

Case Index - Closed Cases

Auto Finance Discrimination

As co-counsel in a series of national class action lawsuits brought under the Equal Credit Opportunity Act, NCLC has successfully attacked racially discriminatory lending practices in the used (and new) car business, with settlements valued at well over \$100 million. The cases, which were filed against some of the nation's largest auto finance companies and banks, charged that the defendants maintained policies which permit car dealers to "mark-up" the finance rates on loans based on subjective criteria unrelated to creditworthiness. This mark-up policy has had a disparate impact on African-American and Hispanic customers, who end up paying more for credit than whites with similar credit ratings. The lawsuits, which exposed practices that had operated secretly for over 75 years and had resulted in higher-interest rate car loans for minorities, have transformed car financing practices across the industry.

- Op-ed by NCLC Director of Litigation Stuart Rossman "The data is clear: Auto lenders discriminate," Nov. 17, 2015
- Policy Brief: Racial Disparities in Auto Loan Markups: State-by-State Data , June 2015
- Testimony at the CFPB Auto Finance Forum re: results of NCLC's auto finance discrimination litigation, Nov. 2013
 -  Video of CFPB Auto Finance Forum (Stuart Rossman testimony begins at 55:25)
- *AHFC (Terry Willis, et al v. American Honda Finance Corporation)*
 - Settlement Agreement
 - Expert Report on the Racial Impact of AHFC's Finance Charge Markup Policy (Mark A. Cohen, Ph.D.)
 - Appendix D: Top Dollar and Percentage Point Markups
 - Appendix E: Top 100 Dollar Markups by State
 - Appendix F: Top 100 Percentage Point Markups by State
 - Expert Report of Ian Ayers
- *Baltimore v. Toyota Motor Credit Corp*
 - The Settlement Agreement and Amendment to Settlement Agreement
 - Frequently Asked Questions (English and Spanish)
- *Borlay v. Primus Automotive Financial Services, Inc. and Ford Motor Credit Company*
 - [Frequently Asked Questions](#)
- *FMCC (Joyce Jones, et al. v. Ford Motor Credit Company)*
 - Settlement Agreement
 - Frequently Asked Questions (English and Spanish)
 - Preliminary Report on the Racial Impact of FMCC's Finance Charge Markup Policy
- *GMAC (Coleman v. General Motors Acceptance Corporation)*
 - Settlement Agreement
 - Frequently Asked Questions
 - Executive Summary of the Settlement
 - Press Release
 - ACUERDO DE RESOLUCIÓN
 - PREGUNTAS FRECUENTES
 - Resumen del Acuerdo de Resolución
- *NMAC (Cason v. Nissan Motors Acceptance Corporation)*
 - Press Release (English and Spanish) of the Settlement Agreement

Outline of the Settlement Agreement (English and Spanish)

Frequently Asked Questions (English and Spanish)

- *Smith v. Daimler Chrysler Financial*
Settlement Notice (English & Spanish)
Notice of Motion for Preliminary Approval of Class Settlement
(Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E, Exhibit F, Exhibit G, Exhibit H)
Court Order
Frequently Asked Questions (English and Spanish)

Bank Overdraft Fees

- *Yourke v. Bank of America*, Complaint
(Appendix A, Appendix B, Appendix C-1 and C-2, Appendix D, Appendix E, Appendices F-G)

