

ORIGINAL

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U.S.D.C. - Atlanta

MAR 02 2017

JAMES N. HATTEN, Clerk
By: *[Signature]*
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Steven Bivens, on behalf of himself
and all persons similarly situated,

Plaintiff,

v.

Select Portfolio Servicing, Inc.,

Defendant.

)
)
)
)
) CIVIL ACTION FILE
)
)

NO.

1:17-CV-0760

CLASS ACTION COMPLAINT

Plaintiff Steven Bivens, by and through his attorney of record, files this Complaint on behalf of himself and all persons similarly situated within the United States and hereby alleges as follows:

PARTIES

1.

Plaintiff Steven Bivens ("Mr. Bivens") is a resident of the State of Georgia. He currently resides at 651 Simmons Mine Circle, Sugar Hill, Georgia 30518.

2.

Defendant Select Portfolio Servicing, Inc. ("SPS") is a Utah corporation

authorized to do business in the State of Georgia and is currently in good standing. SPS may be served through its registered agent, Corporation Service Company, 40 Technology Parkway South, Suite 300, Norcross, GA 30092.

JURISDICTION AND VENUE

3.

Jurisdiction and venue are proper over the parties as pled in this Complaint. This Court has federal question jurisdiction over Plaintiffs' RESPA claim. Venue is proper in this district as Mr. Bivens resides in this district, the violation occurred here and SPS does business here.

FACTUAL ALLEGATIONS

4.

Mr. Bivens is the maker of promissory notes and the grantor of security deeds dated August 2, 2006, for both a first and a second loan on his home at 651 Simmons Mine Circle, Sugar Hill, Georgia 305168. The lender for each of these loans was Mortgage Lenders Network, USA, Inc. ("MLN"). These loans are both federally related mortgage loans.

5.

Defendant SPS is a servicer of federally related mortgage loans and has represented itself to Mr. Bivens as the current servicer of the first loan on Mr.

Bivens' home.

6.

Mr. Bivens faxed a Qualified Written Request (QWR) to SPS on June 30, 2016, to the designated fax number, 801-270-7856, that asked for information related to the servicing of his account. See Exhibit A.

7.

SPS's response to this request for information did not provide any of the requested information – instead it stated: “Due to the current litigation, SPS believes that it would be more appropriate to refrain from providing a detailed response to you at this time ... and consider this matter closed.” See Exhibit B. This is a violation of 12 U.S.C. § 2605.

8.

Mr. Bivens faxed another request for this same information to SPS at the same number on August 3, 2017, from Office Depot. See Exhibit C.

9.

SPS's response to the August 3rd request provided some of the information requested, but failed to provide other requested information, so this response also violated 12 U.S.C. § 2605. See Exhibit D.

10.

Mr. Bivens has suffered actual damages that include: the cost of travel to Office Depot and the cost of faxing the August 3rd QWR from Office Depot.

11.

SPS has also failed to adequately respond to QWRs from Mr. Bivens in violation of 12 U.S.C. § 2605 that were sent on March 26, 2015, Feb. 4, 2016, April 20, 2016 and Oct. 13, 2016.

CLASS ACTION ALLEGATIONS

12.

Class Plaintiff brings this action both individually and on behalf of all persons whose Qualified Written Requests to SPS were not substantively responded to by SPS where SPS refused to substantively respond to the disputes and requests for information based on “litigation” since March 2, 2014 (the “Class”).

13.

The Class of persons described above is so numerous that joinder of all members is impracticable. Important questions of law and fact exist which are common to the entire Class and predominate over any questions that may affect individual Class Members in that Defendant has acted on grounds generally

applicable to the entire Class.

14.

All questions as to the actions attributable to Defendant herein are similarly common. A determination of liability for such conduct will also be applicable to all members of the Class.

15.

