UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

TALENA COLBERT, MARTIN LITWIN, and LOUIS CANCELLIERE, on behalf of themselves and all others similarly situated, Plaintiffs, vs. NEWREZ LLC d/b/a SHELLPOINT MORTGAGE SERVICING, Defendants.	NO. 2:26-cv-00255-GAM CLASS ACTION

SECOND AMENDED COMPLAINT

I. INTRODUCTION

1. Plaintiffs Talena Colbert, Martin Litwin, and Louis Cancelliere ("Plaintiffs") bring this action against NewRez LLC d/b/a Shellpoint Mortgage Servicing ("Shellpoint"), one of the nation's largest mortgage servicers for its actions in seeking to collect long ago-waived interest and fees on dormant second-mortgage obligations that it retroactively assessed without legal basis or notice.

2. This action concerns the ongoing ramifications of the predatory mortgage epidemic that preceded the economic collapse of 2008. During this period, mortgage lenders—backed by Wall Street bankers—engaged in abusive and reckless lending practices, including most notably so-called "80/20" mortgage schemes in which the lender would issue borrowers two separate mortgage loans to purchase a single home. The first of these mortgages acted as a traditional purchase-money mortgage, covering approximately 80% of the home's value, while the second mortgage (often structured as a fully-drawn Home Equity Line of Credit) would cover the remaining home value, taking the place of a downpayment. The 80/20 mortgages were targeted

to low- and middle-income consumers as a means to access the housing market, with supposedly few downsides. But these second mortgages came with several predatory caveats, including escalating interest rates and balloon payments that made them unaffordable to the consumers targeted by this scheme. The mass foreclosures of the Great Recession sprung out of this and other predatory and unfair lending schemes.

3. As property values plummeted during the Great Recession, leaving many such secondary liens underwater, these obligations were frequently abandoned and written off. Once abandoned, the lenders and servicers of these mortgages stopped sending monthly billing statements and stopped reporting these debts to credit bureaus, resulting in ordinary consumers being likely confused about the continuing nature of these seemingly "dead" obligations.

4. But after periods of silence that could be as long as a decade, these second-lien mortgages would again rear their ugly heads, as debt collectors seeking to take advantage of rising property values following the COVID pandemic acquired these long-dormant debts and decided to bring them back to life—hence the moniker "Zombie Seconds."[1]

5. Not only did debt buyers like Shellpoint attempt to collect these second mortgages, but they also shocked homeowners with threats of foreclosure if they did not pay them off immediately. Making matters worse, they also demanded payment of tens of thousands in additional interest per mortgage for the years during which no billing statements regarding the debts had been sent.

6. This case presents a particularly egregious version of a "zombie" mortgage collection scheme that was hatched by Defendant's predecessor in interest, a mortgage servicer

[1] *See, e.g.,* National Consumer Law Center, "Fact Sheet: Protecting Homeowners from Zombie Second Mortgages," February 20, 2025, at https://www.nclc.org/resources/fact-sheet-protecting-homeowners-from-zombie-second-mortgages/.

and debt collector named Specialized Loan Servicing, or "SLS." Roughly during the decade 2015-2024, SLS purchased the servicing rights to dormant second mortgage obligations, generally long after the loans had been written off and communications with the borrowers had been abandoned. In an effort to maximize its future profits, SLS began rewriting the history of these loans, as if they had been actively serviced during those dormant periods, including by retroactively assessing interest and fees that the prior servicer had waived. Often SLS did this without any timely notice to homeowners, instead emerging with frightening payment demands, often leveraged with notices of intent to foreclose.

7. In 2023, Defendant's parent company, Rithm Capital Corp., agreed to purchase SLS, including all the servicing assets involved in this action. Preceding the closing of this purchase in October 2024, Rithm Capital engaged in substantial due diligence which would have revealed the zombie mortgage scheme that made up a substantial part of SLS's business strategy. With that knowledge, Rithm completed the purchase and merged SLS into its mortgage servicing subsidiary, NewRez, LLC. NewRez, in turn, assigned the servicing of the SLS zombie mortgages to its wholly owned d/b/a division, Shellpoint Mortgage Servicing.

8. Plaintiffs, who face the risk of loss of their family homes, bring this class action to remedy Defendant's unfair, misleading and unconscionable collection practices. They seek damages and declaratory relief, under state and federal consumer protection law, on behalf of themselves and other similarly situated homeowners. And, because Defendant is headquartered in Pennsylvania, Plaintiffs seek to represent a nationwide class of injured homeowners. *See Danganan v. Guardian Prot. Servs.*, 179 A.3d 9, 17 (Pa. 2018) ("[W]e hold that a non-Pennsylvania resident may bring suit under the UTPCPL against a Commonwealth-headquartered business based on transactions that occurred out of state.").

