

# Exhibit 4

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UPSOLVE, INC., *et al.*,

Plaintiffs,

-v-

LETITIA JAMES, Attorney General of New York,

Defendant.

Case No. \_\_\_\_\_

**DECLARATION OF PAMELA FOOHEY**

1. My name is Pamela Foohey. I am over the age of twenty-one and competent to testify to the matters set forth in this Declaration. Unless otherwise indicated, the facts stated herein are based on my review of one document, the Justice Advocate Training Guide prepared by the American Justice Movement Consumer Rights Project, which is part of Upsolve, and my personal knowledge.

2. I am a tenured Professor of Law at Benjamin N. Cardozo School of Law, Yeshiva University. Prior to joining the Cardozo School of Law, I was a tenured Professor of Law at Indiana University Maurer School of Law, from 2020 to 2021, an Associate Professor of Law at Indiana University Maurer School of Law, from 2014 to 2020, and a Visiting Professor of Law at the University of Illinois College of Law, from 2012 to 2014. I received my B.S. in

2004 from New York University, undergraduate Stern School of Business, and my J.D. in 2008 from Harvard Law School.

3. My teaching and research focus on bankruptcy, consumer finance, and commercial law. In the course of my research, I have focused on debt collection, debt collection defense, and debt collection's intersection with people filing bankruptcy. A portion of my research is empirical, including surveying people about their pre-bankruptcy financial issues, which include dealing with collection lawsuits filed by creditors and debt collectors in state courts.

4. Among other articles, my recent research on these topics includes:

- *Portraits of Bankruptcy Filers*, 56 Ga. L. Rev. \_\_ (forthcoming 2022) (with Robert M. Lawless and Deborah Thorne)
- *The Debt Collection Pandemic*, 11 Cal. L. Rev. Online 222 (2020) (with Dalié Jiménez and Christopher K. Odinet);
- *Fines, Fees, and Filing Bankruptcy*, 98 N.C. L. Rev. 419 (2020);
- *Debt's Emotional Encumbrances*, Edward Elgar Research Handbook on Law and Emotion (Susan A. Bandes, Jody Lynce Madeira, Kathryn Temple, and Emily Kidd White eds. 2020);
- *A New Deal for Debtors: Providing Procedural Justice in Consumer Bankruptcy*, 60 B.C. L. Rev. 2297 (2019); and
- *Life in the Sweatbox*, 94 Notre Dame L. Rev. 219 (2018) (with Robert M. Lawless, Katherine Porter, and Deborah Thorne).

5. Through my research, I have observed the struggles faced by many self-represented people in debt collection proceedings. People often fail to adequately assert their legal interests and rights.

6. Through my research, I also have observed that people lack access to free legal services to assist them in responding to debt collection lawsuits.

7. Failure to raise potentially meritorious affirmative defenses in and an inability to access free legal services to defend debt collection lawsuits can lead to wage garnishment, seizure of bank accounts, eviction from housing, repossession of automobiles, and harm to credit scores.

8. Judgments in debt collection proceedings also lead people to file bankruptcy to stop wage garnishments, evictions, and repossessions, and to repair their credit reports and credit scores, which is costly and time-consuming.

9. I have closely reviewed the entire Justice Advocate Training Guide prepared by the American Justice Movement Consumer Rights Project, with an emphasis on the portion of the Training Guide pertinent to the defense that people can raise in debt collection proceedings.

10. Based on my knowledge, the Training Guide provides non-lawyers sufficient information and resources that they need to help unrepresented individuals respond to debt collection complaints such that people will have the opportunity to raise potentially meritorious defenses to the complaints. An unrepresented individual, who is unable to receive free legal services, who receives personalized advice based on the Training Guide will be better off than if they did not receive such advice.

11. In part because I want to avoid any possibility of liability under rules governing the unauthorized practice of law, my review of and endorsement of the Training Guide is limited to the accuracy of the substantive information about asserting affirmative defenses in responding to debt collection lawsuits. To be clear: I do not endorse any statements in the Training Guide and attached exhibits that the Justice Advocate may provide or is or will be providing legal advice.

12. Given the limited resources available to unrepresented individuals in debt collection proceedings, particularly during the continuing COVID-19 pandemic, when debt collection proceedings are predicted to increase, allowing individuals who are not lawyers to provide carefully tailored and circumscribed assistance will significantly enhance low-income New Yorkers' ability to assert their legal rights in court.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed the 20th day of December, 2021.

A handwritten signature in blue ink that reads "Pamela Foohey". The signature is written in a cursive style.

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Pamela Foohey