New Report: Using Bankruptcy to Discharge Criminal Justice Debt

FOR IMMEDIATE RELEASE

October 8, 2020

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DOWNLOAD the report: http://bit.ly/New-Beginning-CJ-Bankruptcy-Debt

Boston – A major barrier that keeps people in the United States from successfully reentering society long after an encounter with the criminal justice system is the burden of paying fines and fees. To help knock down this barrier, a new primer from the National Consumer Law Center guides bankruptcy and criminal defense attorneys on using bankruptcy to discharge criminal justice debt and help individuals avoid suspensions of drivers' licenses and vehicle registrations.

"For most debtors, bankruptcy provides a fresh start in managing overwhelming debt. But for those with court debt, a new beginning is very difficult because many fees and fines are not dischargeable," says **Andrea Bopp Stark, National Consumer Law Center attorney and co-author of the report**. "This limitation disproportionately affects people of color, particularly low-income African American communities that are over-policed and over-fined. Many cities use fees and fines to help fund their criminal justice systems and this burden has fallen on those least able to pay such debt, perpetuating a cycle of extraction and poverty in low-income communities. Hopefully, this Guide will help people, especially those with the least ability to pay, reduce their debt burden so they can start down a new path."

Clearing the Path to a New Beginning: A Guide to Discharging Criminal Justice Debt in Bankruptcy reviews treatment of debt with use of Chapter 7 and Chapter 13 bankruptcy, an overview of which fines and fees are and are not dischargeable, and how to use the Bankruptcy Code's automatic stay to assist those facing the consequences of nonpayment of court deb. It also suggests basic reforms needed to the Bankruptcy Code to truly help people restart their lives. The Guide includes excerpts of relevant statutes from the Bankruptcy Code, a sample discharge injunction violation motion, and a checklist for dischargeability of criminal debt in Chapter 7 bankruptcy.

Get more information on NCLC's work on criminal justice debt.

LDF, ACLU of Michigan, National Consumer Law Center, and Michigan Poverty Law

Program File Class Action Fair Housing Lawsuit Against Vision Property Management for Targeting Black Homebuyers in Home Purchase Scheme

FOR IMMEDIATE RELEASE: September 29, 2020

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Detroit – Today, the NAACP Legal Defense and Educational Fund, Inc. (LDF), the American Civil Liberties Union of Michigan (ACLU), the National Consumer Law Center (NCLC), and the Michigan Poverty Law Program filed a federal class action lawsuit against Vision Property Management (Vision). The lawsuit was filed on behalf of financially challenged Detroit- and Flint-area residents to whom Vision promised a path to homeownership but are now trapped in contracts structured to fail. Vision primarily targeted Black consumers for its home purchase scheme, the lawsuit argues.

"Our complaint includes detailed allegations about how Vision operated almost exclusively in Black neighborhoods, profiting from communities that were hit hardest in the housing crisis and thwarting attempts to build wealth in the Black community," said **Jennifer A. Holmes, assistant counsel at LDF.** "Our lawsuit seeks to remedy the damages caused to communities of color throughout the Greater Detroit region as a result of Vision's practices."

As detailed in the lawsuit's 109-page complaint, Vision purchased approximately 1,000 foreclosed homes in Black neighborhoods, many of them dilapidated, and failed to invest in making those homes livable. Vision then sold many of these homes under contracts that obscured the true cost of buying and repairing the home. The terms of the contracts made it difficult for buyers to achieve homeownership while also allowing Vision to avoid responsibility for upkeep while would-be homeowners poured their money into making the homes livable.

"From Inkster to Flint to Ann Arbor to Detroit, Vision marketed to primarily Black, low-income people with high-interest land contracts for homes that were over-priced and in poor condition," said **Bonsitu Kitaba, ACLU of Michigan deputy legal director**. "People who signed contracts with Vision were saddled with all the repairs, upkeep, insurance and taxes – all the responsibilities that come with homeownership – with none of the rights."