II. JURISDICTION AND VENUE

9. This Court has jurisdiction over Plaintiffs' federal claims under 28 U.S.C. §§ 1331, and more specifically, under 15 U.S.C. § 1692k (FDCPA) and 12 U.S.C. § 2605(f) (RESPA). The Court has jurisdiction over the state law claims under 28 U.S.C. § 1367(a) in that such claims form part of the same case or controversy as the federal claims.

10. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because the acts and transactions that establish this Complaint occurred in this District, where Defendant and Plaintiff Colbert reside.

III. PARTIES

11. Plaintiff Talena Colbert is natural person and resident of Philadelphia, Pennsylvania.

12. Plaintiff Martin Litwin is a natural person and resident of Algonquin, Illinois.

13. Plaintiff Louis Cancelliere is a natural person and resident of Pittsburgh, Pennsylvania.

14. Defendant NewRez LLC is a limited liability company incorporated in Delaware with a principal place of business located in Fort Washington, PA, and is the successor-in-interest, by merger, to a mortgage servicer named Specialized Loan Servicing, LLC ("SLS"). The below-described actions of "Defendant" include those taken by SLS prior to the merger and those taken by Defendant subsequently.

15. Shellpoint Mortgage Servicing is a trade name for a wholly owned mortgage servicing division of NewRez. Defendant will be referred to hereinafter as NewRez, LLC d/b/a Shellpoint Mortgage Servicing or "Shellpoint."

IV. THE FACTS ALLEGED

a. Mortgage Loan Servicing and Periodic Statements

16. The standard practice in the mortgage servicing industry is for servicers to provide information to borrowers about the status of their loan accounts on a regular basis, and to increase the frequency of communications when a loan is delinquent.

17. These requirements have been long-standing in the industry, but in the wake of the 2008 foreclosure crisis, the requirements became more rigorous to advance the public policy of ensuring that homeowners are not improperly and unjustly deprived of their wealth and their homes.

18. The major insurers of home mortgages, including the Government Sponsored Enterprises (Fannie Mae and Freddie Mac), the Federal Housing Administration ("FHA"), the Veterans Administration ("VA"), and the Rural Housing Service ("RHS"), regularly publish guidelines for their servicers. These servicing guidelines direct mortgage servicers to provide information to borrowers about the status of their loans on a regular basis, and particularly when a loan is in default. These guidelines apply to the majority of residential mortgages in the United States and set an industry standard for continuity of contact with borrowers that mortgage servicers routinely follow.

19. The industry practice that servicers regularly provide borrowers with material information about their loans has been reinforced by a body of federal and state laws created to ensure that borrowers are kept informed about the status of their mortgage loans. Pursuant to such laws, borrowers must receive notices of changes in interest rates, shortages or surpluses in escrow accounts, default or acceleration of the loan, the availability of loss mitigation, and periodic statements about the status of the account.

20. The Truth in Lending Act ("TILA") requires that mortgage borrowers of closed-end mortgages be provided with a periodic statement for each billing cycle, 15 U.S.C. § 1638(f) and Regulation Z, 12 C.F.R. § 1026.41, the only exception being for loans that have been charged off, meaning the servicer will cease charging any additional fees or interest on the account. 12 C.F.R. §1026.41(6). Moreover, lenders and their servicers can choose to resume compliance with the periodic statement rules, but "***may not retroactively assess fees or interest*** on the account for the period of time during which the exemption in paragraph (e)(6)(i) of this section applied [i.e., the period of time the account was charged off and no statements were sent]." 12 C.F.R. § 1026.41(e)(6)(ii)(B) (emphasis added).

21. Federal law likewise requires billing statements for open-end mortgage products, like home equity lines of credit ("HELOCs"), "for each billing cycle . . . with respect to which a finance charge is imposed." 15 U.S.C. § 1637(b). *See* Reg. Z, 12 C.F.R. § 1026.7 (required disclosures in periodic statements).

