

Wednesday, October 21, 2009

4:00PM- 6:00PM

Pre-Registration

Thursday, October 22, 2009

Intensives

8:15AM- 12:15PM

Int. 1

Making the Most of Foreclosure Mediation – Honorable Annette M. Rizzo, Rebekah Cook-Mack, Geoff Walsh, Irv Ackelsberg, Irwin Trauss, Chet Randall, Michael Joe

The foreclosure crisis has generated a number of creative responses at the state and local levels. One of these has been the growth of foreclosure mediation programs. Typically these initiatives require mortgage holders to sit down directly with homeowners to consider options to avoid foreclosure. The programs have the potential to increase the number of affordable loan modifications and reduce overall foreclosures. Most of the programs, however, are still new and the jury is still out on their real effectiveness.

This half-day intensive will look at the nuts and bolts operation of existing mediation programs. Sessions will include detailed reports from participants in the well-regarded Philadelphia foreclosure diversion program. We will also hear from advocates involved with other newly implemented state and local programs. Finally, we will review recent legislative efforts to create effective foreclosure mediation programs.

Attendees will come away with a sound understanding of what is working and not working in foreclosure mediation programs

8:30AM-12:00PM

Int.2

ABCs of Automobile Litigation – Ron Burdge, Robert Murphy, John Coyle, Jr

This session is an introduction for private consumer attorneys and legal services lawyers interested in getting involved with auto fraud cases. This session will also provide the background needed for more advanced sessions. The session will begin with an overview of the auto industry to help advocates understand both the players and the deal itself; and then focus on auto financing claims, including yo-yo transactions, auto sales fraud claims, such as claims regarding rebuilt wrecks and misrepresentation of condition and history; and finally we will look at repossessions and deficiency claims. Practice tips and other real-life advice will be emphasized.

8:30AM-4:30PM

Int. 3 Doing Well while Doing Good – Janet Varnell, Ron Burdge, Cary Flitter, Sonya Smith-Valentine

Agenda:

- *Funding Your Practice in Today's Economy and Beyond*
- *The Economics of Practicing Consumer Law*
- *Marketing Your Practice*
- *The Fundamental Secret of Business Success*
- *Strategies for Successful Billing and Fee Practices*
- *Technology What You're Not Thinking of Using that You Should*
- *Speed Networking with the Experts to Get New Cases*

Int. 4 Staying Home: Overcoming Barriers to Aging in Place – Gene Coffey, Michelle Weinberg, Margot Saunders, Jean Constantine-Davis, David Mandel, David Godfrey, Jeff Joll, Lesa Sulimay, Virginia Dize, Lynn Drysdale

This intensive will focus on financial and other obstacles elders must overcome if they intend to successfully age in place, including avoiding foreclosure, dealing with aggressive and income-draining debt collection efforts, and preserving social security and other sources of income.

In addition, this intensive will include an overview of programs providing direct services to older individuals in their homes, including Medicaid, Older Americans Act, and Social Services Block Grant programs.

Int. 5 The Case of the Great Mortgage Scam: Sleuthing through the Loan Documents and Checking the Numbers – Diane Thompson, Margot Saunders, Andrew Pizor

Mortgage loan documents are complex and daunting for both consumers and lawyers. Before filing litigation, the attorney must assess the validity of potential legal claims based upon paperwork in the client's possession and what the attorney can obtain informally, including possibly title company and lender records. Once the case is filed, complete files may become available through formal discovery.

This mini-conference teaches a step-by-step approach for reviewing loan documents. We will review what to look for in documents obtained from a variety of sources and which legal claims attach to the facts you detect. You will learn a standardized method to apply Truth In Lending analysis to an actual set of loan documents. We will begin with the simple APR calculation and check the creditor's internal math; and proceed to determine which charges are finance charges and whether the loan meets the HOEPA triggers. Then we will walk through the complex assessment of whether the lender's adjustable rate mortgage (ARM) disclosures are accurate based upon an independent calculation of the payment stream. We will perform these calculations together, using an overhead projector

and calculation tools. Finally, we will focus upon lender, broker, and title company files to highlight what these participants knew or should have known about the quality of the loan, its underwriting, and where the money actually went—the loan disbursements. We will provide checklists and report form for future use.

