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# Outlook

NATIONAL CONSUMER LAW CENTER

## Making Prepaid Unemployment Compensation Cards Work: High Impact NCLC Survey, Report, and Action

Losing one's job and the income associated with it is painful and dangerous for individuals and their families. NCLC's recent survey and report on prepaid cards for unemployment compensation, occurring on a state-by-state basis, details how many of the 13 million Americans who are unemployed are getting stung with unnecessary and poorly disclosed fees in the 40 states that use prepaid cards for unemployment compensation (UC). At the same time, the best cards may benefit

unbanked consumers and save states money. As is the case with many financial innovations, it is all in how they are put together, who they benefit, and how they are offered and regulated.

"Prepaid cards can help states eliminate the costs of paper checks and help unbanked workers avoid check cashing fees and the risks of carrying cash," said Lauren Saunders, managing attorney of NCLC's Washington, D.C. office and the

primary author of the report. "Yet prepaid card junk fees stack the deck against jobless Americans who need every dollar during a financially stressful time."

*Unemployment Compensation Prepaid Cards: States Can Deal Workers a Winning Hand by Discarding Junk Fees* analyses the payment options, fees, and access to account information available to workers in every state that uses UC prepaid cards. It also surveys the laws that do (or do not)

*continued on Page 11*

### Inside Washington

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

#### CFPB Taking Shape But Under Attack—Fighting to Keep It!

The crown jewel of last year's financial reform bill was the new Consumer Financial Protection Bureau, which officially began work on July 21, 2011. We are all eager for new measures to protect consumers

from unfair practices involving mortgages, overdraft fees, student loans, and other products.

The most important short term work, however, has been to build the

*continued on Page 10*

*We have a fight on our hands, every bit as important as the fight to pass the Dodd-Frank bill last year. If you care about having a watchdog to look out for consumers, you need to speak up. We cannot let the watchdog be turned into a lapdog.*

**LAUREN SAUNDERS**



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# Outlook

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

For additional information or to be placed on the Outlook e-mail list contact us at:

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## A Cy Pres by Any Other Name . . .

NCLC received an exciting letter from Oregon attorney David Sugerman this past July. It said, *“To my way of thinking, there is little sweeter than writing to you with our trust check to National Consumer Law Center for \$20,000. These unrestricted funds were part of the fee award proposed in our long-running consumer class action against Comcast. The case arose out of illegal late fee assessments. My co-counsel, Tim Quenelle, and I are pleased with the results. We know that NCLC will put the funds to good use.”*

Oregon provides for *cy pres* awards only where both parties agree. Comcast would only agree to make charitable contributions, totaling \$75,000, to United Way and Oregon Food Bank. Tim and David had a broader view of what organizations should benefit from *cy pres*, those most able to benefit the class represented in the case.

Since they were unable to direct the *cy pres* funds to organizations representing low income clients and consumers of all kinds, Sugerman and Quenelle decided to dedicate \$100,000 of its fees on the case to the Campaign for Equal Justice, St. Andrews Legal Clinic, NCLC, and the Public Justice Foundation.

When asked why he and Quenelle went beyond the *cy pres* to donate from their own fee, Sugerman answered that he wanted *to have more impact than a good pay day for a lot of hard work*. He went on to say, *“These funds will have impact, a powerful and profound effect. To be able to provide this gift is a total joy, I only wish I could give more.”*

In thanking David, Jerry Tuckman, Director of Individual Giving for NCLC, mentioned that the gift provided needed funds, but also served to energize NCLC with the knowledge that its work is deemed necessary and significant, providing a psychological boost at a time when funds are scarce and victories even more hard-fought than before.