The claims of the Class representative, Plaintiff Steven Bivens, are typical of the claims of the Class in that all Plaintiffs are suing for damages under 12 U.S.C. § 2605(e) and (f). The Class violations are all violations of the same federal law and SPS has the same illegal practice nationwide, so common questions of law and fact will predominate over questions affecting only individual members. A determination of a violation will be applicable to all members of the Class. Class certification will also obviate the need for duplicative litigation.

16.

Plaintiff will fairly and adequately represent and protect the interests of the entire Class. Plaintiff has retained counsel competent and experienced in the prosecution of class action litigation. Plaintiff has no interests that are contrary to or in conflict with those of the Class he seeks to represent.

17.

Class actions are specifically provided for by 12 U.S.C. § 2605, and this action is superior to all other available methods for fair and efficient adjudication of this controversy. There is no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

18.

The prosecution of separate actions by individual Class Members would create a risk of inconsistent and varying adjudications concerning the subject of this action, which adjudications could establish incompatible standards for Defendant under the laws alleged herein. A class action is superior to other available methods for fairly and efficiently adjudicating this controversy.

19.

Plaintiff intends to send notice to all members of the Class as required by Fed. R. Civ. P. 23. The names and addresses of the Class are available from Defendant's records.

REQUEST FOR CLASS RELIEF
VIOLATIONS OF 12 U.S.C. § 2605

20.

Plaintiffs incorporated by reference the allegations from paragraphs 1-19 as if set forth verbatim herein.

21.

The Real Estate Settlement Practices Act (“RESPA”), codified at 12 U.S.C. § 2605(e), governs the duty of loan servicers to respond to borrower inquiries.

22.

Servicers are required to provide substantive responses to QWRs. Defendant has failed to comply with this requirement because it has refused to substantively respond to Plaintiffs’ QWRs, as required in 12 U.S.C. § 2605(e), based on an excuse of “litigation.”

PRAYER FOR RELIEF

23.

WHEREFORE, Plaintiff, on behalf of himself and the Class, prays:

1. For an award of actual and statutory damages,
2. For an award of all reasonable attorney’s fees and costs incurred by Plaintiffs, and
3. For such other and further relief as the Court may deem just and equitable.

DEMAND FOR JURY TRIAL

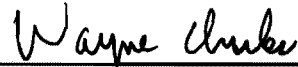
24.

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff and

the Class demand a trial by jury.

Submitted this 2nd day of March, 2017 .

BY: Wayne Charles, P.C.

A handwritten signature in cursive script that reads "Wayne Charles".

Wayne Charles

Georgia State Bar No. 515244

WAYNE CHARLES, PC

395 Highgrove Dr.

Fayetteville, GA 30215


(770) 241-8936

(770) 460-0412 (fax)

Attorney for named Plaintiff and the
Class

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

I hereby certify that I prepared the foregoing in Times New Roman, 14-point font, as approved by Local Rule 5.1.



Wayne Charles

Exhibit A

JUNE 30TH 2016

~~JULY 1, 2016~~

To: Select Portfolio Servicing, Inc. (801-270-7856)

From: Steve Bivens

Re: Account Number 013651765, 651 Simmons Mine Circle, Sugar Hill, GA 30518

In a letter I sent you on April, 2016, I asked again for information, and you sent some information, but did not send some of the requested information. I have detailed the missing information below.

You still have not completely responded to the question below (especially you have not provided the documents asked for), so I am asking for the rest of the information again:

Please tell me who are the different servicers, subservicers and master servicers, who currently are involved with this loan and provide documents showing their authority and responsibilities regarding this loan and when their involvement started.

Please list all the charges that comprise the \$9,999.99 charge in the account history, the date of the charge and explain the reason for each of the charges. Also please list all the charges that comprise the \$863.07 charge in the account history, the date of the charge and explain the reason for each of the charges.

Please describe all of the attempts you have made to obtain the account history for the time before January 16, 2007, and when you made each of those attempts.

You refused to send me a copy of the documents in the custodial file, even though you, the servicer, took them from the custodial bank and have them in your possession. I am again requesting that information.

