

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, ex rel. MICHAEL DEWINE, ATTORNEY GENERAL, et al.	:	Case No. 2011-0890
	:	
Petitioners,	:	On Review of Certified Questions from the United States District Court for the Northern District of Ohio
	:	
v.	:	
	:	
GMAC MORTGAGE, LLC, et al.	:	U.S. District Court Case Nos.
	:	
Respondents.	:	No. 3:10-cv-02537, 1:10-cv-02709

**BRIEF OF AMICI CURIAE OHIO LEGAL SERVICES PROGRAMS
IN SUPPORT OF PETITIONER
OHIO ATTORNEY GENERAL MICHAEL DEWINE**

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INTEREST OF THE AMICI CURIAE

All of Ohio's civil legal services programs¹ join in submitting this brief supporting the Ohio Attorney General's position that the Ohio Consumer Sales Practices Act applies to mortgage servicers. Amici have been on the forefront of the foreclosure crisis, coordinating litigation and non-litigation efforts to help Ohio's low- and moderate-income citizens retain home ownership. Amici are partners in Save the Dream Ohio, the statewide foreclosure

¹ Advocates for Basic Legal Equality (ABLE) is a non-profit civil legal service provider with the mission of providing high quality legal assistance to low-income persons in thirty-two counties in northwest and west central Ohio.

The Legal Aid Society of Cleveland is the law firm for low-income families in northeast Ohio. Its mission is to secure justice and resolve fundamental problems for those who are low income and vulnerable by providing high quality legal services and working for systemic solutions that empower those it serves.

The Legal Aid Society of Columbus is similarly committed to assisting low income persons and seniors with legal problems in a variety of cases, including housing, consumer, public benefits, domestic relations, as well as basic life necessities, in a six county area of central Ohio.

Community Legal Aid Services, Inc., serves eight counties in northeast Ohio. Its mission is to protect the rights of the poor and better their condition. CLAS represents the low income in a variety of case, including consumer and housing issues.

The Legal Aid Society of Southwest Ohio, LLC, an affiliate of the Legal Aid Society of Greater Cincinnati, provides a broad range of civil legal services to low income persons in southwest Ohio.

Southeastern Ohio Legal Services is an LSC-funded legal services program whose mission is to act as general counsel to a client community residing throughout thirty rural counties in southeast Ohio and, as such, provide the highest quality of legal services to its clients toward the objective of enabling poor people to assert their rights and interests.

Pro Seniors is a non-profit civil legal service provider with the mission of providing legal assistance to seniors in Southwestern Ohio, as well as legal advice to any senior statewide.

The Ohio Poverty Law Center, a nonprofit limited liability corporation, provides assistance and consulting to the Ohio legal services community through project management, policy advocacy, litigation support, training, specialty assistance and consulting, task forces, publications and other activities.

intervention initiative, which is a partnership of state, local, and public interest resources. Since amici became Save the Dream partners in 2008, the programs have provided direct representation to over 12,000 homeowners in 87 of Ohio's 88 counties at all levels of services. They and their volunteer attorney partners have participated in over 1,322 court supervised foreclosure mediations.

In addition to direct representation, legal aid lawyers have participated in multiple borrower outreach events co-sponsored by the U.S. Treasury and the ten largest home loan servicers, including JP Morgan Chase Bank NA and Bank of America NA. They have worked closely with local common pleas courts statewide to implement foreclosure mediation, and worked with those same courts to develop local rules and policies regarding mortgage foreclosures. They have worked closely with the Ohio Attorney General's Consumer Protection Section to uncover mortgage servicing abuses and the use of fraudulent affidavits in foreclosure filings.

Consequently, the amici are well situated to provide the Court with information about the interaction between homeowners and loan servicers, and the role of servicers in the loan modification, loss mitigation and foreclosure processes.

STATEMENT OF THE CASE AND STATEMENT OF FACTS

The Ohio Attorney General filed suit against GMAC and Jeffrey Stephan in Lucas County Common Pleas Court, alleging, among other claims, that the defendants committed unfair, deceptive and unconscionable acts against Ohio consumers in violation of the Ohio Consumer Sales Practices Act (CSPA). Defendants removed the case to the United States District Court for the Northern District of Ohio, then moved to dismiss, asserting that the

Attorney General failed to state a claim under the CSPA, more particularly claiming that the Attorney General failed to allege the existence of a “consumer transaction” or a “supplier”. The District Court found no controlling precedent in Ohio law and, pursuant to S.Ct.Prac.R. 18. 2, certified three questions of law to this Court regarding the applicability of the Ohio Consumer Sales Practices Act to mortgage servicers and their activities.

ARGUMENT

I. INTRODUCTION

In the First Amended Complaint, the Attorney General alleged that GMAC was a “supplier” as defined under the CSPA and made multiple allegations of specific activities that constitute violations of the CSPA. In the first of three questions certified to and accepted by this Court, the Northern District Court asks: Does the servicing of a borrower’s residential mortgage loan constitute a consumer transaction as defined in the Ohio Consumer Sales Practices Act, R.C.1345.01(A)? This brief addresses only this first question. Based on the plain language of the Ohio Consumer Sales Practices Act, the structure and function of the mortgage servicing industry, evidence of the multiple interactions between homeowners and mortgage servicers, and statements from the industry itself, the amici urge this Court to answer this question affirmatively.

II. MORTGAGE SERVICING IS A CONSUMER TRANSACTION UNDER THE PLAIN LANGUAGE OF THE OHIO CONSUMER SALES PRACTICES ACT

The Consumer Sales Practices Act prohibits unfair, deceptive and unconscionable acts by a supplier in connection with a consumer transaction. A consumer transaction is defined in R.C. 1345.01 (A) as: “a sale, lease, assignment, award by chance, or other transfer of an item of

goods, *a service*, a franchise, or an intangible, to an individual for purposes that are primarily personal, family, or household, or a solicitation to supply any of these things.” (emphasis supplied). The Act is a remedial law which is designed to compensate for traditional consumer remedies and so must be liberally construed pursuant to R.C. 1.11. *Einhorn v. Ford Motor Co.* (1990), 48 Ohio St. 3d 27, 29, 548 N.E.2d 933. R.C. 1.11 states: “Remedial laws and all proceedings under them shall be liberally construed in order to promote their object and assist the parties in obtaining justice.”

This definition of “consumer transaction” involves two questions. The first is whether the transaction is a sale, lease, assignment, award by chance, or other transfer of an item of goods, a service, a franchise, or an intangible to an individual; and the second is whether the transaction is for purposes that are primarily personal, family or household. The second question is not at issue here. In the First Amended Complaint, the Attorney General alleges that the residential mortgage loan servicing transactions in question “were for purposes that were personal, family or household.” In its preliminary briefing to the Court, GMAC Mortgage, LLC does not dispute this claim. Indeed, for homeowner/borrowers purchasing a primary residence, this purchase and the subsequent payment of the loan obligations are indisputably for personal or household purposes.

This brief addresses the first of these two questions, that is, whether the transaction between a loan servicer and a homeowner involves services which are covered by the Act. GMAC argues that servicing activities are merely an extension of a pure real estate transaction and therefore exempt from the CSPA. This argument does not accurately reflect the functions of mortgage servicing, the realities of the mortgage lending marketplace, and the close interactions between the homeowner-borrower and their mortgage servicer. The Attorney General fully addresses the legal arguments concerning this and the other certified questions. The intention of

this brief is to supplement the Attorney General's arguments with information about the way mortgage servicing functions from the homeowner's perspective.

