Outlook

Fall 2007
77 Summer Street, 10th Fl.
Boston, MA 02110
617 542-8010
www.NCLC.org

NATIONAL CONSUMER LAW CENTER

Protecting Vulnerable Consumers and Promoting Marketplace Justice

NATIONAL
CONSUMER LAW
CENTER

Largest Gift Ever Awarded to NCLC

$2 Million *Cy Pres* to Benefit Low-Income Consumers

Overcoming the vehement objections of defense counsel, attorney Yvonne Rosmarin directed a *cy pres* award of $1.958 million to NCLC as part of the settlement of a consumer class action against Fleet Bank (now Bank of America).

Bryan Kemnitzer, chair of NCLC's Partners Council, was elated when he heard the news. "It's just a magnificent day for NCLC and for consumers across the country," he said. "An award of this size is a testament to the Center's extraordinary expertise and its commitment to justice in the marketplace."

In April, NCLC celebrated the cy pres with a lunch to honor Rosmarin in our Boston offices. In presenting her a plaque and a mock Time *Person of the Year* cover, executive director Willard P. Ogburn lauded Rosmarin's efforts.

"Yvonne's courageous and

Continued on page 2

Rosmarin at an NCLC appreciation luncheon held in her honor this spring.

Inside Outlook

NCLC Reports Expose Unfair Practices

Three new NCLC reports are calling for reform of practices that negatively affect consumers: utility payments at payday lenders; bankruptcy counseling and education requirements; and insurance credit scoring.

"These reports are bringing needed attention and scrutiny to problems that are particularly harmful to low-income consumers," said Willard P. Ogburn, NCLC executive director. "As with earlier reports we've done on issues such as credit counseling abuses, foreclosure rescue scams, and predatory lending targeted at the military, we expect they'll start momentum for positive reforms."

Utility Customers Exposed to Predatory Lenders

Within days of publication, our report "Utilities and Payday Lenders: Convenient Payments, Killer Loans" got results. The report helped persuade Arizona's three largest privately owned utililties - Southwest Gas, Tucson Electric, and Arizona Public Service - to stop using payday lenders as bill payment centers.

"It has been a stunning exodus," Kreis Mayes, a member of the Corporation Commission that regulates utilities, told the Arizona Republic. "I have never seen the utilities move so fast."

Our report describes a symbiotic relationship in which

Continued on page 12

Rosmarin Overcomes Fierce Resistance from Banking Giant, Directs $2M *Cy Pres* to NCLC

Continued from page 1

persistent advocacy for NCLC is the only reason we got this award. She was steadfast throughout the negotiations and meticulous in preparing every argument on our behalf," said Ogburn.

> It's just a magnificent day for NCLC and for consumers across the country."
>
> Bryan Kemnitzer, Chair, NCLC Partners Council

Rosmarin was the lead attorney in a hard-fought class action lawsuit against Fleet for violating the federal Truth in Savings Act and the Massachusetts Consumer Protection Act. She charged Fleet with failing to properly disclose the effective date of adverse changes to fees, including higher fees and minimum balance requirements on customer bank accounts, and engaging in other inaccurate or misleading announcements of such changes.

The case hit a roadblock when the district court ruled against Rosmarin's client on summary judgment. But Rosmarin was undeterred. With help from the law firm of Edelman, Combs, Latturner & Goodwin, she appealed to the U.S. Court of Appeals for the 1st Circuit.

NCLC *Cy Pres* Donors

July 06 – August 07

Our special thanks and appreciation to the following individuals who have generously directed court awarded funds to the Center:

- Barry Altman
- Stacy M. Bardo
- Nancy Barron
- Leonard A. Bennett
- F. Paul Bland Jr.
- Thomas E. Boland
- Scott C. Borison
- O. Randolph Bragg
- Brian L. Bromberg
- Mark A. Chavez
- Joanne S. Faulkner
- Joel Feldman
- James A. Francis
- Ronald I. Frederick
- Suzanne Garrow
- Eric H. Gibbs
- Daniel C. Girard
- Colman M. Herman
- Edwin H. Howard
- William E. Kennedy
- Bryan Kemnitzer
- Steve Larson
- Robert I. Lax
- Christopher LeFebvre
- Peter S. Lubin
- Scott Maurer
- Joseph Mauro
- Niall P. McCarthy
- David J. Philipps
- Michael J. Quirk
- Lance A. Raphael
- John Roddy
- Yvonne W. Rosmarin
- David A. Searles
- Alec B. Trueblood
- Eric Wright
- Donald A. Yarbrough

The decision was everything she could have asked for. In a 3-0 ruling, the appellate panel reversed the district court and held that Fleet had indeed violated TISA and the MCPA. Rosmarin then negotiated a settlement agreement that provided $12.5 million in damages to the class members and for leftover funds to be distributed through a cy pres remedy.

When Rosmarin recommended NCLC as a cy pres recipient, the defense reacted coolly, at best. But Rosmarin would not back down and insisted that, in fact, NCLC was an ideal recipient.

In the end, months later,

> "Yvonne's courageous and persistent advocacy for NCLC is the only reason we got this award."
>
> Willard P. Ogburn, executive director

Rosmarin's persistence and skilled negotiating tactics paid off and a settlement was reached that evenly divided leftover cy pres funds among NCLC, Greater Boston Legal Services, and City Year.

"We're enormously grateful to Yvonne for her extraordinary work on this case and for her selection of NCLC," said Mark Chavez, of NCLC's Partners Council.

