2013-2014 Annual Report to Members

Released during NACA’s 2014 Annual Meeting, Friday, November 8 at the Consumer Rights Litigation Conference in Tampa, FL

Contents

Letter from the Executive Director 2
Legislative Update 3
Member Services Update 6
Audited Statement of Activities 9
A Round of Applause 10
Letter from the Executive Director

Dear Colleagues:

As we approach the start of NACA's 20th anniversary celebration, let us honor our past, celebrate our present, and embrace our future.

Although our official story begins in 1994, when a small group of dedicated advocates came together to form our organization, our roots are deeply embedded in the War on Poverty of the 1960s, when legal aid was first funded, specific federal and state consumer protection laws were first created, and the specialized practice of consumer law was first born. These initial consumer legal aid attorneys were enormously successful in bringing litigation that changed corporate behavior, but also in finding funding — statutory attorneys’ fees — that sustained and developed their work.

Unfortunately, and predictably, their success led to a strong backlash, including government funding cuts, restrictions on legal aid’s ability to collect attorneys’ fees and bring class actions, and, ultimately, the steady exodus of consumer protection lawyers from legal services.

Thankfully, with their deep wealth of knowledge and the support of NCLC, entrepreneurial legal aid staffers soon became the first private attorneys specializing in consumer protection law. In late 1994, a group of these lawyers, recognizing the enormous need to not only support each other but also to build a strong and vibrant community of attorneys dedicated to serving the needs of consumers, came together to form NACA. On that autumn day, our organization was officially born.

Now, almost 20 years later, I hope that those original attorneys are proud of how their vision has grown. Today, we are over 1,700 members strong and are universally recognized as a powerful and effective voice for consumers. Our $1.2 million budget, which comes entirely from our members in dues, donations, conferences, and cy pres has allowed us to not only effectively advocate for consumers, but to build an association that each and every day tries to meet the substantive, practical, and entrepreneurial needs of all consumer attorneys.

So what will the next twenty years bring? No doubt, we face real obstacles ahead. Only 33% of our budget is met with dues and with class actions and cy pres under steady challenge, we will not only need to find new sources of revenue, but we will be more dependent on your generosity to maintain our current level of strength. With the relentless attack on our ability to protect consumers - particularly through the use of forced arbitration - we have much work to do to strengthen the viability of a consumer law practice. And while we are 1,700+ attorneys strong, we certainly understand that's not nearly enough to meet the needs of vulnerable consumers - so we must work to significantly grow our community.

But those challenges are much smaller than the obstacles a small group of attorneys faced in 1994. So I'm certain that when we look back in another 20 years we will again be amazed at all that we've accomplished. I can't wait to partner with all of you to get that next journey started!

Ira Rheingold
Executive Director
2013-2014 Annual Report

This past year after our last meeting in Crystal City, Virginia, has been another exciting and challenging year for the field and our association. Consumers continue to face tremendous challenges. And although we’ve had a number of operational challenges, NACA’s board and staff have made significant progress this year to ensure that our association priorities will be sound moving forward and that we will continue to build and strengthen our programs to offer the highest quality of service to you, our members. For this report, we are focusing on high level developments and accomplishments, and priorities for the coming year.

Legislative Update

Tax Initiative
NACA started a campaign to fix the emerging problem of consumers’ being taxed on fees paid to their attorneys. Our effort is a multi-pronged approach that includes: (1) creating model language for fee agreements that protects consumers from being taxed on attorneys’ fees; (2) developing potential litigation to clarify the law; and (3) advocating for regulatory and legislative change.

Arbitration
NACA, along with our Fair Arbitration Now coalition partners, continues to lead the fight against forced arbitration. Our campaign successfully stopped General Mills from using forced arbitration and has made significant progress with Congress, the Consumer Financial Protection Bureau (CFPB), and the Administration.

CFPB. The Dodd-Frank Act gives the CFPB the authority to study forced arbitration and then, based on its findings, to limit/ban forced arbitration in financial services contracts. The CFPB study is well under way and NACA has been actively involved in making certain that the study is fair, effective, and an accurate reflection of the reality faced by consumers. NACA collected and submitted consumer stories, organized meetings with Bureau staff, sent Legislative Director Ellen Taverna to testify at CFPB’s forced arbitration field hearing, and offered detailed group comments on the CFPB’s survey examining consumer awareness of dispute resolution terms in credit card agreements. We anticipate that the CFPB will complete the study and consumer survey in the next several months. We will be calling on all our members to urge the CFPB to quickly initiate its forced arbitration rulemaking process.