A. Loan Servicing is Separate From Loan Origination

Mortgage loan servicers are not parties to the purchase of residential real estate. As an example, home buyers get their first written explanation of a servicer when they are handed Form 3036, the Ohio-Single Family-Fannie Mae/Freddie Mac Uniform Instrument. The explanation appears in paragraph 20:

Sale of Note; Change of Loan Servicer; Notice of Grievance. *** A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer ***

This instrument, which is the industry standard and is the required instrument for all loans guaranteed, sold to, or purchased by Fannie Mae and Freddie Mac, is executed at closing.²

² According to Fannie Mae's Second Quarter 2011 Results, Number 5458a, August 5, 2011, Fannie Mae, Freddie Mac and Ginnie Mae collectively guaranteed more than 80% of single-

Closing is also when the borrower is notified, usually with a form payment letter from lender to borrower, specifying where and to who the homeowner is to make loan payments.

This happens because the mortgage lending industry has become very complex. As explained by the US Government Accountability Office, originating lenders no longer hold mortgage loans as assets on their balance sheets, but sell them to others, most often for the purpose of securitizing the mortgage. Mortgage Foreclosures: Documentation Problems Reveal Need for Ongoing Regulatory Oversight, GAO-11-433, May 2011. Securitization has unbundled the loan industry, disassembling the lending process into its constituent elements and allowing a separate entity to undertake each part. Some have called this “atomization” of the industry. Eggert, Held Up In Due Course: Predatory Lending, Securitization and the Holder In Due Course Doctrine, (2002) 35 Creighton L. Rev. 503. As a result, multiple entities have specific roles regarding loans.

Mortgage servicers begin their relationships with homeowners when the homeowner’s obligation to make payments commences. As explained by the Federal Trade Commission in its 2010 brochure, FTC Facts for Consumers: Mortgage Servicing: Making Sure Your Payments Count: “In today’s market, loans and the rights to service them often are bought and sold. In many cases, the company that you send your payment to is not the company that owns your loan.” Servicers undertake the constituent elements involving management of all aspects of home loan mortgages, including the following: sending borrowers monthly account statements, answering customer service inquiries, collecting monthly mortgage payments, maintaining

family mortgage originated in the United States since January 1, 2009. Fannie Mae and Freddie Mac contract with independent mortgage loan servicers to conduct virtually all interaction with homeowners. *U.S. Bank NA v. Antoinette Duvall*, 2011-2018, Supreme Ct., Brief of Amicus Curiae, Fannie Mae, Freddie Mac, in Support of Appellant, p. 11.

escrow accounts for property taxes and hazard insurance, and forwarding proper payments to the mortgage owners. If a borrower becomes delinquent, servicers may also initiate and conduct foreclosures in order to obtain the proceeds from the sale of the property on behalf of the owners of the loans. *Mortgage Foreclosures*, id. at 4.

B. Loan Servicers Perform Labor for the Benefit of Homeowners

Sending account statements, answering customer service inquiries, maintaining escrow accounts, forwarding payments and sending account statements are all activities that benefit homeowners. By collecting payments, maintaining escrow accounts, contacting homeowners regarding loss mitigation, determining homeowner eligibility for loan modifications, and processing loan modification, mortgage loan servicers are “performing labor for the benefit of another,” as service is defined in the substantive rules at Ohio Admin.Code 109:4-3-01 (C) (2).

Even though homeowners do not choose their servicers, the CSPA does not require privity of contract for the transaction to be a covered transaction. The CSPA covers suppliers engaged in the business of effecting consumer transactions, “whether or not the person deals directly with the consumer.” R.C. 1345.01 (C). As discussed by the First District Court of Appeals in *Garner v. Borcharding Buick, Inc.* (1992), 84 Ohio App. 3d 61, 64, 616 N.E.2d 283: “A review of the Ohio Consumer Sales Practices Act reveals that nothing in the statute provides that privity of contract is a prerequisite to the recovery of damages.” The First District went on to explain that the conduct in question must occur “in connection with” a consumer transaction, and the defendant must have some connection with the consumer.

Mortgage servicers have direct and often frequent connections with the homeowners whose loans they are servicing, and they engage in conduct effecting consumer transactions. Included as Appendix A is an example of a call log maintained by the loan servicer in an

ongoing case. This log shows the multiple contacts between servicer and homeowner, discussing default, noting the client's financial circumstances, advising on loan modification options, and collecting loan modification documents. Advising the homeowner on loss mitigation options, assisting the homeowner in completing loss mitigation requests, crediting payments and calculating past due amounts are all servicers performed for the benefit of the homeowner attempting to meet the obligations of a mortgage loan.

Further, R.C. 1345.01(A) does not expressly exempt mortgage loan servicing from the definition of a consumer transaction, except for servicers that are also financial institutions, insurance companies, or dealers in intangibles. If the General Assembly had intended to include such an exception in the statute, it could have done so. See, e.g., *Columbus Mtge., Inc. v. Morton*, 10th Dist. No. 06AP-723, 2007-Ohio-3057 at ¶53 (declining to find an implied exemption for a mortgage company selling a repossessed vehicle when the express exemption for dealers in intangibles applied).

The duties and obligations mortgage servicers owe to homeowners are identified in a variety of sources, such as servicing guides, loan modification program guidelines, pooling and servicing agreements, or, most recently, from consent orders with federal oversight agencies.³ Regardless of the source of those duties and obligations, homeowner borrowers are the customers of loan servicers. For example, Respondent GMAC Mortgage, LLC described its

³ See, e.g., Fannie Mae's 2011 Servicing Guide, available at: <https://www.fanniemae.com/sf/guides/ssg/svcgpdf.jsp>; Making Home Affordable Program Handbook for Servicers of non-GSE mortgages, available at: <https://www.hmpadmin.com/portal/index.jsp>; FRB Docket No. 11-020-B-HC, 11-B-DEO; FDIC-11-123b, *In the Matter of Ally Financial Inc., Ally Bank, Residential Capital, LLC and GMAC Mortgage, LLC*, Consent Order, April 13, 2011, available at: <http://www.federalreserve.gov/newsevents/press/enforcement/enf20110413a3.pdf>.

extensive work with borrowers and its commitment to loss mitigation efforts to the New Jersey Special Master, repeatedly referring to borrowers as “customers”, and stating: “It has always been GMACM’s⁴ first option to resolve delinquency through loss mitigation avenues such as loan modifications, forbearance, and repayment plans. **** Since 2008, GMACM has achieved approximately 596,000 workout solutions for its customers nationwide.” Further, GMACM states: “GMACM’s commitment to finding workable solutions for its distressed borrowers is evidenced by the fact that it has executed over 16,000 workout solutions for its New Jersey customers since 2008.” If GMAC considers borrowers to be its customers, then servicing is the commodity it is providing in the transaction with its customers.

III. CURRENT PROBLEMS WITH PROCESSING FORECLOSURES REFLECT PROBLEMS IN THE CONSUMER TRANSACTIONS BETWEEN SERVICERS AND HOMEOWNERS FOR WHICH CONSUMERS SHOULD HAVE A REMEDY UNDER THE CSPA

When the CSPA was amended in 1978, the General Assembly stated its intent to prevent unfair, deceptive and unconscionable acts and practices by suppliers, to provide strong and effective remedies, both public and private, to assure that consumers will recover any damages caused by such acts and practices, and to eliminate any monetary incentives for suppliers to engage in such acts and practices. *Bittner v. Tri-County Toyota, Inc.* (1991), 58 Ohio St.3d 143, 144, 569 N.E.2d 464 (quoting language from Am.Sub.H.B. No. 681, 137 Ohio Laws, Part II,

⁴ GMACM is the acronym used by GMAC Mortgage, LLC to designate GMAC in the filings submitted to the Special Master in its Prima Facie showing. This explanation can be found starting on page 14 of GMAC Mortgage, LLC’s Prima Facie Showing Pursuant to the March 18, 2011 Stipulation, Docket No. F-059553-10, May 17, 2011. All documents from Docket No. F-059553-10, *In the Matter of Residential Mortgage Foreclosure Pleadings and Document Irregularities*, Superior Court of New Jersey, Chancery Division, General Equity Part, Mercer County available at: <http://www.judiciary.state.nj.us/superior/documents.htm>

3219, which amended the CSPA to its current version). In *Walker v. Dominion Homes, Inc.*, the Tenth District Court of Appeals held: “An act or practice is unfair if it is marked by injustice, partiality, or deception, or if it results in inequitable business dealings.” 164 Ohio App. 3d 385, 2005-Ohio-6055, 842 N.E. 2d 570 at ¶ 25,.