"The harm Vision's practices have caused to communities and people of color shows that vigorous enforcement of federal civil rights and consumer protection laws are needed now more than ever," said **Sarah Bolling Mancini, staff attorney at the National Consumer Law Center**. "This is not the moment to abandon the goals of fair housing and safe lending. In the wake of the Coronavirus crisis, the need for strong federal and state protections will be even greater."

There is a long history of housing and credit discrimination in Detroit and surrounding areas. For years, housing companies have targeted Black communities for predatory lending schemes using deceptive terms. The long-term consequences have proven devastating, a massive reversal in minority homeownership rates and an erosion in Black wealth accumulation. These schemes, combined with the deeply concerning recent rollback of civil rights protections in the housing and financial sectors, have unjustly prevented many people of color from achieving long-term economic security.

"It is time to eliminate the predatory schemes that have exploited our Black communities. We commit to standing shoulder-to-shoulder with members of low-income communities of color who for too long have been targeted by unscrupulous predatory lenders," said **Lorray Brown, managing attorney and consumer law attorney at the Michigan Poverty Law Program.**

Read the filed complaint here.

Consumer and Faith Groups to CFPB Director: Stop Letting Industry Violate the Fair Credit Reporting Act

For Immediate Release: September 24, 2020

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550% increase in credit reporting complaints to CFPB in the past six months

Washington, D.C. – A coalition of 21 consumer, faith, and advocacy groups sent a letter today to Consumer Financial Protection Bureau Director Kathy Kraninger urging her to revoke the permission that the Bureau granted the credit reporting industry to violate the 30-day deadline imposed by the Fair Credit Reporting Act (FCRA) for investigating disputes. In an April 1, 2020 guidance, the CFPB had permitted credit and consumer reporting agencies (CRAs) — and the banks, lenders and debt collectors that report information to the CRAs — to exceed the 30 days due to "reductions in staff, difficulty intaking disputes, or lack of access to necessary information."

The groups urged Director Kraninger to rescind the permission to exceed the 30-day deadline in part because of a dramatic increase in complaints to the CFPB from consumers alleging delays in resolving their disputes. The letter states:

"From the time period of April 1 to September 23, 2020, there were 6,864 complaints in the credit reporting category that are in the subcategory "Was not notified of investigation status or results;" there were 6,262 complaints in the subcategory "Investigation took more than 30 days." Thus, consumers have lodged over 13,000 complaints just in the past six months alleging that their disputes have not been addressed within the FCRA deadline, if addressed at all. In comparison, there were only 2,000 complaints in both of these two subcategories cumulatively for the same time period in 2019. This means there has been a 550% increase–likely as a result of the CFPB guidance."

"It's been almost six months since we've been in the 'new normal' and the credit industry should have adjusted like every other industry, **said National Consumer Law Center attorney Chi Chi Wu.** "Given the severe financial difficulties that the COVID-19 pandemic has inflicted on millions of American consumers, it's more important than ever that credit reporting disputes are resolved in a timely manner."

"Even before the pandemic, the credit reporting agencies were sending disputes to India and Chile for processing, so there's no reason they need extra time now to process disputes remotely," **noted Ed Mierzwinski, senior director for consumer programs at U.S. PIRG.** "Instead of coddling the "Big Three" credit bureaus, the CFPB should protect consumers."

The groups' letter proposed, as an alternative to revoking the guidance, that the CFPB should limit the extra time provided to the credit industry to 15 or 30 days.

NCLC Advocates Applaud Schumer/Warren Senate Resolution Calling for $50,000 in Debt Cancellation for 43 Million Student Loan Borrowers

FOR IMMEDIATE RELEASE: September 17, 2020

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Boston – Today, Senators Schumer and Warren announced they are introducing a Resolution calling on the President of the United States to take executive action to broadly cancel up to $50,000 in federal student loan debt for 43 million Americans.

