

## Payday Lending Reaches Epidemic Proportions

In light of the current financial crisis faced by many in Alabama and across the nation, it makes sense that leaders, on every level of government, act to protect consumer interests. To encourage such action, Alabama Appleseed has renewed our commitment to press for the eradication of predatory lending in our state.

### The Need

Since its rise in the 1990s, payday lending has continued to expand in Alabama. There are 1201 registered deferred presentment locations in Alabama. In Montgomery, with a population of just over 200,000, there are 83 stores – an exorbitant number for a city this size. Storefront locations now outnumber coffee and fast food chains nation-wide; and geographic/demographic mapping studies show a disproportionate number of stores in low-income minority communities.

The consequences of these usurious financial products have become painfully apparent. Left largely unchecked, payday lenders have exploited deregulated interest rates, won special treatment from state legislatures, and designed products that slip through regulatory loopholes. As a result,

payday lending institutions operate legally in thirty-seven states, costing consumers as much as \$6 billion a year in interest for up to \$40 billion in loans. Payday loans cost cash-strapped borrowers triple digit interest rates, trap borrowers in repeat loans and a cycle of debt, foster coercive debt collection practices, and endanger bank account ownership for families that live on the financial edge. Furthermore, the negative impact on the individual family finances spills out and causes economic loss to the local community.



Rather than facilitating the exploitation of financially-strapped residents, the Alabama legislature must seek measures that will cap the allowable interest rates on small, short-term consumer loans at or below 36% APR. Just as Congress acted in 2006 to protect military personnel and their dependents (capping the interest rate at 36%) and as 13 other states and the District of Columbia have enacted laws to restrict “legal loan sharking”, it is time for action in Alabama.

### The Last Reform Attempts

During the 2003 legislative session, consumer advocates were unsuccessful in their attempt to eliminate predatory lending practices in Alabama but were able to gain some semblance of regulation. However,

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## SAVE THE DATE – THURSDAY, APRIL 30, 2009, NOON

### 2009 BREWER/TORBERT PUBLIC SERVICE AWARD LUNCHEON AND 10th ANNIVERSARY CELEBRATION

During 2009 Law Week, Alabama Appleseed will hold its annual Albert Brewer/Bo Torbert Public Service Award Event. However, this year’s event will be doubly special as it also marks our 10th Anniversary.

At a luncheon at The Harbert Center in downtown Birmingham on Thursday, April 30, 2009, commencing at 12:00 noon (and ending at 1:00 P.M.), we will present the 2009 Brewer/Torbert Public Service Award to longtime civic leader and civil rights champion Odessa Woolfolk from Birmingham. We hope you will make plans to join us in honoring Ms.

Woolfolk for her lifetime commitment to public service and to the betterment of our communities and state.

It was in 1999 that the founding Board of Directors came together to form Alabama Appleseed. This distinguished Board included Delores Boyd, Albert Brewer, Richard Cohen, Greg Cusimano, Mason Davis, Nick Gaede, Ben Harris, Merceria Ludgood, Jim Main, Ken Randall, Janie Shores and Bo Torbert. Birmingham attorney Lee Cooper was instrumental in bringing this distinguished group together to form Alabama Appleseed. We hope these founding board members will be able to join us for this very special occasion. Please join us to recognize and honor these founding Board members and celebrate with us as we mark our 10th Anniversary.

**Brannon J. Buck**

Attorney, Birmingham  
Badham & Buck

**Richard P. Carmody**

Attorney, Birmingham  
Adams & Reese, L.L.P.

**John L. Carroll**

Dean & Professor, Cumberland School of Law  
Birmingham

**Herman Cobb**

Attorney, Dothan  
Cobb, Shealey & Crum, P.A.

**David Davis**

Public Relations/Communications, Birmingham  
Davis Denny

**Patricia C. Diak**

Attorney, Birmingham  
Haskell, Slaughter, Young & Rediker, LLC

**Bryan K. Fair**

Law Professor, University of Alabama School of Law  
Tuscaloosa

**A.H. "Nick" Gaede, Jr., Chair**

General Counsel/Attorney, Birmingham  
BE&K, Inc.