Sugerman responded, *“I am pleased the gift goes further than the dollars. I do not need the individual acknowledgement but if publicizing it provides a way of reaching out to generate other, similar gifts, I am all for it. As your work has had so much significance to me and countless others, let my gift have more significance to NCLC.”*

**Please consider honoring David Sugerman’s work and the work of NCLC through your own contributions, both *cy pres* recommendations and individual gifts. Your generosity will then come back to benefit you in your work and the clients you serve.**

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October 2010-August 2011

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

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## Between IRAQ and A Hard Place—An NCLC Litigation Story

Darryl Henry retired from his 20-year naval career as a 1st Class Petty Officer with both retirement and partial disability pension income. He needed additional funds to consolidate debt and to buy a home. Financing the home was difficult, because he already had loans and his credit score did not make him eligible for a prime rate. He had seen numerous ads in military publications placed by Retired Military Financial Services (aka Structured Investments, Co. or SICO), offering to give him a large cash advance in return for eight years of his pension payments. When he asked for more information, Darryl was told that the arrangement was not a loan and that it

would not appear on his credit report. He decided to use the funds to pay off existing loans in order to raise his credit score and hopefully qualify for a lower rate mortgage.

### A Usurious Pension Scheme

Darryl didn’t receive any Truth in Lending disclosures—because the company insisted this was not a loan. If Darryl had received disclosures, he would have seen that this transaction was the equivalent of a loan with an APR of almost 30 percent! Not only is that rate much higher than rates he could have gotten from responsible financial institutions, it exceeded the usury limit for legal loans

under the law of California (where SICO is based).

### NCLC Teams with Attorney Bramson

Upon reading an NCLC report called *In Harm’s Way—At Home: Consumer Scams and the Direct Targeting of America’s Military and Veterans* Mr. Henry contacted NCLC who subsequently partnered with attorney Rob Bramson in bringing suit in California Superior Court (Santa Ana, Calif., Orange County) against SICO.

Many of Mr. Henry’s pertinent documents with SICO claimed that the transaction was not to be considered a loan. The

*continued on Page 11*

# Smart Meters Not Very Smart Move for Consumers

Have you heard about smart meters? They are all the rage. They enable utility companies to remotely monitor usage, saving them time and money, and will also enable them to remotely disconnect customers' utility service. NCLC doesn't think they are a very smart idea, as presently used, and has focused its resources and expertise on suggesting how consumers can be protected and these meters can work for them as well as utility companies.

Tens of millions of new smart meters are being prepared for use. They are currently in use or will be broadly deployed by 2015 in Oregon, California, Idaho, Nevada, Arizona, Oklahoma, Texas, Iowa, Wisconsin, Michigan, Ohio, Alabama, Georgia, Florida, Pennsylvania, New Jersey, Maryland, District of Columbia, Virginia, Vermont, Maine, and Connecticut.

Most utilities bill after you have used the service. They send you a bill based on usage which has already taken place (although on some occasions they estimate and adjust at a later time when the actual meter has been read). However, many utilities are now interested in using smart meters to implement prepaid electric service, where customers must pay in advance and where service is immediately and remotely disconnected as billing credits are exhausted. Wherever it is used, prepaid utility service is disproportionately concentrated among low-income utility customers. The service is sometimes more expensive than standard, credit-based service, and usually includes a grab bag of extra fees and charges for making payments. Customers using prepaid utilities tend to make frequent, small payments, and experience service disconnections more frequently than customers taking credit-based service. This troubling development requires close attention.

What is NCLC doing and how should you respond if confronted by smart

*Prepaid utility service is disproportionately concentrated among low-income utility customers. The service is sometimes more expensive than standard, credit-based service, and usually includes a grab bag of extra fees and charges for making payments.*

## JOHN HOWAT

meters? NCLC is part of a network of advocates working on smart meter and prepayment issues. Where there is some good support, like in California and Iowa, advocates recommend a "just say no" position, an outright rejection. Where approvals are already in place, we recommend a set of conditions which mitigate some of the negative effects of smart meters, prepayment and remote disconnection of necessary utility service. Without meter readers and paper bills, the utility's costs are reduced, so rates for prepayment should also be dramatically reduced. "Friendly credit" should be offered instead of shut-offs, and customers should have access to reasonable payment plans or "arrearage management" programs as alternatives to unwelcome loss of service. Remote disconnections should be prohibited in cases where there are issues of health and safety, disability, children in the house, or severe weather conditions. Per-payment fees levied by

the utilities should be prevented so that people who need to make multiple payments during a month are not hit with costly fees each time they pay.