Federal Legislation/Administrative Actions. While it’s slow going for any positive consumer legislation with our current Congress, we have achieved some tangible progress this year. In February, the bipartisan "SCRA Rights Protection Act of 2014" was introduced. This bill, which makes forced arbitration clauses unenforceable in actions involving Servicemember’s Civil Relief Act (SCRA) protections for servicemembers, continues to gain momentum thanks to the support of numerous influential military groups. The Department of Defense issued a new proposed rule expanding current financial protections under the Military Lending Act, including the ban on forced arbitration, to a wide range of credit products made to active-duty servicemembers and their families. In July, President Obama by-passed Congress and signed the "Fair Pay and Safe Workplaces" Executive Order, which bans companies seeking government contracts from forcing their employees into arbitration over civil rights or sexual harassment claims. Finally, throughout the year, NACA continued to build support for the "Arbitration
Among our efforts, NACA members testified at two U.S. Senate hearings related to forced arbitration, participated in a House briefing on the fine print of financial products and services, and continued to teach others about how to influence Congress to take action against forced arbitration.

**Grassroots Activities.** Last November, NACA attorneys from around the country participated in NACA’s Consumer Rights Lobby Day on Capitol Hill, visiting over 100 Congressional offices. The event was a great success and an important opportunity for our community to promote consumer protection legislation.

NACA helped coordinate the press campaign that fanned public outrage against General Mills when it tried to insert a forced arbitration clause into its online privacy policy statement. After a wave of overwhelmingly negative publicity, General Mills recanted and dropped the forced arbitration clause. Similarly, in a major win for consumers, Charles Schwab agreed to stop using contract language prohibiting its customers from participating in class actions.

NACA and NCLC conducted a survey of consumer attorneys examining the types of forced arbitration clauses in auto finance contracts. Our survey results provided important data to the CFPB and demonstrated that when an individual arbitration is the only path available for consumers, many valid claims against auto finance companies will likely not be brought in court or arbitration. Finally, NACA issued a report with Public Citizen, titled “Cases That Would Have Been: Three Years after AT&T Mobility v. Concepcion, Claims of Corporate Wrongdoing Continue to Pile Up.”

**Auto**

NACA continued our effort to push the FTC and CFPB to implement strong regulations and aggressive enforcement actions against the auto dealer and financing industries. Included in our efforts were a NACA-organized Senate briefing on unlawful, discriminatory pricing on consumers and servicemembers; issued comments that supported the CFPB’s efforts to provide more oversight of abusive auto financing; and the launch of our Auto Legislative and Regulatory Committee, which is designed to give our members more direct opportunities to talk with key federal policy makers.

**Debt Collection/Credit Reporting**

NACA’s 2014 focus has been on potential FCRA and FDCPA rulemakings by the CFPB. NACA’s Debt Collection and Credit Reporting Committee members collaborated with NCLC to draft comments for the CFPB’s anticipated proposed rulemaking on fair debt practices and emphasized the need to bolster private enforcement. We continue to work with the media to push the need for debt collection reform, including by creating a U.S. News article co-written by Ellen Taverna entitled Cleaning Up Debt Collection. Legislatively, we continue to monitor Congress and have actively opposed the "FDCP Technical Clarification Act of 2013," which would permit lawyers and law firms from engaging in debt collection to evade essential requirements of the FDCPA. Furthermore, while fair credit issues remain on the front pages, there remains little current opportunity to move positive legislation. Nonetheless, NACA continues to work on and strongly endorses the "Stop Errors in Credit Use and Reporting Act of 2014," and the recent "Fair Credit Reporting Improvement Act of 2014," which would fundamentally change the rules on how lenders report consumer payments and debts to the credit bureaus.

**Homeownership**

NACA’s focus firmly remains on preventing foreclosures and improving mortgage servicing. Thanks to an impressive effort by NACA and our allies, the CFPB issued relatively strong servicing rules that we hope will help consumers preserve their homes. However, because of our collective past experience with
mortgage-servicing failures, we remain aggressively engaged with the CFPB on this issue, taking actions such as holding frequent meetings, hosting a webinar with the Bureau to review the new mortgage servicing standards, and facilitating regular calls for our members with CFPB staff. Additionally, we continue to actively meet with key staff from every federal agency responsible for overseeing housing policy and enforcement.

To further our advocacy, NACA launched a National Mortgage Settlement Database, which tracks servicer compliance with the National Mortgage Settlement, at www.nacamortgagedatabase.org. Since our launch, NACA has received over 400 submissions of servicer noncompliance, which we have used to demonstrate significant and continuing servicer abuses to federal banking regulators and the state attorneys general.

The Year Ahead
A great deal of work has been accomplished this past year but there is still much that needs to be done. Our task for the next year and moving forward is to keep working collaboratively with NACA members and our national consumer advocates and allies to continue our fight to promote consumer justice in Congress and in our regulatory work.

