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FILED

OCT 26 2018 *MB*

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
NORTHERD DISTRICT OF ILLINOIS

**CHRISTOPHER STOLLER and
MICHAEL STOLLER,**

Plaintiffs,

V.

**ALTISOURSE RESIDENTIAL L.P.
ALSOURSE ASSET MANAGEMENT CORPORATION,
ALTISOURCE PORTFOLIO, WILLINGTON TRUST,
N/A, WILMINGTON TRUST
AS TRUSTEE OF ARLP SECURITIZATION TRUST
SERIES 2014-2, OCWEN FINANCIAL
CORPORATION, LESLIE ZIEVE, JOHN C. STEELE,
ZIEVE, BRODNAX AND STEEL, Kim R. Lepore,
Joseph Tirello, , Nathaniel Brodnax,
John C. Steele, WILLIAM C. ERBEY, Stephen H. Gray
Mr. Smith, Bradley Arant Boulton and Cummings, LLP
and Lawyers,
Assignee, agents, John does 1 thru 1**

Defendants

**VIOLATIONS OF
PLAINTIFFS
Civil Rights under Section
1983**

CASE NO:

**1:18-cv-07169
Judge Sharon Johnson Coleman
Magistrate Judge Mary M. Rowland**

**COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND DAMAGES FROM
RACKETEERING, CONSPIRACY TO
ENGAGE IN A PATTERN OF
RACKETEERING ACTIVITY, AND
RELATED CLAIMS;**

JURY DEMANDED:

18 U.S.C. 1961 et seq.;

18 U.S.C. 1964
(Civil RICO

**Remedies); and, Civil and
Political Rights (enacted by
Congress Specific
Reservations) in pari
materia with the Supremacy
Clause in the U.S.
Constitution and Civil Rights
Case**

PLAINTIFFS' COMPLAINT

COMES NOW, Plaintiffs Christopher Stoller, 69, a disabled senior citizen and Michael Stoller¹, a disabled person under the Americans for Disability Act (ADA) and for their Complaint against the above listed Defendant now states as follows:

NATURE OF ACTION

This action is brought against the Defendants for declaratory and injunctive relief and damages from racketeering, conspiracy to engage in a pattern of racketeering activity and related claims, violation of the U.S. Constitution, conspiracy, aiding and abetting, infliction of emotional distress, fraud, willful and wanton misconduct, negligence, retaliation, deceptive trade practices, abuse of process, negligent hiring and supervision, fraudulent misrepresentation/concealment, torturous interference with Plaintiffs' contractual rights, conversion, and participation in a RICO Act Statute enterprise through a pattern of racketeering activity.

PARTIES

Plaintiffs

Plaintiff Christopher Stoller, 69 is a disabled person and a resident of Cook County, Illinois and holds rights to the subject property known as 28437 N. 112th Way, Scottsdale, Az 85262.

Plaintiff Michael Stoller 28. is a disabled person and a resident of Cook County, Illinois, and holds rights to the subject property known as 28437 N. 112th Way, Scottsdale, Az 85262.

¹ Assigns all causes of action, remedies or claims under the law of assignment of causes of action to Christopher Stoller ("Exhibit 1")

Defendants

1. ALTISOURSE Residential, L P. (ARLP) ALTISOURSE Asset Management Corporation (**Altisource**) an, alter ego of Ocwen Financial Corporation² (“Ocwen”), upon information and belief, located at 36C Strand Street, Christiansted, USVI 00820 herein after referred to as “ALTISOURSE,” are at all times herein mentioned a financial institution and/or mortgage loan servicing company, organized and existing under the laws of the United States of America. Engaged in the practice of defrauding people out of their real estate in Illinois and through out the country.

2. William C. Erbey (“Erbey”) individually and in his official capacity, upon information and belief was Chairman and Chief Executive Officer of Ocwen Financial Corporation up and until January of 2015, was forced out³ and now is believed to be operating

² Owen Financial Corporation was sued by the CONSUMER FINANCIAL PROTECTION BUREAU 1700 G Street, NW , Washington, DC 20552 Case DC District Court 1:13-cv-02025-RMC.

³ **New York Department of Financial Services** began investigating the company’s relationship with Ocwen in early 2014. The NYDFS investigation covered Ocwen’s relationship with several of its affiliated companies, all of which were chaired by Ocwen’s founder, William Erbey.

The investigation led to the NYDFS fining Ocwen \$150 million and forcing Erbey to resign from his position as chairman of Ocwen and his position as chairman of several Ocwen affiliates, Altisource Portfolio Solutions, **Altisource Residential Corporation, Altisource Asset Management Corporation, and Home Loan Servicing Solutions.**

<https://www.housingwire.com/articles/39255-altisource-portfolio-solutions-to-pay-32-million-to-settle-class-action-suit-over-ocwen-relationship>

Before the investigation became public knowledge, Altisource Portfolio Solutions peaked at more than \$170 per share in December 2013. Then, over the course of the investigation, the company’s stock dropped precipitously.

Altisource unlawfully out of the Virgin Islands and is in Charge and all of the officers, agents, servants and employees under his control. Erbey's is liable under the Doctrine of Respondent Superior under the Pinkerton Theory of Liability⁴ and the inequitable conduct of the agent⁵ *Pinkerton v. United States of America*, 90 L.Ed 1484, 328 US 640. Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct.

3. Altisource Portfolio Solutions, S.A. ("Altisource") upon information and belief is another "shell" entity originally set up by Erbey to act under the color of law with Ocwen⁶ to defraud property owners out of their homes by offering their services for financial services corporations which have loaned and/or are servicing mortgage loans to home owners. Altisource⁷ operated out of the same location that Owen. Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct.

⁴ Under the Pinkerton Theory of Liability, a defendant may be found guilty of a substantive offence committed by a co-conspirator if the offence was committed in furtherance of the conspiracy at the time the defendant was a member of the conspiracy; this is true even if the defendant neither participated in nor had knowledge of the substantive offense.

⁵ A principal seeking specific performance may be bound by an agent's inequitable conduct. *E.g.*, *Handelman v. Arquilla*, 95 N.E. 2d 910, 913 (Ill. 1951) (rejecting specific performance based on agent's material misrepresentation); *Alexander v. Hughes*, 472 P.2d 818, 819-20 (Or. 1970) (affirming the denial of specific performance when the agent misled the opposing party about the nature of the document signed). The restatement and the cited cases are consistent with the duties of both agents and principals owed to the third parties in the context of the sale of real property. See *Lombardo v. Albu*, 199 Ariz. 97, 100-01, §§13-15, 14 P.3d 288, 291-92 (2000) (noting common law and regulatory duties). In addition, the rule that the principal is bound by his agent's conduct is consistent with long-established principles of equity.

6

Altisource Portfolio Solutions to pay \$32 million to settle class action suit over Ocwen relationship Investors sued when stock plummeted after New York Department of Financial

services investigation *February 17, 2017 Ben Lane*

<https://www.housingwire.com/articles/39255-altisource-portfolio-solutions-to-pay-32-million-to-settle-class-action-suit-over-ocwen-relationship>

⁷ When plaintiff refers to Ocwen it is also referring to Altisource, its alter ego.

4. Stephen H. Gray, the Trust Manager for Altisouce Residential, L.P. who is charged with perjury for submitting a fraudulent "Affidavit of Fraudulent Recording" marked as **Exhibit 7** which slandered the Plaintiff's title, causing an injury preventing the Plaintiff from selling his property, refinancing it or getting a home improvement loan. A malicious and deliberate attempt to put a "cloud" on the Plaintiff's title.

5. Kim R. Lepore, Esq., an attorney with the law firm of Wright Finlay & Zak LLP located at 16427 N. Scottsdale Rd Suite 300, Scottsdale, Arizona 85254 is also charged with subornation of perjury for drafting the said "perjured" Affidavit of Fraudulent Recording which was recorded with the Maricopa County Recorder's Office ⁸.

6. Joseph Tirello, of the Law Offices of Zieve, Brodnax & Steele LLP, individually and in his official capacity for engaging in a RICO enterprise and at all times mentioned herein, advises/consults and is a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendants to defraud the Plaintiff out of his property rights through assisting the Defendants to engage in sending through the mail a unlawful Notice to Vacate, **Exhibit 1** Plaintiff's property under the color of the law thereby denying the Plaintiff his due process and equal protection rights. Tirello is aiding and abetting the defendants in their racketeering scheme to defraud the Plaintiff's out of their property rights. Mr. Tirello used the U.S Mail to send his fraudulent Notice to Vacate **Exhibit 1**.

7. Nathaniel Brodnax ("Brodnax"), of the Law Offices of Zieve, Brodnax & Steele individually and in his official capacity for engaging in a RICO enterprise and at all times mentioned herein, advises/consults and is a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendants to defraud the Plaintiff out of his property rights through

⁸ Kim Lepore used the U.S Mails to receive a recorded copy of the fraudulent Affidavit after she used the U.S. Mail to file it. Mail fraud.

assisting the Defendants to engage in unlawful extortion by sending a fraudulent a Notice to Vacate through the mail under the color of the law thereby demanding possession of the Plaintiff's property that the Plaintiff denying the Plaintiff his Illinois State due process and Illinois State equal protection rights. Brodnak is liable under the Doctrine of Respondent Superior, the Pinkerton Theory of Liability and under the liability theory that principles may not benefit from the inequitable conduct of their agents. Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct.

8. John C. Steele ("Steele"), of the Law Offices of Zieve, Brodnan, & Steel, individually and in his official capacity for engaging in RICO enterprise and at all times mentioned herein, advises/consults and is a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendants to defraud the Plaintiff out of his property rights through assisting the Defendants to interfere with Plaintiff Civil Rights to be free to enjoy their property rights under the color of the law thereby denying the Plaintiff his Illinois State due process and equal protection rights. Steele is liable under the Doctrine of Respondent Superior, the Pinkerton Theory of Liability and under the liability theory that principles may not benefit from the inequitable conduct of their agents. Agent's inequitable acts may be imputed to the principle whether or not the principle knew of the agent's misconduct.

9. This action⁹ is also brought against DOES 1 through 10, which may include Defendants' lawyers, predecessors, partners, associates, agents, employees, affiliates and subsidiaries, which hereafter are also included in the term "Defendant." Plaintiff is ignorant to the true names and a capacity of Defendants sued herein as DOES 1 through 10 and therefore

⁹ Michael Stoller, 26, the current owner of the property (Assignor) assigns, grants, transfers and conveys unto Christopher Stoller and/or Leo Stoller under the Law of Assignment of causes of action any and all causes of action, remedies or claims and the right to prosecute such causes of action in the name of the Assignor.

sues these Defendants by such fictitious names. Plaintiff will add their names to the Complaint to allege their true names and capacities when ascertained.

10. Plaintiff believes and thereon alleges that at all times herein mentioned, each of the remaining Defendants and was at all times acting within the purpose and scope of such relationship, or alternatively while purporting to act within the purpose and scope of such relationship, exceeded said authority, or alternatively, while purporting to act to further the purpose of said relationship, instead engaged in self-dealing and acted to harm said relationship or alternatively colluded and conspired with other Defendants or all of them in the harms alleged herein.

JURISDICTION AND VENUE

DIVERSITY JURISDICTION EXISTS

11. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1), because complete diversity of citizenship exists between Plaintiffs and Defendants and the amount in controversy exceeds the sum or value of \$75,000, excluding interest and costs. In addition, none of the Defendants are citizens of Illinois.

A. Diversity of Citizenship.

a.. Plaintiffs Michael Stoller and Christopher Stoller are admitted citizens of the State of Illinois.

12. This Court has jurisdiction over the subject matter of this action and over Defendants. The Complaint states claims upon which relief may be granted against the Defendants. Venue is appropriate in this District.

13. The Defendants do business in all fifty states¹⁰ and in this District. False statements were made and acts giving rise to the violations complained of which occurred in this District in connection with the acts alleged in this Complaint, Defendants directly or indirectly used the means and instrumentalities of interstate commerce including but not limited to the U.S. mail, emails, cell phones, and interstate telephone communications.

14. Jurisdiction is proper in this Court. This Court may exercise supplemental jurisdiction over the state law claims because of all the claims are derived from a common nucleus of operative facts and are such that the Plaintiffs ordinarily would expect to try them in one judicial proceeding.

15. Venue lies within this judicial district because the Defendants' contacts are sufficient to subject them to personal jurisdiction in this District and therefore, Defendants reside in this District for purposes of venue, because certain acts giving rise to the claims at issue in this Complaint occurred among other places in this District.

16. The Court is requested to enter an injunction to prohibit the Defendants from obtaining possession of the Plaintiffs' family home, located at 28437 N. 112th Way, Scottsdale, Arizona, tax parcel number 216-74-044-9.

17. Plaintiffs requesting this Court enter an injunction against the defendants from obtaining possession of their family home.

NATURE OF THE CASE

18. This case involves a scheme where the defendants, nationally known mortgage foreclosure fraudsters, use the U.S Mail to sent out a Notice to Vacate (Exhibit 1) to litigamate

¹⁰ Ocwen has admitted in a Sec Form 10-K filing period ending December 31, 2013, that the mortgage properties securing the residential loans that they service are geographically located throughout all fifty states, the District of Columbia and two U.S. Territories.

property owners and record affidavit(s) (Exhibit 7) with the County Recorder's office in order to slander the title(s) of property owners including the Plaintiff's property, know as 28437 North 112th Way, Scottsdale, Maricopa County Arizona Assessor's Parcel Number 216-74-044 (the subject property) which is part of a Racketeer Scheme employed by the defendants to defraud lawful property holders out of their property for which the defendants have already paid several billion dollars in fines, in violation of a consent decree (**Exhibit 5**).

19. Although Defendant Ocwen has entered into a series of consent judgments (**Exhibit 5**) i.e. *Consumer Protection Bureau and 49 State Attorney General v. Ocwen Financial Corporation and Ocwen Loan Servicing, LLC*, which provides:

"Ocwen is in violation of paragraph A of the Consent Judgment, (aided and abetted by all of the Defendants) – Servicer shall ensure that factual assertions made in pleadings (complaint, counterclaim, cross-claim, answer or similar pleadings), bankruptcy proofs of claim (including any facts provided by Servicer or based on information provided by the Servicer that are included in any attachment and submitted to establish the trust of such facts (POC), Declarations, affidavits, and sworn statements filed by or on behalf of Servicer in judicial foreclosures or bankruptcy proceedings and notices of default, notices of sale and similar notices submitted by or on behalf of Servicer in non-judicial foreclosures are accurate and complete and are supported by competent and reliable evidence. Before a loan is referred to non-judicial foreclosure, Servicer shall ensure that it has reviewed competent and reliable evidence to substantiate the borrower's default and the right to foreclose, including the borrower's loan status and loan information."

Wellington Trust N.A. and Ocwen were notified that the Plaintiff has superior rights over a long period of time to the subject property they refused to take any remedial action to vacate their Notice to Vacate Exhibit 1 and have threatened to file an eviction lawsuit.

20. Ocwen uses an enterprise of affiliate shell companies ie Altisource in order to defraud the Plaintiff. Namely Ocwen Financial Servicing, LLC, Western Progressive Arizona,

Inc., Premium Title Services, Inc. Altisource¹¹ Portfolio Solutions SA, which are aided and abetted by Defendants .

21. The Defendants ongoing racketeer scheme to defraud property owners out of their real estate has not been prevented by the numerous Consent Judgments (**Exhibit 5**) which total 2.2 Billion Consent Judgment of nationwide foreclosure fraud¹².

¹¹ Deutsche Bank, Ocwen Financial, and Altisource Accused of Racial Discrimination in 30 U.S. Metro Areas February 1, 2018 : Jessica Aiwyor WASHINGTON, D.C. — Today, the National Fair Housing Alliance (NFHA) and 19 fair housing organizations from across the country filed a housing discrimination lawsuit in federal district court in Chicago, IL against Deutsche Bank; Deutsche Bank National Trust; Deutsche Bank Trust Company Americas; Ocwen Financial Corp.; and Altisource Portfolio Solutions, Inc. Ocwen and Altisource are the servicer and property management company responsible for maintaining and marketing a large number of Deutsche Bank's properties. <https://nationalfairhousing.org/2018/02/01/deutsche-bank-ocwen-financial-and-altisource-accused-of-racial-discrimination-in-30-u-s-metro-areas/>

¹² CFPB, State Authorities Order Ocwen to Provide \$2 Billion in Relief to Homeowners for Servicing Wrongs DEC 19, 2013

WASHINGTON, D.C. — Today, the Consumer Financial Protection Bureau (CFPB), authorities in 49 states, and the District of Columbia filed a proposed court order requiring the country's largest nonbank mortgage loan servicer, Ocwen Financial Corporation, and its subsidiary, Ocwen Loan Servicing, to provide \$2 billion in principal reduction to underwater borrowers. The consent order addresses Ocwen's systemic misconduct at every stage of the mortgage servicing process. Ocwen must also refund \$125 million to the nearly 185,000 borrowers who have already been foreclosed upon and it must adhere to significant new homeowner protections.

"Deceptions and shortcuts in mortgage servicing will not be tolerated," said CFPB Director Richard Cordray. "Ocwen took advantage of borrowers at every stage of the process. Today's action sends a clear message that we will be vigilant about making sure that consumers are treated with the respect, dignity, and fairness they deserve."

