



IDAHO LEGAL AID SERVICES

FAIR LENDING NEWSLETTER

MAY 2012

IDAHO FAIR HOUSING MONTH CONFERENCES A SUCCESS

During April 2012, Idaho Legal Aid Services, Inc. (with grant funds from the Department of Housing and Urban Development Fair Housing Equal Opportunity Office) in collaboration with the Intermountain Fair Housing Council and the Idaho United States Attorney's Office provided fair lending and fair housing training to over 700 persons in nine locations to individuals living in Idaho communities throughout the state. We want to thank the following speakers, partners, donors and sponsors for their generous support of fair lending /fair housing outreach and education to Idahoans:

Presenters from the Department of Housing and Urban Development: **Diane Nelson, Kristina Miller, with support from Brian Dale, Jerry Royster, Karen Griego-West, and John Meyers.**

Presenters from the Idaho United States Attorney's Office: **Wendy Olson, United States Attorney for Idaho, Syrena Hargrove, Rafael Gonzalez, Amy Howe with support from Joel Hawker and Louise Gunderson.**

Presenters from the Intermountain Fair Housing Council: **Richard Mabbutt and Suha Talib.**

Additional Presenters at various conferences throughout the state: **Ken Nagy, Krista Deacon, Scott Rose, Gary Hanes, Greg Morris, Erik Kingston, Justin Schwartz, Tom Birch, Marcia Munden, Lisa Dabel, Vanessa Rodriguez, Amber Mausling, Roger Howard, Gary Shook, Charles Johnson, Mayor Jared Fuhri-man, Craig Stoddard, Nora McKay, Melissa Clinger, Michael Purce, Dean Nilson and Dena Skinner.**

Interpreters: **Yves Ndayshimiye, Mohanad Algezawi, Mohamed Ali, Ali Abdelbari, Alex Bazarski, Kharga Thapa, Cathima Kodet and David Mfitundinda.**

Many **ILAS attorneys, support staff and volunteers** spent countless hours in preparation for these conferences.

A special **Thank You** goes to our generous donors, sponsors and supporters:

Donors for the Boise and Nampa conferences: **ICON Credit Union** provided all of the refreshments at the Nampa conference and most of the refreshments for the Boise conference' and **Blue Sky Bagels** donated bagels for the Boise conference.

Donors for the Twin Falls conference: Financial contributions from **Laird Stone, Jeffrey Rolig, Karen McCarthy, Mike McCarthy, Mark Wasden, Laura O'Connell, Kenton Beckstead.**

Donors for the Lewiston conference: **Wm. & Lori McCann, Roseaurer's Supermarket's, Inc., and Starbucks Corporation, Lewiston.**

Donors for the Coeur d'Alene and Sandpoint conferences: **Kroc Center for donation of beverage services, Disability Action Center of Coeur d'Alene for donation of refreshments at both venues. Lutherpark** donated the venue and beverage service for the Sandpoint Conference.

Donors for the Idaho Falls conference: **City of Idaho Falls, CDBG and Lisa Farris for her time and assistance at the conference.**

Donors for the Pocatello conference: **Charles Bissey of 10 after 5 Photography; Angela Jensen.**

We are very grateful for the support of our community, governmental and organizational partners.

IN FORECLOSURE IN 2009 OR 2010?

If your primary residence was involved in a foreclosure process between January 1, 2009, and December 31, 2010, you may qualify for a FREE Independent Foreclosure Review. **However, July 31, 2012, is the deadline for you to obtain your free review.** You may be eligible for compensation or other remedy.

You must have been a customer of one of the mortgage servicers listed below:

- *America's Servicing Co.*
- *Aurora Loan Services*
- *BAC Home Loans Servicing*
- *Bank of America*
- *Beneficial*
- *Chase*
- *Citibank*
- *CitiFinancial*
- *CitiMortgage*
- *Countrywide*
- *EMC*
- *EverBank/EverHomeMortgage Company*
- *Financial Freedom*
- *GMAC Mortgage*
- *HFC*
- *HSB*
- *IndyMac Mortgage Services*
- *Metlife Bank*
- *National City Mortgage*
- *PNC Mortgage*
- *Sovereign Bank*
- *SunTrust Mortgage*
- *U.S. Bank*
- *Wachovia Mortgage*
- *Washington Mutual (WaMu)*
- *Wells Fargo Bank, N.A.*
- *Wilshire Credit Corporation*

Eligible customers were mailed a letter explaining the Independent Foreclosure Review Process and a Request for Review Form. If you believe you are eligible to participate in the program, you may call 1-888-952-9103 to ask for a Request for Review Form. Remember, all Request for Review Forms must be postmarked no later than **July 31, 2012.**

For more information about the free foreclosure review, visit:

IndependentForeclosureReview.com

OR call 1-888-952-9105

Monday through Friday

8 am to 10 pm EST or

Saturday 8 am to 5 pm EST.