The top priorities for the coming year will be:
- Continuing to work for the elimination of forced arbitration clauses from consumer contracts;
- Implementing policy changes to attorney fee tax; and
- Encouraging more member engagement in advocacy efforts.
Member Services Update

As we enter the 20th anniversary year, this is an exciting time for our association. You can expect changes that will continue to improve and strengthen our ability to provide members with the highest-quality service and products.

Membership Numbers-At-A-Glance

<table>
<thead>
<tr>
<th>Membership by Types</th>
<th>September 30, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Services Attorneys</td>
<td>480</td>
</tr>
<tr>
<td>Private Attorneys</td>
<td>1,110</td>
</tr>
<tr>
<td>Public Interest Attorneys</td>
<td>121</td>
</tr>
<tr>
<td>Students</td>
<td>12</td>
</tr>
<tr>
<td>Military</td>
<td>21</td>
</tr>
<tr>
<td>Other</td>
<td>35</td>
</tr>
<tr>
<td>Total</td>
<td>1,779</td>
</tr>
</tbody>
</table>

New members that joined in the 2013-2014 membership year: 244

If you ever have any questions or concerns about any aspect of your membership, please reach out to Lisa at Lisa@consumeradvocates.org or 202-452-1989 ex. 102.

Strategic Roadmap

The Board has recently undertaken a project to develop a strategic plan to guide our association for the next three years. With this plan, it is the Board’s hope that our association will be able to better anticipate needs of the members, respond in a timely manner, ensure financial stability, communicate our brand, and maintain focus on our core values and mission. Once the plan is finalized, it will be shared with the membership and then committee workplans will incorporate the various objectives as appropriate. In future versions of this report, accomplishments will be reported in terms of how they are related to each goal.

Increasing Leadership Opportunities

As the need for consumer advocates expands and demands on our association grow, we must draw on the knowledge, skills, and talents of all those willing and ready to contribute to advancing our association and creating a better environment for consumers. We must remember that NACA is not a building or staff in Washington but a community of professionals—member-leaders, members, staff—who share a common mission, purpose, passion, and vision. We are working to build a stronger volunteer structure so that we can maximize NACA’s impact in the consumer advocacy field and offer more opportunities for members to get involved on a deeper level. We’ve recently posted calls for volunteers to join the following committees: State Chairs, Membership, Education, and Ethics. In the coming months you should expect to see opportunities for shorter-term project-based volunteering and participating in legislative initiatives. If you are ready to step up to leadership, your association needs you. Talk to any member of staff about your interest and how you would like to contribute.

Technology Upgrades

A main focus over the past several months and over the next year is our technological systems. We are putting into place new policies and procedures that will allow us to better maintain our databases to ensure that we are able to run our organization as smoothly as possible and provide excellent customer
service to our members. We’ve moved from using Dropbox for the distribution of webinar materials to Citrix ShareFile, which does not have an arbitration clause. In conjunction with our office move we’ve switched web domain names to www.consumeradvocates.org. It is our hope that this change will provide more clarity to the public and differentiate us from the other NACAs out there. Over the next year, you should expect many updates to the website in order to improve the overall clarity and organization of the site’s content. The Members-Only section in particular will be restructured to provide better information about and access to our membership features and benefits.

And finally, we are exploring other Listserv options that meet the needs of our members but also keep pace with the changes in technology.

**Continuing Legal Education**

NACA strives to provide its members with the education, tools, and resources needed to succeed. Our association constantly seeks out new ways to support the everyday business operations of its members.

Our webinar series continues to be one of the engines of our success. As of the end of September, NACA had hosted 27 webinars, attended by nearly 1,000 participants. The most popular webinars included presentations by Eric Mercer on Loan Modification Misconduct Litigation, by Suzanne Begnoche on Debt Defense 101 Trial Preparation, by Alan White on New CFPB Rules on the Real Estate Settlement Procedures Act (RESPA), and by Ayalon Eliach on the NACA’s new Tax Initiative. Other topics covered included How to Jumpstart Your Practice, Credit Reporting by Mortgage Companies, That Could Be a Class Action, and How to Incorporate Auto Into Your Practice. And based on feedback and concerns from members about using Dropbox to deliver content NACA recently moved to a new platform that does not require an arbitration agreement to send webinar materials.

This year’s Auto Fraud Conference in San Diego was the largest auto conference attended and the second-largest conference overall. The conference committee realized that networking with and learning from your peers is just as important as gathering best practices and so it created a dynamic program that allowed participants to network and engage in the learning process. Attendees were able to choose from more than 25 sessions covering a wide range of auto fraud issues such as the lemon law, the process of adding TILA and Debt Collections Violations to auto fraud practices, Special Issues Involving Certified Pre-Owned Cars, and Car Cases from the Defense Perspective. Our thanks to Hal Rosner for treating our attendees to a spectacular event at in his home in Carmel Valley.