NCLC's staff has begun a planning process to determine how best to use the funds on behalf of low-income consumers. "We take very seriously the responsibility that comes with an award of this magnitude. This is a once in a lifetime opportunity, and we want to take care and time to make the most of it," said Ogburn.

No stranger to NCLC, Rosmarin was a staff attorney at the Center for seven years in the late 1980s and early 1990s. She left to start a private practice in Arlington, Mass. (www.YourConsumerLaw.com) where she focuses on credit reporting, auto fraud, debt collection abuse, credit card problems, mortgage abuse, and consumer class actions.

"As a former staff attorney at NCLC I know first hand the wonderful work it does on behalf of low-income consumers and the essential support it provides consumer attorneys and advocates," said Rosmarin. "It's gratifying to know that this award will help ensure the health and vitality of the Center for many years to come."

> *Cy Pres* will help ensure the health and vitality of NCLC for many years

Lawsuit Charges Credit Reporting Agencies with Undermining Bankruptcy System

Debts Discharged in Bankruptcy, But Not According to the Credit Report

According to class action lawsuits filed by NCLC, the nation's giant credit reporting agencies are undermining the 'fresh start' that is at the heart of the bankruptcy process. After completing a Chapter 7 bankruptcy, the vast majority of a consumer's debts are discharged by a court order, which should allow the person to rebuild his finances with a clean slate. Yet over 50 percent of the time, credit reporting giants Experian, Equifax, and TransUnion continue to issue credit reports showing discharged debts as still due and owing.

"This type of error on a consumer's credit report has serious consequences," said Charles Delbaum, an attorney at NCLC who is working on the cases. "First he gets hit with negative marks for the bankruptcy. Then he is further penalized by having the old debt, which he no longer owes, still listed on his report. It means having to pay more for a loan or for insurance, and can make it harder to find a job or rent an apartment."

NCLC's lawsuits describe how the credit reporting agencies rely on the consumers' creditors (and not public court records) to voluntarily update the status of the accounts they maintain on consumers who receive Chapter 7 discharges. Unfortunately for consumers, their creditors have no incentive to update their reporting of the accounts to the credit reporting agencies. Even worse, many creditors fail to do so in order to pressure the consumer into paying the debt that was discharged in bankruptcy. And despite receiving complaints from thousands of consumers over the past several years, the credit reporting agencies have refused to address the problem.

"Millions of consumers have been effectively denied the fresh start promised by the bankruptcy laws," said Delbaum. "Inaccurate recording of discharged debts on credit reports has lowered their credit scores and made it much harder for them to rebuild and re-establish their credit. The cumulative costs are probably hundreds of millions of dollars a year in finance charges alone."

> **"Millions of consumers have been effectively denied the fresh start promised by the bankruptcy laws."**
> Charles Delbaum, NCLC attorney


Charles Delbaum, NCLC staff attorney

NCLC is co-counsel in a class action lawsuit against TransUnion and Equifax, and is also co-counsel in a separate suit against Experian. A competing class action was filed against TransUnion and Equifax, and it resulted in a proposed nationwide class settlement. Earlier this year, the court denied preliminary approval to the proposed settlement based on objections raised by a team of attorneys including, among others, Stuart Rossman and Charles Delbaum of NCLC.

The court criticized both the proposed economic relief and the settlement process. It also concluded that although the injunctive relief agreed to by the parties would have been a small improvement for some consumers, it nonetheless was unduly limited and insufficient to justify approval of the overall proposed settlement.

The court then ordered the competing cases consolidated. Discovery in these cases, as well as the one against Experian for the same misreporting practices, is now underway, with motions for class certification to follow.

In addition to NCLC's Delbaum and Rossman, the litigation team includes lead counsel Michael Sobol of Lieff, Cabraser, Heimann & Bernstein; Michael Caddell of Caddell and Chapman; as well as attorneys Leonard Bennett, Cynthia Chapman, Matt Erausquin, Charles Juntikka, Ian Lyngklip, George Nino, Mitchell Toups and Daniel Wolf.

Girard Gibbs Directs *Cy Pres* to NCLC

Eric H. Gibbs has served as court-appointed lead counsel, class counsel and liaison counsel in numerous consumer class actions throughout the country. He has successfully prosecuted over 40 consumer class action matters, including cases involving defective products, telecommunications, credit cards, unfair competition, truth-in-lending, and credit repair under both state and federal consumer protection statutes.

Upon the application of plaintiffs' counsel Girard Gibbs in San Francisco, a California Superior Court awarded a $201,857 *cy pres* award to NCLC as part of a settlement of *Paul v. HCI Direct Inc.*, a consumer class action case.

"We are thrilled that the Superior Court approved Eric Gibbs' request that NCLC receive such a generous award," said NCLC's executive director, Willard P. Ogburn.

> "...NCLC was a perfect recipient for a *cy pres* in this case. No other organization does more to fight abusive practices targeted at low-income, vulnerable consumers."
>
> Eric Gibbs

The class action was filed on behalf of consumers who responded to an offer for free Silkie-brand hosiery from HCI Direct, Inc. The lawsuit alleged that HCI failed to adequately disclose the terms and conditions of its continuity sales program and billed customers for hosiery that they did not order.

After the case was certified as a class action in December 2005, the parties reached a settlement consisting of injunctive relief and a cash fund of up to $9,000,000. A final fairness hearing was held and the court approved the settlement as fair, reasonable, and adequate to the class.

