

Honorable James L. Robart

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

NORTHWEST TRUSTEE SERVICES, INC.,

Defendant.

Civil Action No. 2:17-cv-01686-JLR
AMENDED COMPLAINT

The United States of America (“United States”) alleges as follows:

I. NATURE OF THIS ACTION

1. The United States brings this action under the Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. §§ 3901-4043, against Northwest Trustee Services, Inc. (hereinafter referred to as “Defendant”) for violating the Section 3953 of the SCRA by completing foreclosures, without court orders, of at least 28 homes owned by servicemembers who took out mortgage loans prior to entering military service. *See* 50 U.S.C. § 3953. These servicemembers had either received orders to report for active duty, were on active duty, or had recently completed active duty at the time of the foreclosures. All were protected by the SCRA.

1 **III. DEFENDANT**

2 6. Defendant is a Washington corporation, with a principal place of business at 13555
3 SE 36th St., Bellevue, Washington. Defendant is a trustee company that, until it ceased active
4 operations on or about December 12, 2017, provided default services to mortgage lenders in the
5 Western United States. Defendant has conducted foreclosures without court orders (also known
6 as non-judicial foreclosures) on behalf of mortgage lenders in Alaska, California, Idaho, Montana,
7 Nevada, Oregon, and Washington.

8 **IV. FACTUAL ALLEGATIONS**

9 7. Between January 1, 2010 and the present, Defendant initiated and completed at
10 least 28 foreclosures, without court orders, of real property owned by SCRA-protected
11 servicemembers.

12 8. At the time of the foreclosures, the individuals who owned the foreclosed properties
13 were servicemembers who were in military service, as defined by 50 U.S.C. § 3911(1) and (2),
14 had completed a period of military service within the past year (or nine months for foreclosures
15 before February 2, 2013), *see* 50 U.S.C. § 3953(c), or were members of a reserve component who
16 had been ordered to report for military service, as defined by 50 U.S.C § 3917(a).

17 9. Defendant conducted non-judicial foreclosures even when it knew or should have
18 known that borrowers were SCRA-protected servicemembers.

19 10. The Department of Defense provides those seeking to comply with the SCRA an
20 automated database run by the Defense Manpower Data Center (“DMDC database”), to check
21 whether individuals are SCRA-protected servicemembers. Defendant failed to take adequate steps
22 to identify protected servicemembers.
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1 11. On December 6, 2006, Jacob McGreevey, a Marine veteran who had served three
2 tours of duty in the Middle East, most recently in Iraq, refinanced his home mortgage loan for his
3 house in Vancouver, Washington with PHH Mortgage Corporation (“PHH”). On May 18, 2009,
4 Mr. McGreevey was called to active military service in the United States Marine Corps, to serve
5 a fourth tour of duty, again in Iraq. Defendant, as trustee for PHH, had begun foreclosure
6 proceedings on the property prior to Mr. McGreevey’s active service, on January 16, 2009, but
7 those proceedings were placed on hold in November 2009 due to an attempt at a loss mitigation
8 workout. Defendant again began non-judicial foreclosure proceedings on May 20, 2010, while
9 Mr. McGreevey was serving in support of Operation Iraqi Freedom.

10 12. On June 21, 2010, Mr. McGreevey was released from active service. On August
11 20, 2010, Defendant completed a foreclosure sale on PHH’s behalf. In completing the foreclosure,
12 Defendant did not obtain a court order. Defendant maintained notes of the foreclosure process,
13 which show that Defendant knew that Mr. McGreevey had recently left military service. The
14 relevant entry, dated August 19, 2010, states: “SCRA Search - Active Duty No – Active Duty End
15 Date 6/21/2010.”

16 13. On May 6, 2016, Mr. McGreevey filed a lawsuit against PHH in this Court, alleging
17 SCRA violations, among other claims. Also on May 6, 2016, Mr. McGreevey submitted a
18 complaint to the Department of Justice’s Servicemembers and Veterans Initiative website, at
19 www.servicemembers.gov. The United States did not learn, and reasonably could not have known,
20 about Defendant’s conduct with regard to Mr. McGreevey’s property until after Mr. McGreevey
21 submitted his complaint to DOJ. On September 23, 2016, after receiving information from PHH
22 about Defendant’s role in the foreclosure, Mr. McGreevey filed an amended complaint adding
23 Northwest Trustee Services as a defendant. Defendant moved to dismiss Mr. McGreevey’s lawsuit

1 on statute of limitations grounds. On December 15, 2016, the Court granted Defendant's motion
2 and dismissed the amended complaint.