22. Loans that have defaulted are subject to the same rule and standard practice: if the creditor is continuing to assess interest, it must continue to send periodic statements. Indeed, the Consumer Financial Protection Bureau ("CFPB") has cautioned that times of default are "precisely when a consumer most needs the periodic statement" to "document fees and charges to the consumer," so that "as long as such charges may be assessed, the consumer is entitled to receive a periodic statement." [2]

23. When a servicer suspends communications for long periods of time, a borrower cannot make reasonable, informed decisions about how to meet ongoing payment obligations. A

[2] 12 C.F.R. Part 1026 (CFPB Official Interpretations), https://files.consumerfinance.gov/f/201301_cfpb_final-rule_servicing-tila.pdf (last visited Oct. 2, 2024).

servicer's protracted disappearance leaves the borrower without materially significant information about the loan account, including: the identity of the current servicer; the amount of the next installment payment coming due; where to send the payment; when the payment is due; the extent of accumulated arrearages, including accrued and unpaid interest and any default-related charges; and the consequences of any current default, including whether acceleration or foreclosure are imminent.

24. While a mortgage loan is in default, a servicer's abandonment of communication significantly impairs a borrower's ability to make informed decisions about how to cure the default and resume scheduled payments, including whether and how to request loss mitigation assistance, such as a payment plan, loan modification, or other foreclosure alternative and whether to seek a refinance of the obligation, particularly in the case of a second mortgage.

25. A servicer's long-term abandonment of communication, particularly when the servicer is also no longer engaging in credit reporting, leads borrowers to the reasonable confusion about their ongoing payment obligation.

b. When a Delinquent Mortgage Account Transitions from Servicing to Collection

26. Mortgage servicers generally work as agents for the securitized trusts that own the pool of loans being serviced. They get paid a "servicing fee" for this work, usually calculated as a percentage (*e.g.*, 0.5%) of the aggregate principal balance of all the loans in the pool being serviced.

27. The servicing fee is designed to fund the cost of maintaining communications with borrowers, managing payments and escrow accounts and the various other substantial costs of the mortgage servicing business, while also generating a profit for the servicer. The servicing fee is paid as an above-the-line expense that gets paid from the stream of payments made by borrowers,

in accordance with the "waterfall" distribution provided for by the particular securitization transaction.

28. Typically, however, when a mortgage goes into default, servicing agreements provide that the mortgage balance of that loan is removed from the calculation of the servicing fee, and becomes a charge-off. From the perspective of the investors, when that happens, the account gets shifted into a "loss recovery" or debt collection track, whereby a debt collector—often the servicer itself—is paid a percentage commission of anything it can successfully collect from the borrower to offset the booked loss.

29. Thus, the financial incentives for servicers are different regarding accounts in "payment" status and accounts in default. In the former situation, the servicer has no interest in maximizing the borrower's payment; its incentives lie with minimizing the cost of servicing while maintaining the stream of payments that are generating the servicing fee. However, once a servicer shifts into trying to recover what it can on a defaulted loan, its incentive also changes. With regard to defaulted accounts no longer generating a portion of the servicing fee, the servicer will try to radically reduce costs while maximizing what it can realize from its debt collection activity.

30. Within this context of shifting incentives, it is common for servicers to accept the *quid pro quo* reflected in the above mentioned TILA policy—stopping both the forward assessment of interest and the sending of periodic statements—effectively, then, waiving further interest accruals as it tries to collect what it can from the borrower.

c. SLS's Acquisition and Improper Handling of Zombie Second Mortgages

31. This case arises from the recent wave of attempts to collect "zombie" second mortgages, representing, for the most part, a small portion of the predatory mortgages that were originated before the foreclosure crisis of 2008.

32. The CFPB has explained the problem of zombie second mortgages as follows:

> Leading up to the 2008 financial crisis, many lenders originated mortgages to consumers without considering their ability to repay the loans. … One common piggyback mortgage product, known as an 80/20 loan, involved a first lien loan for 80 percent of the value of the home and a second lien loan for the remaining 20 percent of the valuation. … [In the event of default,] the second mortgage holder only receives proceeds from the foreclosure sale if there are any funds left after paying off the first mortgage. As a result, many second mortgage holders of piggyback loans, recognizing that a foreclosure would not generate enough money to cover even the first mortgage, charged their defaulted loans off as uncollectible and ceased communicating with the borrowers. … Many borrowers, having not received any notices or periodic statements for years, concluded that their second mortgages had been modified along with the first mortgage, discharged in bankruptcy, or forgiven. In recent years, as home prices have increased and borrowers have paid down their first mortgages, after years of silence, some borrowers are hearing from companies that claim to own or have the right to collect on their long-dormant second mortgages. These companies often demand the outstanding balance on the second mortgage, plus fees and interest, and threaten to foreclose if the borrower does not or cannot pay. [3]

33. Notwithstanding the above-described legal requirements and industry-wide practices, Shellpoint's predecessor-in-interest, Specialized Loan Servicing, or "SLS", engaged in a business strategy of (a) acquiring the collection rights pertaining to second mortgages that had been written off by prior servicers, (b) not communicating with the respective homeowners about their loans, including not providing the periodic statements that would advise them they owed money, how much they owed, or how to make payments, and, (c) ignoring the regulatory *quid pro quo* relationship between periodic statements and interest, manufacturing account histories that retroactively assessed interest for the periods during prior servicers were not sending statements and waiving interest.