In a recent letter, Jerry McKim, Bureau Chief of the State of Iowa's Bureau of Energy Assistance thanked NCLC for allowing John Howat to attend and participate in a prepaid meter workshop held by the Iowa Utilities Board. In Jerry's words, John was "the undisputed expert" among all attendees and was helpful in efforts to beat back an attempt by the Iowa Association of Electric Cooperatives to seek permission from regulators to begin using prepaid meters after having lost in an attempt to have the state legislature pass a bill would have "redefined disconnection of service as a voluntary termination in order to avoid critical health and safety consumer protections." The prepay meter debate continues. Jerry concludes that "Due to John's attendance, the rights of low income Iowans were strengthened and affirmed".

This area is evolving and is being closely followed by NCLC's energy, utilities, and telecommunications staff, including John Howat, Olivia Wein, Charlie Harak, and Darlene Wong. For more information, visit [www.nclc.org](http://www.nclc.org).



*John Howat, Senior Energy Analyst*

# Working Cars for Working Families— NCLC Advocacy Keeps Program Rolling

A safe and reliable car is essential to the success of most working families. Child care, jobs, groceries, medical appointments, and so many other everyday tasks are often out of reach for families without a car. Yet buying, financing, and keeping a reliable car is fraught with dangers for everyone and simply not possible for some families.

Working Cars for Working Families is a group of organizations united to ensure that working families can get, keep, and use a reliable used car at fair terms. It is a coalition of varied organizations, all recognizing the importance of a car to the success of families. Collectively and individually the group strives to improve public policy, industry practices, and consumer understanding. It works in variety of areas such as:

- Improving consumer protection to stop abuses in car sales and finance and bring fairness and transparency to the marketplace.

- Promoting non-profits that provide struggling families with cars or financing or both at subsidized rates.
- Improving data collection and analysis to better understand the benefits of and challenges to car ownership for working families.

Working Cars for Working Families is fighting to ensure that families get a fair deal when buying and financing a car and that the lack of a car does not stand in the way of families' ability to become economically successful. It pursues policy reform to bring transparency and fairness to the markets for used cars and car finance. It also promotes policy and practice solutions to help non-profit ownership programs that help struggling families get a car.

NCLC is grateful for the generous funding provided by the Annie E. Casey Foundation in support of Working Cars for Working Families. The project is also

funded through your unrestricted gifts to NCLC and directed by attorney John Van Alst. It is also staffed by NCLC attorneys Carolyn Carter and Jon Sheldon.

The program and the website outline the need for:

- **Promoting improved public policy**
- **Regulating sales and financing**
- **Eliminating the sale of dangerous and unreliable vehicles**
- **Curbing arbitrary and dangerous repossession**
- **Strengthening car ownership programs**



*John Van Alst, Staff Attorney*

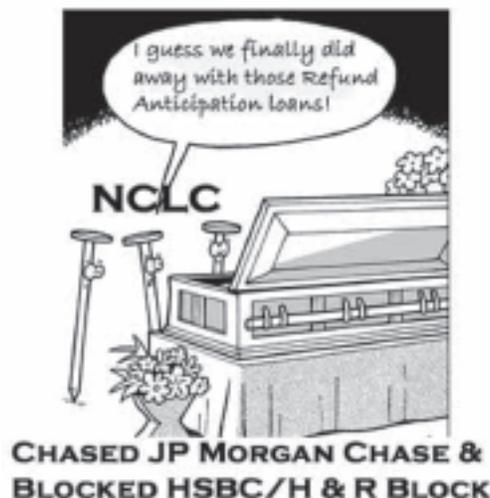
## NCLC Pushes RALs to the Brink of Extinction: Only One Bank Left

NCLC and other consumer groups cheered a recent announcement by H&R Block, the largest tax preparation chain in the country, that it will not offer refund anticipation loans in 2012.

