

The background of the cover features a blue-tinted photograph of Sather Tower (The Campanile) at the University of California, Berkeley. The tower is a tall, stone structure with a clock face and a pointed roof. To the right of the tower, a large, solid yellow triangle points upwards, creating a dynamic geometric design. The Berkeley Law logo is positioned in the top left corner, with 'Berkeley' in white and 'Law' in yellow.

Berkeley Law

Center for
Consumer Law &
Economic Justice

Annual Report

2022



Ted Mermin

Executive Director,
*Center for Consumer
Law and Economic Justice*

Dear Friends & Family of the Center for Consumer Law & Economic Justice:

For the third year in a row, I write to you from the midst of a pandemic, a moral reckoning, and a world desperately in need of healing.

If not for the students at Berkeley Law and around the country, whose dedication to justice has never waned....

If not for the scholars and teachers and advocates, who have somehow managed to maintain their irrepressible commitment to improving the world....

If not for all of *you*, in other words, whose inspiring example and unflagging support buoys all of *us*....

If not for these things, we could not do the work we do.

And that work this past year has been noteworthy.

The Center ...

- took on a fifth regular conference – the longstanding and invaluable Teaching Consumer Law Conference – while also co-hosting all of the other four (one of them twice), along with the first-ever Coerced Debt Summit;
- welcomed faculty director Jonathan Glater and five other faculty advisers, who have infused new scholarly energy and expansive vision into every aspect of the Center’s work;
- convinced the California Supreme Court to look to the text and legislative history of the original FTC Holder Rule as the key source for determining (in the

affirmative) whether consumers should be able to recover attorney fees in addition to damages from auto finance lenders;

- launched new courses including a Consumer Law & Economic Justice Workshop, a Housing Litigation and Policy seminar, and a Credit Reporting & Economic Justice class – three of the *nine* Consumer Law courses taught in just the past year at Berkeley Law;
- and scored its first late-night TV credit with an episode of John Oliver’s *Last Week Tonight* on the troubled Property Assessed Clean Energy program.

So go ahead. Take a tour through the pages that follow, and the year that just passed. I think you’ll find it worthwhile.

And let’s plan to work together this coming year. In the words of Heather McGhee (Berkeley Law ‘09), author of *The Sum of Us*:

We must challenge ourselves to live our lives in solidarity across color, origin, and class; we must demand changes to the rules in order to disrupt the very notion that those who have more money are worth more in our democracy and our economy.... We are so much more when the “We” in “We the People” is not some of us, but all of us.

That vision echoes and embodies the Center’s mission. To all of you who make it possible: our great respect, and our profound thanks.

By the Numbers

509 

Conference Attendees

6

Conferences Held

20

California Consumer
Protection Roundtables Held

10



Lunch Talks

9 

Consumer Law Courses Offered

18

Student Participants in the C-3PO
Student-Initiated Legal Services Project

5 

Successful Case Publication Requests
Through the Published Justice Project



Carla Sanchez-Adams, National
Consumer Law Center

“
So impressive how
far the field has
come. And this is a
landmark day.

Coerced Debt Summit Attendee

Convenings

Center Hosts First-Ever National Conference on Coerced Debt

The Center, along with the Center for Survivor Agency and Justice (CSAJ), hosted the first-ever Coerced Debt Summit, a virtual convening of more than 100 attorneys, advocates, academics, and service providers from around the country.

The experts assembled to tackle “coerced debt,” which is incurred when an abusive partner, family member, or caretaker generates debt in the survivor’s name through transactions involving coercion or fraud.

Addressing such a complex and urgent issue requires input from experts in disparate fields: domestic violence and elder abuse in addition to consumer protection. The Summit exemplifies one of the Center’s central goals: applying consumer protection laws to help solve pressing problems in areas where those laws have not been used.

Consumer Law Scholars Conference (in Boston!)

We were elated to be able to gather (mostly) in person for the fourth annual (and first East Coast) Consumer Law Scholars Conference in March. Boston University School of Law graciously hosted nearly 100 in-person and virtual consumer law experts from around the country (and world) over the course of two days for a total of eighteen compelling workshops. The original papers touched on a wide range of topics, including discrimination in retail and lending, the regulation of contaminated foods, price gouging during the pandemic, and the potential benefits of public banking.

We can't wait to do it again. Next year the conference will be back in Berkeley: March 2-3, 2023. (Mark your calendars!)

“
The topics/papers
were fabulous.

Bravo. My favorite
conference ever!

Consumer Law Scholars Conference Attendees



“

I loved the diversity
of voices.

Great and rich
discussion.