[3] Consumer Financial Protection Bureau, Advisory Opinion re: 12 C.F.R. Part 1006 (2023), https://files.consumerfinance.gov/f/documents/cfpb_regulation-f-time-barreddebtadvisory-opinion_2023-04.pdf.

34. Indeed, in violation of federal law, SLS would, as a matter of common practice, not even notify the homeowners when they acquired the servicing rights of their second mortgages. *See* 12 U.S.C. § 2605(b); 12 C.F.R. § 1024.33 (mandatory notice of mortgage servicing transfers).

35. In addition to not communicating with homeowners about these debts—and not even introducing itself as the new servicer in charge of collection—SLS also had a common practice of suddenly coming out of the shadows with demands for payment of the retroactively assessed interest, which it would emphasize with threats of foreclose.

36. On information and belief, as described below, because these loans were already classified as being in default, i.e. in recovery, rather than payment, status, these demands for previously waived interest were simply part of SLS's scheme to maximize recoveries and its resulting collection commissions.

37. Around October 2023, Rithm Capital Corp. agreed to purchase SLS, completing the acquisition around April 2024, merging SLS into its mortgage servicer subsidiary NewRez LLC, and subsequently placing the servicing of SLS's "zombie second mortgage" portfolio with its Shellpoint division.

38. Upon information and belief, as a result of the extensive due diligence it conducted prior to purchasing SLS, Defendant was aware of SLS's treatment of these long-dormant debts at the time it merged with the company in 2024, and it has since ratified and endorsed SLS's scheme by continuing to attempt to collect, and collecting, this retroactively assessed interest.

39. Defendant has continued this practice despite its knowledge of federal and state law, contract waiver principles, and industry standards and guidelines regarding the importance of sending monthly statements to borrowers and the connection between such continuous

communication and the right to assess interest. It has also done so despite multiple lawsuits against this very practice.

d. Plaintiff Colbert's Zombie Second Mortgage

40. Plaintiff Colbert has lived in her home since she bought it in February 2007. The home is a modest row home in the Overbrook section of Philadelphia.

41. Ms. Colbert was a first-time homebuyer who bought her home at the peak of the housing bubble, at the inflated price of $149,900. At that time, no property on the block had ever sold for more than $93,000. Even in 2022, fifteen years after Ms. Colbert bought the Property, the City of Philadelphia still had it assessed at only $133,600.

42. The entire, inflated purchase price of the Property was financed by First Franklin Financial Corporation ("First Franklin") without any downpayment being required. The price was split between two mortgages: a first, purchase money mortgage of $119,920.00, and a second, closed-end, mortgage of $29,980, which essentially financed the phantom downpayment. A copy of the Note secured by the second mortgage is attached hereto as Exhibit A.

43. Ms. Colbert did not realize until the closing that she was getting two mortgages and that the second mortgage component was a high-rate balloon loan. The broker who had arranged the financing and in whose office the closing was occurring, assured her that she could refinance out of the balloon in the future, but this assurance was misleading because the property was underwater from the start and remained so for years after the closing in that the total mortgage debt far exceeded the fair market value of the property.

44. On information and belief, the last payment she made on the second mortgage was in July 2009, so as of August 2009 the loan was in default.

45. Around the time the second mortgage went into default, Ms. Colbert got a loan modification on her first mortgage that lowered her rate and enabled her to keep that obligation current.

46. As to the second mortgage obligation, after she stopped making payments, Ms. Colbert stopped getting any periodic statements from First Franklin or any other subsequent servicer.

47. Based on a complete lack of communication about the second mortgage and its absence from Ms. Colbert's credit reports, and her diligent payment of her first-lien mortgage obligation under the loan modification agreement, she did not understand what, if any, obligation was connected to the second mortgage lien on her property.

48. The first time after 2009 that Plaintiff heard anything about the second mortgage obligation was when she got a payment demand from SLS in 2020. She suspected this demand was a scam after she confirmed that the second mortgage debt was still not on her credit report.