"Eric has secured a wonderful victory for consumers," said Ogburn. "We will use these funds to protect consumers from similarly exploitive schemes."

According to Gibbs, the settlement provided refunds for former and current customers, addressed the company's marketing practices, and stopped all debt collection activity, among other benefits.

"I always thought NCLC was a perfect recipient for a cy pres in this case," said Gibbs. "No other organization does more to fight abusive practices targeted at low-income, vulnerable consumers."

NCLC Honored with NLIEC Award

The National Low Income Energy Consortium honored NCLC with its 2007 NLIEC Achievement Award in recognition of the Center's consistent leadership in championing low-income issues.

Speaking at NLIEC's June conference in Nashville, NLIEC chair Cindy Datig said, "Through the tireless efforts of the NCLC, our nation's most vulnerable energy consumers are ensured of having a positive voice speaking up on their behalf."

NCLC' energy advocates include Olivia Wein-also a member of NLIEC's board of directors, John Howat, and Charles Harak.

$100,000 *Cy Pres* to Help Hurricane Victims

Bennett's *Cy Pres* Aids Victims of Katrina and Rita

Attorney Leonard A. Bennett has directed a *cy pres* award to NCLC of $100,000 to help victims of Hurricanes Katrina and Rita. The cy pres resulted from a settlement agreement in the class action *Linares v. First Equity Card Corporation.*

"Two years after the disaster, Gulf residents and evacuees are still facing enormous financial and personal challenges," said Willard P. Ogburn, executive director of NCLC. "We are incredibly grateful to Len for all that he did to direct us this cy pres. The need for help with consumer problems is still acute and these funds will allow us to make a real difference."

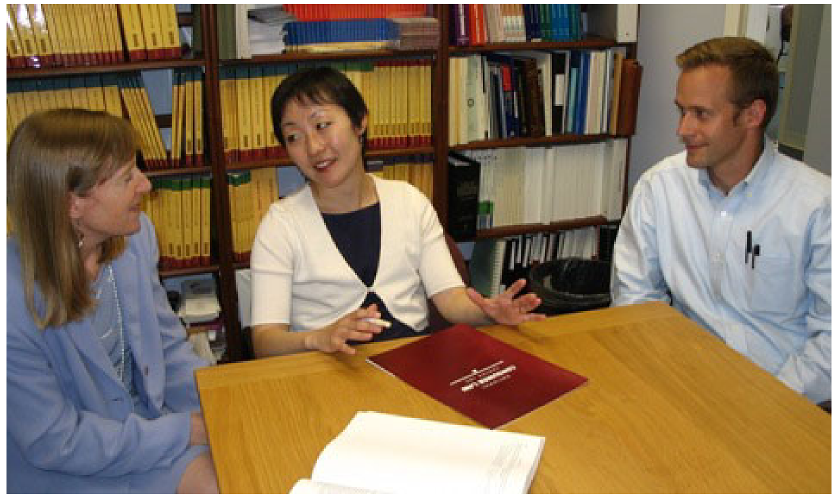
Under the direction of attorney Alys Cohen, NCLC plans to hold regional trainings that will address home improvement, predatory lending, and foreclosure rescue scams. Individual case consultations will also be provided to advocates in the Gulf.

The award will also be used to help match the challenge grant issued by the Sandler Family Supporting Foundation.

Bennett has been in private practice since 1998 in Newport News, Virginia. His practice is focused on the representation of consumers. He has litigated cases throughout the country and is currently involved in cases throughout Virginia and in California, North Carolina, Maryland, Michigan, Ohio, Connecticut, Pennsylvania, Rhode Island, and Arizona. He is also a contributing author to NCLC's practice manual "Fair Credit Reporting" (2006).

Kellogg Taps NCLC to Join in National Rural Network

Five-Year Initiative to Build Prosperous, Sustainable Rural Communities



Staff attorneys Olivia Wein (center) and John Van Alst (right), co-directors of NCLC's Rural Initiative, discuss plans for the new project with Lauren Saunders (left), managing attorney of our Washington, D.C. office.

NCLC has received a $100,000 grant from the W.K. Kellogg Foundation to take part in the Foundation's Rural People, Rural Policy Initiative. With the goal of producing healthy, sustainable rural communities with widely shared economic prosperity, the Initiative is building a nationwide network of rural advocates and organizations.

"We're thrilled that Kellogg asked us to participate in this unique project," said Olivia Wein who is co-director of work on the grant with John Van Alst. "As a five-year initiative, it will give us the time to build strong relationships with a broad network of organizations working in rural communities."

According to Wein, one of NCLC's top priorities is to help low-income rural communities gain access to fair and affordable utilities, home mortgages, car loans, and other important consumer financial services. In May, Wein and Van Alst traveled to Nebraska City, Nebraska for a week-long peer learning session with scores of other local, regional, and national organizations.

Kellogg has divided grantees into six rural policy networks: National Organizations (of which NCLC is a part), Central Appalachia, the Mid South, the Great Plains, the Southwest, and an At-Large group.

Energy Costs Threaten Elder Independent Living

People over 65 are the fastest growing segment of the U.S. population. This demographic shift poses many challenges, including the need to help elders age in their own homes. But a new NCLC report reveals that the option of living independently is increasingly at risk because of the extraordinary burden of soaring energy costs.