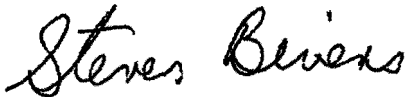
You have also refused to send me any documents showing when the current holder of the note became the current holder of the note. I am again requesting that information.

I am asking again for the rest of the trust agreement that you sent the front page from, especially the part that shows whether my loan is in that trust.

Please explain what "title cure costs" are and why they were charged to my account.

Finally, please send me copies of all of the property inspection reports.

Thank you,



Steve Bivens

Exhibit B



July 29, 2016

Steve Bivens
651 Simmons Mine Circle
Sugar Hill, GA 30518

Account Number: 0013651765
Property Address: 651 Simmons Mine Circle
Sugar Hill, GA 30518

Dear Steve Bivens,

Select Portfolio Servicing, Inc. (SPS), the mortgage servicer on the above referenced account, has received your inquiry dated June 30, 2016, which we received on June 30, 2016.

The issues presented in your letter are part of an ongoing litigation. SPS is aware of the issues presented in your letter and would like to work with you to reach a resolution. Due to the current litigation, SPS believes that it would be more appropriate to refrain from providing a detailed response to you at this time. We encourage you to continue working with our legal counsel to determine the available resolution options.

We appreciate the opportunity to address the issue(s) noted in your inquiry and consider this matter resolved. Should you have any further questions, please contact me toll-free at 866-878-5178, extension 50256 between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, Eastern Time.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Mauro".

David Mauro
Customer Advocate

Esta carta contiene información importante concerniente a sus derechos. Por favor, traduzca esta carta. Nuestros representantes bilingües están a su disposición para contestar cualquier pregunta. Llámenos al número 800-831-0118 y seleccione/marque la opción 2

THIS COMMUNICATION FROM A DEBT COLLECTOR IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE

**MINNESOTA – THIS COLLECTION AGENCY IS LICENSED BY THE MINNESOTA DEPARTMENT OF COMMERCE
NEW YORK CITY – COLLECTION AGENCY LICENSE #1170514**



Exhibit C

PAGE 1

Office DEPOT. OfficeMax[®]

complimentary fax cover sheet

number of pages including cover sheet: _____

attention to: _____ date: 08/03/16

company: SPS from: _____

phone #: _____ company: _____

fax #: 801 270 7856 senders phone #: 678 576 0601

comments: _____

By sending this fax at Office Depot, Inc., the sender agrees not to use this fax to: (I) transmit material whose transmission is unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene, pornographic or otherwise objectionable; (II) create a false identity, or otherwise attempt to mislead others as to the identity of the sender or the origin of this fax; (III) post or transmit any material that may infringe the copyright, trade secret, or other rights of any third party; (IV) violate any federal, state or local law in the location, or (V) conduct activities related to gambling, sweepstakes, raffles, lotteries, contests, ponzi schemes or the like.

Please note that Office Depot, Inc., does not review the contents of any fax sent using its services. The sender of this fax hereby agrees to indemnify Office Depot Inc., to the fullest extent of the law and for any and all claims, suits, or damages arising out or in connection with the request to send, or sending this fax.

local first page



\$1.59 833071

long distance first page



\$2.19 833081

international first page



\$7.99 833191

long distance

local additional page



\$1.49 456687

additional page



\$1.99 833091

international additional page



\$3.99 833201

depot|max store 6561
 1300 Marketplace Blvd
 Cumming, GA 30041
 p: 770.844.5853 f: 770.844.5854
 ods06561cpc@officedepot.com

Office DEPOT. OfficeMax[®]

PAGE 2

August 3, 2016

To: Select Portfolio Servicing, Inc. (801-270-7856)

From: Steve Bivens

Re: Account Number 013651765, 651 Simmons Mine Circle, Sugar Hill, GA 30518

I received your response (dated July 29, 2016) to my Qualified Written Request, but you did not provide any of the information I asked for. Neither did your attorneys. Yet, you stated: "We appreciate the opportunity to address the issue(s) noted in your inquiry and consider this matter closed."