49. SLS did not start sending monthly statements about the second mortgage until about 2022. The statements came sporadically, not every month.

50. Based on the above-described industry practice regarding charged-off secondary mortgage obligations and the absence of any collection communications between 2009 and 2020, Plaintiff avers that First Franklin and the subsequent servicers of Plaintiff's second mortgage waived monthly interest accruals during this period.

30. What was shocking about the sporadic communications that came from SLS starting in 2020 was that SLS appeared to be claiming around $50,000 in interest from the period during which no billing had ever occurred and interest had been waived.

31. On April 2, 2023, SLS sent Plaintiff a "Notice of Default and Notice of Intent to Foreclose" ("the Pre-Foreclosure Notice"), claiming that SLS intended to foreclose unless payment of $51,712.48 was made within thirty days. A copy of the Pre-Foreclosure Notice is attached hereto as Exhibit B.

32. On December 11, 2023, SLS filed a foreclosure Complaint on the second mortgage, which was docketed as *First Franklin Mortgage Loan Trust et al. v Colbert*, Philadelphia Court of Common Pleas case number 231201211 ("the Foreclosure").

33. The Foreclosure Complaint claimed that mortgage payments were due and unpaid for August 1, 2009, and each payment thereafter, and that Ms. Colbert owed U.S. Bank $29,611.56 in principal and $52,201.28 in interest at 12.3% from 07/01/09 to 10/31/23, for a total of $81,812.84.

34. At the time that SLS acquired Ms. Colbert's loan, it was a defaulted, charged-off obligation on which no interest was being accrued, with a balance of approximately $30,000. Pursuant to the above-described business practice, SLS had rewritten the history of the account, ignoring the 2009 default, ignoring the absence of any collection communications for more than a decade and the accompanying waiver of interest, and assessing interest at the original note rate for every month since August 2009, as if it had never been charged off.

35. Ms. Colbert began receiving sporadic collection notices from SLS in 2020, but SLS was not sending her the monthly statements required by TILA, nor did it send her the notice of servicing transfer required by 12 U.S.C. § 2605 and 12 C.F.R.§ 1026.33, *i.e.*, another federal mortgage servicing rule that SLS ignored.

36. As of this date, Ms. Colbert is continuing to defend the foreclosure now being prosecuted by Defendant Shellpoint, with the assistance of Community Legal Services (CLS).

37. Through counsel, on July 24, 2024, Ms. Colbert sent Defendant a written inquiry that requested, inter alia, information about her loan and requested that Defendant correct errors in her account regarding the accrual of alleged interest owed. A copy of the written inquiry is attached as Exhibit C.

38. On October 9, 2024, Defendant sent a reply to that written inquiry. A copy, without enclosures, is attached as Exhibit D.

39. Beginning in July 2024, Defendant began sending periodic mortgage statements to Ms. Colbert, and as of December 2024, sent the statements to her foreclosure counsel. Each one of these communications stated that the principal loan balance is $29,611.56; that interest at 12.3% has been accruing every month since August 1, 2009; and that her pay-off amount is more than $100,000, meaning that more than $71,000 in interest has been added to the principal. A copy of the April 2026 statement is attached as Exhibit E.

40. Most, if not all, of the interest being demanded by Defendant is interest that, as a factual matter, had been waived by prior servicers and that Defendant's predecessor, SLS, retroactively assessed as if it not been waived.

41. Plaintiff Colbert has suffered a loss of property as a result of Defendant's wrongful assessment of interest, namely, a reduction in the home equity she owns, a reduction that would be reflected in the inflated payoff she would have to pay in the event she sells her house.

e. *Martin Litwin's Zombie Second Mortgage*

42. Mr. Litwin purchased his home in Algonquin, Illinois in 2004 with financing provided by Countrywide Mortgage. Then, in December 2006, Countrywide refinanced the original purchase-money mortgage, using a predatory, two-mortgage, "80/20" structure.

43. The second mortgage in the 2006 refinancing was labeled as a HELOC, even though the supposed credit line was fully drawn, with a principal balance of $69,600. A copy of the HELOC agreement is attached as Exhibit F.

44. The terms of Mr. Litwin's HELOC agreement entitled him to receive monthly statements whenever there was a balance, or for any period in which it assessed a finance charge:

> B. At a minimum, you will send me a periodic statement at the end of each billing cycle in which there is a debit or credit balance or more than one dollar ($1.00) or in which a finance charge has been imposed. The periodic statement will show all Account activity during the billing cycle and contain other important information, including my "New Balance," my Annual Percentage Rate, the amount of my "Minimum Payment Due," my "Payment Due Date" and the place and manner of making payments.

