

**SEMI-ANNUAL PERFORMANCE REPORT  
OF  
THE NATIONAL CONSUMER LAW CENTER  
TO THE ADMINISTRATION ON AGING**

**Second Half of the Grant Year  
(April 1, 2005 through September 30, 2005)**

**National Legal Resource Initiative for  
Financially Distressed Older Americans**

**Ref: Grant Number 90-AP-2640**

The following report summarizes the work of the National Consumer Law Center's Initiative for Financially Distressed Older Americans from April 1, 2005 through September 30, 2005. This report focuses on work that has been funded by the Administration on Aging grant. However, other relevant work that has been funded through other means but which has a significant impact on senior consumers is also included. A sampling of written work is enclosed.

**NATIONAL CONSUMER LAW CENTER  
RESULTS OF 2005 SURVEY**

Our September 2005 mailing included an advocate's survey. Results are summarized below and reported in greater detail later in this report.

81 Responses to date representing advocates from 32 states:

**1. Have you used any of the following services offered by NCLC in the past year?**

TOP THREE RESPONSES:

70% responded that they had used NCLC's consumer law manuals  
58% responded that they had used NCLC's consumer education materials  
40% responded that they had used NCLC's web site

**2. Which of the following consumer issues do your clients report?**

TOP FIVE RESPONSES:

(% of advocates responding that their clients reported this issue):

Credit Card Debt: 90%  
Debt Collection Harassment: 90%  
Foreclosure Prevention: 66%  
Energy and Utility Issues: 60%  
Auto Fraud or Repossession: 60%

The following five issues rounded out the top ten:

Home mortgage fraud/predatory lending  
Consumer Scams-Telemarketing  
Student Loan Issues  
Mobile Homes  
Credit Repair/Credit Reporting and High Cost Credit (same number of respondents)

3. About 62% of respondents said that they are interested in obtaining training from NCLC. The most popular topics requested were bankruptcy and mortgage predatory lending.

**National Consumer Law Center**  
**Summary of Activities: April 1, 2005-September 30, 2005**

**Case Consultations**

- A legal aid lawyer from Tampa, Florida called regarding a seventy-two year old client facing a debt collection lawsuit. The client had been sold an open-end credit plan to purchase a water softener system. NCLC attorneys analyzed the key issues, focusing on whether the lien-security interest provisions in the original contract created a security interest in the client's home. If so, the Truth in Lending rescission remedy would apply. With NCLC's help, the attorney was able to craft arguments to challenge the collection suit.
- NCLC discussed possible causes of action with a Massachusetts legal assistance attorney representing a 73 year old disabled client. The client's bank had failed to properly credit her mortgage payments. Although the error was fixed, the client was unable to catch up on her payments and was facing foreclosure. The attorney had filed for a temporary restraining order and got an agreement to halt any sale of the home for thirty days. NCLC attorneys discussed possible causes of action to help save the client's home.
- NCLC consulted with a Senior Citizen's Law Office attorney in New Mexico representing an older client who had a number of payday loans. The payday lender was using fraudulent checks to access the client's bank account and seize exempt Social Security funds. NCLC reviewed possible strategies to preserve the client's exempt assets in the account as well as other possible challenges to the actions of the payday lender.
- A New Hampshire legal services attorney called about an older, disabled client facing Social Security offset to collect old student loans. The client has a mental disability and has been unable to qualify for the student loan disability discharge. She applied instead for a hardship waiver to reduce the amount taken from her Social Security each month. NCLC contacted the federal student loan ombudsman's office and arranged for the ombudsman to work with the attorney and with the guaranty agency to resolve this case. The guaranty agency was taking the erroneous position that the client had to apply for a disability discharge and could not separately qualify for a hardship waiver. The guaranty agency has agreed to allow the client to consolidate her loans and set up an income contingent repayment plan. This will allow the client to make payments based on her entire budget. The loan will no longer be in default and the Social Security offsets should cease.
- A lawyer from the Senior Law Center in Philadelphia sought NCLC's help for an older client having problems with Citibank. The bank made a mistake by taking too much money out of the client's bank account to pay her monthly credit card bill. This mistake left the client without any funds to live on for over a month.

