

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

**Second Half of the Grant Year
(April 1, 2006 through September 30, 2006)**

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

Ref: Grant Number 90-AP-2647

The following report summarizes the work of the National Consumer Law Center's Initiative for Financially Distressed Older Americans from April 1, 2006 through September 30, 2006. This report focuses on work that has been funded fully or partially by the Administration on Aging grant. A small sampling of written work is enclosed.

National Consumer Law Center
Summary of Activities: April 1, 2006 – September 30, 2006

From April 1, 2006 through September 30, 2006, NCLC advocates received over 1200 intake calls from a variety of advocates, attorneys, and policy makers. Approximately 15% of these calls were from advocates representing or assisting elder clients. Below are a few examples of these case consultations for older clients.

Case Consultations:

- NCLC attorneys consulted with a law student and supervising attorney from the Boston University Legal Clinic about a foreclosure case. An eighty-three year old homeowner had lost her house in foreclosure. The client has guardianship of a disabled grandson. She sought legal assistance to get back the large surplus from the sale of the home-- much-needed income for her and her grandson. She also needs the money to help her find new housing. Although she received the money a few months ago, the Clinic is assisting her in challenging the amount refunded and in seeking additional funds for damages she suffered during the delay of the refund.
- A legal aid attorney in Connecticut called for assistance in reviewing an elder client's optional adjustable rate mortgage loan. Specifically, NCLC assisted the attorney in figuring out whether the loan could be rescinded when there were two loans taken out at the same time.
- An attorney from Lone Star Legal Aid in Texas called to review a debt collection case with NCLC. His 60 year old client was receiving debt collection threats from a collection agency claiming that it could seize her disability benefits. The collectors also falsely claimed to be affiliated with a government agency. NCLC attorneys advised the legal aid lawyer about possible claims under the fair debt collection laws. NCLC also helped the lawyer find a private lawyer specializing in fair debt cases who was willing to work with the legal aid office.
- NCLC assisted lawyers from Gulf Legal Services in Florida with a foreclosure defense case. The elder client had received a predatory loan around 1998. She had refinanced that loan into a better loan about three years ago. Although the terms were more favorable, it was still unaffordable for the client. NCLC helped the legal aid lawyers figure out whether the refinance loan was rescindable. In addition, NCLC advised the attorneys how to figure out whether the first loan was a high rate loan that triggers special damages and special rights under the Home Ownership Equity Prevention Act (HOEPA).

- NCLC worked with staff attorneys at legal services programs in a Nebraska, Iowa, and Montana to help them figure out the range of exemption rights for elders in those states. NCLC also provided general information about exemption rights in other states.

Outreach and Dissemination

NCLC's annual mailing was sent in September 2006 to our list of about 1,200 elder advocates nationwide. A copy of the cover letter and the contents of the mailing are enclosed. Along with the cover letter, the mailing included a new consumer education brochure, *Dealing with Debt Collection Harassment*. Two new Consumer Concerns, "Advice for Older Consumers About Bankruptcy" and "Dealing with Debt Collection Harassment" were enclosed as well as a new Consumer Facts, "What You Should Know About Bankruptcy" and an updated "When Your Social Security Benefits Have Been Taken to Pay Back Money to the Federal Government." In addition, we sent a copy of our new practice package publication, "Combating Foreclosure Rescue Scams." A copy of this publication is enclosed with this report. More information about the consumer education information and practice package can be found below.

Web Site and Consumer Education Information

We continued to update the Consumer Concerns and Facts during this reporting period. In addition to posting the new Concerns and Facts described above, we also updated the following Concerns and Facts updated during this period:

- Consumer Concerns on Electronic Funds Transfers
- Consumer Concerns on Helping Elder Homeowners Victimized by Predatory Mortgage Loans
- Consumer Concerns on Home Improvement Scams
- Consumer Concerns on Helping Mobile Home Owners Stay Put
- Consumer Concerns on Preventing Foreclosure
- Consumer Concerns on The High Cost of Payday Loans
- Consumer Facts on Predatory Loans
- Consumer Facts on Advice for Mobile Home Owners
- Consumer Facts on Social Security Offsets

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 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, funded fully or partially by AOA, during this reporting period included:

- Ocean Springs, MS, April 6, 2006. NCLC staff attorney Deanne Loonin and staff advocate John Howat trained about 45 housing counselors and service providers, including many elder advocates, on strategies to deal with debt and basic utility issues. The training was co-sponsored by the Mississippi Center for Justice and was held in an area heavily impacted by Hurricane Katrina.
- Jackson, MS, April 11, 2006. NCLC staff attorney John Rao trained consumer and bankruptcy lawyers about bankruptcy. About 30 attended.
- Arlington, VA, April 20-23, 2006. NCLC staff attorney Deanne Loonin led sessions on "The Nuts and Bolts of Consumer Law", "Surviving Credit Card Debt," and "10 Things You Should Know About the New Bankruptcy Law" at the National Aging and Law Conference. NCLC staff attorney Alys Cohen led a separate session on predatory mortgage lending.
- New Orleans, LA, May 17, 2006. NCLC trained about 25 legal services and private attorneys about bankruptcy and the new bankruptcy law.
- Augusta, Maine, June 12-13, 2006. NCLC staff attorney Elizabeth Renuart trained about forty lawyers in Maine on predatory mortgage lending.
- Kansas City, June 29, 2006. John Rao gave a presentation on bankruptcy at AARP Foundation's advanced training for reverse mortgage counselors. About 104 housing counselors attended the session. The training was also sponsored by the Department of Housing and Urban Development and Neighborworks.
- Chicago, IL, August 2-3, 2006. NCLC's staff attorney John Van Alst trained about 40 participants, mostly housing counselors, about predatory

lending and other foreclosure prevention issues. The training was co-sponsored by Housing Action Illinois.

