NCLC’s 50th Anniversary Celebrated by Consumer Law Community!

On November 15, over 800 consumer attorneys, advocates, activists and allies gathered in Boston to celebrate the 50th anniversary of the nation’s leading consumer law advocacy organization: the National Consumer Law Center (NCLC).

The Celebration featured consumer law champions including U.S. Senator Ed Markey — one of NCLC’s first interns as a student at Boston College Law School, where NCLC was originally located — and U.S. Representative Katie Porter, who before her 2018 election was a professor of law focusing on consumer bankruptcy, and author of the textbook Modern Consumer Law.

Guests also applauded attorney Elizabeth Cabraser (see profile on page 8), the founder partner of Lieff Cabraser Heimann & Bernstein, LLP and the recipient of NCLC’s 2019 Countryman Award for her significant contributions to the protection of American consumers.

A short trailer was shown for an NCLC-focused episode of the documentary TV series Visionaries, hosted by actor Sam Waterston, which began airing on PBS stations across the country this summer. The program profiles NCLC attorneys and partners at legal-aid organizations in Detroit and Atlanta, highlighting some of the many economic injustices that plague low-income people, families and communities, and the advocates who work to bring them justice. To see the trailer and learn how to watch the full episode, visit nclc.org/about-us/video-visionaries-profile.html

Executive Director Rich Dubois unveiled NCLC’s new logo and our Campaign for the Future (see page 3), and Partners Council member Len Bennett urged all in attendance to support the Campaign — offering a special matching gift challenge to inspire guests to do so at the Celebration. The challenge raised almost $100,000 from those in attendance, the largest amount ever raised at an NCLC conference.

Dubois concluded the memorable evening by emphasizing that NCLC is proud to have played a significant role in the advancement of consumer law over the last five decades, and honored to be able to gather so many of those who have fought — and continue to fight — for economic justice together with us.

Forced Arbitration Repeal Advances in Congress
NCLC and Allies Now Push for Senate Passage

In September 2019, the U.S. House passed the Forced Arbitration Injustice Repeal Act or FAIR Act (H.R. 1423), which would restore Americans’ constitutional right to take a dispute with a company to court. Wall Street corporations, like Equifax and Wells Fargo, cell and internet phone companies, nursing homes, predatory for-profit colleges, and employers that engage in sexual harassment all use forced arbitration to evade accountability behind closed doors.

NCLC and our allies helped obtain the successful victory in the House by working with legislators, engaging our networks, and publicizing the harms of forced arbitration via news stories and social media.

Next Steps
An identical bill was introduced in the Senate (S. 610), and NCLC and our allies are urging senators to follow the House’s lead and support restoring consumers’ access to their day in court “Forced
Dear friends, allies, and supporters:

First things first: thank you!

As you’ve already seen in our cover story, NCLC just marked our 50th anniversary with a special celebration in Boston. It was a night to remember, and I’m so glad that we were able to celebrate it with so many of you — consumer champions from every corner of the country.

At the celebration, we unveiled a new logo and a new tagline: Fighting Together for Economic Justice.

Together is a key word in that tagline. Over those past five decades, the consumer law community has grown from a handful of advocates to many thousands of people who go to work every day to fight for those who have been wronged, and to advance economic fairness.

NCLC has played a major role in that growth, and the strength of our community makes our impact much greater than that of a single organization with offices in Boston and Washington, DC. If half a century teaches anything, it is that no great progress is made alone.

NCLC is what it is — and consumer protections are what they are — because of the community we have helped nurture and develop, and the consumer law victories we have fought for together.

As the updates in these pages illustrate, this has been a busy year — and next year promises to be busier still, with a changing political environment requiring vigilance in preserving existing consumer protections from both expected and surprise attacks, and creativity in advancing new laws and rules to protect vulnerable consumers.

We are grateful for your past and present support — we truly rely on it — and for your continued engagement as we fight for economic justice.

Together.

Sincerely,

Rich Dubois
Executive Director
NCLC Rejects Half Measures in Push for Strong Consumer Protections from Unwanted Robocalls

In May 2019, the U.S. Senate passed the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act—requiring voice service providers to implement call authentication technologies to reduce “spoofed” or disguised calls. NCLC Senior Counsel Margot Saunders testified in support of the bill while warning it did not go far enough to protect consumers from unwanted calls.

