Newsletter
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Outlook

NATIONAL **CONSUMER LAW** CENTER

LANDMARK DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT IS SIGNED INTO LAW

A New Era for Consumer Protection

Marking the culmination of a long, hard fought battle, on July 21, 2010 President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act, the most sweeping victory for consumer rights in decades.

"This is an extraordinary victory for consumers, especially for low-income people who are most often targeted for the most abusive financial products," said Willard P. Ogburn, executive director of NCLC. "The historic establishment of a Consumer Financial Protection Bureau sends a clear message that the era of deregulation is finally over," he said. "It is gratifying to have a regulator that will put consumers first and work vigilantly to stop the predatory practices that helped bring down our entire economy."

NCLC, working with a broad coalition of consumer organizations, overcame intense opposition from the banking industry and its well-financed lobbyists. As the mammoth bill was drafted and amended, policymakers turned to NCLC again and again for our deep expertise on a wide range of consumer issues and to ensure that the unique needs of low-income consumers were taken into account.

In addition to creating the CFPB, the Dodd-Frank Act makes scores of changes to the Truth in Lending Act, the

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Inside Washington

by Lauren Saunders, Managing Attorney in NCLC's Washington office

Consumers will soon have a new sheriff in Washington to protect them, backed up by a considerable posse. Finally, the creation of the Consumer Financial Protection Bureau means that consumer protections will come out from under the thumb of bank regulators.

For years, our clients have struggled with mortgages designed to fail, credit cards chock full of tricks and traps, debit cards designed to trigger overdraft fees, payday loans that would make loan sharks blush, student loans that crush young adults as they start their careers, credit reports

continued on Page 10

Lauren Saunders and Elizabeth Warren at the bill signing ceremony for the Dodd-Frank Wall Street Reform and Consumer Protection Act.

At the end of the day, all of the Wall Street and industry money in the world could not overcome the compelling fact that we needed change, and change in a big way.

LAUREN SAUNDERS

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Outlook

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Grant to Fund AG Attendance at NCLC Conference

NCLC is delighted to announce it has received a special grant from the **Consumer Protection and Education Fund** to fund the attendance of Assistant Attorneys Generals from all 50 states and the District of Columbia at the 2010 Consumer Rights Litigation Conference in Boston.

Support for AAG attendance is vital this year given deep cuts to state training and travel budgets. In addition to the state AAGs, NCLC expects the conference to attract close to 900 people, including consumer attorneys and advocates, policymakers, journalists, foundation officials, and others.

CONSUMER RIGHTS LITIGATION CONFERENCE
& More!

Boston, Massachusetts
November 11-14, 2010

Complete information is available at
www.NCLC.org

Philipps Directs Record Number of *Cy Pres* to NCLC

David J. Philipps

Back in the mid-1990s David J. Philipps directed one of our very first *cy pres* to the Center. (Our records are too unclear to definitely call it the first court award, but we believe it may be.) Since that time Philipps has directed 50–yes 50–*cy pres* to NCLC!

"We're incredibly grateful to Dave for his pioneering approach to supporting NCLC through *cy pres*," said Willard P. Ogburn, NCLC executive director. "Over the years *cy pres* have become a major funding source for NCLC and by example Dave has led the way.

"From time to time, defendants have objected to NCLC as a recipient, but Dave has persisted until NCLC is awarded it. We're grateful for his continuing persistence."

Philipps, who has been practicing law since 1987, is recognized as an expert in the Fair Debt Collection Practices Act and is a frequent speaker on it at NCLC litigation and fair debt conferences. He is a partner with his sister Mary E. Philipps in the firm of Philipps & Philipps, LTD, in Palos Hills, Ill. The firm specializes in illegal debt collection actions and improper credit reporting practices and also represents consumers and clients in estate planning, personal injury and real estate matters.

NCLC Helps Direct $300,000 *Cy Pres* Awards to Deserving Non-profits

After distribution of the settlement funds in Hood vs Santa Barbara Bank & Trust, NCLC and its co-counsel designated remaining funds to five organizations approved by the California Superior Court which, over the objections of a third party defendant, were determined to provide services beneficial for the class or similarly situated persons.

