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## COUNTRYMAN AWARD HONORS MAYNARD

*Distinguished, Compassionate Advocate*

An enthusiastic standing ovation greeted Mal Maynard as he was presented with the 2007 Vern Countryman Award at NCLC's annual Consumer Rights Litigation Conference in Washington, D.C. last November. Each year the coveted Countryman Award honors the accomplishments of an exceptional consumer attorney whose work has benefited a large number of low-income consumers.

"Mallam Maynard is a pied piper of consumer law, inspiring others to take up the cause and training lawyers and housing counselors across the country," said Willard P. Ogburn, NCLC executive director, in announcing the award. "He has undertaken groundbreaking work with national impact for low-income consumers, including creative and important payday lending and mobile home cases. He commands universal respect. He is an

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# Outlook

NATIONAL CONSUMER LAW CENTER

## Systematic Lending Bias in Subprime Mortgage Industry

### NCLC Class Action Suits Claim Disparate Impact Even with Same Credit Scores, Minorities Pay More

By all accounts, African-American and Hispanic homeowners and their communities have borne the brunt of the subprime mortgage crisis. In city after city across the U.S. the story is the same: an unprecedented number of minority families are losing their homes to foreclosure, leaving behind abandoned properties, lower home values, and a depleted tax base for essential services.

The disproportionate impact of the crisis on communities of color is no accident,

according to a series of lawsuits recently filed by NCLC and its co-counsel. In separate class action suits filed on behalf of African-American and Hispanic homeowners, it is alleged that the pricing policies of some of the nation's largest subprime lenders (Countrywide, Washington Mutual, Wells Fargo, Greenpoint, GE Consumer Finance/WMC Mortgage, and H&R Block/Option One Mortgage) created a discriminatory impact that violated the Fair Housing Act and the Equal Credit Opportunity Act.

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## Politics Is Personal



*In the commentary below Lauren Saunders, managing director of NCLC's Washington office, builds a case for getting up close and personal with your congressman.*

When Congressman Barney Frank spoke at our November conference here in Washington, I think he was a bit taken aback at the passion and anger many of you expressed at the abuses you see people suffering at the hands of predatory

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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 NOTE FROM THE EXECUTIVE DIRECTOR

Look over this OUTLOOK and you'll see NCLC in action in many forums. Our issues are many: predatory lending with its many harmful faces, foreclosure prevention, bankruptcy, credit discrimination, consumer scams, credit card abuses, auto fraud, preserving LIHEAP funding, student loan abuses, and more.

Our approaches to combating abuses are opportunistic and varied: advocacy before state and federal rule-making bodies, including Congress and the Federal Reserve Board; expert testimony; listserves like our new DC Advocacy Listserve; nationwide trainings and forums; publications for attorneys and consumers; and high impact litigation, including several loan discrimination cases.

We do it all because we know that far too many low-income consumers are routinely being denied justice—and we worry because the few legal protections poor consumers have are being threatened in legislative bodies and courts across the country. We can only do it with your support—we depend on your financial gifts to underwrite our efforts. Please, use the coupon on page 11 to make a gift. Or make a donation through our website, [www.NCLC.org](http://www.NCLC.org).

WILLARD P. OGBURN

## NCLC STAFF

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## JOHN RAO NAMED FELLOW OF AMERICAN COLLEGE OF BANKRUPTCY



NCLC is proud to announce that John Rao has been selected by the American College of Bankruptcy to join its exclusive group of 650 Fellows. Rao's induction ceremony will take place in Washington, D.C. on March 15, 2008.

"We're absolutely thrilled that the College has recognized John's tremendous accomplishments at the very top of his field," said Willard P. Ogburn executive director of NCLC. "In addition to his encyclopedic knowledge and tireless advocacy for low-income consumers, what stands out is the exceptional sophistication and creativity of his work, he said. "Even after the dark days of post-bankruptcy reform, he came up with solutions to the most difficult problems."

The American College of Bankruptcy's Fellows are selected by a Board of Regents from among recommendations received from the Circuit Admissions Council in each federal judicial circuit. The Regents select those who, among other criteria, demonstrate the highest level of character, integrity, professional expertise and leadership which demonstrates the likelihood that they will continue to contribute to the enhancement of bankruptcy and insolvency scholarship, continuing education, and contributions to the improvement of the bankruptcy and insolvency processes.

"In countless ways, John has made an indelible mark on the field of consumer

bankruptcy," said Ogburn. "I can think of no one more deserving of this honor."

