

PRESS RELEASE

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**GOVERNMENT STOPS UNLAWFUL SOCIAL SECURITY SUSPENSIONS; AGREES
TO REPAY MORE THAN HALF A BILLION IN BACK BENEFITS**

More than 200,000 people eligible again through court settlement

Oakland, Calif. – The Social Security Administration has agreed to repay more than \$500 million in benefits that were unlawfully withheld from 80,000 people whose benefits have been suspended or denied since January 1, 2007. The agreement is part of a class action settlement preliminarily approved by U.S. District Court Judge Claudia Wilken today. In addition, people whose benefits were suspended or denied between 2000 and 2006 will be notified of the new policy and given a chance to re-establish eligibility. All told, more than 200,000 people may see their benefits reinstated and/or receive back payments due to the settlement. All beneficiaries must continue to be eligible in order to receive payments.

The settlement resolves a lawsuit, *Martinez v. Astrue*, challenging SSA's method of implementing a narrowly drawn provision of the Social Security Act. The law seeks to prevent people from using government benefits to flee from arrest. Rather than trying to figure out which Social Security recipients were actually fleeing prosecution, SSA used a computer matching system that matched names in warrant databases to those at SSA. Many of the matches and automatic benefit suspensions involved false or unproven allegations, minor infractions or long-dormant arrest warrants. Although regulations provide for an appeal process, individuals losing benefits were routinely, inaccurately informed by SSA staff that they could not appeal.

Under the agreement, SSA has stopped, as of April 1, 2009, suspending or denying benefits due to the mere existence of a warrant – unless the warrant is issued in a criminal proceeding on a charge such as flight or escape. This change in policy will benefit thousands of additional people every month from now on.

“The vast majority of class members were not fleeing at all; many never knew that criminal charges were pending against them, let alone that a warrant had been issued,” Gerald McIntyre, attorney with the National Senior Citizens Law Center (NSCLC), one of the organizations that represented the plaintiffs, said. “A common fact pattern was when someone who does not balance his checkbook is charged with writing a check with insufficient funds and doesn't learn of the criminal charges until after receiving a notice from SSA that his Social Security benefits were being suspended. Most of the people relied on these benefits for most or all of their income and ended up destitute or, in some cases, homeless when the benefits were stopped.”

In a more egregious case, the SSA automatically cut off benefits to Rosa Martinez of Redwood City, California on January 1, 2008, due to a 1980 Miami drug warrant flagged in the government's system. Ms. Martinez had never been arrested, never used illegal drugs, and had

never even been to Miami. In fact, the arrest warrant describes a woman 5'4" tall when Ms. Martinez is only 4'8."

The Social Security office told Ms. Martinez that she could not appeal and refused to give her an appeal form. "They said I had to take care of the warrant and made me feel like a criminal," Ms. Martinez said. "When I finally did appeal with help from Legal Aid, they ignored my appeal, while I worried about keeping my apartment and buying food."

During the past five years courts from Maine to California have declared the policy unlawful. Yet SSA continued to suspend the benefits of thousands of individuals each month. The impact of these suspensions was exacerbated by the fact that SSA often fails to process appeals in these cases.

While Rosa Martinez went without benefits for only a couple of months, others were not so lucky. Plaintiff Roberta Dobbs, a 75-year-old woman in Durant, Oklahoma who is on oxygen therapy 24 hours a day, went for three years without her Social Security Retirement benefits. During all this time her appeal was never processed. She exhausted her modest savings and had to rely on an open flame space heater to heat her home.

"What's remarkable about this case is the sheer number of individuals who were unfairly denied benefits and the size of the financial settlement they will receive," said David H. Fry of Munger, Tolles & Olson. "Hundreds of thousands of impoverished seniors and people with disabilities will once again receive their benefits, and countless others will avoid the same problem in the future. Most important, this settlement will enable many elders to regain their cherished sense of independence and dignity for their final years."

In addition to granting preliminary approval of the settlement agreement, Judge Wilken ordered a final fairness hearing to be held on September 24. At that hearing, Judge Wilken will hear any objections from class members and then make a final decision about whether to approve the agreement. The agreement will not take full effect until after Judge Wilken grants final approval and the appeal time has run.

The plaintiffs in the case are represented by the National Senior Citizens Law Center, pro bono counsel from the law firm of Munger, Tolles & Olson, the Mental Health Project of the Urban Justice Center, Disability Rights California, and the Legal Aid Society of San Mateo County.

For more plaintiff profiles, please visit <http://www.nsclc.org/areas/social-security-ssi/Martinez-Settlement>. There you will also find a copy of the complaint, the settlement agreement, and the motion for preliminary approval. For additional information and to schedule interviews please call Severn Williams at 510-336-9566 or sev@sevwilliams.com.

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