Thanks to a grassroots effort, NACA was able to offer nearly 50 attorneys a successful two-day, Debt Defense Workshop at the ITT Chicago-Kent Law School. Through a hands-on workshop that included roundtable discussions, demonstrations, and a mock trial, attendees learned how to deconstruct and present a case as well as how to develop strategies to combat judicial bias. In the coming year, NACA is exploring offering more hands-on training programs similar to the Debt Defense Workshop.

**The Year Ahead**

In 2015, NACA will host the biennial Fair Credit Reporting Act Conference at The Westin Las Vegas. The conference will take place from Friday, May 1st to Sunday, May 3rd. NACA members Robert Sola and Sylvia Goldsmith have graciously agreed to serve as the Conference chairs. We look forward to a weekend of engaging sessions, lively discussions, and fun-filled Vegas hospitality.
NACA’s Education Committee will be resuming and will be redefining NACA’s education programming. The committee plans to develop a list of key skills and competencies that NACA attorneys need in order to thrive in their practices and in the field. It will research the best methods to develop these skills as well as a means to assess the effectiveness of the resources and delivery methods.

NACA is in the process of updating many of its educational resources, including the Training Library and consumer brochures. The library’s videos will soon be categorized and searchable by subject matter.

NACA’s Military Consumer Justice Project has an ambitious plan for the coming year, including facilitating trainings by NACA members to JAG attorneys at five to six bases across the country and providing webinars to help members address consumer issues facing servicemen and women.

Finally, NACA is trying to enhance the webinar experience. Over the coming months, we will be making the webinars more interactive by using polls, encouraging discussions, and exploring other tools to improve the webinar experience.

As always, we welcome your input and recommendations to strengthen our professional development program. Please be in touch with Rebecca Smolar at Rebecca@consumeradvocates.org with any ideas for new or improved educational offerings.

Our hope is that all of these endeavors will enhance the overall membership experience and especially provide you with more potent resources that you can use while fighting for consumer justice.
## Audited Statement of Activities

For Years Ended December 31, 2013 and 2012

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td>$324,238</td>
<td>$306,039</td>
</tr>
<tr>
<td>Conference &amp; Trainings</td>
<td>$93,850</td>
<td>$64,895</td>
</tr>
<tr>
<td>Cy Pres</td>
<td>$770,273</td>
<td>$525,983</td>
</tr>
<tr>
<td>Donations</td>
<td>$15,360</td>
<td>$5,940</td>
</tr>
<tr>
<td>Other</td>
<td>$201,334</td>
<td>$24,236</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,407,068</strong></td>
<td><strong>$929,105</strong></td>
</tr>
</tbody>
</table>

| **Expenses**     |            |            |
| Membership       | $227,099   | $236,882   |
| Conferences & Trainings | $204,214       | $229,408   |
| Advocacy         | $152,533   | $210,476   |
| Management & General | $376,780   | $260,054   |
| Other            | $26,014    | $7,262     |
| **Total**        | **$986,640** | **$944,082** |

| **Net Income**   | **$420,428** | **($14,977)** |

For Period Ending June 30, 2014

Income: $341,614   Expenses: $495,950

Net Income: ($154,336)
A Round of Applause

2014 Award Winners

Excellence in Consumer Journalism
Jake Halpern
for Bad Paper: Chasing Debt from Wall Street to the Underworld

Excellence in Investigative Journalism
Chris Arnold, *NPR*
and
Paul Kiel, *ProPublica*
for their series on wage garnishment

Consumer Attorney of the Year
Alice Vickers, *Florida Alliance for Consumer Protection*

Consumer Advocate of the Year
Cary L. Flitter, Esq., *Flitter Lorenz, P.C.*

Members Making a Difference
NACA’s strength comes from those members who go above and beyond to make a difference in the financial position of our organization. We would like to thank the following individuals for their generous support of our association.

2014 Cy Pres Donors
Stacy Bardo
Daniel Blinn
Rand Bragg
Pam Car
Richard S. Gordon
Michael Kinkley
Mary Philipps
William Reinbrecht
Steven Shane

2014-2015 Membership Year
Platinum Member
Leonard Bennett

Gold Members
Michael Donovan
Seth Lesser
Michael Malakoff
David Philipps
Mary Philipps

We would also like to thank our 11 Silver members and 40 Bronze members.

If you ready and able to take your membership to the next level, talk to Jessica Hammond (*Jessica@consumeradvocates.org*) or Lisa Myers (*Lisa@consumeradvocates.org*) about increasing your membership to one of these higher levels.