The following is a statement by **Persis Yu, National Consumer Law Center attorney and director of NCLC's Student Borrower Assistance Project:**

"We join Senators Schumer and Warren in calling on President Trump to immediately cancel up to $50,000 in federal student loan debt for 43 million borrowers. The federal government must save borrowers from continuing to drown in student loan debt which is caused by a system that has been inequitable and broken for decades. Student loan debt disproportionately burdens Black and Brown

Americans and exacerbates the racial wealth gap. Abusive debt collection practices take funds like the Earned Income Tax Credit from borrowers' safety nets and garnish borrowers' wages, making it even harder for the borrowers who need every penny to put food on their families' tables and contribute to their local economies. Student debt cancellation is urgently needed now as American families are struggling to stay financially afloat through the global economic and public health crisis caused by COVID-19. Given how this action could improve millions of Americans' participation in the economy, the government cannot afford to wait any longer."

States Must Help Protect Vital Utility Service During the Ongoing COVID-19 Pandemic: Models from Three States

As the COVID-19 pandemic spread through the United States, with its accompanying economic shutdown, several states adopted a moratorium on terminations of utility service. However, in most states that adopted moratoriums, those termination prohibitions have already expired or will within the next few months. Legislators and utility regulators must act now to extend these moratoriums and require more flexible and generous bill payment practices to ensure continued access to essential utility service. Even before the hardships due to COVID-19, about one-third of the U.S. population was already facing serious difficulty in paying utility bills. The COVID pandemic has exacerbated the problem, with essential utility service today even more unaffordable for millions of utility customers.

The COVID-19 crisis has highlighted that access to utility service is essential to maintain public health and safety. Access to utility service should not be forfeited because of a person's inability to afford that service. Policymakers should seize on the current pandemic as an opportunity to create permanent consumer-oriented policies that ensure access to vital utility service for all.

Recently, utility commissions in California, Illinois, and Massachusetts took significant steps to help consumers stay connected to utility service. In each of these states, state regulators acted proactively, while utility shut-off moratoria were in place, to enact consumer protections with the goal of ensuring continued access to essential utility service for vulnerable populations. Each offers model provisions for regulators to enact in their states. This blog post summaries the orders.

California

On June 11, 2020, the California Public Utility Commission (CPUC) adopted a Phase I decision (D.20-06-003) in CPUC Rulemaking 18-07-005, the so-called "disconnection docket." The Phase I decision provides a suite of pro-consumer credit and collection rules and practices for the four large electric and gas companies to reduce residential disconnection rates for nonpayment. The proceeding followed the passage of California Senate Bill 598 (SB 598), which requires the CPUC to reduce utility disconnection rates by January 1, 2024.

Previously, in April, the CPUC had extended the shut-off moratorium until April 16, 2021, through its approval of Resolution M-4842.

The Phase I Decision makes permanent, with some modifications, interim rules that were previously adopted in D. 18-12-013, and which

- Sets caps on the disconnection rate of the four large investor-owned utilities (IOUs) .
- Protects medical baseline (seriously ill) customers from disconnection for nonpayment as long as they agree to a 12-month payment plan.
- Protects low-income customers from disconnection for nonpayment until the utility offers to enroll eligible customers in all applicable benefit programs administered by the utility.
- Requires the utility to offer customers a 12-month payment plan before disconnecting for non-payment.
- Prohibits disconnections for non-payment during extreme weather (temperatures above 100 degrees or below 32 degrees).

In addition, the Phase I decision:

- Eliminates service deposits and reconnection fees.
- Creates arrearage management programs (AMPs) for the four IOUs.
- Creates Percentage of Income Payment Plan (PIPP) pilots for the 10 California zip codes with the highest disconnection rates.
- Establishes a CPUC Enforcement Branch citation program designed to ensure compliance with the rules outlined in the decision.