She was also charged overdraft fees. Although the error has now been corrected, NCLC attorneys reviewed possible claims against the bank, including claims under the Electronic Funds Transfer Act.

## **Outreach and Dissemination**

In September 2005, NCLC sent out its annual mailing to about 1,500 advocates representing elders nationwide. The mailing included a cover letter, information about NCLC's new publication, *Consumer's Guide to Utility Services* (to be mailed out in November 2005), information about NCLC's annual conference, and the latest editions of new consumer education information.

The new consumer education information included a *Consumer Concerns* on understanding credit scores and one on foreclosure rescue scams. We also sent out two new Consumer Facts covering credit reports and foreclosure rescue scam issues. A new brochure on The Truth About Credit Reports and Credit Repair Companies was also enclosed. The contents of the mailing are attached at Appendix A.

Although not included in the mailing, we also informed advocates that the consumer education brochures are available on the web site (and by ordering from NCLC) in other languages, including Spanish, Russian, Chinese, Korean, and Vietnamese. *The Truth About Credit Reports* brochure is now posted on-line in these other languages.

## **Survey Results**

The September mailing contained an advocate's survey. A summary of the survey results are discussed on the front page of this report. These results will be very helpful as we plan how best to serve elder advocates and their clients. We received about 81 completed surveys from advocates nationwide. These advocates worked in 32 different states.

The first question in the survey asked which NCLC services the advocate had used in the past year. By far, the most popular responses were NCLC's manuals and consumer education materials. The web site was the third most commonly used service. A high percentage of advocates also reported using NCLC books other than manuals.

The results demonstrate the popularity of our publications and web site. However, we have some work to do in improving usage of our case consultation services, list serves and trainings. As discussed in detail below, NCLC advocates provide numerous trainings during the year. Demonstrating the demand for these trainings, 62% of advocates responding to our survey said that they are interested in obtaining training. We will use these results in making our training plans for the upcoming year.

The second question in the survey asked advocates which consumer issues their clients report. As summarized earlier, the top two responses (90% of advocates responding) were credit card debt and debt collection harassment. These results support NCLC's recent focus on elders and credit card debt. We plan to do even more work in this area in the coming years, including an upcoming article on elders and debt to be published in 2006 and a new investigative report on the causes and consequences of credit card debt among elder consumers.

Mortgage predatory lending and foreclosure prevention issues were also commonly reported, according to the advocates responding. The advocates also affirmed the importance of energy and utility concerns (60%). These issues are likely to be even more critical during the coming months as winter approaches and energy costs soar to record levels.

More than half of the advocates responded that their clients report student loan problems. NCLC's intakes have also reflected the reality that elders are increasingly facing consequences, including Social Security offsets, for old student loan debt or for student loans they have taken out for their children. Social Security offset issues, not surprisingly, were also commonly reported.

Sixty percent of advocates also said that their clients reported problems with auto fraud or repossession. This result is an important reminder that many elders still own and drive their own cars and unfortunately often run into problems when buying, financing and trying to maintain these cars. In addition, just over half of the advocates reported that their clients come in with other consumer scam-related issues, including telemarketing.

#### FINAL RESULTS:

% of advocates reporting that their clients report this problem:

Credit Card Debt:	90%
Debt Collection Harassment:	90%
Foreclosure Prevention:	66%
Energy and Utility Issues:	60%
Auto Fraud/Repossession:	60%
Mortgage Fraud/Predatory Lending:	55%
Consumer Scams:	53%
Student Loans:	53%
Mobile Homes:	47%
Credit Repair/Reporting:	40%
High Cost Credit:	40%
Social Security Offsets:	38%
Credit Counseling:	30%
Credit Discrimination:	9%

Write-in topics included bankruptcy, reverse mortgages, payday loans, car title loans, and financial fraud within families.

### **List Serves**

Throughout this period, NCLC continued to run and participate in numerous national list serves of interest to senior advocates, including list serves on mobile home issues, predatory mortgage lending, payday loans, automobile fraud, student loans, electronic benefits transfer and fair credit reporting.

