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Federal Lawsuit Seeks to End Modern-Day Debtors' Prison in Arkansas

Lawyers' Committee for Civil Rights Under Law, American Civil Liberties Union of Arkansas and Morrison & Foerster Sue on Behalf of Individuals Jailed by "Hot Check" Court for Failing to Pay Fines and Fees in Unconstitutional Collections Scheme

WASHINGTON, D.C., August 23, 2016 – Today, the Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee), along with Morrison & Foerster LLP and the American Civil Liberties Union of Arkansas (ACLU of Arkansas) filed a class action civil rights lawsuit challenging the modern-day debtors' prison in Sherwood, Arkansas. The lawsuit was filed in the United States District Court for the Eastern District of Arkansas, against the city of Sherwood, Arkansas, Pulaski County, Arkansas and Judge Milas Hale, III.

The suit was filed on behalf of four individuals who allege their constitutional rights were violated by the Hot Check Division of the Sherwood District Court when they were jailed for their inability to pay court fines and fees in violation of longstanding law forbidding the incarceration of people for their failure to pay debts, and a concerned taxpayer.

"The resurgence of debtors prisons across our country has entrapped poor people, too many of whom are African American or minority, in a cycle of escalating debt and unnecessary incarceration," said Kristen Clarke, president and executive director of the Lawyers' Committee for Civil Rights Under Law. "The Sherwood District Court epitomizes the criminalization of poverty and the corrupting effect of financial incentives on our local courts. Not only does this 'Hot Check' court completely ignore the long-standing principle that a person cannot be punished because they are poor, but by using coercive practices to collect money from the poorest Arkansans, this debtors' prison scheme generates huge revenues for the city. Revenue from the district court constitutes nearly 12 percent of the city's budget, second only to city and county sales tax."

"Across the country, the cost of debtors' prisons in human lives and public resources is enormous," said ACLU of Arkansas Executive Director Rita Sklar. "When the criminal justice system serves as unscrupulous debt collectors for the public and private sector, without regard to due process, the government is not only violating people's rights, it is facilitating the never-ending cycle of poverty: threatening the poor with incarceration for failure to pay bills they can't pay, keeping them from jobs that may help them pay their bills, and stacking up fines that dig the poor into an even deeper hole. We need open court proceedings and public accountability, fair, rational laws that take into account defendant's ability to pay and prohibit incarceration for failure to pay, and we need to stop raising money on the backs of the poor."

"In this country it is unconstitutional to imprison someone for the 'crime' of being poor," said J. Alexander Lawrence, partner at Morrison & Foerster. "But every day, Sherwood does just that. This lawsuit seeks to end Sherwood's unconstitutional practices and ensure that no more indigent defendants are trapped in a cycle of poverty and imprisonment."

The lawsuit alleges that Sherwood, Pulaski County and their officials engage in a policy and custom of jailing poor individuals who owe court fines, fees and costs stemming from misdemeanor "hot check" convictions with complete disregard for the person's ability to pay; requiring defendants to waive their right to counsel before entering the courtroom; and closing court proceedings to the public.

The court issues an arrest warrant each time a person fails to make a payment, regardless of their ability to pay, and uses it as an opportunity to assess more fines and fees against the individual. Sherwood Police Department also plays a critical role in the collections scheme. Police officers knock on people's doors and threaten to arrest the person unless they can pay a small amount of money – usually \$50 or \$100 – to get a court date instead of being taken into custody. Despite the abuses in this court, Pulaski County continues to channel county-wide misdemeanor "hot check" cases there.

The lawsuit also makes a claim under Arkansas' "illegal exaction" law, which allows taxpayers to sue for a misuse of public tax funds. Philip Axelroth, a resident of Sherwood, represents himself and other taxpayers in condemning Sherwood and Pulaski County for their role in perpetuating the illegal debtors' prison scheme. "The unconscionable things happening in the Sherwood Hot Check Court have no place in our community," said Axelroth. "We stand with our neighbors in saying these predatory practices must stop."

To read the full complaint: <http://www.acluarkansas.org/contentitemdocuments/359.pdf>.

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About the Lawyers' Committee

The Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee), a nonpartisan, nonprofit organization, was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. Formed over 50 years ago, we continue our quest of "Moving America Toward Justice." The principal mission of the Lawyers' Committee is to secure, through the rule of law, equal justice under law, particularly in the areas of fair housing and community development; employment; voting; education; environmental justice; and criminal justice. For more information about the Lawyers' Committee, visit www.lawyerscommittee.org.

About the ACLU

Since 1920 the American Civil Liberties Union has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties guaranteed by the Constitution and the laws of the United States. With more than a million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C. to safeguard everyone's rights. For more information about the ACLU of Arkansas, visit www.acluarkansas.org; for information about ACLU Nationwide, visit www.aclu.org.

About Morrison & Foerster

Morrison & Foerster is a global law firm with a long history of litigating for civil rights and civil liberties.

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