EJPAC Attendees

Minnesota Attorney General
Keith Ellison



Convening Advocates to Develop Economic Justice Policy

The Economic Justice Policy Advocates Conference (EJPAC) brings together policy advocates who are leading efforts to advance economic justice and consumer protection in their respective states — twice a year.

In October 2021 at the Fall Convening, participants from more than 30 states workshopped policy ideas to tackle pressing state policy issues including evasion of state usury laws, problems in distributing federal COVID relief funds, and strengthening state debt collection protections. The Conference featured two riveting keynote speakers. On the first day, the co-founder and co-director of Liberation in a Generation, Jeremie Greer, provided his inspiring perspective as a lifelong advocate for racial and economic justice. On the second day, Minnesota Attorney General Keith Ellison offered words of wisdom on working with state governments to make lasting change.

In June 2022 at the Spring Convening, advocates from around the nation tested out policy ideas in areas including energy and utilities, debt collection reform, asset building, and the use of credit reports in rental housing. We also offered a special half-day Crypto 101 Workshop — led expertly by Raúl Carrillo (Yale Law School & the LPE Project) and Rohan Grey (Willamette University College of Law).

Many thanks to the transcontinental dreamteam of an organizing committee representing Hope Policy Institute, the Center for Responsible Lending, Maryland Consumer Rights Coalition, Michigan Poverty Law Program, the National Association of Consumer Advocates, the National Consumer Law Center, New Jersey Citizen Action, New Mexico Center on Law & Poverty, Texas Appleseed, the Woodstock Institute, Tzedek DC, and Alaska Public Interest Research Group.

Law School Consumer Clinic Conference

After a two-year hiatus, the biennial Law School Consumer Clinic Conference (LSCCC) returned – in Santa Fe, New Mexico!

This year's LSCCC brought together participants from debt collection, veterans, housing and other consumer-focused clinics to share experiences selecting and supervising clinic cases, teaching clinic seminars, working on economic justice policy, and developing teaching materials. Workshops covered network building, policy advocacy, the overlap between housing law and consumer law, and emerging issues in consumer law.

Teaching Consumer Law Conference

Immediately following the Clinics Conference in Santa Fe, the Center for the first time co-hosted the Teaching Consumer Law Conference with the University of Houston Center for Consumer Law. This biennial conference, which had been on pandemic pause, brings together scholars from across the country and around the world to discuss all aspects of teaching consumer law and substantive areas of consumer protection and economic justice. This year's panels encompassed topics ranging from consumer bankruptcy to access to justice, from experimental teaching methods to online dispute resolution. Our own Ted Mermin, in conjunction with Neil Sobol of Texas A&M, presented on the future of the Consumer Law, Advocates, Scholars & Students (CLASS) Network and its promise for furthering economic justice programs in law schools around the country.



“
**The format was
fantastic.**

**Everyone is so
knowledgeable
and supportive.**

Law School Consumer Clinic Conference Attendees

Events & Guest Speakers

The Center played host to a remarkable array of events and guest speakers this year:

Orientation for New and Returning Students

JD to Policy Advocacy

Changes to Student Loan Law (Public Service Loan Forgiveness)

Evictions and Rent Debt During the Pandemic

Credit Reports: How Racial Bias, Gender Inequity, and Criminal Records Influence Where You Can Live, Work and Borrow

Fintech Regulation with the California Department of Financial Protection & Innovation

Meet the Consumer Law Profs

Evening of Consumer Law Research

Coerced Debt: How Abusers Use Debt as a Tool of Control

Be Brave: Following Your Own Path after Graduation

Access to Health Care for Trans People

Alumni/Friends/Students Mixer



Michael Bracamontes
Bracamontes & Vlasak



Sabrina Hamm
FreeFrom



Erika Heath
Francis Mailman Soumilas, P.C.



Luan Huynh
Office of California State Senator
Holly J. Mitchell



Angie Littwin
University of Texas



Suzanne Martindale
Department of Financial
Protection & Innovation



Desirée Nguyen Orth
East Bay Community Law Center



Mike Pierce
Student Borrower Protection
Center



Danica Rodarmel
Whole Consulting



Carla Sanchez-Adams
National Consumer Law Center



Miguel Soto
East Bay Community Law Center



Erika Sussman
Center for Survivor Agency
& Justice



Shauhin Talesh
UC Irvine School of Law



Christina Tetreault
Department of Financial
Protection & Innovation



Chi Chi Wu
National Consumer Law Center



Persis Yu
National Consumer Law Center



Andrew Yarak
Centro Legal de la Raza

Projects & Highlights



Getting the Memo: Center Sends 15 Issue Briefs to the Consumer Financial Protection Bureau

Recognizing that the new director of the Consumer Financial Protection Bureau might welcome academic input on current challenges facing consumers in the financial marketplace, Faculty Director **Jonathan Glater** organized and inspired more than a dozen of his colleagues from around the country to generate and promulgate memoranda to the CFPB on a wide array of pressing subjects. The topics of the memos ranged from algorithmic discrimination to regulating the “buy now, pay later” market to investigating overdraft protections. The Director of the Bureau sent a personal note of gratitude to each contributor. You can read the memos [here](#).

