

Debt Settlement: Judgments Tossed Out Against Debtors in New York

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July 15, 2010 - [PRLog](#) -- New York Attorney General Andrew M. Cuomo today announced his office has sued 35 law firms and two debt collectors in New York State in order to throw out an estimated 100,000 default judgments improperly obtained against New York consumers. This is the latest action in Cuomo's ongoing investigation into unlawful debt collection practices.

According to the lawsuit filed yesterday in New York State Supreme Court, Erie County, the companies relied on a Long Island company, American Legal Process (ALP), to notify New York consumers that they faced debt-related lawsuits. ALP, however, failed to properly serve consumers across the state with legal papers, causing thousands to unknowingly default and have costly judgments entered against them without the chance to respond or defend themselves. In April of this year, Cuomo's Office announced criminal and civil cases against ALP and its owner, William Singler, for this fraudulent business scheme.

Today's lawsuit is an effort to provide relief to the thousands of consumers facing costly default judgments as a result of ALP's unlawful practices. The suit asks the court to vacate all default judgments secured against New York consumers in cases in which the firms (1) used ALP to serve legal process in commencing a lawsuit, and (2) the firms are unable to provide the court with any evidence, other than ALP's affidavit, that proper legal service was made.

"Our legal system is defined by due process and the guarantee that every New Yorker will get the chance to defend himself or herself in court," said Attorney General Cuomo. "ALP's scheme undermined the foundation of this system and denied thousands of individuals their day in court. Today's lawsuit is a key step in our efforts to uproot unlawful debt collection practices and undo the considerable harm they inflict on New York consumers."

ALP, as a legal process server, was hired by high-volume debt collection law firms in New York to serve legal papers, usually a summons and complaint, notifying individuals that they are being sued and must answer the complaint. ALP, however, allegedly engaged in "sewer service," where process servers take advantage of individuals facing lawsuits by failing to properly alert them and denying them the chance to respond. As a result, tens of thousands of judgments were obtained against unsuspecting New Yorkers, many of whom first learned they were being sued when they found their bank accounts frozen or their wages garnished. ALP covered up the fraud by falsifying sworn affidavits of service in courts across New York.

The law firms and debt collectors sued today then used these false affidavits to obtain default judgments against NY consumers. Between January 2007 and October 2008, these law firms and debt collectors filed more than 100,000 lawsuits in every county in New York State, with the vast majority of the suits being debt collection actions. In a large percentage of the cases sampled and analyzed, the defendants never answered the lawsuit and the law firms sought and obtained default judgments from the courts. In seeking the default judgments, the firms made use of ALP's fraudulent affidavits that claimed that the individual defendants had been given proper legal notice of the suits.

To rectify ALP's widespread fraud on New York's courts and consumers, today's lawsuit, filed on behalf of the Honorable Ann Pfau, Chief Administrative Judge of the New York State Unified Court System,

invokes the broad remedial powers granted to New York's administrative judges to correct improperly obtained default judgments. In addition to seeking to vacate all of the default judgments where the sole evidence that the defendant received notice of the suit is an ALP affidavit, today's lawsuit asks the court to order the law firms and debt collectors to:

Inform the New York State Unified Court System of each actions in which they used ALP to serve legal process and in which a default judgment was granted;

Notify all the parties in those actions of the existence of this lawsuit and their right to be heard; and

Notify the court of amount of any default judgments taken in any of the relevant actions, as well as whether the debtor paid any amount to satisfy the default judgment.

Additionally, where a default judgment is ultimately vacated, today's suit asks the court to direct that proper restitution be made to any debtor who made payment on an improperly obtained default judgment. The Attorney General's Office estimates that the average default judgment totaled approximately , 474.

Carolyn Coffey, an attorney with MFY Legal Services, a nonprofit provider of free legal services in New York, said: "Over and over again we see hundreds of the most vulnerable New Yorkers — the elderly, disabled, and working poor — blindsided by default judgments in lawsuits that they never even knew about until after the cases were over. Our justice system is built on the basic premise that everyone has a right to be heard in court before a judgment can be entered against them, and the debt collection law firms that engage in sewer service deny New Yorkers this fundamental right. MFY commends Attorney General Cuomo for taking these steps to remedy the devastating effects of sewer service, and for sending the message to debt collection law firms that they must comply with the most basic requirements of due process."

The law firms and debt collectors named in today's suit are: Forster & Garbus; Sharinn and Lipshie; Kirschenbaum & Phillips, P.C.; Solomon and Solomon, P.C; Goldman & Warshaw, P.C.; Eltman Eltman and Cooper; Eric M. Berman, P.C.; Stephen Einstein & Associates, P.C.; Fabiano and Associates; Jones Jones Larkin O'Connell; Panteris & Panteris, LLP; Zwicker and Associates; Relin, Goldstein & Crane; Woods Oviatt Gilman; Leschack & Grodesnky; Hayt Hayt & Landau; Pressler & Pressler; Jaffe & Asher; Mullen & Iannarone; Arnold A. Arpino & Associates; Houslanger & Associates; Mann Bracken, LLC; Smith Carroad Levy & Finkel; McNamee, Lochner Titus & Williams; Thomas Law Office; Fleck, Fleck & Fleck; Eric Ostrager; Cohen & Slamowitz, LLP; Cullen and Dykman LLP; Winston & Winston, P.C.; Cooper Erving & Savage, LLP; Robert P. Rothman, P.C; Gerald D. DeSantis; Greater Niagara Holdings, LLC; Rodney A. Giove; Advanced Litigation Services, LLC; and Jason L. Cafarella.

Attorney General Cuomo also announced that as part of his ongoing investigation into fraudulent process servers and debt collectors, his Office is determining which other law firms statewide relied on ALP to serve legal process on New Yorkers facing lawsuits. More than 20 such firms have been identified to date and his Office is notifying those firms of its intent to seek to vacate any default judgments those firms have obtained based on ALP affidavits of service.

This civil lawsuit and investigation is being handled by Assistant Attorney General James Morrissey and Assistant Attorney General Nathan Reilly, in conjunction with Dennis Donnelly, George Danyluk, Aric Andrejko and Dan Johnson of the Internal Audit Unit of the New York State Unified Court System.

For more information visit <http://mortgagenetbranch.ascendantfinancial.com/debtsettl...> or call us directly. Here is another debt settlement branch article <http://www.prlog.org/10798473-debt-settlement-solutioncre...>

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