"We were pleased to successfully settle the Hood case and to distribute as much of the settlement funds to those class members we were unable to identify and locate. We were gratified be able to designate five very worthy organizations to receive $300,000 remaining from the settlement funds despite our diligent efforts," said Stuart Rossman, NCLC litigation director. "NCLC itself is often a recipient of court awards and we know just how important and beneficial such unrestricted funds can be."

Organizations receiving the court awards are:

- $75,000 - California Reinvestment Coalition
- $75,000 - Consumer Action
- $50,000 - Equal Justice Works
- $50,000 - Katharine and George Alexander Community Law Center
- $49,528 - Watsonville Law Center

Plaintiffs in Hood had applied for Refund Anticipation Loans from Santa Barbara Bank through Jackson Hewitt offices that prepared their tax returns. Santa Barbara did not give them RALs, but collected their funds, without proper notice according to the Plaintiffs, to pay alleged debts Plaintiffs owed to one of the Cross Defendants (other RAL providers) or Jackson Hewitt. Co-counsel in the case were The Sturdevant Law Firm, the Equal Justice Foundation, Graham & Graham, and the Law Office of Ronald L. Burge which provided class representation in the private action against Jackson Hewitt in Ohio.

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JUNE 2009-AUGUST 2010

We appreciate those who have supported NCLC by directing *cy pres* to the Center.

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Ronald Wilcox
Joel O. Wooten

NCLC Advocacy Scores RAL Victories

IRS Service Ends, RAL Players Leaving Business

NCLC applauded a recent announcement by the Internal Revenue Service that it will discontinue a service that helped banks make high-cost refund anticipation loans (RALs) to the working poor. The IRS has been providing a "debt indicator" which helps banks that partner with tax preparers to make loans based on the borrower's expected tax refund. The debt indicator acts as a form of credit check, telling tax preparers whether a taxpayer's refund will be paid or will be intercepted for government debts.

"We are pleased that IRS has decided to stop aiding and abetting high-cost RALs that siphon off hundreds of millions in taxpayers' hard-earned money and federal benefits intended to lift the working poor out of poverty," said Chi Chi Wu, an attorney at NCLC.

NCLC has been urging the IRS to end the debt indicator since 2005, when it and Consumer Federation of America published a report entitled "Corporate Welfare for the RAL Industry: The Debt Indicator, IRS Subsidy, And Tax Fraud." Their most recent criticism of the debt indicator was during the IRS Commissioner's Return Preparer Review Forum in August 2009, in which they again urged the IRS to discontinue the program.

"The federal government should not be sharing taxpayers' personal information for the profit of banks and tax preparers by operating what is essentially a free credit reporting service for them," said Jean Ann Fox, director of financial services for Consumer Federation of America. "We are glad the IRS finally stopped letting tax preparers and banks pry into taxpayers' records about what they owe the government."

NCLC's advocacy helped force several major RAL players out of the business:

• Giving way to pressure from NCLC and other consumer advocates, JP Morgan Chase announced that it is leaving the tax refund anticipation loan business. Chase was a huge player in the industry, having made as many as 1.5 million RALs to about 13,000 independent tax preparers in 2008.

• Santa Barbara Bank & Trust (SBBT) was forced out the RAL business by its regulator, the Office of Comptroller of Currency (OCC). SBBT was the main RAL lender for Jackson Hewitt, providing about 75% of the RALs offered by that chain, as well as the lender for many independent preparers and small chains. NCLC and other advocates had repeatedly urged the OCC to take enforcement action against banks that make RALs.

• HSBC, the last of the major RAL lenders, only makes RALs through H&R Block. HSBC has indicated it will leave the business when its current contract with Block expires.

Judge Carol J. Kenner

NCLC Welcomes Judge Kenner to Its Staff

NCLC is pleased to announce that Carol J. Kenner has joined NCLC and is working on a variety of consumer law issues important to low-income people. Kenner served as a judge on the US Bankruptcy Court for the District of Massachusetts for 18 years, four of which as Chief Judge. She also served on the Bankruptcy Appellate Panel for the First Circuit, including two years as Chief Judge.

