

Cuomo Tries To Enforce Notification To Debtors

By JONATHAN D. GLATER

It may be the consumer nightmare of the moment: You try to get cash from an A.T.M. and discover that your money is gone, seized under a court order that you never knew about.

This has happened to thousands of people across New York — and potentially tens of thousands more across the country — because companies that were supposed to notify them of collections proceedings had failed to do so, the New York attorney general's office is charging.

The attorney general, Andrew M. Cuomo, plans to file a civil suit Tuesday against one such company, American Legal Process of Lynbrook, N.Y., according to officials in the office who insisted on anonymity because the investigation was continuing.

Mr. Cuomo's office also has the power to file criminal charges.

American Legal is one of the nation's largest companies in the business of giving notice to debtors of collections proceedings.

A lawyer for the company did not return a call on Monday. A man who answered the phone said he did not know anything about an investigation and declined to answer questions.

For a person who owes money, getting notice of a lawsuit seeking to collect on the debt is essential; otherwise, a debtor has no opportunity to challenge creditors, who can obtain a default

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judgment from the court.

Perhaps in part because they are not notified, people sued in New York City often fail to appear in court to protect their interests, according to a study released last year by MFY Legal Services, a nonprofit law firm in New York.

MFY found that just seven law firms filed nearly one-third of all the cases seeking to collect \$25,000 or less in New York City's civil courts. Fewer than 10 percent of the defendants in those cases appeared to defend themselves.

"Then there are these high number of default judgments rates," said Carolyn E. Coffey, a staff lawyer at MFY and an author of the study. She said she was mystified that problems with getting notice could go unaddressed.

"Part of the problem is the business model of these debt collection lawsuits," Ms. Coffey said. Creditors often have bought the loans from another financial company, she said, and then hired companies that specialize in collections to notify people of lawsuits.

The payment for delivering notice of a lawsuit may be just \$5 for each successful assignment, Ms. Coffey said, creating an incentive to engage in "sewer service," where the delivery person simply tosses the court notice in the sewer and claims that the defendant was notified.

Maryann Dorrian, one of the people interviewed by investigators in Mr. Cuomo's office, said she had never learned of legal proceedings against her to collect \$2,000 until she had tried to withdraw money from an A.T.M. last April. Her account balance had dropped below zero because the full amount of the debt was withdrawn, she said.

Ms. Dorrian said that a debt settlement company had already

Consumers, unaware of seizure moves, find empty bank accounts.

begun negotiating a payment plan for the credit card debt.

"They never left anything at my door, I was never aware," said Ms. Dorrian, who lives in Middletown, N.Y. She added that her husband worked at night, so he was home on weekdays to receive any notice.

She ended up having to pay her credit card debt along with fees for checks that had bounced unexpectedly, Ms. Dorrian said. Since then, she has cut up her credit cards, she said.

A person who does not get notice of a legal proceeding can challenge an adverse judgment, said Ms. Coffey, the lawyer. "You go back to court and show that you were not served properly," she said. "But you shouldn't have to do that."