"Home Energy Costs: The New Threat to Community Independence and the National Movement In Support of Aging in Place," written by John Howat of NCLC and Philene Taormina of AARP, analyzes the severity of the growing energy crisis, and suggests ways to enhance elder access to vital energy and utility services. It concludes that the energy security needs of lower-income elders require particular attention, since these households must devote a greater proportion of income to basic energy and utility service than for their higher-income counterparts.

Funded by a grant from the Borchard Foundation Center on Law and Aging, the report charts the dramatic rise in energy costs and its effect on elder finances. It reveals that in the past 10 years, natural gas prices in the U.S. have more than doubled. Propane prices in the Midwest and South have also more than doubled and home heating oil prices in the Northeast have increased by close to 150 percent.

Elder finances are further strained by the type of appliances they use. "Our report found that low-income elder households are more likely to use old, inefficient energy-consuming appliances and heating equipment," said Howat. "In fact, poor elder households are nearly twice as likely as non-poor elder households to use a refrigerator that is over 20 years old."

According to Howat, elders must be protected from losing service harsh weather and in cases of serious illness. He also decried onerous late fees and security deposit requirements that utility companies impose on low-income customers.

"The burden of energy costs undermines home energy security and, as a result, the ability of many elders to remain safely in their homes," said Howat. "If we're serious about supporting independent, community living, policymakers must expand energy efficiency and payment assistance programs and enhance consumer protections needed to ensure access to vital home energy and utility services."

Consumer Issues Are Hot on the Congressional Agenda

Congress Has New Awareness of Need to Protect Consumers from Financial Abuse

The change in control in Congress, coupled with the foreclosure crisis, has brought renewed attention to consumer issues on Capitol Hill. Since the beginning of the year, Congress has held several hearings on consumer concerns, including mortgage lending, credit cards, mandatory arbitration, abusive overdraft fees, credit reporting, preemption of state laws, and inadequate enforcement of consumer protection laws by federal banking agencies. NCLC's Washington and Boston staffs are often in the thick of it, testifying before congressional committees and responding to requests for information on the concerns of low-income consumers and the likely effect on them of proposed changes.

"The change has been remarkable," said Lauren Saunders, managing attorney of NCLC's Washington, D.C. office. "In the past, our work was almost entirely defensive. This year, all of our efforts are directed towards improving protections for consumers."

For example, both the House and the Senate have held several hearings on problems in the subprime mortgage market and bills have been introduced by Senators Charles Schumer (D-NY) and Jack Reed (D-RI), and Representative Keith Ellison (D-MN). Congress has focused on the growing practice of unaffordable loans; new products such as exploding adjustable-rate mortgages that are inappropriate for many borrowers; and help for hundreds of thousands of homeowners facing foreclosure.

At several hearings on credit cards, legislators from both parties have criticized abusive and astronomical penalty fees and rates, "any time any reason" interest rate increases, and the bank practice of applying payments first to the balance carrying the lowest interest rate, among other issues. Senator Carl Levin (D-MI) has helped especially to focus attention on the issue and has a bill that, among other things, would cap penalty rates at 7 percentage points above the base rate. Several other bills have also been introduced. The attention has already convinced some banks to modify their practices.

> "In the past, our work was almost entirely defensive. This year, all of our efforts are directed towards improving protections for consumers."
>
> Lauren Saunders, managing attorney, NCLC Washington office

A bill by Senator Chuck Grassley (R-IA) that would ban mandatory arbitration clauses in contracts with poultry and livestock farmers has passed an Agriculture subcommittee and is expected to be heard by the full committee shortly. Last year, Congress banned such clauses in loans to military service members. Representative Hank Johnson (D-GA) just introduced a bill to ban mandatory arbitration clauses in all consumer contracts, and a House Judiciary subcommittee held a hearing on arbitration abuses.

> "...the new atmosphere has definitely raised awareness in Washington and helped educate many legislators about the importance of consumer issues to their constituents."
>
> Lauren Saunders

Although the Democrats' new leadership role in Congress has been a major factor in the new focus on these and other consumer issues, support for consumers is not a partisan issue. "We have friends and foes on both sides of the aisle," Saunders said. "Although Democrats tend to be more supportive of consumers, we have important Republican allies, and the financial industry contributes heavily to and has a lot of influence with both Republicans and Democrats."

Whether any of these efforts will actually result in new laws remains to be seen. Both Senate Banking Committee Chair Chris Dodd (D-CT) and House Financial Services Committee Chair Barney Frank (D-MA) have been reluctant to introduce legislation in the areas discussed above, though both have held hearings and have berated the federal agencies for not doing more to protect consumers. Both have also indicated that legislation may be in the works.

"Even if no significant legislation passes this year," Saunders said, "the new atmosphere has definitely raised awareness in Washington and helped educate many legislators about the importance of consumer issues to their constituents."

NCLC Fights for Consumer Rights

Error-Filled Credit Reports Must Be Fixed

Chi Chi Wu, NCLC staff attorney, testified before the House Committee on Financial Services in June. Her testimony highlighted credit report inaccuracies, such as files mixing the ident-ities of consumers, stale infor-mation, identity theft, and other problems.

Wu was blunt in her criticism of the nation's giant credit reporting agencies. "The American credit reporting system continues to be plagued by errors, and its safety net mechanism to correct those errors is broken," she said. "The CRAs have the ability to address these errors by revising their systems, but have chosen not to do so."