3 14. After the dismissal of Mr. McGreevey's suit, on February 2, 2017, the Department
4 of Justice notified Defendant that it was opening an investigation into Defendant's foreclosure
5 practices. The Department requested and obtained documents and information from Defendant,
6 including a list of foreclosures that Defendant had conducted without a court order since January
7 1, 2010. For each such foreclosure, Defendant provided the property address, foreclosure sale
8 date, and the names and Social Security Numbers of all borrowers and co-borrowers on the
9 mortgage. The documents and information revealed that Defendant had conducted unlawful
10 foreclosures against Mr. McGreevey and at least 27 other protected servicemembers.

11 15. Prior to filing the initial Complaint in this action, the United States informed
12 Defendant of the 28 specific foreclosure sales between 2010 and 2014 that it believes violated
13 Section 3953 of the SCRA. The majority of these foreclosures took place in Washington, with the
14 rest occurring in Arizona, California, Idaho, Montana, and Oregon.

15 **V. CLAIM FOR RELIEF**

16 16. Paragraphs 1 through 15 are re-alleged and incorporated by reference.

17 17. The SCRA provides that, for an "obligation on real or personal property owned by
18 a servicemember that – (1) originated before the period of the servicemember's military service
19 and for which the servicemember is still obligated; and (2) is secured by a mortgage, trust deed, or
20 other security in the nature of a mortgage," 50 U.S.C. § 3953(a), "[a] sale, foreclosure, or seizure
21 of property for a breach of [such] an obligation...shall not be valid if made during, or within one
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1 year after,¹ the period of the servicemember’s military service except – (1) upon a court order
2 granted before such sale, foreclosure, or seizure with a return made and approved by the court; or
3 (2) if made pursuant to an agreement as provided in section 3918 of this title.” 50 U.S.C. § 3953(c).

4 18. By the conduct referred to in the foregoing paragraphs, Defendant has engaged in
5 a pattern or practice of violating Section 3953 of the SCRA, 50 U.S.C. § 3953, by foreclosing,
6 without court orders, upon at least 28 homes owned by SCRA-protected servicemembers.

7 19. Defendant’s violations of Section 3953 of the SCRA, 50 U.S.C. § 3953, including
8 the foreclosure of Mr. McGreevey’s home, raise issues of significant public importance.

9 20. The servicemembers whose homes were foreclosed upon without court orders in
10 violation of the SCRA are “person[s] aggrieved” pursuant to 50 U.S.C. § 4041(b)(2) and have
11 suffered damages as a result of Defendant’s conduct.

12 21. Defendant’s conduct was intentional, willful, and taken in disregard for the rights
13 of servicemembers.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, the United States prays that the Court enter judgment against Defendant
16 and requests relief as follows:

- 17 1. A declaration that Defendant’s conduct violated the Servicemembers Civil Relief
18 Act, 50 U.S.C. § 3901, *et seq.*;
- 19 2. An injunction against Defendant, its agents, employees, and successors, and all
20 other persons and entities in active concert or participation with them, prohibiting
21 them from:

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¹ Between July 30, 2008 and February 2, 2013, servicemembers were protected for nine months after the period of military service, rather than one year.

- a. selling, foreclosing upon, or seizing the real property of SCRA-protected servicemembers without court orders, in violation of the SCRA, 50 U.S.C. § 3953;
 - b. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, each identifiable victim of Defendant's illegal conduct to the position he or she would have been in but for that illegal conduct; and
 - c. failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any illegal conduct in the future and to eliminate, to the extent practicable, the effects of Defendant's illegal conduct;
3. An award of monetary damages to each identifiable victim of Defendant's violations of the SCRA, pursuant to 50 U.S.C. § 4041(b)(2);
 4. An assessment of a civil penalty against Defendant in order to vindicate the public interest, pursuant to 50 U.S.C. § 4041(b)(3); and
 5. Such additional relief as the interests of justice may require.

Dated this 8th day of January, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she works within the Office of the United States Attorney for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers;

That on the below date she electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

Janaya L. Carter jcarter@rcolegal.com

DATED this 8th day of January, 2018.

/s/ Brittany Cirineo
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