### Rao Highlights

- Attorney at NCLC since 1996
- Attorney at Rhode Island Legal Services from 1982 to 1999
- Member, Judicial Conference Bankruptcy Rules Committee (appointed by Chief Justice Roberts)
- Board Member, American Bankruptcy Institute
- Board Member, National Association of Consumer Bankruptcy Attorneys.
- Author, NCLC REPORTS, *Bankruptcy and Foreclosure Edition*.
- Co-author, *Foreclosures*, Consumer Credit and Legal Practice Series (2007 Ed.).
- Co-author of NCLC's *Guide to Surviving Debt* (2006 Ed.)
- Co-author, *Consumer Bankruptcy Law and Practice: Special Guide to the 2005 Act*, Consumer Credit and Legal Practice Series (2005).
- Editor and Contributing Author, *Consumer Bankruptcy Law and Practice*, Consumer Credit and Legal Practice Series (8th Ed. 2006).

## Help for Attorneys New to Bankruptcy Practice

For the uninitiated attorney, bankruptcy law can be an intimidating area of the law. But now there is hope for those attorneys struggling to remember all the differences between chapters 7 and 13 of the bankruptcy code. NCLC has published a step-by-step guide that is written for attorneys handling their first few bankruptcy cases.

*Bankruptcy Basics* provides an explanation of key bankruptcy concepts; outlines all the steps to be taken after the initial papers are filed, continuing through to the discharge; and reviews bankruptcy procedures in relation to home lenders, auto creditors, and other secured creditors.

Users of the book have access to a companion web site which provides software to complete the initial bankruptcy forms; summary of state exemption laws; pleadings that can be downloaded; various handouts, questionnaires, and blank forms that can be printed out; and a live web links to key web sites containing updated means test and other data.

## NOMINATE THE NEXT COUNTRYMAN WINNER

Since first presented in 1990 to Henry J. Sommer for his leadership in promoting the field of consumer law, the Vern Countryman Award has become the top honor for consumer attorneys across the country.

Each year the Countryman Award honors a consumer advocate distinguished by passion, vision, skill, and acts of generosity that invariably inspire and lift the entire community of consumer advocates to do its very best. Our guidelines are simple: the nominee must have demonstrated excellence in working on low-income consumer or energy issues for at least 10 years; or, recently obtained legal relief through judicial, administrative, or legislative action which benefitted a large number of low-income consumers.

If you know of an outstanding consumer attorney who is deserving of the award, please email Suzanne Cutler for information on completing the nomination process (SCutler@NCLC.org) or look on our website at [www.NCLC.org](http://www.NCLC.org). Completed nominations must be received in our Boston office by August 29, 2008.

# NEW GRANTS

Following are special project grants that were received by NCLC since our Fall 2007 edition of OUTLOOK:

## **Ford Foundation:**

\$825,000 for NCLC advocacy against abusive and exploitive practices in the consumer financial services marketplace; the National Mortgage Data Repository (including its work with the Fair Mortgage Collaborative)—Elizabeth Renuart is the project director; and Americans for Fairness in Lending, a public message campaign about predatory lending—Jim Campen is the executive director of AFFIL.

## **Boston Bar Foundation:**

\$20,000 to support foreclosure prevention activities in the Greater Boston area with Greater Boston Legal Services, Massachusetts Law Reform Institute, and Legal Advocacy and Resource Center. NCLC's Odette Williamson is the project director; and \$15,000 to support the Debt Collection Justice Project. Bob Hobbs, NCLC's deputy director, is the project director.

## **Massachusetts Bar Foundation:**

\$15,000 to support the Debt Collection Justice Project in partnership with the Legal Services Center.

## **Annie E. Casey Foundation:**

Awarded us three grants—

- \$60,000 for advocacy against tax refund anticipation loans. Chi Chi Wu is the project director.
- \$45,000 to develop a policy guide that examines unfair and abusive practices in the auto marketplace and describes policy reforms that will help protect consumers. John Van Alst is the project director;
- \$100,000 for Americans for Fairness in Lending;

## **Energy Foundation:**

\$30,000 for an expansion of NCLC's Appliance Efficiency Project, which promotes stronger efficiency standards for residential appliances (including boilers and furnaces). Charlie Harak is the project director.

## **U.S. Administration on Aging:**

\$150,000 for the National Legal Resource Initiative for Financially Distressed Elders. Odette Williamson is the project director.

## **U.S. Department of Justice, Office for Victims of Crime:**

\$26,885 for the Consumer Rights for Domestic Violence Survivors Initiative, in partnership with the National Association of Consumer Advocates and the Center for Survivor Agency and Justice. Carolyn Carter, NCLC's deputy director for advocacy, will direct NCLC's portion of the project.

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### **Mass Bar Foundation Gives Training Scholarships to Legal Aid Lawyers**

Recognizing the tremendous needs of low-income homeowners facing foreclosure, the Massachusetts Bar Foundation sponsored six legal aid attorneys to attend NCLC's Consumer Rights Litigation Conference in Washington last November. The MBF awarded \$6,000 in scholarships to attorneys from MVLS, Greater Boston Legal Services, LARC, and LACCM. The four-day conference offered over 50 courses and workshops to sharpen the skills of lawyers handling foreclosure, predatory lending, and other consumer cases.