“H&R Block did the right thing by deciding to ‘just say no’ to RALs,” said Attorney Chi Chi Wu, NCLC’s expert on RAL lending. “We have criticized these loans as high cost and risky for over a decade, and we are pleased that Block has actively decided not to offer them.”

After ten years of advocacy, NCLC and its partners have achieved a tremendous victory by nearly eliminating RAL lending as we know it. Only one bank has said it

will make RALs in 2012, and that bank is under fire from its federal regulator.



“While an occasional payday or fringe lender may make a tax-time loan, the sale of RALs as an industry-wide practice by thousands of preparers is almost over,” said Wu. “RALs will no longer drain the tax refunds of millions of mostly low-income taxpayers, nor will RALs skim hundreds of millions in Earned Income Tax Credit dollars from the most vulnerable workers in our economy.”

NCLC’s work protecting low-income families against RALs has been made possible by the generous and longstanding support of the Annie E. Casey Foundation and through your individual unrestricted contributions which NCLC has allocated to this project.

# Thank You!

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

This list is compiled each year between Consumer Rights Litigation Conferences. If you have been left off the list unintentionally, or there appears to be an error, please contact Jerry Tuckman at NCLC ([gtuckman@nclc.org](mailto:gtuckman@nclc.org)).

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**A NOTE  
FROM THE  
EXECUTIVE  
DIRECTOR**

Dear Colleagues,  
As you'll see from the pages of this edition of *Outlook*, NCLC is made up of a group of committed attorneys who seek to level the playing field for low-income consumers. We use our expertise to litigate impact cases, testify before rule-making bodies, publish special reports, and more. Since your practice is essential to what we seek, we support you with manuals, trainings, list serves, as expert witnesses and advisors, and in many other ways.

We get lots of letters from attorneys thanking us for our work. Often they are dramatic, but they do not need to be dramatic to be meaningful. After last spring's Fair Debt Collection Practices Conference we received two such letters. The first, which was addressed to Deputy Director Bob Hobbs, said "Starting my own law firm is a daunting task, but you offered me great advice . . ." and continued "It's good to know that even in a competitive field, there are still people like you willing to offer a helping hand." The other note, directly to me, first thanked us for a scholarship and then noted how the conference information was used on the first day back at work. "I have been assisting a low-income disabled couple taken advantage of when they were sold on a scheme to make improvements to their home—improvements which were never finished and added no value to the property. Debt collectors are now seeking payment for the work. The conference has improved my ability to provide services to these and other deserving clients."

I know we have helped other attorneys and their practices over the years and hope we have helped you in ways large and small. The unmitigated greed fueling abusive financial practices and the opportunities we have (and challenges we face) to change today's marketplace are enormous. We continue to collaborate with other organizations and attorneys

## *Who We Are, What We Do, and How You Can Help Us*



*Willard P. Ogburn,  
NCLC Executive Director*

working for economic justice to stem abuses and create a more just environment for all.

Elsewhere in this newsletter we list and thank those who have provided *cy pres* awards and those who have provided individual gifts of various kinds. We are not building any endowments here at NCLC. We need these funds to carry out our most pressing advocacy.

Thanks to those who have given. Please consider giving more because, in a changing legal and policy landscape, our needs are even greater now. If your name is not on the list, please think about why you haven't given and consider giving as generously you can in the interest of your clients and the population we all serve. There is information in the newsletter on how you can give to us and support our work.

Thank you for being a part of what we all do. We should all be very proud of our work.

WILLARD P. OGBURN

## Modernizing the Massachusetts Exemption Laws

As a result of persistent and effective advocacy by NCLC, Massachusetts has amended its exemptions laws to better protect the family car and other necessities. Previously, Massachusetts had among the worst protections imaginable. NCLC has long supported efforts improving exemptions laws across the country.