The proposed Ocwen Consent Order is available

at:http://files.consumerfinance.gov/f/201312_cfpb_consent-order_ocwen.pdf

Ocwen, a publicly traded Florida corporation headquartered in Atlanta, Ga., is the largest nonbank mortgage servicer and the fourth-largest servicer overall in the United States. As a mortgage servicer, it is responsible for collecting payments from the mortgage borrower and forwarding those payments to the owner of the loan. It handles customer service, collections, loan modifications, and foreclosures.

22. Litigation has been brought upon Ocwen by the Consumer Finance Bureau. 49 Attorney Generals of the United States and the District of Columbia has done nothing to quell the countless fraudulent mortgage foreclosure actions including the case at bar. This criminal behavior has dated back to 2009, four years prior to the settlement.

FACTUAL BACKGROUND

23. Plaintiff Christopher Stoller, purchased property known as 28437 N. 112th Way, Scottsdale, AZ from Philip Stone for consideration, at a real estate closing, who Quit Claimed his interest to Christopher Stoller Pension and Profit Sharing Plan Limited (CPPSP) on September 19, 2008. This was recorded in the Maricopa County Recorder's Office on September 22, 2008 under 2008-0815422.

24. On September 19, 2008, Philip Stone transferred and conveyed to CSPPS, a Bahamas Corporation and/or Christopher Stoller and Leo Stoller (collectively Assignees) under the Law of Assignments of Causes of Action insofar as permitted by law, forever, any and all causes of action, remedies or claims now or in the future, that Assignor CSPPSP have against any party, not limited to financial institutions, contractors, builders and their employees, affiliates, successors and assigns, et al., as well as the right to prosecute such causes of action in the name of the Assignor or Assignees or any of them and the right to settle or otherwise resolve such causes of action as Assignees sees fit, regarding the following real property in Maricopa County, State of Arizona:

Lot 3, Pinnacle Foothills, according to Book 398 of Maps, Page 50, and Affidavit of Correction recorded in Document No: 96-0145582, records of Maricopa County, Arizona. Assessor's Parcel Number: 216-74-044.

Commonly known as: 28437 N. 112th Way,
Scottsdale, Arizona 85262.

Notice(s) of Lis Pendens were filed by Christopher Stoller on the subject real estate on December 29, 2008 under No: 2008-1090943 with the Maricopa County Recorder's Office and another Lis Pendens filed on December 2, 2013 under No: 20131025435.

25. The Plaintiff's do not owe any delinquency payments nor did Philip Stone owe any unpaid principle balances on said property. All of Philip Stone's debts were discharged in his Bankruptcy ("**Exhibit 3**"). This fact is well known to the Defendants, yet the Defendants still were attempting to collect on debts which violates the Federal Debt Collection Act and the Illinois Consumer Fraud Act.

26. Philip Stone's Promissory Note secured by a Deed of Trust and the Adjustable Rate Note together was cancelled as a result of the United States Bankruptcy Code 10-11558-17. Christopher Stoller filed a full Release and full Re-Conveyance of said Deed of Trust and all other debts in connection with same including the Adjustable Rate Note secured by the Deed of Trust was filed with the Maricopa County Recorder's Office on August 1, 2014, under no: 2014-0512240 ("**Exhibit 4**").

27. Defendant Joseph Tirello, on behalf of his client Alisourse caused to be sent through the mail an unlawful Notice to Vacate **Exhibit 1**. Joseph Tirello informed the Plaintiff that unless the plaintiff surrenders possession of his home immediately 28437 N 112th Way, Scottsdale, Az 85262 that he will file an eviction lawsuit.

28. This fraudulent behavior has been the practice of the Defendants into defrauding the Plaintiff and thousands of others out of their family homes. The Defendants have engaged in criminal behavior and engaged in subornation of perjury by causing false and fraudulent documents to be filed with the Maricopa Recorder's Office and sent through the mail for a long

period of time.. Ocwen to date has paid out billions of dollars in settlement judgments to victims of their fraudulent and criminal behavior.

29. The Consumer Financial Protection Bureau and forty-nine (49) State Attorney Generals have sued Ocwen Financial in a civil action, case no: 13-2025 in the District Court for the District of Columbia. Plaintiff incorporates this Complaint herein by reference, paragraph by paragraph, reasserts, repleads and realleges and fully integrates in support of this Complaint. Ocwen entered into a settlement Consent Judgment (Doc 12; case no: 13-2025) incorporated herein by reference as if fully copied and attached and fully integrated into this Complaint.

30. Since the Consent Judgment was entered there has been over three thousand lawsuits filed against Ocwen and their affiliates for engaging in mortgage fraud, security fraud, violating bankruptcy injunctions and collecting debts that have already been discharged as in the case at bar. Plaintiff incorporates by reference the following lawsuits filed against paragraph by paragraph in support of his Complaint: *Norbert Tuseo v. Ocwen Financial Corp, et al.*, District Court Southern District of Florida, West Palm Division, case no: 14-cv-81064; *Department of Financial Services In the Matter of Ocwen Loan Servicing, LLC*; *Walden v. Ocwen Loan Servicing, LLC*, U.S.D.C. Northern District of Florida, case no: 13-cv-361; *Commissioner of Business over sight v. Ocwen Loan Servicing, LLC*, case no: 2014-100930; *David Weiner v. Ocwen Financial Corporation et al*, U.S.D.C., Eastern Division of California, case no 14-cv-2597; *Julie Seiortino et al v. Ocwen Loan Servicing, LLC*, U.S.D.C. Northern District of Georgia, Atlanta Division, case no: 13-cv-00732; and *Myrtle Carr et al v. Ocwen Loan Servicing, LLC*, case no: 13-cv-732-JCF.

31. The Examination Findings of the Consent Judgment that was entered against Ocwen specifically state:

Examination findings means Report of Examination and related inquires and investigations by the State Mortgage Regulators that identified practices that may otherwise violate the laws and regulations of the participating states and related Federal Law including but not limited to the allegations and Releases that are the basis of the Consent Judgment and specifically include:

- a. Lack of controls related to document execution, including evidence of robo-signing, unauthorized execution, assignment backdating, improper certification and notarization, chain of title irregularities and other related practices affecting the integrity of documents relied upon in the foreclosure process;
- b. Deficiencies in loss mitigation and loan modification processes, including but not limited to:
 1. Failure to effectively communicate with borrowers regarding loss mitigation and other foreclosure avoidance alternatives;
 2. Failure to account for documents submitted in tandem with application for loss mitigation assistance;
 3. Lack of reasonable expedience in approving or denying loss mitigation applications;
 4. Providing false or misleading reasons for denial of loan modifications; and
 5. Failure to honor the terms loan modifications for transferred accounts and continued efforts to collect payments under the original note terms.
- c. Lack of controls related to general borrowers account management, including but not limited to:
 1. Misapplication of borrower payments;
 2. Inaccurate escrow accounting and statements; and
 3. Assessment of unauthorized fees and charges.
- d. Inadequate staffing and lack of internal controls related to customer service;
- e. Deficiencies in control and oversight of third-party providers, including but not limited to, local foreclosure counsel;
- f. Deficiencies in document maintenance processes, including but not limited to, failure to produce documents requested in tandem with examinations; and

- g. Deficiencies in management control and supervision necessary to ensure compliance with applicable law and regulations.

COUNT I

Consumer Violation of the Illinois Fraud and Deceptive Act

32. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs. This action arises out of Defendants' illegal efforts to use the U.S Mail to send a Notice to Vacate and to threaten the plaintiffs' with an eviction unless the plaintiffs agree to immediately surrender possession of their property to the Defendants.

33. Defendants have previously sent out over 5,500 unlawful debt collection letters in the State of Illinois, see official transcript at Page 7, Lines 22-25. Defendants are engaged in a criminal enterprise to defraud the Plaintiff and other home owners out of their properties..

34. Plaintiff has been damaged by the unlawful conduct of the Defendants.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests leave to have punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262..

COUNT II

Fraud and Deceptive Trade Practices

35. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

36. The Defendants had constructive notice of this fact Christopher Stoller and/or Michael Stoller are the owners of the subject property.

37. The defendants' letter to Vacate and threat to evict the defendant's clearly violated the Illinois Consumer Fraud and Deceptive Act.

38. Plaintiff has been damaged by the unlawful conduct of the Defendants.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262..

COUNT III

Failure to Comply with Applicable Law

39. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

40. Defendants knowingly, willfully and with malice have attempted to defraud the Plaintiffs' out of their property.

41. In addition to the violations of the State of Illinois alleged above, the conduct of the Defendants as set forth above constitutes unfair or deceptive acts of practice, fraud, conspiracy, civil racketeering, unjust enrichment and violations of the Plaintiff's State of Illinois due process and equal protection rights under the Amendments of the Illinois Constitution.

42. Defendants' actions as set forth above occurred in the conduct of trade or commerce. Defendants' actions are part of a scheme to defraud the Plaintiff by using the U.S. Mail, email, faxes, and telephone communications which predicate acts of Illinois State RICO acts..

43. Defendants are liable to the Plaintiff for damages in sums to be shown according to proof, in addition to attorney fees and costs. Additionally, Plaintiff is entitled to a permanent injunction barring the Defendants from selling the Plaintiffs property to a third party.

44. Defendants have a history of defrauding property owners including the Plaintiff out of their property rights for many years. This fraudulent practice has to be stopped and Defendants have proven that Court Orders, Consent Judgments, Consent Decrees ("**Exhibit 5**"), cannot deter the Defendants from stopping their criminal acts.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT VI

Document Fraud

45. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

46. Defendants each are charged with forgery, counterfeiting, altering and/or falsifying documents, falsely making a fraudulent Adjustable Rate Note in order to provide the Defendants, under the color of law, the right to foreclose on the Plaintiff's property.

47. Defendants admit they conspired together to forge, counterfeit, alter and/or falsify documents and falsely making a fraudulent recordings with the Maricopa County Recorder's Office in an attempt to establish ownership in the Plaintiff's property ..

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maricopa County Recorder's Office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT V

Counterfeiting and Forgery

48. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

49. Defendants caused a counterfeit contract assignment to Willington Trust, N.A., and Notice of Trustee Sale to be filed in the Maricopa County Recorder's Office under the color of law in order to give the Defendants Standing to unlawfully foreclose on the Plaintiff's property and failed to give notice to the Plaintiffs.

50. Defendants caused the said counterfeit documents to contain a forged signature of Laurie Meder on the Adjustable Rate Note which was sent to the State of Illinois.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT VI

Tortious Inducement of Breach of Fiduciary Duties¹³

51. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

52. Defendant Smith was appointed to monitor and to enforce the Consent Judgment that was entered against Ocwen in case no: 13-cv-2025.

53. Defendants have colluded with Defendant Smith in committing the breach of his duties.

54. Defendant Smith has breached and failed in his responsibilities to determine whether servicer was in compliance with the servicing standards and whether servicer has

¹³ Under Illinois law Tortious inducement of breach of fiduciary duties requires the Plaintiff to prove that (1) the Defendant colluded with a fiduciary in committing a breach; (2) the Defendant knowingly colluded in or induced the breach; (3) the Defendant knowingly accepted the benefits from that breach. *Borsellino v. Goldman Sachs Group, Inc.*, 477 F. 3d 502, 508-09 (7th Cir. 2007).

satisfied the Consumer Relief requirements in accordance with the authorities provided when Smith knew or should have known that Ocwen was not in compliance.

55. Defendant Smith's work plan was a sham. Smith conspired with Ocwen for the sole purpose of not enforcing the terms and conditions of the settlement agreement.

56. There is an actual connection between the Defendants Smith and the Office of Mortgage Oversight's conduct and their lack of effective monitoring which in turn caused the Plaintiff to bring a cause of action against Ocwen.

57. The Defendants are directly responsible for the proximate cause for the harm that Ocwen continues to inflict on property owners due to their failure of enforcing the Consent Judgment.

58. Defendants Smith and Office of Mortgage Oversight used their appointment as monitor to benefit themselves with the fees that were received for this assignment.

59. Defendants knowingly induced the breach and Defendant Smith has accepted benefits from that breach.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT VII
Civil Conspiracy¹⁴

60. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

61. Defendants conspired with each other to accomplish by concerted action the unlawful act of filing using the mail to send a fraudulent Notice to Vacate **Exhibit 1**) in order to defraud the Plaintiff out of his property rights in the subject property.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT VIII
Consumer Fraud

62. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

63. Defendants fraudulent Notice to Evict **Exhibit 1** occurred in the course of conduct involving trade or commerce.

¹⁴ Elements of civil conspiracy is a combination of two or more persons for the purpose of accomplishing either an unlawful purpose of a lawful purpose by unlawful means in a concerted action and in furtherance of which one of the conspirators committed an overt tortious or unlawful act. *Fritz v. Johnston*, 209 Ill. 2d 302, 807, N.E.2d 461, 470, 282 Ill. Dec. 837 (Ill. 2004).

64. Plaintiff asserts that the Defendants engaged in deceptive or unfair practices by manufacturing a fraudulent Notice to Vacate (Exhibit 1, in order to violate the Illinois Consumer Fraud and Deceptive Practice Act.

65. The Plaintiff was damaged by the Defendants continuous fraudulent behaviors.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT IX

Deceptive Trade Practices

66. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

67. This count is a deceptive business practice action against each of the Defendants individually and in their official capacity.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing

the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT X

Aiding, Abetting and Conspiracy¹⁵

68. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

69. Ocwen/ ALTISOURSE Joseph owed a duty to the Plaintiff and they failed on all accounts. They also had a duty not to defraud the Plaintiff and yet again failed.

70. The Defendants were aware of the duty that all of the Defendants owed the Plaintiff and yet they all conspired to defraud the Plaintiff.

71. Defendant law firm in this case have directly assisted their client, Ocwen/ ALTISOURSE in attempting to defraud the Plaintiff out of their property rights..

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests leave for punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order

¹⁵ Aiding and abetting and conspiracy claims find their roots in criminal law. In the civil context, they lead to liability for those who help other actors or a main actor (usually for lawyers it is the client) to commit some tort against a third party. In practice, this often involves a claim that the lawyer helped their client either commit a fraud on a third party or breached some duty (usually fiduciary) to a third party. When brought against lawyers, these in-concert liability claims in most jurisdictions, involve the following elements (1) a duty owed by the client to a third party; (2) the lawyer is aware of the duty owed by the client to the third party; (3) that the client breaches that duty and/or commits a tort against that third party; (4) that the lawyer is aware of the breach and/or tort committed by the client; (5) that the lawyer assists the client in committing the tort and/or breach of; and (6) that the third party suffers some damage. *Thornwood v. Jenner & Block*, 344 N.E.2d 15 Ill. App. (2003)

removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT XI

Negligent Hiring and Supervision

72. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

73. Defendants have admitted and the state mortgage regulators have identified practices of the Defendant which established the essential elements in this claim of negligent hiring and supervision which are memorialized in the Consent Judgment.

74. ALTISOURSE lacks control over its employees and supervision related to document execution including but not limited to the fact that they knew or should have known that their employees engaged in unlawful robo-signing, unauthorized execution of documents, assignment backdating, improper certification of documents and notary fraud, creating real estate chain of title, and Ocwen ALTISOURSE's employees engaged in other unlawful practices affecting the integrity of documents relied upon in the foreclosure process. A fraudulent Notice of to evict was created and fraudulently mailed (Exhibit 1).

75. Lack of supervision which creates employees are allowed and encouraged to create deficiencies in loss mitigation, loan modification process, including but not limited to:

- a. Employees who fail to effectively communicate with borrowers regarding loss mitigation and other foreclosure avoidance alternatives;
- b. Employees failure to account for documents submitted in tandem with application for loss mitigation assistance;
- c. Lack of supervision and in fact no supervision in eth expedience in approving or denying loss mitigation applications;

- d. Supervision which encourages employees to provide false or misleading reasons for denial of loan modification; and
- e. Supervision of employees who fail to honor the terms of loan modifications for transferring accounts and continued efforts to collect payments under the original Note terms.
- f. Preparing false documents to Willington Trust, N.A.

76. Ocwen/ ALTISOURSE has admitted to and the state mortgage regulators have identified the practices which establish the central elements of a claim for negligent hiring and supervision in the Consent Judgment.

77. Ocwen admits that there is a lack of control related to general borrower account management including but not limited to:

- a. Misapplication of borrower payments in accurate escrow accounting and statements;
- b. Assessment of unauthorized fees and charges;
- c. Inadequate staffing of internal controls related to customer service;
- d. Deficiencies in control and oversight of third party providers, including but not limited to Defendants' counsel;
- e. Deficiencies in document maintenance process, including but not limited to failure to produce documents requested in tandem with examinations; and
- f. Deficiencies in management control and supervision necessary to ensure compliance with applicable laws and regulators.
- g. Preparing false documents to Willington Trust, N.A.

78. All of the Defendants charged herein are well aware of these deficiencies that combined amount to nothing less than a criminal enterprise and all of the Defendants aided and abetted Ocwen/ ALTISOURSE to conduct their Rackettering operation in violation of the RICO

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order removing the fraudulent affidavit (**Exhibit 7**) from the Maracopa County Records office and barring the

defendant's from encumbering the plaintiff's property known as 28437 N. 12th Way, Scottsdale, Arizona 85262. To pay attorney fees and costs.

