seller plaintiff issues concerning collection of credit card debt and payday loan debt, debt collection agency matters, or other debt collection matters that do not fit in one of the other mentioned subtypes; and includes contract buyer plaintiff and other contract matters that do not fit in one of the other mentioned subtypes." While the data may include some content for contract disputes that are not consumer debt disputes, the collection and break-out of specific data for multiple specific categories of consumer debt cases satisfies the benchmark. See Annual Report of the Nevada Judiciary Fiscal Year 2022, Appendix Tables, Table B6-2. Civil Caseload Processed by Justice Courts in Nevada, Fiscal Year 2022, at [https://nvcourts.gov/\\_\\_data/assets/pdf\\_file/0016/38014/2022\\_Annual\\_Report\\_Appendix.pdf](https://nvcourts.gov/__data/assets/pdf_file/0016/38014/2022_Annual_Report_Appendix.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**

Nevada does not meet this benchmark because it does not publish types of dispositions. The state publishes the number of dispositions in the same categories of consumer debt for which it publishes the number of consumer debt lawsuits, but it publishes only the number of dispositions, and does not publish types of dispositions, e.g., dismissal with prejudice, settlement, default judgment, other judgment. See Annual Report of the Nevada Judiciary Fiscal Year 2022, Appendix Tables, Table B6-2. Civil Caseload Processed by Justice Courts in Nevada, Fiscal Year 2022, at [https://nvcourts.gov/\\_\\_data/assets/pdf\\_file/0016/38014/2022\\_Annual\\_Report\\_Appendix.pdf](https://nvcourts.gov/__data/assets/pdf_file/0016/38014/2022_Annual_Report_Appendix.pdf).

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