Dealing with the Foreclosure Boom

By Nancy Wride

Vincent D. Howard and Damian J. Nassiri are swimming in clients other lawyers might dodge – the kind who can't afford them, the kind who have defaulted on their home loans.

When the Anaheim partners launched their firm two years ago, they weighed how to pair Nassiri's real estate background with that of Howard, who had worked on mass tort cases against Halliburton and pharmaceutical giants.

As foreclosures rose and the economy flattened, the Western State University College of Law classmates said they saw an untapped niche in real estate law: mortgage fraud and predatory lending.

"We figured if we did this, not only would we be providing a service to a bunch of people in California who are going to need it, we would set our firm apart," said Howard, 39, who handles the firm's marketing and personal injury and mass tort cases.

"We take a lot of pride in the fact that none of our clients have lost their homes, so it's actually a lot of fun coming to work every day," said Nassiri, 36, who handles predatory lending and bankruptcy cases.

Already, their young practice has expanded three-fold to meet the demand of frantic homeowners from three Southern California counties fighting to stay in their houses. Early clients were attracted by direct mailers offering foreclosure help, they said. Now they boast word-of-mouth referrals – including attorneys.

"We've even had opposing counsel refer family and friends to us," Howard said.

But the partners, members of the Consumer Attorneys of California, say there is a dire need throughout the state for more attorneys to learn how to help their clients recognize when they've been victims of predatory lending, misrepresentation and violations in federal statutes that protect consumers and borrowers.

Attorneys Vincent D. Howard and Damian J. Nassiri stand with their client, Colleen Johassen, in front of her Placentia home

"Most lawyers just don't get enough cases to gain the experience," Nassiri said. "But the most common argument to make for people is in violations of the Truth in Lending Act. The Federal Reserve promulgates the regulation Z subsection of it. The most common violations are [of] the requirements that terms are clearly and conspicuously disclosed."

"The broker is supposed to be working for the buyer, so buyers trust them. But with what we've seen going on, they're effectively working for the lenders," Nassiri added. "Fraud is a lot more common than people think."

The firm practices other types of law. However, the bulk of the lawyers' work is in halting foreclosures to allow time to negotiate lower loan payments – known as loan modifications – for clients. A majority of all lawsuits are settled, and so it is at Howard | Nassiri. The firm files temporary restraining orders to halt foreclosures but finds the threat of legal action often is enough to force lenders into working out better loan terms for clients.

The heavy case load aside, the practice of helping people with limited funds is not a high profit venture. Many clients are paying their legal bills over time.

"Making a lot of money was not why I got into law," said Howard, who is still paying off formidable student loans of more than $100,000 and supports his 14-year-old boy. "I became a lawyer to make my son proud."

Howard grew up poor in Tennessee and could not afford college, so went straight out of high school into the Army, where he became a military policeman. From 1989-90 he served in Korea and was on the security detail for vice president Dan Quayle and then-Secretary of Defense Dick Cheney.

Discharged from a base near Reno, he went to work with troubled teens at a detention center, and then quit to earn a sociology degree at the University of Nevada, Reno. He had a son and wife, but said the marriage did not survive his 22-unit load and full-time hours as a casino security guard.

At Western State University College of Law, Howard met Nassiri, who grew up in Van Nuys and graduated Cal State Fullerton with a degree in biochemistry. He decided his love of science could be useful in patent law.

Howard worked as a certified law clerk for the Riverside County District Attorney's Office while Nassiri clerked for Justice David G. Sills of the Fourth District Court of Appeal.

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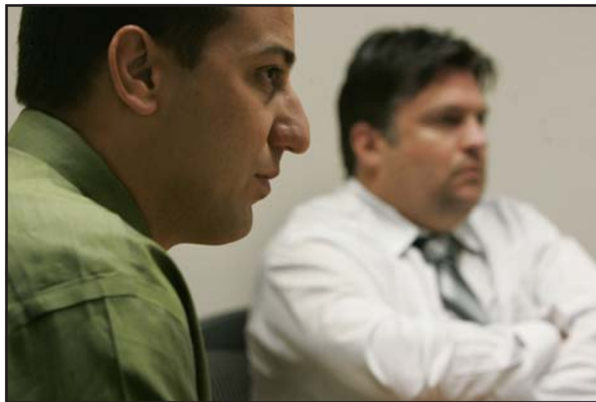
Both passed the state bar in 2004. Howard joined the Newport Beach firm of Lopez, Hodes, Restaino, Milman & Skikos, where his military background proved useful in cases against Halliburton. The firm sued on behalf of 15 killed or injured civilian employees who claimed they were knowingly sent into a part of Iraq that the military had declared lethally high risk.

Nassiri worked for two years for a now-closed Irvine law firm, Claims Legal Management, where he defended real estate agents and brokers charged with liability damages for errors and omissions.

Their firms were closing when they met again, by chance, at a downtown Long Beach cigar bar in 2006. Three months later they opened shop in Santa Ana.

It was February 2007, and they'd followed news reports foreshadowing the housing crisis to come. Still, they said they were stunned by the numbers of people who were bringing in mortgage contracts with loan terms far worse than were merited by their credit history and income. Red flags included interest rates climbing to 13%, the absence of any right to cancellation notice as required in the Truth in Lending Act, and sometimes only a convoluted loan payment schedule in which graduating interest rates were misleadingly reflected and lacked final monthly payment sums.



LEFT: Damian J. Nassiri with client, Curt Reynolds of Corona

BELOW: Damian J. Nassiri and Vincent D Howard

Photos by Karen Tapia, tapiatoo@aol.com

Such was the case for Colleen Johansen.

On a spring evening with her two daughters and grandson nearby on their Placentia patio, Johansen recalled panic gripping her in the face of her escalating debt.

Johansen bought her Placentia condo in June 2005 with a loan that started at 3%. She was surprised that it increased three months after she moved in, and refinanced in early 2007. Like many people who were able to qualify for mortgages with low down payments and easy financing, she presumed that her broker was correct in assuring her that she would just as easily be able to refinance – before her payments ballooned.

Instead, lenders refused to refinance again and her interest jumped to 10% by May 2008. She could not possibly afford that on her salary as a hospital medical transcriptionist, she said. After having also tried unsuccessfully to sell the condo, "I ran scared," she said.

Fearing someone would come pounding on her door, she gave up and, in June, stopped paying on a home she expected to lose. Last July 4th, she moved her family into an apartment and lived in the rental eight months while the condo sat empty.

Then came the mailer from Howard-Nassiri, which urged, "Don't lose your home to foreclosure or stay in an unfair loan another minute." She called them.

The law firm, by threatening to sue lender Indy Mac, halted the advancing repossession. They negotiated Colleen's mortgage payments to 3% for five years, and 5.5% for the remainder. Johansen felt able to return to her home, reassured that she would not again need to uproot her family.

Of Howard and Nassiri beside her on the patio, where grandson Jeremy, 8, played in a cardboard box "house," Johansen said, "They gave me hope."

Nassiri noted that in 2010, another, bigger wave of foreclosures could break, when mortgages from peak years of 2005 through 2007 will start "exploding," another term for ballooning loan payments. Typically, with negative amortization mortgages, that happens after five years.

The partners have been speaking to groups including the Consumer Attorneys of California, bar associations and law schools where they've taught seminars on predatory lending fraud.

"There needs to be a statewide program to train more attorneys to handle these cases," said Howard. "We need to be ready for this problem to grow." ■

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