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For Immediate Release: September 19, 2019

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Empire Justice Center Receives *Cy Pres* Award From Consumer Class Action Case

Empire Justice Center is very pleased to announce that we are the recipient of a *cy pres* award of \$4,305.93 from a settlement in *Miranda v. CACH LLC, et al.* The consumer financial protection class action was approved by the U.S. District Court for the Northern District of New York on July 18, 2019, filed on behalf of named plaintiff Anna L. Miranda and all similarly-situated persons by the Schlanger Law Group LLP and Syracuse-based attorney, Anthony J. Pietrafesa.

The class action was based on a claim under the Fair Debt Collections Act (FDCPA), which prohibits debt collectors from using false, deceptive, or misleading representations or means in an attempt to collect a debt. The class action alleged that when CACH LLC, through its counsel, the law firm Daniels Norelli Scully & Cecere P.C. (DNSC), filed lawsuits against debtors, the summons notice served on plaintiffs misstated the time allotted for them to appear and respond to the lawsuit. This misrepresentation created the impression that the deadline for entering an appearance and answering the complaint was 10 days earlier than it really was.

The complaint alleged that in addition to the inaccurate shorter timeline indicated in the summons, DNSC sent follow-up letters emphasizing that time to respond to the lawsuit was limited, and that these misrepresentations created a false sense of urgency and could have prevented consumers from fully defending themselves in the debt collection lawsuits. The FDCPA does not typically cover original creditors, but since debt collection is commonly outsourced or debts are sold, the consumer protections apply to the vast majority of debt collection activity against consumers, including lawsuits.

The *Miranda* class action involved 123 plaintiffs who received a little over \$250 each in compensation. The defendant law firm, DNSC, also is responsible for the cost of administering the settlement, and for payment of plaintiffs' attorney fees and costs. *Cy pres* is a legal doctrine that first arose in the courts of equity and is commonly seen in class actions today. *Cy pres* awards are funds from a settlement that go unused by the class, for example when not all class members can be found or respond to the class action settlement notice, to receive compensation. Non-profits working on issues involved in the lawsuit -

consumer law in this case - are typically designated by class counsel and approved by the court to receive *cy pres* awards.

[Schlanger Law Group LLP](#) has deep experience in FDCPA class action litigation, and has been a leader in application of the Fair Debt Collection Practice Act's protections to misconduct that unfortunately occurs at all phases of state court collection litigation. This includes misconduct related to service of process, boilerplate pleadings, and unlawful attempts to collect or inflate state court judgments.

If you believe that you have been misled, harassed or abused by a debt collector, you may have a claim under the Fair Debt Collection Practices Act. Call Empire Justice Center at (518) 462-6831 to learn more about your rights.

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Empire Justice Center is a statewide, multi-issue, multi-strategy, public interest law firm focused on changing the "systems" within which poor and low-income families live. Empire Justice protects and strengthens the legal rights of people in New York State who are poor, disabled or disenfranchised through: systems change advocacy, training and support to other advocates and organizations, and high quality direct civil legal representation. Empire Justice has four offices in Albany, Rochester, Yonkers, White Plains and Central Islip on Long Island.