45. Mr. Litwin made payments on this second mortgage obligation until April 2012, when he suffered financial difficulties and could no longer afford the monthly payments.

46. Due to his ongoing financial struggles, Mr. Litwin filed for Chapter 7 bankruptcy and received a discharge in July 2012, meaning that his personal obligation on the second mortgage loan was discharged.

47. At the time of his discharge, the balance on the mortgage was approximately $69,336.62.

48. After his Chapter 7 discharge, Mr. Litwin no longer received monthly statements for his second mortgage.

49. SLS acquired the collection rights to Mr. Litwin's second mortgage sometime after his bankruptcy discharge.

50. On information and belief, SLS had a uniform practice of not sending monthly statements to borrowers who discharged mortgage-secured loans in bankruptcy. In accordance with this policy, after acquiring the right to collect on Mr. Litwin's mortgage, SLS did not send him any periodic mortgage statements.

51. Under both federal and Illinois law and his loan agreement, SLS was required to provide statements for any billing cycle at the end of which the consumer owed an outstanding balance and interest was being charged. 15 U.S.C. § 1637(b); 12 C.F.R. § 1026.7; 815 ILCS 205/4.2; Exhibit F. By not providing periodic statements, SLS indicated to Mr. Litwin and the putative class members that no interest or fees were being assessed on their second mortgages for the billing cycles in question, and it waived its right to collect those amounts later on.

52. Following its acquisition of Mr. Litwin's account, around May 2024, Shellpoint started sending Mr. Litwin monthly mortgage statements.

53. For example, Shellpoint sent Mr. Litwin a mortgage statement dated July 31, 2024, stating that Mr. Litwin owed $71,706.50 in order to bring his mortgage current. Most of this amount comprised retroactive interest charges and other fees that accrued during the 12-year period when Mr. Litwin was not sent monthly statements (or any other communication for that matter) by SLS and his prior loan servicers.

54. Mr. Litwin decided to sell his home in the summer of 2025.

55. To complete the sale and convey clear title, Mr. Litwin requested a payoff statement for his second mortgage from Shellpoint.

56. Shellpoint sent Mr. Litwin a payoff statement dated June 23, 2025, stating that Mr. Litwin owed $145,748.76 on his second mortgage, including $69,346.16 in principal, $75,834.60 in interest, and $515 in fees. The statement is attached as Exhibit G.

57. Shellpoint sent a similar payoff statement to the title company handling the sale.

58. Even though most of this interest represented amounts that had been waived and/or or that was not owed under his contract and federal and state law, Mr. Litwin was forced to pay the full amount that Shellpoint claimed was due so that he could convey clear title in the sale.

59. As a result of Defendant's action, Plaintiff Litwin suffered actual damages in the amount of more than $75,000 in payments he was forced to pay on a debt he did not owe.

f. Louis Cancelliere's Zombie Second Mortgage

60. Mr. Cancelliere purchased his home in Pittsburgh, Pennsylvania in July 2004.

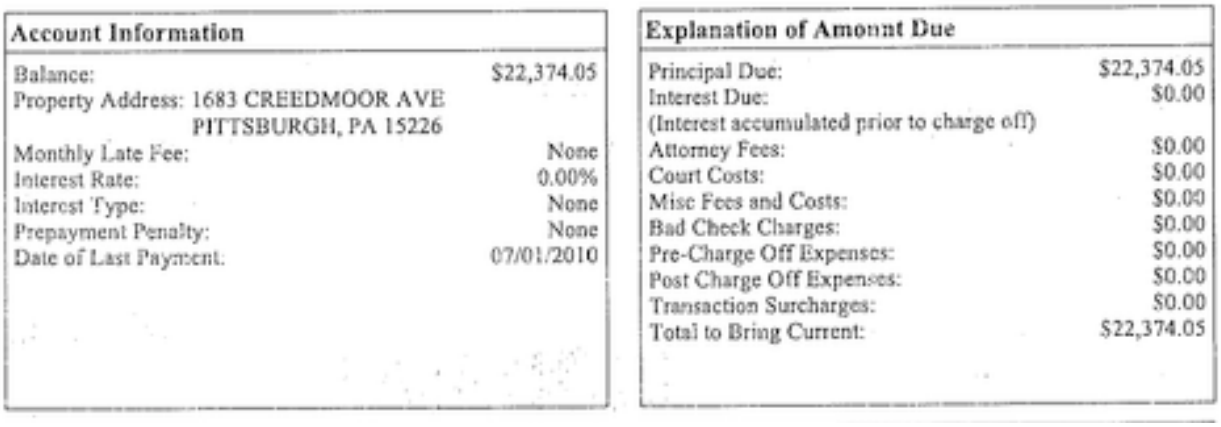
61. In November 2006, Mr. Cancelliere and his ex-wife obtained a HELOC, secured by a second mortgage on his home. The HELOC had an original principal balance of $21,500. A copy of the HELOC agreement is attached hereto as Exhibit H.

