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SSI Recipients' Bank Accounts Illegally Frozen; NYLAG Files Federal Class Action to Stop Unconstitutional Debt Collection Practices

New York, New York – November 9, 2006 - The New York Legal Assistance Group (NYLAG) filed a class-action lawsuit, Sims, et al. v. Bank of America Corporation, et al., in the United States District Court for the Eastern District of New York, on behalf of recipients of Supplemental Security Income (SSI) in New York State whose bank accounts are or will be restrained (“frozen”) to enforce a money judgment even though the accounts contain only SSI benefits that are exempt from collection.

Plaintiffs challenge provisions of New York law that permit such accounts to be frozen, alleging that the provisions violate class members’ rights under federal law, the United States Constitution, and the New York State Constitution. The suit was brought against Defendants Bank of America, Mel S. Harris & Associates, LLC (the attorney who issued the restraining notice), the Chief Judge and Chief Administrative Judge of the State of New York, and the State Superintendent of Banks, in their official capacities.

Technological developments make it easier and cheaper than ever for judgment creditors to collect debts by freezing a debtor’s bank account. However, under the current system, accounts containing only SSI benefits that a debtor needs to live—money Congress has protected from collection—are often illegally frozen. Illegally frozen accounts can take weeks to “unfreeze.” In the meantime, the debtor has no money for rent, utilities, and other essential expenses, and also frequently faces unaffordable bank fees caused by the restraint.

Plaintiff Justine Sims’s sole source of monthly income is \$690 in SSI benefits and \$119 in food stamps. Ms. Sims’s Bank of America account was illegally frozen on October 12, 2006, and the bank charged a \$100 service fee for processing the restraining notice. Despite Ms. Sims’s numerous phone calls to her bank and Defendant Harris explaining that her account contained only SSI benefits, it remained illegally frozen for over three weeks until this lawsuit was filed. Without access to her SSI benefits, Ms. Sims could not pay her rent and utility bills; she has already received one disconnection notice from her electricity provider.

"The way the system currently works affords everybody but the SSI recipient the advantage of technological advances," says Caroline Jane Hickey, staff attorney in NYLAG's Special Litigation Unit. "The government saves money by using electronic deposit rather than mailing a paper check, the judgment creditor saves time and money by serving restraining notices electronically, but the SSI recipient's account is retrained even though, prior to freezing the account, banks can simply take a quick look at the customer's recent deposits to determine whether the account contains only protected SSI benefits."

About NYLAG

Founded in 1990, the New York Legal Assistance Group (NYLAG) is a not-for-profit law office providing free civil legal services to low income New Yorkers. For more information on NYLAG, please visit <http://www.nylag.org>.

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