Then the House passed a much broader bill: the Stopping Bad Robocalls Act, (SBRA). In testimony, Saunders said the SBRA “will stop most, if not all, unwanted robocalls” and will hold robocallers accountable for breaking the law. In late November, key lawmakers in the House and Senate announced the Pallone-Thune TRACED Act bill which mandates the FCC to implement a caller-ID authentication program. The bill does not clarify disputed terms in the TCPA that require callers to honor a consumer’s right to stop calling or a consumer to withdraw consent for robocalls.

Next Steps
NCLC will continue to urge the FCC toward a strong TCPA to rid consumers of the robocall burden, once and for all.
Experts Testify Before Congress

NCLC experts have been called to testify before Congress with increasing regularity in recent months, as the new leadership of the House of Representatives works to design and advance stronger, more effective consumer protection legislation.

NCLC attorney Joanna K. Darcus testified on June 11 before the U.S. House Financial Services Subcommittee on Oversight and Investigations re: “An Examination of State Efforts to oversee the $1.5 Trillion Student Loan Servicing Market.”

NCLC Student Loan Advocacy Project Advocate Persis Yu (pictured, left) testified on September 9 before the U.S. House Financial Services Committee on “A $1.5 Trillion Crisis: Protecting Student Borrowers and Holding Student Loan Servicers Accountable.”

NCLC Attorney Sarah Bolling Mancini (pictured, left) testified on September 25 before the U.S. House Financial Services Committee Housing, Community Development and Insurance Subcommittee at the hearing: “Protecting Seniors: A Review of the FHA’s Home Equity Conversion Mortgage Program.”

NCLC attorney April Kuehnhoff testified on September 26 before the U.S. House Financial Services Committee re: “Examining Legislation to Protect Consumers and Small Business Owners from Abusive Debt Collection Practices.”

“Our U.S. Senators should move forward to pass this legislation and demonstrate that they side with ordinary people instead of large corporations by banning the secretive, biased system of forced arbitration.”

Forced Arbitration continued from page 1

arbitration clauses that are buried in fine print take away our Seventh Amendment right to access the courts when companies violate the law and often prevents people from joining together to fight widespread wrongdoing,” said NCLC Associate Director Lauren Saunders. “Our U.S. Senators should move forward to pass this legislation and demonstrate that they side with ordinary people instead of large corporations by banning the secretive, biased system of forced arbitration.”

It is critical for senators to hear from their constituents about the importance of stopping forced arbitration. You can send an email to your U.S. Senators urging passage of the FAIR Act through NCLC’s convenient email portal: nclc.org/take-action

Please also let NCLC know of any stories you come across about people harmed by forced arbitration. NCLC will continue fighting to end forced arbitration at both the state and federal level until justice is restored.
New and Improved Editions of NCLC Treatises Released; Digital Library Enhanced

As NCLC celebrates its 50th anniversary, the Publications team has been working hard at releasing several new revisions of some of the most popular manuals in its Consumer Law Practice Series.

Newly revised titles include Truth in Lending (10th ed.) and Consumer Bankruptcy Law and Practice (12th ed.), two of NCLC’s most widely used. The newly released Student Loan Law, now in its sixth edition, covers the latest on collections, intercepts, deferments, discharges, repayment plans, trade school abuses, and more. Mortgage Lending, just published in its fourth edition, covers dramatic changes concerning mortgage lending and federal preemption.

The essential practice tool Instant Evidence has also been revised. Invaluable for both federal and state litigation, this slim volume provides highly condensed federal rules of evidence, facilitating objection by rule number. This spiral-bound, laminated resource comes with a dry-erase marker. Attorneys in trial notate the pages and bring the book to court to easily find common objections, motions, and practice tips at ever state of a case.

The NCLC Digital Library has seen new exciting changes to improve the reading experience. Users can now search across all content, across selected NCLC treatises, or just within an individual chapter. Also added to the platform is a multi-word search feature to facilitate complex search terms. Learn more about the new features and read the first chapter of each treatise at nclc.org/library.

Rising Stars Honored

Established in 2016, NCLC’s Rising Star Awards honor early-in-their-career attorneys who have made significant contributions to consumer law within the past two years.

This year winners of the 2019 Rising Star Awards were honored during a luncheon at NCLC’s annual Consumer Rights Litigation Conference in Boston.

Public Justice Staff Attorney Jennifer Bennett was honored for her recent unanimous victory in the U.S. Supreme Court in New Prime, Inc. v. Oliveira, a case concerning arbitration clauses — one of the most relevant and most difficult issues that consumer lawyers face. As a result of this victory, as many as 1.7 million transportation workers will be free of the restrictive law that has developed around the Federal Arbitration Act and will now have a real chance of bringing their disputes to court, rather than arbitration.