62. As far as he can remember, there were never any further draws made on the HELOC after November, 2006.

63. Mr. Cancelliere (or his ex-wife) made payments on this loan until 2010, after which the loan was charged off and the then-servicer of the loan stopped sending him monthly statements.

64. Mr. Cancelliere didn't receive any monthly mortgage statements regarding the second mortgage for the next 11 years.

65. In February 2017, Mr. Cancelliere received a monthly mortgage statement from Ditech Financial (screen-captured below) stating that the total amount due on his HELOC was $22,374.05, that the interest rate was zero percent, and that no interest was accruing on the loan:



Account Information	
Balance:	$22,374.05
Property Address: 1683 CREEDMOOR AVE PITTSBURGH, PA 15226	
Monthly Late Fee:	None
Interest Rate:	0.00%
Interest Type:	None
Prepayment Penalty:	None
Date of Last Payment:	07/01/2010

Explanation of Amount Due	
Principal Due:	$22,374.05
Interest Due:	$0.00
(Interest accumulated prior to charge off)	
Attorney Fees:	$0.00
Court Costs:	$0.00
Misc Fees and Costs:	$0.00
Bad Check Charges:	$0.00
Pre-Charge Off Expenses:	$0.00
Post Charge Off Expenses:	$0.00
Transaction Surcharges:	$0.00
Total to Bring Current:	$22,374.05

66. Ditech continued to send Mr. Cancelliere monthly mortgage statements through July 2017, each of which similarly reflected that no interest was accruing. A copy of the statement dated July 24, 2017 is attached as Exhibit I.

67. After July 2017, monthly mortgage statements regarding the HELOC again stopped, and at some point thereafter, the servicing of the loan was transferred to SLS. Despite this transfer, SLS did not send Plaintiff the notice of servicing transfer required by 12 U.S.C. § 2605 and 12 C.F.R.§ 1026.33.

68. SLS did not send Mr. Cancelliere any monthly mortgage statements for years.

69. Then, out of the blue, SLS mailed Mr. Cancelliere a Notice of Default and Notice of Intent to Foreclosure dated January 23, 2024. This notice stated that Mr. Cancelliere owed $52,156.19 to bring his loan current, which mostly comprised retroactive interest for the periods in which he had received no monthly statements and, worse, was affirmatively informed by SLS's predecessor-in-interest that the interest rate had been set to 0%.

70. Mr. Cancelliere's second mortgage was transferred to Shellpoint for servicing on May 1, 2024.

71. Shellpoint is currently pursuing a judicial foreclosure of Mr. Cancelliere's home in the Pennsylvania Court of Common Pleas for Allegheny County.

72. In this foreclosure action, Shellpoint has asserted that Mr. Cancelliere owes $53,791 on his second mortgage, which includes tens of thousands in interest and fees for periods in which no statements were sent and when he had been told by his prior servicer the interest rate was 0%.

73. Defendant's false representations about the amount of Plaintiff Cancielliere's debt and the attempted foreclosure of his home to collect interest he does not owe has caused him actual damages in the amount of his lost equity.

V. CLASS ALLEGATIONS

74. Under Federal Rule of Civil Procedure 23, Plaintiffs bring this action for themselves and on behalf of the following class (the "Class") of which they are each a member:

> All consumers in the United States: (1) with a second mortgage that was being serviced by SLS at the time SLS was acquired by Shellpoint; (2) which SLS acquired for collection after the loan was in default; and (3) to whom SLS or Shellpoint sent any communication within two years prior to this action that demanded interest and fees that SLS had retroactively assessed for prior periods during which no monthly statements were being sent by the then-servicer of the loan.

75. Plaintiff Litwin further bring this action on behalf of the following subclass of which he is a member (the "Payment Subclass"):

> All members of the Class who paid some or all of the demanded retroactively-assessed interest.