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## **NCLC Seeks Tougher Efficiency Standards for Household Appliances**

### **Pushes for 90-Percent Furnace Standards**

While not often regarded as a traditional low-income issue, boosting the energy efficiency of household appliances has tremendous benefits for the poor.

"Among low-income households, more than half live in rental housing and thus have little or no ability to replace inefficient large appliances," said Charlie Harak. "Renters are usually not allowed to buy and install their own boilers, furnaces, or water heaters. Yet their landlords have little incentive to replace aging appliances with the most efficient new models and have every reason to stick with poor quality, less-efficient units."

As part of its project to boost appliance efficiency standards nationwide, NCLC is engaged on a number of fronts.

NCLC has intervened in two lawsuits challenging the Department of Energy's adoption of an 80-percent annual fuel utilization efficiency or AFUE standard for natural gas-fired furnaces. One suit was filed by the National Resources Defense Council and a second was filed by the states of New York, Connecticut, and Massachusetts, and the City of New York.

"This weak 80-percent standard did little more than ratify current market sales in many colder states," said Harak. "In fact, you would be hard-pressed to find furnaces on the market in cold states that are less than 80-percent AFUE."

NCLC also played a major role in getting a key provision into the federal energy bill that was signed into law in December 2007. The provision authorizes the DOE to establish distinct regional standards for most heating and cooling products.

“The legislation makes it more likely that DOE, under the next administration, if not the current one, will adopt stricter standards for gas-fired furnaces installed in colder, northern states. Together with our friends in the environmental community, we hope that these lawsuits and our other ongoing advocacy efforts will result in DOE adopting a 90 percent AFUE standard in northern states or even throughout the country,” he said.

In the meantime, Harak explained that NCLC, working with Northeast Energy Efficiency Partnerships, is helping three states (Massachusetts, Rhode Island and Vermont) to seek waivers of federal pre-emption to implement the 90-percent standard adopted by legislatures in those states.

“The states have made it clear that they intend to file waiver petitions, with the hope of having petitions granted and also to keep the pressure on DOE to eventually adopt 90-percent AFUE,” said Harak. NCLC’s appliance efficiency work is supported in part by a grant from the Energy Foundation.

## NCLC Secures Critical Heating Aid for Poor—Hundreds of Millions More Goes to Emergency Fuel Assistance

Millions of low-income families kept warmer this winter, thanks to several big policy victories won by NCLC. Engaging in forceful advocacy at both the federal and state levels, NCLC persuaded officials to boost fuel assistance benefits to poor households struggling to make ends meet.

Over the summer of 2007, NCLC predicted that by November 15, the start of the winter moratorium on terminating utility service to low-income households in Massachusetts, over 10,000 low-income households in the Bay State could expect to have had their services terminated for non-payment of utility bills. Most of these households would then suffer through the entire winter without electricity or gas. Working closely with the state’s fuel assistance office (the Department of Housing and Community Development), NCLC and the state’s community action agencies were able to obtain the agreement of all of the state’s utility companies to restore terminated utility service if the customers could pay 25 percent of the overdue balance, down from the prior 50-percent threshold.

“This allowed many households to restore their utility services by using their fuel assistance benefits, because those benefits were generally more than 25 percent of the overdue balances. It was a lifesaver for many families whose utilities had been cut off over the summer and early fall,” said Charlie Harak, an NCLC attorney.

### NCLC Makes the Case to Officials in Massachusetts

At around the same time, Harak played a pivotal role in securing an additional \$15 million in state fuel assistance funds. At meetings with key legislative leaders and in a face-to-face meeting with Massachusetts Governor Deval Patrick, Harak was armed with charts and statistics to methodically prove the need.

“We graphically portrayed the recent run-up in heating oil prices, the limited reach of core federal funding for energy assistance, and the shocking number of households whose utility service had been terminated,” said Harak. According to Harak, the state’s community action agencies were an indispensable partner in convincing the Governor and the state legislature to approve the funding.

### Wein Helps Secure \$450 Million in Federal Funds

Next came the efforts of Olivia Wein, an attorney in NCLC’s Washington office and co-chair of the Low Income Home Energy Assistance Program Coalition, who was a tireless advocate in putting pressure on the administration to release \$450 million in emergency fuel assistance funds for distribution among all the states.

“It was critical to secure the release of these emergency energy assistance dollars to help struggling low-income families make it through this winter,” said Wein. “Our challenge now is to secure additional funding for LIHEAP in fiscal year 2008 to address the rise in home heating and cooling costs and the increased demand for this assistance due to the economy.”

Out of the \$450 million released by the federal government, Massachusetts received \$27 million. NCLC supported targeting the additional funding to oil-heated households, thousands of whom had already exhausted their fuel assistance benefits and were without heat. On January 18, DHCD announced that benefits would be raised \$300 for each household that heats with oil, propane or kerosene, enough to guarantee an additional delivery of 100 gallons. The new, maximum benefit is \$1165 for these households.