“The purpose of the CSPA is to protect consumers from “unscrupulous suppliers” in a manner not afforded under the common law. A consumer (particularly a nonbusiness one) may be relatively naive and unskilled in the area involved, whereas the supplier will generally be more knowledgeable about the field, practice, or product. As marketing and consumer services become more complex, the legislature felt that consumers must be afforded redress that permits them to escape from the results of a deceptive seller. Therefore, a consumer transaction should be defined with the policy of protecting the unwary consumer in mind.” *Elder v. Fischer* (1998), 129 Ohio App. 3d 209, 214, 717 N.E.2d 730. (footnotes and citations omitted). In *Elder v. Fischer*, residents challenged the billing practices of their residential care facility. The Court found the billing practices met the definition of a consumer transaction. In this case, the policy of protecting consumers would dictate that this Court find mortgage servicing to be a consumer transaction.

The following case examples from legal aid advocates illustrate the complex nature of the servicing industry, the inequality of the relationship between homeowners and loan servicers, and the difficulties in obtaining redress from an industry that engages in unfair and deceptive conduct. If the question whether the transaction between a homeowner/consumer and a mortgage loan servicer were close, these examples would illustrate why this Court should liberally construe the definition of a consumer transaction to protect Ohio homeowners.

James and Michelle Walton are currently struggling to resolve their foreclosure case. The Waltons are exactly the kind of homeowners that government sponsored loan modifications were designed to help. Mr. Walton lost his job in 2006 as a result of downsizing by his employer. He exhausted his personal money reserves to pay his mortgage and other bills, but in 2008 he fell behind on his mortgage. He received job training and has struggled to find and maintain employment, but has found work only at one-third of his former income. Before he defaulted on his mortgage, he contacted his mortgage servicer, GMAC Mortgage, LLC, to talk about loss mitigation and a possible loan modification. As set forth in both James and Michelle Walton's affidavits, GMAC Mortgage LLC failed to engage in any meaningful loss mitigation, despite the Waltons submitting multiple loan modification requests, and despite the heightened servicing requirements of a Federal Housing Administration-insured loan. In the foreclosure action, GMAC's motion for summary judgment was supported by an affidavit from Defendant Jeffrey Stephan, which GMAC has since withdrawn. James and Michelle Waltons' affidavits, which were included as part of a motion to vacate, are included as Appendix B. *GMAC Mortgage, LLC. v. James Walton, Jr., et.al.*, Montgomery Cty. C.P. 2008 CV 10287.

Another example is the case of Diane Bohl. In 2009, Ms. Bohl applied for a HAMP loan modification through her servicer, Saxon Mortgage Services, Inc. She made three trial payments as required, after which she was denied a permanent loan modification for ostensible failure to make the required payments she had actually made. As a result of this wrongful denial, Ms. Bohl's account has accumulated unwarranted fees, costs and interest. In addition, Saxon has included in the unpaid principal balance of her loan attorneys fees for a prior foreclosure that Saxon had voluntarily dismissed. Ms. Bohl is once again defending a foreclosure. Her Amended Answer and Counterclaim is included as Appendix C. *Deutsche Bank National Trust*

Co. As Trustee for Saxon Asset Securities Trust 2007-1 v. Diane Bohl, et. al., Lorain Cty. C.P. 10 CV 170183.

As a final example, Robert Greenleaf has not yet been able to resolve the problems with his mortgage loan account caused by his servicer's failure to appropriately handle his escrow account. In February 2009 the servicing of his mortgage loan was transferred from the original servicer to Green Planet Servicing, LLC (GPS). In February 2009 Mr. Greenleaf was current on his mortgage. In August 2009, GPS notified him that he had been overcharged for his escrow fund and returned the surplus to him. Later, GPS discovered it had failed to pay Mr. Greenleaf's property taxes as it was obligated to do. GPS corrected its error, but assessed the late fees and penalties to Mr. Greenleaf's account. Although GPS subsequently agreed to eliminate Mr. Greenleaf's escrow account, it continues to notify him that he is delinquent. This alleged delinquency is solely due to GPS's original escrow error and improper assessment of fees and penalties incurred as a result of GPS's error. Mr. Greenleaf's complaint, escrow statement and Qualified Written Requests are included in Appendix D. *Robert Everett Bran Greenleaf v. Green Planet Servicing, LLC.*, S.D. OH, 2:11-cv-00838.

All of these examples illustrate nature of the transactions between homeowners and their loan servicers, highlighting the obligations servicers have to their homeowner customers.

VI. CONCLUSION: MORTGAGE SERVICING IS A CONSUMER TRANSACTION

As illustrated by the examples in Section III, the services that mortgage servicers perform on behalf of homeowners profoundly affect homeowners' compliance with the terms of their promissory note and mortgage. The failure to perform these services competently can have a devastating impact on homeowners' abilities to remain in their homes. Because the conduct of

mortgage loan servicers falls within the definition of a consumer transaction, and because mortgage servicers are not excluded from coverage by plain language of the Consumer Sales Practices Act, and because the Act is a remedial statute entitled to liberal construction, this Court should find that the answer to the first certified question is “Yes.”



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I hereby certify that a copy of foregoing was served by regular U.S. mail upon the following via regular U.S. Mail on October 3, 2011.

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APPENDIX – A

Date	Item	Substance
9/26/08	Note signed	\$136,696; PI payments: \$1,036
1/22/09	Consolidated Notes Log	No mod pr invstor (note that rvd everything)
5/6/09	Consolidated Notes Log	"Pay Stub Index Received"
6/5/09	Consolidated Notes Log	Change in delinquency status: From "imminent default to 1st contact group loss mit"
6/23/09	Consolidated Notes Log	Curtailment of income; "will try to mk the pmt the first Thursday of July"; husband was unemployed
7/14/09	Consolidated Notes Log	Pmt to be done July 31 at bank for 1019.60; wife is unempy and he is the only one working
7/14/09	Consolidated Notes Log	Bwr states had applied for loan mo; never heard back; adv bo analyst vut docs rcvd
9/2/09	Consolidated Notes Log	Last mnth pymnt will be paid on 9/11. And this mnth pymnt will be py on the 24th of this month; wanted status of loan mod gave gate numbr
9/4/09	Default notice	Owed \$2,241 (2 payments) as of 9/3
9/14/09	Consolidated Notes Log	Said will be making pay end of Sept. Rfd wife unem; B1 loss job last Wed; did die for unem seeking assist; was told we would be mlg chang plan
10/5/09	Consolidated Notes Log	Broken Plan Not Paid
10/7/09	Consolidated Notes Log	UATP sked abt assistance--dv no auth on file
10/7/09	Consolidated Notes Log	Rcvg ubepoynt pay of \$1,052; personal finances
10/7/09	Consolidated Notes Log	Because borr in fin dfct part clm not feas because borr in fin dfct. Based on financial info bwr is elig for a liquid plan but not interested
10/7/09	Consolidated Notes Log	91E to educate cust on ptnl w/o altv, info will be rewed when pkg rcvd.
10/7/09	Consolidated Notes Log	Intent to keep Prty
10/7/09	Consolidated Notes Log	Failed invst fuide owner occupied; Bwr is unemployed; revd partial claim; rewvd replay plan; Rwd Speal Forbb
10/22/09	Consolidated Notes Log	\$MD for any of the w/o the her information adv her that she is a good candidate for any of the w/o adv of the required docs adv of te fax
10/22/09	Consolidated Notes Log	Loan was current thru 8/1/09; total past due of \$2370; 10/30/09 \$1,020
10/22/09	Forbearance Plan	10/30/09: \$1,020; 2/2/10: \$5,609