"Judge Kenner has a passion for justice and a firm belief in the importance of consumer law," said Willard Ogburn, NCLC executive director. "As a noted judge of the U.S. Bankruptcy Court she presided over the huge Sears case involving wholesale violations of the reaffirmation procedures, a case that captured frequent headlines around the country."

In explaining her choice to join NCLC, Kenner said, "I've worked with NCLC staff on various issues for many years and have long recognized the high quality of its staff and its work on behalf of low-income people. NCLC is a national treasure."

Although Kenner expects to be working on a whole gamut of consumer law issues, she's quick to point out the "the bankruptcy process is what makes the American economy work. It's a safety net for both individuals and entrepreneurs who are confronted by financial crisis."

Prior to her appointment to the bench, Kenner practiced corporate reorganization law in New York and Boston. She lectures and participates regularly in education panels sponsored by the Federal Judicial Center, the American Bar Association, and numerous other organizations and law schools throughout the country. For six years she taught Bankruptcy Law as an adjunct professor at Suffolk University Law School. After retiring from the bench she was appointed as a Special Assistant Attorney General, specializing in mortgage foreclosures and bankruptcy.

Social Security Benefits To Be Protected from Seizure

NCLC Hails Treasury Rule To Protect Seniors' Assets

After extensive and persistent advocacy by NCLC, the U.S. Treasury Department has proposed rules that would prevent creditors and debt collectors from draining millions of dollars in fees from the Social Security benefits of seniors across the country.

"Once enacted, this regulation will stop banks from illegally freezing Social Security, SSI, and Veterans benefits to satisfy garnishment orders from debt collectors," said Margot Saunders, an attorney with NCLC. "This is a critical protection for seniors and others who depend on federal benefits to pay for food, medicine, and shelter," Saunders added.

This is a critical protection for seniors and others who depend on federal benefits to pay for food, medicine, and shelter.

MARGOT SAUNDERS

Current law exempts Social Security, Veterans and other federal benefits from being taken through court orders obtained by creditors and debt collectors. However, banks regularly freeze accounts that contain such funds and charge hefty overdraft, bounced check, and garnishment fees to consumers.

The proposed rules, which will apply to every financial institution in the nation, will require banks to identify accounts which in the past 60 days have had direct deposit of Social Security, veterans and other federal benefits. All of the federal benefits deposited during those 60 days will be protected from seizure, regardless of whether other, non-exempt funds have also been deposited or withdrawn from the account.

"We hope that a final rule, strengthened by the handful of improvements we and our many allies recommended in the comments we submitted—such as extending the lookback period to just over two months, will be published in the near future," said Leah Plunkett, an attorney at NCLC. "Once a final rule is promulgated, we will engage in outreach efforts to inform attorneys and advocates who work with elders about the rule's protections."

Support for NCLC's advocacy was provided in part by The Retirement Research Foundation.

The proposed Treasury rule will protect the Social Security funds of seniors like Ruby F.

Ruby F. is 74-year-old resident of Arlington, Virginia. She is a grandmother living in low-income housing. She tried for years to pay off a Capitol One debt of about $4,000, incurred mostly due to medical costs. After Capitol One obtained a judgment against her, her bank account was frozen pursuant to a garnishment order. When her bank account was frozen, she borrowed money to pay her rent; she stopped the direct deposit of her Social Security check to her bank; she stopped buying medicines; and she started buying money orders to pay her bills. Money orders are difficult because she has physical difficulty getting around, and no transportation other than public. And, money orders drive up the cost of paying her bills. She is now too frightened of the banking system to trust it again. She keeps a few dollars in her account to keep it open, but is too afraid to use it.

Direct Deposits Expose Social Security Recipients

The federal government's push to require all recipients of Social Security and other benefits to receive payments by direct deposit will expose many seniors to predatory payday loans made by banks, according to a recent report by NCLC, "Runaway Bandwagon: How the Federal Government's Push for Direct Deposit of Social Security Benefits Has Exposed Seniors to Predatory Bank Loans."

"Treasury must stop banks from making these high-cost, short-term loans to Social Security recipients," said Margot Saunders, an author of the report. "These loans are only made because they are fully secured by a borrower's next direct deposit of federal funds."

