

# Consumer Impact

## NCLC and Countryman Award Winner Rick Feferman Seek Justice for Native Americans

Your support gets results!

Where poverty exists, financial predators and scam artists abound. Recently, NCLC's advocacy has involved attorney Charles Delbaum in class action litigation on behalf of residents of the Navajo Nation, a Native American-governed territory spanning three states and more than 27,000 miles. More than 40% of the Nation's residents live below the poverty level.

Payday lenders, pawn shops, scam auto dealers – all set up shop in communities where residents are desperately poor and financially unsophisticated. In border towns of the Navajo Nation such as Gallup and Farmington, NM, reputable financial services are hard to find. "Many of our clients – and most Native Americans – are unbanked," says Delbaum.

Albuquerque attorney (and 2013 Vern Countryman award winner) Rick Feferman has represented low-income consumers in the Southwest for more than 35 years, and was appalled to discover that companies offering refund anticipation loans (RALs) to Navajo members were violating the Truth in Lending Act, federal law for nearly 50 years. "They weren't disclosing terms; they were using vague, conditional language; they were hiding fees," he explains.

### Working Poor Preyed Upon

The Navajo people ripped off by such lenders are the working poor – silversmiths, weavers, and employees in low-paying

jobs with the tribe. Their incomes are low enough to qualify them for the Earned Income Tax Credit, which can provide them with a lump sum of up \$6,000, funds intended to help poor families survive. Yet, as Feferman observes, "When poor people come into money, everyone wants a piece of it."

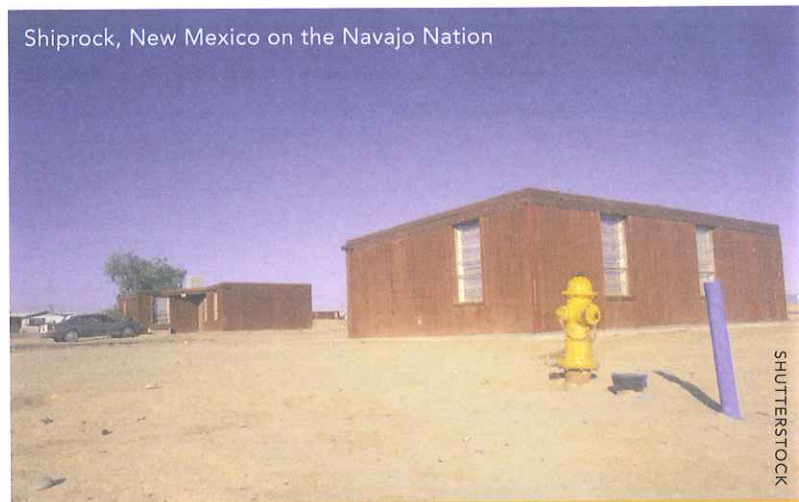
Coordinating with tax preparation companies, lenders making RALs charge fees for preparing returns, advance funds at high interest rates, and compel their clients to pay interest for several months, even though the loan is often paid off in just weeks, when the client's tax refund arrives. In the case of *Chester v. Tancorde Finance*, litigation resulted in a substantial settlement that was distributed among 10,000 members of the Navajo tribe.

*"Many of our clients – and most Native Americans – are unbanked."*

– Charles Delbaum

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Shiprock, New Mexico on the Navajo Nation



## Countryman Winner Lorry Brown Fights for Low-Income Homeowners

During the Great Recession, as millions of low-income Americans lost their homes because of predatory lending practices, Michigan attorney **Lorry Brown** worked tirelessly so that distressed homeowners could get a fair deal. Brown brought housing counselors and lawyers together to advocate for those who needed representation.

### Fighting for Justice

For her exceptional advocacy, Lorry Brown was the 2015 recipient of the Vern Countryman Consumer Law Award, presented each year to a legal services or other public interest attorney whose special contributions to the practice of consumer

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## Two New Reports from NCLC

Key Analysis on CFPB Mortgage Rules and Paper Financial Statements

NCLC recently released two important reports: *Snapshots of Struggle: Saving the Family Home After a Death or Divorce* by Alys Cohen, and *Paper Statements: An Important Consumer Protection* by Chi Chi Wu and Lauren Saunders.