HOW TO FILE A COMPLAINT AGAINST YOUR LENDER

The Office of the Comptroller of the Currency or (OCC) is an arm of the United States Department of Treasury. The OCC's primary mission is to charter, regulate, and supervise all national banks and federal savings associations, "Ensuring a safe and sound national banking system for all Americans."

You can file a Complaint with the OCC against the bank online at:

<http://www.helpwithmybank.gov/complaints/index-file-a-bank-complaint.html>

Consider your answers to the following before you begin filing your Complaint online:

1. Check to make sure your financial institution is a National Bank by searching "Financial Institutions" on the OCC website. If the bank is not a National

Bank, you should contact the appropriate regulator to submit your complaint.

2. Have you checked HUD's "Get Answers" section for information about National Bank regulations and your rights as a bank customer?

3. Have you tried to resolve your complaint with your financial institution? The OCC recommends that you attempt to resolve your complaint with your financial institution to allow them the opportunity to resolve your issue.

There are three methods available for you to file your complaint with the OCC. Please select only ONE:

A. Complete the "Online Customer Complaint Form." (*Recommended.*) Do not mail, e-mail, or fax additional information unless requested.

For security purposes, the form contains user time limitations. If your session exceeds the limitations, any information you have entered may be lost. To avoid this, gather all necessary information prior to entering the form. See the section: "Learn what to include in your complaint."

B. Print an OCC Complaint Form (PDF). To view PDF files, you will need Acrobat Reader. For your convenience, all forms, including the online version, request the same information.

C. Write and mail or fax a letter to the OCC. If you have questions or concerns you can discuss it with a customer assistance specialist. Call the OCC Customer Assistance Group at 1-800-613-6743, TDD 713-658-0340.

The following press release from December 21, 2011, announces the steps the federal government Department of Justice, Office of Public Affairs will take to protect consumers who have been victims of predatory lending practices. The press release follows in its entirety:

Justice Department Reaches \$335 Million Settlement to Resolve Allegations of Lending Discrimination by Countrywide Financial Corporation

More than 200,000 African-American and Hispanic Borrowers who Qualified for Loans were Charged Higher Fees or Placed into Subprime Loans

The Department of Justice today filed its largest residential fair lending settlement in history to resolve allegations that Countrywide Financial Corporation and its subsidiaries engaged in a widespread pattern or practice of discrimination against qualified African-American and Hispanic borrowers in their mortgage lending from 2004 through 2008.

The settlement provides \$335 million in compensation for victims of Countrywide's discrimination during a period when Countrywide originated millions of residential mortgage loans as one of the nation's largest single-family mortgage lenders.

The settlement, which is subject to court approval, was filed today in the U.S. District Court for the Central District of California in conjunction with the department's complaint which alleges that Countrywide discriminated by charging more than 200,000 African-American and Hispanic borrowers higher fees and interest rates than non-Hispanic white borrowers in both its retail and wholesale lending. The complaint alleges that these borrowers were charged higher fees and interest rates because of their race or national origin, and not because of the borrowers' creditworthiness or other objective criteria related to borrower risk.

The United States also alleges that Countrywide discriminated by steering thousands of African-American and Hispanic borrowers into subprime mortgages when non-Hispanic white borrowers with similar credit profiles received prime loans. All the borrowers who were discriminated against were qualified for Countrywide mortgage loans according to Countrywide's own underwriting criteria.

"The department's action against Countrywide makes clear that we will not hesitate to hold financial institutions accountable, including one of the nation's largest, for lending discrimination," said Attorney General Eric Holder. "These institutions should make judgments based on applicants' creditworthiness, not on the color of their skin. With today's settlement, the federal government will ensure that the more than 200,000 African-American and Hispanic borrowers who were discriminated against by Countrywide will be entitled to compensation."

The settlement resolves the United States' pricing and steering claims against Countrywide for its discrimination against African Americans and Hispanics.

The United States' complaint alleges that African-American and Hispanic borrowers paid more than non-Hispanic white borrowers, not based on borrower risk, but because of their race or national origin. Countrywide's business practice allowed its loan officers and mortgage brokers to vary a loan's interest rate and other fees from the price it set based on the borrower's objective credit-related factors. This subjective and unguided pricing discretion resulted in African American and Hispanic borrowers paying more. The complaint further alleges that Countrywide was aware the fees and interest rates it was charging discriminated against African-American and Hispanic borrowers, but failed to impose meaningful limits or guidelines to stop it.

"Countrywide's actions contributed to the housing crisis, hurt entire communities, and denied families access to the American dream," said Thomas E. Perez, Assistant Attorney General for the Civil Rights Division.

"We are using every tool in our law enforcement arsenal, including some that were dor-

mant for years, to go after institutions of all sizes that discriminated against families solely because of their race or national origin."