COUNT XII

Violation of the Federal Racketeering influenced and Corrupt Organizations

79. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

The Enterprise

80. Defendants at all relevant times are in violation of Federal Racketeering Act. All employees including their directors, employees, agents and vendors conducted the affairs associated-in-fact enterprise, as the term is defined in the Racketeering Act. The "Ocwen/ ALTISOURSE Enterprise" and the affairs of the Willington Trust, N.A. and Ocwen Enterprise affect the interstate commerce through a pattern of racketeering activity.

81. The Willington Trust, N.A. and Ocwen/ ALTISOURSE Enterprise is an ongoing continuing group or unit of persons and entities, law firms which are associated together for the common purpose of limiting costs and maximizing profits by fraudulently foreclosing on property owners throughout the United States and obtaining possession of their properties through fraudulent Notice to Vacate letters sent through the U.S. Mail;

82. While the members of the Willington Trust, N.A. and Ocwen/ ALTISOURSE Enterprise participate in and are part of the enterprise they also have an existence separate and distinct from the enterprise. The Willington Trust, N.A. and Ocwen/ ALTISOURSE Enterprise has a systematic linkage because there are contractual relationships, agreements, retainer agreements, financial ties, and coordination of activities between the Defendants.

83. The Willington Trust, N.A. and Ocwen/ ALTISOURSE Enterprise according to policies and procedures developed and established by its executives, Ocwen control and directs the affairs of the Enterprise and uses other members as instrumentalities to carry out its fraudulent schemes.

84. Policies and procedures which were created by Ocwen/ ALTISOURSE executives and admitted to in the Consent Judgment (**Exhibit 5**) clearly establish the unlawful behavior of the Willington Trust, N.A. and Ocwen/ ALTISOURSE Enterprise.

Predicate Acts

85. Willington Trust, N.A. and Ocwen Enterprise's systematic scheme to defraud home owners out of their property and to unlawfully send over 265,000 fraudulent collection letters¹⁶ and Notices to Vacate were facilitated by the use of the United States postal system. Ocwen scheme constitutes racketeering activity and acts of mail and wire fraud under the RICO Act.

86. In violation of the RICO Act the Willington Trust, N.A. and Ocwen/ ALTISOURSE Enterprise utilized the mail and wire in furtherance of their scheme to defraud home owners out of their property rights. Ocwen/ ALTISOURSE sent out false collection letters, fraudulent mortgage foreclosure trustee sale documents, fraudulent Notices to Vacate (See **Exhibit 1**), submitted fraudulent affidavit's to county recorders' offices to unlawfully encumber a parties real estate (Exhibit 7)¹⁷ failed to provide proper Notices to the home owners and foreclosed on properties which deprive home owners of their due process rights. Ocwen has also placed insurance on the home owner's property without permission of the property owners.

¹⁶ 265,000 counts of mail fraud.

¹⁷ In order to paralyze the property owner prior to unlawfully acquiring their real estate. In the same way a snake will bite its victim, before killing it.

87. Ocwen/ ALTISOURSE has used the internet, telephone and facsimile transmissions to fraudulently communicate false information regarding the property owners' loans, fees to borrowers to pursue and achieve their fraudulent scheme. The Ocwen/ ALTISOURSE Enterprise engaged in repeated acts of wire fraud in violation of the RICO Act.

88. The Ocwen/ ALTISOURSE Enterprise's knowledge that its activities are fraudulent and unlawful is evidenced by Ocwen's own employees i.e. Chirag Patel's admission and John Bombella, who admitted to the Plaintiff that the Assignment was fraudulent and Bombella gave Willington Trust, N.A. the Assignment that Kasandra Wittmayer committed notary fraud ("Exhibit 15") because John Bombella never appeared before her as she attested to on April 14, 2015.

89. The predicate acts specified above constitute a pattern of racketeering within the meaning of the Racketeering Act, in which the Ocwen/ ALTISOURSE Enterprise has engaged in for years.

90. All of the predicate acts of the racketeering activity described herein are part of the nexus of the affairs and functions of the Ocwen/ ALTISOURSE Enterprise's racketeering enterprise.

91. The racketeering acts committed by the Willington Trust, N.A. and Ocwen/ ALTISOURSE Enterprise employed a similar method and were related with a similar purpose and involved similar participation with a similar impact on the Plaintiff.

Ocwen/ ALTISOURSE Enterprise Scheme

92. Defendants have been able to capitalize on the inherent flaws in the non-judicial foreclosure process scheming over 265,100 innocent home owners out of their homes.

93. Non-judicial foreclosures are private debt collection procedures conducted without participation by the Court¹⁸ and without any due process requirements.¹⁹

94. The Willington Trust, N.A. and Ocwen ALTISOURSE Enterprise scheme is simple. Ocwen/ ALTISOURSE acts like a debt collector but instead of acquiring for example consumer debt from credit cards and then going after the parties who owe the credit card debt, Ocwen ALTISOURSE acquires the right to service the mortgage debt. Ocwen ALTISOURSE then acquires the rights to the bad mortgages for less than the value of the mortgage. Ocwen ALTISOURSE then forecloses on the distressed property owners without notice; sending Notices to Vacate (**Exhibit 1**) they sell their homes for near the market value and pocket millions of millions of dollars. They have on retainer a series of law firms to carry out their scheme. Ocwen/ ALTISOURSE creates its own Assignment without proper antilog to establish standing.

95. Mortgages today are not held by a mortgagor's bank or savings and loan and serviced by them for the term of the loan. Today, mortgages are sold, securitized, registered with the SEC and sold to investors.

96. The Defendants are nothing more than 21 century debt collector bandits who purchase the rights to hundreds of thousands of securitize mortgages for .05% of their value and have learned very well how to unlawfully exploit millions of innocent people and there has been Class Action lawsuits filed against the Defendants because of their unlawful business practices (**"Exhibit 6"**).

¹⁸ *Papas v. E. Sav. Bank, FSB*, 911 A2d 1230, 1237 (D.C. 2006) Foreclosure pursuant to power of sale clause in a Deed of Trust did not constitute government action to warrant due process requirements.

¹⁹ Judicial foreclosure to enforce a lien on real property is historically an equitable action which involves an adjudication of the parties' rights and obligations before any property is sold. *Johnson v. Fairfax v. 11 Condo Owners Ass'n*, 641, A.2d 495, 506 (D.C. 1994).

97. The non-judicial foreclosure process works by conducting fraudulent Deed of Trust sales unmonitored by the Court and without having any valid rights to collect the alleged debts as in the case at bar. Defendants have generated billions of dollars through this practice.

98. Even though there is a Consent Judgment against Ocwen/ ALTISOURSE, they still to this day operate their unlawful and criminal way of business. Their business is funded by the billions of dollars that they scheme from the innocent home owners by conspiring with Willington Trust, N.A., and their attorneys, Les Zieve and Joseph Tirellio..

99. As a direct and proximate result of these violations, the Plaintiff has suffered substantial damages.

100. The Plaintiff has put the Defendants on notice prior to filing this lawsuit. Plaintiff notified the Defendants that he intended to sue under the RICO Act statute but the Defendants scuffed at the Plaintiff and continued with their unlawful schemes to engage in mortgage foreclosure fraud.

101. The Willington Trust, N.A. and Ocwen ALTISOURSE Enterprise is liable to the Plaintiff for treble damages together with all costs of this action.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order for permanent injunction stating that the Defendants have no ownership and/or property rights to the property known as 28437 N. 12th Way, Scottsdale, Arizona 85262, and not to be transferred to a third party.

COUNT XIII

Fraud

102. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

103. Defendants engaged in the filing of a fraudulent Notice of Trustee Sale with the Maricopa Recorder's Office on November 12, 2014 then again on October 28, 2015 and December 28, 2015.

104. Defendants engaged in fraud by creating a false and fictitious Adjustable Rate Note.

105. Defendants engaged in fraud by concealing the date of the Trustee Sales of November 12, 2014 and October 28, 2015 and December 28, 2015.

106. Defendants knew that the Notice of Trustee Sale documents were fraudulently prepared and filed. They had no protectable rights to the Plaintiff's property whatsoever.

107. When the Defendants filed the false Notice of Trustee Sale and recorded them they knew in fact these notices were fraudulently manufactured with the intent to defraud and deceive the Plaintiff out of his family home.

108. The defendants sent to the Plaintiff a Notice to Vacate in order to unlawfully seize control of the plaintiffs' property

109. The Plaintiff has been damaged by the acts of the Defendants.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order for permanent injunction stating that the Defendants have no ownership and/or property rights to the

property known as 28437 N. 12th Way, Scottsdale, Arizona 85262, and not to be transferred to a third party.

COUNT XIV

Intentional and Emotional Distress

110. Plaintiffs are disabled persons, protected under the Americans for Disability Act ADA, repeat and reallege each and every allegation contained in the above paragraphs.

111. This cause of action for intentional infliction of emotional distress is premised on the outrageous conduct of the Defendants.

112. The Defendants unlawfully sending a Notice to vacate of the Plaintiff's home goes beyond all possible boards of decency. *Public Finance Corp v. Davis*, 66-Ill. 2d 85, 90, (1976).

113. Defendants intended to cause or recklessly or consciously disregarded the probability of causing the Plaintiff to suffer severe emotional distress by defrauding the Plaintiff out of his family home.

114. The Plaintiff suffers severe and extreme emotional distress and continues to suffer and endure it due the illegal conduct of the Defendants.

115. The Defendants behavior has caused the Plaintiff to suffer loss, distress, grief, shame, humiliation and physical sickness due to the Defendants illegal behavior.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order for permanent injunction stating that the Defendants have no ownership and/or property rights to the

property known as 28437 N. 12th Way, Scottsdale, Arizona 85262, and not to be transferred to a third party. Plaintiff prays that this Court enter a finding that the Defendants have no lawful claim to the Plaintiff's property and award treble damages in an amount to be proven at trial. To enter an order permanently enjoining Defendant Smith from ever acting as a Monitor for any Court ordered settlement. To enter an order permanently enjoining Ocwen/ ALTISOURCE Financial and any other of their related "shell" companies from ever engaging in the mortgage servicing business. To enter an order permanently enjoining the law firm of Bradley Arant Boult and Cummings, LLP, and its partners from ever representing a client involved in the mortgage foreclosure business. To enter an order permanently enjoining the law firm of Wright Finlay & Zak, LLP and its partners and Eric L. Cook, John C. Steele, Les Zieve, Nathaniel Brodnax and the Law Office of Les Zieve from ever representing a client involved in the mortgage foreclosure business.

COUNT XV

Perjury

18 U.S. Code § 1621

(As to all Defendants who have conspired to defraud the plaintiffs)

116. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

117. Defendant Stephen H. Gray knowing and willfully committed perjury by attesting in an affidavit dated March 17, 2017 "Affidavit of Fraudulent Recording". Mr. Gray knew that that the recording of a trustee Deed "was NOT accomplished by fraud." Mr. Gray knew that this statement was false because a Notice of Trustee Sale was recorded in the Maricopa County on July 13, 2015 2015-0500028 that "the property was sold by Christopher Stoller, as sole trustee, at a public auction held on Friday, July 17, 2015 at 10:00am at the place named in the Notice of

Trustee Sale, recorded in the Records on July 13, 2015 as Instrument No. 2015-0500028. See **Exhibit 9** Recordors Office.

118. Over three years ago on July 13, 2015 a Notice of Trustee's Sale was recorded in the Maricopa County Recorderes Office 20150500028 notifying the world and ARLP Settlement trust, Series 2014-2 c/0 Alsource Asset Management Corp., 402 Strand Street, Frederiksted, Virginia 00840 that the subject property would be sold at a trustee deed sale. See **Exhibit 9**. Christopher Stoller had a right as Successor Trustee and qualified under A.R.S. § 33-803(A)(6) to conduct a trustee sale as well known to the defendants. There fore Mr. Gray's sworn statement that "the recording of the Trustee's Deed was accomplished by Fraud" was perjury, as well known to the defendants. ARLP Settlement trust, Series 2014-2 c/0 Alsource Asset Management Corp., had their opportunity to object to the said trustee sale but did not.

119. It is clear from the evidence presented here that the defendant Stephen H. Gray and his co conspirators committed perjury with the filing of Mr. gray's "Affidavit of Fraudulent Recording, as well known to Joseph Tirello.

120. Plaintiffs' have been damaged by the Defendants perjury and intentional clouding of the Plaintiff's title to the subject property. Plaintiff has not been able to sell his property, obtain a home equity loan or refinance his property as a direct result of the defendants' perjury.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the amount of \$1,000,000.00 for compensatory damages. Plaintiff requests leave for punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order for permanent injunction stating that the Defendants have no ownership and/or property rights to the property known as 28437 N. 12th Way, Scottsdale, Arizona 85262, and not to be transferred to a

third party. Plaintiff prays that this Court enter a finding that the Defendants have no lawful claim to the Plaintiff's property and award treble damages in an amount to be proven at trial. To enter an order permanently enjoining Defendant Smith from ever acting as a Monitor for any Court ordered settlement. To enter an order permanently enjoining Ocwen Financial and any other of their related "shell" companies from ever engaging in the mortgage servicing business. To enter an order permanently enjoining the law firm of Wright Finlay & Zak, LLP and its partners and Eric L. Cook, John C. Steele, Les Zieve, Nathaniel Brodnax and the Law Office of Les Zieve, Joseph Tirellia from ever representing a client involved in the mortgage foreclosure business. To enter an order disgorging all monies paid to the Defendant attorneys by their clients to be disgorged. To enter a referral to the U.S. Attorney for prosecution of the defendants for perjury. To refer the Defendant attorneys to their respective disciplinary commissions for an investigation.

COUNT XV

752. SUBORNATION OF PERJURY²⁰

²⁰ To establish a case of subornation of perjury, a prosecutor must demonstrate that perjury was committed; that the defendant procured the perjury corruptly, knowing, believing or having reason to believe it to be false testimony; and that the defendant knew, believed or had reason to believe that the perjurer had knowledge of the falsity of his or her testimony.

To secure a conviction for subornation of perjury, the perjury sought must actually have been committed. *United States v. Hairston*, 46 F.3d 361, 376 (4th Cir.), *cert. denied*, 116 S.Ct. 124 (1995). The underlying perjury must be proved under the standards required by the applicable perjury statute. Thus, if section 1621 applies to the underlying perjury, the two witness rule must be met, but not if section 1623 applies to the underlying perjury. *United States v. Gross*, 511 F.2d 910, 915 (3d Cir.), *cert. denied*, 423 U.S. 924 (1975). Physical coercion need not be proven in prosecutions for subornation of perjury. *United States v. Heater*, 63 F.3d 311, 320 (4th Cir. 1995), *cert. denied*, 116 S.Ct. 796 (1996). Conspiracy to suborn perjury may be prosecuted irrespective of whether perjury has been committed. The two witness rule does not apply in conspiracy prosecutions. Solicitation of perjured testimony also may be prosecuted as obstruction of justice irrespective of whether the perjured testimony took place. *United States v. Silverman*, 745 F.2d 1386, 1395 (11th Cir. 1984).

(As to all Defendants who have conspired to defraud the plaintiffs)

1. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

2. Defendant Stephen H. Gray knowing and willfully committed perjury by attesting in an affidavit dated March 17, 2017 "Affidavit of Fraudulent Recording". Mr. Gray knew that that the recording of a trustee Deed "was not accomplished by fraud." Mr. Gray knew that this statement was false because a Notice of Trustee Sale was recorded in the Maricopa County on July 13, 2015 2015-0500028 that "the property was sold by Christopher Stoller, as sole trustee, at a public auction held on Friday, July 17, 2015 at 10:00am at the place named in the Notice of Trustee Sale, recorded in the Records on July 13, 2015 as Instrument No. 2015-0500028. See **Exhibit 9** Recorders Office.

3. Attorney Kim R. Lepore drafted the perjured affidavit as well known to Attorney Joseph Tirellio prior to sending the Plaintiffs' their Notice to Vacate their property.

4. Plaintiffs' have been injured by the Defendants' subornation of perjury.

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the amount of \$1,000,000.00 for compensatory damages. Plaintiff requests leave for punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order for

Because the crime of subornation of perjury is distinct from that of perjury, the suborner and perjurer are not accomplices; however, a person who causes a false document to be introduced through an innocent witness can be held liable as a principal under 18 U.S.C. § 2(b). *United States v. Walser*, 3 F.3d 380, 388 (11th Cir. 1993).

The attorney's ethical obligations when confronted by a client who wishes to testify falsely are discussed at length in *Nix v. Whiteside*, 475 U.S. 157 (1986). *See also* Rules 1-102, 4-101 and 7-109 of the Code of Professional Responsibility, Canons 1, 4, and 7, and Ethical Consideration 7-26.
<https://www.justice.gov/jm/criminal-resource-manual-1752-subornation-perjury>

permanent injunction stating that the Defendants have no ownership and/or property rights to the property known as 28437 N. 12th Way, Scottsdale, Arizona 85262, and not to be transferred to a third party. Plaintiff prays that this Court enter a finding that the Defendants have no lawful claim to the Plaintiff's property and award treble damages in an amount to be proven at trial. To enter an order permanently enjoining Defendant Smith from ever acting as a Monitor for any Court ordered settlement. To enter an order permanently enjoining Ocwen Financial and any other of their related "shell" companies from ever engaging in the mortgage servicing business. To enter an order permanently enjoining the law firm of Wright Finlay & Zak, LLP and its partners and Eric L. Cook, John C. Steele, Les Zieve, Nathaniel Brodnax and the Law Office of Les Zieve, Joseph Tirellia from ever representing a client involved in the mortgage foreclosure business. To enter an order disgorging all monies paid to the Defend attorneys by their clients to be disgorged. To enter a a referral to the U.S. Attorney for prosecution of the defendants for subornation of perjury. To refer the Defendant attorneys to their respective disciplinary commissions for an investigation.