Also honored was attorney Andrew Guzzo for his instrumental role in leading, advancing and succeeding in efforts to combat Internet tribal predatory lending. Andrew was lead advocate in multiple successful predatory lending matters that resulted (and is now resulting) in recoveries and loan cancellations well over a hundred millions dollars from CashCall, Think Finance, and others.

Matthew Osborne, a consumer attorney in Colorado was nominated as “one of the top consumer rights trial attorneys in the state over the past decade” who “constantly shares his expertise with the local bankruptcy bar and has empowered many to champion debtor’s cases and take creditors to task.” He was also lauded for his willingness to assist less experienced trial attorneys.

Joe J. Villaseñor, an attorney in the Consumer Protection Division of the Legal Aid Society of San Diego, was nominated for his longstanding and deep commitment to consumer rights, and his strong legal acumen and dedication to standing up for the defenseless consumer. One nominator described him as “courteous, polite and understated, yet tenacious and formidable” in representing the nearly 1,000 clients in his practice.
Consumer Champions Celebrate NCLC’s 50th Anniversary
2019 Consumer Rights Litigation Conference in Boston Draws Record Attendance

Over one thousand consumer attorneys from across the country registered for NCLC’s largest-ever Consumer Rights Litigation Conference (CRLC) November 14-17 in Boston, to network, learn about the latest developments in consumer litigation and industry trends, share expertise, and celebrate the 50th anniversary of the National Consumer Law Center.

The 2019 CRLC featured new “Strategy Summits” for experienced practitioners on student loans, criminal justice debt and auto lending issues, in addition to over 60 breakout sessions detailing specific litigation and policy issues. Conference attendees also heard from plenary session speakers, including former CFPB Director Rich Cordray, Massachusetts Attorney General Maura Healey, Brandeis University Professor of Law and Social Policy Tom Shapiro, and Kalpana Kotagal of Cohen Milstein Sellers & Toll with Beth Terrell of Terrell Marshall Law Group.

During the gathering, NCLC Executive Director Rich Dubois announced that next year’s Consumer Rights Litigation Conference will be held in Atlanta, Georgia from November 19-22, 2020, just weeks after Election Day. Atlanta promises warmer weather and a robust dialogue about what the election results could mean for consumer rights litigation, and new opportunities to advance consumer rights next fall!
1 NCLC Partners Council Member Mark Chavez

2 U.S. Representative Katie Porter

3 NCLC Partners Council Member Bryan Kemnitzer

4 50th Anniversary Celebration Guests

5 NCLC Partners Council members Len Bennett and Bryan Kemnitzer and Board member Deepak Gupta greet U.S. Senator Ed Markey following his speech.

6 U.S. Senator Ed Markey

7 NCLC Board Member Nancy Barron

8 Gala Celebration Guests

9 Massachusetts State Representative (and former NCLC employee) Nika Elugardo

ALL PHOTOS: MATT LECLAIRE
2019 Vern Countryman Award Winner Elizabeth Cabraser Honored at NCLC’s 50th Anniversary Gala

“Martin Luther King said that the universe bends toward justice. The trajectory of the universe bends towards justice, but I believe that it is a human engine that drives it there.”

–Elizabeth Cabraser

Each year the National Consumer Law Center presents the Vern Countryman Consumer Law Award to an attorney whose special contributions to the practice of consumer law have strengthened and affirmed the rights of low-income Americans. This year Elizabeth Cabraser was presented with the 2019 Countryman Award at NCLC’s 50th Anniversary Gala Celebration for her decades long career bringing justice to millions of consumers; the recovery of billions of dollars for consumers and halting of unlawful and fraudulent corporate practices; the enormous difference she has made in the lives of the class members that she has represented and our society in general; and her work to advance and preserve the class action device as an indispensable vehicle for protecting the rights of low-income consumers.

Elizabeth’s work on behalf of consumers facing devastating economic losses associated with their automobile is particularly noteworthy. Most recently, she successfully prosecuted the Volkswagen “clean Diesel” Fraud MDL which resulted in a $14.6 billion settlement benefitting hundreds of thousands of consumers through buybacks and cash payments. And, she has helped inspire an entire generation of lawyers to pursue class actions to protect low-income consumers through her own cases, her extensive publications and her frequent lecturers at both Berkeley and Columbia Law Schools. Elizabeth has educated hundreds of law students on the importance and utility of the class action device in achieving social justice and worked quietly behind the scenes through her support and direct assistance to a large number of public interest organizations.