Plainly, since you did not provide the information, this matter is not closed, whether you "consider" it so or not.

So, I am attaching that letter to this one, and I am again requesting the information in that letter.

Thank you,

A handwritten signature in cursive script that reads "Steven Bivens".

Steve Bivens

JUNE 30TH 2016

PAGE 3

~~JULY 1, 2016~~

To: Select Portfolio Servicing, Inc. (801-270-7856)

From: Steve Bivens

Re: Account Number 013651765, 651 Simmons Mine Circle, Sugar Hill, GA 30518

In a letter I sent you on April, 2016, I asked again for information, and you sent some information, but did not send some of the requested information. I have detailed the missing information below.

You still have not completely responded to the question below (especially you have not provided the documents asked for), so I am asking for the rest of the information again:

Please tell me who are the different servicers, subservicers and master servicers, who currently are involved with this loan and provide documents showing their authority and responsibilities regarding this loan and when their involvement started.

Please list all the charges that comprise the \$9,999.99 charge in the account history, the date of the charge and explain the reason for each of the charges. Also please list all the charges that comprise the \$863.07 charge in the account history, the date of the charge and explain the reason for each of the charges.

Please describe all of the attempts you have made to obtain the account history for the time before January 16, 2007, and when you made each of those attempts.

You refused to send me a copy of the documents in the custodial file, even though you, the servicer, took them from the custodial bank and have them in your possession. I am again requesting that information.

You have also refused to send me any documents showing when the current holder of the note became the current holder of the note. I am again requesting that information.

I am asking again for the rest of the trust agreement that you sent the front page from, especially the part that shows whether my loan is in that trust.

Please explain what "title cure costs" are and why they were charged to my account.

Finally, please send me copies of all of the property inspection reports.

Thank you,

Steve Bivens

Steve Bivens

PAGE 4



July 29, 2016

Steve Bivens
651 Simmons Mine Circle
Sugar Hill, GA 30518

Account Number: 0013651765
Property Address: 651 Simmons Mine Circle
Sugar Hill, GA 30518

Dear Steve Bivens,

Select Portfolio Servicing, Inc. (SPS), the mortgage servicer on the above referenced account, has received your inquiry dated June 30, 2016, which we received on June 30, 2016.

The issues presented in your letter are part of an ongoing litigation. SPS is aware of the issues presented in your letter and would like to work with you to reach a resolution. Due to the current litigation, SPS believes that it would be more appropriate to refrain from providing a detailed response to you at this time. We encourage you to continue working with our legal counsel to determine the available resolution options.

We appreciate the opportunity to address the issue(s) noted in your inquiry and consider this matter resolved. Should you have any further questions, please contact me toll-free at 866-878-5178, extension 50256 between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday, Eastern Time.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Mauro".

David Mauro
Customer Advocate

Esta carta contiene información importante concerniente a sus derechos. Por favor, traduzca esta carta. Nuestros representantes bilingües están a su disposición para contestar cualquier pregunta. Llámennos al número 800-831-0118 y seleccione/marque la opción 2

THIS COMMUNICATION FROM A DEBT COLLECTOR IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE

MINNESOTA - THIS COLLECTION AGENCY IS LICENSED BY THE MINNESOTA DEPARTMENT OF COMMERCE
NEW YORK CITY - COLLECTION AGENCY LICENSE #1170514



Exhibit D



Attorneys & Counselors

Terminus 200, 3333 Piedmont Road NE, Suite 1200
Atlanta, GA 30305
Telephone: 404-870-4600
Fax: 404-872-5547
www.lockelord.com

Alexandra M. Dishun
Direct Telephone: 404-870-4605
Direct Fax: 404-806-5678
adishun@lockelord.com

October 6, 2016

VIA UPS & U.S. MAIL

Wayne Charles
Wayne Charles, P.C.
395 Highgrove Drive
Fayetteville, GA 30215

Re: August 3, 2016 Correspondence from Steven Bivens to Select Portfolio Servicing, Inc.,
SPS Account Number: 013651765
Property Address: 651 Simmons Mine Circle, Sugar Hill, GA 30518