Wu pointed out that consumers should be given the right under the Fair Credit Reporting Act to ask a judge to tell the CRAs and furnishers: "Fix the error on my report." According to Wu, "The credit reporting industry will only improve if Congress or the regulators take action."

Appliance Efficiency Standards Help the Poor

On May 1, 2007, NCLC's Charles Harak testified on energy efficiency standards before the House Subcommittee on Energy and Air Quality. Harak's testimony stressed that low-income consumers would benefit from stronger appliance efficiency standards, particularly for boilers and furnaces that tend to be older and performing below their rated efficiency. He also noted that most low-income households are renters and typically do not decide when to replace aging appliances. Property owners will often install cheaper and less efficient appliances because the tenants, not the owners, bear the higher energy costs.

"Congress and DOE should be taking an aggressive approach when it comes to setting efficiency standards for boilers, furnaces, and other major appliances," urged Harak.

NCLC has been urging DOE to adopt a 90 percent AFUE (annual fuel utilization efficiency) standard for gas-fired furnaces in colder states, much higher than the 80 percent nationwide standard proposed by DOE .

Proposed Regs Leave Gaping Loopholes for Predatory Lenders

NCLC and other consumer groups urged the Department of Defense to make significant changes to the Pentagon's proposed regulations under the Military Lending Act. In comments submitted in June, the groups criticized the proposal for leaving loopholes large enough for payday, auto title, and other predatory lenders to slip through, letting them gouge military borrowers without regard to the act's 36 percent interest rate cap.

The Pentagon's proposal limits the act to payday, auto title, and refund anticipation loans, and defines those so narrowly that many similarly structured high-cost products already on the market will not be subject to the 36 percent cap.

"We just can't allow predatory lenders to ignore these borrower protections, especially the interest rate cap," said NCLC's Lauren Saunders. "A 36 percent cap not only stops price gouging by loan sharks, it stops loan flipping too. Predatory lenders just don't find it worth their while to target military families at 36 percent, though legitimate businesses have no problem operating at that limit."

Abusive Credit Card Tactics Squeeze the Vulnerable

NCLC called on Congress to end reckless and abusive lending by credit card companies in testimony by Alys Cohen, NCLC staff attorney, before the Senate Permanent Subcommittee on Investigations in March.

Her testimony, which received widespread media coverage, discussed a long list of credit card abuses, including junk fees, penalty rates, universal default, unilateral change in terms, and mandatory arbitration clauses. "Credit card companies push debt on people without caring about whether folks can afford to pay it back," said Cohen. "The companies profit either way, but many Americans are being buried under a mountain of debt. "

30 Years Later, Debt Collection Horrors Continue

Marking 30 years since the Fair Debt Collection Practices Act was passed, the Federal Trade Commission solicited comments on the state of debt collection. NCLC and the National Association of Consumer Advocates submitted comments which exposed the debt collection industry's practice of pursuing consumers even when shown that they have the wrong person or the debt has been paid.

"The phenomenal growth of the debt buyer industry – which did not exist 30 years ago – has also increased the abuses tremendously," said Lauren Saunders, managing attorney of NCLC's DC office.

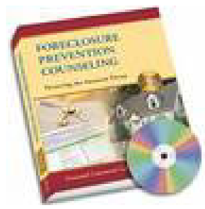
Saunders explained that debts that may be a decade or more old are now sold in bundles to debt buyers for pennies on the dollar. She said that debt buyers then file cases by the thousands in overworked courts.

"The courts typically enter default judgments even if the collector has no proof that the consumer owed the debt, that the amount owed is legal and correct, or that the debtor being sued is the right person."

NCLC Helps Foreclosure Prevention Counselors

On top of working to change federal mortgage policy, NCLC is helping housing counselors on the front lines of the foreclosure crisis. In cities around the country, NCLC is teaching a series of substantive workshops on foreclosure prevention and stopping predatory mortgage lending.

During 2007 NCLC has led workshops in Atlanta, Albuquerque, Boston, and Phoenix, and a training is scheduled for Washington D.C. in August.



NCLC has also released a timely new book: *Foreclosure Prevention Counseling: Preserving the American Dream*. Written by Odette Williamson, Elizabeth Renuart, and Mark Benson, it is a practical guide for counselors assisting homeowners threatened with foreclosure. It provides detailed advice to help advocates understand and challenge abusive practices. It also reviews ways families can reduce expenses, increase income, and avoid loans that can get them into even more trouble.

Special Project Grants

Since our last **Outlook** we have received several new grants in support of our special projects. NCLC thanks the following funders:

Energy Foundation: $150,000 over two years for the Appliance Standards and Low-Income Energy Project, which promotes stronger efficiency standards for residential appliances (including boilers and furnaces) and advocates for policies that make energy and utilities more affordable for low-income households. Charles Harak (project director), John Howat, and Olivia Wein staff this project.

California Consumer Protection Foundation: $25,000 to fight for significant improvements to the Universal Lifeline Telephone Service program in California and to prevent the Federal Communications Commission from undermining state protections against unfair telecommunication practices. Olivia Wein is the project director.

U.S Administration on Aging: $150,000 to improve the quality and accessibility of legal assistance for older Americans who have been victimized by scams and abuses in the consumer marketplace; and to reduce the number of elders who fall prey to consumer scams and abuses. Odette Williamson is the project director.

