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Cindy Atkins

At Wenatchee, Washington.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

COUNTY OF CHELAN

LAURA ZAMORA JORDAN, as her)	NO. 12-2-00385-2
separate estate, and on behalf of others)	
similarly situated,)	SECOND AMENDED ORDER ON
)	PLAINTIFF'S MOTION FOR CLASS
Plaintiff,)	CERTIFICATION
)	
vs.)	
)	
NATIONSTAR MORTGAGE, LLC, a)	
Delaware Limited liability company,)	
)	
Defendant.)	

This matter came before the Honorable T.W. Small on April 3, 2014, on Plaintiff's renewed Motion for Class Certification pursuant to CR 23(a), CR 23(b)(1), and CR 23(b)(3). The Court, having reviewed the pleadings, heard the oral argument of the parties, and being otherwise fully informed,

NOW, THEREFORE, HEREBY ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

SECOND AMENDED ORDER ON PLAINTIFF'S MOTION FOR CLASS CERTIFICATION (PROPOSED)

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1 **I. FINDINGS**

2 **A. The Requirements for Class Certification Are Satisfied.**

3 For the reasons set forth below, the Court finds that the requirements of CR 23(a)
4 and (b)(3) are satisfied with respect to the class ("Class") defined in paragraph 2, below
5 and Certification of the Class is therefore appropriate with respect to the issues specified
6 in paragraph 1 below the "Issues":

7 **1. Issues on Which the Class is Certified:**

8 (a) The Claim that the "Entry Provision" of the deed of
9 trust is unenforceable under Washington law and
10 constitutes a violation of the Fair Debt Collection
Practices Act, 15 U.S.C Section 1692 as alleged in
paragraph 8.7 of the Second Amended Complaint.

11 (b) The Claim that the "Entry Provision" of the deed of
12 trust is unenforceable under Washington law and
13 constitutes an unfair or deceptive act in trade or
14 commerce in violation of the Consumer Protection Act,
RCW 19.86, et. seq. as well as violation of RCW 61.24,
Washington common law trespass, ^{and} statutory trespass,
all as alleged in plaintiff's
15 Second Amended Complaint. 

16 (c) The Claim that independent of the enforceability of the
17 "Entry Provisions" of the deed of trust, Nationstar's
18 common practice with regard to entry upon Class
19 members property without notice to the Class member;
20 and/or without the express contemporaneous consent of
the Class member; and/or without permission of the
21 Court for the purpose of changing the locks on the
property, entering into improvements upon the
property, winterizing the property, or posting notices
upon the property regarding abandonment or
winterization is wrongful and constitutes violation of
the Fair Debt Collection Practices Act, 15 U.S.C
Section 1692, Consumer Protection Act, RCW 19.86,

1 et. seq., violation of RCW 61.24, Washington common
2 law trespass ^{and} statutory trespass,
all as alleged in plaintiff's Second Amended Complaint.

3 **2. Definition of the Certified Class:**

4 All citizens of the State of Washington who:

5 (a) Own or owned real property in
Washington State subject to a deed of trust or mortgage
6 serviced or held by Nationstar; and

7 (b) Within the applicable stature of
limitation, were deemed by Nationstar and/or its agents to
8 have quit, vacated, or otherwise "abandoned" such
property, and:

9 (i) Which property was entered
upon by Nationstar and/or its agents for the purpose of
10 changing the locks on the property, entering into
improvements upon the property, winterizing the property,
or posting notice upon the property regarding abandonment
or winterization; and/or

11 (ii) Who were charged by
Nationstar for fees relating to property inspections, lock
12 changes, and subsequent so-called "preservation" services
upon the property by Nationstar and/or its agents.

13 (the "Class"). Certification of the Class is therefore appropriate.

14 **B. The Numerosity Requirement is Satisfied.**

15 The Class consists of the approximately over 2,800 individuals who fall within
16 the above-described Class. The numerosity requirement of CR 23(a)(1) was not
17 contested by Defendant. The Court finds the numerosity requirement is met.

18 **C. There are Numerous Issues of Law and Fact Common to the Class.**

19 The Court finds that the Issues identified within the Class claims, both legal and
20 factual, relating to Defendant's conduct and its effects are common to the Class as a
21 whole. Accordingly, the CR 23(a)(2) commonality requirement is satisfied.