This Massachusetts law sets out what property debtors are able to protect from unsecured judgment creditors. From an article in the *Boston Globe* (1/8/11):

*The new law updates decades-old property exemptions, allowing consumers to keep a car worth up to \$7,500 out of reach of collectors, up from \$700 in the past. Owners who are 60 or older or disabled will get a \$15,000 car exemption. Consumers also may hold on to \$2,500 in a bank account, five times the current level.*

*"This new law will protect thousands of struggling Massachusetts residents, and allow them to house, feed, and support their families and continue to work as they struggle to pay debts and get back on their feet after an economic setback," said Robert J. Hobbs, deputy director of the National Consumer Law Center.*

NCLC's advocacy for the new law could not have taken place without the generous and unrestricted support of NCLC's individual and *cy pres* donors.

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[www.nclc.org](http://www.nclc.org)

## New—Bankruptcy Mortgage Project Website

### NCLC Releases New 2011 Revised Editions

*Fair Debt Collection* (7th ed. Aug. 2011) (two volumes, 1300 pp.). Cited three times recently by the U.S. Supreme Court, this definitive FDCPA treatise is the primary reference in the field on debt collection harassment. Contains greatly increased analysis of the explosion of FDCPA appellate decisions and covers punitive damages, state claims against creditors, unauthorized practice of law, credit counseling, and debt settlement.

*Collection Actions* (2d ed. Aug. 2011) (594 pp.) expands this unique work on how to represent consumers being sued on debt—debt buyer lawsuits for credit card debt, medical collections, wage and bank account garnishments, proof of standing to collect, and much more.

NCLC in August also released six other new updates:

- Foreclosures 2011 Supplement
- Cost of Credit 2011 Supplement
- Consumer Class Actions 2011 Supplement
- Consumer Banking and Payments Law 2011 Supplement
- Credit Discrimination 2011 Supplement
  - Consumer Warranty Law 2011 Supplement

All titles include free companion websites to download, print, and edit pleadings, agency interpretations, case summaries, and more. For more information, or to order, visit [www.nclc.org/shop](http://www.nclc.org/shop) or call 617-542-9495.

NCLC created this online resource for courts, trustees, attorneys, mortgage servicers, academics, and consumers in the bankruptcy community. It organizes and provides access to more than 500 local rules, forms, general orders, and court opinions addressing a variety of mortgage issues in consumer bankruptcy cases across the United States. This free “one-stop shop” collection can be a resource for those interested in adopting new programs and local rules to assist consumers, their attorneys, and mortgage creditors in addressing mortgage claims and seeking alternatives to foreclosure. Many of the website’s documents are not easily accessible using traditional legal research tools. The website was funded in part by a grant from the Endowment for Education of the National Conference of Bankruptcy Judges,\* as well as from your contributions.

The website is organized by topic: Loss Mitigation and Mediation, Cure Plan Requirements, Stay Relief Requirements, Lien Stripping, and Chapter 13 Plans. It is searchable by state, subject, court location (district and circuit), or document type. Visitors can also click on a map to pull up all relevant information for a particular state. Visitors can view and download all referenced documents.

The National Consumer Law Center will periodically update the website. We encourage individuals to review the documents in their district and inform us of any omissions. Additional documents identified through this process will be added to the website. Feedback on the website is also welcome. Please contact NCLC Attorney John Rao at [jrao@nclc.org](mailto:jrao@nclc.org).

*\*In funding the grant, the Endowment does not endorse nor express any opinion about the methodology utilized, or any conclusions, opinions, or results contained in any report, article, book, or other writing based on the research funded by the Endowment.*



John Rao, Staff Attorney

## Attorneys Flock to Boston in July NCLC’s First Mortgage Litigation Conference a Success

NCLC welcomed 165 attorneys to the Boston area for our first-ever Mortgage Conference, July 14–15, *Handling Mortgage Cases from A to Z: Training and Hands-On Workshops for Litigators at All Levels*. Participants were able to choose from over 20 substantive courses that covered hot topics such as HAMP litigation, How to Represent Borrowers in Foreclosure

Mediation, Truth-in-Lending and RESPA, and Standing and Documentation issues.