COUNT XVI

Slander of Title

5. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

6. Defendants have filed a false and malicious communication relating to the title of Plaintiff's property²¹. **Exhibit 7.**

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages.

²¹ *Morris v. Morris*, 11 A. 3d 1273, (2015) D.C. Lexis 89 No 14-cv-219. Decided March 5, 2015.

Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper. Plaintiffs' request that this Court immediately enter an Order for permanent injunction stating that the Defendants have no ownership and/or property rights to the property known as 28437 N. 12th Way, Scottsdale, Arizona 85262, and not to be transferred to a third party. Plaintiff prays that this Court enter a finding that the Defendants have no lawful claim to the Plaintiff's property and award treble damages in an amount to be proven at trial. To enter an order permanently enjoining Defendant Smith from ever acting as a Monitor for any Court ordered settlement. To enter an order permanently enjoining Ocwen Financial and any other of their related "shell" companies from ever engaging in the mortgage servicing business. To enter an order permanently enjoining the law firm of Bradley Arant Boult and Cummings, LLP, and its partners from ever representing a client involved in the mortgage foreclosure business. To enter an order permanently enjoining the law firm of Wright Finlay & Zak, LLP and its partners and Eric L. Cook, John C. Steele, Les Zieve, Nathaniel Brodnax and the Law Office of Les Zieve from ever representing a client involved in the mortgage foreclosure business.

COUNT XVIII

Law Action to Quiet Title²²

7. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

8. Defendants have no interest in the subject property because no valid Note or Deed was ever properly assigned to it.

²² It is well established that Court may hear a common law action to Quiet Title, secure title, or to remove obstacles which hinder its enjoyment. *In re Tyree*, 493 A.2d 317, (D.C. 1985).

9. The Adjustable Rate Note held by the Defendants is a forged document and it is invalid on its face and any claim the Defendants have to the subject property is extinguished.

10. Plaintiff's related entity CSPPSP acquired the subject property in 2008, and Quit Claimed the property to Michael Stoller, Christopher Stoller has an equitable interest in the subject property.

11. Michael Stoller has superior title to the subject property. .

WHEREFORE, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper and award treble damages in an amount to be proven at trial. To enter an order permanently enjoining Defendant Smith from ever acting as a Monitor for any Court ordered settlement. To enter an order permanently enjoining Ocwen Financial and any other of their related "shell" companies ie Alisource from ever engaging in the mortgage servicing business. To enter an order permanently enjoining the law firm of Bradley Arant Boult and Cummings, LLP, and its partners, , LESLIE ZIEVE, JOHN C. STEELE, ZIEVE, BRODNAX AND STEEL, Kim R. Lepore, Joseph Tirello, , Nathaniel Brodnax, John C. Steele, from ever representing a client involved in the mortgage foreclosure business. To enter an order permanently enjoining the law firm of Wright Finlay & Zak, LLP and Eric L. Cook, John C. Steele, Les Zieve, Nathaniel Brodnax and the Law Office of Les Zieve from ever representing a client(s) involved in the mortgage foreclosure business. To disgorge all fees paid to the defendants' attorneys.

COUNT XIV

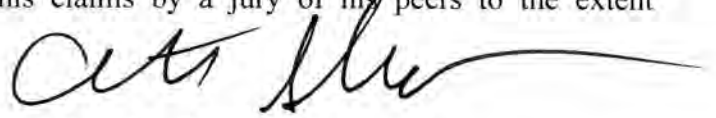
Violation of the Federal Fair Debt Collection Act

1. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs.

2. Defendants sent a Notice to Vacate (**Exhibit 1**) which states that “this is an attempt to collect a debt.”
3. Plaintiff does not owe the defendants any money have no contract with the defendants. Plaintiff have advised the defendants that they do not owe the defendants any moneies and demanded that that they seize collection(s).
4. Defendant Tireillo informed the plaintiff that the defendants, notwithstanding, intended to file an eviction complaint. See emails correspondence marked as **Exhibit 10**.
5. Plaintiffs have been damaged by the actions of the defendants.
6. **WHEREFORE**, Plaintiffs pray for judgment against the Defendants individually and on their official capacity in the maximum amount allowed by law for compensatory damages. Plaintiff requests punitive damages in the maximum allowed by law and for any and all costs of suit incurred herein and reasonable attorney's fees and for such other and further relief as the court may deem proper and award treble damages in an amount to be proven at trial. To enter an order permanently enjoining Defendant Smith from ever acting as a Monitor for any Court ordered settlement. To enter an order permanently enjoining Ocwen Financial and any other of their related “shell” companies ie Alisource from ever engaging in the mortgage servicing business. To enter an order permanently enjoining the law firm of Bradley Arant Boult and Cummings, LLP, and its partners, , LESLIE ZIEVE, JOHN C. STEELE, ZIEVE, BRODNAX AND STEEL, Kim R. Lepore, Joseph Tirello, , Nathaniel Brodnax, John C. Steele, from ever representing a client involved in the mortgage foreclosure business. To enter an order permanently enjoining the law firm of Wright Finlay & Zak, LLP and Eric L. Cook, John C. Steele, Les Zieve, Nathaniel Brodnax and the Law Office of Les Zieve from ever representing a client(s) involved in the mortgage foreclosure business. To disgorge all fees paid to the defendants’ attorneys.

Demand for Jury

Plaintiff hereby demands a trial of his claims by a jury of his peers to the extent authorized by law.



/s/ Christopher Stoller
Christopher Stoller ED
415 Wesley Suit 1
Oak Park, Illinois 60302
Cns40@hotmail.com

/s/ Michael Stoller
Michael Stoller
415 Wesley Suit 1
Oak Park, Illinois 60302
Ldms4@hotmail.com
312-545-4554

APPENDIX OF EXHIBITS

EXHIBIT 1—NOTICE TO VACATE

EXHIBIT 2—

EXHIBIT 3— DISCHARGE OF DEBTS OF PHILIP STONE

EXHIBIT 4—

EXHIBIT 5— CONSUMER FRAUD COMPLAINT AND CONSENT JUDGMENT

EXHIBIT 6— CLASS ACTION LAWSUIT

EXHIBIT 7— AFFIDAVIT OF FRAUDULENT RECORDING

EXHIBIT 8—TRUSTEE DEED

EXHIBIT 9 NOTICE OF TRUSTEE SALE

EXHIBIT 10 EMAILS

EXHIBIT 1—NOTICE TO VACATE

25/10/2018

Mail - C S - Outlook

ZIEVE, BRODNAX & STEELE, LLP

Joseph J. Tirello, Jr., Esq., Attorneys at Law
3550 North Central Avenue, Suite 625
Phoenix, AZ 85012

October 22, 2018

Certified Mail Return Receipt
And by Regular First Class Mail

**NOTICE TO VACATE
(File No. 18004751)**

TO: PHILIP B. STONE all tenants, subtenants, and others in possession.

ADDRESS: 28437 N. 112TH WAY
SCOTTSDALE, AZ 85262

The above-referenced real property ("Property") was sold at a foreclosure sale in accordance with the laws of the State of Arizona under a power of sale contained in a deed of trust securing said Property, and title pursuant to the sale has been duly perfected with our client. The new owner seeks to recover possession of the Property in good faith to market and sell the Property.

Within five (5) days after service of this notice, you are hereby required to vacate and deliver possession of the Property now held and occupied by you to the undersigned unless you are a tenant or subtenant who rented the Property prior to the date of notice of the foreclosure sale.

PLEASE TAKE NOTICE: Pursuant to the Protecting Tenants of Foreclosure Act ("PTFA") you might have additional protections and/or rights to remain in the subject property. Please contact our office immediately if you are a tenant in the property for additional review. However, if you are a tenant or subtenant who rented the Property after the date of notice of the foreclosure sale, then you must vacate the Property. You may have additional time, at the owner's discretion, to remain in the Property if you are a tenant who entered into a bona fide lease prior to the notice of foreclosure.

Generally, a lease is considered bona fide only if all of the following conditions exist: (1) you are not the mortgagor (the prior owner/borrower) or the child, spouse, or parent of the mortgagor; (2) your lease was the result of an arms-length transaction; and (3) the lease requires the receipt of rent which (i) is not substantially less than fair market rent for the Property or (ii) the Property's rent is reduced or subsidized due to a federal, state or local subsidy.

If you claim to be a tenant or subtenant, within three days after service of this notice, please notify the undersigned in writing of your tenancy and provide the undersigned with the following

Zieve, Brodnax & Steele, LLP
Joseph J. Tirello, Jr., Esq.
3550 North Central Avenue, Suite 625
Phoenix, AZ 85012
Phone: (602) 282-6188
Fax: (602) 865-8086
jtirello@zstlaw.com

information: (a) a copy of your lease or rental agreement, or if you do not have a written lease or rental agreement, please provide a written explanation of the terms of the agreement under which you occupy the Property, including without limitation, the date you entered into the agreement, the names of all parties who entered into the agreement, the term of the agreement, the amount of monthly rent, the utilities paid by the landlord (if any), the amount of your security deposit (if any), and whether you receive assistance under the Department of Housing and Urban Development's Section 8 Housing Program; (b) proof of your last rental payment and any security deposit; (c) a list of any conditions at the Property that require repair; and (d) whether you are the child, spouse, or parent of the mortgagor.

Further, if you have been negotiating for or have entered into an agreement in which you will voluntarily vacate the Property by an agreed upon date (sometimes called "cash for keys"), be advised this letter is not intended to alter or terminate that agreement. If an agreement has been completed, please provide an executed copy to our offices so we can account for the terms of the agreement in our subsequent actions. If you have not completed negotiations but are still actively seeking to reach an agreement, please provide contact information for the party with whom you are negotiating.

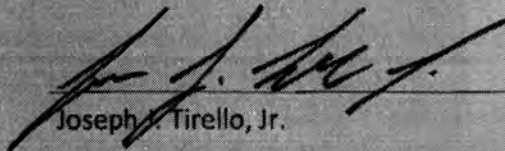
ATTENTION! Are you an active service member of the armed forces, or the dependent of one? If so then you MAY be afforded additional rights under the **SERVICEMEMBERS CIVIL RELIEF ACT (SCRA). Please contact our office at (602)282-6188 immediately to determine if the protections of SCRA apply to you.**

*****Be prepared to provide proof of military service.*****

For information regarding this notice, please call (602) 282-6188.

If you have any questions about this matter, please do not hesitate to contact our eviction department.

Respectfully,



Joseph J. Tirello, Jr.

Attorneys for Plaintiff

This is an attempt to collect a debt. Any information obtained will be used for that purpose.

Zieve, Brodnax & Steele, LLP
Joseph J. Tirello, Jr., Esq.
1550 North Central Avenue, Suite 625
Phoenix, AZ 85012
Phone: (602) 282-6188
Fax: (602) 865-8086
jtirello@zbslaw.com

**EXHIBIT 3— DISCHARGE OF DEBTS OF PHILIP
STONE**

B18 (Official Form 18)(12/07)

United States Bankruptcy Court

District of New Mexico

Case No. 10-11558-j7

Chapter 7

In re: Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Philip B. Stone
P.O. Box 2626
Santa Fe, NM 87504

Charlotte A. Stone
P.O. Box 2626
Santa Fe, NM 87504

Last four digits of Social Security or other
Individual Taxpayer-Identification No(s), (if any):

xxx-xx-5986

xxx-xx-6044

Employer's Tax-Identification No(s), /Other No(s) (if any):

DISCHARGE OF DEBTOR

It appearing that the debtor is entitled to a discharge.

IT IS ORDERED:

The debtor is granted a discharge under section 727 of title 11 United States Code (the Bankruptcy Code).

BY THE COURT

Dated: 7/19/10

Robert H. Jacobvitz
United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

EXHIBIT 5— CONSUMER FRAUD
COMPLAINT AND CONSENT JUDGMENT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CONSUMER FINANCIAL PROTECTION)
BUREAU,)
1700 G Street, NW)
Washington, DC 20552)

THE STATE OF ALABAMA,)
Alabama Attorney General's Office)
501 Washington Avenue)
Montgomery, AL 36130)

THE STATE OF ALASKA,)
Alaska Attorney General's Office)
1031 W. 4th Avenue, Ste. 200)
Anchorage, AK 99501)

THE STATE OF ARIZONA,)
Arizona Attorney General's Office)
1275 W. Washington)
Phoenix, AZ 85007)

THE STATE OF ARKANSAS,)
Office of the Attorney General)
323 Center Street, Suite 200)
Little Rock, AK 72201)

THE STATE OF CALIFORNIA,)
California Attorney General's Office)
455 Golden Gate Avenue, Ste. 11000)
San Francisco, CA 94102-7007)

THE STATE OF COLORADO,)
Colorado Attorney General's Office)
Ralph L. Carr Colorado Judicial Center)
1300 Broadway, 7th Floor)
Denver, CO 80203)

THE STATE OF CONNECTICUT,)
Office of the Connecticut Attorney General)
55 Elm Street, P.O. Box 120)
Hartford, CT 06141-0120)

THE STATE OF DELAWARE,)
Delaware Attorney General's Office)
820 N. French Street)
Wilmington, DE 19801)

THE STATE OF FLORIDA,)
Department of Legal Affairs)
Office of the Attorney General)
3507 E. Frontage Road, Suite 325)
Tampa, FL 33607)

THE STATE OF GEORGIA,)
Georgia Department of Law)
40 Capitol Square, S.W.)
Atlanta, GA 30334)

THE STATE OF HAWAII,)
Department of the Attorney General)
425 Queen Street)
Honolulu, HI 96813)

THE STATE OF IDAHO,)
Office of the Idaho Attorney General)
700 W. Jefferson St.)
P.O. Box 83720)
Boise, ID 83720-0010)

THE STATE OF ILLINOIS,)
Office of the Illinois Attorney General)
500 South Second Street)
Springfield, IL 62706)

THE STATE OF INDIANA,)
Indiana Office of the Attorney General)
302 West Washington St., IGCS 5th Fl.)
Indianapolis, IN 46204)

THE STATE OF IOWA,)
Iowa Attorney General's Office)
1305 E. Walnut St.)
Des Moines, IA 50319)

THE STATE OF KANSAS,)
Office of the Kansas Attorney General)
120 SW 10th Avenue, 2nd Floor)
Topeka, KS 66612)

THE COMMONWEALTH)
OF KENTUCKY,)
Office of the Attorney General of Kentucky)
State Capitol, Suite 118)
700 Capital Avenue)
Frankfort, KY 40601-3449)

THE STATE OF LOUISIANA,)
Louisiana Attorney General's Office)
1885 N. Third Street)
Baton Rouge, LA 70802)

THE STATE OF MAINE,)
Maine Attorney General's Office)
Burton Cross Office Building, 6th Floor)
111 Sewall Street)
Augusta, ME 04330)

THE STATE OF MARYLAND,)
Office of the Attorney General of Maryland)
200 Saint Paul Place)
Baltimore, MD 21202)

THE COMMONWEALTH)
OF MASSACHUSETTS,)
Massachusetts Attorney General's Office)
One Ashburton Place)
Boston, MA 02108)

THE STATE OF MICHIGAN,)
Michigan Department of Attorney General)
525 W. Ottawa Street)
PO Box 30755)
Lansing, MI 48909)

THE STATE OF MINNESOTA,)
Minnesota Attorney General's Office)
445 Minnesota Street, Suite 1200)
St. Paul, MN 55101-2130)

THE STATE OF MISSISSIPPI,)
Mississippi Attorney General's Office)
Post Office Box 22947)
Jackson, MS 39225-2947)

THE STATE OF MISSOURI,)
Missouri Attorney General's Office)
PO Box 899)
Jefferson City, MO 65102)

THE STATE OF MONTANA,)
Montana Department of Justice)
215 N. Sanders)
Helena, MT 59624)

THE STATE OF NEBRASKA,)
Office of the Attorney General)
2115 State Capitol)
Lincoln, NE 68509-8920)

THE STATE OF NEVADA,)
Nevada Office of the Attorney General)
100 North Carson Street)
Carson City, NV 89701)

THE STATE OF NEW HAMPSHIRE,)
New Hampshire Department of Justice)
33 Capitol Street)
Concord, NH 03301)

THE STATE OF NEW JERSEY,)
New Jersey Attorney General's Office)
124 Halsey Street – 5th Floor)
P.O. Box 45029)
Newark, NJ 07101)

THE STATE OF NEW MEXICO,)
Office of the New Mexico Attorney General)
PO Drawer 1508)
Santa Fe, NM 87504-1508)

THE STATE OF NEW YORK,)
Office of the New York State)
Attorney General)
120 Broadway)
New York, NY 10271)

THE STATE OF NORTH CAROLINA,)
North Carolina Department of Justice)
P.O. Box 629)
Raleigh, NC 27602)

THE STATE OF NORTH DAKOTA,
Office of the Attorney General
Gateway Professional Center
1050 E Interstate Ave, Ste. 200
Bismarck, ND 58503-5574

THE STATE OF OHIO,
Ohio Attorney General's Office
30 E. Broad St., 15th Floor
Columbus, OH 43215

THE STATE OF OREGON,
Oregon Department of Justice
1515 SW 5th Avenue, Ste. 410
Portland, OR 97201