NCLC’s work in this area is supported in part by grants from the Boston Foundation, Fireman Foundation, and Proskauer Rose.



*NCLC’s Charlie Harak, far right, listens to Mass. Gov. Deval Patrick announce the release of \$15 million in fuel assistance funds.*

## LARSON GIVES BACK TO NCLC

Like many attorneys, Steve Larson first encountered NCLC when he was getting up to speed on a consumer case and found NCLC's publications to be invaluable resources. Use of the manuals prompted him to start attending NCLC's annual Consumer Rights Litigation Conference. He noticed that his consumer practice received a further boost from the conference's many specialized seminars and workshops—many of which were taught by authors of the legal manuals.

So when Larson recently had the chance to direct a *cy pres* to NCLC, he was delighted. "After learning so much from their experts over the years, it's a real pleasure to send this award to NCLC," said Larson. "It is an organization that stands out for the both the quality of its work and its commitment to consumer justice."

The \$21,517 award came from a class action settlement in *Mark v. Valley Insurance Co.* According to Larson, Valley Insurance used credit scores to set insurance premiums but did not provide the adverse action notices required by the Fair Credit Reporting Act.

"We were thrilled by Steve's decision to recommend NCLC for this award," said Willard P. Ogburn, NCLC's executive "And his *cy pres* was leveraged even further because it helped us match a challenge grant issued by the Sandler Foundation."

Larson is a trial lawyer at Stoll Stoll Berne Lokting & Shlachter P.C in Portland, Oregon. He is an editor of the *Oregon Civil Pleading and Practice Handbook*, and writes and lectures on class actions, securities law, contract law, and trial practice.



Steve Larson.

### Maynard Inspires Fellow Advocates, *continued from Page 1*

respect. He is an exceptional human being, and a distinguished, compassionate advocate. We're pleased to present him with the Vern Countryman Award."

In supporting his nomination for the award, others spoke just as highly of Maynard:

#### **The leader and soul of consumer law advocacy in North Carolina**

"While he would be the last person to lay claim to his legacy, Mal is and for many years has been the leader and soul of consumer law advocacy in North Carolina. He is that rare person who has demonstrated an enduring commitment, outstanding legal skills, and exemplary ethical and professional conduct in service to his community; at the same time his genuine compassion and kind nature inspire all who have the privilege to work with him."

WILLIAM J. WHALEN

#### **Everyone pays close attention to Mal**

"Mal is a bit of a rarity: he is a man who is invariably spoken of in remarkably favorable terms, and then when you get to actually meet him and work with him you realize that the real man is even more impressive than his outsized reputation...Mal is also a thoughtful strategist thinking of the long-term implications of every argument and case in which he participates. He usually speaks with a calm

and measured integrity, but when Mal speaks it's like the old TV advertisement: everyone pays close attention."

F. PAUL BLAND

#### **Mal dreams of attacking predatory lending**

"Mal's ability to explain complex lending practices and the legal theories to attack them is legendary...Some of us believe that Mal never stops thinking of ways to attack unfair and predatory lending practices. I suspect he even dreams of ways to do so. He has been at the forefront of developing legal theories as defenses and counterclaims in predatory lending cases."

CELIA PISTOLIS

#### **By teaching, he has magnified his impact...**

"Watching him, and listening to him one can sense his acute zeal for justice...He inspires, he challenges folks to want to learn more, and he reinforces a sense of mission...He imparts a sense of hope that even amidst a seemingly intractable subprime mortgages crisis, just one client helped remains a worthwhile accomplishment. By teaching, he has magnified his impact through these counselors to thousands of homeowners across the country."

MARK BENSON

*You can help identify the 2008 Countryman winner, see the article on page 3.*

# MEET OUR Staff



## ELIZABETH RENUART

*It should come as no surprise that attorney Elizabeth Renuart is in high demand right now. Having long predicted the subprime mortgage mess and resulting foreclosure crisis, Renuart is crisscrossing the country to meet with federal officials (including Federal Reserve Board Chairman Ben Bernanke and FDIC chair Sheila Bair), and teaching scores of workshops to lawyers and housing counselors. She also directs the work of NCLC's National Mortgage Data Repository, a collection of mortgage loan information designed to track subprime and predatory loan terms and lender practices.*

*Prior to joining NCLC in 1996, Renuart was the managing attorney of a legal services program in Baltimore that represented homeowners in danger of losing their homes. She has been a legal services attorney since 1977.*

**Outlook:** *You recently co-authored a law review article with Diane Thompson, "The Truth, the Whole Truth, and Nothing But the Truth: Fulfilling the Promise of Truth in Lending (2007)" to be published by the Yale Journal on Regulation in the spring of 2008. What do you mean by the promise of Truth in Lending?*

**Renuart:** Congress passed the Truth in Lending Act in 1968 for two main reasons. First, it was impossible for consumers to

make an apples-to-apples comparison between two loan offers because interest was not computed in a standard way. Second, it wanted to enhance competition among lenders by putting all lenders on equal footing and promoting an efficient market. Sadly, the effectiveness of TILA has been undermined over the past 40 years. As we explain in the article, because of decisions primarily made by the Federal Reserve Board, the value of the APR disclosure no longer reflects the true cost of the credit. Even for the most sophisticated consumer, it is a daunting task to comparison shop for a loan these days.