Thanks to a generous grant from the Consumer Protection and Education Fund of the Attorneys General, 35 legal services attorneys were awarded scholarships that allowed them to attend this important conference.

# NCLC WELCOMES NEW STAFF

NCLC is pleased to welcome new staff who will use their important experiences, exceptional talents, and commitment to economic justice to further our work.

**Jeremiah “Jerry” Battle** is a staff attorney at NCLC and works on foreclosure prevention and predatory consumer loan issues as well as our *Working Cars for Working Families* initiative. Previously, Jerry was a staff attorney with Northeast New Jersey Legal Services where he focused on predatory lending actions against mortgage lenders and public benefits cases affecting low income clients. Jerry has also served as a Managing Attorney with New Jersey Protection and Advocacy, Inc. (now Disability Rights New Jersey) where he concentrated on disability rights issues. He is a graduate of Rutgers School of Law–Newark, and a graduate, with high honors, of Livingston College–Rutgers University.

**Persis Yu** is a staff attorney at NCLC and works on the Student Loan Borrower Assistance Project and on other consumer advocacy issues. Prior to joining NCLC, Persis was Hanna S. Cohn Equal Justice Fellow at Empire Justice Center in Rochester, New York. Her fellowship project focused on credit reporting issues facing low-income consumers, specifically in the areas of



(Left to right)  
*Jerry Battle, Persis Yu and Jerry Tuckman.*

accuracy, housing and employment. Persis is a graduate of Seattle University School of Law, and holds a Masters of Social Work from the University of Washington, and a Bachelor of Arts from Mount Holyoke College.

**Gerald M. “Jerry” Tuckman** joined NCLC as Director of Individual Giving. Jerry has worked with a number of academic, medical, and non-profit institutions in matching donor interests with institutional needs. Prior to his fund-raising work, he used his social work degree (community organizing) in support of various housing and community economic development activities throughout the Commonwealth of Massachusetts. Jerry assists the Development Department in various fund raising and donor-centered activities designed to keep supporters aware of, and engaged in, the activities of NCLC.

## COMING SOON!

### NCLC Is Expanding Foreclosure and Mortgage Web Section

NCLC is working with a website design team to substantially improve and streamline the mortgage and foreclosure section of our website. The revised section will be reorganized and made easier to navigate. Each section will contain a wealth of information, including links to:

- policy analysis and testimony;
- summaries of key state and federal programs;
- training and conference information;
- links to books, articles, and other valuable resources.

Look for the new and improved webpages before the end of this year!

## A Unique Way to Support NCLC in 2011

A number of months ago, we shared some good news with you. We were placed on a list of nonprofit groups that will receive funds from CREDO Mobile in 2011.

How much we receive depends on you.

CREDO is an activist network and a provider of mobile and long distance phone services linked to Working Assets. They donate a portion of their profits to a wide range of nonprofit groups. Last year, they donated \$2.7 million—more than \$67 million since 1985.

Each year, they ask fellow activists to vote on the percentage of those funds that each group should get. This is where you come in. The more votes we receive, the greater our share of funding.

As you know, our mission and our passion is protecting consumers. In that spirit, we wish to make you aware of this opportunity to support our work and hope you act on this if you are comfortable doing so. While we appreciate this opportunity, we do not endorse CREDO or any other group.

Voting is easy and free. If you wish to support us in this way, go to [www.credomobile.com/vote](http://www.credomobile.com/vote) and follow the instructions to vote for us. You can vote whether you're a CREDO customer or not.

Thank you for helping us with our work!

**NCLC 24-7**

[www.NCLC.org](http://www.NCLC.org)

## Inside Washington.....

*continued from Page 1*

agency itself. It has been exciting to watch the CFPB take shape as the first federal agency with the primary mission of protecting consumers in the financial world. NCLC has been in the forefront of strong efforts to get the agency off on the right track. It has devoted a great deal of time to issuing papers and commenting on CFPB proposals while cultivating strong staff-to-staff relationships.