Consumer Protection and Education Fund of the Attorneys General ($32,286) and the **National Conference of Bankruptcy Judges** ($30,000) for the Bankruptcy Relief Project, which educates lawyers about the new bankruptcy Act and offers innovative solutions for the challenges that attorneys will face when representing their clients. John Rao is project director.

NCLC Calls on Congress and FRB for Action on Foreclosure Crisis

Fueled by reckless and predatory lending in the subprime mortgage industry, a record number of homeowners are losing their homes to foreclosure. Over 1 million foreclosures were recorded in 2006, and a higher total is expected for 2007.

A flurry of hearings has been held on Capitol Hill in recent months, but it remains unclear what Congress or federal regulators will do to end the widespread, abusive practices in the subprime mortgage market. "For starters, the mortgage industry must be required to underwrite subprime mortgage loans to ensure that the homeowner can afford the payments," said Alys Cohen, an NCLC attorney. "Lenders should be required to verify the borrower's income and should provide flexible arrangements to help borrowers who are in default to avoid foreclosure."

In addition to pressing for Congressional action, NCLC is calling on the Federal Reserve Board to use its rulemaking authority under the Home Ownership and Equity Protection Act (HOEPA) to protect consumers. In a joint letter, the nation's leading consumer groups implore the Fed to act on a variety of fronts, including banning prepayment penalties, requiring escrowing for taxes and insurance, and prohibiting "stated income" or "low doc" loans.

> "This is a crisis that demands immediate action."
>
> Alys Cohen, NCLC attorney

"Congress has already given the Fed clear authority to ban unfair or deceptive acts and practices in home mortgage transactions," said Cohen. "This is a crisis that demands immediate action."

Cy Pres To Benefit Low-Income Consumers in Montana

NCLC has received a $100,000 *cy pres* from a class action settlement in *Wombold v. Associates Financial Services Co*. The cy pres distribution was ordered by District Court Judge Julie Macek, based on the recommendation of class counsel Thomas E. Boland of Great Falls, Montana.

NCLC's Will Ogburn expressed his gratitude to Boland and his former co-counsel Jerry Lynch for their work on the case. "They labored for seven years against huge odds and giant law firms. And they did a superb job in getting the Montana Supreme Court to hold that the state's Consumer Loan Act did not allow non-bank lenders like Associates to charge points or origination fees on real estate loans."

> "They labored for seven years against huge odds and giant law firms. And they did a superb job ..."
>
> Willard P. Ogburn, executive director

NCLC will use the award to help low-income consumers in Montana, in partnership with the Montana Legal Services Association. In addition, the award will be used to help match the challenge grant issued by the Sandler Family Supporting Foundation.

Boland said he was delighted to have the award go to NCLC. "It's a wonderful opportunity to put NCLC's unmatched consumer law expertise to use for the benefit of low-income people in Montana. I'm very pleased to see this award go to such a top-notch organization," he said.

For information on how you can craft a cy pres for NCLC, contact Rich Dubois or Willard P. Ogburn at 617 542-8010.

We Appreciate Your Generous Support

NCLC is fortunate to receive funding from many foundations, corporations, and government agencies. We thank the following for their generous support over the past year

AARP
Action Inc.
American College of Bankruptcy
Borchard Foundation Center on Law and Aging
Boston Bar Foundation
Boston Foundation
California Consumer Protection Foundation
Consumer Protection and Education Fund of the Attorneys General
Annie E. Casey Foundation
CFED
City of Boston
Energy Foundation
Fannie Mae Foundation
Paul and Phyllis Fireman Charitable Foundation
Ford Foundation
Foundation for Credit Education
Freddie Mac
Institute for College Access and Success
W.K. Kellogg Foundation
Massachusetts Legal Assistance Corporation
George H. and Jane A. Mifflin Memorial Fund
National Conference of Bankruptcy Judges Endowment for Education
Proskauer Rose LLP
Retirement Research Foundation
Sandler Family Supporting Foundation
John H. and H. Naomi Tomfohrde Foundation
U.S. Administration on Aging
U.S. Department of Housing and Urban Development

Thank You!

Our thanks to those individuals, firms, and organizations listed below who have provided generous support in the past year for NCLC's annual advocacy initiatives and conferences. Asterisks indicate those NCLC supporters who have donated to the Center for at least the last five years - our special thanks to them. Donors who have supported our Building Campaign will be listed in our Campaign Update available later this fall.

Leadership Circle
$5,000+
Timothy E. Eble*
Proskauer Rose LLP

Benefactors
$2,500-4,999
Michael Malakoff*
Dolores Silva Smith*
Thomas A. Tarter*

Advocates
$1,000-2,499
James L. Brown*
Sheldon V. Burman
Anthony B. Ching*
Hemenway & Barnes*
Jean B. Hill
Robert B. Hinsley
Jerome S. Lamet*
Christopher LeFebvre
Arthur D. Levy
Michael J. McCrann
NGRID
Augustin H. Parker
David J. Philipps
James Shedden*
James C. Sturdevant*
Tuscon Electric Power