Illinois

On June 18, 2020, the Illinois Commerce Commission (ICC) approved a settlement reached among the state's investor-owned utilities, consumer advocates, and the Commission's Staff. The settlement in ICC Docket No. 20-0309 provides financially struggling customers with several protections designed to minimize disconnection of essential utility service and make bills more affordable.

The Order followed the ICC's issuance of an Emergency Interim Order on March 18, 2020 that required a moratorium on investor-owned utility shut offs, suspended late fees and penalties due to a customer's inability to pay, and further required the investor-owned utilities to file more flexible credit and collections procedures for the Commission's consideration and approval.

The agreement, as approved by the Commission, includes the following:

- Reconnection of customers previously disconnected customers, and waiver of the usual reconnection fees.
- Extension of the moratorium on disconnections through late summer of 2020.
- Debt forgiveness for LIHEAP-eligible customers totaling $48 million. A typical forgiveness, for example, totals $500 per utility for Chicago customers.
- Provision of 24-month deferred payment arrangements (DPAs), with no down payments, for customers claiming financial hardship, and DPAs of 18 months for residential customers who do not claim financial hardship.
- Self-certification of financial hardship, which then allows access to expanded customer protections.
- Reporting of disconnections, late fees, DPAs, deposits and other data by zip code, to ensure that regulators and consumer advocates can monitor disconnection and other credit and collection practices for disproportionate impacts in communities of color.
- Utility agreement to engage, with stakeholders, in a discussion on how to improve the affordability of utility service for low income customers.

Massachusetts

The Massachusetts Department of Public Utilities (DPU) opened an investigation in May, Docket No. 20-58, to solicit input from stakeholders about the need for post-moratorium policies to protect struggling consumers, as well as recommendations for utility cost recovery. The DPU invited the utility companies, the Attorney General, the Department of Energy Resources, NCLC, the Low-Income Energy Affordability Network, and others to participate. On July 31, 2020, the DPU issued an order which includes the following protections for residential customers:

- Extends the residential disconnection moratorium until November 15. On that date, the winter moratorium on shut-offs for low-income Massachusetts customers kicks in and continues through March 15, 2021.
- Extends the length of payment plans for twelve months, with the possibility of 18 months for "unique circumstances."
- Expands the Arrearage Management Program (AMP), by allowing repeat enrollments, increasing the amount of arrearages that are forgiven, and allowing applicants to initially self-certify their income eligibility.

For additional details about the orders in these three states, see NCLC's new issue brief.

HUD Guts Civil Rights Rule Used to Address Systemic Discrimination in the Housing Market on the Dawn of an Eviction and Foreclosure Crisis

FOR IMMEDIATE RELEASE: September 8, 2020
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National Consumer Law Center Advocates Urge HUD to Reverse Course and Restore Key Civil Rights Protections

Washington, D.C. – In a continuing campaign to weaken civil rights protections, the U.S. Department of Housing and Urban Development (HUD) announced a new rule that would gut key protections under the Fair Housing Act (FHA). The Act's disparate impact standard has been used for nearly 50 years to challenge the systemic discrimination that pervades housing, lending, insurance, and other financial institutions. The gutting of this rule comes on the heels of attempts to destroy other important requirements under the FHA. **National Consumer Law Center advocates call on HUD to immediately rescind the new rule and restore key civil rights protections.**

"The communities that were redlined in the past are the same communities suffering the brunt of the fallout from the COVID-19 pandemic, and are the same communities that will suffer from HUD destroying this rule." said **Odette Williamson, National Consumer Law Center attorney and director of NCLC's Racial Justice and Equal Economic Opportunity project.** "At a time when ordinary people are calling for racial justice, the very tools that were put in place decades ago to address toxic discrimination are being stripped away by the federal government. The people deserve better."

Disparate impact claims under the Fair Housing Act protect consumers against lending policies and other types of practices that appear neutral on their face but in practice unfairly harm certain groups of people. The rule has been used effectively for five decades to challenge housing discrimination, segregation, and the lending policies that strip wealth from communities of color.

