

## COMMUNITY VOICES

### The Difference a Lawyer Can Make

Sarah\* and Kristen Bor-Zale<sup>♦</sup>

*“I cannot go into court on my own again. . . .  
The attorney is not understanding. . . .  
I am near tears. . . .  
He said that I am lying about my disability.”*

I was surprised when I received that e-mail from Sarah, a former client. She was collection-proof—all of her income was exempt from collection—and she had dutifully submitted the proper documentation to the debt collection law firm prior to her court dates and the coverage attorney on the date of her hearing. Her case should have been dismissed, but she was caught within the inefficiencies of the coverage counsel system.

While most debtor defendants are unrepresented in Massachusetts, I am one of the few attorneys who regularly appears in the small claims sessions to defend consumers. Massachusetts reflects national trends, in which the majority of debt collection cases are brought by large corporate entities.<sup>1</sup> Because there are so many debtor defendants and so few consumer rights attorneys, my organization receives far more intakes than we can provide full representation for. We provide pro se resources for cases that we cannot take.

*I remember defaulting and needing to file a motion to remove the judgment because I missed the court date and that was when the nightmare began. Opposing counsel would never answer me regarding my hardship dismissal, no matter how many times I reached out via email.*

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\* Sarah is a former client of Greater Boston Legal Services. She agreed to use her first name and reflections for the publication of this Community Voices piece. Her reflections are italicized throughout.

<sup>♦</sup> Kristen Bor-Zale is a staff attorney within the Consumer Rights Unit at Greater Boston Legal Services. © 2026, Kristen Bor-Zale.

1. In 2023, 71.31% of consumer debt cases are filed by corporate entities. Massachusetts Trial Court Department of Research and Planning, “Small Claims and Civil Consumer Deb Actions: Selected Statistics on Cases Filed and Disposed in the Boston Municipal and District Courts,” July 2024, at 14, available at <https://www.mass.gov/doc/review-of-consumer-debt-cases-filed-and-disposed-2024/download> [<https://perma.cc/AH2Q-FYSE>].

*I remembered paying off a lot of my cards when I received my first Social Security payment, but of course being years later, I didn't have proof anymore. The lawyer they had me speak with at court pressured me by saying he was ready to go to trial that day even though I explained I didn't have proof of the payment at that time. He belittled me saying that since I didn't work, I have eight hours to get the proof. I was near tears and all he did was hold his pen in his hand and spin around in the chair paying no attention to anything I had to say, because to him, I was below him. The clerk magistrate continued it for another date so that I could work on getting proof of payment.*

*As soon as I got off that Zoom call, I immediately called customer service at my bank, but they said that they could only go back two years. I called that branch where I opened the account to see if they had additional records, but they reiterated the same thing that customer service had said, that they only go back two years. I knew I couldn't go back to facing that lawyer with that information, knowing he'd somehow make it my fault.*

Two years after I had provided the pro se resources to the former client, her case was still not resolved. She understood that her income was protected from collection, and she also believed she had paid the underlying debt when she received her disability benefits. Nevertheless, coverage counsel pressured the court to continue her case three times. She appeared at every court date, but she was thwarted. The court encouraged her to speak directly with coverage counsel. In those interactions, coverage made her feel small and helpless.

After I entered an appearance with the court, I re-sent the proof of benefits and hardship dismissal request to the collection law firm, and I followed up monthly for updates on the hardship dismissal. Before the hearing, I reviewed the scant documentation that had been e-filed. Plaintiff did not have a chain of title showing ownership nor any proof of damages.

On the day of the small claims hearing, I moved through the busy courthouse looking for the coverage attorney. I introduced myself to the coverage attorney as the consumer defendant's attorney, and I soon learned why coverage kept requesting a continuance: he had no documentation. I informed him I would not agree to a fourth continuance. This was the turning point from the earlier professional camaraderie. In the courtroom, in front of all the other litigants and attorneys, he started yelling at me, and I saw the temperament that made my client feel powerless. At the end, he rhetorically shouted, "we're just here for a case, right?!"

In the moment, I did not engage with coverage counsel's bluster. I waited for the clerk to start the session. Despite coverage counsel's attempts to further delay, the magistrate clerk heard my client's case and issued a satisfactory result in favor of my client, effective immediately. She no longer needed to worry about this debt or this coverage attorney.

Sarah texted the following message:

*Thank you. I truly feel this would not have been resolved without you. He would've quick talked the clerk into continuing it further along. I'm thankful you were there and that this is resolved. You truly are amazing for helping people like us who are unable to defend themselves against these lawyers.*

I regularly represent consumers in debt collection cases; however, I am generally treated with professional cordiality by the debt collection attorneys and coverage counsel. Because I am an attorney, it is easy to forget how much the presence of defense counsel changes the behavior of the court actors and outcome of a debt collection case.

After the hearing, I kept thinking about coverage attorney's outburst and how debtors feel when they face these situations alone. My clients often feel so much shame about their debts and their inability to pay. They are trying their best to subsist on a meager income. Further, Massachusetts law acknowledges that individuals below a certain level of poverty are unable to pay. At court, coverage was trying to distance both of us, as professionals, from the underlying reality: an impoverished, disabled woman believed she already paid this debt, yet coverage counsel seemed intent on harassing her into defaulting.

*Normal, everyday people will never be able to win against these debt collectors. I know because I was one of them. I don't know how I came into contact with a legal aid attorney, but I know she fought for me after I did everything I could on my own to win that judgement. Sadly, not everyone knows about pro bono lawyers that help low income people in these situations. We're not bad people, some of us are people that weren't dealt a good hand in life. We're not people that want to bear the weight of the anxiety of the debt collector calls and letters daily. We're all just trying to stay afloat in this thing called life. Having someone who cares about you enough to fight the good fight reminds you that humanity still exists.*

No, we were not "just here for a case." We were here because the debt collection law firm did not process my client's hardship dismissal request, and coverage did not have authority to dismiss. Instead, my client had to return to court again and again. We were here because this same coverage attorney insulted my client, leaving her near tears after each interaction. We were here because neither the debt collection law firm nor the coverage attorney filed any documents to demonstrate that they had authority to collect on this debt, and an attorney needed to make sure that justice was done. We are here to protect our clients from the abuses of the debt collection system.