1 **D. The Typicality Requirement is Satisfied.**

2 The Court finds that with respect to the Issues, the claims of the proposed Class
3 representative are typical of those of the Class as a whole. The defenses and
4 counterclaims raised by Defendant do not defeat this findings, because the actions of the
5 Defendant, not the Plaintiff, are relevant to determination of the Issues raised in this
6 litigation. The CR 23(a)(3) typicality requirement is therefore satisfied with respect to
7 the Class.

8 **E. The Adequacy of Representation Requirement is Satisfied.**

9 CR 23(a)(4) requires class representatives who will fairly and adequately protect
10 the interests of the class as a whole. The adequacy of representation inquiry requires the
11 court to make two determinations: (1) whether counsel representing the class is qualified
12 and competent; and (2) whether the class representative should be disqualified for having
13 interests antagonistic to the class.

14 As to the first requirement, the Court is satisfied that Plaintiff's counsel
15 understand and appreciate the heightened responsibilities involved in prosecuting a class
16 action. Similarly, the Court finds that Plaintiff's counsel is capable and committed to
17 undertaking the administrative and other specialized tasks that will be required to manage
18 this action. Thus, the Court finds Plaintiff's counsel is qualified and clearly capable of
19 prosecuting this litigation.

20 Second, Plaintiff's interests are co-extensive with those of the Class with respect
21 to the Issues since the representative Plaintiff and each Class member allegedly have

1 been injured in the same manner by Defendant's conduct, and the representative Plaintiff
2 seeks relief that is identical to that which could be sought by every other member of the
3 Class. The Court finds that the proposed representative, Ms. Jordan, is willing and able
4 to participate in this case, including by retaining experienced counsel, keeping informed
5 about the case, reviewing the pleadings, meeting with attorneys and so forth. The Court
6 finds that the adequacy of representation requirement is satisfied. Also, Plaintiff may
7 choose to add additional Class representatives at a later time.

8 **F. The Common Questions of Law and Fact Among the Class Predominate
Over Individual Questions with Regard to the Certified Issues.**

9 The questions of law and fact which are common to the members of the Class
10 predominate over any questions affecting only individual members with respect to the
11 Issues. The interest of members of the Class in individually controlling the prosecution
12 of separate actions is outweighed by the desirability of concentrating litigation regarding
13 the Issues in a single forum. Prosecution of the claims as a Class will prevent
14 inconsistent decisions regarding the Issues. The Issues shared by the members of the
15 Class are the central, dominant and overriding issues in the controversy.

16 **G. A Class Action is the Superior Method for the Fair and Efficient Resolution
17 of the Certified Issues.**

18 A class action is superior to other available methods for the fair and efficient
19 adjudication of the Issues. Plaintiff's claims and the other Class members' claims for
20 relief can be tried fairly and efficiently in a single, class-wide trial, on behalf of all Class
21 members, and in a manner consistent with due process. Plaintiff's and the Class's claims

1 are based primarily on straightforward questions of law. These claims can be tried once,
2 on a class-wide basis, without violating Defendant's due process rights. Plaintiff's
3 damage claims are fairly and easily ascertainable, are cognizable by objective standards,
4 and are not significantly dependent on each class member's subjective circumstances.
5 Thus, the Court finds that a trial of Plaintiff's claims on a class-wide basis would be both
6 manageable and constitutional.

7 **H. Prosecution of Separate Actions on the Certified Issues by the Individual**
8 **Class Members Would Create the Risk of Inconsistent Adjudications.**

9 The prosecution of separate actions on the Issues by individual members of the
10 Class would create a risk of inconsistent or varying adjudications of those Issues with
11 respect to the individual members of the Class, which would establish incompatible
12 standards of conduct for Nationstar.

13 **II. ORDER**

14 As to the Issues, the Court finds that the numerosity, typicality, commonality, and
15 adequacy of representation requirements of CR 23(a) are satisfied. In addition, the Court
16 finds that certification is appropriate under CR 23(b)(1), in that the prosecution of
17 separate actions by individual members would create a risk of inconsistent adjudications,
18 and the predominance and superiority requirements are met under CR 23(b)(3).

19 **Accordingly, Plaintiff's Motion for Class Certification is hereby granted in**
20 **part, and the Court hereby ORDERS as follows:**

21 1. The following Class is certified for purposes
of litigation and trial of the Issues described in paragraph 2
below:

1 All citizens of the State of Washington who:

2 (a) Own or owned real property in
Washington State subject to a deed of trust or mortgage
serviced or held by Nationstar; and

3 (b) Within the applicable statute of
4 limitation, were deemed by Nationstar and/or its agents to
have quit, vacated, or otherwise "abandoned" such
property, and:

5 (i) Which property was entered
upon by Nationstar and/or its agents for the purpose of
6 changing the locks on the property, entering into
improvements upon the property, winterizing the property,
7 or posting notice upon the property regarding abandonment
or winterization; and/or

8 (ii) Who were charged by
Nationstar for fees relating to property inspections, lock
9 changes, and subsequent so-called "preservation" services
upon the property by Nationstar and/or its agents.