The United States' complaint also alleges that, as a result of Countrywide's policies and practices, qualified African-American and Hispanic borrowers were placed in subprime loans rather than prime loans even when similarly-qualified non-Hispanic white borrowers were placed in prime loans. The discriminatory placement of borrowers in subprime loans, also known as "steering," occurred because it was Countrywide's business practice to allow mortgage brokers and employees to place a loan applicant in a subprime loan even when the applicant qualified for a prime loan. In addition, Countrywide gave mortgage brokers discretion to request exceptions to the underwriting guidelines, and Countrywide's employees had discretion to grant these exceptions.

This is the first time that the Justice Department has alleged and obtained relief for borrowers who were steered into loans based on race or national origin, a practice that systematically placed borrowers of color into subprime mortgage loan products while placing non-Hispanic white borrowers with similar creditworthiness in prime loans. By steering borrowers into subprime loans from 2004 to 2007, the complaint alleges, Countrywide harmed those qualified African-American and Hispanic borrowers. Subprime loans generally carried higher-cost terms, such as prepayment penalties and exploding adjustable interest rates that increased suddenly after two or three years, making the payments unaffordable and leaving the borrowers at a much higher risk of foreclosure.

The settlement also resolves the department's claim that Countrywide violated the Equal Credit Opportunity Act by discriminating on the basis of marital status against non-applicant spouses of borrowers by encouraging them to sign away their home ownership rights. The law allows married individuals to apply for credit either in their

own name or jointly with their spouse, even when the property is owned by both spouses. For applications made by married individuals applying solely in their own name between 2004 and 2008, Countrywide encouraged non-applicant spouses to sign quitclaim deeds or other documents transferring their legal rights and interests in jointly-held property to the borrowing spouse. Non-applicant spouses who execute a quitclaim deed risk substantial uncertainty and financial loss by losing all their rights and interests in the property securing the loan.

In addition, the settlement requires Countrywide to implement policies and practices to prevent discrimination if it returns to the lending business during the next four years. Countrywide currently operates as a subsidiary of Bank of America but does not originate new loans.

The department's investigation into Countrywide's lending practices began after referrals by the Board of Governors of the Federal Reserve and the Office of Thrift Supervision to the Justice Department's Civil Rights Division in 2007 and 2008 for potential patterns or practices of discrimination by Countrywide.

Today's announcement is part of efforts underway by President Obama's Financial Fraud Enforcement Task Force (FFETF). President Obama established the interagency FFETF to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes. For more informa-

tion on the task force, visit:
www.StopFraud.gov.

A copy of the complaint and proposed settlement order, as well as additional information about fair lending enforcement by the Justice Department, can be obtained from the Justice Department website at www.justice.gov/fairhousing.

The proposed settlement provides for an independent administrator to contact and distribute payments of compensation at no cost to borrowers whom the Justice Department identifies as victims of Countrywide's discrimination. The department will make a public announcement and post contact information on its website once an administrator is chosen. Borrowers who are eligible for compensation from the settlement will then be contacted by the administrator. Individuals who believe that they may have been victims of lending discrimination by Countrywide and have questions about the settlement may email the department at countrywide.settlement@usdoj.gov.

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The State of Idaho, Idaho Attorney General's Office issued the following press release regarding the funds the State of Idaho is receiving as a result of the settlement the United States Department of Justice negotiated with Countrywide. The press release follows in its entirety.

### **Idaho Borrowers to Net Nearly \$100 Million Benefit from Settlement with 5 Largest Mortgage Servicers**

(Boise) - Attorney General Lawrence Wasden today joined a \$25 billion state-federal settlement with the nation's five largest mortgage servicers. The settlement resolves state and federal claims relating to mortgage origination, servicing, and foreclosure practices of Bank of America, Citi, J.P. Morgan Chase, Ally, and Wells Fargo. Collectively, these companies service approximately half of the U.S. mortgage loan market.

The settlement preserves the ability of governments to pursue civil or criminal legal remedies on other issues related to the financial and housing crises. It also preserves the rights of individual borrowers and investors to pursue individual, institutional or class action cases against the banks.

The agreement provides an estimated \$99,857,551 in direct relief to Idaho homeowners whose mortgages are owned and serviced by any of the five settling banks and to individuals whose mortgages were serviced by one of the settling banks and who lost their homes in foreclosures. It also creates loan servicing standards that the settling banks must follow. Idaho's estimated share of the settlement is \$113,789,551. From that total:

- Eligible Idaho borrowers will receive an estimated \$74,686,493 in benefits from loan modifications and other direct relief.
- Approximately 5,000 Idaho borrowers who lost their home to foreclosure between January 1, 2008, and December 31, 2011, because of substandard servicing practices, will receive \$9,998,041 in cash payments averaging \$1,500 to \$2,000 for each affected borrower. These borrowers have been identified by their servicers and will be contacted by the settlement administrator.
- The settling servicers will pay \$15,172,779 to fund a program that allows underwater borrowers to refinance their loans.
- The state will receive \$13,932,238. The settlement holds the participating banks accountable for their unacceptable mortgage servicing and foreclosure practices and provides relief to homeowners," Attorney General Lawrence Wasden said. "Backed by a federal court order, the settlement will aid homeowners with enforceable changes to how their loans are serviced."