"Runaway Bandwagon" spotlights account advance loan products—some with Annual Percentage Rates as high as 1,800 percent—that some banks offer to customers with checking accounts or prepaid debit cards. Banks help themselves to funds from customers' accounts to repay loan principal and fees, so that these loans closely resemble both fee-based overdraft programs and payday loans.

Thank You!

We appreciate contributions from the generous individuals and firms listed below who have provided much welcomed support for NCLC advocacy and programs. NCLC is stronger and more effective with their help.

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NCLC Challenges Banks over Loan Modifications

Despite Making Payments, Permanent Mods are Denied

NCLC has filed four class action suits to challenge the way the nation's major banks and mortgage servicers are implementing the Obama Administration's foreclosure prevention initiative, the Home Affordable Modification Program. The lawsuits cite the failure of Wells Fargo Bank, Bank of America, Litton Loan Servicing and J.P. Morgan Chase Bank to honor their written agreements with homeowners seeking loan modifications.

The suits, filed in federal court in Massachusetts, charge that the lenders failed to keep the promises they made to homeowners to provide permanent loan modifications for homeowners who successfully completed their trial modifications.

"When a large financial institution promises to modify an eligible loan to prevent foreclosure, homeowners who live up to their end of the bargain expect that promise to be kept," said Arielle Cohen, an attorney with NCLC. "After receiving temporary loan modifications and making their payments on time for months, many people are denied permanent modifications," she said. "It's particularly egregious because the homeowners are still held liable for escalating late payments, penalties, and fees under the original mortgage terms."

The defendant banks received billions in government bailout money as part of the Troubled Asset Relief Program and subsequently agreed to participate in HAMP — a program in which each received incentive payments for providing affordable mortgage loan modifications and other alternatives to foreclosure to eligible borrowers.

All of the lawsuits were brought on behalf of a class of homeowners in Massachusetts based upon state common law and the state statute on unfair and deceptive practices; however the cases can be replicated in other jurisdictions with comparable laws.

NCLC is litigating the HAMP cases with a team of lawyers including Gary Klein, Shennan Kavanagh, and Kevin Costello of Roddy Klein & Ryan in Boston and Michael Raabe of Neighborhood Legal Services in Lawrence, Mass.

After receiving temporary loan modifications and making their payments on time for months, many people are denied a permanent modification.

ARIELLE COHEN

NCLC's Litigation Team: Attorneys Stuart Rossman, Charles Delbaum, Arielle Cohen, and legal intern Shamis Beckley.

Grants Fund NCLC Advocacy and Special Initiatives

NCLC has received several special project grants since our Spring 2010 edition of OUTLOOK. We would like to thank the following funders for their generous support:

Consumer Protection Fund of the Attorneys General
For the *Foreclosure Prevention Project,* which will be used to fund education and training on foreclosure issues.

California Consumer Protection Foundation
To continue our advocacy for affordable and accessible telephone service on behalf of low-income, rural, and minority consumers in California. Olivia Wein is project director.

John H. and H. Naomi Tomfohrde Foundation
For *Massachusetts Consumer Rights for Domestic Violence Survivors Initiative* to provide training to Massachusetts advocates working to ensure the economic justice for domestic violence survivors.

National Conference of Bankruptcy Judges
For *Bankruptcy Relief Project* to respond to the on-going foreclosure crisis by addressing the growing need for distressed homeowners to save their homes using chapter 13 of the bankruptcy code. John Rao is project director.

Open Society Institute
For the Foreclosure Prevention Project, to help low-income homeowners avoid foreclosure and sustain their homeownership over the long term. Geoffrey Walsh is the project director.

Vigilante Car Seizures Run Amok

NCLC Calls upon States to Rein in Violence

According to a new report from NCLC, dozens of consumers, repossession agents and bystanders have been killed, injured or traumatized in self-help repossessions around the country. They are carried out under state laws that allow automobile dealers and lenders to take cars without court action or the involvement of law enforcement. The report compiles and analyzes existing state laws and regulations on automobile repossessions, and catalogues recent repossessions that resulted in violence, fatalities, injuries, arrests or trauma. In four of the incidents, repo agents took cars containing children under the age of eight.