**Kesa M. Johnston**

Attorney, Roanoke

**Merceria Ludgood**

County Commissioner, Mobile County  
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**Kimberly B. Martin**

Attorney, Huntsville  
Bradley Arant Rose & White, L.L.C.

**Derrick A. Mills**

Attorney, Birmingham  
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President, Alabama Gas Corporation  
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Principal, Bayer Properties  
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**Rufus R. Smith, Jr.**

Attorney, Dothan  
Rufus R. Smith, Jr. & Associates

**Sharon G. Yates**

District Court Judge, Montgomery



**John Pickens**

## Green Apples – Red Apples – Golden Apples: Good Apples All

In the last few months as part of several grant applications, we have had to do a little introspection and reflection about what we have become as an organization. We had to wrestle with the question of what had we accomplished in the last six years as a staffed organization. After much reflection and discussion, we came to the conclusion that our own establishment and growth as a strong and committed voice for

the undeserved in our state, with a staff of five attorneys and a state-wide Board of Directors of eighteen, was one of our major accomplishments. We believe this is not self-congratulation, but largely a reflection of the need for more social justice advocates in a state with too few. Sure we have had our share of more tangible accomplishments, like collaboratively helping to secure passage of the new residential Landlord/Tenant law, an outcome that had not been achieved in the last ten years; becoming a strong and effective advocate both in Alabama and in Washington for more rebuilding assistance for hurricane survivors and more timely release of available rebuilding funds; and developing into the principal voice in opposition to anti-immigrant legislation that has been introduced in the state legislature and being the leader of the Alabama Coalition for Immigrant Justice, a state-wide network presenting a unified voice for the immigrant population.

Some might say - good work – job well done – a credit to the Appleseed network – a bunch of “good apples”. True perhaps, but we know that none of this would have been possible without the financial and pro bono support of our backers – law firms, individuals, corporations and foundations. You all are “good apples”. Now each of you has the opportunity, in our eyes, for an equally distinctive title. For the lawyers, become a Green Apple, or a Red Apple, or a Golden Apple. For law students, become a distinguished AppleSeed, and for the non-lawyers, become a special AppleSider. What the heck is all this talk about apples? At our June board meeting, the Alabama Appleseed Board approved the initiation of our Annual Supporting Partner Campaign. For a rather modest annual donation, you can become a Green, Red or Golden Apple, or an AppleSeed or AppleSider. The specifics for each level of donation are set out on pages 6-7 of this newsletter. I invite you to join our Alabama Appleseed Team.

Raising part of our annual operating budget is only part of the reason for this effort. An even more central goal of this campaign is to broaden our supporter base and make it an integral part of our advocacy team. We want you to know more about our work at Appleseed. We want you to learn more about the important systemic issues facing our state. We want you to get excited about what you can do to be a part of positive change in Alabama. We want you to be on our team as part of your commitment to pro bono, volunteer service. If you join our team as an Annual Supporting Partner, we will give you updates on these important issues and notices about pro bono opportunities. As a committed team, we can make an even greater difference in the public affairs and issues affecting Alabama. The lawyers who founded Appleseed selected that name to reflect both our goal of a more just society, and the way we work – in the areas of our community needing systemic change, we seek to plant a seed of justice, and then nourish and grow that seed by and through the pro bono leadership of lawyers. So, as is so appropriate during this fall season, please help us fill up our bushel basket with more “good apples.”

As I said, “good apples all,” be they green, red or golden, or an AppleSeed or AppleSider. Please consider joining our Alabama Appleseed Team.