Dear Mr. Charles,

This letter is to respond to correspondence dated August 3, 2016 that your client, Steven Bivens, sent to Select Portfolio Servicing, Inc. (SPS) (the "August 3 Letter"). That letter was received by SPS on August 3, 2016 and was later forwarded to Locke Lord LLP for response. Mr. Bivens has filed litigation against SPS, and you are his counsel of record in that litigation. For that reason, the August 3 Letter was sent to Locke Lord LLP and we are responding to you, rather than responding directly to Mr. Bivens. We have included a copy of this letter for you to forward to Mr. Bivens to ensure he receives a response to his correspondence.

The August 3 Letter is overly broad and unduly burdensome in that it, by reference to correspondence Mr. Bivens sent to SPS dated June 30, 2016 (the "June 30 Letter"), seeks information that is unrelated to servicing and requests information in a fashion similar to a set of interrogatories and document requests exchanged in litigation. Indeed, given that Mr. Bivens has commenced litigation against SPS related to the very subject of this correspondence, we find his continuing correspondence with SPS, and this letter in particular, to be improper. The August 3 Letter is also duplicative of prior correspondence Mr. Bivens has sent to SPS, to which SPS has already responded. Moreover, Mr. Bivens' loan was in default at the time the servicing rights transferred to SPS and SPS has never received a scheduled periodic payment from Mr. Bivens. For these reasons, SPS has no further obligation to respond to either the August 3 Letter or the June 30 Letter. Nevertheless, because we desire to continue a dialogue between SPS and Mr. Bivens, we are responding to each of the issues raised in these letters below.

1. Mr. Bivens has asked for information regarding the identity and authority of the servicers, subservicers and master servicers currently involved with his loan. This request is duplicative of a request Mr. Bivens has presented to SPS in at least two prior letters. SPS responded in full to this inquiry in its correspondence dated March 18, 2016 and has no further response.

Wayne Charles
 August 29, 2016
 Page 2

2. In the August 3 Letter, by reference to the June 30 Letter, Mr. Bivens asks for a list of the individual charges that are aggregated into two line items in the amounts of \$9999.99 and \$863.07 that appear on the SPS account history for his loan. SPS previously explained, in correspondence dated June 2, 2016, that at the time Mr. Bivens' loan transferred to SPS for servicing, there was a total escrow arrearage of \$10,863.06. These two charges represent that arrearage. That total sum comprises numerous account charges and credits made by the prior servicer, Bank of America, before December 1, 2012, when SPS began servicing the account. This request is duplicative and unduly burdensome, particularly since Mr. Bivens has presented no dispute with any charge to the account and these charges date back as far as 2009, long before SPS began servicing the account. Nevertheless, in the interest of cooperation, we can inform you that the Bank of America account records reflect that the \$10,863.06 escrow arrearage comprises the following charges and credits:

DATE OF CHARGE	NATURE OF CHARGE	AMOUNT OF CHARGE/CREDIT
10/05/2009	Additional Insurance Payment	-\$371.00
10/06/2009	County Tax Payment	-\$2672.83
10/13/2009	Regular Payment (credit)	\$0.01
11/06/2009	County Tax Payment	-\$922.75
11/12/2009	Regular Payment (credit)	\$0.01
12/31/2009	Regular Payment (credit)	\$565.04
02/02/2010	Regular Payment (credit)	\$565.04
03/29/2010	County Tax Payment	-91.65
08/12/2010	County Tax Payment	-\$953.46
10/04/2010	Hazard Insurance Payment	-\$886.00
11/03/2010	County Tax Payment	-\$953.47
08/03/2011	Hazard Insurance Payment	-\$958.00
10/13/2011	County Tax Payment	-\$1616.81
08/03/2012	Hazard Insurance Payment	-\$1352.40
09/13/2012	County Tax Payment	-\$1214.79
	TOTAL:	-\$10863.06

Wayne Charles
August 29, 2016
Page 3

3. By reference to the June 30 Letter, Mr. Bivens requests a description of the attempts SPS has made to obtain the account history for the period before January 16, 2007. This request does not relate to servicing and is related to pending litigation; thus, this request is improper and no further response is required here.