### **Networking with Other Elder Advocates**

We maintained and expanded our connections with elder advocates in a number of ways. We participated in National Association of Attorney General (NAAG) elder subcommittee calls throughout this time period. We participated on national list serves such as the ABA Elder Bar list serve and the elder abuse list serves.

### **Trainings and Conferences**

Trainings and conferences are a key component of our program. The demand for NCLC's expertise to train attorneys and lay advocates is consistently high. We make a concerted effort to mail invitations to trainings to our list of senior advocates when appropriate and also publicize the events on our web site. NCLC trainings and conferences during this reporting period included:

- NCLC and the City of Boston sponsored a number of sessions for advocates, social workers and counselors on basic utility rights. About 120 advocates attended sessions on April 6, 7, 12 and 27 in Boston. Similar sessions were held in Hyannis, MA on April 20 (25 participants); Dartmouth, MA on April 26 (50 participants); Peabody, MA on May 5 (25 participants); May 10 in Quincy, MA (20 participants); June 1 in Lowell, MA (37 participants); June 6 in Brighton, MA (28 participants); and September 13 in Boston (10-15 participants).
- Arlington, VA, April 13, 2005: NCLC and the National Association of Consumer Advocates co-sponsored a conference on fair debt collection practices. Over 100 consumer lawyers and other advocates attended the conference.
- Los Angeles, CA via conference call, April 25, 2005: NCLC staff attorney John Rao trained about 25 pro bono attorneys, coordinators and judges on the new bankruptcy law. The call was hosted by the Debtor Assistance Project.

- San Diego, CA, April 29-May 1, 2005: NCLC staff attorney John Rao spoke about the new bankruptcy law at the annual conference of the National Association of Consumer Bankruptcy Attorneys.
- Hartford, CT, May 23, 2005: NCLC staff attorney Deanne Loonin trained about 30 pro bono and legal services attorneys on student loan issues. The session was sponsored by the Connecticut Pro Bono Project and Statewide Legal Aid.
- Kansas City, MO, May 25-26: NCLC attorneys John Rao and Elizabeth Renuart trained about 43 legal services attorneys on predatory lending issues in a two day training.
- Nashville, TN, May 27, 2005: NCLC's Litigation Director Stuart Rossman led a training on consumer law practice for clinicians and law students at Vanderbilt Law School Legal Services clinic.
- Phoenix, AZ, June 14, 2005: NCLC staff attorney Olivia Wein designed and moderated a session on low-income energy assistance issues at the National Low-Income Energy Consortium conference. Over 200 advocates attended, including representatives from utilities, community action programs, state agencies and anti-poverty groups. Olivia Wein and Charlie Harak of NCLC also made presentations at the conference on the tribal lifeline program (telephone discount rates), low-income water affordability, and leveraging additional resources for low-income households.
- Wausau, WI, June 23-24, 2005: NCLC staff attorney Deanne Loonin led a session on elder debt issues at the Wisconsin Elder Benefits Specialists annual conference. Over 100 advocates attended the session.
- Providence, R.I., June 17, 2005: John Rao trained about 150 bankruptcy lawyers on the new bankruptcy law at a session sponsored by the Rhode Island Bar Association.
- Boston, MA, June 21, 2005: John Rao trained about 75 bankruptcy lawyers at a workshop on the new bankruptcy law sponsored by the Massachusetts Bar Association.
- Boston, MA, July 20-22, 2005: NCLC sponsored a conference on predatory mortgage lending for close to 100 advocates. A separate session was also held on the new bankruptcy law.
- Chicago, IL, July 29-30, 2005: John Rao led sessions on the new bankruptcy law at a National Association of Consumer Bankruptcy Attorneys conference.