Debt Collection

- *Blake v. Riddle & Wood*, Second Amended Class Action Complaint for telephone harassment of Massachusetts debtors.
- *Clawson, appellant v. Midland Funding* - Opinion of Court of Appeals Decision, Feb. 26, 2013. The Sixth Circuit Court of Appeals reversed approval of a nationwide settlement affecting 1.44 million victims of a debt buyer's "predatory practices" in using robo-signed affidavits to obtain state court collection judgments. The Court found that the original settlement was unfair, unreasonable, and inadequate, that the district court abused its discretion in certifying the nationwide settlement class, and that the notice to prospective class members did not satisfy due process. This step allows all of the other robo-signing cases brought against Midland around the United States to proceed. NCLC represented one of the appellants in the case.
- *Dorrian v. LVNV* Second **Amended Complaint** on behalf of class of individuals sued by debt buyer which is unlicensed in Massachusetts. Class certified and partial Summary Judgment for Plaintiffs was overturned by the Massachusetts Supreme Judicial Court. 479 Mass. 265 94 N.E.3d 370 (2018).
- *Fritz v. Resurgent Capital Services and LVNV*, Case No. 11-CV-3300 FB VVP in the Eastern District of New York. Memorandum & Order. Final judgment, Sept. 16, 2016
This case challenges the practice of debt buyer LVNV filing state court collection suits in the name of Resurgent Capital, one of its unlicensed subsidiaries, in order to protect itself from liability. In a ruling on July 24, 2013, the court denied the defendants' Motion to Dismiss in all respects but one. He held that plaintiffs had stated a viable misrepresentation claim under the FDCPA. The court recognized that misrepresenting the owner of the debt was a material violation even though the true owner was a corporate parent because it could confuse and mislead the least sophisticated consumer. Another FDCPA violation that also passed muster was that defendants falsely reported the amount of the debt to CRAs by including state court costs even when they hadn't yet gotten a judgment in their collection action awarding such costs.
Affirmative defenses of collateral estoppel (due to state court collection judgments), abstention and Noerr Pennington were rejected too. The only claim that was dismissed related to an individual collection letter that also misrepresented ownership of the debt, but was filed beyond the 1 year statute of limitations for such a claim. The decision is reported at 2013 WL 3821479.
- *Jenkins v. General Collection Co.*, Second Amended Class Action Complaint and **Settlement Agreement**
- *Kulig v. Midland Funding*, Case No. 13 CV 4715, US District Court (EDNY) - suit for systematically filing time-barred lawsuits against hundreds of New York consumers who fell behind on their credit card payments. The suit covers New York consumers whose credit card

was issued by a Delaware bank. Under NY law, these collection suits must be filed within 3 years of default on the account, but Midland routinely sues long after that. Settled on an individual basis.

- *Lannan v. Levy & White*, Case No. 14 cv 13866 - Partial summary judgment as to liability and class certification were granted in an FDCA and MA Ch. 93A suit against an attorney debt collector who misrepresented the amount owed by persons receiving ambulance services when he calculated prejudgment interest from the date the services were provided, rather than from the date a demand for payment was sent to the patient. In addition, as a separate violation, in his small claims complaints, the attorney lumped prejudgment interest that hadn't yet been awarded into the amount claimed to already be due at the time of filing of the complaint. The court found this could be confusing to an unsophisticated consumer deciding how to respond to the complaint. Complaint || Order Subsequently, a class action settlement was approved by the Court.
- *Pettway v. Harmon Law Offices, P.C.*, Second Amended Class Action [Complaint](#)
- *Spence v. Cavalry*, **Complaint** and **Class Action Settlement** involving major debt buyer's practice of retroactively adding interest to the balances on credit card debts it purchased.

ERISA

- *Brenda J. Otte v. Cigna*, First Amended Class Action Complaint Final Notice of Settlement of Approval - claim for improper use of proceeds of life insurance provided by employer.

Fair Housing

- *Connecticut Fair Housing Center, Inc. vs Liberty Bank Case No. 18-1654* || Press Release and Complaint The National Consumer Law Center and the Connecticut Fair Housing Center filed a fair housing lawsuit in the United States District Court for the District of Connecticut against Liberty Bank, alleging that Liberty Bank violated the Fair Housing Act by: engaging in a pattern and practice of redlining communities where most of the residents are racial and ethnic minorities; discriminating against African - American and Latinx mortgage applicants and; discouraging African - American and Latinx mortgage applicants from applying for credit. Press Release and Settlement Agreement.