Prerequisites: At least intermediate knowledge of the TIL finance charge definition, some familiarity with ARM loans, fearlessness in the face of numbers, and a burning desire to ferret out the truth. Attendees should bring a laptop loaded with Excel for hands-on advanced credit math. You are expected to review any material sent to you in advance.

12:45PM-4:50PM Int. 6 Advanced Bankruptcy Litigation – Karen Kellett, John Rao, Henry Sommer, Tara Twomey, Edward Boltz
This intensive is geared toward intermediate and experienced bankruptcy attorneys and will cover innovative bankruptcy litigation strategies for helping clients in the current foreclosure crisis. Panelists will review ways to maximize existing mortgage modification rights in bankruptcy cases. We will discuss a variety of issues related to pursuing the Obama administration’s Home Affordable Modification agreements; and bankruptcy remedies, including the pros and cons of obtaining a HMP loan modification before, during, or after filing bankruptcy.

We will also cover tips on how to successfully litigate Chapter 13 payment application abuses and related mortgage servicing problems, in both individual and class cases.

Main Conference

10:30AM-11:30AM A1 First Timer's Orientation– Willard P. Ogburn, Ira Rheingold, Vildan Teske, Andrew Wolf, Alex Burke, Irv Ackelsberg

11:30AM-1:35PM Lunch on your own

1:35PM-3:05PM B1 FCRA Developments – Len Bennett, Jim Francis, Charles Delbaum

B2 Class Action Roundtable – Michael Malakoff, Brian Wolfman

B3 Handling Volume Mortgage Cases and Still Winning Big – Dan Hedges, Bren Pomponio, Addison Parker

This session is geared toward experts and will cover using state law claims. Discovery and mediation strategies will also be discussed in this essential course.

3:20PM-4:50PM C1 ABCs Fair Credit Reporting Act – Sonya Smith-Valentine

- C2 What Attorneys should know about the Auto Industry: In the Belly of the Beast – Richard Diklich, Bob Eppes
Two long time auto experts discuss a number of topics that practicing attorneys don't know, but should, such as floor plan financing and dealer's hidden assets.
- C3 Successful Mortgage Litigation in Private Practice – James Kowalski, Robin Abbott, Ira Rheingold, Scott Borison, Christine M. Jackson
- 5:00PM-6:00PM P1 **Welcoming Plenary** – Michael Donovan, Willard P. Ogburn, John Murray, Minnesota Attorney General Lori Swanson
Murray will be presenting the Robert F. Drinan Champion of Justice Award to AG Swanson
- 6:00PM-7:00PM **Reception** – Welcome reception for newcomers and returnees

Friday, October 23, 2009

- 7:15AM-8:00AM Java and Juice
- 8:00AM-9:10AM **Plenary**– Opportunities for Change in DC – Ira Rheingold, Lauren Saunders, Heather Booth, Arthur Levy
- Breakouts**
- 9:25AM-10:25AM D1 ABCs How Debts Are Collected – Lynn Drysdale
- D2 Congress, the Obama Administration and Consumer Protection in 2009-2010– Lauren Saunders, Alys Cohen, Cora Ganzglass
Join us for an interactive discussion about our work with Congress and the Obama Administration on consumer protection issues including loan modifications, the credit card bill, forced arbitration, and efforts to revamp our financial regulatory system.
- D3 Red Flags: Finding the Problems in the Files – Finding the Evidence for State Claims – Margot Saunders
This course will cover how to use evidence from lenders, consumers, brokers and title companies to determine state claims.
- D4 Introduction to TILA Claims and Rescission – Devon Sanders, Andrew Pizor, Maria McIntyre
Any consumer advocate working on credit issues needs a solid understanding of the Truth in Lending Act. This session explains the basics of the Act, the key disclosures creditors must give consumers, and remedies for violations. There will be a particular emphasis on the powerful right to rescind.