10/22/09	Consolidated Notes Log	Bwr accepted suspended fob; 3rd arty is going to be sending a payment by Western Union
10/27/09	Consolidated Notes Log	Wife [REDACTED] child vrfd demos, need status w/o. stated was qualify for rpy plan pymnt due by 10/30
10/27/09	Consolidated Notes Log	Although bwr advd cannot commit to pay, gathering details on rfd & fincls to further RYW situation; inc lower b/c hours lost
10/30/09	Consolidated Notes Log	[REDACTED] calling about general info on how suspended form bymnt plan; advsd gen info, bwr will be sendin in tax return
11/3/09	Ltr inviting call for loan mod	"may be eligible for loan mod..."
11/3/09	Consolidated Notes Log	[REDACTED] provided mtcn# for pmt of \$1020; faxed signed form docs also and faxed today
11/4/09	Consolidated Notes Log	LM missing items ltr sent; hardship affidavit; 4506
11/8/09	Notice of Intent to Foreclose	Default since 9/1/09; total owed as of 11/2: \$3,434
11/9/09	Consolidated Notes Log	Recvd nod advised standard practice
12/17/09	Consolidated Notes Log	Delg stat=09 (this is first time there's been a value)
1/19/10	Consolidated Notes Log	ER initiated refuse to cooperate (have seen this before??)
1/19/10	Consolidated Notes Log	Although bwr advd cannot commit to pay, gathering details on rfd & fincls to further r/w situation
1/19/10	Consolidated Notes Log	Decision (???)
2/1/10	Consolidated Notes Log	Advd her follow u and sure pymnt clears acct. Advd her pymnt has to clear acct in order for it to be approved
2/1/10	Consolidated Notes Log	KVV would like to review the situation with te borrower/co-borrower; forbearance not feas because bwr in fin defct. Par clm not feas because bwr in fin defct. Brwr elig for prequal FHA HAMP but ot interested
2/1/10	Consolidated Notes Log	Delet Plan 04 2 Pymts, Tot 629. End 02/02/20; Chang Plan 05: 01 Pymts, Tot 1065, End 02/09/10;
2/2/10	Consolidated Notes Log	bwr still oow will return by 2/29/10. Susp form end 2/2/10; wanting further asst. ...adv will rf acct to FHA unit
2/11/10	Notice of Intent to Foreclose	Default since 11/1/09; total due: \$4,259

3/13/10	"Act Now to Avoid Foreclosure"	5 months past due; \$5,323
5/13/10	Consolidated Notes Log	R9N not by 5/15/10; part clm spec forbearance not feas because borr in fin dft. Cus unable to provide info necessary to make w/o decision; bwr offered start date 6/10/10. Repay not feas; down pymt not at lest \$3762 or borrower unable to make PTP, income lower b/c hurs lost
5/13/10	Consolidated Notes Log	Uneig for rpy plan snt out initial package
5/14/10	Chase sent HAMP packet	
5/20/10	Consolidated Notes Log	litiated refue to cooperate owner occupied
5/20/10	Consolidated Notes Log	Cust unable to provide info necessary to make w/o decision; cannot commit to make any payment at this time...gathering details oon RFD & fncls to further rrw situation. Inc lower v/c hurs...adv can end offe letter..B1 was unem but not wrkin
5/24/10	HAMP Affidavit	
6/1/10	Consolidated Notes Log	FHA foreclosure referral approved by management rev
6/7/10	Consolidated Notes Log	Sd applying for mod. Sd will b seding in updated paystubs tomo. Finances already taken in ER...Adv will escalate acct to B assigned procesr; adv to all back in a wk.
6/15/10	Complaint Filed	Default as ot 10/1/09
6/15/10	Consolidated Notes Log	Suspend Plan V2 Not Fes loan is due for more than 6 mortgage payments (AC52420) Not eligible part clm spec forbearance ot feas based on on Inv/bus guidelines. Reduced plan V2 not feas loan is due for more than 6 payments.
6/17/10	Consolidated Notes Log	A3P was calling bc gor cout agreement. I adv that bc borr was declined back in Feb due ti the docs not being update and the 3ed party not understand I adv that needs to make sure the borr send in docs every 60 days. Gave her the atny number of who is doing the FC
6/18/10	Consolidated Notes Log	SW wife [REDACTED]. She Inq about the FC this is due to waiting o esc to chage temp to get reassigned
6/29/10	Docs	[REDACTED] faxed HAMP documentation--
6/30/10	Consolidated Notes Log	Advise have atty [REDACTED] and will fax paystub
7/7/10	Consolidated Notes Log	Confirmed receipt of docs--could not review, guardian locked up.

7/20/10	Reinstatement ltr for LSR to NMM	Pst due & late fees: \$11,000; foreclosure fees: \$3,567
2/16/11	HAMP Affidavit	

APPENDIX – B

IN THE COMMON PLEAS COURT
MONTGOMERY COUNTY, OHIO

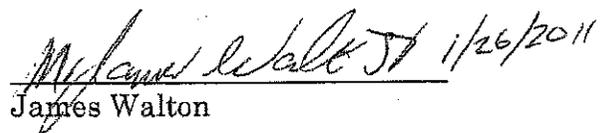
GMAC Mortgage, LLC,) Case No. 2008 CV 10287
)
Plaintiff,) Judge Mary Katherine Huffman
)
v.) AFFIDAVIT OF JAMES
) WALTON
)
James Walton, Jr., et al.)
)
Defendants.)

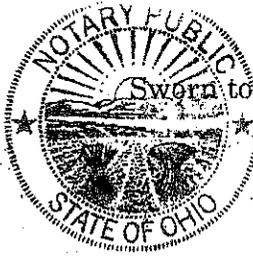
State of Ohio)
) ss:
County of Montgomery)

1. My name is James Walton. My wife Michelle and I are defendants in this foreclosure action filed by GMAC Mortgage.
2. My mortgage loan is an FHA mortgage.
3. In 2006 I lost my job at the General Motors plant as a result of downsizing. I got a buyout and received some money which I used to pay my mortgage and other bills and send my son to college, until the money ran out. In 2008 I fell behind in my mortgage payments.
4. I sought a new career and completed electrician training through the Workforce Investment Act but they did not find me a job. Electrician jobs became hard to find because of the downturn in the construction industry. I had one electrician job, but I had to drive from Dayton to Greenville every day and it was financially better to drive a fork lift in Dayton, which is what I do now. I have changed jobs several times as I tried to raise my net earnings. I made around \$60,000 per year at GM. The jobs I could get here paid between \$15,000 and eventually I got to about \$25,000 per year gross, which I make now. We reduced our expenses and got rid of cable and alarm services to try and save our home.
5. I called GMAC Mortgage even before I ran out of money to explain my situation and see if I could save my home. I had a lot of conversations with different people at GMAC Mortgage but they never worked with

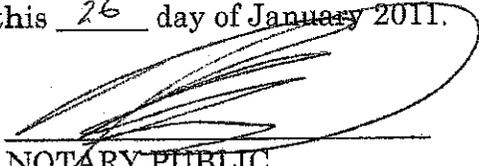
me or offered me anything I could afford. I never talked to the same person twice. They said I had to catch up all my payments or do the best I could, but never offered me any help.

6. I never received any kind of Forbearance, Loan Modification that I could afford, or Partial Claim. They never offered to reduce my payments to match my income.
7. GMAC mortgage never tried to arrange a face to face meeting with me, or had a face to face interview with me. I just got farther and farther behind.
8. I went to several housing counselors or foreclosure rescue companies for help in saving my home. Some of them disappeared, wanted a lot of money in fees, or were put out of business. By the time I got to Community Action Partnership, who has been helping me recently, my arrearages had been built up.
9. I have submitted approximately six loan modification requests. I would make a new one when my pay went up. Several times they lost papers I submitted and made me do it again.
10. In January 2010, GMAC Mortgage made an offer for me to pay \$850 per month that didn't include taxes and insurance. That's more than my original payment. I couldn't afford those high payments.
11. After GMAC Mortgage filed foreclosure, I filed a letter as an answer. GMAC Mortgage filed a motion for summary judgment with an affidavit by someone named Jeffrey Stephan. I didn't think there was anything I could do except to keep trying to get a loan modification. I have made several requests since then. GMAC Mortgage denied me an FHA HAMP loan modification.
12. When GMAC Mortgage's lawyer sent me a copy of their "withdrawal of affidavit" that they filed with the Court in December 2009, I didn't understand what this meant. Community Action Partnership told me to contact Legal Aid and I did. I met with an attorney in December 2010 and they took the case on January 6, 2011. That was the first I heard about there being a problem with Jeffrey Stephan's affidavits.


