

Rein in wild debt collectors: Thousands of New Yorkers are being unfairly targeted

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Debt collection companies have run amok in our state, clogging the courts with junk lawsuits and using unethical and illegal methods to squeeze profits out of mostly low-income New Yorkers.

Even as the media and markets remain focused on the looming fiscal disaster in Albany, the Legislature can and must take steps to provide relief for hundreds of thousands of New Yorkers caught up in the collections maelstrom.

Nobody is suggesting that people get out of paying legal, legitimate debts. But what's going on in New York is anything but fair.

The problem begins with debt buyers - large, aggressive corporations that purchase thousands of old and charged-off debts from credit card issuers, phone companies and other firms.

In many cases, the information provided to the debt buyers is old, erroneous or incomplete. But that doesn't stop them from filing waves of lawsuits - often suing the wrong person, or people who paid back their debts years ago.

The numbers involved are staggering. According to "Debt Deception," a recent report by a coalition of legal and advocacy groups, the 26 largest debt-buying firms collectively filed 457,322 lawsuits in New York City civil court between January 2006 and June 2008, racking up \$1.1 billion in judgments and settlements, usually by default judgment.

But not all those judgments were valid.

"I was sued for a debt I didn't even owe," is what Claribel Pichardo, a 36-year old Brooklyn resident, told the legal groups that prepared the report. "They claimed they delivered court papers to my home, when in fact the address was for a building where I did not reside. I knew I didn't owe the debt, but I almost agreed to make payments because they froze my bank account and I was in a panic."

Pichardo's plight is common. The collection corporations behind the legal tsunami often fail to provide valid notice - or any notice at all - to their targets, giving people no opportunity to contest the lawsuits.

The practice of failing to properly notify people is so common that Attorney General Andrew Cuomo, acting on behalf of New York's Chief Administrative Judge, Ann Pfau, has sued 35 debt collection law firms in an attempt to throw out 100,000 default judgments where notification was allegedly defective or nonexistent.

"Many of these lawsuits never should have been brought in the first place," said Claudia Wilner, senior staff attorney at the Neighborhood Economic Development Advocacy Project, one of the pro-consumer groups pressing for reform. "Debt buyers routinely file frivolous lawsuits even though they have no evidence to prove that the debts are owed."

The result is a sad scene I've personally witnessed: debt collection lawyers holding impromptu bargaining sessions with desperate people in the hallways of civil court.

The deals struck in such cases are often terrible and unnecessary. In many cases, debt buyers have little more than a name and a collection amount - information that would probably not hold up in court - but people facing garnished checks, frozen bank accounts and damaged credit reports just agree to pay.

That nearly happened to Lloyd Greenspan, 51, of Manhattan, who got sued by a debt buyer.

"I had never heard of the company before and did not know what the debt was for. When I asked them for basic information about the debt, they could not give me a single piece of paper."

Greenspan got legal help, but many thousands of people in his situation don't.

A different documentation problem faced a 38-year-old woman from Brooklyn who was the victim of identity theft in 1999. Nearly a decade later, well after the 6-year statute of limitations, a debt collection law firm sued her, claiming she owed \$1,000 to AT&T - even though she'd never had an account with the company and sent documents demonstrating she'd reported the ID theft to the police and actually lived at a different address than the firm had on file.

When the case went to court, the judgment got thrown out - but only after a lot of trouble.

The level of financial pain being inflicted on New Yorkers is unnecessary and unconscionable. Fortunately, a fix is at hand. The Consumer Credit Fairness Act, which has already passed the Assembly, would require solid documentation and fair notice by companies that buy debt and debt collection law firms.

Even as the Legislature weathers another close call with catastrophe, the Senate must pass this law to introduce basic fairness and common sense to a process that is wreaking havoc on New York families.