- D5 New and Emerging Trends and Issues in Car Litigation – Dani K. Liblang
This session includes a panel discussion of new issues and updates concerning the Federal coverage of US auto warranties, NMVTIS, and dealer closures.
- 10:35AM-11:35AM E1 Introduction to Consumer Class Actions, Part 1 – Mike Quirk, Mark Cuker
- E2 Objecting to Business Records – Mike Kinkley, Ian Lyngklip
- E3 Update on Mortgage Modifications – Alan White
- E4 Truth in Lending: Focus on the Finance Charge – Alys Cohen, Beth Goodell
This course will focus on the finance charge and its uses. Examples will be used to enhance the understanding of this topic.
- E5 Challenging Predatory Small Loans – Jean Ann Fox, Rebecca Borne, Dale Pittman
This course will discuss credit unions, rent-a-tribe and other new payday loan abuses.
- 11:45AM-12:45PM F1 Introduction to Consumer Class Actions, Part 2 – Mike Quirk, Mark Cuker
- F2 ABCs RESPA Mortgage Servicing Rights – John Rao, Tara Twomey
- F3 The Obama Plan and Beyond: Crisis Driven Workout Options – Diane Thompson, Josh Zinner
This will provide an overview of the Obama Mortgage Loan Modification Plan and a discussion of the Net Present Value Calculation.
- F4 Defending Homeowners Against Failed Banks – Michael Malakoff, Carolyn Carter
This session will focus on the unique issues facing litigants when the FDIC takes over a failed bank. It will address the FDIC's administrative claims process and the possibly draconian consequences if a consumer fails to submit a claim through that process. It will also address litigation issues such as the FDIC's ability to obtain a stay of pre-receivership suits, the limitations on where suits can be filed, injunctions, and appeals. If time permits, it will include an overview of the special substantive defenses -- D'Oench Duhme and related doctrines - available to the FDIC. This session is appropriate for attorneys who are representing consumers in claims against banks that have now failed, or in claims against the FDIC for actions it took after becoming receiver for a failed bank.

F5 Credit Cards: New Rules, New Opportunities – Michael Donovan, Lauren Saunders

12:45PM-2:15PM

Networking Group Luncheons or on your own

Minority Advocates Luncheon

Breakouts

2:15PM-3:15PM

G1 Complementary AG's and Private Law Suits –Steve Gardner, John Abel
Resolving the natural conflicting tensions between public and private consumer advocates and learning to improve mutual consumer enforcement successes through an exploration of shared common goals.

G2 Fair Debt Collection Practices Act Developments – Joanne Faulkner, Robert Hobbs, Cary Flitter

G3 Mortgage Servicing Abuses: Lessons from Bankruptcy Cases – John Rao, O. Max Gardner, III

G4 Mechanics of ARM Loans and TILA Violations – Margot Saunders
This session will examine how to determine the fully indexed rate, how to figure 12 month rolling averages for POARM loans, what payment caps are, and how to check TILA numbers.

G5 Car Dealer Add Ons – Mark Steinbach, Dan Wulz
From window etching to rust proofing, dealer add-ons are a tremendous profit center for consumer attorneys. This session will focus on changes and new products in this area, potential claims, and recent legislative efforts to classify certain add-ons as NOT being regulated as insurance and the potential impact of regulation.

3:25PM-4:25PM

H1 Pursuing Consumer Claims in Bankruptcy Court – Irwin Trauss, Devon Sanders

H2 Dealing with Servicer Issues: Payment Histories, Suspense Accounts and General Mischief – Margot Saunders, Addison Parker
This session will cover issues such as late fees, padded fees and claims connected to padded fees.

H3 Consumer Rights for Domestic Violence Survivors – Erika Sussman, Catherine Martin

H4 Using Automobile Databases – Bernard Brown, Deepak Gupta

A number of different automobile databases now exist including NMVTIS, CARFAX, Auto Check, and Insurance Databases. This session will sort through the deficiencies and strengths of each by reviewing the information available under the databases, the information that is lacking, and ways in which the databases can be useful to consumers and attorneys.