Good Friends $1-999
AARP Foundation Litigation*
Anonymous
Harold I. Abramson
David C. Alford
Doug Antonik
Elizabeth Arleo
Roland Arteaga
Roy E. Barnes
John W. Barrett
Joseph R. Bazan
Steven N. Berk
David F. Black*
J. Thomas Black*
F. Paul Bland Jr.
William H. Blessing
Brian L. Boger
Robert F. Brennan
William J. Brennan Jr.
Alana Brenner*
Mark B. Brenner
Jim Breslauer
Carol McLean Brewer and Andrew J. Ogilvie
Stephen Brobeck
John G. Brooks
Paul A. Brooks*
Matthew Brownfield
Barbara E. Buckley
Jessica Budnitz
Mark E. Budnitz*
Bruce A. Burke
Constance P. Carden
Case, DiGiamberardino & Lutz
Penny Hays Cauley
Gail E. Chester*
Daniel E. Claggett
Clark County Legal Services*
Donald F. Clifford Jr.*
Charles W. Cobb
Andrew Cogdell*
Barry Cohen*
Gwendolyn Connolly
Michael J. Cox
John J. Curtin Jr.
Bradford L. Daley
David Dawson
Deborah M. DeMack
Ishbel Dickens
Nicholas J. DiNardo
Thomas Domonoske*
Karen Smith Drew
Peter Drymalski*
Lynn Drysdale
Barry R. Eichen
Marley Ford Eiger*
Kenneth J. Eisner
Khalid Elhassen
Kathleen Engel
Peter Engel
David and Marian Entin
John L. Fallat
N. Victor Farah
Joanne S. Faulkner*
Cheryl D. Feuerman*
Michael G. Figgins
Gary I. Finklea
Frank Fischer
James B. Fishman
Mary Fons*
Wood R. Foster Jr.
Jean Ann Fox
Henry A. Freedman
Ellen G. Friedman
Andrew J. Garcia
Robin L. Godfrey
Dennis Goldstein
Sharon Grace
Susan M. Gray
Louis M. Green
Francis B. Greene
Michael Greenfield*
Robert Neil Grossbart
Kathryn Harlow
Paul A. Herman
Dorothy Herrera Settlage
Gail Hillebrand
Caswell O. Hobbs
Steven Hollimon
Janet K. Hong
Robert L. Hunter*
Cheryl L. Hystad
John R. Jones
Katherine J. Jones
DeVonna Joy*
Richard S. Kanter
Ellen Holland Keller
John R. Keller
Susan N. Kelly*
Ronald J. Kim
Eugene Kimmelman
James A. Kowalski
Robert Krughoff
Michelle Ku
Norman K. K. Lau*
James F. Ledford
Irene Leech*
David A. Leen and Sheila M. O'Sullivan
Gary Leshaw*
Seth R. Lesser
Roberta Leviton*
Mark H. Leymaster
Reginald C. Lindsay
Bruce Lippman
Chris Luzzie
Sue Lyon
Peter L. Maier
Mont I. Martin
Scott Maurer*
Mallam J. Maynard
Ed Mierzwinski
Paul G. Minoletti
Carl J. Mollica
Michael J.S. Moriyama
Michael A. Mullett
Robert W. Murphy
Gary H. Nash*
Michael O. Nelson
Philip Nowicki*
Lowell C. Paul*
Donald E. Petersen
Mark Pettit
Richard A. Pizzo
Stan Platke
Raphael Podolsky*
Mary Dee Pridgen*
Kenneth D. Quat
Salvador C. Ramirez
Anne Marie Regan
Charles N. Riley
Anthony Roberti
Charles Roedersheimer
Toby Rothschild
Richard J. Rubin*
Robert and Sloan Sable*
Ernest L. Sarason*
Cathy Schoen and Lawrence Zacharias
Scott Schofield
Richard R. Schwabe
Myrna Serrano
Gary D. Sesser
Bonnie S. Shane*
Marshall S. Shapo*
Mary B. Spector
Thomas H. Stanton*
Andrea Bopp Stark
Kevin Stein
Mark H. Steinbach*
Patricia Stelzner
Albert Sterman
James A. Sturdevant
Stephen L. Swann
Michael Tankersley
Gerald J. Thain
Victor S. Thomas
Vance P. Truman
John N. Ukegbu*
Paul M. Uyehara*
William T. Vukowich
G. Ray Warner
Kevin A. Waterbury
Thomas W. Weeks
Carol and Jack Werner
Alan M. White
Nick Wooten
Michael C. Worsham
Peter S. Wright Jr.
James Youngerman
George J. Zweibel

Dear Friends:

As you can see from Outlook's annual list of NCLC donors, many of you have given generously to NCLC this past year. I sincerely thank you for that. Each of your gifts - large or small - has helped make possible our advocacy on behalf of low-income consumers. You have helped us make a difference.

I want to especially thank and recognize those we're calling our Triple A - or Again And Again - Donors. We've put an asterisk by their names on the list to the left.

These generous contributors have given NCLC annual donations for at least the last five years. Many began supporting NCLC so far back that our current computer system can't even give us an accurate record!

We appreciate each of your gifts- whether it's your first or your 10th - because each one helps fund important NCLC advocacy efforts that, for lack of resources, might otherwise have to go undone. And your gifts also encourage us in our work. Each time you make a gift, you're telling us that you think what we do is important and that you value our work. We appreciate your confidence.

Thanks to all of you for helping and supporting us.