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# ALABAMA APPLESEED BRIEFS

## CONSTITUTIONAL REFORM

As reported in our last newsletter, Alabama Appleseed is in the initial stages of a new advocacy project on constitutional reform of the state's antiquated and ill-conceived 1901 Constitution. In this initiative Appleseed will strategically engage in the first instance the legal community as a catalyst to build a substantive policy foundation for constitutional reform, and then will engage Alabama's many and varied constituencies interested in finding common cause in support of a new constitution. By the end of this year we plan to engage numerous lawyers around the state on a pro bono basis to conduct research on several critical constitutional issues and to then engage in new, fresh, and creative analysis of those issues. As a prelude to that effort, we have recruited law students through the Public Interest Student Board at the University of Alabama School of Law to conduct a survey of any recent legal research (i.e. law review articles, court opinions, and other legal sources) on the constitutional provisions affecting local-government home rule, education and economic development (impacted by constitutional restrictions on "internal improvements" and local and state governments' ability to issue

indebtedness). By the end of the year we will have formed a constitutional advisory group to help us think through and implement our initiative, and by early 2009 we will issue a call for pro bono assistance from Alabama's lawyers to help us with the legal research and critical analysis that will form the basis for engaging others in constitutional reform. We are also starting to form a network of lawyers around the state who are interested in constitutional reform and willing to work with us to raise awareness in their communities of the urgent need for constitutional reform. Many of the constitutional delegates who drafted the 1901 Constitution were lawyers. Now is the time for Alabama's lawyers to again take the lead and give the state a new constitution that all Alabamians can be proud of.

If you would like to be a part of this pro bono effort by the legal community, please contact either John Pickens or Craig Baab at 334/263-0086 or by email at [john.pickens@alabamaappleseed.org](mailto:john.pickens@alabamaappleseed.org) or [craig.baab@alabamaappleseed.org](mailto:craig.baab@alabamaappleseed.org).

## HEALTH INSURANCE COVERAGE

In an effort to close the health insurance coverage gap that exists in our state, Alabama Appleseed, in collaboration with Alabama Arise, started earlier this year the Health Insurance Coverage Project (HICP). This is a three-year effort funded by the Public Welfare Foundation (PWF) of Washington, D.C. PWF is funding several organizations from ten other southern states, known as Southern Health Partners, to help further health reform efforts in the southern region. The Southern Health Partners convened last month in Atlanta, Georgia to share strategies and updates on what each organization is doing in its respective state to expand health care.

Alabama Appleseed is involving the Alabama legal community to help with the research stage of its HICP. With the assistance of attorneys Ann Huckstep, Steve Rowe, and Laurence McDuff of Adams & Reese in Birmingham, Appleseed has enlisted the help of attorneys from several Birmingham firms on a pro bono basis to help update and build on research that was previously done for Alabama in 2002-2003 for the IDEA project (Insurance Directives for Every Alabamian) under a federal State Planning Grant received by the Alabama Department of Public Health. Lawyers from the following law firms are helping on this project: Bradley Arant, Maynard cooper, Baker Donelson, Haskell Slaughter, and Sirote Permutt. We are most appreciative of this pro bono help.

In addition to the research, organizers with Alabama Arise will soon begin going out into the various regions of Alabama to hold listening sessions

with members of the community about their health care coverage. Although work is still taking place under the "gathering" stage of the project, Appleseed and Arise have begun planning for the second stage of the project, which will consist of a statewide conference on health care in Alabama. Gayle Sandlin, former director of Alabama's State Children's Health Insurance Program (SCHIP), is acting as a consultant and is assisting with the planning. The day-long conference is set for February 10, 2009, at Birmingham Southern. For more information on the HICP, visit [www.alabamaappleseed.org](http://www.alabamaappleseed.org)