**Outlook:** *How long have you been working with the Truth in Lending Act?*

**Renuart:** On the non-mortgage side, since 1977, and on the mortgage side, since 1991. I'd say TILA plays a big role in about 50 percent of my work at NCLC.

**Outlook:** *You have taught countless legal workshops on TILA. How do you calm the fears of lawyers who are intimidated by the complexity of the statute and suffer from acute math anxiety?*

**Renuart:** Before getting into the nitty-gritty details I motivate them by focusing on the big picture. TILA can be a very powerful statute for consumers. It can rescind a mortgage transaction and stop a foreclosure. I also try to make it fun. We get to play detective and sift through the loan documents to find out where the money went. As for the math, I try to reassure people that it's nothing fancy. Just addition, multiplication, division, and plugging numbers into a computer APR calculator. If they've ever read the eligibility regulations for Medicare, Medicaid, or SSI, TILA is a breeze!

**Outlook:** *When did you realize there was something amiss in the subprime market?*

**Renuart:** About ten years ago, when these subprime mortgage documents starting reaching my desk, I can recall wondering how in the world these loans were being sold. It became clear that the demand was coming from Wall Street investors in search of high returns, and not

consumers. It's no surprise that many lenders and brokers were prepared to adopt predatory tactics and defraud consumers in order to preserve the flow of money from Wall Street.

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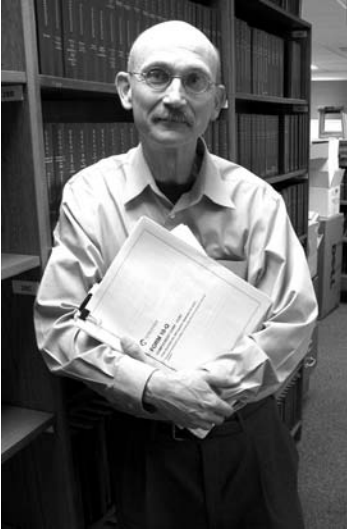
For more information, go to our website at [www.NCLC.org](http://www.NCLC.org).

Conference brochures and registration forms will be mailed in mid-July and will be available on our website in early July.

Over 800 consumer advocates are expected to attend.

*The one consumer law conference that has it all!*

## NCLC's Jurgens Tells the Stories of Industry Abuses



### Former Journalist Gets Results with Investigative Reports

NCLC is best known for its staff of lawyers who are experts in the nitty-gritty of consumer law and policy. There is one member of the advocacy staff, however, whom you won't find poring over court opinions and legal briefs. Rick Jurgens, a consumer advocate who joined NCLC in January 2007, spends most of his time investigating the inner workings of America's credit and utility industries. Jurgens came to the Center after a career as a journalist, most recently with the *Contra Costa Times* in California where he wrote about mortgage lending, banking, and utility issues as a business reporter,

Jurgens has made a smooth transition into his new role of an investigator and consumer advocate. "From day one Rick has proved himself to be a skilled and tenacious advocate," said Willard P. Ogburn, executive director of NCLC. "His ability to frame the issues for a wide audience and his fresh perspective on how the business world works have been a boon for our advocacy," said Ogburn.

Jurgens is applying his skills to shine the light on industry practices that harm low-income consumers. His first report, *Utilities and Payday Lenders: Convenient Payments, Killer Loans* documents how 21 large utility chains used more than 650 payday lenders as authorized bill payment agents. These utility customers, who are often strapped for cash, are rich targets for the ultra-high-cost payday lenders. Within weeks of the report's release, Southwest Gas announced that it was ending payday lenders' role as payment stations for its 1.8 million customers in Arizona, California and Nevada.

Jurgens next co-authored (with attorney Chi Chi Wu) *Fee Harvesters: Low-Credit, High-Cost Cards Bleed Consumers*. It documents how millions of consumers are being victimized by credit card offers that charge hundreds of dollars in fees and extend minimal available credit—sometimes as little as \$50. The report caught the attention of policymakers in Washington, and legislation is being drafted that would rein in the fee harvesters.

Jurgens says he aims to write reports that cut through the often confusing thicket of jargon that hide industry abuses.

"It's important to give readers enough context to better understand what's going on and to weave it into narrative that they can relate to," said Jurgens. "In addition to giving flesh-and-blood examples of a scam's impact on individual consumers, I like to find out who is getting rich," he said. "No longer are we just dealing with small-time seedy operators. More often than not we are dealing with well-heeled businesspeople with ties to the biggest financial players on Wall Street."