Willard P. Ogburn
Executive Director

NCLC Staff

John Beck, Administrative/Technical Assistant
Sarah Byrnes, Campaign Manager for AFFIL
Carolyn Carter, Deputy Director for Advocacy
Alys Cohen, DC Office, Attorney
Eleanna Cruz, Administrative Assistant
Suzanne Cutler, Development Director
Charles Delbaum, Attorney
Jen Douglas, Loan Repository Project
Richard DuBois, Development Director
Shannon Halbrook, Publisher's Assistant
Charles Harak, Attorney
Megan Harrington, Publications Assistant
Robert Hobbs, Deputy Director
John Howat, Energy Advocate
Danijela Jankovic, Assistant to Director of Finance
Rick Jurgens, Consumer Advocate
Margaret Kohler, Director of Finance
Svetlana Ladan, Operations Manager
Denise Lisio, Supervising Legal Editor
Deanne Loonin, Attorney
Ava Morgenstern, Development Assistant
Willard P. Ogburn, Executive Director
Debbie Parziale, Office Manager
John Rao, Attorney
Elizabeth Renuart, Attorney
Stuart Rossman, Director of Litigation
Lauren Saunders, Managing Attorney, DC Office
Margot Saunders, Of Counsel
Eric Secoy, Legal Editor
Jon Sheldon, Attorney
Stacy Smith, Customer Services Manager
Mallory SoRelle, Research Assistant
Dorothy Tan, Legal Editor
Diane Thompson, Of Counsel
Tara Twomey, Of Counsel
John Van Alst, DC Office, Attorney
Olivia Wein, DC Office, Attorney
Shirlron Williams, DC Office, Office Administrator
Odette Williamson, Attorney
Donna Wong, Publications Director
Chi Chi Wu, Attorney

HELP

NCLC make a difference

___I enclose a check for $________
___I pledge a gift of $________payable over ____ years.
___Please charge $________ to Visa/Mastercard
#________________________ expiration date__________

Signature______________________________
Name______________________________
Address______________________________
____

Please make your tax-deductible contribution payable to
National Consumer Law Center, Inc.
77 Summer Street, 10th Fl.
Boston, MA 02110

Or make a donation on our secure website
www.NCLC.org

NCLC Partners Council

Leadership for NCLC

Chair: Bryan Kemnitzer
Roy E. Barnes
Bernard E. Brown
James L. Brown
Elizabeth J. Cabraser
Sheila Canavan
Mark A. Chavez
William H. Crowder
Michael D. Donovan
Timothy E. Eble
Cary L. Flitter
Robert S. Green
Kathleen E. Keest
William M. Krieg
Robert I. Lax
Arthur D. Levy
Seth R. Lesser
Michael P. Malakoff
Niall P. McCarthy
Daniel J.Mulligan
John T. Murray
John Roddy
Howard Rothbloom
James C. Sturdevant

Outlook

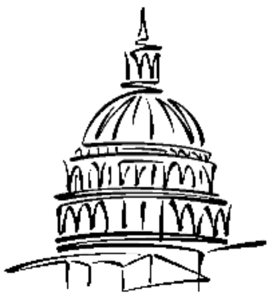
OUTLOOK, a publication of the National Consumer Law Center, is intended to inform our supporters about the Center's advocacy and fundraising activities.

For additional information on NCLC or to be placed on the OUTLOOK email subscription list, write or email:
National Consumer Law Center
OUTLOOK
77 Summer Street, 10th Fl.
Boston, MA 02110
scutler@nclc.org

NATIONAL CONSUMER LAW CENTER

NATIONAL
CONSUMER LAW
CENTER

77 Summer Street, 10th Fl.
Boston, MA 02110



See you in Washington at our Consumer Rights Litigation Conference, November 8-11, 2007

NCLC Reports Call for Change

Continued from page 1

utilities use payday lenders as an inexpensive way to provide locations for customers to pay utility bills in person. Payday lenders, in turn, covet the traffic of potential customers for their ultra-high-cost loans.

Utilities direct customers to more than 650 licensed payday loan stores. Other payday lenders so value exposure to susceptible bill payers that they bypass licensing arrangements and offer unauthorized utility payment services.

Bankruptcy Counseling Must Be Improved

New counseling and financial education requirements imposed on debtors by the 2005 bankruptcy law have so far failed to deliver measurable benefits, according to Deanne Loonin and John Rao, principal authors of a new NCLC study. "New Burdens but Few Benefits: An Examination of the Bankruptcy Counseling and Education Requirements in Massachusetts" questions the value of making consumers spend time and money on counseling before filing for bankruptcy when creditors and agencies can offer no real alternatives to bankruptcy.

"Consumers can be counseled and educated, but at the end of the day, if there are no good alternatives to bankruptcy, there isn't much value to the effort," said Loonin.

The report also found problems related to the accessibility and affordability of the counseling, as well as the effectiveness and accuracy of the information provided.

A Critical Look at Insurance Credit Scoring

A new NCLC report calls on states to outlaw the use of credit scores in setting insurance rates. "Credit Scoring and Insurance: Costing Consumers Billions and Perpetuating the Economic Racial Divide" documents many insurance credit scoring problems and summarizes numerous studies indicating enormous racial disparities created by credit scoring. "Credit scores are essentially a numerical expression of the huge economic divide we have based on race in this country," noted Chi Chi Wu, NCLC staff attorney and primary author. "As such, the use of these scores in insurance perpetuates and reinforces this racial wealth divide."

The NCLC report includes an analysis by Birny Birnbaum of the Center for Economic Justice on how insurance credit scores could cost consumers up to $67 billion annually. According to Birnbaum, "Insurance credit scoring is truly 21st Century redlining. Contrary to insurer claims that insurance scoring is simply about accurate risk assessment, insurers' use of consumer credit information has led to huge increases in insurer profits and excessive rates."