THE COMMONWEALTH
OF PENNSYLVANIA,
Office of the Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

THE STATE OF RHODE ISLAND,
Rhode Island Department
of Attorney General
150 South Main Street
Providence, RI 02903

THE STATE OF SOUTH CAROLINA,
South Carolina Attorney General's Office
1000 Assembly Street, Room 519
Columbia, SC 29201

THE STATE OF SOUTH DAKOTA,
South Dakota Attorney General's Office
1302 E. Highway 14, Suite 1
Pierre, SD 57501

THE STATE OF TENNESSEE,
Office of the Tennessee Attorney General
425 Fifth Avenue North
Nashville, TN 37243-3400

THE STATE OF TEXAS,)
Texas Attorney General's Office)
401 E. Franklin Avenue, Suite 530)
El Paso, TX 79901)

THE STATE OF UTAH,)
Division of Consumer Protection)
Utah Attorney General's Office)
350 North State Street, #230)
Salt Lake City, UT 84114-2320)

THE STATE OF VERMONT,)
Office of the Attorney General)
109 State Street)
Montpelier, VT 05609)

THE COMMONWEALTH OF VIRGINIA,)
Office of the Virginia Attorney General)
900 East Main Street)
Richmond, VA 23219)

THE STATE OF WASHINGTON,)
Washington State Attorney General's Office)
1250 Pacific Avenue, Suite 105)
PO Box 2317)
Tacoma, WA 98402-4411)

THE STATE OF WEST VIRGINIA,)
West Virginia Attorney General's Office)
State Capitol, Room 26E)
Charleston, WV 25305-0220)

THE STATE OF WISCONSIN,)
Wisconsin Department of Justice)
Post Office Box 7857)
Madison, WI 53707-7857)

THE STATE OF WYOMING, and)
Wyoming Attorney General's Office)
123 State Capitol Bldg.)
Cheyenne, WY 82002)

THE DISTRICT OF COLUMBIA,)
Office of the Attorney General)
441 Fourth Street, N.W.)
Washington, DC 20001)

)
)
Plaintiffs,)
)
v.)
)
)
OCWEN FINANCIAL CORPORATION,)
)
and OCWEN LOAN SERVICING, LLC,)
)
Defendants.)
_____)

COMPLAINT

Now comes the Consumer Financial Protection Bureau (the “CFPB” or “Bureau”), and the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the Commonwealths of Kentucky, Massachusetts, Pennsylvania and Virginia, and the District of Columbia (collectively, “Plaintiff States”) by and through their undersigned attorneys, and respectfully allege as follows:

INTRODUCTION

1. This is a civil action filed jointly by the Bureau and the Plaintiff States against Ocwen Financial Corporation and Ocwen Loan Servicing, LLC (collectively, “Defendants” or “Ocwen”), for misconduct related to the servicing of single family residential mortgages, including by Homeward Residential, Inc. (“Homeward”) and Litton Loan Servicing, LP (“Litton”) before their acquisition by Ocwen Financial Corporation. Ocwen, Homeward, and

Litton are collectively referred to herein as the “Servicers.”

2. As described in the allegations below, the Servicers’ misconduct resulted in premature and unauthorized foreclosures, violation of homeowners’ rights and protections, and the use of false and deceptive affidavits and other documents.

THE PARTIES

3. This action is brought by the Bureau, an independent agency of the United States created by the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. § 5491(a) et seq. The Bureau is authorized to take appropriate enforcement action to address violations of Federal consumer financial law, including the CFPA, and has independent litigating authority. *See* 12 U.S.C. §§ 5511(c)(4); 5512(a); 5531(a); and 5564(a). Sections 1031 and 1036(a) of the CFPA, 12 U.S.C. §§ 5531 and 5536(a), prohibit unfair, deceptive, or abusive acts or practices, or other violations of Federal consumer financial law, by any covered person or service provider.

4. This action is also brought by the Plaintiff States pursuant to consumer protection enforcement authority conferred on them by state law and pursuant to *parens patriae* and common law authority. The Attorneys General are authorized to seek injunctive relief, restitution for consumers, and civil penalties for violation of the consumer protection laws of their States.

5. Defendant Ocwen Financial Corporation is a publicly traded Florida corporation headquartered in Atlanta, Georgia, that provides residential mortgage servicing services. It engages in a variety of businesses related to residential mortgage servicing, and focuses on loan servicing, specialty servicing, and mortgage services. Ocwen Financial Corporation transacts or has transacted business in this district and throughout the United States. On December 27, 2012, Ocwen Financial Corporation acquired and became the successor in interest to Homeward, a

servicer of residential mortgages and a Delaware corporation. Ocwen Financial Corporation is a successor corporation to Homeward and is liable for the illegal practices, including those of Homeward, alleged in this Complaint. On September 1, 2011, Ocwen acquired and became the successor in interest to Litton, a servicer of residential mortgages and a Delaware limited partnership. Ocwen Financial Corporation is a successor corporation to Litton and is liable for the illegal practices, including those of Litton, alleged in this Complaint.

6. Defendant Ocwen Loan Servicing, LLC is a limited liability company and wholly owned subsidiary servicing company of Ocwen Financial Corporation. It is located in Palm Beach, Florida. Ocwen Loan Servicing, LLC transacts or has transacted business in this district and throughout the United States.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action because it is “brought under Federal consumer financial law,” 12 U.S.C. § 5565(a)(1), presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C. § 1345.

8. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over the subject matter of the claims asserted by the Plaintiff States in this action because those claims are so related to the claims asserted by the Bureau that they form part of the same case or controversy, and because those claims arise out of the same transactions or occurrences as the action brought by the Bureau under Sections 1031 and 1036(a) of the CFPA, 12 U.S.C. §§ 5531 and 5536(a).

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) and 12 U.S.C. § 5564(f).

THE MORTGAGE SERVICING INDUSTRY

10. The single family mortgage servicing industry consists of financial services and other firms that service mortgages for residential properties designed to house one- to four-family dwellings.

11. For more than thirty years, mortgages typically have been “pooled” to create an investment vehicle, often denominated as a trust, and interests in the trusts have been sold to investors that own interests in payment streams generated by principal and interest payments by the borrowers.

12. A “servicer” is responsible for mortgage administration activities, known as servicing activities, which generally include collecting payments from mortgagors; applying payments made in an agreed-upon order to the mortgagor’s indebtedness; distributing payments after allowable deductions to the investment trust entities for distribution to investors; making advances to cover delinquent mortgage payments and other costs, such as the costs of protecting and maintaining properties that collateralize mortgage loans when mortgagors fail to do so; pursuing collections from delinquent mortgagors; and pursuing either loss mitigation or foreclosure, as appropriate, to minimize the loss to investors and others when mortgagors become delinquent on mortgage payments.

13. A servicer who does not originate a mortgage loan may become the servicer by purchasing the “mortgage servicing rights” or by entering into a contract with the “master servicer” to act on its behalf as “subservicer.” Such transfers can occur at various stages of repayment of the mortgage, including where the borrower is delinquent in payments and may seek loss mitigation assistance from the servicer to avoid foreclosure on the loan.

THE SERVICERS' MORTGAGE SERVICING MISCONDUCT

14. Ocwen services home mortgage loans secured by residential properties owned by individual citizens of the Plaintiff States and of the United States.

15. Ocwen is a "covered person" engaged "in offering or providing a consumer financial product or service," as those terms are defined in the CFPA, 12 U.S.C. § 5481(6), and is subject to the CFPA's prohibition on unfair, deceptive and abusive acts or practices, 12 U.S.C. §§ 5531 and 5536(a).

16. Ocwen is engaged in trade or commerce in each of the Plaintiff States and is subject to the consumer protection laws of the States in the conduct of their debt collection, mortgage servicing, loss mitigation and foreclosure activities. The consumer protection laws of the Plaintiff States include laws prohibiting unfair or deceptive practices.

17. Ocwen specializes in default servicing where borrowers are more likely to encounter hardships or difficulties making payments. Ocwen also frequently acquires mortgage servicing rights through transfers, involving the acquisition of data, information, and documents retained by the prior servicer about borrowers' loans. In 2011 and 2012, respectively, Ocwen acquired and became the successor in interest to Litton and Homeward, and is liable for their illegal mortgage servicing and foreclosure processing conduct.

18. Ocwen personnel frequently interact with borrowers who are delinquent or are at risk of becoming delinquent on their mortgage loans, who have complaints or inquiries about their mortgages, or who require loss mitigation assistance. Ocwen personnel also frequently handle inquiries from borrowers whose loans have been transferred to Ocwen from another servicer.

19. Ocwen regularly reviews mortgage loans for potential loss mitigation or loan

modification options, and conducts or manages foreclosures.

20. In the course of their mortgage servicing activities, the Servicers have engaged in the following acts and practices:

- a. failing to timely and accurately apply payments made by borrowers and failing to maintain accurate account statements;
- b. charging unauthorized fees for default-related services;
- c. imposing force-placed insurance when the Servicers knew or should have known that borrowers already had adequate coverage;
- d. providing false or misleading information in response to borrower complaints;
- e. providing false or misleading information to borrowers regarding loans that have been transferred from other servicers;
- f. failing to provide accurate and timely information to borrowers who seek information about loss mitigation services, including loan modifications;
- g. falsely advising borrowers that they must be at least 60 days delinquent in loan payments to qualify for a loan modification;
- h. misrepresenting to borrowers that loss mitigation programs would provide relief from the initiation of foreclosure or further foreclosure efforts;
- i. providing false or misleading information to consumers about the status of the loss mitigation review, including while referring loans to foreclosure;
- j. providing false or misleading information to consumers about the status of foreclosure proceedings where the borrower was in good-faith actively pursuing a loss mitigation alternative offered by the Servicers;

k. failing to properly calculate borrowers' eligibility for loan modification programs and improperly denying loan modification relief to eligible borrowers;

l. failing to properly process borrowers' applications for loan modifications, including failing to account for documents submitted by borrowers and failing to respond to borrowers' reasonable requests for information and assistance, and as a result, denying loan modifications to consumers who were eligible;

m. providing false or misleading reasons for denial of loan modifications;

n. with respect to transferred loans, failing to honor in-process trial modifications agreed to by prior servicers;

o. with respect to transferred loans with in-process trial and permanent modifications, deceptively seeking to collect payments from the consumer under the mortgage's original unmodified terms;

p. preparing, executing, notarizing, and presenting false and misleading documents, filing false and misleading documents with courts and government agencies, or otherwise using false or misleading documents as part of the foreclosure process (including, but not limited to, affidavits, declarations, certifications, substitutions of trustees, and assignments); and

q. preparing, executing, notarizing, and filing affidavits in foreclosure proceedings, whose affiants lacked personal knowledge of the assertions in the affidavits and did not review any information or documentation to verify the assertions in such affidavits. This practice of repeated false attestation of information in affidavits is popularly known as "robo-signing."

COUNT I

**VIOLATIONS OF STATE LAW PROHIBITING
UNFAIR AND DECEPTIVE CONSUMER PRACTICES
WITH RESPECT TO LOAN SERVICING**

21. The allegations in paragraphs 1 through 20 above are incorporated herein by reference.

22. The loan servicing conduct of the Servicers, as described above, constitutes unfair or deceptive practices in violation of the consumer protection laws of each State.

23. The Servicers' unlawful conduct has resulted in injury to the States and citizens of the States who have had home loans serviced by the Servicers. The harm sustained by such citizens includes payment of improper fees and charges, unreasonable delays and expenses to obtain loss mitigation relief, improper denial of loss mitigation relief, and loss of homes due to improper, unlawful, or undocumented foreclosures. The harm to the States includes the subversion of their legal process and the sustained violations of their laws. The States have had to incur substantial expenses in their investigations and attempts to obtain remedies for the Servicers' unlawful conduct.

COUNT II

**VIOLATIONS OF STATE LAW PROHIBITING
UNFAIR AND DECEPTIVE CONSUMER PRACTICES
WITH RESPECT TO FORECLOSURE PROCESSING**

24. The allegations in paragraphs 1 through 20 above are incorporated herein by reference.

25. The foreclosure processing conduct of the Servicers, as described above, constitutes unfair or deceptive practices in violation of the consumer protection laws of each State.

26. The Servicers' unlawful conduct has resulted in injury to the States and citizens of the States who have had home loans serviced by the Servicers. The harm sustained by such citizens includes payment of improper fees and charges, unreasonable delays and expenses to obtain loss mitigation relief, improper denial of loss mitigation relief, and loss of homes due to improper, unlawful, or undocumented foreclosures. The harm to the States includes the subversion of their legal process and the sustained violations of their laws. The States have had to incur substantial expenses in their investigations and attempts to obtain remedies for the Servicers' unlawful conduct.

COUNT III

VIOLATIONS OF THE CONSUMER FINANCIAL PROTECTION ACT OF 2010
12 U.S.C. § 5481 ET SEQ. (CFPA)
WITH RESPECT TO LOAN SERVICING

27. The allegations in paragraphs 1 through 20 above are incorporated herein by reference.

28. The loan servicing conduct of the Servicers, as described above, constitutes unfair and deceptive acts or practices in violation of Sections 1031(a) and 1036 of the CFPA, 12 USC §§ 5531(a) and 5536.

COUNT IV

VIOLATIONS OF THE CONSUMER FINANCIAL PROTECTION ACT OF 2010
12 U.S.C. § 5481 ET SEQ. (CFPA)
WITH RESPECT TO FORECLOSURE PROCESSING

29. The allegations in paragraphs 1 through 20 above are incorporated herein by reference.

30. The foreclosure processing conduct of the Servicers, as described above, constitutes unfair and deceptive acts or practices in violation of Sections 1031(a) and 1036 of the

CFPA, 12 USC §§ 5531(a) and 5536.

PRAYER FOR RELIEF

WHEREFORE, the Bureau, pursuant to Sections 1054 and 1055 of the CFPA, 12 U.S.C. §§ 5564 and 5565, and the Plaintiff States, pursuant to their consumer protection laws, respectfully request that judgment be entered in their favor and against Ocwen for each violation charged in the complaint, and request that the Court:

- A. Permanently enjoin Ocwen from committing future violations;
- B. Award such relief as the Court finds necessary to redress injury to consumers;
- C. Award such relief as the Court finds necessary to disgorge Ocwen of unlawful gains;
- D. Award the Bureau and the Plaintiff States the costs of bringing this action; and
- E. Award additional relief as the Court may determine to be just and proper.

Dated: December 19, 2013

Respectfully submitted,

Attorneys for Plaintiff
Consumer Financial Protection Bureau

Lucy Morris
Deputy Enforcement Director
Consumer Financial Protection Bureau

s/ Cara Petersen

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/s/ Kirsten Ivey-Colson

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CONSUMER FINANCIAL PROTECTION)
BUREAU,)
1700 G Street, NW)
Washington, DC 20552)

13-cv-2025 (RMC)

)
THE STATE OF ALABAMA,)
Alabama Attorney General's Office)
501 Washington Avenue)
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Alaska Attorney General's Office)
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Wisconsin Department of Justice)
Post Office Box 7857)
Madison, WI 53707-7857)

THE STATE OF WYOMING, and)
Wyoming Attorney General's Office)
123 State Capitol Bldg.)
Cheyenne, WY 82002)

THE DISTRICT OF COLUMBIA,)
Office of the Attorney General)
441 Fourth Street, N.W.)
Washington, DC 20001)

)
)
)
Plaintiffs,)
)
v.)
)
OCWEN FINANCIAL CORPORATION,)
)
and OCWEN LOAN SERVICING, LLC,)
)
Defendants.)
_____)

CONSENT JUDGMENT

WHEREAS, Plaintiffs, the Consumer Financial Protection Bureau (the “CFPB” or “Bureau”), and the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the Commonwealths of Kentucky, Massachusetts, Pennsylvania and Virginia, and the District of Columbia (collectively, “Plaintiff States”) filed their complaint on December 19, 2013, alleging that Ocwen Financial Corporation and Ocwen Loan Servicing, LLC (collectively, “Defendant” or “Ocwen”) violated, among other laws, the Unfair and Deceptive Acts and Practices laws of the Plaintiff States and the Consumer Financial Protection Act of 2010.

WHEREAS, the parties have agreed to resolve their claims without the need for litigation;

WHEREAS, Defendant has consented to entry of this Consent Judgment without trial or adjudication of any issue of fact or law and to waive any appeal if the Consent Judgment is entered as submitted by the parties;

WHEREAS, Defendant, by entering into this Consent Judgment, does not admit the allegations of the Complaint other than those facts deemed necessary to the jurisdiction of this Court;

WHEREAS, the intention of the Consumer Financial Protection Bureau and the States in effecting this settlement is to remediate harms allegedly resulting from the alleged unlawful conduct of the Defendant;

WHEREAS, the State Mortgage Regulators are entering into a Settlement Agreement and Consent Order with Ocwen to resolve the findings identified in the course of multi-state and concurrent independent examinations of Ocwen, as well as examinations of Litton Loan Servicing, LP and Homeward Residential, Inc., which were subsequently acquired by Ocwen.

AND WHEREAS, Defendant has agreed to waive service of the complaint and summons and hereby acknowledges the same;

NOW THEREFORE, without trial or adjudication of issue of fact or law, without this Consent Judgment constituting evidence against Defendant, and upon consent of Defendant, the Court finds that there is good and sufficient cause to enter this Consent Judgment, and that it is therefore ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1367, and under 12 U.S.C. § 5565, and over Defendant. The

Complaint states a claim upon which relief may be granted against Defendant. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)(2) and 12 U.S.C. § 5564(f).