Course Offerings

The Center arranged for a rich table consumer law and economic justice course offerings this year:

- **Abbye Atkinson** and **Ted Mermin** launched the first-ever **Consumer Law & Economic Justice Workshop**, enrolling almost 50 students to discuss scholarly papers in law and sociology (and maybe even an appellate brief or two).
- **Erika Heath** offered **Credit Reporting & Economic Justice** for the first time, to rave reviews.
- **Marice Ashe** ('93) brought back **Public Health Law** (with a cavalcade of guest stars from within and outside the law school) for another hit run, not to mention a tribute of gratitude from at least one student who declared he'd finally found his calling.
- **Michael Bracamontes** ('05) debuted **Housing Litigation & Policy**, to great acclaim.
- **Professor Atkinson** reprised her enormously successful seminar on **Debt, Discrimination & Inequality**.
- Professor **Shauhin Talesh** of UC Irvine (JSP '09) returned to the scene of his doctoral education to teach **Insurance, Regulation & Inequality** as this year's specifically-requested-by-students visiting professor of Insurance Law.
- **Suzanne Martindale** ('10) starred again in **Student Loan Law** in its fourth season.
- **Kristen Law Sagafi** ('02) came back, thank goodness, to teach the prized **Consumer Litigation: The Course of a Case**. And...
- **Ted Mermin** ('96) kept at it for the 14th consecutive year of **Consumer Protection Law**.



In the Media: John Oliver, PACE, and Berkeley Law

Last summer, late-night host and Consumer Protection Law sage John Oliver hosted an [episode of *Last Week Tonight*](#) on Property Assessed Clean Energy (PACE), a deeply flawed program that offers homeowners financing for energy improvements. Though promising in conception, in practice PACE has put all too many low-income homeowners at great risk of losing their homes. Contractors have sold the program door-to-door, deceptively offering “a free government program” that they claim will “pay for itself.” When homeowners can’t pay their property taxes, which in some cases have tripled, they face foreclosure.

The *Last Week Tonight* episode featured an interview with Berkeley Law’s own Professor Claudia Polsky, who discussed the program’s risks and shared findings from the Environmental Law Clinic’s report, [The Dark Side of the Sun: How PACE Financing Has Under-Delivered Green Benefits and Harmed Low-Income Homeowners](#). A very careful look at the *Last Week Tonight* credits might reveal the possible involvement of the Center as well.



The CLASS Network

This past year saw the [Consumer Law Advocates, Scholars & Students \(CLASS\) Network](#) thrive. The nationwide organization of consumer law and economic justice students and faculty met with a number of eminent personages throughout the year, including Stacey Schesser (chief of privacy enforcement for the California Department of Justice), Sam Levine (the new director of the FTC’s Bureau of Consumer Protection), and Karla Gilbride (the Public Justice attorney, now EEOC general counsel) who successfully argued a case on forced arbitration in the U.S. Supreme Court this spring). And in the fall CLASS launched a new mentorship program for law students interested in careers in consumer protection law. More than 30 students have embarked on the program, with an equal number of mentors joining them from plaintiff-side firms, government agencies, legal service providers, and nonprofit organizations. As one participant remarked: “We are building the future of the profession.”