*Snapshots of Struggle* includes heartbreaking stories of relatives fighting to prevent foreclosure of their homes after the death of a family member or divorce. NCLC attorneys Alys Cohen and Sarah Bolling Mancini published an article on the same topic in the February 2016 *Pepperdine Law Review*. Housing counselors and attorneys around the country reported to NCLC in a survey that mortgage servicers often refuse to halt foreclosure proceedings, even when successor owners qualify for loan modifications due to economic hardship.

At press time, final CFPB rules were expected this spring and we hope that advocacy efforts, including specific recommendations made in the report, will result in favor-

able action by the CFPB to ease the burden on survivors.

*Paper Statements* examines the aggressive push by banks, credit card companies, and other businesses to get customers to receive monthly statements electronically, and warns that these efforts can harm consumers. "Paper statements may seem old-fashioned, but consumers have good reasons to continue receiving them," says Chi Chi Wu.

The report notes that millions of Americans – among them older consumers, low-income families, and members of communities of color – lack home broadband Internet access, and points out that mobile devices are not adequate for reviewing financial statements. Also, paper documents can be vital for family members trying to piece together financial records after a relative's death or incapacitation.

NCLC's report calls on the CFPB to prohibit banks and credit card lenders from pressuring consumers with paper statement fees or "opt-out" requirements. "Paper versus electronic should be the consumer's choice," according to NCLC's Lauren Saunders. "Banks and credit card lenders should not push consumers into electronic statements with fees or coercive measures."

Read the full reports: [bit.ly/1QVmZ9w](http://bit.ly/1QVmZ9w) and [bit.ly/1TOMxbF](http://bit.ly/1TOMxbF).

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### No Usury Law in New Mexico

Residents of New Mexico are particularly vulnerable to such fraud and abuse as the state has no usury statute. Some of the defendants in litigation filed by Feferman and NCLC are based in Wisconsin and Illinois. "That means they sit in a conference room more than 1000 miles away plotting to do business in New Mexico, where they can charge any interest rate they want," says Feferman.

Consumer protection laws that do exist are seldom enforced. Recently, Delbaum, Feferman, and colleague Nick Mattison (who spent several years as a legal services attorney on the Navajo Nation), brought litigation to fight predatory lending by pawn brokers. They had once again uncovered flagrant violations of state and federal law.

### Pawn Shops Operate Illegally; Family Heirlooms are Lost

"Pawn" is another name for a collateral loan. Customers desperate for cash turn cherished and valuable objects

over to the pawn shop, receive a loan, and then make payments to get the item back. "Pawn shops in towns bordering the Navajo Nation are not like pawn shops anywhere else," says Nick Mattison. "They look like high quality jewelry stores."

In the case of *Caroline Tullie v. T & R Market*, plaintiffs represented by NCLC and Feferman & Warren alleged that pawn shops took advantage of Native Americans at both ends of the transaction. First, they failed to provide adequate disclosure of loan terms. When struggling borrowers fell into default, the lender held sham auctions for the collateral, advertising the auction only one day before, in the newspaper of a city four hours away. In six years, not one bidder ever appeared at one of the company's "auctions." The company routinely declared itself the winning bidder, then illegally sold the collateral at large profits.

Navajo Nation members lost family heirlooms that held great sentimental



New Mexico attorneys Rick Feferman (left) and Nick Mattison

and monetary value, without receiving proper compensation. After litigation was filed, it was impossible to track many of the items because the lender removed identifying tags. A settlement in this case is pending court approval.

### Work Yet to Do

These are only two examples of the cruel injustices perpetrated against vulnerable populations in New Mexico. Delbaum, Feferman, and Mattison anticipate that their advocacy for members of the Navajo tribe will continue. Supporters like you make it possible for us to share NCLC's expertise where it is needed most.