**About NACA Education Fund and its Mission**

The NACA Education Fund is the 501(c)(3) arm of the National Association of Consumer Advocates (NACA), a nationwide organization of more than 1,700 legal aid, public and private attorney, and consumer advocate members (including 150+ Florida attorneys) who represent hundreds of thousands of consumers seeking fairness and justice in the American market place. The Education Fund supports the charitable and educational activities undertaken by NACA, including fostering justice for consumers, promoting consumer legal rights, educating the public about relevant issues, encouraging communication between consumers, consumer advocates and consumer attorneys, and engaging in activities that describe and expose unfair business practices that harm consumers. The Education Fund places a particular emphasis on supporting activities that impact on the most vulnerable consumers including low income, elderly, and military family consumers.

The Education Fund works to fulfill its mission by building and maintaining a forum for communication, networking, information sharing, and cooperation among consumer advocates by educating consumers about their rights and by advocating on behalf of consumers before local, state, and national regulatory bodies. With these cy pres funds, the Education Fund will build on the education and trainings it offers to consumers and their advocates and continue its effort to expand access to justice for vulnerable consumers. Further, the Education Fund will continue to support our ongoing effort to promote the practice of consumer law to law students, new lawyers, and experienced attorneys looking for new and challenging practice areas. The Education Fund does not engage in any state or Congressional lobbying activities.

**The Education Fund’s Key Issues**

The Education Fund supports educational and regulatory efforts on the federal, state, and local levels that promote consumer protection as a means to building a fair, open and honest marketplace. Our issues include:

 ***Military Consumers***—Service members and their families are among our most vulnerable consumers. Often young, with limited education and a steady pay allotment, these men and women are often targeted by unscrupulous car dealers, landlords, for profit "colleges," and payday lenders. All too often we have seen service members struggling with unfair loans, mountainous debt, and ruined credit as a result of these predatory businesses. To address these problems, the Education Fund created the Military Consumer Justice (MCJP) whose mission is to help service members and their families avoid the pitfalls of unfair and deceptive consumer practices and provide them with assistance when they fall prey to consumer fraud. The foundation of the MCJP's work—first piloted in and around Jacksonville, Florida—is our on-base trainings for military financial counselors, JAG officers, and others associated in providing financial education and consumer advocacy/representation directly to military personnel. MCJP educates and empowers those directly representing, advocating for, and providing advice to, military service members through in-person and online training on topics ranging from consumer rights under the Military Lending Act and the Service Members Civil Relief Act, to representing them in defensive and affirmative litigation, to understanding how the military command structure and culture. By providing resources and educational forums for those who directly advocate for service members, the MCJP hopes to “build an army of informed service members in the consumer marketplace.”

***Debt Defense and Garnishment—***Today, small claims courts across our country are overwhelmed by debt buyer complaints against consumers. Because of complaint volume (including numerous debt collection claims that are a by-product of the unfair and deceptive behavior of the payday lending industry), poor and incomplete service of process, and finally, the inability of struggling consumers to take time off from work to appear in court, default judgements are entered and garnishments ordered in a substantial majority of these cases. In large part, through our work with the media and with attorneys general, we have exposed facts that show these judgements are based on faulty and corrupt information and robo-signed affidavits. While these stories have led to important regulatory enforcement actions against the debt buyer industry, the flow of debt buyer complaints in many courthouses remain unabated. To help consumers, the Education Fund has undertaken three distinct efforts. First, recognizing the need to educate consumers about their rights in debt collection actions, we have funded and created cutting-edge consumer education videos that have been shared with government agencies and legal aid programs throughout Florida and across the country. Second, to help attorneys interested in representing consumers in debt defense cases, the Education Fund has not only developed a library of practical legal training on the topic but has also designed a special eLearning course that will equip advocates with the knowledge skills necessary to protect consumer defendants. Finally, to ensure that state law adequately reflects the needs of consumers in today’s complex world of debt, the Education Fund is supporting an effort to have consumer advocates engaged in the Uniform Law Commission’s Model Law work, including committees on bank and wage garnishment and on debt and mortgage registries.

