

## *Family Land Lost to Predatory Lending Practices*



Callie Smith Jones stands to lose land that has been in her family for 100 years due to predatory lending practices.

*Callie Jones is represented by Academy member Carlene McNulty of the North Carolina Justice and Community Development Center in Raleigh. For more information about this story, contact her at 919.856.2570.*

Callie Smith Jones' consumer nightmare first started when she decided to buy a mobile home to put on land that had been in her family since the late 1800's. Callie chose a mobile home from one of the many mobile home dealers near Goldsboro and was assured her monthly payment would be \$450 to \$550 per month, which was the most she felt she could afford. The mobile home dealer then referred her to a company to arrange the financing.

Loan documents soon began arriving that showed the amount of the proposed monthly payment and interest rate. The papers showed a slightly higher monthly payment than Callie had requested. She was told that the amount had gone up because insurance and taxes were included, but that she could refinance the loan later if she made her payments on time.

The mobile home dealer delivered and set up Callie's home before she went to the loan closing. However, at closing, she got the shock of her life. The first paper she saw was the Truth-in-Lending statement, which showed that her monthly payments were going to be about \$300 more than she had anticipated, with an interest rate of 15 percent. Worse, at the end of 15 years, she would have to pay a balloon payment of more than \$58,000.

Callie wanted to back out at this point, but the dealer threatened to take away her land if she did not go through with it. She was born and raised on that land—land that had been in her family for more than 100 years. She felt she had no choice but to sign the papers.

It was at the closing that Callie first learned the company she had been dealing with was not a lender at all—her loan was through an out-of-state company. Thus, she was charged a mortgage broker fee of over \$2500 to get a loan that she couldn't afford.

However, her problems did not end at the closing; they were just beginning. Callie immediately noticed major problems with the set-up and condition of the mobile home. She called the dealer, but they would not fix the

problems. She called the lender, but was told there was nothing they could do. At her wits' end, Callie refused to make payments, and the lender soon filed a foreclosure action against her.

Callie hired two attorneys to stop the foreclosure. Her lawyers told her that since the dealer arranged the financing, the lender should be responsible for any complaints involving the mobile home. However, the lender argued in court that since the financing was through an out-of-state bank, federal laws preempted any state law protections. The judge agreed and dismissed the lawsuit.

While Callie won her lawsuit against the mobile home dealer and settled her case with the mortgage broker, these victories accomplished little in her efforts to save her home and land. The mobile home dealer never paid any of the money it owed her and is now out of business, leaving her almost \$200,000 in debt to the lender. She was able to avert foreclosure for several years by filing bankruptcy, but eventually could no longer afford the \$1400 in monthly payments the bankruptcy court ordered her to pay. Her mortgage has since been assigned to another company, which has filed foreclosure papers against her. Thus, her legal victory was hollow, as she will soon lose her home and land.

Since Callie began her ordeal, North Carolina enacted the most expansive law in the country addressing predatory lending. While this new state law would have provided her with some important protections, current federal initiatives would make it harder for victims of predatory lending to assert claims and defenses against mortgage holders. Congress is considering two bills that would substantially limit assignee liability on all mortgages.

The playing field is steeply sloped against consumers like Callie Jones. Unfortunately, hard-working North Carolinians can lose their homes and property even when they play by the rules. ■