

**Statement Submitted to the Chief Judge’s Hearing on  
Civil Legal Services in New York  
September 13, 2021**

Thank you, Judge DiFiore, members of the panel, and the New York State Permanent Commission on Access to Justice for holding this Hearing on Civil Legal Services in New York to evaluate the continuing unmet civil legal needs of low-income New Yorkers, many of whom will feel the economic impact of the COVID-19 crisis for years to come. We provide this statement to address the often-overlooked issue of debt collection lawsuits brought against New Yorkers who cannot afford legal representation. We fear these cases will overwhelm the courts in the wake of the COVID-19 crisis and leave vulnerable New Yorkers, particularly those who live in communities of color, in even worse financial circumstances. Specifically, we believe there is a critical need for expanded civil legal services in the area of consumer defense. We are legal services providers – at nonprofit organizations and law schools – that provide consumer debt defense and other consumer legal services to low-income New Yorkers.

***Debt Collection Lawsuits***

Over the past 10 years, court data show that hundreds of thousands of debt collection lawsuits have been filed against New Yorkers and a staggering number of default judgments have been entered in those cases.<sup>12</sup> Significant numbers of these lawsuits are brought by third- party debt buyers, which are companies that buy portfolios of old, defaulted debts from original creditors for pennies on the dollar.<sup>3</sup> Debt buyers and creditors alike are represented by collection attorneys who notoriously file cases *en masse* with questionable merit and shoddy proof and use automated processes that rely on a lack of meaningful scrutiny or oversight by attorneys or court personnel.<sup>4</sup> Even in cases where the consumer may owe money, collectors often sue for inflated amounts, padding the debts with

---

<sup>1</sup> This estimate is based on the annual number of filings of consumer credit actions in New York City Civil Court and rough estimates of filings across New York State and the rate of default judgments stemming from the failure to file an answer.

<sup>2</sup> See, e.g., New Economy Project, *The Debt Collection Racket in New York: How the Industry Violates Due Process and Perpetuates Economic Inequality* (June 2013) (examining impact of debt collection lawsuits on communities of color).

<sup>3</sup> See Pew Charitable Trust, *How Debt Collectors are Transforming the Business of State Courts* (May 2020), available at <https://www.pewtrusts.org/-/media/assets/2020/06/debt-collectors-to-consumers.pdf>. Federal Trade Commission, *The Structure and Practices of the Debt Buying Industry* iii (Jan. 2013), available at <http://www.ftc.gov/os/2013/01/debtbuyingreport.pdf> and Chris Albin-Lackey, *Rubber Stamp Justice: US Courts, Debt Buying Corporations, and the Poor*, 2 (Human Rights Watch, Jan. 2016) available at [www.hrw.org/report/2016/01/20/rubber-stamp-justice/us-courts-debtbuying-corporations-and-poor#](http://www.hrw.org/report/2016/01/20/rubber-stamp-justice/us-courts-debtbuying-corporations-and-poor#).

<sup>4</sup> *Id*

unauthorized fees and interest. Consumers often do not receive notice of these lawsuits, and therefore do not appear in them to defend themselves, resulting in default judgments.<sup>5</sup> Many New Yorkers find out years later that they were sued when their bank account is restrained or they receive an income garnishment, and they then must frantically navigate the court process – usually without legal counsel – to seek vacatur of these judgments that have the ability to upend a life.

### ***New Yorkers Most Impacted by Debt Collection Cases***

Over 96% of defendants sued in debt collection cases are unrepresented.<sup>6</sup> In our experience, most *pro se* litigants are individuals who are low-income, seniors, of limited English proficiency, and/or have disabilities. It should come as no surprise that those impacted by debt collection are also disproportionately Black and Brown litigants.<sup>7</sup> Tragically, the same people facing debt collection cases are those who have been most impacted by the COVID-19 crisis.<sup>8</sup> “In the middle of the pandemic, the majority of Black (60%), Latino/a/x (72%), and Indigenous (55%) households faced severe financial hardship compared to only 36% of white households.”<sup>9</sup> Because of structural racism, Black families have historically had less savings, but “the economic stress of the pandemic has caused more Black people to borrow against their retirement savings, with 14% of Black people under age 35 (compared to 4% of white people) and 22% of Black people over age 55 (compared to 10% of white