The watchdog role is one that suits Jurgens and, as he points out, is more necessary than ever before.

"As newspaper budgets shrivel and the media loses its appetite for investigative journalism, there is a real vacuum here that needs filling. Together with our legal and policy expertise, it's another way that NCLC can effect positive change in the market."

## AFFIL Spotlights Lending Abuses

### Campaign Demands Change

Some of you may recall an article in *Outlook* last year which introduced Americans for Fairness in Lending, a newly independent coalition which is behind a nationwide campaign to put an end to lending abuses. This collaborative effort by the nation's leading consumer groups includes NCLC and the National Association of Consumer Advocates. In fact AFFIL began as a project of the National Consumer Law Center, and, although now independent of NCLC, continues to make its home in their Boston office.

AFFIL's goal is to engage the public in a campaign to demand effective regulation of the lending industry. To spread the word and engage consumers, AFFIL produced a public service print ad campaign for publications and newsletters. Recently, ads appeared in *The New Republic* and *Sports Illustrated Latino*. AFFIL is also reaching out to consumers online, through press releases, email alerts, and on its bi-lingual website, [www.affil.org](http://www.affil.org).

"The secret to AFFIL's success is our relationships with folks around the country who spread the word about the need to regulate lenders," said Jim Campen, AFFIL's executive director. "We urge you and your law firm or legal services office to join us by becoming an AFFIL Ally." AFFIL Allies are posted on their website's "Local Resources Map" so consumers can connect with them directly. Allies also have access to useful resources and messaging tools, with no fees involved. "Join us as we shine a spotlight on lending abuse and raise the volume on our demand for change," added Campen.

To register, go to [www.affil.org](http://www.affil.org) and click "Register Here" in the blue box in the upper right-hand corner.



## NCLC Demands End to Credit Card Abuses

Last October, NCLC and other national consumer groups urged the Federal Reserve Board to do much more to protect consumers from abusive credit card practices. The appeal was made in response to the Fed's proposed revamping of its rules for credit card disclosures under the Truth in Lending Act.

The consumer groups asked the Fed to ban or restrict a number of abusive practices, and to recommend that Congress pass new laws to protect credit card consumers.

According to comments submitted by the groups, the Fed's proposal would still allow creditors to:

- hike the interest rate on a card that the consumer is paying on time, just because her credit score has dropped for unrelated reasons.

- apply interest rate hikes retroactively to purchases made before the new rate
- use hair trigger tactics to impose penalty fees and rates, such as treating payments received after 1pm on the due date as a late payment.

"The Fed proposal makes some improvements in credit card disclosures, but we are disappointed that they have done nothing to stop some of the worst credit card abuses," said Chi Chi Wu, an attorney at NCLC. "Credit card companies could still reel in consumers by advertising deceptively low APRs. But then they could turn right around and hit consumers on the back end with fees that are not included in the interest rate."

### Positive Improvements For Tax Refund Loans, But Consumers Still Warned To Avoid Them

NCLC and Consumer Federation of America are once again warning taxpayers to steer clear of refund anticipation loans, one of the most avoidable tax-time expenses. New figures reveal that RALs

drained the refunds of nearly 9 million American taxpayers in 2006. While lower than the high of 12.4 million taxpayers in 2004, it still accounts for \$900 million in loan fees, plus over \$90 million in other fees.

"Taxpayers can save themselves loan fees altogether by just saying 'no' to quick refund loans," advised Chi Chi Wu, an NCLC attorney. "Taxpayers shouldn't forget that these are loans, and they carry the risk of loans, including potentially unmanageable debt if your refund doesn't arrive as expected."

Some of the biggest players in the industry, H&R Block and JPMorgan Chase, have lowered their RAL fees, claiming that these loans bear an effective APR of 36 percent, which is the traditional small loan rate cap in many states. These figures do not include the Refund Account fee, which they claim is for the temporary account into which the taxpayer's refund is later deposited to repay the RAL. If the Refund Account Fee is included, it more than doubles the APR.

## Student Loan Borrowers Overdue for Help—NCLC Provides Resources on Student Loans

Long after the last exam is finished, many student borrowers struggle with paying back the loans that helped them get through school. A new NCLC web site, [www.studentloanborrowersassistance.org](http://www.studentloanborrowersassistance.org), is helping address this problem. Until now, if they ran into trouble with their loans—because of illness, loss of jobs, or other financial hardships—borrowers didn't have many options, and even finding out about their limited choices was surprisingly difficult, according to Deanne Loonin, NCLC staff attorney and author of *Student Loan Law*.

"So many borrowers I talk to can't find critical information to deal with their problems," said Loonin. "This site describes the rights and obligations of student borrowers in plain language so that

they can understand their options, and stand up for themselves." It also includes policy briefs, legal case studies, sample documents and promissory notes, and other valuable resources not found elsewhere on the web.