Although unassuming and humble by nature, Elizabeth is a titan of the plaintiffs’ bar and a formidable litigator who has successfully prosecuted some of the largest class actions in the country over the past 40 years. Under her leadership, Lieff Cabraser has become one of the country’s largest law firms. The 25 settlements in excess of $1 billion — benefitting millions of consumers — achieved by Elizabeth and her firm, are a lasting testament to her unsurpassed litigation skills, towering intellectual abilities, and unflagging dedication to securing justice for the victims of corporate wrongdoing.

“Elizabeth Cabraser is unquestionably the most prominent class action lawyer in the United States.”

–F. Paul Bland, Executive Director, Public Justice

Cy Pres Awards Advance Consumer Interests

Consumer champions Nancy Barron and Bryan Kemnitz of KBK Legal have a long track record of winning justice for consumers, and of recommending NCLC as a cy pres recipient in appropriate cases.

Together, Nancy and Bryan have had a hand in nominating NCLC to receive over 25 cy pres awards, which have been used to advance the core consumer protection interests of class members in their class action litigation.

“We nominate NCLC because it is seen by courts to be a legitimate and reputable nonprofit, dedicated to consumer protection and will help promote absent class members’ interests. We know this directly because of our long standing affiliation with NCLC. We know that NCLC will use the funds wisely and that as a recipient of such residual monies, no other organization has the reach and breadth that NCLC has to help protect consumers.”

NCLC is a respected and effective recipient of cy pres awards, generally approved by Courts after judicial review and consideration of our consumer law expertise and long track record of success. For more information on how you can help support and further the mission of the National Consumer Law Center, please contact Paul Laurent at plaurent@nclc.org or by calling 617 542 8010.

Nancy Barron and Bryan Kemnitzer
NCLC Earns Platinum Seal from Guidestar

NCLC is proud to share that it has earned a 2019 Platinum Seal of Transparency, the highest level of recognition offered by GuideStar, the world's largest source of nonprofit information. To reach the Platinum level, NCLC added extensive information to its GuideStar Nonprofit Profile: basic contact and organizational information; in-depth financial information; qualitative information about goals, strategies, and capabilities; and quantitative information about results and progress toward its mission, demonstrating our commitment to transparency and to giving donors and funders meaningful data.

Check out our updated GuideStar #NonprofitProfile: guidestar.org/profile/04-2488502

NCLC’s New Look

Over the last five decades, NCLC has worked to build and strengthen the consumer law community, and fought to initiate, improve and defend the bedrock laws and regulations that protect consumers in the marketplace. At the 50th Anniversary Celebration, Executive Director Rich Dubois unveiled a new logo and tagline as NCLC begins its next chapter. Our new logo includes blue to reflect our strength and longevity, while red demonstrates our passion and action. Our new tagline reflects the core of what NCLC is and will always be: Fighting Together for Economic Justice.

Instantly Access Everything on Consumer Law

Twenty treatises available individually or as a set in print and digital formats

With powerful digital tools:

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- Thousands of sample pleadings, practice tools, and primary sources
- Highlight, annotate, download, copy/paste, and bookmark text
- IP access available for libraries and large firms

Learn more and begin reading the first chapter of any NCLC treatise for free at nclc.org/library
NCLC’s Internship Program Trains the Next Generation of Consumer Attorneys

Each year, NCLC hosts a group of up and coming law students as part of our annual summer internship program. This summer NCLC welcomed the following outstanding legal interns (pictured from left to right above): Meredith Stone (rising 3L, Washington University Law and our Greenfield Fellow under a generous grant provided by our colleague Professor Michael Greenfield at the Washington University School of Law); Kendra Cobb (rising 3L, Howard Law); Stuart Rossman, NCLC Intern Coordinator; and Adam Pijanowski (rising 3L, University of Michigan Law). Not pictured: Sam Shepard (rising 3L, Boston University Law and our 2019 Hobbs Fellow).

NCLC Welcomes New Staff

NCLC is expanding our work to provide expertise to consumer lawyers and promote stronger consumer protections, and is proud to have recently welcomed three talented new staff attorneys to our team:

Karen Lusson joins NCLC as a staff attorney focusing on energy and utility issues that affect low-income customers. Previously she was the assistant bureau chief in the Public Utilities Bureau of the Illinois Attorney General’s Office. Prior to that, Karen was a staff attorney at the Illinois Citizens Utility Board and an assistant public counsel at the Illinois Office of Public Counsel. She received her degree in Journalism and Political Science from Indiana University and her law degree from DePaul University College of Law.