4. Mr. Bivens is seeking a copy of the documents in the "custodial file," by which SPS understands Mr. Bivens to be referring to a file of collateral documents maintained by U.S. Bank, N.A. SPS has previously addressed this same request in full. The new request is duplicative. The documents Mr. Bivens is requesting are not related to servicing. As you know, SPS obtained that file and thus came into possession of that file in the course of prior litigation, not in the ordinary course of servicing Mr. Bivens' loan. As a courtesy to you and to Mr. Bivens, it produced to you for inspection the original Note from that file. Additional response to this request is not required.

5. Mr. Bivens is seeking documents "showing when the current holder of the note became the current holder of the note" and a copy of the complete trust agreement. SPS has previously responded to these requests in several letters and in the course of discovery in prior litigation. No further response to this duplicative request is required here.

6. Mr. Bivens has asked for an explanation of "what 'title cure costs' are and why they were charged" to his loan account. We assume Mr. Bivens is referring to a line item on the Financial Breakdown Statement SPS previously provided to Mr. Bivens with correspondence dated April 8, 2016, which reflects a December 11, 2012 charge for \$260.00 with a Transaction Description of "Prior Servicer- TITLE CURE COSTS." That is a charge placed on the account by the prior servicer, Bank of America. SPS is unable to identify the specific reason for that charge. SPS credited Mr. Bivens in full for that charge on April 16, 2015. That credit is also reflected on the Financial Breakdown Statement, with a Transaction Description of "TITLE CURE COSTS."

7. Mr. Bivens has requested "copies of all of the property inspection reports." This request is overly broad and unduly burdensome and presented in the form of a discovery request. Furthermore, the request seeks information that is unrelated to the servicing of Mr. Bivens' loan account. SPS conducts periodic property inspections for the benefit of the investor and the fees related to such inspections have not been passed on to Mr. Bivens.

Should you have any questions or concerns, you may contact me directly. All concerns related to the pending litigation should be directed to Locke Lord LLP. Mr. Bivens may also contact the SPS Customer Service Department to discuss his account. The toll-free number is (800) 258-8602, and representatives are available Monday through Friday from 7 a.m. to 8 p.m., and Saturday from 8 a.m. to 12 p.m. Eastern Time. Mr. Bivens may also visit the SPS website: www.spservicing.com or correspond by email at directcontact@spservicing.com.

Best regards,



Alexandra M. Dishun

Enclosure: Copy for Steven Bivens

JS44 (Rev. 11/16 NDGA)

CIVIL COVER SHEET

1:17-CV-0760

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

Steven Bivens, on behalf of himself
and all persons similarly situated

DEFENDANT(S)

Select Portfolio Servicing, Inc.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Gwinnett
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Gwinnett
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Wayne Charles
Wayne Charles, PC
395 Highgrove Dr., Fayetteville, GA 30215
770-241-8936, wc115@bellsouth.net

ATTORNEYS (IF KNOWN)**II. BASIS OF JURISDICTION**

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. GOVERNMENT PLAINTIFF
☐ 2 U.S. GOVERNMENT DEFENDANT
☒ 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
☐ 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

- | PLF | DEF | PLF | DEF | |
|---------------------------------------|----------------------------|----------------------------|---------------------------------------|--|
| <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 | CITIZEN OF THIS STATE INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 | CITIZEN OF ANOTHER STATE INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | CITIZEN OR SUBJECT OF A FOREIGN COUNTRY FOREIGN NATION |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 ORIGINAL PROCEEDING
☐ 2 REMOVED FROM STATE COURT
☐ 3 REMANDED FROM APPELLATE COURT
☐ 4 REINSTATED OR REOPENED
☐ 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
☐ 6 MULTIDISTRICT LITIGATION - TRANSFER
☐ 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
☐ 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