II. APPLICABILITY

2. Defendant's obligations as set forth in this Consent Judgment and the attached Exhibits shall apply equally and fully to Defendant regardless of whether Defendant is servicing residential mortgages as a servicer or subservicer.

III. SERVICING STANDARDS

3. Defendant shall comply with the Servicing Standards, attached hereto as Exhibit A, in accordance with their terms and Section A of Exhibit D, attached hereto.

IV. FINANCIAL TERMS

4. *Payments to Foreclosed Borrowers and Administration Costs.* Ocwen shall pay or cause to be paid the sum of \$127.3 million (the "Borrower Payment Amount") into an interest bearing escrow account established for this purpose by the State members of the Monitoring Committee within 10 days of receiving notice from the State members of the Monitoring Committee that the account is established. The State members of the Monitoring Committee and the Administrator appointed under Exhibit B will use the funds in this account to provide cash payments to borrowers whose homes were sold in a foreclosure sale between and including January 1, 2009, and December 31, 2012, and who otherwise meet criteria set forth by the Monitoring Committee, and to pay the reasonable costs and expenses of the Administrator, including taxes and fees for tax counsel, if any. Ocwen shall also pay or cause to be paid any additional amounts necessary to pay claims, if any, of borrowers whose data is provided to the Administrator by Ocwen after Defendant warrants that the data is complete and accurate pursuant

to Paragraph 3 of Exhibit B. The Borrower Payment Amount shall be administered in accordance with the terms set forth in Exhibit B.

5. *Consumer Relief.* Defendant shall provide \$2 billion of relief to consumers who meet the eligibility criteria in the forms and amounts described in Exhibit C, to remediate harms allegedly caused by the alleged unlawful conduct of Defendant. Defendant shall receive credit towards such obligation as described in Exhibit C.

V. ENFORCEMENT

6. The Servicing Standards and Consumer Relief Requirements, attached as Exhibits A and C, are incorporated herein as the judgment of this Court and shall be enforced in accordance with the authorities provided in the Enforcement Terms, attached hereto as Exhibit D.

7. The Parties agree that Joseph A. Smith, Jr. shall be the Monitor and shall have the authorities and perform the duties described in the Enforcement Terms.

8. Within fifteen (15) days of the Effective Date of this Consent Judgment, the Plaintiffs shall designate an Administration and Monitoring Committee (the "Monitoring Committee") as described in the Enforcement Terms. The Monitoring Committee shall serve as the representative of the Plaintiffs in the administration of all aspects of this Consent Judgment and the monitoring of compliance with it by the Defendant.

VI. RELEASES

9. The CFPB and Defendant have agreed, in consideration for the terms provided herein, for the release of certain claims and remedies as provided in the CFPB Release, attached hereto as Exhibit E. CFPB and Defendant have also agreed that certain claims and remedies are

not released, as provided in Paragraph C of Exhibit E. The releases contained in Exhibit E shall become effective upon payment of the Borrower Payment Amount by Defendant.

10. The Plaintiff States and Defendant have agreed, in consideration for the terms provided herein, for the release of certain claims and remedies as provided in the State Release, attached hereto as Exhibit F. The Plaintiff States and Defendant have also agreed that certain claims and remedies are not released, as provided in Section IV of Exhibit F. The releases contained in Exhibit F shall become effective upon payment of the Borrower Payment Amount by Defendant.

VII. OTHER TERMS

11. The Consumer Financial Protection Bureau and any State Party may withdraw from the Consent Judgment and declare it null and void with respect to that party if Ocwen fails to make any payment required under this Consent Judgment and such non-payment is not cured within thirty (30) days of written notice by the party, except that the Released Parties, as defined in Exhibits E and F, other than Ocwen, are released upon the payment of the Borrower Payment Amount, at which time this nullification provision is only operative against Ocwen.

12. This Court retains jurisdiction for the duration of this Consent Judgment to enforce its terms. The parties may jointly seek to modify the terms of this Consent Judgment, subject to the approval of this Court. This Consent Judgment may be modified only by order of this Court.

13. In addition to the provisions of paragraph 12, and in accordance with the terms set forth in Exhibit D, any Plaintiff State may also bring an action to enforce the terms of this Consent Judgment in the enforcing Plaintiff's state court. Ocwen agrees to submit to the jurisdiction of any such state court for purposes of a Plaintiff State's enforcement action.

14. The Effective Date of this Consent Judgment shall be the date on which the Consent Judgment has been entered by the Court and has become final and non-appealable. An order entering the Consent Judgment shall be deemed final and non-appealable for this purpose if there is no party with a right to appeal the order on the day it is entered.

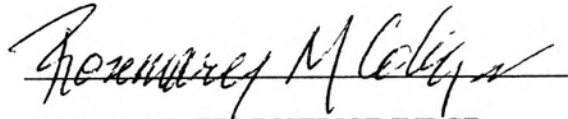
15. This Consent Judgment shall remain in full force and effect for three years from the date it is entered ("the Term"), at which time Defendant's obligations under the Consent Judgment shall expire, except that pursuant to Exhibit D, Defendant shall submit a final Quarterly Report for the last quarter or portion thereof falling within the Term and cooperate with the Monitor's review of said report, which shall conclude no later than six months after the end of the Term. Defendant shall have no further obligations under this Consent Judgment six months after the expiration of the Term, but the Court shall retain jurisdiction for purposes of enforcing or remedying any outstanding violations that are identified in the final Monitor Report and that have occurred but not been cured during the Term. The expiration of this Consent Judgment shall not affect any Releases.

16. Each party to this litigation will bear its own costs and attorneys' fees.

17. Nothing in this Consent Judgment shall relieve Defendant of its obligation to comply with applicable state and federal law.

18. The sum and substance of the parties' agreement and of this Consent Judgment are reflected herein and in the Exhibits attached hereto. In the event of a conflict between the terms of the Exhibits and paragraphs 1-17 of this summary document, the terms of the Exhibits shall govern.

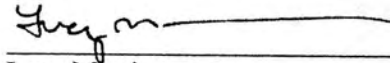
SO ORDERED this 26 day of February, 2014



UNITED STATES DISTRICT JUDGE

Date: 12/19/13

For the Consumer Financial Protection Bureau



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Deputy Enforcement Director
Consumer Financial Protection Bureau
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CONSUMER FINANCIAL PROTECTION
BUREAU, et al.,

Plaintiffs,

v.

OCWEN FINANCIAL CORPORATION,
et al.,

Defendant.

Case No. 1:13-cv-02025-RMC

**ORDER GRANTING THE MONITORING COMMITTEE'S UNOPPOSED MOTION TO
ENFORCE THE CONSENT JUDGMENT RELATING TO OCWEN'S UNCURED POTENTIAL
VIOLATION OF METRIC 29**

The Court, having considered the Monitoring Committee's Unopposed Motion to Enforce the Consent Judgment Relating to Ocwen's Uncured Potential Violation of Metric 29 [Dkt. 45] and the Monitor's Final Compliance Report [Dkt. 44] as it relates to the Monitor's reporting that Ocwen failed to cure such Potential Violation during the Quarter 1 2017 testing period, hereby GRANTS the Motion, and orders the following:

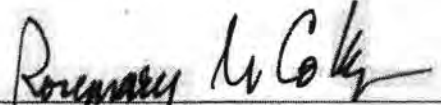
1. Ocwen shall make a monetary payment of one million dollars (\$1,000,000.00) within fifteen (15) calendar days following the entry of this Order, and such funds shall be used for attorney's fees, investigative costs and fees, future expenditures relating to the investigation and prosecution of cases involving fraud, unfair and deceptive acts and practices, and other illegal conduct related to financial services or state consumer protection laws to the extent practicable;

2. The Monitoring Committee, Ocwen, and the Monitor agree that the monetary payment shall be made pursuant to written instructions provided to Ocwen by the Monitoring Committee;¹

3. Ocwen shall immediately begin to provide notice to all borrowers with active wind or hazard force-placed insurance policies of its failure to comply with the applicable servicing standards and an opportunity for interested borrowers with such active force-placed insurance policies to obtain an expedited review of their insurance situation, excluding those borrowers with an active wind or hazard force-placed insurance policy effective on or before November 1, 2016 and who received a notice under the Metric 28 Remediation Plan; and

4. Ocwen shall conduct its business in full compliance with all statutes, regulations, and other laws governing the termination of force-placed insurance policies, including, but not limited to, the timely termination of force-placed insurance policies and refund of prorated premiums within 15 days of receiving evidence of the borrower's existing insurance policy.

IT IS SO ORDERED by the Court, this ²⁶~~23~~ day of September 2017.



Hon. Rosemary M. Collyer
United States District Judge

¹ Section I.3.(c). of Exhibit D to the Consent Judgment [Dkt. 12] states that “[a]ny penalty or payment owed by Servicer shall be paid to the clerk of the Court or state court *or as otherwise agreed by the Monitor and the Servicer . . .*” See Exhibit D, §I.3 (emphasis added).

EXHIBIT 6— CLASS ACTION LAWSUIT

« up

491 F.3d 638

In re: OCWEN LOAN SERVICING, LLC MORTGAGE
SERVICING LITIGATION.

Appeal of: Ocwen Loan Servicing, LLC, and Moss, Codilis
Stawiarski, Morris, Schneider & Prior, LLP.

No. 06-3132.

United States Court of Appeals, Seventh Circuit.

Argued March 28, 2007.

Decided June 22, 2007.

Kelly M. Dermody, Gary E. Klein (argued), Lief, Cabraser, Heimann & Bernstein, San Francisco, CA, Cathleen M. Combs, Edelman, Combs & Lattuner, Chicago, IL, Niall P. McCarthy, Cotchett, Illston & Pitre, Burlingame, CA, for Plaintiff-Appellee.

David J. Chizewer, Goldberg, Kohn, Bell, Black, Rosenbloom & Moritz, Chicago, IL, Daniel M. Noland, Dykema Gossett, Chicago, IL, Brian P. Brooks (argued), O'Melveny & Meyers, Washington, DC, for Defendants-Appellants.

Allen S. Rugg, Powell Goldstein, Nina F. Simon, AARP Foundation Litigation, Washington, DC, for Amicus Curiae.

Before POSNER, ROVNER, and SYKES, Circuit Judges.

POSNER, Circuit Judge.

1 The defendants in this class action have been permitted to appeal under 28 U.S.C. § 1292(b) from the district judge's refusal to dismiss, as preempted by the Home Owners Loan Act ("HOLA"), 12 U.S.C. §§ 1461 *et seq.*, and implementing regulations promulgated by the Office of Thrift Supervision, 12 C.F.R. §§ 560.1 *et seq.*, the plaintiffs' claims under California, Connecticut, Illinois, New Mexico, and Pennsylvania law. Pursuant to 28 U.S.C. § 1367 (supplemental jurisdiction), the plaintiffs appended these state-law claims to their federal-law claims, upon which the district court's jurisdiction was premised; these are claims under the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.*, the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 *et seq.*, and the Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.*

2 The complaint is a hideous sprawling mess, 40 pages in length with 221 paragraphs of allegations. We have found it difficult and in many instances impossible to ascertain the nature of the charges. It would have been better had the defendants deferred their motion, and the district judge his ruling, until either the defendants served contention interrogatories designed to smoke out what exactly the plaintiffs are charging, or better, because quicker and cheaper, the judge told the plaintiffs to specify the acts of the defendants that they are complaining about so that he could decide how much of the complaint was preempted. Still, the defendants can hardly be blamed for wanting to strangle the monster in its crib.

3 Ocwen, the principal defendant and the only one we need discuss (the other defendant is a law firm charged with having assisted Ocwen in the misconduct of which the plaintiffs

complain), was at the times relevant to this case a federal savings and loan association engaged in servicing home mortgages originated by other lenders. When a loan is secured by a mortgage, the borrower may be asked to sign various transfer agreements that allow the mortgagee to assign not only the mortgage itself but also or instead various rights that the mortgage grants the mortgagee, such as the rights to collect monthly payments from the mortgagor, collect late payments from him, foreclose in the event of default, or place the mortgagor's payments for taxes and insurance premiums in escrow. The administration of these rights is called "servicing" the mortgage. If the firm doing the servicing, such as Ocwen in this case, exceeds its rights under the transfer agreements, the mortgagor's recourse is against that firm rather than against the original mortgagee or the current holder of the mortgage. See *OTS Regulatory Handbook: Thrift Activities* 571.1 (Jan.1994), www.ots.treas.gov/docs/4/429128.pdf (visited June 5, 2007); "Mortgage Servicing Rights: Traded Like Baseball Cards?," www.mortgagenewsdaily.com/662005-Mortgage-Servicing.asp (visited June 5, 2007).

4 Enacted in 1933, HOLA is "a product of the Great Depression of the 1930's, [and] was intended `to provide emergency relief with respect to home mortgage indebtedness' at a time when as many as half of all home loans in the country were in default." *Fidelity Federal Savings & Loan Ass'n v. de la Cuesta*, 458 U.S. 141, 159, 102 S.Ct. 3014, 73 L.Ed.2d 664 (1982) (citations omitted). HOLA empowered what is now the Office of Thrift Supervision in the Treasury Department to authorize the creation of federal savings and loan associations, to regulate them, and by its regulations to preempt conflicting state law. *Id.* at 161-62, 102 S.Ct. 3014. Ocwen has given up its federal thrift charter; but this does not affect its defense that when it committed the acts for which the plaintiffs are suing any state-law claims based on those acts were preempted.

5 One of OTS's regulations, the validity of which is not questioned, allows federal S & Ls to "extend credit as authorized under federal law . . . without regard to state laws purporting to regulate or otherwise affect their credit activities." 12 C.F.R. § 560.2(a). The regulation goes on to provide:

6 (b) Illustrative examples [of what federal S & Ls can do without regard to state laws]. Except as provided in § 560.110 of this part, the types of state laws preempted by paragraph (a) of this section include, without limitation, state laws purporting to impose requirements regarding:

7 (1) Licensing, registration, filings, or reports by creditors;

8 (2) The ability of a creditor to require or obtain private mortgage insurance, insurance for other collateral, or other credit enhancements;

9 (3) Loan-to-value ratios;

10 (4) The terms of credit, including amortization of loans and the deferral and capitalization of interest and adjustments to the interest rate, balance, payments due, or term to maturity of the loan, including the circumstances under which a loan may be called due and payable upon the passage of time or a specified event external to the loan;

11 (5) Loan-related fees, including without limitation, initial charges, late charges, prepayment penalties, servicing fees, and overlimit fees;

12 (6) Escrow accounts, impound accounts, and similar accounts;

13 (7) Security property, including leaseholds;

14 (8) Access to and use of credit reports;

9/26/2014

491 F.3d 638

15 (9) Disclosure and advertising, including laws requiring specific statements, information, or other content to be included in credit application forms, credit solicitations, billing statements, credit contracts, or other credit-related documents and laws requiring creditors to supply copies of credit reports to borrowers or applicants;

16 (10) Processing, origination, servicing, sale or purchase of, or investment or participation in, mortgages;

17 (11) Disbursements and repayments;

18 (12) Usury and interest rate ceilings to the extent provided in 12 U.S.C. 1735f-7a and part 590 of this chapter and 12 U.S.C. 1463(g) and § 560.110 of this part; and

19 (13) Due-on-sale clauses to the extent provided in 12 U.S.C. 1701j-3 and part 591 of this chapter.

20 (c) State laws that are not preempted. State laws of the following types are not preempted to the extent that they only incidentally affect the lending operations of Federal savings associations or are otherwise consistent with the purposes of paragraph (a) of this section:

21 (1) Contract and commercial law;

22 (2) Real property law;

23 (3) Homestead laws specified in 12 U.S.C. 1462a(f);

24 (4) Tort law; (5) Criminal law; and

25 (6) Any other law that OTS, upon review, finds:

26 (i) Furthers a vital state interest; and

27 (ii) Either has only an incidental effect on lending operations or is not otherwise contrary to the purposes expressed in paragraph (a) of this section.

28 Owen makes much of the fact that the Office of Thrift Supervision has said that in applying the regulation a court should first decide whether the state law in question is listed in subsection (b) and, if so, Owen argues, that is the end of the case. "OTS Final Rule," 61 Fed.Reg. 50951, 50966 (Sept. 30, 1996). Well, of course. And the OTS's statement further explains that subsection (c), the list of laws that are not preempted, is designed merely "to preserve the traditional infrastructure of basic state laws that undergird commercial transactions, not to open the door to state regulation of lending by federal savings associations." *Id.* The list in subsection (c) is long and the categories it covers—contract and commercial law, tort law, and so forth—are very broad. It would not do to let the broad standards characteristic of such fields morph into a scheme of state regulation of federal S & Ls. Hence the statement in subsection (c) that state laws escape preemption only "to the extent that they only incidentally affect the lending operations of Federal savings associations or are otherwise consistent with the purposes of paragraph (a) of this section." See also *Bank of America v. City & County of San Francisco*, 309 F.3d 551, 557-61 (9th Cir.2002); *Haehl v. Washington Mutual Bank, F.A.*, 277 F.Supp.2d 933, 939-40, 942-43 (S.D.Ind.2003); cf. *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25, 33-34, 116 S.Ct. 1103, 134 L.Ed.2d 237 (1996).