I am also fearful for the CFPB's future. The Bureau is under serious attack from industry lobbyists, and it is astonishing how short memories are.

Harvard Law Professor Elizabeth Warren led the effort for the first year to build the CFPB from the ground up with NCLC devoting much time and effort to helping in that regard. Last summer she passed the torch to her deputy, Raj Date, who is in charge of the CFPB while former Ohio Attorney General Richard Cordray awaits confirmation as the first Director.

Warren and Date have done a remarkable job of creating a new agency virtually from scratch. Although some employees have come from other agencies that had been criticized in the past, they are a self-selected group excited at the new challenge. Staff new to the government come from all walks of life, including the financial industry, the consumer advocacy world, and others who have no background in consumer financial issues. The more of the CFPB staff I meet, whatever their background, the more I am impressed by the esprit de corps, the strong sense of mission, and the wealth of diversity of talents that they bring to consumer protection

Warren emphasized to me that she was committed to creating the "first 21st century agency", one that will take advantage of new technologies and lessons from the past. The overriding goal is to

make this a truly public agency, one that interacts with, listens to, and is accountable to the American public.

The "Know Before You Owe" project to rewrite the basic mortgage and settlement costs disclosure form is one example of this effort. The CFPB has been using an interactive website that really engages people about what they like, dislike, and want out of a new mortgage shopping form. The idea is not to create just another legal disclosure, but to design one that truly empowers consumers to find the best deal.

Another example of thoughtful design of the CFPB is the building of the supervision staff. The power to get inside of the books of both banks and non-bank companies to see what is going on and to detect risks early is an important CFPB tool. But at other agencies, bank supervisors who examined the same bank year in and year out sometimes developed too cozy a relationship with the bank they examined.

Warren made a few early decisions to combat this problem. While the CFPB needed some experienced examiners, the Bureau has also welcomed a lot of new recruits and is working to build a culture of consumer protection. Examiners will be cross-trained to supervise both banks and nonbank industries like payday lenders, so that examiners can move around, get fresh challenges, examine new industries from another perspective, and not be tied to the social network of a company town. I met some of the new examiners at the celebration of the CFPB's launch date this past July 21st. Even the experienced examiners were excited at the new training they were being given, including "people skills" to help communications and problem solving.

With all of this exciting work going on, you would think that even skeptics would withhold judgment and wait to judge the CFPB by its work. But the ink was not even dry on the financial reform

bill before the lobbyists who fought the agency's creation began planning round two. With a more hostile Congress after the 2010 elections, we are now rehashing the same debates that we had last year.

A few months ago, 44 senators signed a letter refusing to confirm anyone to direct the CFPB unless Congress makes a number of changes to weaken the agency's independence. Instead of focusing attention on the failures of Wall Street and the foreclosure crisis, some members of Congress are intent on finding every possible vehicle to strangle the CFPB in the crib.

The lobbyists are hoping that the public is not looking, that they can kill the CFPB with a thousand cuts. Millions are being poured into lobbying efforts in DC, while consumers are distracted by the struggle to hold onto their homes.

We have a fight on our hands, every bit as important as the fight to pass the Dodd-Frank bill last year. And we can't do it alone. At the end of the day, the votes and the voices of those who send their Senators and representatives to Washington are more important than any lobbyist contribution. If you care about having a watchdog to look out for consumers, you need to speak up. We cannot let the watchdog be turned into a lapdog.

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## Making prepaid cards work...

*continued from Page 1*

protect workers and offers recommendations for how states can design a card that works well for both the state and its unemployed workers.

The report calls out unreasonable \$10 to \$20 overdraft fees that U.S. Bank has on prepaid cards in five states: Arkansas, Idaho, Nebraska, Ohio, and Oregon. No other bank's UC prepaid card charges overdraft fees, which the U.S. Department of Labor has found are "inconsistent with federal law." And the Tennessee card (issued by JP Morgan Chase) earned the dubious distinction of having the most junk fees, including ATM, PIN debit, denied transaction, and balance inquiry fees.