Foreclosures

- *Archibald v. GMAC Mortgage Class Action Complaint* alleging routine use of fraudulent affidavits in foreclosures (Exhibits 1-4, Exhibits 5-25); Court Decision of the Maine S.Ct., on certified question from the U.S. District Court

Land Contracts

- *Horne et al. v. Harbour Portfolio et al.*
Horne et al v. Harbour Portfolio et al. Second Amended Complaint (N.D. GA)
Horne et al v. Harbour Portfolio et al. Third Amended Complaint (N.D. GA)
Opposition to Defendant Harbour's Motion to Dismiss Second Amended Complaint
Opposition to Defendant NAA's Motion to Dismiss Second Amended Complaint
Order on Motion to Dismiss Second Amended Complaint (N.D. GA)

Horne v. Harbour Portfolio, United States District Court for the Northern District of Georgia: Suit was brought by the Atlanta Legal Aid Society on behalf of 22 African-American residents representing 16 household. The action asserted claims of discriminatory targeting for abusive credit terms in home purchase "contract for deed" transactions extended by Harbour Portfolio.

The complaint alleged that Harbour Portfolio, through both intentional targeting of African-American consumers and practices that have a foreseeable disparate impact on African-American consumers, violated the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601, *et seq.*, the Equal Credit Opportunity Act, 15 U.S.C. § 1691, *et seq.*, and the Georgia Fair Housing Act, O.C.G.A. § 8-3-200 *et seq.* NCLC subsequently joined the case as plaintiffs' co-counsel.

On March 20, 2018, the Court denied a motion to dismiss for all but one of the claims asserted (wrongful eviction). Thereafter, during on-going discovery, including subpoenas issued to Fannie Mae, requests for production of documents by the defendants and depositions of the defendant principal, the parties engaged in mediation before a U.S. Magistrate Judge. The case settled in December, 2018. The 12 households who were still living in their homes received a deed converting their contract for deed to a mortgage with title insurance, reduced interest rates, shorter repayment terms and, in some cases, principal reductions. They also received a lump sum cash payment. The four households who were evicted/no longer living in the home received separate lump sum cash payments. As part of the settlement, separate attorneys' fees were paid to plaintiffs' counsel of record. (More information on land installment contracts including NCLC's 2016 report, Toxic Transactions: How Land Installment Contracts Once Again Threaten Communities of Color, [here](#))

Military Pensions

- *Amos v. Advanced Funding, Inc. et al* Complaint
- *Henry v. Structured Investments Co. et al* Complaint Trial Decision (Class-action lawsuit regarding assignment of pension rights in exchange for lump sum payments)
- Testimony of NCLC Director of Litigation Stuart Rossman before the U.S. Senate Committee on Aging re: pension advance schemes, Sept. 30, 2015

Mortgage Related Claims

HAMP Trial Period Plan (TPP) Contract Claims

- Complaint against Bank for failure to honor its agreements with borrowers to modify mortgages and prevent foreclosures under the United States Treasury's Home Affordable Modification Program ("HAMP").

Mortgage Discrimination by Subprime Lenders

National class action cases brought under the Fair Housing Act and the Equal Credit Opportunity Act against certain subprime mortgage lenders:

- *Barrett v. H & R Block* Class Certification Report of Ian Ayres (redacted and publicly filed)
- *Barrett v. H & R Block* Class Certification Reply Report of Ian Ayres (redacted and publicly filed)
- *Barrett v. H & R Block* Class Certification Rebuttal Report of Patricia McCoy (redacted and publicly filed)
- *Barrett v. H&R Block* Class Certification Decision
- *Garcia v. Countrywide Financial Corporation*, Class Action Complaint
- *Ramirez v. Greenpoint-Howell Jackson* Expert Report (publicly filed)
- *Ramirez v. Greenpoint-Howell Jackson* Reply Expert Report (publicly filed)
- *Ramirez v. Greenpoint-Patricia McCoy* Rebuttal Expert Report (publicly filed)
- *In re Wells Fargo Mortgage Lending Practices Litigation*, First Consolidated and Amended

