

SYLLABUS (Fall 2009)

A COURSE IN PREDATORY HOME LENDING LAW

This course in predatory home lending law will focus upon the lending industry and federal and state laws that govern lending. As part of the course, students will learn how to evaluate home lending documents for predatory terms, how to counsel borrowers about their rights under federal, state, and local laws that deal with predatory home lending practices, and how to settle disputes and restructure loans using non-litigation techniques. Today predatory lending practices are a major concern to federal, state, and local authorities. They affect persons of all races, but especially affect minority communities and the elderly.

There will be a practical component to the course. Law students will interview consumers and review the terms of their loans. In doing so, they will work closely with representatives of the neighborhood groups in attempting to identify predatory lending practices and solutions that may be available to the borrowers. The purpose of the review project will be to educate consumers about their legal rights, obligations, and responsibilities, and about the alternatives available to them. If the consumers need further assistance, the students will work with neighborhood counselors in suggesting where the borrowers can go for help, other products that may be available to them, and, in appropriate situations, how they may go about resolving disputes with lenders or brokers using non-litigation techniques.

The students will receive three academic credit hours for the course – two hours for the classroom component and one hour for the review component. The course will focus on developing practical skills in (1) reviewing documents, (2) resolving disputes with lenders using non-litigation techniques, (3) counseling clients how to find alternative sources of assistance, and (4) explaining the law and legal concepts to non-lawyers. The classroom component of the course will meet twice a week during the first part of the semester. The class will meet less often in October and November to enable the students to devote more time to the counseling project.

The class will be team-taught by experts in the area under the coordination of Professor Michael P. Seng. Guest lecturers will provide the students with a broad experience and perspective. Guest lecturers may be added or deleted as the course progresses.

Students will be required to spend approximately four hours each week interviewing borrowers and reviewing loan documents. This is the central component of the course as it exposes the students to clients and develops the students' ability to counsel and educate persons about their rights and how to avoid problems. Most of counseling will take place at the Greater Southwest Development Corporation at 2601 West 63rd Street, at one of the offices of Neighborhood Housing Services, or at the Resurrection Project in Chicago's Pilsen Neighborhood. However, some counseling may take place at other locations. Students will be expected to spend approximately half a day each week on the counseling project – or at least 40 hours for the semester.

Students will be required to arrange to speak before a community group or organization of their choice about predatory home lending law and practices. This will provide the students with an opportunity to explain a complicated legal problem to a lay audience. It is a valuable and important experience for the students. Students have fulfilled this requirement by speaking to church groups, schools and PTAs, personnel in government offices and law firms, and even clients or employees of lenders. Students are advised to start planning these presentations early and not let them go until the final weeks of class. Each student will be responsible for planning and presenting to one group or

organization. Students may partner with other students on these presentations, but each student must be primarily responsible for a presentation even if he or she participates in one or more of them.

Also, students may be required to do other short projects as part of the counseling component of the course such as attending housing events in city neighborhoods.

The students will be required to fill out a standardized interview form for each borrower that they interview and keep a diary of their counseling activities. Students will receive a grade based on their classroom performance and the quality and timeliness of their written work and counseling activities. There is no final examination.

Predatory Home Lending Seminar Outline

Office Hours: Mondays and Wednesdays 5:00 – 6:00; Tuesdays 4:00 – 6:00. Room 1215

August 24 An Introduction to the Course and to the Counseling Project

- The Problem of Defining and Identifying Predatory Lending Practices**
- The Harm Caused by Predatory Home Lending Practices**

Lecturer: Michael P. Seng

Suggested Readings: Introduction to Predatory Lending Policy (CRA NC)

“Wall Street and the Making of the Subprime Disaster,”
National Training and Information Center (Nov. 2007)

Borrowing Trouble (The Wall Street Journal, Aug. 21,
2007)

Predatory Lending – Redlining in Reverse (Shelterforce,
Jan./Feb. 2005)

Saving Your Home (Chicago Tribune, Jan. 25, 2004)

When Home Buying by the Poor Backfires (Business
Week Nov. 1, 2004)

Review Gives “D” to House Appraisals (Fort Wayne, The
Journal Gazette, Feb. 27, 2005)

Letting the Air out of “Good Faith Estimates” (Daily
Southtown, Feb. 2, 2006)

Snow Job (Money, March 2006)

August 26 The Role of Mortgages and the Legal and Historical Background of the Mortgage Lending Industry

Guest Lecturer: Debra Stark, Professor of Law

Readings: Materials provided by Professor Stark

August 31 Defining Predatory Lending -- An Overview of the Applicable State and Federal Laws

Lecturer: Michael P. Seng

Readings: *FTC v. OSI Financial* (Complaint, N.D. Ill.)

Jeffries v. The Lewis Group (Order of Circuit Court of Cook County, Illinois)

Munoz v. Mario Adrtade (Complaint, N.D. Cal.)