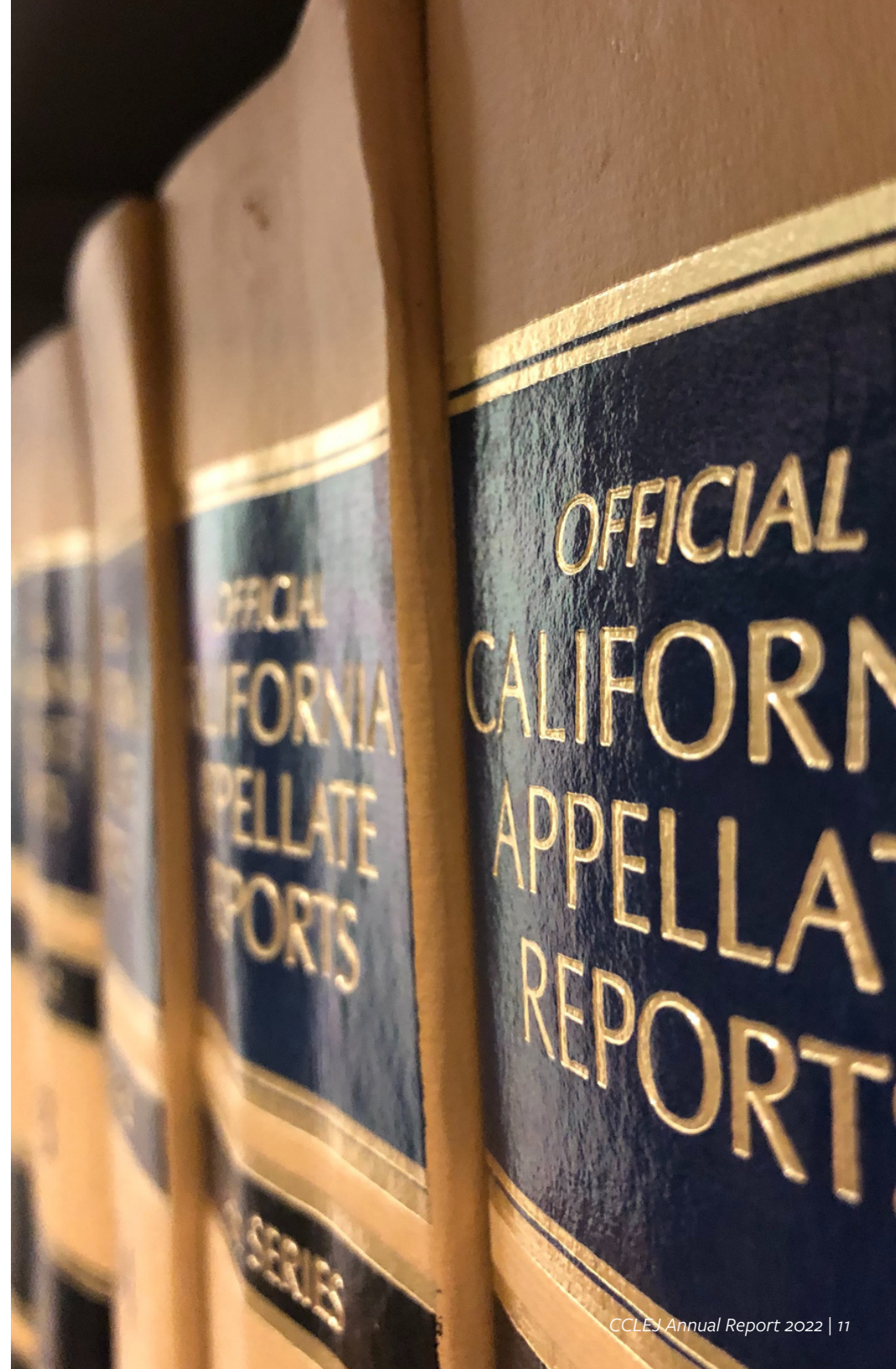
Next year: Watch for big things from CLASS, including dedicated staff and the second-ever Student Summit. CLASS works to advance consumer law programs at law schools around the country, including yours. *Let us know if you want to get involved.*

Student-Led Project Flourishing: C-3PO

The last academic year witnessed the remarkable growth of the Consumer Protection Public Policy Order (C-3PO), which provides the opportunity for first-year law students to work on important consumer protection policy initiatives. Student leaders Michelle Dold, Marshal Lawler and Steven Shi organized and ran a program that featured Faculty Director Jonathan Glater, Miguel Soto of EBCLC, and Eliza Duggan and Ted Mermin of the Center. The students’ projects — which often culminated in meetings with high-ranking agency staff and executive leadership in NGOs — involved significant efforts on cutting-edge legal issues, including: (1) developing tenants’ rights materials for legal aid providers statewide, (2) [petitioning the DFPI on income-share agreements](#), and (3) [exploring credit reporting issues facing transgender consumers](#).

Published Justice Project

The Center continued its efforts to build consumer protection law, one case at a time. Led by ace staff attorney Eliza Duggan, the Published Justice Project successfully petitioned courts of appeal to publish cases establishing (1) that landlords may not deny services or harass their tenants in order to force them to move out and then raise the rent (2) that debt buyers must produce evidence that a valid arbitration agreement exists before a court will grant a motion to compel arbitration (3) that government agencies have the authority to issue administrative subpoenas to investigate debt collectors and other potential wrongdoers (4) that a senior in a residential care facility for the elderly is not bound by an arbitration agreement signed by a family member who was not legally authorized to enter such an agreement on her behalf and (5) that residential care facility administrators should not assume that residents entering their care have given their family members authority to speak for them – or that they cannot speak for themselves. Without Eliza’s efforts, on behalf of the Center and an illustrious array of organizations that joined her letters, these decisions would not have seen the light of day; now, they are part of the official record and can be cited by future litigants seeking justice.