29 The line between subsections (b) and (c) is both intuitive and reasonably clear. The Office of Thrift Supervision has exclusive authority to regulate the savings and loan industry in the sense of fixing fees (including penalties), setting licensing requirements,

prescribing certain terms in mortgages, establishing requirements for disclosure of credit information to customers, and setting standards for processing and servicing mortgages. See 12 U.S.C. §§ 1462, 1463, 1464; 12 C.F.R. §§ 500.1, 500.10; "OTS Final Rule," *supra*, 61 Fed. Reg. at 50965. But though it has some prosecutorial and adjudicatory powers ancillary to its regulatory functions, 12 U.S.C. § 1464(d); 12 C.F.R. § 509.1; *Simpson v. Office of Thrift Supervision*, 29 F.3d 1418, 1422 (9th Cir.1994), the Office has no power to adjudicate disputes between the S & Ls and their customers. See OTS, "How to Resolve a Consumer Complaint" 1-2, www.ots.treas.gov/docs/4/480924.pdf (visited June 5, 2007). So it cannot provide a remedy to persons injured by wrongful acts of savings and loan associations, and furthermore HOLA creates no private right to sue to enforce the provisions of the statute or the OTS's regulations. *Burns Int'l Inc. v. Western Savings & Loan Ass'n*, 978 F.2d 533, 535-37 (9th Cir.1992).

30 Against this background of limited remedial authority, we read subsection (c) to mean that OTS's assertion of plenary regulatory authority does not deprive persons harmed by the wrongful acts of savings and loan associations of their basic state common-law-type remedies. Suppose an S & L signs a mortgage agreement with a homeowner that specifies an annual interest rate of 6 percent and a year later bills the homeowner at a rate of 10 percent and when the homeowner refuses to pay institutes foreclosure proceedings. It would be surprising for a federal regulation to forbid the homeowner's state to give the homeowner a defense based on the mortgagee's breach of contract. Or if the mortgagee (or a servicer like Ocwen) fraudulently represents to the mortgagor that it will forgive a default, and then forecloses, it would be surprising for a federal regulation to bar a suit for fraud. Some federal laws do create such bars, notably ERISA, see 29 U.S.C. §§ 1132(a), (e), but this is recognized as exceptional. *American Airlines, Inc. v. Wolens*, 513 U.S. 219, 232, 115 S.Ct. 817, 130 L.Ed.2d 715 (1995); *Ingersoll-Rand Co. v. McClendon*, 498 U.S. 133, 142-43, 111 S.Ct. 478, 112 L.Ed.2d 474 (1990). Enforcement of state law in either of the mortgage-servicing examples above would complement rather than substitute for the federal regulatory scheme.

31 This is well explained in "Preemption of State Laws Applicable to Credit Card Transactions" ¶ IIC (Opinion of OTS Chief Counsel, Dec. 24, 1996, 1996 WL 767462):

32 State laws prohibiting deceptive acts and practices in the course of commerce are not included in the illustrative list of preempted laws in § 560.2(b) The [Indiana] DAP [deceptive acts and practices] statute prohibits specified acts and representations in all consumer transactions without regard to whether the transaction involves an extension of credit. Although not directly aimed at lenders, this law affects lending to the extent that it prohibits misleading statements and practices in loan transactions by a federal savings association. Accordingly, . . . a presumption arises that the DAP statute would be preempted in connection with loans made by the Association.

33 The OTS has indicated, however, that it does not intend to preempt state laws that establish the basic norms that undergird commercial transactions The Indiana DAP falls within the category of traditional "contract and commercial" law under § 560.2(c) (1). While the DAP may affect lending relationships, the impact on lending appears to be only incidental to the primary purpose of the statute—the regulation of the ethical practices of all businesses engaged in commerce in Indiana. There is no indication that the law is aimed at any state objective in conflict with the safe and sound regulation of federal savings associations, the best practices of thrift institutions in the United States, or any other federal objective identified in § 560.2(a). In fact, because federal thrifts are presumed to interact with their borrowers in a truthful manner, Indiana's general prohibition on deception should have no measurable impact on their lending operations. Accordingly, we conclude that the Indiana DAP is not preempted by federal law.

9/26/2014

491 F.3d 638

34 See also *Courtney v. Halleran*, 485 F.3d 942, 951 (7th Cir.2007); *Binetti v. Washington Mutual Bank*, 446 F.Supp.2d 217, 220 (S.D.N.Y.2006) ("the New York Consumer Fraud Statute is precisely the type of general commercial law designed to establish the basic norms that undergird commercial transactions' that OTS has indicated it does not intend to preempt"); cf. *Cliff v. Payco General American Credits, Inc.*, 363 F.3d 1113, 1124-25 (11th Cir. 2004); *Bank of America v. City & County of San Francisco*, *supra*, 309 F.3d at 559.

35 We must decide, insofar as it is possible to do so with only the complaint to go on, which claims fall on the regulatory side of the ledger and which, for want of a better term, fall on the common law side.

36 The first 19 pages of the 40-page complaint accuse Ocwen of a variety of skullduggery, but do not indicate which bad acts are being charged as a violation of federal law and which as a violation of state law. Beginning at the bottom of page 19, however, the complaint lists the actual claims and indicates, though murkily, which are federal and which are state law claims. The first apparent state law claim is the third on the list and is entitled "fraudulent concealment." That term usually refers to a doctrine for tolling statutes of limitations, but the complaint seems to be using it to mean simply fraud. This claim alleges that Ocwen "concealed material facts" from the plaintiffs and the other members of the class, including "material terms of the loans." That sounds like a conventional fraud charge (though an implausible one—how can the material terms of the loan be concealed, when they are set forth in the loan documents?), but there are also references to "unauthorized charges," and it is not indicated whether they are unauthorized by the loan agreements or forbidden by state law.

37 The breach of contract allegations are elaborated in the fifth claim (the fourth seeks restitution as a remedy for the third claim, the one we've just been discussing). Here we read that Ocwen assumed the obligations in the plaintiffs' loan agreements when it took over the loans for servicing, that the "plaintiffs satisfied their obligations by making timely payments of principal and interest on their loans," but that nevertheless "by charging late fees on payments that were not late, Ocwen breached its contracts with Plaintiffs and the Class" and also did so by "increasing the monthly payment amount due without notice" and "demanding payment of attorneys' fees in connection with legal proceedings that have not commenced and/or have not yet been incurred" (meaning of course that the *fees* have not yet been incurred, though the literal antecedent is "legal proceedings").

38 Although these seem like conventional breach of contract allegations, Ocwen argues that they are preempted by subsection (b)(10) of the OTS regulation: "Processing, origination, *servicing*, sale or purchase of, or investment or participation in, mortgages" (emphasis added). At least so far as bears on this case, servicing refers to the exercise of rights that are conferred by a partial assignment of a mortgage by the mortgagee. Instead of assigning the entire mortgage to Ocwen, the mortgagee in this case assigned some of the rights created by the mortgage contract—the "servicing rights"—to Ocwen, which according to the complaint proceeded to violate its contractual obligations. It is no different than if the original mortgagee, or an assignee of the entire mortgage, had violated the terms of the mortgage or defrauded the mortgagor. We would have a different case if state law purported to forbid servicing or prescribe the terms of the assignment—suppose a state tried to limit the rights that the assignment conferred on the servicing S & L. But nothing like that is suggested here. If an original mortgagee can be sued under state law for breach of contract, so may the partial assignee if he violates the terms of the part of the mortgage contract that has been assigned to him.

39 The sixth claim is that Ocwen violated a "duty of good faith and fair dealing." Most

state laws impose a duty of good faith performance of contracts, meaning that a party to a contract cannot engage in opportunistic behavior. *Martindell v. Lake Shore Nat'l Bank*, 15 Ill.2d 272, 154 N.E.2d 683, 690 (Ill.1958); *Hentze v. Unverfehrt*, 237 Ill.App.3d 606, 178 Ill.Dec. 280, 604 N.E.2d 536, 539-40 (Ill.App.1992); *Lockwood Int'l, B.V. v. Volm Bag Co.*, 273 F.3d 741, 745 (7th Cir.2001) (Wisconsin law); *Original Great American Chocolate Chip Cookie Co. v. River Valley Cookies, Ltd.*, 970 F.2d 273, 280 (7th Cir.1992) (Illinois law) ("contract law imposes a duty . . . to avoid taking advantage of gaps in a contract in order to exploit the vulnerabilities that arise when contractual performance is sequential rather than simultaneous"). An example of such behavior, from the *Lockwood* case, is a liability insurance company's paying a person who has sued the insured to convert his claim to one not covered by the insurance policy.

40 The full name of the duty, both in the complaint and in the cases—"duty of good faith and *fair dealing*"—could be thought ominously open-ended. But the full name is merely what is called a "doublet," a form of redundancy in which lawyers delight, as in "cease and desist" and "free and clear." Bryan A. Garner, *The Redbook: A Manual on Legal Style* § 11.2(f) (2d ed.2006). "Fair dealing" adds nothing to "good faith." See, e.g., *Beraha v. Baxter Health Care Corp.*, 956 F.2d 1436, 1443-44 (7th Cir.1992) (Illinois law); *Restatement (Second) of Contracts* § 205 (1979).

41 The seventh claim charges Ocwen with "conversion of funds." If Ocwen converted borrowers' funds that it was holding in escrow to its own use, it would be guilty of the tort of conversion, but for all we can tell the claim may be nothing more than a rewording of the fraud claims.

42 The eighth claim is purely remedial; it seeks injunctive relief. Of course it is not a claim, that is, a cause of action, and should not have been labeled as such; it is a further example of how poorly drafted the complaint is.

43 The ninth claim alleges violations of the California Business & Professions Code §§ 17200 *et seq.* Not all state statutes that might be invoked against a federal S & L are preempted, any more than all common law doctrines are; for remember that contract and commercial law are among the laws listed in subsection (c) of the regulation, and all states have adopted the Uniform Commercial Code. If the California Business & Professions Code is some modest supplement to the UCC, then presumably it is not preempted. But it may be more, since it forbids "unfair competition" defined as "any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising." *Id.* § 17200; see *Committee on Children's Television, Inc. v. General Foods Corp.*, 35 Cal.3d 197, 197 Cal.Rptr. 783, 673 P.2d 660, 668 (Cal.1983); *People v. Duz-Mor Diagnostic Laboratory, Inc.*, 68 Cal.App.4th 654, 658, 80 Cal.Rptr.2d 419 (1998). As interpreted by the complaint, this claim charges a gallimaufry—a macédoine—of unlawful acts, including failing to provide mortgagors with adequate monthly statements of their account balances, assessing "excessive" late fees, and "force placing insurance on properties that already have insurance coverage." There is no indication that these practices involve either breach of contract or misrepresentation, and it is apparent that prohibiting them could interfere with federal regulation of disclosure, fees, and credit terms.

44 Other allegations in the ninth claim may not be preempted, such as "failing to apply customers payments," "making improper negative reports about customers," or "forc[ing] customers to pay amounts they do not actually owe under threat of losing their homes." But one would have to know more about the specific conduct being charged to make a judgment. For example, those customers who "do not actually owe" anything—is this by virtue of the terms of the loan, or by virtue of some state law that regulates credit terms? In the latter event, this part of the claim would be preempted.

9/26/2014

491 F.3d 638

45 The ninth claim also charges a violation of a provision of another California statute, which forbids imposing a late charge for an installment payment that is no more than ten days late. Cal. Civ.Code § 2954.4(a). It is clearly preempted.

46 The tenth claim is based on still another California statute, the Consumers Legal Remedies Act, Cal. Civ.Code §§ 1750 *et seq.* The plaintiffs interpret the statute to forbid deceptive practices, such as falsely representing sponsorship or approval of Ocwen's services. If this is like common law fraud, then it probably is not preempted. But is it? One cannot tell from the complaint whether, for example, the charge is limited to deliberate deception or whether as interpreted by the plaintiffs the Act creates a code of truthful marketing that would constitute the regulation of advertising, which is one of the preempted categories listed in subsection (b).

47 The eleventh claim continues with the Consumers Legal Remedies Act but adds that Ocwen has engaged in "unfair" debt collection, specifically by misrepresenting that it incurred fees or other charges for which it is entitled to reimbursement under its loan contracts. But the specifics are offered merely as examples of Ocwen's "unfair" practices in violation of the Act, rather than as the entirety of the allegations. Again we don't know whether the charge goes beyond common law fraud.

48 The twelfth claim is based on the Connecticut Unfair Trade Practices Act, Conn. Gen.Stat. §§ 42-110a *et seq.* Some of the specific charges may well be preempted, such as that Ocwen charged more for replacement hazard insurance than what the insurance cost. If this is meant to suggest that the Act can be used to impose a cost-plus pricing scheme on federal savings institutions, it is preempted, but maybe the loan contracts at issue forbade the mortgagee to charge more than the cost of the insurance. The other allegations in this claim are of abusive debt-collection practices similar to those forbidden by the federal Fair Debt Collection Practices Act, one of the plaintiffs' federal claims; it is unclear what the Connecticut Act adds that would not be preempted—probably nothing. The claim that the plaintiffs "received exorbitant and usurious" mortgages is preempted. A mysterious claim that Ocwen knowingly concealed in its advertising "material facts about the deceptive mortgages" may not be preempted, depending however on what a "deceptive mortgage" is (probably a misprint).

49 The thirteenth claim repeats the charge of fraud, but this time under New Mexico's Unfair Trade Practices Act, New Mexico Stat. Ann. §§ 57-12-1 *et seq.* It goes on to charge "a gross disparity between the value received by the [class] members [in New Mexico] and the price paid," a charge that clearly is preempted.

50 The fourteenth claim is under the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*, and complains that Ocwen "demand[s] [from the mortgagors] payments of fees for an entire foreclosure case at its inception." If this demand is forbidden by the loan contract, then the charge is not preempted; otherwise, it probably is.

51 The fifteenth claim is under Pennsylvania's Uniform Trade Practices and Consumer Protection Law, 73 Pa. Stat. §§ 201-1 *et seq.*, and contains a number of preempted claims, such as charging "unreasonable fees," failing to provide borrowers with itemizations, "coercing borrowers to remit payments through EZ Pay," and imposing "predatory loan charges," along with straight fraud claims that probably are not preempted and charges that cannot be classified because too little information is provided, such as "applying loan payments to wrongful fees and charges first."

52 The sixteenth claim is under another Pennsylvania statute, the Fair Credit Extension Uniformity Act, 73 Pa. Stat. §§ 2270.1 *et seq.* It is basically a claim of deceptive practices

in collection, but the frequent references to "improper," "unfair," and "unconscionable" make classification impossible.

53 The seventeenth claim returns us to New Mexico law, but this time with charges of slander of title—that, presumably to obtain repayment, Ocwen filed a *lis pendens* (a notice of litigation affecting real property, recorded in the registry of deeds) without a valid basis. This would not be preempted.

54 The eighteenth claim is against a bank that is no longer a defendant, or at least not a party to the appeal.

55 The nineteenth claim alleges negligence, with no further explanation. The twentieth alleges fraud, and does not appear to be preempted, though this could depend on the nature of the fraud, which is unexplained. This and other claims of fraud may fail to comply with the requirement in Rule 9(b) of the Federal Rules of Civil Procedure that the complaint plead fraud with particularity, but the issue is not before us on this interlocutory appeal.

56 The twenty-first claim, which is similar to the seventeenth, charges Ocwen with having defamed some of the plaintiffs by falsely representing that they were delinquent in repaying their loans. A charge of defamation (which would require, however, that Ocwen have made the false representation to third parties, and not just to the borrowers) is a good example of claim that the regulation does not preempt.

57 The twenty-second claim charges fraud, but without specifying the misrepresentations (or misleading omissions) constituting the fraud—and thus almost certainly violates Rule 9(b). The twenty-third and last claim is federal.

58 This tedious recital shows that the case is largely unripe for a determination of preemption. Despite its length, the complaint is vague. Some of the charges are pretty clearly, even certainly, preempted, as we have tried to indicate. Others probably are not, though this may depend on particulars omitted from the complaint. Many of the charges are so vaguely worded that we cannot guess whether they are preempted or not.

59 The complaint was filed in April 2004 after the transfer of the various suits against Ocwen to the Northern District of Illinois. Rather than trying to rule on preemption on the basis of an uninformative complaint, the district judge should have required the plaintiffs to specify the acts of Ocwen that they contend violate state law. Three years have been wasted. On remand, the judge must focus on the acts alleged in the complaint, seeking clarification from the plaintiffs where necessary and deciding in accordance with this opinion which are preempted and which are not. He must avoid the further protraction of this unwieldy litigation.

60 He will also want to consider whether any portions of the complaint should be dismissed for failure either to comply with Rule 9(b) or to comply with the recent pleading standard announced by the Supreme Court in *Bell Atlantic Corp. v. Twombly*, ___ U.S. ___, 127 S.Ct. 1955, 1967-69, 167 L.Ed.2d 929 (2007). The Court held that a complaint that charges an agreement between firms not to compete, in violation of antitrust law, must contain "enough factual matter (taken as true) to suggest that an agreement was made An allegation of parallel conduct and a bare assertion of conspiracy will not suffice." The Court rejected the heretofore canonical formula of *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957), "that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." The Court was concerned that *Conley's* formula might be invoked to condemn the

9/26/2014

491 F.3d 638

defendant in an antitrust case to conducting expensive pretrial discovery, in order to demonstrate the groundlessness of the plaintiff's case. The present case is not an antitrust case, but the district court will want to determine whether the complaint contains "enough factual matter (taken as true)" to provide the minimum notice of the plaintiffs' claim that the Court believes a defendant entitled to.