### Alabama Appleseed Board of Directors

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### Founders Advisory Board

Gov. Albert P. Brewer (Ret.) – Birmingham

Gregory S. Cusimano – Gadsden

J. Mason Davis – Birmingham

Judge John H. England – Tuscaloosa

Justice Janie L. Shores (Ret.) – Montrose/Birmingham

Chief Justice C.C. Torbert (Ret.) – Opelika

# ALABAMA APPLESEED BRIEFS (contd.)

## IMMIGRATION

In 2008, we refocused our work on Victim-Offender Conferencing to juvenile courts. Earlier this year, we began working with Lowndes County Juvenile Court Judge Terri Bozeman Lovell. With her help and support the developing stages are in place for a Victim-Offender Conference Program is underway in her court. This program has the support of the District Attorneys Office, the Lowndes County Public School System and several community partners, many of whom are directly involved in their Helping Families Initiative. The facilitator training is being conducted by our collaborative partner, Cassandra Adams, Director of Cumberland's Community Mediation and Public Interest Project. Ms. Adams has become an invaluable part of our program development and we are fortunate to have the experience and training she brings. The final phase of this training is scheduled for November 7, 2008, and anticipate that 10 facilitators to be ready to begin conferencing in 2009. Our work in Lowndes County has connected us with the Dallas County Juvenile Court, as a few members of that community have participated in our Lowndes County training. We expect to expand our work to Dallas County in 2009, as additional funding is secured.



Our work with Juvenile Court Judge Brian Huff and his staff in Jefferson County, though still on-going, has been somewhat overshadowed by their involvement (along with 4 other counties) with the Juvenile Detention Alternative Initiative (an Annie Casey project). Shay Farley, Project Director, continues to work with the court staff, by participating in their JDAI Sentencing Alternatives Sub-committee. As the Restorative Justice principles fit within the objectives of this effort, we expect that there will be room for Victim-Offender Conferencing there in 2009. Additionally, we met with Judge Phil Seay, St. Clair County District Judge who expressed interested in this program and we look forward to further discussions in 2009.

In 2009, we plan to continue work in the three county Montgomery area, Lowndes County, Dallas County, and the five county Birmingham area. Our goal is to implement at least two (2) new restorative justice programs each year, if sufficient funding is obtained. We hope these pilot programs will serve as models for other programs around the state in 2010 and beyond.

## KATRINA

Katrina's third anniversary highlighted Appleseed's continuing advocacy in Alabama and Washington for as much as \$332 million in Katrina rebuilding funds for thousands of Alabamians who remain in temporary housing. Appleseed has commended Sen. Richard Shelby's leadership in seeking \$100 million in Community Development Block Grant (CDBG) funds to provide badly-needed rebuilding capacity, primarily aimed at Mobile County. Earlier, Appleseed's Katrina Advocacy Fellow told a congressional panel that he had determined the estimated shortfall for home rebuilding funds in Alabama was at least \$332 million. Testifying May 8, 2008 before the U.S. House of Representatives Subcommittee on Housing and Community Development, Craig H. Baab testified that the large amount of funding not provided initially resulted in wasted time and money, various Fair Housing requirements neglected and most of the available funding of some \$18 million had not been spent to build any but a few destroyed homes.

Also testifying at that hearing was Bill Johnson, Director of Alabama's Department of Economic and Community Affairs, who told the chair, Rep. Maxine Waters, that Alabama's unmet CDBG funding needs amount to some \$90 - 110 million. At that time Sen. Shelby had included \$100 million in an emergency appropriations bill, but that funding later was removed. Shelby made another effort in September by including \$50 million for Alabama CDBG funding, but that money also was stricken. A final effort this year is

pending. Reps. Jo Bonner, Artur Davis and Spencer Bachus also support this additional funding.

Appleseed and Alabama Arise are among a number of faith-based and other groups seeking to assist primarily elderly and poor citizens return to their homes on the Gulf coast. Of the 1200 families who have applied for rebuilding assistance the average household income for 39% is under \$15,000, with many disabled and with children in a home or FEMA trailer headed by a single parent. Appleseed has projected an additional 500 families were cut off from applying for assistance, and is working with the Mobile County Commission to reopen the application process if additional funding is appropriated.



To date approximately 25 families out of the 1200 applicants have received some sort of rebuilding assistance. The remainder celebrated Katrina's third anniversary doubled up with family and friends and some still live in FEMA travel trailers with dangerous levels of formaldehyde. Early in October a

federal judge presiding over the consolidated lawsuits concerned with these trailers held that FEMA should be retained as a potential defendant in what promises to be a drawn-out trial.