Ariel Nelson joins NCLC as a staff attorney focusing on credit and background reporting and criminal justice debt issues. Previously, Ariel litigated administrative and environmental law cases as a staff attorney/clinical teaching fellow at Georgetown University Law Center. She also served as a law clerk to the Honorable Judge David O. Carter of the U.S. District Court for the Central District of California and to the Honorable Judge Dorothy W. Nelson of the U.S. Court of Appeals for the Ninth Circuit. She holds a B.A. from the University of California, Berkeley and a J.D. from Harvard Law School. She is admitted to practice law in California and the District of Columbia.

Andrea Bopp Stark joins NCLC as a staff attorney focusing on fair debt collection practices, including criminal justice debt. She also teaches an Introduction to Consumer Rights Litigation practicum course at Boston College Law School. Previously, Andrea was a partner at Molleur Law Office in Biddeford, ME, and worked as an attorney for Northeast Legal Aid in Lawrence, Massachusetts. Andrea holds a B.A. from the University of Vermont and obtained her JD and Masters of Social Work from Boston College.
Still No Fresh Start in 2019: How States Still Let Debt Collectors Push Families into Poverty

Millions of families still have not recovered from the 2008 recession, and the astronomic growth of the debt buyer and collection industries makes them increasingly vulnerable to seizure of essential wages and property to pay their oldest debts. NCLC’s report, Still No Fresh Start in 2019: How States Still Let Debt Collectors Push Families into Poverty, in which NCLC surveys the exemption laws of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands, sadly details that not one jurisdiction’s laws meet basic standards to allow debtors to work productively to support themselves and their families.

Every state has a set of exemption laws, intended to prevent creditors from pushing consumers and their families into destitution. Exemption laws preserve basic items of property from seizure by creditors so that consumers can to continue to work productively and support themselves and their families. These laws are intended to protect at least subsistence wages and essential property, such as a car and home, from seizure by creditors. States have good reason to be concerned about protecting their residents from overaggressive collection of judgments for consumer debts.

Key Recommendations of the Report:
State exemption laws should be reformed to:
- Preserve the debtor’s ability to work by protecting a working car, work tools and equipment, and money for commuting and other daily work expenses.
- Protect the family’s housing, necessary household goods, and means of transportation.
- Protect a living wage for working debtors that will meet basic needs and maintain a safe, decent standard of living within the community.
- Protect at least $3,000 in a bank account so that debtors can pay rent, daycare, and utilities.
- Protect retirees from destitution by restricting creditors’ ability to seize retirement funds.
- Be automatically updated for inflation.
- Close loopholes that enable some lenders (such as payday lenders) to evade exemption laws.
- Be self-enforcing to the extent possible so that the debtor does not have to file complicated papers or attend court hearings.

The best states to live in for struggling debtors? Massachusetts, which modernized its archaic exemption laws in 2010, and Nevada, which also recently improved its laws, come closest to meeting these five basic standards, each rating a high “B” grade. New York, Oklahoma, and South Carolina rate low “B” grades. Kansas, North Dakota, and Wisconsin each rated a high “C.”

At the opposite end of the scale are several states whose exemption laws reflect indifference to struggling debtors. These states allow debt collectors to seize nearly everything a debtor owns, even the minimal items necessary for the debtor to continue working and providing for a family. Delaware, Georgia, Kentucky, Michigan, New Jersey, and Utah are the worst and rate an “F.” Meanwhile, Alabama, Arkansas, Indiana, Maryland, Missouri, Pennsylvania, and Wyoming are nearly as bad, rating a “D-.”

Model Family Financial Protection Act
NCLC has written model language for states to achieve these goals. The model law also includes steps that states can take to reduce the pervasive abuse of the court system by debt buyers. Read the full text of the law at bit.ly/NCLCModelFamilyFinanProtectAct
INSIDE: Consumer Law Community Celebrates NCLC’s 50th Anniversary!

The nonprofit National Consumer Law Center® (NCLC®) works for economic justice for low-income and other disadvantaged people in the U.S. through policy analysis and advocacy, publications, litigation, and training.

Plan Ahead for NCLC’s 2020 Consumer Conferences!

FDCPA
March 30-31
Portland, Oregon

Mortgage
June 15-16
Baltimore, Maryland

CRLC
November 19-22
Atlanta, Georgia