



PRESS RELEASE

**New York State
Unified Court System**

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Chief Judge Announces Comprehensive Reforms to Promote Equal Justice for New York Consumers in Debt Cases

Albany, New York – Commemorating Law Day at the Court of Appeals, Chief Judge Jonathan Lippman today announced a set of reforms to ensure a fair legal process in the more than 100,000 credit collection lawsuits brought annually in the state courts against ordinary consumers — the majority of whom are low-income or working people, including many elderly and disadvantaged New Yorkers. The proposed package of reforms represents the most comprehensive effort by a court system nationally to ensure a fair legal process for all debtors in consumer credit cases, most of which are brought by third parties who routinely purchase large portfolios of delinquent credit card debt, often for pennies on the dollar, commencing lawsuits based on little more than boilerplate language and a few fields of data from a spreadsheet.

Typically, these debts are several years old, have been resold multiple times, and critical documents like the original credit agreement are missing. By the time these cases appear in court, it is extremely difficult for individuals to assess the validity of the claims against them. Additionally, many debtor-defendants are never served court papers — a troubling practice

dubbed “sewer service” — first learning that they have been sued only when their bank accounts are frozen or their wages garnished.

Well over half of these cases result in default judgments, entered in favor of creditors because debtors fail to answer or appear in court to contest the allegations. While the law requires a creditor seeking a default judgment to provide some firsthand confirmation of the key facts in the case, in practice default judgments are obtained on the basis of “robosigned” affidavits containing hearsay allegations and few if any facts pertaining to the history of the debt at issue. Creditors frequently secure default judgments for the wrong amount of money or even against the wrong party — or for debt that has already been paid or for which the statute of limitations has already expired.

The package of reforms unveiled today will build on the collective efforts of the Attorney General’s Office, the State Department of Financial Services and the State Legislature to combat deceptive debt collection practices and protect consumers, as well as on the best practices being developed and refined in the New York City Civil Court under Deputy Chief Administrative Judge Fern Fisher’s leadership.

Among the measures being implemented by the New York court system to combat unfair consumer debt litigation practices and prevent unwarranted default judgments are:

- Requirements that creditors submit affidavits containing detailed proof in support of default judgment applications — no more robosigning, and no more affidavits riddled with hearsay allegations — ensuring that the substantive and evidentiary standards for default judgments required under New York law are met.
- Statewide rules and policies to stop the practice of suing on debt when the statute of limitations has expired as well as to prevent “sewer service” in consumer debt cases.
- Procedures and user-friendly forms ensuring that the overwhelming number of unrepresented consumers who appear in court have access to comprehensible information and resources so that they can understand the claims against them and formulate appropriate defenses.
- Partnerships with bar associations and law schools to increase pro bono representation of defendants in consumer credit cases in the hardest hit areas.

“While no one disputes that consumers should pay their debts or that businesses have every right to resort to the courts to collect what is legally owed to them, the Judiciary has an obligation to prevent inequitable debt collection practices in the courts and ensure a fair legal process for all litigants. Dubious consumer debt litigation practices can lead to unwarranted default judgments, often with devastating consequences for the debtor — typically a lower-income New Yorker struggling to support a family and find or maintain a job,” said Chief Judge Lippman. “These comprehensive reforms announced today, together with the ongoing efforts of our partners in the Executive and Legislative Branches, New York’s bar and legal services community, will set a national standard by which consumer debtors receive fair treatment in the courts.”

The reforms, available at <http://www.nycourts.gov/rules/comments/index.shtml>, are being issued for a 30-day public comment period, to expire on May 30, with implementation expected by mid-June 2014.

For the full text of Chief Judge Lippman’s Law Day remarks, go to <http://www.nycourts.gov/whatsnew/index.shtml>.

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