

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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THE STATE OF ALABAMA,)
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Montgomery, AL 36130)
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THE STATE OF ALASKA,)
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and)

THE DISTRICT OF COLUMBIA,)
441 Fourth Street, N.W., Suite 600-S)
Washington, DC 20001)

Plaintiffs,)

v.)

PHH MORTGAGE CORPORATION,)
 3000 Leadenhall Rd.)
 Mt. Laurel, NJ 08054)
)
 Defendant.)
)
 _____)

COMPLAINT

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

INTRODUCTION

1. This is a civil action filed jointly by the Attorneys General against PHH Mortgage Corporation (“Defendant” or “PHH”) for alleged misconduct related to its servicing of single-family residential mortgages.

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

THE PARTIES

3. This action is brought by the Attorneys General pursuant to 12 U.S.C. § 5552(a)(1) of the Consumer Financial Protection Act of 2010 (the “CFPA”). The Attorneys General are authorized to bring this action and to enforce 12 U.S.C. §§ 5531 and 5536(a), which prohibit unfair, deceptive, or abusive acts or practices, or other violations of Federal consumer financial law, by any covered person or service provider. The Attorneys General are also authorized to bring this action pursuant to consumer protection enforcement authority conferred on them by state law and pursuant to *parens patriae* and common law authority. The Attorneys General are authorized to seek injunctive relief, restitution for consumers, and civil penalties for violation of the consumer protection laws of their States and the CFPA.

4. PHH is a privately held corporation that provides residential mortgage origination and servicing services. It has its principal place of business in Mount Laurel, New Jersey. PHH transacts or has transacted business in this district and throughout the United States.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action because it is “brought under Federal consumer financial law,” 12 U.S.C. § 5565(a), presents a federal question, 28 U.S.C. § 1331, and is brought by the Attorneys General pursuant to their authority under 12 U.S.C. § 5552(a)(1).

6. In addition, pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over the subject matter of the state law claims asserted by the Attorneys General because those claims are so related to the claims brought under federal consumer financial law that they form part of the same case or controversy, and because those claims arise out of the

same transactions or occurrences as the claims brought by the Attorneys General pursuant to 12 U.S.C. §§ 5531, 5536(a), and 5552(a)(1).

7. Venue is proper in this District under 28 U.S.C. § 1391(b) and 12 U.S.C. § 5564(f).

THE MORTGAGE SERVICING INDUSTRY

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

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

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

11. A servicer who does not originate a mortgage loan may become the servicer by purchasing the “mortgage servicing rights” or by entering into a contract with the “master

servicer” to act on its behalf as “subservicer.” Such transfers can occur at various stages of repayment of the mortgage, including where the borrower is delinquent in payments and may seek loss mitigation assistance from the servicer to avoid foreclosure on the loan.

PHH’S MORTGAGE SERVICING MISCONDUCT

12. PHH services and subservices home mortgage loans secured by residential properties owned by individual citizens of each of the Plaintiff States and of the United States.

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

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

15. PHH personnel frequently interact with borrowers who are delinquent or are at risk of becoming delinquent on their mortgage loans, who have complaints or inquiries about their mortgages, or who require loss mitigation assistance.

16. PHH regularly reviews mortgage loans for potential loss mitigation or loan modification options, and conducts or manages foreclosures.

17. In certain instances in the course of its mortgage servicing activities during the period from January 1, 2009, to December 31, 2012, PHH engaged in the following acts and practices:

- a. failing to timely and accurately apply payments made by certain borrowers and failing to maintain accurate account statements;
- b. charging unauthorized fees for default-related services;
- c. threatening foreclosure and conveying conflicting messages to certain borrowers engaged in loss mitigation;
- d. failing to properly respond to certain borrowers' complaints and reasonable requests for information and assistance;
- e. failing to properly process borrowers' applications for loan modifications, including failing to account for and retain loss mitigation documents submitted by borrowers;
- f. failing to maintain complete loan servicing files;
- g. failing to maintain adequate documentation to determine whether PHH had standing to foreclose;
- h. failing to properly oversee third party vendors retained for servicing and foreclosure operations, including third party vendors responsible for preparing, reviewing, and executing foreclosure documents;
- i. preparing, executing, notarizing, and presenting documents with incorrect or incomplete information with courts and government agencies, or otherwise using incorrect or incomplete documents as part of the foreclosure process (including, but not limited to, affidavits, declarations, certifications, substitutions of trustees, and assignments);
- j. preparing, executing, notarizing, and filing affidavits in foreclosure proceedings, whose affiants lacked personal knowledge of the assertions in the affidavits

and did not review any information or documentation to verify the assertions in such affidavits; and

k. failing to maintain a comprehensive process for the preparation, execution, and notarization of certain documents that are part of the foreclosure process including, but not limited to, affidavits, declarations and certifications.

COUNT I

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

18. The allegations in paragraphs 1 through 17 above are incorporated herein by reference.

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

20. PHH's unlawful conduct has resulted in injury to the Attorneys General and consumers residing in their states who have had home loans serviced by PHH. The harm sustained by such citizens includes payment of improper fees and charges, misapplication of payments, dual tracking activity, and loss of homes due to improper, unlawful, or undocumented foreclosures. The harm to the Attorneys General includes the subversion of their legal process and the sustained violations of their laws. The Attorneys General have had to incur substantial expenses in the investigations and attempts to obtain remedies for PHH's unlawful conduct.

COUNT II

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

21. The allegations in paragraphs 1 through 17 above are incorporated herein by reference.

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

23. PHH's unlawful conduct has resulted in injury to the Attorneys General and consumers residing in their states who have had home loans serviced by PHH. The harm sustained by such citizens includes payment of improper fees and charges, misapplication of payments, dual tracking activity, and loss of homes due to improper, unlawful, or undocumented foreclosures. The harm to the Attorneys General includes the subversion of their legal process and the sustained violations of their laws. The Attorneys General have had to incur substantial expenses in the investigations and attempts to obtain remedies for PHH's unlawful conduct.

COUNT III

**VIOLATIONS OF THE CONSUMER FINANCIAL PROTECTION ACT OF 2010
WITH RESPECT TO LOAN SERVICING**

24. The allegations in paragraphs 1 through 17 above are incorporated herein by reference.

25. The loan servicing conduct of PHH, as described above, constitutes unfair and deceptive acts or practices in violation of 12 U.S.C. §§ 5531(a) and 5536.

COUNT IV

**VIOLATIONS OF THE CONSUMER FINANCIAL PROTECTION ACT OF 2010
WITH RESPECT TO FORECLOSURE PROCESSING**

26. The allegations in paragraphs 1 through 17 above are incorporated herein by reference.

27. The foreclosure processing conduct of PHH, as described above, constitutes unfair and deceptive acts or practices in violation of 12 U.S.C. §§ 5531(a) and 5536.

PRAYER FOR RELIEF

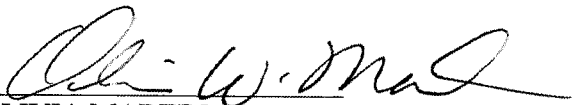
WHEREFORE, the Attorneys General, pursuant to 12 U.S.C. §§ 5552 and 5565 and their consumer protection laws, respectfully request that judgment be entered in their favor and against Defendant for each violation charged in the complaint, and request that the Court:

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

Dated: January 3, 2018

Respectfully submitted,


For the State of Alabama:

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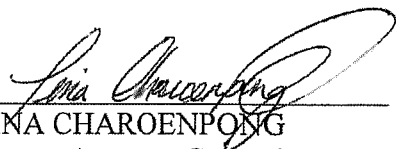
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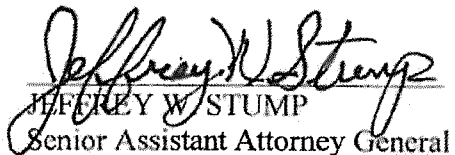
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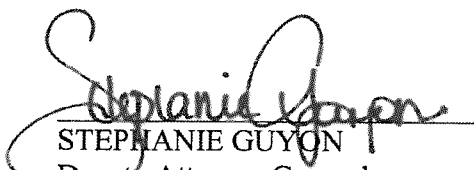
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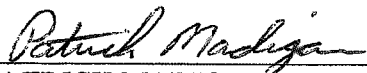
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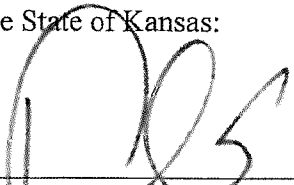
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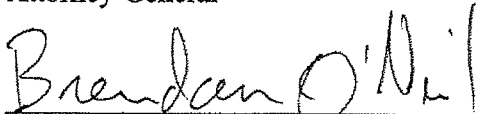
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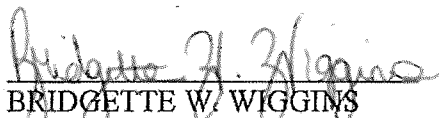
LORI SWANSON
Attorney General, State of Minnesota

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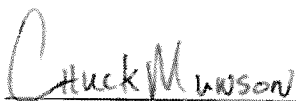
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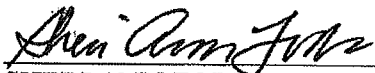
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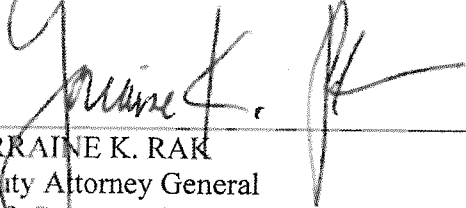
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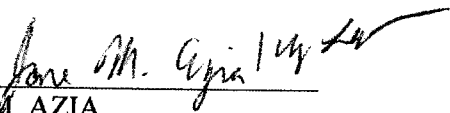
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For the Attorney General of North Carolina:

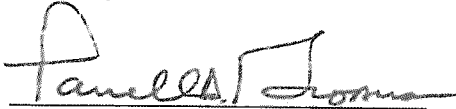
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A handwritten signature in black ink, appearing to read "Parrell D. Grossman", written over a horizontal line.

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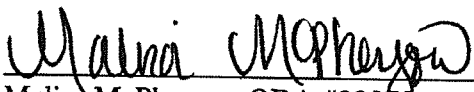
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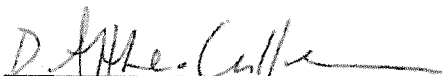
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A handwritten signature in cursive script, appearing to read "Gerald Coyne".

GERALD COYNE

Rhode Island Department of Attorney General

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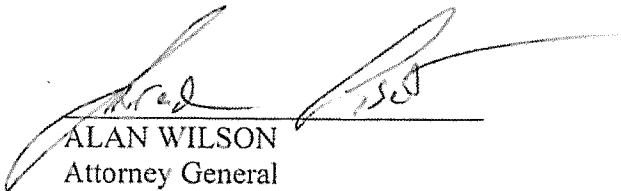
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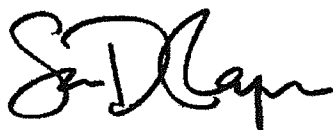
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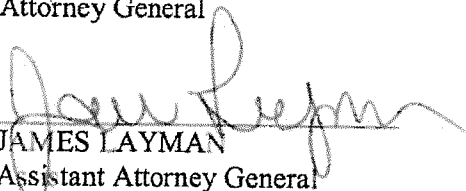
For the State of Utah:

A handwritten signature in black ink, appearing to read "Sean D. Reyes". The signature is fluid and cursive, with the first name "Sean" and last name "Reyes" clearly distinguishable.

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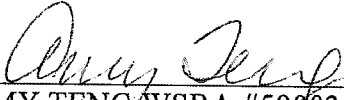
ex rel. MARK HERRING,
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