The new regulations would make it harder to prove housing discrimination cases. Rather than allowing victims of alleged discrimination use statistical evidence to show that a developer or lender has policies that have a disparate impact on minorities — a right confirmed by the U.S. Supreme Court — HUD arbitrarily and without any legitimate justification has created enforcement hurdles that do not appear in the FHA that would require such plaintiffs to prove that the policies in question are "arbitrary, artificial, and unnecessary."

At a time when Black homeownership is at levels not seen since the 1960s, prior to the enactment of the FHA, HUD has inexplicably chosen to promulgate a rule that would make things worse. Now is the time to strengthen civil rights protections to provide all people with a fair opportunity to become homeowners or remain in their home if they suffer a hardship.

Consumer & Civil Rights Advocates to OCC: Your Proposed "True Lender" Rule Would Help Fraudulent, Predatory Lenders Evade State Interest Rate Laws that Protect Families

FOR IMMEDIATE RELEASE: September 3, 2020

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The timing of the OCC's embrace of predatory lenders could not be worse

We are in the midst of an unprecedented health crisis and a

severe economic crisis, with both crises impacting communities of color more heavily than white communities

WASHINGTON, D.C. – A proposal by the regulator of the nation's largest banks would allow predatory lenders to do an end-run around state interest rate caps, exposing people to high-cost loans with minimal consumer protections, according to a comment letter submitted today to the Office of the Comptroller of the Currency (OCC) by 13 national consumer and civil rights groups. Most of these groups also joined a shorter comment letter submitted today by more than 100 community based organizations across the country.

The Center for Responsible Lending, National Consumer Law Center (on behalf of its low income clients), Americans for Financial Reform Education Fund, Consumer Action, Consumer Federation of America, the Leadership Conference on Civil and Human Rights, NAACP, National Association of Consumer Advocates, National Association for Latino Community Asset Builders, National Coalition for Asian Pacific American Community Development (National CAPACD), Public Citizen, UnidosUS, and U.S. PIRG strongly oppose the OCC's "true lender" rule.

The proposed rule would facilitate fraudulent predatory "rent-a-bank" schemes where a non-bank lender launders a loan through a bank (which is not subject to state rate caps) in order to charge interest rates beyond what state law allows.

The OCC's proposal provides that a bank "makes" the loan and thus is the lender — so that state interest rate laws do not apply — so long as the bank's name is on the loan agreement or the bank funds the loan. This rule would prohibit courts from looking behind the fine print form to the truth about which party is running the loan program and is the "true lender." The head of the agency has said that he intends for this rule to shelter rent-a-bank arrangements from litigation. Just days before the speech, the District of Columbia (D.C.) attorney general sued a high-rate rent-a-bank lender, Elevate, for violating state rate caps; and California just launched an investigation into LoanMart, another rent-a-bank lender. Currently, 45 states and D.C. have interest rate caps on at least some installment loans to protect residents from high-cost predatory lending.

The groups urged the OCC to abandon its proposal in its comment letter to the OCC:

"The proposal would eliminate state interest rate limits for nonbank predatory lenders in every state as long as a bank's name is in the fine print – nothing more – taking us back to the days of the early 2000s when payday lenders used rent-a-bank schemes to evade state laws. States would lose the power they have had since the time of the American Revolution to limit interest rates to prevent predatory lending. …

"The OCC is asking us to trust that it will not allow predatory lending. But when the OCC is going out of its way to support the right of a predatory small business lender to charge 120% APR, and is doing nothing to stop a payday lender from using an OCC-regulated bank to launder 179% APR installment loans, a naïve trust is no substitute for state interest rate limits. …

"The timing of the OCC's embrace of predatory lenders could not be worse. We are in the midst of an unprecedented health crisis and a severe economic crisis …. We are, at the same time, at a pivotal moment in our nation's reckoning with its history of structural racism…. [I]t is difficult to imagine a more inappropriate time to disrupt longstanding safeguards in place since the founding of this country that have played a fundamental role in protecting consumers from predatory financial practices."

