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## **Mortgage Servicers Continue to Wrongfully Foreclose on Homeowners According to a Recent National Survey of Consumer Attorneys**

**Washington, D.C.** – Results of a new nationwide survey published today by the National Association of Consumer Advocates (NACA), the National Consumer Law Center (NCLC) and the National Association of Consumer Bankruptcy Attorneys (NACBA) show that mortgage servicers continue to initiate foreclosure proceedings improperly, either while a homeowner is awaiting a loan modification or due to improper fees or payment processing. “This survey provides yet more evidence that banks wrongfully foreclose on tens of thousands of homeowners every year,” said National Consumer Law Center Attorney Diane Thompson. “Until rigorous national mortgage servicing standards that are enforceable by homeowners are put in place by the federal government, banks will continue to seize homes illegally and routinely.”

The NACA/NCLC/NACBA survey of 260 consumer attorneys in 45 states reported that thousands of homeowners were improperly foreclosed on within the last year.

### **The survey found that foreclosure initiation and sale during the loan modification process is a substantial problem:**

- Over 90% of the respondents report representing a homeowner placed in foreclosure while awaiting a loan modification in the last year.
- *Homeowners were improperly foreclosed on while awaiting both HAMP and GSE loan modifications:* of the survey respondents that represent homeowners placed in foreclosure while awaiting a loan modification in the last year, 85% represent homeowners awaiting a HAMP loan modification; 66% represent homeowners with a loan owned by Fannie Mae or Freddie Mac.
- Over 80% of the respondents represent homeowners where the actual foreclosure sale was attempted while awaiting a loan modification in the last year.
- In total, survey respondents reported representing over 3,700 homeowners placed in foreclosure while awaiting a loan modification in the last year.

**In addition to abuses in the modification process, the survey also highlights abusive fees and improper payment processing in the past year:**

- 80% of the respondents represent homeowners who were placed into foreclosure in the last year where there was a wrongful assessment of fees (e.g. late fees, broker-price opinions, inspection fees, attorney's fees and other fees).
- 79% of the respondents represent homeowners who were placed into foreclosure in the last year where there was a misapplication of payments.
- In the last year alone, survey respondents reported representing over 700 homeowners with force-placed insurance; almost 2,500 homeowners with improper assessment of fees; and over 1,200 homeowners whose payments had been misapplied.
- Over 78% of the respondents represent homeowners who had been placed in foreclosure in the last year where the servicer did not properly accept the homeowner's payments.

“Unfortunately it is not a surprise to learn that wrongful foreclosures continue to occur while applying for a loan modification under HAMP or for a GSE loan,” said Ira Rheingold, Executive Director of the National Association of Consumer Advocates. “The Administration made HAMP a voluntary program for servicers, then failed to enforce HAMP’s rules on the participating servicers and there has been little to no oversight over Fannie Mae and Freddie Mac loans.”

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The National Consumer Law Center<sup>®</sup> (NCLC<sup>®</sup>) is a non-profit organization specializing in consumer issues on behalf of low-income and other vulnerable people. Since 1969, NCLC has worked with legal services and nonprofit organizations as well as government and private attorneys across the United States, to create sound public policy for low-income and elderly individuals on consumer issues. NCLC also publishes a series of eighteen legal treatises and annual supplements on consumer law.

The National Association of Consumer Advocates (NACA) is a non-profit association of consumer advocates and attorney members who represent hundreds of thousands of consumers victimized by fraudulent, abusive and predatory business practices. As an organization fully committed to promoting justice for consumers, NACA's members and their clients are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.

The National Association of Consumer Bankruptcy Attorneys (NACBA) is the only national organization dedicated to serving the needs of consumer bankruptcy attorneys and protecting the rights of consumer debtors in bankruptcy. Formed in 1992, NACBA now has more than 4,500 members located in all 50 states and Puerto Rico.