James Walton



Sworn to and subscribed to before me this 26 day of January 2011.
ATTEST: MATTHEW NICURIS, Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03 O. R. C.


NOTARY PUBLIC

IN THE COMMON PLEAS COURT
MONTGOMERY COUNTY, OHIO

GMAC Mortgage, LLC,) Case No. 2008 CV 10287
)
 Plaintiff,) Judge Mary Katherine Huffman
)
v.) AFFIDAVIT OF MICHELLE
) WALTON
James Walton, Jr., et al.)
)
 Defendants.)

State of Ohio)
) ss:
County of Montgomery)

1. My name is Michelle Walton. My husband James and I are defendants in this foreclosure action filed by GMAC Mortgage.
2. Our mortgage loan is an FHA mortgage.
3. In 2006, James lost his job at the General Motors plant as a result of downsizing. I got a buyout and received some money which I used to pay my mortgage and other bills, until the money ran out.
4. James went through job training but couldn't get a job that paid nearly as much as GM did.
5. We contacted GMAC Mortgage to see if we could save our home. They didn't work with us or offer us anything we could afford.
6. In 2008, we fell behind in our mortgage payments.

7. We never received any kind of Forbearance, Loan Modification that we could afford, or Partial Claim. They never offered to reduce our payments to match our income.
8. GMAC mortgage never tried to arrange a face to face meeting with us, or had a face to face meeting with us. We just got farther and farther behind.
9. We submitted several loan modification requests, as James got higher paying jobs. We worked with housing counseling agencies like Community Action Partnership. We wrote an answer to the court when they filed foreclosure.
10. The best they did was to offer a payment that was higher than when James was working at GM. We couldn't afford those high payments.
11. We didn't know there were problems with affidavits by Jeffrey Stephan until after GMAC Mortgage's lawyer sent us a copy of their "withdrawal of affidavit" that they filed with the Court in December 2009. We didn't understand what this meant. At that time, we were still working with a housing counselor at Community Action Partnership.
12. Community Action Partnership told James to contact Legal Aid. They took the case on January 6, 2011.

Michelle D. Walton
Michelle Walton

Sworn to and subscribed to before me this 1/26 day of January 2011.



MATTHEW N. CURRIE, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03 O. R. C.

[Signature]
NOTARY PUBLIC

APPENDIX – C

**IN THE COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO
GENERAL DIVISION**

DEUTSCHE BANK NATIONAL TRUST CO.	:	Case No.: 10 CV 170183
AS TRUSTEE FOR SAXON ASSET	:	
SECURITIES TRUST 2007-1,	:	JUDGE EWERS
	:	[Magistrate Mackintosh]
Plaintiff,	:	
	:	<u>AMENDED ANSWER</u>
vs.	:	<u>AND COUNTERCLAIM</u>
	:	
DIANE BOHL, et al.,	:	
	:	
Defendants.	:	

I. ANSWER

Defendant Diane Bohl states for her Answer as follows:

1. The Defendant admits that a copy of a promissory note is attached to the Complaint as Exhibit A but denies the balance of the averments in ¶ 1 of the Complaint.
2. The Defendant admits that a copy of a mortgage is attached to the Complaint as Exhibit B but denies the balance of the averments in ¶ 2 of the Complaint.
3. The Defendant denies the averments in ¶ 3 of the Complaint.
4. The Defendant admits that a mortgage assignment is attached to the Complaint as Exhibit C but denies the balance of the averments in ¶ 4 of the Complaint.
5. The Defendant admits that a second mortgage assignment is attached to the Complaint as Exhibit D but denies the balance of the averments in ¶ 5 of the Complaint.

4. The Defendant denies that the Plaintiff is entitled to the relief it seeks and further states that she is entitled to damages.

AFFIRMATIVE DEFENSES

1. This Court lacks subject matter jurisdiction over this case.
2. The Plaintiff lacked standing to bring this action as the promissory note and mortgage which are the subject of this matter were not delivered by Saxon Asset Securities Company, the "Depositor" for Saxon Asset Securities Trust 2007-1, to the Trustee by February 1, 2007 which was the cut-off date for delivery of those records under the Pooling and Servicing Agreement for the Trust. Agreement. The Pooling and Servicing Agreement is governed by the substantive law of the state of New York which requires strict adherence to the language in such trust agreements. Neither the Plaintiff nor the Trust it represents have suffered any harm by the Defendant's alleged breach of the terms of the promissory note or mortgage at issue in this case.
3. The mortgage assignment attached to the Complaint as Exhibit C dated July 8, 2008, which purported to transfer the promissory note and mortgage to the Plaintiff as a trustee without designating the trust that the Plaintiff allegedly represented. In order to create facially valid grounds to commence this action, the Plaintiff caused a second assignment of note and mortgage to be prepared and filed, dated February 22, 2010 under which Saxon Mortgage Services assigned the instruments to the Plaintiff. The Pooling and Servicing Agreement for the Trust represented by the Plaintiff prohibits such transfer. Further, there is no evidence that Saxon was authorized to act as an attorney in fact for Deutsche Bank National Trust Company with respect to that transaction and the Plaintiff did not attach to the Complaint a copy of the power of attorney required by R.C. § 5309.74.

4. On information and belief, the Plaintiff's acquisition of the subject loan was in breach of its fiduciary duty and against public policy.
5. The Plaintiff is not a holder in due course, having taken assignment after the loan was allegedly in default for the purpose of bringing a foreclosure action.
6. The Plaintiff is not a holder of the Promissory Note attached to the Complaint as Exhibit A.
7. The Plaintiff is not a proper party in interest.
8. The loan transaction with the Defendant was overreaching.
9. The loan transaction with the Defendant was procedurally and substantively unconscionable.
10. The Plaintiff's foreclosure claim is barred by the clean hands doctrine.
11. The Plaintiff has failed to join a necessary party, to wit: Saxon Mortgage Services, Inc.
12. The Plaintiff has failed to state a claim for which relief may be granted.
13. The Plaintiff's claims are barred by estoppel.
14. The Plaintiff made three payments under a trial agreement for the Home Affordable Modification Program during the period from August through October 2009 after which she was denied a permanent modification due to an alleged failure to make the required payments. The Defendant is now entitled to the permanent loan modification for which she was eligible as of November 1, 2009 in accordance with §9.5 of the Making Homes Affordable Manual and is not liable for any inconsistent amounts including unpaid interest, late charges, fees, and costs.
15. Saxon Mortgage Services, Inc. was the servicer for the Defendant's mortgage loan and acted as Plaintiff's agent at all times pertinent to this matter. Saxon grossly mismanaged the Plaintiff's mortgage account co-mingling payments by other customers with funds in the Defendant's account, improperly crediting payments that the Defendant made, issuing

notices to the Defendant that contained contradictory and confusing statements about her rights and responsibilities and the status of her mortgage loan account.

16. The Plaintiff has failed to mitigate its damages.
17. Any other applicable affirmative defenses not listed herein that may be interposed.