## RESTORATIVE JUSTICE

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## Alabama Heir Property Owners Learn to Protect Family Farms

### Pro Bono Law Firms Active Appleseed Partners

Nearly 95% of African-American-owned farmland in Alabama has been lost in the last 50 years, and Appleseed is working to stop this trend. Over 800 Alabamians in 37 of the state's 67 counties have participated in Appleseed's Heir Property Project's public education programs, in partnership with the state's Cooperative Extension System (ACES). These sessions, which began a year ago, provide owners of heir property information and tools with which to keep and maintain their family land, and protect it from loss through tax sales, partition actions or outright fraud.

Heir property is family land passed from one generation to the next without a valid will or deed. Owners often are low-wealth, rural families. Such ownership by the family heirs often grows, after a few generations, to dozens or even hundreds of tenants-in-common. Since each such heir has the same rights as the others to use all the land, agreement by all is required, for instance, to obtain a mortgage or receive FEMA benefits.

Consequently, such poor families usually cannot access the equity in the land which could be used to improve their property,

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### ALABAMA APPLESEED'S STAFF



Shay Farley, J.D.  
*Legal Director*



Zayne Smith, J.D.  
*Immigrant Policy  
Staff Associate*



Craig Baab, J.D.  
*Senior Fellow/Policy  
& Development*



Nichelle L. Williams  
*Health Care Fellow*

# JOIN THE APPLESEED TEAM

## BECOME AN ANNUAL SUPPORTING PARTNER

Join the Alabama Appleseed Team at one of the supporter levels set forth below and become an Annual Supporting Partner. As an Annual Supporting Partner, you will be a part of a growing team of advocates working to make Alabama a better place for all to live and work.

### APPLESEEDS (LAW STUDENTS)

- \$12 per year (\$1/month)
- Be a member of the Alabama Appleseed Law Student Board
- Receive Alabama Appleseed's newsletter "Apple Corps" and Email Alerts
- Invitation to select Appleseed events
- Receive Appleseed T-Shirt

### GREEN APPLES (YOUNG LAWYERS – UNDER 36)

- \$120 per year (\$10/month)
- Be a member of the Alabama Appleseed Junior Advisory Board
- Be a part of the Appleseed team working to improve the lives of all Alabamians
- Receive Alabama Appleseed's newsletter "Apple Corps" and Email Alerts
- Invitation to select Appleseed events
- Receive Appleseed coffee mug and Appleseed Supporter Certificate

### RED APPLES (LAWYERS)

- \$365 per year (\$1/day)
- Be a part of the Appleseed team working to improve the lives of all Alabamians
- Receive Alabama Appleseed's newsletter "Apple Corps" and Email Alerts
- Invitation to select Appleseed events
- Receive Appleseed coffee mug and Appleseed Supporter Certificate

### GOLDEN APPLES (LAWYERS)

- \$1,000 per year
- Be a part of the Appleseed team working to improve the lives of all Alabamians
- Receive Alabama Appleseed's newsletter "Apple Corps" and Email Alerts
- Invitation to all Appleseed events, including the Brewer/Torbert Event
- Receive distinctive Appleseed paperweight
- Receive framed Appleseed Supporter Certificate

### APPLESIDERS (FRIENDS OF APPLESEED/NON-LAWYERS)

- \$365 per year (\$1/day)
- Be a part of the Appleseed team working to improve the lives of all Alabamians
- Receive Alabama Appleseed's newsletter "Apple Corps" and Email Alerts
- Invitation to select Appleseed events
- Receive Appleseed coffee mug and Appleseed Supporter Certificate



## JOIN THE APPLESEED TEAM

- Appleseeds - \$12 per year (Law Students)
- Green Apples - \$120 per year (Young Lawyers, under 36)
- Red Apples - \$365 per year (Lawyers)
- Golden Apples - \$1,000 per year (Lawyers/Non-Lawyers)
- AppleSiders - \$365 per year (Friends of Appleseed/Non-lawyers)