The settlement is the result of an 18-month multistate law enforcement investigation of the participating banks' servicing

practices. The investigation began in response to allegations that the banks were filing fraudulent documents with the courts in judicial foreclosure cases. A judicial foreclosure is one that is conducted under the supervision of a court. While Idaho allows for judicial foreclosures, it is not widely used here. In Idaho, foreclosure is most often done by "advertisement and sale." In such foreclosures, the lender does not file documents in court. Instead, the lender or servicer notifies the borrower of the default and the lender's decision to sell the property at a trustee's sale.

The investigation expanded beyond issues of so-called document "robo-signing" and focused also on allegations that the banks may have:

- failed to timely and accurately apply borrowers' loan payments;
  - charged excessive or improper fees for default-related services;
  - failed to properly oversee third-parties involved in the banks' servicing activities;
  - imposed high-cost hazard insurance on borrowers without properly notifying them;
  - provided false or misleading information in response to borrowers' complaints; and
  - failed to maintain appropriate staffing, training and quality control systems.
- The settlement provides for comprehensive new servicing and foreclosure protections for borrowers, including:
- an end to robo-signing;
  - timely and accurate application of borrowers' payments;
  - proper oversight of third-parties (e.g., attorneys, trustee companies, etc.) that participate in servicing or foreclosure activities;
  - adequate staffing and systems to track loan modification documents;
  - notice of delinquency to the borrower 14 days before the loan is referred to foreclosure;
  - notice to the borrower of all loss mitigation options before the loan is referred to foreclosure;

- restrictions on simultaneous loan modification reviews and foreclosure actions (i.e., dual-track);
- a single point of contact for each borrower who contacts the bank about a loan modification;
- a decision on loan modification applications within 30 days of receipt;
- enhanced protections for individuals serving in the military;
- an independent internal review of all loan modification denials;
- development of a short sale process that allows borrowers to obtain a short sale evaluation before putting the home on the market; and proper documentation of the banks' authority to foreclose.

“The agreement does not prevent homeowners or investors from pursuing individual, institutional or class action civil cases against the five banks, nor does it prevent state attorneys general and federal agencies from pursuing other aspects of the mortgage crisis, including securities cases,” Wasden said. “Further, the settlement does not grant the banks immunity from criminal prosecution.”

Wasden noted that a federal task force formed last month will investigate those responsible for misconduct contributing to the financial crisis through the pooling and sale of residential mortgage-backed securities. The final agreement will be filed in U.S. District Court in Washington, D.C., and, following approval of the court, will have the authority of a court order.

Because of the complexity of the mortgage market and this agreement, which will span a three-year period, in some cases participating mortgage servicers will contact borrowers directly regarding loan modification options. However, Idahoans with loans serviced by the five participating banks should contact the bank directly to obtain more information about specific loan modification programs and requirements. The national settlement administrator may also contact borrowers regarding certain aspects of the settlement.

Information about this settlement and other mortgage-related subjects will be available on the [Attorney General's website](#). In addition, a website dedicated to this settlement has been created at:

[www.NationalForeclosureSettlement.com](http://www.NationalForeclosureSettlement.com).



“The work that provided the basis for this publication was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations do not necessarily reflect the views of the federal government.”



## SURVEY

Please fill out the survey below and return it to us by fax (208) 342-2561, e-mail to [lindajohnston@idaholegalaid.org](mailto:lindajohnston@idaholegalaid.org), or mail to Idaho Legal Aid Services, Inc., 310 N. 5th St., Boise, Idaho 83702. The survey can also be found on our website at [idaholegalaid.org](http://idaholegalaid.org). Completed surveys will help us determine content of future newsletters and the effectiveness of this newsletter. *Please check the blank next to the number corresponding to your answer, with 1 indicating the **lowest** value or no and 5 indicating the **highest** value or yes.*

1. The information in this newsletter was useful. 1 2 3 4 5
2. Is fair lending an important topic for Idaho Legal Aid Services to address?  
1 2 3 4 5
3. I was aware of Idaho Legal Aid's Fair Lending/Fair Housing Legal Advice Line before this newsletter. 1 2 3 4 5
4. I was aware that Idaho Legal Aid provides free fair lending and fair housing trainings to organizations, consumers and attorneys. 1 2 3 4 5
5. What fair lending topics should we include in our next newsletter?

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