10 (the "Class"). The Court denies the Motion as to the remainder of the proposed putative
11 subclasses not described above. Excluded from the Class are:

12 (a) Defendant;

13 (b) Any entity in which Defendant has a controlling interest;

14 (c) Any entity which has a controlling interest in Defendant;


15 (d) Defendant's legal representatives, assigns, and successors; and


16 (e) The judge to whom this case is assigned and any member of the judge's
17 immediate family.

18 2. The Class described in paragraph 1 is certified solely for the litigation and
19 trial of the following Issues:

20 (a) The Claim that the "Entry Provision" of the deed of trust is
21 unenforceable under Washington law and constitutes a
violation of the Fair Debt Collection Practices Act, 15

1 U.S.C Section 1692 as alleged in paragraph 8.7 of the
2 Second Amended Complaint.

3 (b) The Claim that the "Entry Provision" of the deed of trust is
4 unenforceable under Washington law and constitutes an
5 unfair or deceptive act in trade or commerce in violation of
6 the Consumer Protection Act, RCW 19.86, et. seq. as well
7 as violation of RCW 61.24, Washington common law
8 trespass, ^{and} statutory trespass, all as
9 alleged in plaintiff's Second Amended Complaint. 

10 (c) The Claim that independent of the enforceability of the
11 "Entry Provisions" of the deed of trust, Nationstar's
12 common practice with regard to entry upon Class members
13 property without notice to the Class member; and/or
14 without the express contemporaneous consent of the Class
15 member; and/or without permission of the Court for the
16 purpose of changing the locks on the property, entering into
17 improvements upon the property, winterizing the property,
18 or posting notices upon the property regarding
19 abandonment or winterization is wrongful and constitutes
20 violation of the Fair Debt Collection Practices Act, 15
21 U.S.C Section 1692, Consumer Protection Act, RCW
19.86, et. seq., violation of RCW 61.24, Washington
common law trespass, ^{and} statutory trespass,
all as alleged in plaintiff's Second Amended
Complaint. 

3. The Court denies the Motion as to the remainder of the claims alleged in
the second amended complaint and as to the remainder of the proposed putative
subclasses not described in paragraphs 1 and 2 above.

4. The Plaintiff, Laura Zamora Jordan, is designated and appointed as
representative for the Class.

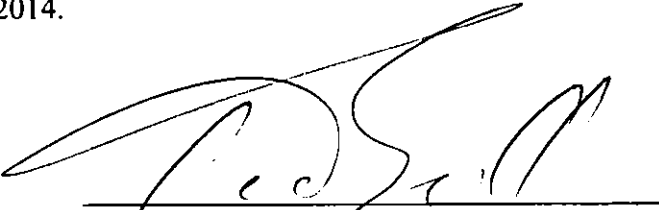
5. The law firm of Jeffers, Danielson, Sonn & Aylward, P.S. is designated
and appointed as lead counsel for the Class.

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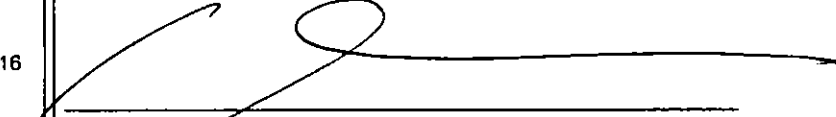
6. The Court orders that counsel for the Defendant shall provide counsel for Plaintiff with an updated and complete list of the names and last known address and phone numbers of all current and former borrowers who fit within the definition of the Class above within ten (10) business days of this Order.

7. The Court orders that counsel for the parties shall jointly submit a proposed Notice of Class Action to be approved by the Court within ten (10) business days of this Order. Pursuant to CR 23(c)(2), the approved notice shall be sent to all class members in the most effective manner possible.

Dated this 9th day of May, 2014.


HONORABLE T.W. SMALL
Chelan County Superior Court

Presented by:
JEFFERS, DANIELSON, SONN & AYLWARD, P.S.


CLAY M. GATENS, WSBA #34102
Attorneys for Plaintiff