Loonin, who authored a recent report on the availability of assistance for financially distressed student loan borrowers for NCLC's Student Loan Borrower Assistance Project, says existing legal resources are insufficient. The report (available at [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org)) calls on Congress to fund a pilot project that sets up a neutral, non-profit entity to provide direct assistance to borrowers in trouble. The report makes it clear that a borrower advocate project cannot be effective if funded through student loan

lenders.

Several NCLC's publications may be helpful in understanding the remedies and strategies for students delinquent on their loans. *Student Loan Law*, especially useful for attorneys and advocates representing student loan borrowers, includes information on the 2007 College Cost Reduction and Access Act which affects interest rates, Pell Grants, and deferments, income-based repayment, and other rights for student borrowers. *The NCLC Guide to Surviving Debt*, for consumers and their advocates, includes general information about handling all types of debts, including student loan debt and consolidation options. (For more on these publications see [www.NCLC.org](http://www.NCLC.org).)

## Just keep it personal

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*Silence from the district can be devastating.* **LAUREN SAUNDERS**

lenders. I can't tell you how important it is for lawmakers to hear directly from people around the country, not just us Washington policy geeks. We can describe problems in general terms and offer solutions, but the need doesn't sink in unless members hear personal stories close to home that touch their hearts.

Personal stories change congressional views. The bill to curb abusive overdraft fees on approved ATM and debit transactions has stalled due to reluctance from the so-called "Blue Dog" Democrats on the committee. As I was trying to convince one Blue Dog aide about the importance of the issue, he said to me: "We have not gotten one call from a constituent on overdraft fees." I had no reply. Silence from the district can be devastating.

On the other hand, Congressman Spencer Bachus (R-AL), the Ranking Republican on the House Financial Services Committee, has become a critic of credit cards because he hears regularly from constituents with compelling stories. Bachus recently berated credit card executives about a constituent who spent the better part of two months at the hospital with a premature baby. When he realized his mortgage payment was due that day he called up his lender, who told him to put it on his credit card. His credit card bill came, and he noticed that he was charged 24.9 percent, well above his regular rate, on the mortgage payment. So he immediately sent in a check to cover the entire mortgage payment, plus his minimum payment. But he learned that he wasn't allowed to pay it off, and had to watch it continue to generate 24.9 percent interest, until he paid off his entire lower rate regular balance. Bachus also hears from parents of college students hurt by aggressive credit card marketing, and said "I could join my other constituents in having legitimate complaints

in what I have witnessed in dealing with one or two of my five children." Senator Claire McCaskill (D-MO) watched her mother fall into credit card debt after her father's death. She found it "mind boggling" how much money her mother had paid during the years, and said "I think it's time we begin talking about the real amount of money that these people are being charged and comparing them to the payday loan industry." Even after the family canceled her mother's credit card, McCaskill realized that despite her mother's age and history of bad credit she had been sent a "check" from the credit card company. Assuming it was her own money, McCaskill's mother cashed the check and signed herself up for a new battle with the company. "I just think it is unconscionable that they're sending these checks to people that they know are financially stressed," McCaskill said. "It's like sending a six pack of beer to somebody who is on their 30th day of sobriety and saying 'why don't you just have another' drink."

Senator Richard Shelby (R-AL) had surprisingly strong words to say at a recent hearing about the bank practice of freezing accounts with Social Security funds in response to a debt collector's garnishment, even though federal law protects those funds. Shelby was convinced after the Wall Street Journal ran a story about one of his constituents. A debt collector decided Mrs. Kell in Alabama owed \$125 on a three-year-old hospital bill and sent a garnishment order to her bank. The bank froze the entire account, which contained \$679 in Social Security, causing Mrs. Kell's mortgage and electric bills to bounce, even though the entire account was legally exempt from garnishment.

And though we still face a tough battle to pass a meaningful bill to stop predatory mortgage lending and to help consumers

facing foreclosure, our odds are helped by the fact that some Republican Senators, like Sen. Jim Bunning of Kentucky, who is on the Banking Committee, have been hearing loudly about the huge wave of foreclosures in their states.

I really appreciate the number of you who took the effort to meet with your Senators and Representatives while you were in DC during our annual conference. I hope you will continue to stay in touch with them at home—and will encourage your clients to do so. In addition to calls and letters, don't forget that it is easier to get meet personally with them, or to ask them a question at a public forum, when they are back in their home states.

Remember, you don't need to know the details about the bills that are pending or the legal reforms that are needed. Just keep it personal—tell them your story.

### **NCLC's New DC Updates Listserve**

NCLC has created a new DC Updates Listserve for those who are interested in keeping posted on legislative and administrative developments in Washington—including agency comment opportunities and critical junctures when Washington policymakers need input from consumer advocates nationwide.