Which states handle these cards in the best interest of its citizens? California and New Jersey currently have the best UC cards (both issued by Bank of America). Even these state programs could improve if the fees were more clearly and prominently displayed on websites. California could further strengthen its prepaid cards if it offered direct deposit.

The report urged the new U.S. Consumer Financial Protection Bureau, which started work this summer, and Labor Department to work together to ban overdraft fees and other unfair fees and to improve transparency

and competition by posting all fee schedules in one place so that states and consumers can compare who has the best hand.

NCLC cautions states not to see prepaid cards as the only answer to payment of unemployment compensation. Workers with bank accounts should first be offered the choice of direct deposit, a solution which does not entail fees. Unfortunately, they do not have that option in six states: California, Indiana, Kansas, Maryland, Nevada, and Wyoming. Some states are taking notice and negotiating better terms with card providers to eliminate junk fees.

"It took months of research to obtain this information, so now that we've laid the cards on the table, it should help states to cut a better prepaid card deal," said Saunders. "This issue also reinforces the need for the new Consumer Financial Protection Bureau, which will help safeguard consumers from unfair fees on prepaid cards, credit cards and other financial products."

This Prepaid Card report is a part of a good deal of research NCLC has done on banking and payment systems, including prepaid debit cards.

Download the full report and a state-by-state highlights chart at [www.nclc.org](http://www.nclc.org).

## IRAQ and a Hard Place...

*continued from Page 3*

plaintiffs' attorneys argued, essentially, that if it looks like a loan, and charges interest like a loan, then it is a loan no matter what it is called. Furthermore, they argued that, alternatively or in addition to constituting a loan, the transaction was an assignment of a military pension prohibited by Department of Defense (retirement income) and Veteran's Administration (disability income) statutory and regulatory provisions that one may not assign military pay (including retirement and disability pensions).

### Court Rules for Veterans

The Superior Court ruled that the subject pensions transactions were illegal assignments that violated federal law, enjoined the practice and awarded the remaining plaintiffs' class nearly \$3 million in restitution under the California Consumer Protection Statute.

Unfortunately for the plaintiffs, SICO appears to be judgment proof. Though the plaintiffs lost a claim that the company's principals were acting outside of their corporate authority, the judge has allowed the case to continue to move forward in an effort to assess the judgment against the principals by piercing the corporate veil. Stuart Rossman, Charles Delbaum, and Arielle Cohen took part in the litigation on behalf of NCLC.

# HELP NCLC MAKE A DIFFERENCE...

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Advancing Fairness  
in the Marketplace for All

*The National Consumer Law Center is the nation's consumer law expert, helping consumers, advocates and public policymakers 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.*

## NCLC Exposes Cynical Push Behind For-Profit School Loans

### Schools Fail to Deliver Quality Educations, More than Half of Loans Never Repaid

According to a report by NCLC, many for-profit (or proprietary) schools have begun making costly private student loans, knowing in many cases that more than half of these loans will never be repaid.

*Piling It On: The Growth of Proprietary School Loans and the Consequences for Students* shows the urgent need to regulate lending by for-profit schools and provide relief for vulnerable borrowers, many of whom attend for-profit schools that fail to deliver quality educations as promised.

“Institutional loan programs are aimed at attracting investors and keeping the federal aid pipeline flowing,” said Deanne Loonin, Director of NCLC’s Student Loan Borrower Assistance Project and author of the report. “But students are often harmed by such lending.”

“Each failed loan represents an individual who cannot repay a debt and who may be facing aggressive collection tactics and damaged credit ratings,” Loonin said. “Piling more debt on students already buried in federal and third party private loans is hardly in the best

interests of students, even if it serves a company’s bottom line.”

To download a copy of the full report, visit the Student Loan Borrowers Assistance page at [www.nclc.org](http://www.nclc.org)

*Each failed loan represents an individual who cannot repay a debt and who may be facing aggressive collection tactics and damaged credit ratings.*

**DEANNE LOONIN**



*Deanne Loonin, NCLC Staff*