Class Action Complaint

- *In re Wells Fargo Mortgage Lending Practices Litigation*, Class Certification Report
- *In re Wells Fargo Mortgage Lending Practices Litigation*, Reply Class Certification Report

Mortgage Securitization Discrimination

- *Beverly Adkins et al. v Morgan Stanley*

The National Consumer Law Center is co-counsel for African American plaintiffs in a prospective class action lawsuit brought against Morgan Stanley. The lawsuit claims that the Defendant violated federal civil rights laws, the Fair Housing Act and the Equal Credit Opportunity Act as well as state laws by adopting mortgage securitization policies that caused predatory lending and adversely impacted African Americans in the Detroit, Michigan area. It is the first case where a prospective class of affected homeowners victimized by subprime lending abuses has directly sued an investment bank. It is also the first lawsuit to connect racial discrimination to the securitization of mortgage-backed securities.

- The *Adkins v. Morgan Stanley* lawsuit asserts that Morgan Stanley pursued mortgage securitization policies and practices that, through their funding of now-defunct mortgage lender New Century Mortgage Company, resulted in a significant discriminatory impact on African-American borrowers in the Detroit metropolitan area, flooding the already highly segregated community with toxic, combined-risk subprime loans in the lead-up to the collapse of the housing market in 2008. Read the expert reports submitted in support of the reverse red-lining allegations made in the case and NCLC's issue brief detailing key findings by the experts.

Appellants' 2nd Circuit Brief (Class Certification) (November 2015)

AFSCME/SEIU 2nd Circuit Amicus Brief (November 2015)

NAACP Legal Defense & Educational Fund, New York Law School Racial Justice Project, Damon J. Keith Center for Civil Rights and Michigan Welfare Rights Organization 2nd Circuit Amicus Brief (November 2015)

Jerome N. Frank Legal Services Organization and Michigan Poverty Law Program 2nd Circuit Amicus Brief (November 2015)

Opinion and Order (May 2015)

NCLC Issue Brief (Nov. 2014)

Ayers Expert Report

McCoy Expert Report

Oliver Expert Report

Sugrue Expert Report

Private Child Support Collection Agency

- *Zipperer v. Supportkids, Inc.* (Complaint and Court Decision and Order)

Refund Anticipation Loan Cross Lender Debt Collection

- Order After Hearing: Preliminary Approval of Class Settlement
- Settlement Agreement
- FAQ
- Press Release (March 18, 2003)
- *Hood v. Santa Barbara Bank & Trust* Complaint

Small Loans at High Cost

- *Chester v. Tancorde* – Complaint and Class Action Settlement against small loan company for violations of TILA.
- *Tullie v. T & R Market* – Complaint and Class Action Settlement against pawnbroker for TILA and state law violations
- *In re: Chase Bank USA, N.A. “Check Loan” Contract Litigation*, Master Class Action Complaint

Student Loans

- *Bible v. United Student Aid Funds, Inc* – Case Number 1:13-cv-00575, U.S. District Court, S.D. Indiana. A \$23 Million dollar settlement was approved in this class action asserting that United Student Aid Funds, a non-profit guarantor for certain student loans, unlawfully imposed collection costs on student loan borrowers like Plaintiff. Plaintiffs’ contention was that the Higher Education Act, which is incorporated in the parties’ promissory note, provides that collection costs cannot be imposed if a borrower enters into a rehabilitation agreement within 60 days of default. Defendants argued that the applicable regulations should be interpreted to permit the imposition of such costs. The case had gone up to the 7th Circuit Court of Appeals, which in a split decision, reversed dismissal of the suit. USAF then filed a non-frivolous affirmative suit against DoE to strike down its favorable interpretation of the regulation on APA grounds. Nevertheless, mediation before a retired federal judge led to a favorable settlement for the class.