H5 Background Screening Agencies and Employment Reports – Jim Francis, Sharon Dietrich
This session will cover “exotic” databases such as ESTEEM and USIS along with employment reports..

4:35PM-5:15PM **Plenary** - David Vladeck, Director of the Federal Trade Commission, Bureau Consumer Protection, Cary Flitter

5:25PM-6:30PM **NACA** Annual Consumer Media and Trial Advocacy Awards; and Brief NACA Annual Meeting

5:25PM-6:30PM **Annual Meeting** of the National Association of Senior Legal Hotlines

6:45PM **Reception** at Philadelphia’s famous National Constitution Center

Saturday, October 24, 2009

7:00AM-8:00AM Java and Juice

8:00AM-8:40AM **Plenary** – Insiders View from the House Financial Services Committee – Representative Mary Jo Kilroy (D-OH), Representative Gary Peters (D-MI), Leonard Bennett, Rich Dubois

Breakouts

9:00AM-10:10AM I1 NCLC’s Consumer Law on the Web – Jon Sheldon, Shannon Halbrook
This session provides essential tips on how to use numerous web-based research tools NCLC offers free to the public or to publications subscribers. These include:
**How to use the conference website*
** Using keyword search of the full text of all NCLC publications with hits in context to find topics and to use as a case and regulations table*
** Mining 19 companion websites to the NCLC manuals, to select from 2000 pleadings in pdf and Word formats, thousands of agency interpretations, legislative history, all TIL Federal Register notices, bankruptcy software, math software, and MUCH more.*
** How to search the web-based compilation of unreported cases and hard-to-find documents that are free to the public*

** How to pick which NCLC and NACA list serves to join*
** Surprising nuggets you will find on NCLC's on-line ordering website and on NCLC's main website*
**How to download free webinars on consumer law topics*
AND MORE

I2 Challenging a Foreclosure in Non-Judicial Foreclosure States – Mal Maynard, Letty Evans
This session will cover a variety of useful topics including timelines, rights and remedies, procedural requirements, standing to foreclosure, who to sue, injunctive relief, lis pendens, and when to use bankruptcy.

I3 Challenging a Judicial Foreclosure – Beth Goodell, Dan Lindsey

I4 New Developments in Federal and State Auto Policy and Why Practicing Attorneys Should be Involved – John Van Alst
Recently there have been a number of changes, and ongoing efforts to change, state and federal auto policy, by both consumer advocates and the industry. This session will examine these efforts and why it is important for practicing attorneys to be involved.

I5 FCRA Discovery and Depositions – James Francis

10:20AM-11:30AM J1 Spotting and Attacking the Vulnerable Arbitration Clause – Paul Bland
Paul Bland is both the nation's expert on consumer arbitration clauses and one of the most popular speakers at the Consumer Rights Litigation Conference. He will highlight current developments on challenging the enforceability of binding arbitration agreements, including the unconscionability of class arbitration bans and other unconscionability challenges.

J2 Garnishment and Set-offs against Bank Accounts – Margot Saunders

J3 The Mechanics of Arranging a Workout and Challenging Fees and Costs – Ray Neirinckx, Tara Twomey
This course will provide a detailed description of how to gather information on a loan, calculate and arrange payoff amounts, examine the information and challenging errors and deal with foreclosure fees and costs. In addition, strategies for drafting effective hardship letters, meeting documentation requirements and identifying common padded fees will be discussed.

J4 Preserving the Record for Appeal – Nancy Barron, Seth Lesser
It is easy to allow the focus of both trial preparation and the trial itself to be on the immediate outcome, but often the ultimate determination for

both the individual client and future consumers will be determined on appeal. This session will cover trial practice designed to maximize the opportunity for success on appeal.

