

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

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.

2. The purpose of the SCRA is to provide servicemembers with protections to enable them to devote their entire energy to the defense needs of the Nation and to protect their civil rights during military service. *See* 50 U.S.C. § 3902. One of those protections is that, for mortgage obligations that originated before the period of the servicemember's military service, the servicemember's home may not be sold or foreclosed upon for breach of that obligation during, or within one year after, the period of the servicemember's military service, unless there is a court order or valid waiver of SCRA rights. *See* 50 U.S.C. § 3953.

3. A person or entity who forecloses, without a court order, on property owned by a servicemember protected under Section 3953(a) of the SCRA violates that servicemember's federally protected rights under the SCRA. This lawsuit is brought to vindicate the rights of servicemembers whose homes were wrongly foreclosed upon by Defendant, to vindicate the public interest, and to protect servicemembers from future violations of their rights. *See* 50 U.S.C. § 4041(b).

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 50 U.S.C. § 4041.

5. The United States District Court for the Western District of Washington is a proper venue for this action under 28 U.S.C. § 1391(b) because Defendant's principal place of business is in the Western District of Washington, Defendant conducts business within the Western District of Washington, and a substantial part of the events and omissions giving rise to the claims occurred in the Western District of Washington.

III. DEFENDANT

6. Defendant is a Washington corporation, with a principal place of business at 13555 SE 36th St., Bellevue, Washington. Defendant is a trustee company providing default services to mortgage lenders in the Western United States. Defendant conducts foreclosures without court orders (also known as non-judicial foreclosures) on behalf of mortgage lenders in Alaska, California, Idaho, Montana, Nevada, Oregon, and Washington.

IV. FACTUAL ALLEGATIONS

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

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

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

10. The Department of Defense provides those seeking to comply with the SCRA an automated database run by the Defense Manpower Data Center (“DMDC database”), to check whether individuals are SCRA-protected servicemembers. Defendant failed to take adequate steps to identify protected servicemembers.

11. On December 6, 2006, Jacob McGreevey, a Marine veteran who had served three tours of duty in the Middle East, most recently in Iraq, refinanced his home mortgage loan for his

1 house in Vancouver, Washington with PHH Mortgage Corporation (“PHH”). On May 18, 2009,
 2 Mr. McGreevey was called to active military service in the United States Marine Corps, to serve
 3 a fourth tour of duty, again in Iraq. Defendant, as trustee for PHH, had begun foreclosure
 4 proceedings on the property prior to Mr. McGreevey’s active service, on January 16, 2009, but
 5 those proceedings were placed on hold in November 2009 due to an attempt at a loss mitigation
 6 workout. Defendant again began non-judicial foreclosure proceedings on May 20, 2010, while
 7 Mr. McGreevey was serving in support of Operation Iraqi Freedom.

8 12. On June 21, 2010, Mr. McGreevey was released from active service. On August
 9 20, 2010, Defendant completed a foreclosure sale on PHH’s behalf. In completing the foreclosure,
 10 Defendant did not obtain a court order. Defendant maintained notes of the foreclosure process,
 11 which show that Defendant knew that Mr. McGreevey had recently left military service. The
 12 relevant entry, dated August 19, 2010, states: “SCRA Search - Active Duty No – Active Duty End
 13 Date 6/21/2010.”

14 13. On May 6, 2016, Mr. McGreevey filed a lawsuit against PHH in this Court, alleging
 15 SCRA violations, among other claims. Also on May 6, 2016, Mr. McGreevey submitted a
 16 complaint to the Department of Justice’s Servicemembers and Veterans Initiative website, at
 17 www.servicemembers.gov. The United States did not learn, and reasonably could not have known,
 18 about Defendant’s conduct with regard to Mr. McGreevey’s property until after Mr. McGreevey
 19 submitted his complaint to DOJ. On September 23, 2016, after receiving information from PHH
 20 about Defendant’s role in the foreclosure, Mr. McGreevey filed an amended complaint adding
 21 Northwest Trustee Services as a defendant. Defendant moved to dismiss Mr. McGreevey’s lawsuit
 22 on statute of limitations grounds. On December 15, 2016, the Court granted Defendant’s motion
 23 and dismissed the amended complaint.

1 14. After the dismissal of Mr. McGreevey's suit, on February 2, 2017, the Department
 2 of Justice notified Defendant that it was opening an investigation into Defendant's foreclosure
 3 practices, and obtained documents and information from Defendant. The documents and
 4 information revealed that Defendant had conducted unlawful foreclosures against Mr. McGreevey
 5 and at least 27 other protected servicemembers.

6 **V. CLAIM FOR RELIEF**

7 15. Paragraphs 1 through 14 are re-alleged and incorporated by reference.

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

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

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

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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.

20. Defendant's conduct was intentional, willful, and taken in disregard for the rights of servicemembers.

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

- COMPLAINT
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UNITED STATES DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION
HOUSING AND CIVIL ENFORCEMENT SECTION
950 PENNSYLVANIA AVE NW – NWB
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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 9th day of November, 2017.

Respectfully submitted,

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*Conditional Admission Granted