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New Toolkit Empowers Texans to Defend Property Confiscated by Law Enforcement

Key questions about asset forfeiture answered

AUSTIN, Texas—Texans who have had money or property taken by law enforcement now have a new tool to help them get their belongings back.

Texas Appleseed, a public interest justice center, today launches a new online toolkit, [*Defending Against a Civil Asset Forfeiture Case*](#). The toolkit features answers to top leading questions about asset forfeiture; [animated videos](#) in English and subtitled in Spanish; sample pleadings and forms that Texans can customize; and a checklist for appearing in court, among other information. It is available at www.EndForfeitureAbuseTx.org.

“Civil asset forfeiture creates an environment where you have individuals who have not been charged with a crime – and who may never be found guilty of any crime – losing cash and property to law enforcement,” said Gabriella McDonald, an attorney with Texas Appleseed and director of Pro Bono and New Projects. “We know the original intent of the law was to deter criminal activity, but the law remains ripe for abuse, and innocent property owners pay the price.”

According to the Institute for Justice, Texas agencies reported nearly \$541 million in forfeiture funds between 2001 and 2013, a fiscal-year average of nearly \$41.6 million.

Dykema, a leading national law firm, created the foundation for the toolkit and led research efforts. “People in civil asset forfeiture cases do not have the right to court-appointed counsel, so this toolkit is designed to empower people with the knowledge they need to get their property back if they cannot afford to hire an attorney and if they cannot find free legal help,” said Jacqueline M. Allen, an attorney with Dykema. “We applaud Texas Appleseed for its work in this area and are grateful for the opportunity to partner with Texas Appleseed on this pro bono effort.”

Tips for Property Owners

“One of the biggest reasons innocent property owners lose their property after it has already been seized is that owners do not file an answer to the State’s forfeiture suit,” said McDonald. “Simply

answering will prevent a default judgment and force the State to spend more time and resources to keep an innocent owner's property.”

There are a number of defenses property owners can use to challenge a forfeiture claim. These include the "innocent owner" defense and the "family violence" defense. Property that can be taken includes cars, homes, jewelry, valuable collections, other personal items, and the most common: cash, sometimes in very small amounts.

Movement in the Texas Legislature

Two key bills filed at the legislature – [SB 380](#) (Burton) and [HB 1364](#) (Thompson) – would repeal civil asset forfeiture and instead establish criminal asset forfeiture.

“Making the process criminal would put the onus on law enforcement to prove the property was part of a crime, instead of having an owner go to great legal lengths to prove the property is not contraband,” said McDonald. “Currently, people have to dedicate valuable time, including missing school or work, and incur great expense to return to the jurisdiction where the property was taken in order to get it back.”

The animated videos – *What is Civil Asset Forfeiture?* and *Navigating the Civil Asset Forfeiture Court Process* – were produced with generous support from the Texas Bar Foundation.

About Texas Appleseed

Texas Appleseed is a public interest justice center that works to change unjust laws and policies that prevent Texans from realizing their full potential. Our nonprofit conducts data-driven research that uncovers inequity in laws and policies and identifies solutions for lasting, concrete change. For more information, visit www.TexasAppleseed.org.

About Dykema Cox Smith

Dykema, a leading national law firm, combined with Texas-based Cox Smith on May 1, 2015. In Texas, the firm operates under the name Dykema Cox Smith, while other firm offices operate as Dykema. The firm serves business entities worldwide on a wide range of complex legal issues. Firm lawyers and other professionals in 15 U.S. offices work in close partnership with clients – from start-ups to Fortune 100 companies – to deliver outstanding results, unparalleled service and exceptional value in every engagement. To learn more, visit www.dykema.com and follow Dykema Cox Smith on Twitter at <http://twitter.com/Dykema>.

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