- J5 **Manufactured Housing Issues in Hard Times: Repossession, Foreclosure, Defects, Habitability – Mal Maynard**
This session will focus on saving manufactured homes from repossession or foreclosure by litigating claims and defenses against manufactured home dealers, manufacturers, and financiers. It will examine claims under state statutes, the UCC, the Magnuson-Moss Warranty Act, and the FTC Holder Rule. Topics covered will include raising defects in the home as a defense against foreclosure and repossession, including the use of expert witnesses to document the defects.

11:45AM-1:40PM

Plenary NCLC Awards Luncheon – with Countryman Award Winner; and speaker Barbara Arnwine, Lawyer’s Committee for Civil Rights

Breakouts

1:50PM-3:00PM

- K1 **Preparing a Telephone Harassment Case101 – Luke Wallace, David Humphreys**
- K2 **Advice on Your Arbitration cases, Including Issues Arising from the NAF Debacle– Paul Bland, Leslie Bailey**
This is your chance to ask the experts questions on how to avoid arbitration requirements, including the latest on what works and what doesn't. Leslie will examine the profound implications of NAF withdrawing from all consumer arbitrations, including whether arbitration clauses naming the NAF as the arbitration forum are now unenforceable.
- K3 **Protecting Consumer Claims when Predatory Business Files Bankruptcy – Irv Ackelsberg, Henry Sommer, Stephen A. Weisbrod**
- K4 **TILA/HOEPA/RESPA Developments: An Update on Litigation, Legislation, and Regulations – Nina Simon, Diane Thompson, Alys Cohen**
- K5 **Combating Reverse Mortgage Scams and Abuses – Dan Mulligan, David Mandel**
Reverse mortgages, while benefiting some seniors by enabling them to tap home equity, are expensive and complicated and, when in the hands of predators, dangerous. We will discuss how advocates should approach these heavily marketed financial products and seek justice for victims of abuse.

- 3:10PM-4:10PM
- L1 Cross Examination of Expert Witnesses – Ron Burdge
While not necessarily an auto session, this would probably use an auto case as an example to provide fodder for discussion and analysis of effective cross techniques of expert witnesses.
- L2 Where Have All the Reporters Gone? Telling Your Story to and through the Media that Survive – Mike Hudson, Stephen Engelberg
Newsroom cuts have driven substantive and in-depth reporting into new settings, including non-profit journalism centers, advocacy organizations and journalism schools. This session will survey the new media landscape and offer ideas about how advocates can use new technologies and support reporting and story-telling that addresses the issues and listens to the voices of low-income consumers. Stephen Engelberg is the managing editor of ProPublica.
- L3 Traps and Tricks Related to a Loan Modification Agreement – Diane Thompson
This course will examine credit repair, tax consequences, waiver, confidentiality, and enforceability.
- L4 Preparing a Telephone Harassment Case 102 – Luke Wallace, David Humphreys
- L5 Get Your Game On: The Mechanics of FCRA Pre-trial Litigation – Len Bennett, Gordon Leech
- 4:20PM-5:20PM
- M1 Establishing Actual Damages in Consumer Cases – Bernard Brown
It is extremely important in all consumer cases to have a correct understanding of how actual damages are properly measured and proven, and of which items are entirely irrelevant to the correct measure of actual damages. This session will walk through typical actual damages analysis in a fraudulent sale of a rebuilt wreck, under both common law fraud and UDAP theories.
- M2 Ethical Issues in Consumer Law Practices – Dan Blinn, Steve Gardner, Dan Hedges, Elizabeth DeArmond, Charles Delbaum
Tough ethics questions will be presented to a panel of experts to explore and debate. Among the topics are taping out of state telephone calls when you live in a one-party consent state, interviewing defendant's former employees who have signed confidentiality agreements, protecting homeowners when settling mortgage related class actions, and protecting confidential client identity information from improper disclosure.
- M3 Medical Debt Collection – Robert Murphy, Clare McGorrian

- M4 Obtaining and Enforcing Loan Modifications from Abusive Servicers – Bob Cocco, Dan Hedges
- M5 The ABCs of Helping Clients with Student Loan Problems – Deanne Loonin
- M6 Foreclosure Consultant and Loan Modification Scams – Phillip Robinson, Lauren Saunders, Andrew Pizor
In boom times, foreclosure rescue scams focused on equity stripping. Today, a new "loan modification" industry has arisen aimed at getting rich off of consumers desperate to save their homes. This session will describe the new industry, discuss case selection, legal and practical issues of handling loan modification scam cases, and preview new rules being drafted at the federal level.

