



Debt Collection Practices Can Harm Seniors and People with Mental Disabilities

Testimony of Karuna Patel, Esq.
Staff Attorney, MFY Legal Services, Inc.
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My name is Karuna Patel and I'm a staff attorney at MFY Legal Services, Inc., an organization dedicated to providing legal services to low-income and immigrant populations in New York City. I am here today to address an important issue: How debt collectors regularly take advantage of seniors and people with mental disabilities. These are, of course, two of the most vulnerable populations in society. As a matter of public policy, both the federal and state governments provide cash assistance – Social Security, Supplemental Security Income or SSI and Public Assistance – to seniors and persons with mental disabilities to meet their basic needs for food, clothing and shelter. Public policy also prohibits the use of the legal system to collect debt from these resources. This policy is intended to ensure that the funds that we as a society provide to fulfill the basic needs of our most vulnerable members are available for that purpose.

As the largest legal services provider for mental health service consumers in New York City and as an organization with a project dedicated to providing legal services to seniors living in Manhattan, we find that these laws are regularly, purposefully ignored by debt collectors. And the impact on our clients is often devastating.

A creditor obtained a money judgment against Mr. K., a mentally disabled adult, by default. Mr. K was never properly served or given notice. In September 2005, Mr. K received notice from his bank that his bank account was frozen because of the judgment. This was the first he learned of the judgment. That same day, Mr. K contacted his social worker, who informed him that the debt collector could not take the funds in his account because the law protected SSI from collection. Armed with this important information – that few people in Mr. K's situation will ever learn – Mr. K called the debt collector in an effort to get his account unfrozen. In response, the debt collector asked to see Mr. K's bank statements as proof that the only income in the account was exempt. Mr. K acted quickly. He went to his bank, obtained proof that his only deposits were direct deposits from the U. S. Treasury for \$666, and faxed this proof to the collector the next day. The collector did not respond. Eight days later, the debt was executed upon and the 435 dollars in Mr. K's account were gone.

For the month of September, Mr. K had no funds to pay for his food, for his bills, for any of his basic needs. He had to scramble to make sure that October's SSI payment came by check because otherwise he would not be able to pay his rent and would be left again with no cash for things like food, clothing and rent.

The vast majority of the people in Mr. K's situation do not and will not have legal representation. We rarely see another attorney representing the victims of debt collection practices in court.

Moreover, many of the people in Mr. K's situation are not connected to any social service provider. They don't have a social worker. They don't have anyone to inform them that their meager income is protected by the law – that they need not choose between repaying a debt collector and paying their rent. Further exacerbating the situation is the fact that debt collectors have a structural advantage in the process. Unlike their counterparts, they have personal financial information about their adversaries, they have resources to ruthlessly pursue their claims, and they are well-versed with the workings of the system. Finally, our clients don't have a meaningful voice in the process. As Mr. K's experience makes clear, even the most pointed and diligent attempts to assert one's rights can easily fall on deaf ears.

And so we're here as the voice of the most vulnerable members of society. We're here to confirm that debt collectors easily manipulate the current system. They ignore our public policy goal of protecting the vulnerable. And in the end we as a society are literally paying for those practices to continue. Our Social Security, Supplemental Security Income and Public Assistance dollars are ending up in the pockets of debt collectors at the cost of city taxpayers who support the elderly and the disabled when they can't buy food, can't pay their utilities or can't pay their rent. We believe that the debt collectors' advantages in the collection process must be counteracted with a stronger, more protective regulatory system. One that forces debt collectors' practices to be consistent with our public policy goals.

We greatly appreciate the Department's leadership and we are committed to working with you to better protect the consumers of New York City.

Thank you.