Comments & Briefs

Center and Partners Work to Keep Adverse Information Off Consumer Reports of Survivors of Human Trafficking

Alonside a coalition of prominent anti-trafficking organizations, the Center helped compose a [comment](#) to the CFPB urging the Bureau to keep information resulting from human trafficking off survivors' credit reports. The coalition's comments offered support for the proposed rule, while advocating for a number of improvements to make the process of correcting credit reports as smooth as possible for survivors. The comments also advocate that the Bureau use its authority under the Fair Credit Reporting Act to address the problem of coerced debt more broadly — including for survivors of domestic violence and elder abuse, and for foster youth. (The CFPB recently indicated it will do just that.)

This comment demonstrates the Center's core commitment to using well-established tools of consumer protection, like the FCRA, to provide protection and relief in areas – like human trafficking – where consumer laws have not previously been applied.

Victory in the California Supreme Court: *Pulliam v. HNL Automotive*

In a [case of national significance](#), the California Supreme Court decided that consumers are entitled to recover attorneys' fees (in addition to any money they may have lost) in cases brought against deceitful lenders under the FTC Holder Rule.

The Court's approach and reasoning accord nicely with an [amicus brief](#) filed by the Center on behalf of itself and seven other leading consumer protection organizations.

The Holder Rule allows consumers to bring claims and defenses against holders of their credit contracts (for example, auto finance companies), but limits consumers' "recovery" to the amount paid under the contract. However, the question whether attorneys' fees can also be recovered under the rule has been muddled by years of dueling appellate decisions, agency guidance, and even intervention by the legislature, so the California Supreme Court decided to step in and clear things up.

The Center's [brief](#) in the case argued that the text and history of the FTC's original rule provide the (affirmative) answer, and that there was therefore no need for extensive preemption analysis. The brief further pointed out that markets and consumer expectations have evolved based on the availability of attorneys' fees, and that the ability to obtain fees is a critical factor in determining whether defrauded consumers will be able to find any redress at all.

The Court [concurred](#).

Faculty Spotlight



Abhay Aneja co-authored a forthcoming paper entitled “[Merger Deregulation, Wages, and Inequality: Evidence from the U.S. Banking Industry](#)” with fellow Center Faculty Advisor Prasad Krishnamurthy.



Chris Hoofnagle co-authored a [paper](#) that explores how remedies used in other fields might be applied to enforce federal privacy law. He was also named Faculty Director of UC Berkeley’s Center for Long-Term Cybersecurity.



The American Constitution Society awarded its inaugural Ruth Bader Ginsburg Award to **Abbye Atkinson**. The award recognizes “an outstanding scholar in the early stages of their academic career who has demonstrated those qualities exemplified by Justice Ginsburg: scholarly excellence, the ability to imagine how society might be more just and more equal, and the determination to use the law and one’s scholarship to creatively and strategically make the imagined real.” Watch Professor Atkinson’s acceptance [here](#).



Prasad Krishnamurthy was selected to serve on the first Debt Collection Advisory Board at California’s new Department of Financial Protection and Innovation. In addition to the paper co-authored with Prof. Aneja (see above left), he published “[An Economic Case Against and For Public Banking](#)” (with Tucker Cochenour) and wrote a series of thought-provoking op-eds for The Hill.



Jonathan Glater officially became our Faculty Director this year. He spearheaded an effort to submit expert [memos](#) to the CFPB, supervised C-3PO projects, expanded the Student Loan Law Initiative to UC Berkeley, and worked with Charlie Eaton and Laura Hamilton of UC Merced and Dalié Jiménez of UCI Law on [research](#) drawing attention to institutional student debts. And that is just scratching the surface.



Manisha Padi published two articles this year: “[Contractual Inequality](#)” (Michigan Law Review) and “[Markets and Mandates: Retirement in Chile and the US](#)” (BU Law Review). She also played an invaluable role on the organizing committee for the Consumer Law Scholars Conference. This coming fall semester she will inaugurate a new course in Consumer Financial Protection.

Afterword

It really has been a remarkable year. As we look to the academic year to come, we do so with gratitude for what we have been able to do together, and an abiding hope that our collective efforts will provide some useful, maybe even inspiring, material for the next annual report.

Join us.

[DONATE](#)

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