

Client Alert - SDNY Judge Strikes Back Against Oppressive Maritime Attachments

Please click [here](#) to view a recent decision of Judge Shira Scheindlin of the US District Court, Southern District of New York, in a maritime attachment case in which she granted the order of attachment, but refused to provide that it would be continuously effective throughout the day or to permit anyone other than the US Marshal to serve the order.

The decision explains that a third of all cases filed in the Southern District are now maritime attachment cases and that billions of dollars in transfers are affected annually. The decision also observes that:

- maritime attachments are only effective if they catch property at the time of service;
- they are not effective as to wire transfers that pass through the bank after service;
- some banks have been voluntarily holding funds that pass through after service of an order, but have no obligation to do so; and
- if an order is served after the bank decides to hold the funds, then that attachment is effective as to those funds.

Due to the imposition of these orders on the banks, Judge Scheindlin refused to sign a provision in the order (which has become standard practice) making the order effective for the entire day in order to catch subsequent property. In the face of the suggestion by the plaintiffs' bar that they would have process servers serve the orders continuously through the day, the Judge refused to authorize anyone other than the Marshal to serve the order.

Judge Scheindlin is also responsible for formulating the standard form of order to be used for maritime attachments. Her decision may give an indication of what that form of order will look like.

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