***Foreclosure Prevention***—Over the years, the Education Fund’s work has focused on the foreclosure crisis and its enormous impact on low and moderate income consumers. The Education Fund supported the Institute for Foreclosure Legal Assistance, which provided financial resources and education to private and public attorneys, including specially trained legal aid attorneys throughout the country. Our work, in particular, targeted states like Florida, which were hardest-hit by the foreclosure crisis. In Florida, we provided over $600,000 in direct funding for legal aid programs in Jacksonville and Miami (allowing them to become national foreclosure assistance role models) and supported other non-profits and government regulators throughout the state with substantial education and training resources. Further, working with the multi-state attorneys general foreclosure task force, the Education Fund assisted in designing a structure for foreclosure relief for consumers and distribution of penalty funds for non-profit homeowner preservation projects. While much work remains to be done in helping consumers navigate mortgage servicer issues, the Education Fund is also looking at ways to rebuild homeownership opportunities for consumers that remain damaged by the crisis.

***Payday Lending and Rebuilding Credit and Wealth***—Like predatory mortgage lending, payday lending has had a terrible impact on our nation’s most vulnerable consumers. The Education Fund, through our practical work with our private, public, and legal aid attorneys and through research with our nonprofit partners, has both seen and spoken out about how the debt created by predatory short-term loan products has done immeasurable damage to consumers’ ability to rebuild their financial lives. The Education Fund has focused on a three-prong effort to deal with the problems created by payday lending. First, we have educated consumers and regulators about the impact of payday lending and suggested ways that short-term loans could be structured to responsibly meet the needs of struggling consumers. Second, we have worked on projects with bank regulators, like the FDIC’s Advisory Committee on Economic Inclusion, to encourage traditional financial institutions to provide affordable banking opportunities for consumers who previously only had check-cashing stores and payday lenders to meet their economic needs. Finally, we have worked on helping consumers rebuild their often inaccurately damaged credit reports. The Education Fund, through annual trainings (including national conferences previously held in Miami, Orlando and Clearwater) and our increasingly substantial webinar library, has taught more than a thousand legal aid and private attorneys about consumer rights, problems with the credit reporting system, and how they can use the Fair Credit Reporting Act and comparable state laws to rebuild and restore a consumer’s damaged credit. Further, the Education Fund has worked to directly educate consumers about the importance of building and maintaining good credit and has previously partnered with Georgetown Law School in an attempt to develop a web-based application that would provide consumers with a tool to help them achieve this essential goal.

***Forced Arbitration****—*The Education Fund has supported efforts to expose the ways in which forced arbitration clauses trap consumers in a private, non-judicial system that offers them little opportunity for justice. Of particular note, we published a report exposing the corrupt arrangements and significant financial ties between the National Arbitration Forum and the debt collection companies whose cases it arbitrated. Further, in an effort to influence important federal and model rulemaking on arbitration in consumer financial service contracts, we have issued several reports and studies that show the negative impact forced arbitration has on a consumer’s ability to obtain legal help and to receive appropriate redress. This work is of particular importance for consumers attempting to hold payday lenders accountable, as this industry attempts to prevent almost all of its customers from seeking legal redress through the imposition of these clauses.

***Taxation of Consumer Attorney Fees***—Because of a gap in IRS interpretation of the law and in their rulemaking, consumers are often issued 1099 income statements for fees paid to their attorneys pursuant to claims filed under various federal and state consumer protection statutes. The issuance of 1099s that include attorneys’ fees have had a particularly damaging impact on two sets of consumers. First are low-income workers, as the gross amount of the 1099 reduces and/or eliminates their Earned Income Tax Credit, an amount of money they often depend on. Second are middle-class consumers who, because their attorneys’ fees are recognized as their income, are forced to pay higher taxes under the Alternative Minimum Tax rule. To remedy this problem, which is unfair to consumers attempting to enforce the law, and often results in an increase in the cost of settlement for both parties in a suit, the Education Fund supports a special Tax Initiative that focuses on making attorney’s fees non-taxable to individual consumers. So far, the IRS has issued private letter rulings that found that attorneys’ fees are non-taxable when the consumer is represented by a legal aid program. The initiative hopes to extend this ruling to all consumer representation.

**Conclusion**

A cy pres distribution to NACA’s Education Fund would both benefit the class members in this litigation and consumers generally. Additional information on NACA and its Education Fund is available on our web site at [www.consumeradvocates.org](http://www.consumeradvocates.org). I would be happy to provide any additional information that the Court may require.

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 Ira Rheingold