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## Head of the class



### Predatory lending cases, with nearly 100 percent payout, top V&S survey

By GUY LORANGER, Staff Writer  
[guy.loranger@nc.lawyersweekly.com](mailto:guy.loranger@nc.lawyersweekly.com)

Seriously, what's the catch? Could it really be possible that there isn't one?

In February and May of last year, Raleigh attorneys John Alan Jones and G. Christopher Olson secured class-action settlements in three predatory-lending cases, *Tillman*, *Richardson* and *Williams*, which netted a combined \$81.25 million.

The settlements rank No. 1 and No. 2 on this year's North Carolina Lawyers Weekly Largest Verdicts & Settlements survey. (*Richardson* and *Williams* were litigated together.) So, maybe the catch is that these were the types of class-action cases where only the attorneys benefited while the class members got something like a coupon, right? Well, no, actually.

The attorneys' firm, Martin & Jones, did benefit. According to court documents, the firm received a combined \$24.3 million in attorney fees.

But that's not the catch. Not at all, really.

First, the firm had to invest 15,500 hours and \$326,739 in the cases over seven years of litigation in state and federal courts — litigation that produced two first-impression rulings that have been widely hailed by consumer-protection experts.

In *Tillman*, the Supreme Court struck a binding mandatory arbitration clause in the loan agreements, marking the first time in North Carolina history that a contract or contractual provision had been

Raleigh attorneys G. Christopher Olson, left, and John Alan Jones secured class-action settlements in three predatory-lending cases that netted a combined \$81.25 million.

Photo by Donn Young.

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deemed unenforceable because it was “unconscionable.”

And in *Richardson*, the Court of Appeals held that a claim could exist for a breach of the duty of good faith and fair dealing for conduct that allegedly occurred during pre-contract negotiations.

Recognizing the potential impact of those decisions on the state’s working poor, the N.C. Justice Center honored Jones and Olson last fall with the 2009 Defenders of Justice Award.

Second, and more to the point, the class members definitely benefited.

The lawsuits had sought a remedy for borrowers who were sold single-premium credit insurance, or SPCI, in connection with certain subprime home-mortgage loans.

In *Tillman*, an estimated 9,670 borrowers were to receive, on average, \$544 each, while 759 borrowers were to collect, on average, \$31,291 each. The roughly 800 members of the class in *Richardson* were to recover an average of \$31,500 apiece.

Not exactly a coupon.

So, the catch would be that, in the end, hardly any of these class members saw a check, right?

Actually, that’s where this gets interesting.

Since the cases wrapped up, Jones, Olson and their firm have been busy doing something rather remarkable — making sure that every single class member is paid. And that was the plan from the start.

“We represented to the court that we were retaining a settlement administrator that we were satisfied would work with us to make a concerted effort to find the people who were entitled to recover, and we represented that to the court because

that’s what we believed,” Jones recently told North Carolina Lawyers Weekly.

“We recognized that it might require us to spend a lot of time on our side and some money, without being compensated or reimbursed for it, but we just felt that strongly about our clients. We felt that it was the right thing to do.”

To date, the firm has achieved a 100 percent payout to the *Richardson* class — seriously, 100 percent — and recently reached 90 percent distribution to the *Tillman* class, with still six more weeks to go until the claims deadline.

“Technically, under the settlement agreement, we could have let it go when the claims administrator reported they had done all they could to track people down through public records searches, but we felt strongly, ‘Let’s see what else we can do on our own to get it as close to 100 percent distribution as we can,’” Olson said.

“Once we figured out the resources available to us, we determined we could find nearly every one.”

Their efforts have included hiring private investigators to track down class members — or, in some cases, their heirs or beneficiaries — and asking the firm’s staff of paralegals to conduct searches through the Internet.

“Our staff members have become very engaged in the process,” Jones said. “I mean, they get really excited when they finally find someone who’s been hard to find.”

Among the finds was one class member who had been surviving from one disability check to the next in Portland, Ore., until her payment of \$35,000 arrived in the mail.

Another member the firm tracked down had been moving between homeless shelters in Charlotte. The firm had to arrange for a safe place where he could pick up his payment.

“He seemed like a guy who had it together at one point before a lot of bad things happened to him, and finally, he had a break go his way, and maybe now he can string some good luck together,” Olson said.

“There were just some heart-warming stories that made both of us feel real good about what we had achieved.”

Of course, there are some class members who still can’t believe there isn’t a catch.

An attorney from Raleigh doesn’t just call you up on a Tuesday night or Saturday morning to tell you he’s giving you money.

“A woman called this morning to tell us to stop sending her letters and that she was reporting us to the State Bar, the attorney general’s office and the Better Business Bureau,” said Olson, who said he finally managed to convince the caller that the letters she had been receiving were legitimate.

Based on several conversations he’s had with class members, Olson said he thinks the lawsuit has changed their perception of lawyers and class-action lawsuits.

In his view, the cases could serve as a reminder to folks that class-action lawsuits “can be a good and important vehicle for resolving disputes, especially consumer disputes, and for providing real relief.”

“There are about 11,500 people who really should have been compensated for what was done to them,” Jones said, “but without a class action, I’m sure none of them would have received a penny.”