COUNTERCLAIM
Consumer Sales Practices Act, R.C. Chapter 1345

1. The foregoing is hereby incorporated as if fully rewritten herein.
2. Plaintiff is Trustee for Saxon Asset Securities Trust 2007-1¹ and named as assignee of the residential mortgage and promissory note which are the subject of this action.
3. The Plaintiff is a “person” as defined in R.C.§1345.01(B) and a “supplier” as defined in R.C.§§1345.01(C) and “assignee” of a “residential mortgage” as defined in R.C.§§ 1345.01(I) and 1345.091.
4. Defendant is a “consumer” as defined in R.C.§1345.01(D) who engaged in a “consumer transaction” with Saxon Mortgage, Inc. on November 9, 2006 that involved a “residential mortgage” as defined by R.C.§§1345.01(A) and (I).
5. Saxon Mortgage Services, Inc., is a for-profit Texas corporation and subsidiary of Saxon Mortgage, Inc. It is licensed by the Ohio Department of Commerce to engage in second mortgage transactions and is also in the business of servicing residential mortgage loans.
6. Saxon is a “person” as defined in R.C.§1345.01(B) and a “supplier” as defined in R.C.§§1345.01(C) and at all times pertinent to this matter Saxon, and certain of its employees whose identities are currently unknown, acted as an agent of the Plaintiff in its capacity as Trustee or in its capacity as a national trust company.

¹ [http://www.secinfo.com/\\$/SEC/Registrant.asp?CIK=1387989](http://www.secinfo.com/$/SEC/Registrant.asp?CIK=1387989)

7. The Plaintiff has engaged in a pattern and practice of filing foreclosure actions in this state without presenting a justiciable matter for adjudication, without establishing that it had a right to enforce the promissory notes on which the actions were based, and that it had standing.
8. Plaintiff, by and through Saxon, committed unfair, deceptive, and unconscionable acts and practices in violation of R.C. §§1345.02 and 1345.03 declared to be deceptive or unconscionable by rules adopted pursuant to R.C. §1345.05(B)(2) or by the courts of this state after such decisions were made available for public inspection under R.C. §1345.05(A)(3) and include, but are not limited to, the following examples:
 - A. Plaintiff, by and through Saxon, misrepresented the failure of the Defendant to pay trial HAMP agreement as basis for denial of permanent loan modification for which the Defendant otherwise was qualified and imposed unwarranted fees, costs, and interest; *See State of Ohio, ex rel., Cordray v. Statewide Financial Group, Inc. dba U.S. Homeowners Assistance*, No. A0906737 (Hamilton C.P. 2009); PIF 10002846.
 - B. The Plaintiff by and Saxon, has included in the unpaid principal balance for Defendant's mortgage loan attorney's fees associated with a prior foreclosure case against the Defendant that the Plaintiff dismissed; *see State of Ohio, ex rel., Cordray v. Statewide Financial Group, Inc. dba U.S. Homeowners Assistance*, No. A0906737 (Hamilton C.P. 2009); PIF 10002846.
 - C. The Plaintiff, by and through Saxon, has charged attorney's fees that are excessive given the degree of skill, experience of counsel, and nature of claims. *Wilborn v. Bank One Corporation*, 121 Ohio St. 3d 546, 2009-Ohio-306; PIF 10002787.

- D. The Plaintiff, by and through Saxon, misrepresented balance due on the Defendant's loan account; *State ex rel. Celebrezze v. Scandinavian Health Spa, Inc.* 1986 WL 363150 (Ohio C.P. 1986), PIF 1000744;
 - E. The Plaintiff, by and through Saxon, overcharged the Defendant for loan, i.e., difference between current total unpaid balance on loan and what the balance would be had the Defendant been provided with the modified loan she should have received on November 1, 2009.
 - F. The Plaintiff, by and through Saxon, falsely represented in its Complaint that the Defendant owes a debt to Plaintiff and Plaintiff caused the mortgage assignments described herein to be recorded and filed in this action; *see Hartman v. Asset Acceptance Corp.*, No. 1:03-CV-113 (U.S. Dist. Ct., SD Ohio, 2003); PIF 10002329;
9. Plaintiff, by and through Saxon, committed unfair, deceptive, and unconscionable acts and practices in violation of R.C. §§ 1345.02 and 1345.03 including, but not limited to, the following examples:
- A. Provided ineffective, incompetent, or inefficient customer service to the Defendant.
10. Plaintiff was aware of and ratified the unlawful conduct of Saxon as its agent described herein and is derivatively liable for the violations of the R.C. Chapter 1345 committed by Saxon notwithstanding any indemnification provisions contained in the PSA.
11. Defendant suffered damages as a result of Plaintiff's unfair and deceptive or unconscionable acts and practices.

RELIEF

WHEREFORE, the Defendant demands the following relief:

- A. The Plaintiff's claims be dismissed without prejudice;

- B. Damages against the Plaintiff in an amount in excess of \$25,000 or such amount determined at trial in accordance with R.C.§1345.09(A);
- C. Judgment against the Plaintiff in the amount of three times actual damages or \$200 for each unlawful act specified, whichever is greater in accordance with R.C.§1345.09(B);
- D. A judgment that declares the practices of the Plaintiff complained of herein to be unfair, deceptive, or unconscionable and an injunction against continuation of those practices pursuant to R.C.§1345.09(D);
- E. Reasonable attorney's fees in accordance with R.C.§1345.09(F)(2).
- F. Costs taxed to the Plaintiff;
- G. Such further relief as this Court deems fair and just.

Respectfully submitted:

Philip D. Althouse (0051956)
Legal Aid Society of Cleveland
538 West Broad St. Ste 300
Elyria, OH 44035
Telephone: (440) 323-8240
Telecopier: (440) 323-8526
Email: pdalthouse@lascleve.org
Trial Attorney for Defendant

CERTIFICATE OF SERVICE

This will certify that a true and accurate copy of the foregoing was served upon the following person(s) by ordinary U.S. mail on 30 May 2011:

Barbara Friedman Yaksic, Esq.
Kimberly Rivera, Esq.
25550 Chagrin Blvd. Suite 406
Beachwood, OH 44122

Charles Gasior, Esq.
4500 Courthouse Blvd.
Stow, OH 44224

J.G. Morrison, Asst. County Prosecutor
225 Court St. Fl 3
Elyria, OH 44035

Philip D. Althouse (0051956)

APPENDIX – D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

Robert Everett Bran Greenleaf,
56845 State Route 124
Portland, OH 45770

Plaintiff,

v.

GREEN PLANET SERVICING, LLC,
10 Research Parkway, Suite 2
Wallingford, CT 06492
c/o CSC-Lawyers Incorporating Service
50 West Broad Street Suite 1800
Columbus, OH 43215

Defendant.

Case No. _____

JUDGE _____

COMPLAINT

Jurisdiction

1. This Court has jurisdiction over this action pursuant to 12 U.S.C. §2614 and 28 U.S.C. §1331.

Parties

2. Robert Everett Bran Greenleaf ("Greenleaf" or "Mr. Greenleaf") is the owner of the home and property located at 56845 State Route 124, Portland, Ohio 45770, and for all times relevant to this action has been a resident of Ohio.
3. Green Planet Servicing, LLC, ("GPS") is a mortgage servicing business organized under Delaware law. Green Planet services the mortgage First Madison Loan Services, LLC, holds on Mr. Greenleaf's property.

Facts

4. Mr. Greenleaf purchased his home in 2006 with a note and mortgage (attached hereto as Exhibits A and B) to Ownit Mortgage Solutions Inc. Subsequently, the note and mortgage were allegedly assigned to First Madison Loan Services, LLC.

