NCLC®
NATIONAL CONSUMER LAW CENTER®

FOR IMMEDIATE RELEASE: JULY 26, 2013

Contact: Jan Kruse, jkruse@nclc.org or 617-542-8010

JUDGE RULES LAWSUIT, FIRST TO LINK BUNDLING OF MORTGAGE-BACKED SECURITIES AND RACIAL DISCRIMINATION, CAN PROCEED

(BOSTON) – A federal court has ruled that a landmark discrimination lawsuit against Morgan Stanley can move forward. Judge Harold Baer denied in part the investment bank's motion to dismiss the case, which alleges Morgan Stanley violated the Fair Housing Act (FHA) by encouraging lenders to push high-risk mortgage loans on African-American borrowers.

The National Consumer Law Center, the American Civil Liberties Union, the ACLU of Michigan, and the firm of Lieff Cabraser Heimann & Bernstein filed the lawsuit last October on behalf of Michigan Legal Services and five African-American homeowners in Detroit who were victims of Morgan Stanley's practice of purchasing and financing predatory mortgages, which were later bundled into mortgage-backed securities. Stuart Rossman, director of litigation at the National Consumer Law Center, said, "This ruling gives us the opportunity to present our civil rights claims under the Fair Housing Act against Morgan Stanley in further judicial proceedings. We look forward to proving that investment banks, like Morgan Stanley, cannot maximize their profits at the expense of communities which are victimized by the toxic loans which the banks funded."

The lawsuit is the first to connect racial discrimination to the securitization of mortgage-backed securities. It is also the first case where the plaintiffs, on behalf of themselves and an entire class of victimized homeowners, are suing an investment bank directly rather than the subprime lender whose loans the bank bought. Morgan Stanley was the principal financier of the now-defunct New Century Mortgage Corp., and orchestrated New Century's focus on dangerous loans that placed many homeowners on a path to foreclosure. "Targeting communities of color with predatory loans is not acceptable. Morgan Stanley is not above the law," said ACLU Executive Director Anthony D. Romero. "This ruling affirms that Wall Street banks must comply with civil rights laws, and that they will be held accountable if they do not."

Rubbie McCoy, a plaintiff in the case, is among those pushed into harm's way. In the lawsuit, she describes how her mortgage broker guided her toward a predatory New Century loan, placing her home and family's well-being in jeopardy. McCoy, a single mother of four, has experienced firsthand the devastation that banks like Morgan Stanley have wreaked upon largely African-American neighborhoods, where huge swaths of once-occupied homes now stand abandoned and stripped. "I am happy the judge is allowing the case to move forward," McCoy said. "This was and continues to be my dream home and neighborhood, yet because of banks' unfair targeting of people like me this has turned into a living nightmare. Anyone with children knows how important it is that they live in a stable environment. There is nothing stable about having your family uprooted or living beside vacant homes."

Baer's decision bolsters the principle that when Wall Street banks interact with home mortgage finance, they must comply with federal civil rights laws such as the Fair Housing Act, which prohibits discrimination in housing transactions, including unfair lending practices.

In his ruling, the judge said that "Detroit's recent bankruptcy filing only emphasizes the broader consequences of predatory lending and the foreclosures that inevitably result." The judge ruled that "Morgan Stanley—as a loan purchaser and mortgage securitizer—falls within the scope of the FHA. And as such, the FHA prohibits Morgan Stanley both from discriminating in 'making available' real-estate related transactions as well as discriminating 'in the terms or conditions of such a transaction.'"

Rachel Geman, a partner at Lieff Cabraser Heimann & Bernstein, said, "African-American homeowners harmed by Morgan Stanley's securitization policies now have the chance to develop evidence to support their classwide claims of discrimination and to request the disgorgement of the bank's ill-gotten gains. A bank cannot cause the sale of toxic mortgage loans as a future profit stream for itself and then avoid any potential responsibility whatsoever for the disastrous impact of those loans on actual homeowners."

Kary L. Moss, executive director of the ACLU of Michigan, called the ruling "an important step forward" for the people of Detroit who have been victimized by predatory lending practices. "This case shows that Detroit's economic woes cannot simply be blamed on Detroit residents and that enforcement of our civil rights laws can be an important tool in Detroit's economic recovery," she said.

The case, *Adkins et al. v. Morgan Stanley*, was filed in the U.S. District Court for the Southern District of New York.

The ruling is at: http://www.nclc.org/images/pdf/litigation/michigan/opinion-and-order-7-25-13.pdf

More information on the case:
http://www.nclc.org/issues/mortgage-securitization-discrimination-litigation.html

###

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness. **www.nclc.org**