CFPB Issues Proposal to Permit Mortgage Lenders to Make Unaffordable Loans Without Consequences

FOR IMMEDIATE RELEASE: August 18, 2020
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National Consumer Law Center Statement: Proposal May be Challenged

Washington, D.C. – Today, the Consumer Financial Protection Bureau'(CFPB) announced a Notice of Proposed Rulemaking regarding the Dodd-Frank Act ability to repay and qualified mortgage rules.

The following statement is by National Consumer Law Center Staff Attorney Alys Cohen:

"The Consumer Financial Protection Bureau announced a proposed rule that would shield lenders from legal liability for making mortgage loans without regard to borrowers' ability to repay so long as the borrower remained current for the first three years of the loan and the loan meets other requirements. This action flies in the face of the Dodd-Frank Act, which requires lenders to make a good faith determination of a borrower's ability to repay and allows borrowers to defend a threatened foreclosure at any time by asserting that the lender ignored the borrower's lack of ability to repay in making the loan.

"There are many reasons a homeowner can make payments for several years even when a mortgage is unaffordable to them, including payments from roommates who are not on the mortgage, borrowing money, or even going without essentials such utilities or medical care. These homeowners should not be precluded from using Dodd-Frank's protections to save their homes, especially since the Ability-to-Repay rule contemplated this scenario already and allowed for it.

"The Dodd-Frank Act's Ability-to-Repay rule was created to prevent the market excesses that led to the Great Recession, a calamity from which many communities, especially low-income neighborhoods and communities of color, still have not recovered.

"The CFPB's proposal puts low-income neighborhoods and communities of color at greater risk at a time when they are facing increased challenges due to the COVID-19 pandemic. The proposal ignores the most basic lessons of the Great Recession and clear Congressional intent, and seeks to protect lenders from basic accountability to those homeowners who may have received unaffordable loans. Because the proposed rule directly conflicts with the underlying law, the proposal may be ripe for a challenge under the Administrative Procedure Act."

CFPB Proposal Allows Abusive “Zombie” Debt Collection to Continue

FOR IMMEDIATE RELEASE: AUGUST 4, 2020

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Washington, D.C. – The Consumer Financial Protection Bureau (CFPB) should withdraw its supplemental proposed rule on disclosures and instead completely ban all collection of time-barred “zombie” debt, both in and out of court, wrote the National Consumer Law Center (NCLC) in comments submitted today on behalf of its low income clients.

“The CFPB’s own testing shows that many people will not understand these disclosures. The proposed rules will only give cover for abusive collectors who use high-pressure collection tactics that harm consumers.” said **National Consumer Law Center attorney April Kuehnhoff.** “Disclosures will not protect vulnerable consumers, who will not understand why they are being contacted about a debt that is too old to sue on, or how making a small payment or acknowledgement could end up reviving the statute of limitations on a debt.”

If the CFPB does not prohibit all collection of “zombie” debt, NCLC explained that the Bureau should completely revamp the proposed disclosures and conduct additional testing and analysis to ensure that real consumers–particularly those who are least sophisticated–will understand the consequences of making or not making a payment on a time-barred debt. The CFPB should also prohibit suits and threats of suits on revived debts, limit collections of time-barred debts to only written communications, and require a time-barred debt disclosure in every communication. These and other needed reforms must be adopted if the CFPB does not prohibit all collection of time-barred debt.

The CFPB should also analyze comprehension of any proposed disclosures by members of communities of color. Debt collection disproportionately affects communities of color. According to the Urban Institute, residents of predominantly nonwhite communities (42%) are far more likely to have debts in collection compared to residents in predominantly white areas (26%). Additionally, the CFPB should require debt collectors to provide the time-barred debt disclosure in Spanish whenever the collector has communicated with the consumer in Spanish or has notice that the consumer prefers to communicate in Spanish. The same requirement should apply to other languages as soon as the Bureau has created model translations of the time-barred debt disclosure in those languages.