\* Law Firm & Corporation/Business/Foundation affiliations available – contact John Pickens @334/263-0086

Name: \_\_\_\_\_

Address : \_\_\_\_\_

\_\_\_\_\_

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\*Make checks payable to Alabama Appleseed and mail to: P.O. Box 4864, Montgomery, AL 36103-4864

\*\* Join on-line at [www.alabamaappleseed.org](http://www.alabamaappleseed.org)

\*\*\* All Supporter Donations are tax deductible

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## Payday Lending Reaches Epidemic Proportions

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interest rates were allowed to remain high and important consumer protections were not enacted. The current law allows interest of 455 % APR and does not mandate a centralized-database that would track all loans, providers and consumers. A legislative attempt at reform in the 2007 session, unfortunately, stalled in committee. By failing to enact legislation to protect consumers of our state, Alabama lawmakers have allowed payday lending to exploit those caught in the gap between low wages and the cost of getting by.

### **Our Plan**

Building on our work over the past few years, we have designed a two-year project set to begin in January 2009. This project will combine research and data gathering (regarding prevalence, frequency of use, profitability of, and hardships caused by payday loans), public education and awareness (about the perils of payday and similar type loans), development of model and pilot alternatives to payday loans, and advocacy for changes to Alabama's Deferred Presentment Act. Our goal is to end the abuses of payday lending practices, while encouraging the development of lending alternatives to encourage community economic development.

The highlight of our first year will be the convening of a statewide forum on predatory lending with presentations from renowned experts in the field. Invitees to this event will include lawmakers, policy advocates, traditional lending institutions, academia, consumers and media personnel. Besides educating various leaders and key policy makers in our state, one of the primary objectives will be to encourage traditional lenders to develop pilot projects for small loan alternatives for higher-risk, non-traditional borrowers. This collaboration will carry over into our community outreach and financial literacy education focus of the second year.

### **Get Involved**

As with any undertaking of this magnitude, we will depend largely on collaboration with various partners from community organizations, consumer rights, poverty advocates, faith-based groups, and pro-bono legal counsel. If you are interested in assisting us with this effort, please contact Shay Farley for more information.



## ALABAMA APPLESEED

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## Alabama Heir Property Owners Learn to Protect Family Farms (contd.)

plant crops or send a child to college. Furthermore, the large number of family owners makes the property more likely to be lost through a tax sale, taken by neighbors through adverse possession or simply stolen by people who prey on poor people with limited education.

The Extension System's partnership, arranged by Dr. Evelyn Crayton at Auburn University, supports Appleseed's project director, Craig Baab, who has presented most of the programs. Carolyn Gaines-Varner of Legal Services Alabama and John Pollock, Central Alabama Fair Housing Center also have led training sessions. Participants are provided a copy of the excellent educational booklet prepared by Janice Dyer at Auburn, "Heir Property in Alabama."

Appleseed also is partnering with some prominent Alabama law firms providing pro bono support for researching the scope of the problem in Alabama, and organizing how best to provide legal counsel to families needing assistance. Stephen Stallcup and Mel McElroy of Maynard Cooper & Gale PC have participated in training in Anniston and are researching the degree of heir property ownership in Calhoun County.

Gray Borden of Lightfoot Franklin & White LLC and an officer of the State Bar's Young Lawyers Section (YLS), has participated in training in Pickens County, and is heading a project of the YLS to provide pro bono assistance to low-income families. Bradley Arant Rose & White's Kay Baines is developing her firm's pro bono effort. The pro bono leadership of these firms is key to Appleseed's success in seeking solutions to the economic difficulties caused by heir property ownership.

Appleseed's initiative has been generously supported by the AARP Foundation, AT&T Alabama, Alabama Law Foundation, Alabama Civil Justice Foundation and the Alabama Power Foundation.