6:00PM-8:00PM

Cocktail Reception Consumer Class Action Symposium

The Saturday evening opening social at Del Frisco's, a popular nearby restaurant will be a wonderful opportunity for both experienced consumer class action practitioners and those new to the practice to meet and get to know one another.

7:30PM-9:30PM

Legal Services Reception at Moriarty's Pub

Sunday, October 25, 2009

8:30AM-4:00PM

- Int. 7 Consumer Class Action Symposium – Stuart Rossman, Charles Delbaum, Honorable Mark I. Bernstein, Seth Lesser, Mike Donovan, Jim Sturdevant, Paul Bland, Roger Mandel, Brian Wolfman, Cary Flitter, Daniel Blinn, Alison Zieve, Tim Eble, Stephen Gardner, David Searles, Arthur Levy, Beth Alexander, Steven Skalet, Leslie Bailey, Howard Langer

Sunday's program will cover many cutting-edge consumer class action topics. Particular focus will be given to:

- *Class Certification Burdens of Proof after Szabo, IPO and Hydrogen Peroxide*
- *Overcoming the Reliance/Causation Hurdle to Class Certification in UDAP Cases Yokoyama/Tobacco Two*
- *Shady Grove and Naked Class Action Bans: The Emerging Conflicts Between Federal and State Laws on Class Certification, Multistate Classes and Choice of Law Issues*
- *Ethical Challenges Presented by Fee Shifting Provisions, Common Fund Fees and Fee Multipliers*
- *Pleading Standards--the Impact of Twombly and Iqbal on Class Action Complaints*

Int. 8 Intermediate Foreclosure Prevention: Negotiation and Litigation from Intake to Summary Judgment – Josh Zinner, Marcy Wenzler, Dan Lindsey, Nick Wooten

As foreclosure rates continue to climb, attorneys must become more flexible and creative to save homes and win cases. The mortgage industry is growing more receptive to modifying loans; states and localities are implementing new foreclosure mediation programs; and judges are growing increasingly aware of how predatory lending and the secondary market impact homeowner rights.

This intensive will focus on practical strategies to save homes with and without litigation. Beginning with the initial intake, experienced practitioners will explain how to assess and value a case, how to work with housing counselors, and how to resolve foreclosures using loan modifications and other methods.

When litigation is necessary, attorneys must understand the wide range of procedural and substantive issues that arise in foreclosure litigation. From standing to common law defenses and assignee liability, we will discuss the details of who can foreclose and who can be sued. Because filing your complaint or answer is only the beginning of the battle, you will also learn how to make the most of discovery and how to defeat the mortgage holder's inevitable motion for summary judgment and suspect affidavits.

Prerequisites: Intermediate knowledge of your state's judicial or nonjudicial foreclosure process, some experience negotiating with mortgage servicers and litigating mortgage foreclosures.

Int. 9 Defending Debt Collection Suits – Robert Hobbs, Ian Lyngklip, Lynn Drysdale, Neil Fogarty, Michael Kinkley, Carolyn Coffey, Michelle Weinberg

This introductory intensive will analyze strategies to address the rapidly increasing number of collection suits brought by debt buyers and credit card companies against low- and moderate-income households. It is targeted toward legal aid and pro bono [italicize pro bono] lawyers. This intensive is also valuable for private lawyers in states where fee shifting or other strategies may be available to make this representation feasible.

An overview of the debt collection industry will be followed by substantive defenses and evidentiary and procedural strategies. Most of last year's attendees gave this intensive top marks.