- Washington, D.C., August 17, 2006. John Rao trained about 120 housing counselors on bankruptcy law at AARP's advanced training for reverse mortgage counselors.

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, which was held in Crystal City, Virginia in April 2006. NCLC also set the agenda and disseminated information about its annual consumer rights litigation conference, to be held in Miami November 10-13.

Elders and Credit Card Debt

A one year grant from the Retirement Research Foundation gave NCLC the opportunity to expand our existing AoA-funded work on elders and credit card debt. The work conducted through the Retirement Research funding helped us develop new connections with elder advocates throughout the country. We also held a number of forums for older consumers in New York, Connecticut and Boston. These forums allowed us to hear directly from older consumers about their experiences shopping for and using credit cards. We reviewed a sample credit card agreement with the participants and helped them decipher key credit card terms and provisions. We also conducted trainings for advocates in Nebraska and Iowa in July 2006 and in Montana in October 2006.

As part of the Retirement Research grant, NCLC published two reports on the topic of elders and credit card debt. The first report, "The Life and Debt Cycle Part One: The Implications of Credit Card Debt Among Older Consumers," was released in July 2006 and is available on-line at http://www.nclc.org/news/content/rising_debt.pdf. The second report, "Finding Help for Older Consumers with Credit Card Debt," was released in September 2006 and is available on-line at http://www.nclc.org/news/content/rising_debt_part2.pdf.

The second report focuses on the types of debt and credit-related resources available through the traditional elder services network as well as services available through credit counseling agencies. Although there were a number of agencies offering comprehensive, holistic services, we found in general that the elder assistance network does not offer much direct assistance on credit card issues. The highest percentage of referrals was to credit counseling agencies. We plan to use the information collected in this report to help expand the quantity and quality of these resources for elders nationwide. We have also been working directly with the national credit counseling trade associations to help them develop new programs that specifically target their elder

clients. AoA funds allow us to continue and expand this work.

NCLC Manuals

During this reporting period, NCLC released a number of important updates to the consumer law manual series. Although the preparation and printing of these manuals is not funded by AoA, they are essential for our case consultation work on behalf of older clients. We also make the manuals available to non-profit legal aid organizations and other organizations assisting older clients at discounted rates.

Supplements to the following publications were released in August 2006:

- Fair Debt Collection
- Access to Utility Service
- Credit Discrimination
- Consumer Banking and Payments Law
- The Cost of Credit
- Automobile Fraud

In addition, NCLC released the following new editions:

- Consumer Class Actions
- Consumer Warranty Law.

Other Publications and Articles

As discussed above, NCLC distributed about 1,200 copies of our 2006 practice package, “Combating Foreclosure Rescue Scams.” The rise in real estate prices in recent years has brought with it a wave of schemes designed to deprive homeowners of the equity that has built up in their homes. These schemes disproportionately impact elder homeowners since a higher percentage of elders own their homes and they are more likely to have untapped equity. Though the elders’ monthly incomes may be low, their homes may be worth considerably more than their mortgages. Elder homeowners can also be especially attached to their homes and terrified at the prospect of moving.

The publication includes detailed information about the types of scams as well as legal strategies to challenge them. Among other topics covered, the book contains a step by step system for investigating and preparing a foreclosure rescue scam case. A CD Rom with sample pleadings is included. A copy is enclosed with this report.

Administrative Advocacy

NCLC staff work closely on consumer protection issues with a number of federal and state agencies. For example, NCLC filed comments to the Federal Reserve Board in

September 2006 regarding the Board's Interim Final Rule interpreting the Electronic Fund Transfer Act. NCLC expressed concern about the growing problem of Internet and storefront payday lenders and their ability to electronically debit consumers' accounts for payday loans, as well as the exorbitant fees of these loans. NCLC also filed comments in August 2006 to the Federal Reserve Board about the home equity lending market.

Amicus Briefs and Litigation

Amicus briefs filed during this reporting period include:

- *Watters v. Wachovia Bank* (U.S. Supreme Court 2006, amicus filed on September 1, 2006). NCLC joined the Center for Responsible Lending and eleven other non-profit organizations in an amicus brief dealing with whether the Comptroller of Currency has the authority to extend preemption rights to the state-chartered operating subsidiaries of national banks and whether the state of Michigan can enforce its mortgage lending laws against these operating subsidiaries. This issue is critical for elders who want to enforce their rights under state anti-predatory lending laws or defend themselves in foreclosure against predatory loan terms.
- *Hartman and Eichhorn Building Co. v. Dailey* (Mich. Supreme Court Aug. 2006). NCLC joined AARP, the Michigan Consumer Federation, and the Center for Civil Justice in a brief arguing that the Michigan consumer protection statute should be construed to narrowly exempt only conduct specifically authorized by other statutes rather than exempting any business regulated by other statutes.
- *Public Service Comm'n of Missouri v. Missouri Gas Energy*, Case WD66666 (W. Dist. Filed June 30, 2006). NCLC filed an amicus brief with AARP and a local community action program supporting the Commission's position that it lawfully adopted an emergency winter moratorium rule.
- *The Clearing House Association, L.L.C v. Spitzer* (2nd Circuit U.S. Court of Appeals June 2006). NCLC joined the Center for Responsible Lending, AARP and other non-profit groups in an amicus brief arguing that the National Banking Act and Office of Comptroller's rules prohibited the New York Attorney General from investigating and enforcing non-preempted fair lending laws against national banks.