- Austin, TX, September 14, 2005: NCLC staff attorney Chi Chi Wu spoke about non-mortgage predatory lending at a conference on protecting Hispanic consumers. The conference was sponsored by the Texas Attorney General's office.
- New York, NY, September 14, 2005: John Rao led a session at New York University Law School on the new bankruptcy law. About 100 attorneys, law students and business professionals attended.
- Orlando, FL, September 16-17, 2005: John Rao led a session on helping debtors survive the new bankruptcy law at a National Association of Consumer Bankruptcy Attorneys conference. About 1,500 bankruptcy lawyers, trustees, judges and law professors attended the conference.
- Chapel Hill, NC, September 27, 2005: NCLC staff attorney Chi Chi Wu spoke about asset building at a conference about financial literacy and asset building sponsored by the North Carolina Treasurer's Office.
- Buffalo, NY, September 30, 2005: John Rao taught a session on the new bankruptcy law for about 120 pro bono attorneys, coordinators and judges. The session was sponsored by the Volunteer Lawyer project, Inc. and the Erie County Bar Association.

In addition, during this time period, staff attorney Deanne Loonin continued to participate as an advisory committee planning member for the National Aging and Law Conference, to be held in Arlington, VA April 19-23, 2006.

NCLC staff also spent time during this period organizing and planning the annual Consumer Rights Litigation Conference, to be held October 26-30 in Minneapolis, MN. Information about this conference will be included in the next semi-annual report.

### **NCLC Manuals**

During this reporting period, NCLC released a number of important updates to the consumer law manual series. Supplements to the following publications were released in August 2005:

- Fair Credit Reporting
- Fair Debt Collection
- Consumer Class Actions
- Consumer Warranty Law
- Automobile Fraud

In addition, NCLC released the following new editions:

- The Cost of Credit (3rd ed.)
- Credit Discrimination (4<sup>th</sup> ed.)
- Consumer Banking and Payments Law (3rd<sup>h</sup> ed.)
- Consumer Law in a Box CD-Rom.

In fall 2005, NCLC will be releasing a comprehensive guide to the new bankruptcy law.

### **NCLC Reports**

Issues of NCLC's newsletter, *NCLC Reports* contained numerous articles of interest to senior advocates. For example, the May/June 2005 Consumer Credit and Usury edition included articles about amendments to the Truth in Lending Act. The edition also provided information about NCLC's June 2005 report on foreclosure "rescue scams" (discussed below). A copy of this newsletter is attached at Appendix B.

### **Other Publications and Articles**

In March 2005, NCLC released a practice package and workbook, *The Surviving Credit Card Debt Workbook: For Consumers And Their Advocates*. As noted above, a free copy of the workbook was distributed to elder advocates across the country. About 1,500 advocates received a copy in this initial mailing. About 200 additional advocates have ordered and received copies during this reporting period. We also gave out close to 500 copies at various trainings and conferences. Many of the programs ordering copies work with older clients, including the Iowa Department of Elder Affairs, the New Mexico Aging and Long-Term Services Department, West Virginia Senior Legal Aid, the Georgia Senior Legal Hotline, various Councils on Aging and Aging Resource Centers, many Area Agency on Aging offices and Legal Services for the Elderly.

A new practice package on basic utility rights, *Consumer's Guide to Utility Services*, was recently completed and will be mailed out in November 2005. More information about this publication will be provided in the next semi-annual report.

In June 2005, NCLC released *Dreams Foreclosed: The Rampant Theft of Americans' Homes Through Equity-Stripping Foreclosure "Rescue" scams*. The report contains numerous individual stories and reports of foreclosure "rescue" tactics used around the country, including a special section of exhibits. Unfortunately, elders are often victims of these schemes.

The report documents why it has been so hard to beat these scams and how foreclosure "rescue" tactics have become a major part of many nationally advertised "get rich quick in real estate" seminars. The report concludes with an analysis of current state laws, their inadequacy, and specific suggestions for policy reform. The report is posted on NCLC's web site. A copy is attached at Appendix C.

## **Administrative Advocacy**

NCLC staff work closely on consumer protection issues with a number of federal and state agencies. For example, NCLC staff attorney Elizabeth Renuart prepared comments and testimony for the FDIC hearing on preemption rights for state-chartered banks on May 24, 2005. Comments and testimony are posted on NCLC's web site.