5. Prior to February, 2009, Greenleaf's loan was serviced by Dovenmuehle Mortgage, Inc. On February 1, 2009, servicing was transferred to GPS.
6. Prior to February 1, 2009, Greenleaf was current in his payments. His payment included escrow funds to pay for county property taxes and hazard insurance.
7. In August 2009 Greenleaf was informed by GPS that he had been over-charged for his escrow fund and that the surplus of \$1,536.52 needed to be returned to him. See Exhibit C attached hereto.
8. Greenleaf requested in writing those funds first be applied to any payment deficiency on his mortgage account. He further requested any remaining surplus be refunded to him by check.
9. The full \$1,536.52 was credited to his account.
10. It was not until later that GPS discovered that there had not, in fact, been an overage, but rather GPS had improperly failed to pay 2008 property taxes out of the escrow account.
11. GPS made those past payments to the tax assessor in November of 2009.
12. Upon information and belief, GPS improperly levied late fees and penalties to Greenleaf for GPS's delinquent payment.
13. Greenleaf disputed that the late fees and charges assessed by GPS were appropriate, and submitted a Qualified Written Request under the Real Estate Settlement Procedures Act in May 2010. As a result, the parties agreed to allow Greenleaf to eliminate his escrow account so that problems would not continue to build up in the future. See Exhibit D.
14. However, GPS continued to demand that Greenleaf was delinquent in his mortgage. Upon information and belief, this delinquency is due solely to improper accounting of Mr. Greenleaf's mortgage and the unpaid fees GPS assessed as a result of its own error.

15. Undersigned counsel for Greenleaf sent a second Qualified Written Request to GPS on March 10, 2011. GPS accepted that certified mail on March 14, 2011. More than sixty (60) days have elapsed since that time and GPS has not responded to the request.
Attached hereto as Exhibit E.
16. On August, 2011, GPS sent to Greenleaf a "Notice of Default and Demand of Payment" (hereafter "Notice of Default") alleging he owed \$2,434.56 in "past due installments and late charges." Upon information and belief that amount consists of wrongful fees stemming from the 2008 property tax error and wrongful late fees for Greenleaf's refusal to pay for GPS' error.
17. The Notice of Default states, "If the total of all past due payments and late fees is not received by our office by 09/03/11 the noteholder will accelerate the maturity of your loan. The entire balance will be declared due without further demand and we will proceed to foreclose and sell the property."
18. Greenleaf faces the immediate threat of foreclosure as the result of GPS's improper actions and failure to respond to Greenleaf's QWR.

First Cause of Action: Violation of RESPA

19. GPS failed to acknowledge receipt of Greenleaf's Qualified Written Request within twenty (20) days of receipt. 12 U.S.C. §2605(e)(1)(a).
20. GPS failed to respond to Greenleaf's Qualified Written Request within 60 business days after receipt thereof. 12 U.S.C. §2605(e)(2)
21. GPS failed to conduct an appropriate investigation after receiving the qualified written request in violation of 12 U.S.C. §2605(e)(2).

22. GPS's failures have spanned three years, have not been resolved through two separate Qualified Written Requests, and have not been remedied despite numerous requests. Their behavior constitutes a pattern and practice of noncompliance with the requirements of RESPA. 12 U.S.C. §2605(f).
23. Plaintiff specifically reserves the right to amend this complaint to include further causes of action available under the Real Estate Settlement Procedures Act, and all other state and federal laws, as discovery may later reveal.

WHEREFORE, Plaintiff prays this Court:

- a) Enter judgment in Greenleaf's favor;
- b) Award Plaintiff costs and attorney fees;
- c) Award actual and punitive damages;
- d) Award additional damages of \$1,000 pursuant to 12 U.S.C. §2605(f);
- e) Award any other relief this Court determines equitable.

Respectfully submitted,

SOUTHEASTERN OHIO LEGAL SERVICES

/s/ Peggy P. Lee

Peggy P. Lee (#0067912)
Attorney for Robert Greenleaf
964 East State Street
Athens, OH 45701
740.594.3558
740.594.3791 (fax)
plee@oslsa.org



ROBERT B GREENLEAF
 PO BOX 54
 PORTLAND, OH 45770

ANNUAL ESCROW ACCOUNT DISCLOSURE STATEMENT

NEW PAYMENT AS OF 09/01/09
 PRINCIPAL & INTEREST: \$ 811.52
 ESCROW: \$ 179.43
 NEW PAYMENT TOTAL: \$ 990.95

Loan Number: 1000005502
 Analysis Date: 07/21/09

COMING YEAR ESCROW

The purpose of the Coming Year Escrow is to determine the lowest balance "Low Point" to which your escrow account will decline over the upcoming year. Under federal law, your lowest monthly balance should be no more than twice last year's projected monthly escrow statement, unless otherwise specified under state law or the terms of your mortgage contract.

Annual Escrow Account Projection		Month	Monthly Escrow Pymt	Pymts from Escrow	Description	Current Balance Projection	Required Projection
BALANCE AS OF 08/31/09						3,330.82	1,794.30
County Tax Disbursement	\$ 1,232.16	SEP	179.43			3,510.25	1,973.73
Homeowners Ins Disbursement	\$ 921.00	OCT	179.43	921.00	HOMEOWNERS	2,768.68	1,232.16
Flood Insurance	\$ N/A	NOV	179.43			2,948.11	1,411.59
Total:	\$ 2,153.16	DEC	179.43	1,232.16	COUNTY	1,895.38	358.86
		JAN	179.43			2,074.81	538.29
		FEB	179.43			2,254.24	717.72
		MAR	179.43			2,433.67	897.15
		APR	179.43			2,613.10	1,076.58
		MAY	179.43			2,792.53	1,256.01
		JUN	179.43			2,971.96	1,435.44
		JUL	179.43			3,151.39	1,614.87
		AUG	179.43			3,330.82	1,794.30

The expected balance in your escrow account is: \$ 3,330.82
 The starting balance according to this analysis should be: \$ 1,794.30
 This means that there is a surplus in your account of: \$ 1,536.52
 Allowable Low Point: \$ 358.86

SURPLUS NOTIFICATION (THIS IS NOT A BILL)

SURPLUS AMOUNT: \$ 1,536.52

IF YOUR SURPLUS IS \$50.00 OR GREATER, GPS WILL BE SENDING A REFUND CHECK UNDER SEPARATE COVER WITHIN 30 DAYS, PROVIDING YOUR LOAN IS CURRENT.



10 Research Parkway, Suite 2
 Wallingford, CT 06492

LOAN NUMBER: 1000005502

ROBERT B GREENLEAF
 PO BOX 54
 PORTLAND, OH 45770



964 East State Street
Athens, OH 45701
740.594.3558
800.686.3669
740.594.3791 Fax

athens@oslsa.org
<http://www.ohiolegalservices.org>
<http://www.seols.org>

April 5, 2010

Quantum Servicing
ATTN: Mortgage Loan Accounting Department/
Borrower Inquiry Department
1 Corporate Drive, Suite 360
Lake Zurich, IL 60047-8945



**RE: Robert B. Greenleaf
PO BOX 54
Portland, OH 45770-0054
Loan Number 1421032507
VIA CERTIFIED MAIL & FAX**

To Whom It May Concern:

Please treat this letter as a "qualified written request" under the Federal Servicer Act, which is a part of the Real Estate Settlement Procedures Act, 12 U.S.C. 2605(e). It is my understanding that you previously serviced Mr. Greenleaf's mortgage with the Loan Number indicated above.

Specifically, I am requesting the following information with regards to Mr. Greenleaf's mortgage loan that you serviced:

1. A complete and itemized statement of the loan history from the date of the loan to the date of this letter of your servicing of the loan including, but not limited to, all receipts by way of payment and all charges to the loan in whatever form. This history should include the date of each and every debit and credit to any account related to this loan, and the nature and purpose of each such debit and credit, and the name and address of the payee of any type of disbursement related to this account.
2. A complete and itemized statement of all advances or charges against this loan for any purpose that are not reflected on the loan history transaction statement provided in answer to question #1.
3. A complete and itemized statement of the escrow account of the loan, if any, from the date of the loan to the date upon which your servicing terminated, including, but not limited to, any receipts for disbursements with respect to real estate property taxes, fire or hazard insurance, flood insurance, mortgage insurance, credit insurance, or any other insurance product.