"Not a single state guarantees automobile owners a day in court before a repossession," said John Van Alst, a lawyer for NCLC and principal author of the report. "Only a handful of states have even minimal consumer protections such as requiring that repo agents have licenses, bonds or insurance."

Millions of working and poor families depend upon automobiles for survival and daily life. When they need cars and lack access to conventional financing, they turn to 'buy here, pay here' dealers. Those dealers too often rely on the threat of sudden and potentially violent repossessions to bully consumers into making payments.

That threat is real. Pistols, rifles, shotguns, knives, fists and automobiles are frequently wielded as weapons in confrontations arising out of self-help repossessions. Since Jan. 1, 2007, those confrontations have resulted in at least six deaths, dozens of injuries and arrests and uncounted traumas.

"What we have now is vigilante repossession run amok," said Rosemary Shahan, President of Consumers for Auto Reliability and Safety, a nonprofit organization that advocates for consumer safety and against auto fraud and abuse. "States need to adopt laws to rein in the violence, kidnapping, and lawlessness."

The report calls for each state to enact laws that would require secured lenders to obtain court orders or at least provide consumers minimal due process prior to seizing automobiles. In addition, states should require that such repossessions, when authorized by courts, be done by sheriffs, police or other law enforcement officials.

"In other areas of the law, such as evictions, self-help is generally no longer allowed in the interest of fairness and safety" said Van Alst. "Until we do the same thing in auto repossession, people will continue to be hurt and killed."

Not a single state guarantees automobile owners a day in court before a repossession.

JOHN VAN ALST

NCLC Issues Warning on 'Alternatives' to Payday Loans

A Challenge to Find Genuine and Safe Alternatives

Consumers should be wary of loans offered by banks and credit unions as "alternatives" to high-cost, short-term payday loans. As documented in NCLC's report, "Stopping the Payday Loan Trap: Alternatives That Work, Ones That Don't," many alternative loan products are as dangerous as the payday loans they claim to replace.

"Too many providers of so-called payday loan alternatives hit consumers with some of the same onerous provisions that predatory lenders use to saddle unwary and vulnerable borrowers with loans they can't afford to repay," said Lauren Saunders, managing attorney of NCLC's Washington office and principal author of the report.

"Payday loan alternatives that help consumers must be repayable affordably and over time, so that hard-pressed borrowers who need short term help can climb out of debt rather than get trapped in it," Saunders said.

The report illustrates the challenge for low-income borrowers to find viable alternatives to payday lenders who rely on high costs (Annual Percentage rates in the triple or even quadruple digits), short terms, balloon payments, and coercive security provisions to force victims to roll over loans and pay astronomical fees.

Many genuine payday alternatives are in the market, but some products are nearly as bad as or even worse than payday loans.

LEAH PLUNKETT

NCLC researchers reviewed hundreds of small loans and found that even some federal credit unions are exploiting loopholes to offer payday loans at triple-digit interest rates. As of the time of the report's publication in June 2010, California-based Kinecta Federal Credit Union's was offering a 14-day loan with an annual percentage rate, or APR, that the report estimates at 362 percent. Other federal credit unions were offering expensive loans from E-AccessLoan.com, although it appears as if new loans from this source are no longer available.

"Many genuine payday alternatives are in the market, but some products are nearly as bad as or even worse than payday loans," said Leah Plunkett, the report's co-author. "Cash advances offered to checking account holders by Wells Fargo Bank, U.S. Bank and Fifth Third Bank are payday loans, plain and simple—triple digit loans repaid on the next payday."

The report cited genuine alternatives such as the Credit Builder loan from Alternatives Federal Credit Union in New York; affordable, interest-based overdraft lines of credit from some major banks; and affordable small loans offered by Progreso Financiero, a community development financial institution in

A Payday Loan by Any Other Name.....