Although some of this information may already be available on more specialized NCLC and NACA listserves, this new DC Updates Listserve is intended to fill the gap for those, for example, who would like to know critical developments on the mortgage bill but do not want to be on the mortgage listserve, or who want to hear more generally about all agency notice and comment opportunities affecting consumers. To subscribe, go to [www.Lists.NCLC.org/subscribe](http://www.Lists.NCLC.org/subscribe).

## NCLC Fights Systemic Lending Bias, *continued from Page 1*

The complaints in these actions claim that the defendant subprime lenders authorize their loan officers, brokers and correspondent lenders to include subjective, discretionary charges and interest rate mark-ups in the finance charges of their mortgage loans.

“These charges and mark-ups are totally unrelated to a borrower’s objective credit characteristics and result in purely subjective charges that affect the interest rate otherwise available to borrowers,” said Stuart Rossman, director of litigation at NCLC.

Specifically, the plaintiffs allege that a risk-based financing rate or par rate was calculated for each loan applicant. The par rate is based upon objective risk-related variables such as the individual’s credit bureau histories, payment amounts, debt ratio, bankruptcies, car repossessions, charge offs, prior foreclosures, payment histories, credit score, debt to income ratios, loan to value ratios and other risk-related attributes and variables.

“But after coming up with the risk-based rate, the lenders would authorize their

loan officers, brokers or correspondent lenders to mark it up to an amount limited only by the caps established by the lender’s policies,” said Rossman. “This markup—sometimes called a yield spread premium—isn’t based on the consumer’s credit score or any other risk-related assessment. It’s very much a subjective decision and set up within the limits of policies created by the subprime lender.”

The lawsuits assert that this pricing scheme results in a disproportionately adverse effect on African Americans and Hispanics. “Because of the pricing system, minorities pay more discretionary charges (both in frequency and amount) than whites with identical or effectively identical credit scores,” said Charles Delbaum, an NCLC attorney involved in the litigation.

According to Delbaum, NCLC and its co-counsel intend to pursue a litigation strategy similar to the successful approach of the recent series of auto finance discrimination cases brought by NCLC.

“It is important to remember that these cases are based exclusively on discriminatory effect claims. We believe that Congress was clear that such causes of action under the [Fair Housing Act] and [Equal Credit Opportunity Act] do not require

proof that the subprime lender intentionally discriminated based on race,” said Delbaum. “We intend to prove disparate impact by using statistical information from the lender’s own files.”

NCLC is litigating the mortgage discrimination cases with a team of lawyers, including:

- Gary Klein and Shennan Kavanagh of Roddy Klein & Ryan in Boston
- Andrew S. Friedman and Wendy Harrison of Bonnett, Fairbourn, Friedman & Balint P.C., in Phoenix
- Marvin A. Miller, Matthew E. Van Tine and Lori Fanning of Miller Law LLC, in Chicago
- Samuel H. Rudman, Robert Rothman and Mark S. Reich of Coughlin Stoia Geller Rudman & Robbins LLP, in Melville, N.Y.
- Theodore J. Pintar and John Stoia of Coughlin Stoia Geller Rudman & Robbins LLP, in San Diego
- Thomas M. Sobol and Gregory Matthews of Hagens Berman Sobol Shapiro LLP, in Boston
- Mark A. Chavez, Dan Gildor, and Nance Becker of Chavez & Gertler, in Mill Valley, Calif.

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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.*

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*Before the new walls go up, utilities are installed, and the offices are furnished, debris and leftovers from earlier incarnations must be hauled away, lead paint removed, even once-beautiful tin ceilings taken down.*

## **NCLC Builds for the Future Fundraising Continues as Costs Mount**



Architectural drawings have been finalized, contractors hired, the HVAC system ordered, permits pulled, and renovations are underway on NCLC's new home on Summer Street, Boston. If all goes as well as anticipated, NCLC staff is expected to move into our new offices sometime this summer. (We'll let you know when it's time to update your address files with NCLC's new address.)

Even as renovations are progressing, fundraising for the building continues. "Although NCLC expected costs associated with renovating and financing the building would bring the total price up, the extent of the increase has outpaced their wildest predictions," according to Bryan Kemnitzer, chair of NCLC's Partners Council which is leading the fundraising efforts for the building. "With total costs expected to top \$8.5

million, additional support for the building is more important than ever.

"If you haven't already made a gift to the campaign, now is the time," said Kemnitzer. "NCLC is about excellence, compassion, and decency and your gift will help to make sure the Center can carry on these ideals and its commitment to consumer justice for many years to come."

For more information on the NCLC building campaign visit our website at [www.NCLC.org](http://www.NCLC.org) or contact Suzanne Cutler at [SCutler@NCLC.org](mailto:SCutler@NCLC.org). Cash, charges, pledges, stock, and cy pres may be directed to the campaign. Donations can be made through the mail or our website and are tax deductible to the extent provided by law.

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