---

<sup>5</sup> *Id*

<sup>6</sup> See New York City Bar Association, Report on Legislation by the Consumer Affairs Committee and Civil Court Committee (June 2019), *available at*: <https://s3.amazonaws.com/documents.nycbar.org/files/20072920-CCFA.pdf> (citing FOIL Officer, Office of Court Administration, 2018 New York City Civil Court Consumer Credit Filings (April 5, 2019); NYS Permanent Commission on Access to Justice, Report to the Chief Judge of the State of New York (November 2018), *available at*: [http://ww2.nycourts.gov/sites/default/files/document/files/2018-12/18\\_ATJCommission\\_Report.pdf](http://ww2.nycourts.gov/sites/default/files/document/files/2018-12/18_ATJCommission_Report.pdf) (last visited on April 14, 2019); Debt Deception: How Debt Buyers Abuse the Legal System to Prey on Lower-Income New Yorkers (May 2010), *available at*: <http://mobilizationforjustice.org/wpcontent/uploads/reports/DEBT-DECEPTION.pdf> (last visited May 6, 2019).)

<sup>7</sup> See The Pew Charitable Trusts, *How Debt Collectors Are Transforming the Business of State Courts*, 17 (May 2020), *available at* <https://www.pewtrusts.org/-/media/assets/2020/06/debt-collectors-to-consumers.pdf>; New Economy Project, *The Debt Collection Racket in New York: How the Industry Violates Due Process and Perpetuates Economic Inequality* (June 2013), *available at*

<https://www.neweconomynyc.org/wp-content/uploads/2014/08/DebtCollectionRacketUpdated.pdf>

<sup>8</sup> Shriver Center on Poverty Law’s Legal Impact Network, *Race Equity at the Core of Consumer Law*, 10, July 2021, *available at*:

[https://www.povertylaw.org/wp-content/uploads/2021/07/Consumer\\_Law\\_and\\_Race\\_report\\_v5-2.pdf](https://www.povertylaw.org/wp-content/uploads/2021/07/Consumer_Law_and_Race_report_v5-2.pdf) (citing a March 2021 report by APM Research Lab that found that of the 520,000 COVID-19 deaths in the United States, 42.3% (220,085) were people of color, despite making up only 23.7% of the total U.S. population.)

<sup>9</sup> *Id*

people) borrowing from or cashing out their retirement savings.”<sup>10</sup> There is only so much someone can borrow before the debt comes due, and frequently debt collection takes the extreme form of a debt collection lawsuit.

### ***Impact of Civil Legal Services on Debt Collection Defense***

Legal assistance for litigants fighting debt collection cases – in which the plaintiffs are always represented by counsel – makes a world of difference. Consumer defense has a far-reaching and invaluable impact in achieving fairer outcomes in litigation, often with life-changing consequences for litigants and their families. For example, full representation, but even limited-scope assistance with consumer legal defense in many but not all cases, can help stop the devastating harm of judgments on the lives of indigent and working-poor New Yorkers by helping them successfully vacate default judgments and assert legal defenses in the underlying lawsuits. Defendants are often able to raise powerful substantive and procedural defenses and, as necessary, seek legal recourse when victimized by debt collectors. Successfully defending against debt collection cases translates directly into ensuring that the essentials of life are preserved.

### ***Conclusion***

The current scope of the unmet need for civil legal services by low-income New Yorkers in the context of debt collection is substantial. Meanwhile, the economic benefits to individuals, communities, the courts, and the State from the provision of civil legal services in the context of debt collection cases is hugely impactful. But the provision of such services must be funded. We deeply appreciate the efforts of the Hearing Panel on Civil Legal Services in New York to expand access to civil legal services for low- and moderate-income New Yorkers and we thank the Panel and the Permanent Commission for the opportunity to submit this written statement.

Anthe Maria Bova  
General Counsel & Director of Pro Bono Programs  
New York County Lawyers Association

Sidney Cherubin  
Director of Legal Services  
Brooklyn Bar Association Volunteer Lawyers Project

Carolyn E. Coffey  
Director of Litigation for Economic Justice  
Mobilization for Justice

---

<sup>10</sup> *Id*

Dora Galacatos  
Executive Director Fordham Law School  
Feerick Center for Social Justice

Tashi Lhewa  
Supervising Attorney  
The Legal Aid Society

Daphne Schlick  
Director, Consumer Protection Unit  
New York Legal Assistance Group

Mark Weliky Executive Director  
Queens County Bar Association  
Volunteer Lawyers Project