12 U.S.C. Section 2605 -- Defendant failed to respond as required to requests for information.

(IF COMPLEX, CHECK REASON BELOW)

- | | |
|---|---|
| <input checked="" type="checkbox"/> 1. Unusually large number of parties. | <input type="checkbox"/> 6. Problems locating or preserving evidence |
| <input type="checkbox"/> 2. Unusually large number of claims or defenses. | <input type="checkbox"/> 7. Pending parallel investigations or actions by government. |
| <input type="checkbox"/> 3. Factual issues are exceptionally complex | <input type="checkbox"/> 8. Multiple use of experts. |
| <input type="checkbox"/> 4. Greater than normal volume of evidence. | <input type="checkbox"/> 9. Need for discovery outside United States boundaries. |
| <input type="checkbox"/> 5. Extended discovery period is needed. | <input type="checkbox"/> 10. Existence of highly technical issues and proof. |

CONTINUED ON REVERSE

FOR OFFICE USE ONLY			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ (Referral)	NATURE OF SUIT _____	CAUSE OF ACTION _____

ODE
WEJ290
12:2601

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)**CONTRACT - "0" MONTHS DISCOVERY TRACK**

- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 151 MEDICARE ACT
- ☐ 160 STOCKHOLDERS' SUITS
- ☐ 190 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY
- ☐ 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- ☐ 365 PERSONAL INJURY - PRODUCT LIABILITY
- ☐ 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING
- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- ☐ 422 APPEAL 28 USC 158
- ☐ 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- ☐ 440 OTHER CIVIL RIGHTS
- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ ACCOMMODATIONS
- ☐ 445 AMERICANS with DISABILITIES - Employment
- ☐ 446 AMERICANS with DISABILITIES - Other
- ☐ 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- ☐ 462 NATURALIZATION APPLICATION
- ☐ 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- ☐ 463 HABEAS CORPUS- Alien Detainee
- ☐ 510 MOTIONS TO VACATE SENTENCE
- ☐ 530 HABEAS CORPUS
- ☐ 535 HABEAS CORPUS DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER
- ☐ 550 CIVIL RIGHTS - Filed Pro se
- ☐ 555 PRISON CONDITION(S) - Filed Pro se
- ☐ 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- ☐ 550 CIVIL RIGHTS - Filed by Counsel
- ☐ 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY
- ☐ 21 USC 881
- ☐ 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT. RELATIONS
- ☐ 740 RAILWAY LABOR ACT
- ☐ 751 FAMILY and MEDICAL LEAVE ACT
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- ☐ 820 COPYRIGHTS
- ☐ 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- ☐ 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- ☐ 861 HIA (1395f)
- ☐ 862 BLACK LUNG (923)
- ☐ 863 DIWC (405(g))
- ☐ 863 DIWW (405(g))
- ☐ 864 SSID TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- ☐ 375 FALSE CLAIMS ACT
- ☐ 376 Qui Tam 31 USC 3729(a)
- ☐ 400 STATE REAPPORTIONMENT
- ☐ 430 BANKS AND BANKING
- ☐ 450 COMMERCE/ICC RATES/ETC.
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- ☐ 480 CONSUMER CREDIT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 895 FREEDOM OF INFORMATION ACT
- ☐ 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- ☐ 410 ANTI TRUST
- ☐ 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- ☐ 896 ARBITRATION
(Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ 1,000,000

JURY DEMAND ☒ YES ☐ NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- ☐ 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- ☐ 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- ☐ 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- ☐ 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- ☐ 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- ☐ 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

- ☐ 7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case ☐ IS ☐ IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

SIGNATURE OF ATTORNEY OF RECORD

DATE

Wayne Charles

3-1-17

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Select Portfolio Servicing Facing Lawsuit Over Alleged RESPA Violations](#)