People v. Countryside (Complaint, N.D. Ill. June 25, 2008)

“Baltimore Is Suing Bank Over Foreclosure Crisis.” (New York Times, Jan. 8. 2008)

September 2 How the Financial Markets Operate – The Various Financial Players and Regulators

Guest Lecturer: Celeste Hammond, Professor of Law

Readings: Materials provided by Professor Hammond

September 9 Identifying Predatory Lending Practices by Reviewing Lending Documents and Identifying the Laws They Violate -- I

Guest Lecturer: Jim Brady, Home Ownership Preservation Project, Legal Assistance Foundation of Metropolitan Chicago

Readings: Materials provided by Mr. Brady

Sturdevant & Brennan, A Catalogue of Predatory Lending Practices (The Consumer Advocate)

Simon, “Using Consumer Credit Laws to Combat Predatory Lending Practices” (JMLS Predatory Lending Conference)

Lopez v. Delta Funding, 1998 WL 1537755 (E.D.N.Y. 1998)

September 14 Identifying Predatory Lending Practices by Reviewing Lending Documents and Identifying the Laws They Violate -- II (Jim Brady)

September 16 Orientation to Chicago’s Neighborhoods

September 21 Truth in Lending and Related Statutes

Guest Lecturer: Frank Kryda, Attorney at Law

Readings: *Hamm v. Ameriquest Mortgage Company*, (7th Cir. 2007)

Andrews v. Chevy Chase Bank (7th Cir. 2008)

Materials provided by Mr. Kryda

September 23 Establishing Good Credit and the Role of the Mortgage Broker

Guest Lecturer: Charles Eck, Mortgage Broker

Readings: Materials provided by Mr. Eck

September 28 Defending Foreclosure Actions -- I

Guest Lecturer: Kelli Dudley, Attorney at Law

Readings: Levine, "A Day in the Life of a Residential Mortgage Defendant," 36 John Marshall L. Rev. 687 (2003)

Risky Business – An Econometric Analysis of the Relationship between Subprime Lending and Neighborhood Foreclosures (Woodstock Inst. 2004)

The Impact of Predatory Loan Terms on Subprime Foreclosures: *The Special Case of Prepayment Penalties and Balloon Payments* (UNC Jan. 25, 2005)

Mortgage Electronic Registration Systems, Inc. v. Thompson 2006 WL 3196517 (1st Dist. Nov. 3, 2006)

Washington Mutual Bank v. Boyd, 2006 WL 3741874 (1st Dist. Dec. 20, 2006)

September 30 Defending Foreclosure Actions II (Kelli Dudley)

October 5 The Anti-Discrimination Laws and The Use of Civil Actions to Counter Predatory Lending

Lecturer: Michael P. Seng

Readings: Discrimination in Mortgage Lending (Seng Outline)

Hargraves v. Capital City Mortgage Co., Amicus Brief of United States of America

Hargraves v. Capital City Mortgage Co., Memorandum Order (D.C.D.C. Sept. 29, 2000)

Taylor v. McGlawn, Pennsylvania Human Relations Commission (2004)

Taylor v. McGlawn, 891 A.2d 757 (Pa. Cmwlth 2006)

Unlawful Discriminatory Predatory Lending and Reverse Redlining Guidelines in Housing and Commercial Property (Pennsylvania Human Relations Commission)

Unequal Burden in Chicago: Income and Racial Disparities in Subprime Lending (HUD)

October 7 The New Face of Lending Under the Obama Administration

Guest Lecturer: Michael Van Zelingen

October 12 Bankruptcy as a Remedy in Predatory Lending Cases -- I

Guest Lecturer: Paul Lewis, Professor of Law

Readings: Materials provided by Professor Lewis

October 19 Bankruptcy -- II (Professor Lewis)

October 26 Preemption of State Law by Federal Law

Lecturer: Michael P. Seng

Readings: Statement of the Comptroller of the Currency Regarding the Issuance of Regulations Concerning Preemption and Visitation Powers (Jan. 7, 2004)

North Carolina's Predatory Mortgage Lending Law (State Legislatures, Dec. 2004)

OCC v. Spitzer (S.D.N.Y. 2005)

U.S. Bank National Association v. Clark (Ill. Sup. Ct. 2005)

Illinois Ass'n of Mortgage Brokers v. OBRE, (7th Cir. 2002)

Johnson v. Matrix, (Ill. App., 1st Dist. 2004)

OCC v. Spitzer, 396 F.Supp.2d 383 (S.D.N.Y. 2005)

Watters v. Wachovia Bank, 127 S.Ct. 1559 (2007)

November 2 The Regulatory Role of the Division of Banks and Real Estate

Guest Lecturer: Alan Anderson, Mortgage Banking Senior Counsel,
Division of Banks and Real Estate, State of Illinois

Readings: Illinois High Interest Loan Act – Summary and
Calculations

 The Illinois High Risk Home Loan Act

 The Illinois Equity Assurance Act

November 9 The View from the Bench

Guest Lecturer: Hon. Lewis Nixon, Circuit Court of Cook County
Chancery Division, Mortgage Foreclosure/Mechanics Lien
Section

Readings: Materials provided by Judge Nixon

November 16 State Anti-Fraud and Deceptive Practices Actions

Lecturer: Thomas James, Asst Attorney General for the
State of Illinois, Consumer Fraud Bureau

Readings: *In re First Alliance Mortgage Company*, Third Amended
Complaint (C.D. Cal. 2000)

November 23 Wrap-Up