61 In the present posture of the litigation, however, the denial of the motion to dismiss the complaint must be

62 AFFIRMED.



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**EXHIBIT 7— AFFIDAVIT OF FRAUDULENT
RECORDING**

MARICOPA COUNTY RECORDER

ADRIAN FONTES

20170217740 03/28/2017 04:27

PAPER RECORDING

RECORDING REQUESTED BY

Altisource Residential, L.P.
c/o Altisource Asset Management Corporation
36C Strand Street
Christiansted, USVI 00820

0261358-2-4-1
ramirezj

WHEN RECORDED MAIL TO

Wright, Finlay & Zak, LLP
Attn: Kim R. Lepore, Esq.
16427 N. Scottsdale Rd, Suite 300
Scottsdale, Arizona 85254

Space above this line for Recorder's use only

AFFIDAVIT OF FRAUDULENT RECORDING

I, Stephen H. Gray, Affiant, being first duly sworn, state as follows:

1. I am an authorized signatory for Altisource Residential, L.P., the Trust Manager for ARLP Securitization Trust, Series 2014-2, and in that capacity am duly authorized to execute this Affidavit.
2. By Fraud, Christopher Stoller caused to be recorded a Notice of Trustee's Sale. Said document was recorded on July 13, 2015, as Instrument Number 20150500028, in the Records of Maricopa County, Arizona.
3. The purpose of this Affidavit is to give notice that the recording of the Notice of Trustee's Sale was accomplished by Fraud, and Wilmington Trust, National Association, not in its individual capacity but as Trustee of ARLP Securitization Trust, Series 2014-2, the beneficiary of the underlying Deed of Trust recorded on May 9, 2006 as Instrument Number 2006-0627298, was not the signer of the document and did not authorize the recording of the document, therefore rendering it void.
4. The legal description for the subject property is:

LOT 3, PINNACLE FOOTHILLS, ACCORDING TO BOOK 398 OF MAPS, PAGE 50, AND AFFIDAVIT OF CORRECTION RECORDED IN DOCUMENT NO. 96 0145582, RECORDS OF MARICOPA COUNTY, ARIZONA.

EXCEPTING ALL MINERALS AND ALL URANIUM, THORIUM OR OTHER MATERIALS WHICH ARE OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, AS RESERVED IN THE PATENT RECORDED IN DOCKET 304, PAGE 447.

EXHIBIT 8—TRUSTEE DEED

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
20160142719 03/04/2016 03:00
ELECTRONIC RECORDING

TrusteeDeed-3-1-1--
sarabiam

WHEN RECORDED RETURN TO:

Night Milk Co.
P.O. Box 4195
Oak Park, IL 60303

This deed is exempt from the affidavit of value requirements of A.R.S. § 11-1133 pursuant to A.R.S. 11-1134(B)(1).

TRUSTEE'S DEED

CHRISTOPHER STOLLER, as sole trustee named by that certain documents recorded in the County Records (as hereinafter defined) on March 19, 2015, as Instrument No. 2015-0184294, and in connection with that certain Trust Deed (as hereinafter described), does hereby grant and convey, but without covenant or warranty, express or implied, to Night Milk Co. ("Grantee"), whose mailing address is P.O. Box 4191, Oak Park, Illinois 60303, that certain real property situated in Maricopa County, Arizona (the "Property"). Which is more particularly described as follows:

PURPORTED STREET ADDRESS: 28437 North 112th Way
Scottsdale, Maricopa County, AZ

ASSESSOR'S PARCEL NUMBER: 216-74-044

LEGAL DESCRIPTION:

LOT 3 OF PINNACLE FOOTHILLS ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 398 OF MAPS, PAGE 50 AND AFFIDAVIT OF CORRECTION RECORDED MARCH 4, 1996, IN 96-145582 OF OFFICIAL RECORDS.

EXCEPTING ALL MINERALS AND ALL URANIUM, THORIUM OR OTHER MATERIALS WHICH ARE OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS AS RESERVED IN THE PATENT RECORDED IN DOCKET 304, PAGE 447 OF OFFICIAL RECORDS.

Christopher Stoller, as sole trustee, states that:

This conveyance is made pursuant to the powers including the power of sale, conferred upon the trustee under that certain *Deed of Trust* dated May 2, 2006, given by PHILIP B. STONE, a married man, as his sole and separate property, as the trustor, to COUNTRYWIDE BANK, N.A., U.S. National Association, as the original beneficiary and naming FIDELITY NATIONAL TITLE INSURANCE COMPANY, as the original trustee ("Original Trustee"). Recorded in the Official Records of Maricopa County, Arizona (the "County Records"), on May 9, 2006, as Instrument Number 2006-0627298, as amended by that certain: (i) *Corporation Assignment of Deed of Trust Arizona* recorded in the County Records on December 14, 2009, as Instrument No. 1143347, assigning the beneficial interest under the *Deed of Trust* to BAC Home Loans Servicing, LP, f/k/a Countrywide Home Loans Servicing, LP, (ii) *Assignment of Deed of Trust* recorded in the County Records on April 10, 2014, as Instrument No. 2014-0230060 and that *Assignment of Deed of Trust Arizona* recorded in the County Records on June 3, 2014, as Instrument No. 2014-0360515, assigning the beneficial interest under the *Deed of Trust* to ARLP Trust 3; and (iii) *Corporate Assignment of Deed of Trust* recorded in the County Records on May 13, 2015, as Instrument No. 2015-0335259, ultimately assigning the beneficial interest under the *Deed of Trust* to ARLP SECURITIZATION TRUST, SERIES 2014-2 (as amended the "Trust Deed"). The original Trustee under the Trust Deed was substituted by the applicable beneficiary to: (i) Recontrust Company, pursuant to that certain *Substitution of Trustee Arizona* recorded in the County Records on August 25, 2008, as Instrument No. 2008-0739018; (ii) Recontrust Company, N.A., pursuant that certain *Substitution of Trustee Arizona* recorded in the County Records on December 14, 2009, as Instrument No. 2009-1143348; and ultimately to WESTERN PROGRESSIVE- ARIZONA, INC., pursuant to that certain *Substitution of Trustee* recorded in the County Records on July 2, 2014, as Instrument No. 2014-0433956.

The property was sold by Christopher Stoller, as sole trustee, at a public auction held on Friday, July 17, 2015, at 10:00 a.m. at the place named in the *Notice of Trustee Sale*, recorded in the County Records on July 13, 2015, as Instrument No. 2015-0500028. Grantee, being the highest bidder as such sale, became the purchaser of the Property and made payment therefore to Christopher Stoller in the amount of the high bid of \$10.00.

[Signature and acknowledgment appear on the following page]

EXHIBIT 9 NOTICE OF TRUSTEE SALE

2349466-4-1-1--
morenoa

When Recorded Mail To:

Central LLC
5700 N. Harlem Avenue, 223
Chicago, IL 60631

NOTICE OF TRUSTEE'S SALE

Notice is hereby given that the following legally described trust property will be sold, pursuant to the power of sale under that certain *Deed of Trust* dated May 2, 2006, given by PHILIP B. STONE, a married man, as his sole and separate property, as the trustor, to COUNTRYWIDE BANK, N.A., a U.S. national association, as the original beneficiary, and naming FIDELITY NATIONAL TITLE INSURANCE COMPANY, as the original trustee ("Original Trustee"), recorded in the Official Records of Maricopa County, Arizona (the "County Records"), on 05/09/2006, as Instrument Number 2006-0627298, as amended by that certain: (i) *Corporation Assignment of Deed of Trust Arizona* recorded in the County Records on December 14, 2009, as Instrument No. 2009-1143347, assigning the beneficial interest under the *Deed of Trust* to BAC Home Loans Servicing, LP, f/k/a Countrywide Home Loans Servicing, LP; (ii) *Assignment of Deed of Trust* recorded in the County Records on April 10, 2014, as Instrument No. 2014-0230060 and that *Assignment of Deed of Trust Arizona* recorded in the County Records on June 3, 2014, as Instrument No. 2014-0360515, assigning the beneficial interest under the *Deed of Trust* to ARLP Trust 3; and (iii) *Corporate Assignment of Deed of Trust* recorded in the County Records on May 13, 2015, as Instrument No. 2015-0335259, ultimately assigning the beneficial interest under the *Deed of Trust* to ARLP SECURITIZATION TRUST, SERIES 2014-2 ("Beneficiary") (as amended, the "Trust Deed"), to the highest bidder at a public auction to be held **in the courtyard by the main entrance of the Maricopa County Superior Court building, 201 West Jefferson, Phoenix, Arizona 85003, on Friday, July 13, 2015, at 10:00 a.m.** of said day.

The Original Trustee under the *Deed of Trust* was substituted by the applicable beneficiary to: (i) Recontrust Company, pursuant to that certain *Substitution of Trustee Arizona* recorded in the County Records on August 25, 2008, as Instrument No. 2008-0739018; (ii) Recontrust Company, N.A., pursuant that certain *Substitution of Trustee Arizona* recorded in the County Records on December 14, 2009, as Instrument No. 2009-1143348; and ultimately to WESTERN PROGRESSIVE - ARIZONA, INC., ("Successor Trustee"), pursuant to that certain *Substitution of Trustee* recorded in the County Records on July 2, 2014, as Instrument No. 2014-0433956.

The trust property under the Trust Deed is purportedly located at 28437 North 112th Way, Scottsdale, Maricopa County, Arizona, and is legally described on Exhibit "A" attached hereto and incorporated herein by this reference.

Tax Parcel Number: 216-74-044
Original Principal Balance: \$600,000.00

Name and address of trustor:

Philip B. Stone
28437 North 112th Way
Scottsdale, Arizona 85262

Name and address of successor beneficiary:

ARLP Securitization Trust, Series 2014-2
c/o Altisource Asset, Management Corp.
402 Strand Street
Frederiksted, Virginia 00840

Name and contact information of Successor Trustee

Christopher Stoller
5700 N. Harlem Avenue, #223
Chicago, IL 60631
(773) 746-3163

The Successor Trustee qualifies as trustee under the Trust Deed in such trustee's capacity as an insurance company as required by A.R.S. § 33-803(A)(6).

The trustee's sale notice hereunder will be made for cash, but without covenant or warranty, express or implied, regarding title, possession or encumbrances, to pay the remaining principal sum of the promissory note accrued by said Trust Deed, which includes interest thereon as provided by said promissory note, advances, if any, under the terms of said Trust Deed, interest on advances, if any, fees, charges and expenses, of the Successor Trustee and of the trust created by the Trust Deed. Successor Trustee will only accept cash or a cashier's check for reinstatement or price bid payment. The highest bidder at the sale, other than the Beneficiary to the extent of its credit bid, shall pay the price bid by no later than 5:00 p.m. MST on the day following the trustee's sale, other than a Saturday or legal holiday. If Successor Trustee is unable to convey title for any reason, the successful bidder's sole and exclusive remedy will be the return of monies paid to Successor Trustee, and the successful bidder will have no further recourse.

[Successor Trustee's signature and acknowledgment appear on the following page.]

EXHIBIT "A"
to
NOTICE OF TRUSTEE'S SALE

Legal Description of the Trust Property

LOT 3, OF PINNACLE FOOTHILLS, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 398 OF MAPS, PAGE 50 AND AFFIDAVIT OF CORRECTION RECORDED MARCH 4, 1996 IN 96-145582, OF OFFICIAL RECORDS.

EXCEPTING ALL MINERALS AND ALL URANIUM, THORIUM OR OTHER MATERIALS WHICH ARE OR MAY BE DETERMINED TO BE PECULIARLY, ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, AS RESERVED IN THE PATENT RECORDED IN DOCKET 304, PAGE 447, OF OFFICIAL RECORDS.

EXHIBIT 10

EMAILS

25/10/2018

Mail - ldms4@hotmail.com

RE: Response to your Oct 22, 2018

Joseph Tirello <jtirello@zbslaw.com>

Wed 10/24/2018 4:30 PM

Re: 'L Stoller' <ldms4@hotmail.com>;

Good Afternoon Mr. Stoller,

As a preliminary matter, I wanted to remind you that I represent the entity that has an interest in the property subject to this discussion. I do not represent you in this matter nor can I provide legal advice or assist you in this matter.

As you may, or may not be aware, I am not required to audit the entity of the Non-Judicial foreclosure file of my client to confirm the validity of the sale. Rather, Arizona law presumes that the sale was held in accordance with the requirements under the Non-Judicial foreclosure statutes. Given this, I do not have copies of any of the underlying documents related to the sale itself. Regarding the sale itself, it was conducted on December 16, 2015 and the recordation number of the trustee's deed upon sale is 20150909308. I represent Wilmington Trust, National Association, not in its individual capacity but as Trustee of ARLP Securitization Trust, Series 2014-2.

Regarding the possession question, I list the parties to the Deed of Trust, Stone in this case. Prior to filing my complaint I am more than happy to include you and anyone else you have actual knowledge of possession.

Please let me know once you are able to provide the documentation that supports your interest in the property. Otherwise, I will have to proceed with the eviction action as mentioned in the letter.

Thank you,

Joseph J. Tirello, Jr., Esq.

Attorney and Regional Manager

Zieve, Brodnax & Steele, LLP

3550 N. Central Ave., Ste. 625, Phoenix, AZ 85012

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From: L Stoller [<mailto:ldms4@hotmail.com>]

Sent: Wednesday, October 24, 2018 2:09 PM

25/10/2018

Mail - ldms4@hotmail.com

To: Joseph Tirello

Subject: Re: Response to your Oct 22, 2018

Mr. Trello

Re: your email Oct 24, 2018

28437 112st Way
Scottsdale Az 85262

Thank you for your quick response. We will be happy to provide you with a copy of our warranty deed which we our locating.

We are confident that this matter can be resolves amicably as between the parties.

Mr. Tirelly you stated that , "My client holds a trustee's deed upon sale for this property that was previously foreclosed upon".

Foreclosed upon?

Mr. Trello, we are entitled to know who is your client, that is asserting their alleged rights to the subject property?

Can you please provide us with a "Published copies of the Notice of Trustee Sale. Name of the trustee who is alleged to have conducted the sale? Name of the successful bidder at the trustee sale. The date of the trustee sale and a copy of the payment made to the trustee? A copy of the trustee deed?"

Please email us copies of the above documents.

All of the information you have in your possession and/or control, otherwise your client would not have authorized your firm to have sent your Oct. 22, 2018 letter.

If you have any questions please email us. We look forward to receiving the information we requested. We will be emailing you a copy of our Warranty Deed shortly.

Current owners

Christopher Stoller E.D.

Michael Stoller

L. Stoller

28437 112st Way
Scottsdale Az 85262

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25/10/2018

Mail - ldms4@hotmail.com

responsible for delivering the message to the intended recipient, or if you have received this communication in error, please notify us immediately by return e-mail and delete the original message and any copies of it from your computer system.

From: Joseph Tirello <jtirello@zbslaw.com>
Sent: Wednesday, October 24, 2018 9:20 AM
To: 'L Stoller'
Subject: RE: Response to your Oct 22, 2018

Good Morning,

My client holds a trustee's deed upon sale for this property that was previously foreclosed upon. Under Arizona law, a trustee's deed upon sale provides for the presumption that my client is entitled to possession of the property in question.

Please provide the warranty deed to me that demonstrates your right to the property and I will be able to confirm whether or not this was an error.

Thank you,

Joseph J. Tirello, Jr., Esq.
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From: L Stoller [<mailto:ldms4@hotmail.com>]
Sent: Tuesday, October 23, 2018 10:27 PM
To: Joseph Tirello
Subject: Fw: Response to your Oct 22, 2018

Mr. Joseph Tirello
Zieve Brodnax & Steele

Re: your letter Oct 22, 2018

25/10/2018

Mail - ldms4@hotmail.com

28437 112st Way
Scottsdale Az 85262

There seems to be a misunderstanding. You addressed your letter to a Philip Stone, who has not lived at 28437 112 st Way since 2008 and does not have possession of the said property since 86'.

We have possession of the said property which belongs to us.

We hold a warranty deed to the subject property 28437 112St Way, Scottsdale Arizona 85262, which you would have knowledge of, if you did your due diligence, prior to sending your letter.

Can you please advise us who your client is that is alleging that they have rights to our home, the subject property, and please provide us with whatever the copies of documents, ie Deed upon which your client is asserting rights to the subject property superior to ours.

We are confident that this matter can be resolved amicably.

Please direct all correspondent regarding this matter to :

Christopher Stoller E.D.
Michael Stoller
L. Stoller
P.O. Box 60645
Chicago, Illinois 60660

Or you can call me at 773-746-3163

We look forward to a prompt email response.

Cordially

Christopher Stoller ED

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APPENDIX OF EXHIBITS

EXHIBIT 1—NOTICE TO VACATE

EXHIBIT 2—

EXHIBIT 3— DISCHARGE OF DEBTS OF PHILIP STONE

EXHIBIT 4—ADJUSTABLE RATE NOTE

EXHIBIT 5— CONSUMER FRAUD COMPLAINT AND CONSENT JUDGMENT

EXHIBIT 6— CLASS ACTION LAWSUIT

EXHIBIT 7— AFFIDAVIT OF FRAUDULENT RECORDING

EXHIBIT 8—TRUSTEE DEED