Executive Director
Thomas W. Weeks

Managing Attorney
Anne S. Rubin



Staff Attorneys
Gilberto J. Charriez
Charles A. Cohara
Rebecca R. Gonzales
Melissa Greenlee
Stuart Y. Itani
Peggy P. Lee

April 5, 2010

Page 2

4. A complete and itemized statement from the date of the loan to the date of this letter of any forced-placed insurance and expenses related thereto, related in any way to this loan.

5. A complete and itemized statement from the date of the loan to the date of this letter of any suspense account entries and/or any corporate advance entries related in any way to this loan.

6. A complete and itemized statement from the date of the loan to the date of this letter of any property inspection fees, property preservation fees, broker opinion fees, appraisal fees, bankruptcy monitoring fees, or other similar fees or expenses related in any way to this loan.

7. A complete and itemized statement of any and all arrears including each month in which the default occurred, and the amount of each monthly default.

8. A complete and itemized statement of any late charges to this loan from the date of this loan to the date of this letter.

9. The amount, if applicable, of any "satisfaction fees."

10. A complete and itemized statement from the date of the loan to the date of this letter of any fees incurred to modify, extend, or amend the loan or to defer any payment due under the terms of the loan.

11. A full and complete comprehensible definitional dictionary of all transaction codes and other similar terms used in the statements requested above.

12. A complete and itemized statement of any funds deposited in any suspension account(s) or corporate advance account(s), including, but not limited to, the balance in any such account or accounts and the nature, source, and date of any and all funds deposited in such account or accounts.

13. A complete and itemized statement from the date of this loan to the date of this letter of the amount, payment date, purpose and recipient of all foreclosure expenses, NSF check charges, legal fees, attorney fees, professional fees, and other expenses and costs that have been charged against or assessed to this mortgage.

14. Copies of all servicing, master servicing, sub-servicing, contingency servicing, special servicing, or back-up servicing agreements with respect to this account.

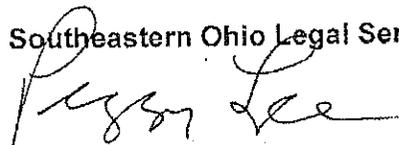
15. All written loss-mitigation rules and work-out procedures related to any defaults regarding this loan and similar loans.

April 5, 2010

Page 3

Sincerely yours,

Southeastern Ohio Legal Services

A handwritten signature in black ink, appearing to read "Peggy Lee". The signature is written in a cursive style with a large initial "P" and "L".

Peggy P. Lee
Attorney at Law

PPL/*
Enclosure(s)

rtment

U.S. Postal Service™
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Return Receipt Fee (Enhancement Required)	
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ppL

Sent To *Quantum Services*
 Street, Apt. No. *1 Corporate Drive Suite 360*
 or PO Box No.
 City, State, ZIP+4 *Lake Forest IL 60077-8945*

PS Form 3800, August 2006 See Reverse for Instructions

7009 0820 0000 2028 0967
 7009 0820 0000 2028 0967



CERTIFIED MAIL™

Ohio Legal Services
1e Street
45701



964 East State Street
Athens, OH 45701
740.594.3558
800.686.3669
740.594.3791 Fax

athens@oslsa.org
<http://www.ohiolegalservices.org>
<http://www.seols.org>

March 10, 2011

Green Planet Servicing LLC
10 Research Parkway Suite 2
Wallingford, CT 06492

RE: Robert Greenleaf
56845 State Route 124
Portland, Ohio 45770
Acct. No. 1000005502

COPY

To Whom It May Concern:

Please treat this letter as a **“qualified written request”** under the Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(e). This request is made on behalf of my client, Robert Greenleaf, based on his dispute of the amount alleged to be due and owing. Specifically, I am requesting a breakdown of the following information:

1. The monthly principal and interest payment, and monthly escrow payment from April 2010 to current.
2. The total amount, separately listed and identified, for any unpaid principal, interest, escrow charges, and other charges due and owing as of today's date.
3. The total amount paid by Mr. Greenleaf on the mortgage account as of today's date.
4. For each payment received from April 2010 to March 2011, indicate the amount of the payment, the date received, the date posted to the account, how the payment was applied or credited (indicating the portion, if any, applied or credited to principal, interest, escrow, suspense or other treatment), and the month to which the payment was applied. If interest is calculated using a daily accrual accounting method, indicate for each payment the number of days that lapsed from the prior payment application date.
5. The amount, payment date, purpose, and recipient of all foreclosure expenses, late charges, NSF check charges, appraisal fees, property inspection/preservation fees, force placed insurance charges, legal fees, bankruptcy/proof of claim fees, recoverable corporate advances, and other expenses or costs that have been charged and/or assessed to Mr. Greenleaf's mortgage account from April 2010 to today's date.
6. The amount, payment date, purpose, and recipient of all escrow account items including but not limited to taxes, water and sewer charges, and insurance premiums, charged and/or assessed to Mr. Greenleaf's mortgage account from April 2010 to March 2011.

Executive Director
Thomas W. Weeks
Managing Attorney
Anne S. Rubin

LSC



Staff Attorneys
Charles A. Cohara
Stuart Y. Itani
Peggy P. Lee

March 10, 2011

Page 2

7. A breakdown of the current escrow account payment showing how it was calculated and the reasons for any increase or decrease in the months prior to today's date. Indicate the date when the last escrow account analysis was conducted on the mortgage account.
8. The balance in the escrow account as of today's date.
9. The balance in any suspense account as of today's date and the reason why such funds were deposited in said account.
10. A copy of all monthly account statements sent to Mr. Greenleaf from April 2010 to March 2011. If none were sent, please state your reasoning for not sending monthly statements.
11. A copy of all annual escrow account statements sent to Mr. Greenleaf since January 2010. If none were sent, please state your reasoning for not sending escrow account statements.
12. The current interest rate on Mr. Greenleaf's mortgage account.
13. A full and complete comprehensible definitional dictionary of all transaction codes and other similar terms used in connection with the above requests.

To the extent that Green Planet has charged to Mr. Greenleaf's mortgage account any late fees, appraisal fees, broker price opinion fees, property inspection/preservation fees, legal fees, recoverable corporate advances, and other fees or costs in connection with an alleged default and Green Planet's claim that the account is in default, Mr. Greenleaf disputes such default, fees and costs and specifically requests that the account be corrected to delete all errors.

If you are not the current servicer of Mr. Greenleaf's loan please state the date you ceased being the service and the company who is now responsible for the servicing of the instant loan.

Thank you for taking the time to acknowledge and answer this request as required by the Real Estate Settlement Procedures Act (sec.2605(e)).

Very truly yours,



Carlie J. Boos, Esq.
Equal Justice Works Americorps Legal Fellow
The Legal Aid Society of Columbus
Southeastern Ohio Legal Services
1108 City Park Ave.
Columbus, Ohio 43206
P: (614) 224-8374
F: (614) 224-4514

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><i>Green Planet Services, LLC</i> <i>10 Research Parkway Suite 2</i> <i>Wallingford, CT 06492</i></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> G.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7002 0860 0007 3718 1172</p>
<p>PS Form 3811, February 2004</p>	<p>Domestic Return Receipt 102595-02-M-1640</p>

PS Form 3800, April 2002
See Reverse for Instructions

Sent to: *Green Planet Services, LLC*
 Street, Apt. No., or PO Box No.: *10 Research Parkway Suite 2*
 City, State, ZIP+4: *Wallingford CT 06492*

Postage	\$.47
Certified Fee	\$ 2.80
Return Receipt Fee (Endorsement Required)	\$ 2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.47

Postmark Here

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CERTIFIED MAIL RECEIPT
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7002 0860 0007 3718 1172

D - 12

PS Form 3800, April 2002
See Reverse for Instructions

Sent to: *Green Planet Services, LLC*
 Street, Apt. No., or PO Box No.: *10 Research Parkway Suite 2*
 City, State, ZIP+4: *Wallingford CT 06492*

Postage	\$.47
Certified Fee	\$ 2.80
Return Receipt Fee (Endorsement Required)	\$ 2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.47

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 (Domestic Mail Only; No Insurance Coverage Provided)

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