Lender and Name of Loan	State	Interest	Fee	Term	APR with Fees
Wells Fargo Bank, Direct Deposit Advance	National	0%	$2 per $20	1-35 days	240-340%
Kinecta Federal Credit Union, (offered at Nix Check Cashing)	California	15%	$39.95 application fee	14 days	362%

Genuine Payday Loan Alternative

Lender and Name of Loan	State	Interest	Fee	Term	APR with Fees
Alternative Federal Credit Union, Credit Builder Loan and Score Builder Loan	New York	14.25%	None	6 months	14.25%

Summer Interns Provide Valuable Help to NCLC

Each year NCLC enlists a group of well-qualified law students to work on consumer law research and other projects. This summer NCLC welcomed interns Shamis Beckley, Amanda Howell, Ana Lucia Hurtado and Rohan Grover (New Sector Alliance's Summer Fellow, part of AmeriCorps).

For the first time this year, name-fellows also added strength to NCLC's summer intern program:

• **Timothy Eble Fellowship:** Rachel Rothman is this year's Eble Fellow. A third year student at Western New England Law School, Rothman worked on a number of projects including research on credit reporting agencies. The Eble fellowship is made possible through the generous support of Timothy E. Eble, Mount Pleasant, S.C.

• **Mikels Fellowship:** This year's Mikels Fellow is Pia Winston, a second year law student at William and Mary Law School. The fellowship was established by Philip J. Hendel of Hendel & Collins, PC and the American College of Bankruptcy to honor Richard E. Mikels, chairman of Mintz Levin's bankruptcy and restructuring section, for his tenure as First Circuit Chair for the American College of Bankruptcy. Winston assisted NCLC's bankruptcy staff with research on bankruptcy issues.

NCLC Summer Interns: Rachel Rothman, Shamis Beckley, Rohan Grover (New Sector Alliance Summer Fellow), Pia Winston, and Ana Lucia Hurtado. Not pictured, Amanda Howell.

Inside Washington.....

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plagued with mistakes, and abusive debt collectors waiting eagerly to chomp on the carnage. For years, we have complained to federal regulators. For years, we warned that predatory mortgages were creating a looming crisis for American families. And although we won some significant changes and stopped some awful proposals, for years the need for fundamental reform fell on deaf ears.

After decades of growing abuse of consumers, Professor Elizabeth Warren boldly proposed a new consumer agency in 2007. The proposal won President Obama's endorsement, and in July of this year he signed the Dodd-Frank Wall Street Reform and Consumer Protection Act.

It was a tough fight (and it isn't over yet). Wall Street, the banking industry, the Chamber of Commerce, and other industry groups spent over $1 billion fighting and chipping away at the bill. They concocted scores of ridiculous stories about how better protections against abusive lending and other financial products would create burdensome red tape for orthodontists, florists, and every corner of American life.

The Chambers' ads were particular galling. Earnest-looking butchers and bakers (no candlestick makers, but the implication was clear) knew times were tough so they let some of their customers "run a tab and pay the bill over time to make ends meet." (What 1950s small town do they live in?) But an intrusive new big government agency could make it tough for them, collect information about their customers and take away their choices. Even a reporter for American Banker thought the ads rivaled the "health care hysterics" over death panels.

Through it all, the consumer agency was a cat with nine lives. It was making progress and then killed more times than I can count. After the House passed the bill, it languished in the Senate for months as the country debated health care and lobbyists kept working on the mere 41 votes needed to hold up a filibuster. We both needed and feared a deal with key Republicans, which came together, fell apart, and came back together again—at first with Senator Corker, then with Senator Shelby, and ultimately with Senators Scott Brown, Snowe and Pryor.

Some of the attacks took their toll. The Consumer Financial Protection Agency became the Consumer Financial Protection Bureau within the Federal Reserve. I was highly skeptical of such an arrangement when a key Senate staffer first quietly discussed it with a few of us. The idea was to give the swing Senators cover by nominally putting the bureau within the Fed but with enough guarantees of independence that it was effectively an independent agency. But we all feared that those guarantees would erode away.

That did not happen. At the end of the day, all of the Wall Street and industry money in the world could not overcome the compelling fact that we needed change, and change in a big way. Business as usual was just too hard to defend.