NCLC also noted that problems with the CFPB’s original proposed debt collection rule from May 2019 will mean that many consumers will never even receive the proposed time-barred debt disclosures. As NCLC summarized, the CFPB’s May 2019 proposal would allow debt collectors to circumvent federal law regarding consent for electronic communications to send critical information via a hyperlink in an email or text. Such a notice may go to an old email address or phone number, or the consumer might not open it or click on a link in a message from an unknown party due to concerns about computer viruses. As a result, the consumer may never receive that notice or the time-barred debt disclosure that it may contain.

Related NCLC Resources

Brief: Time Barred Debt Disclosures in CFPB's Supplemental Rulemaking Fall Short, May 2020

Fact Sheet: Racial Disparities in Consumer Debt Collection

Amicus Brief Opposes OCC Charter That Would Aid Predatory Lenders

For Immediate Release: July 31, 2020

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WASHINGTON, D.C. – The National Consumer Law Center, Center for Responsible Lending, and the National Community Reinvestment Coalition filed an *amicus* brief in *Lacewell v. Office of the Comptroller of the Currency (OCC)*, in support of the plaintiff, the New York State Department of Financial Services (DFS), against the OCC's plan to issue "special purpose national bank" charters to nonbank lenders.

In the brief, the group urged the Second Circuit Court of Appeals to uphold the lower court's decision to block the OCC from issuing nonbank "bank" charters since doing so would allow free reign for predatory lenders to ignore state consumer protection laws, particularly state interest rate caps on lending products.

According to the group's *amicus* brief: "Allowing the OCC to grant national bank charters to nonbank lenders will eviscerate the fundamental power that states have had since the time of the American Revolution—to cap interest rates to protect their residents from predatory lending. … Predatory lenders will be eager to obtain a national bank charter so that they can charge rates well over 100% APR that are illegal under most state laws. High-cost lenders, often under the "fintech" label, are already trying to exploit banks' preemptive powers to evade state rate caps by using rent-a-bank schemes. The OCC is not reigning in – and in fact has been defending – predatory lenders that launder their loans through banks. A nonbank charter will make usurious lending even more widespread."

The brief notes that the nonbank charter is a continuation of efforts by the OCC to support high-cost lenders, including an OCC amicus brief in support of World Business Lenders, failure to address predatory lending by WBL abetted by OCC-supervised Axos Bank, and OCC rules (recently challenged by three states) that would aid predatory rent-a-bank schemes such as the one between the payday lender CURO and OCC-supervised Stride Bank.

New York's DFS led the challenge against the nonbank charter in *Lacewell v. Office of the Comptroller of the Currency* in a federal district court action in the Southern District of New York.

In May 2019, the district court ruled against the OCC, set aside the OCC's nonbank charter, and held that the National Bank Act "unambiguously requires that …. only depository institutions are eligible to receive national bank charters from OCC."

Under the nonbank charter, predatory lenders would have fewer constraints than true national banks. They also would not be subject to the Community Reinvestment Act, which only applies to national banks that take deposits, creating a higher risk they will offer products that harm the communities where they do business rather than serving these communities with responsible products.

Currently, at least 45 states and the District of Columbia impose interest rate caps on some consumer loans. Among those states that cap rates, the median annual rate including all fees is 38.5% for a $500, six-month loan; 31% for a $2000, two-year loan; and 25% for a $10,000, five-year loan.

The American public strongly supports state interest rate caps. At every opportunity in recent years, voters in a diverse range of states have overwhelmingly (typically by a two-to-one or higher margin) approved rate caps of 36% or less, including in Arizona, Ohio, Montana, South Dakota, and Colorado.