In many ways, the fight has just begun. Instead of a battle in the halls of Congress, we will now be jostling with a new group of lobbyists over what rules the CFPB should enact to protect consumers. Rulemaking, with its focus on both broad policy questions and picky legal details plays to NCLC's strengths and the incredible expertise of my colleagues at the Center. Though the arena has shifted from the public space of Congress to an agency that does not depend on votes, the loud voice of the public will be as important as ever. We at NCLC, with our allies, can make detailed proposals for new consumer protections. But we need the backup of the consumers and consumer advocates who see the abuses on the ground and who can make the case to both the CFPB and the Congress that will be watching it. So let's all take a moment to heave a sigh of relief, congratulate ourselves…and then get back to work.

A New Era...

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Real Estate Settlement Procedures Act, the Fair Credit Reporting, Act, the Home Affordable Modification Program, and other consumer laws, particularly changes related to mortgage originations and servicing. The Act also restricts federal preemption of state consumer law.

For a detailed explanation of all aspects of the Dodd-Frank Act relevant to a consumer law practice, go to www.nclc.org for a free download of a special double issue of NCLC REPORTS, July/August 2010.

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Americans for Fairness in Lending Goes Out with a Bang

In the wake of the major financial reform law, including the creation of a Consumer Financial Protection Bureau, Americans for Fairness in Lending (AFFIL) will be winding down its operations this fall.

"We have been fighting for stronger consumer protection laws and regulations for over three years," said Sarah Byrnes, AFFIL's Director. "When we began, we never dreamed we would actually see the creation of a federal regulator wholly devoted to consumer finance. It's a realization of our goals far beyond what we expected."

AFFIL's staff and board are clear that much work remains to be done, particularly as the CFPB begins to write regulations. Coalitions of organizations including NCLC and NACA will continue to fight these battles. Many of these groups began working together as AFFIL's "Partners."

"When we began forming AFFIL seven years ago, the nation was almost completely unaware of the impending foreclosure crisis," said Cathy Lesser Mansfield, AFFIL's board chair and a consumer law professor at Drake Law School. "Our initial goal was to 'raise awareness' of predatory lending. As the entire world shifted under our feet, AFFIL adapted and became a leading advocate for stronger consumer protection policies, bringing organizations and individuals together both online and off."

AFFIL began as a project of NCLC, and is currently housed in its Boston office. "AFFIL is leaving an impressive legacy for the consumer movement," said Will Ogburn, secretary of the AFFIL board and executive director of NCLC. "From the many consumers who were educated and took action on their website, to their successful work on their Credit CARD Act of 2009, to their contributions to Americans for Financial Reform over the past year—these are just a few of the ways AFFIL has helped consumers over the years."

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The National Consumer Law Center is the nation's consumer law expert, helping consumers, advocates and public policy makers use powerful and complex consumer laws on behalf of vulnerable Americans. In doing so we have built—and are at the center of—a growing community of advocates with a commitment to consumer justice. We protect, promote and interpret the statutes these advocates use in their practices, knowing that as more attorneys understand the complexities of consumer law we increase access to consumer justice and move toward our goal of economic justice for all.

Supreme Court Cites NCLC Treatise

The Supreme Court cited NCLC's treatise *Fair Debt Collection* (6th ed. 2008) three times in its majority opinion in *Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich L.P.A.* The case involved the bona fide error defense in the Fair Debt Collection Practices Act.

"The fact that the highest court in the land refers to our book in handing down a decision is yet another acknowledgement of the Center's expertise and credibility," said Willard Ogburn, NCLC's executive director. "For 27 years this treatise has been the primary reference in the field and this Court decision adds to the legal community's appreciation and respect for NCLC's treatises as important legal authority."

In only its second decision interpreting the FDCPA, the Supreme Court cited the book as *Hobbs, Fair Debt Collection*, giving credit to Robert Hobbs, NCLC's deputy director, as lead author. Although Hobbs is one of the country's top experts in the field, he was quick to give additional credit to the widespread team of researchers, authors, editors, proofreaders, indexers and others who helped to get this treatise and other consumer law manuals into the hands of lawyers across the country.

Robert Hobbs
NCLC's Deputy Director

More on the *Jerman* decision is available in Volume 28 of our publication *NCLC Reports Debt Collection and Repossessions Edition 2010.*