76. Plaintiff Colbert also brings this action on behalf of the following subclass of which she is a member (the "RESPA Subclass"):

> All members of the Class: (1) who sent written correspondence to Defendant in which they requested information about the amount of interest being demanded or requested that Defendant correct the amount of interest it was claiming that they owed.

77. **Numerosity. Fed. R. Civ. P 23(a)(1).** Upon information and belief, Plaintiffs allege that the class members are so numerous that joinder of all is impractical. Upon information and belief, SLS serviced—and Shellpoint now services—thousands of secondary mortgage loans and subjects all of them to the same procedures for the assessment of interest,

transmittal of monthly billing statements, and procedures for calculating the amount due in form acceleration notices. The class members' names and addresses are identifiable through Shellpoint's internal business records, and they may be notified of this litigation by published or mailed notice.

78. **Predominance of Common Questions of Law and Fact.** Fed. R. Civ. P. 23(a)(2) and 23(b)(3). Common questions of law and fact exist as to all putative class members, and there are no factual or legal issues that differ between the putative class members. These questions predominate over the questions affecting only individual class members. The principal issues include: (1) whether SLS, as a matter of systemic practice, retroactively assessed, attempted to collect, and collected interest on second mortgage accounts for periods during which the prior servicers had waived such interest; (2) whether the borrower communication practices of SLS and Defendant with regard to retroactively assessed charges constituted "unfair or unconscionable" or "false and misleading" collection practices that violated the Fair Debt Collection Practices Act, 15 U.S.C. §1692f and§1692e; (3) whether Defendant and its predecessor-in-interest SLS engaged in an unfair or deceptive business practices in violation of Pennsylvania by attempting to collect and collecting interest and fees for periods in which prior servicers had waived such interest; (4) whether SLS and Shellpoint have engaged in a pattern or practice of responding to borrowers' written inquiries in a legally defective manner, in violation of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2605(e) and Regulation X, 12 C.F.R. §§ 1024.35 and 36; (5) the size of Defendant's net worth, for purposes of determining the amount of statutory damages under 15 U.S.C. §1692k and 12 U.S.C. §2605(f); and (6) the damages that should be awarded under Pennsylvania law.

79. **Typicality. Fed. R. Civ. P. 23(a)(3).** Plaintiffs' claims are typical of the claims of

each putative class member. They are also entitled to relief under the same causes of action as the other putative class members. All claims are based on the same facts and legal theories.

80. **Adequacy of Representation. Fed. R. Civ. P. 23(a)(4)**. Plaintiffs are adequate representatives of the putative classes because their interests coincide with, and are not antagonistic to, the interests of the class members that they each seek to represent. Plaintiffs have retained counsel competent and experienced in consumer class-action litigation, and they intend to continue to prosecute the action vigorously. Plaintiffs and their counsel will fairly and adequately protect the putative class members' interests. Neither Plaintiffs nor their counsel have any interests that might cause them to not vigorously pursue this action.

81. **Superiority. Fed. R. Civ. P. 23(b)(3).** Questions of law and fact common to the class members predominate over questions affecting only individual members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy. The damages sought by each member are such that individual prosecution would prove burdensome and expensive. It would be almost impossible for class members to effectively redress the wrongs done to them in individual litigation. Even if the putative class members could afford individual litigation, it would be an unnecessary burden on the courts. Individualized litigation also presents a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and to the court system presented by the legal and factual issues raised by Defendant's conduct. By contrast, the class-action device will result in substantial benefits to the litigants and the Court by allowing the Court to resolve several individual claims based on a single set of proof in a case.

VI. CLAIMS FOR RELIEF

COUNT ONE:
VIOLATIONS OF FDCPA, 15 U.S.C. §1692e
(On Behalf of Plaintiffs and the Class)

82. Plaintiffs incorporate all previous allegations by reference and reallege them herein.

83. Plaintiffs bring this claim on behalf of themselves and the Class.

84. Defendant constitutes a debt collector under the FDCPA with respect to Plaintiffs and the Class members' loans because it regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and the debts at issue here were all acquired by Defendant after they were in default.

85. Defendant violated the FDCPA by using "false or misleading" means in collecting or attempting to collect a debt, 15 U.S.C. § 1692e, including, specifically, providing false or misleading information about the character and amount of the debt owed, 15 U.S.C. § 1692f(2)(A), by demanding payment of interest that had been, as matter of fact and/or, as a matter of contract, regulation or industry practice, previously waived.

86. Pursuant to 15 U.S.C. § 1692k, Plaintiffs and the members of the FDCPA Class are entitled to actual damages, as well as (a) statutory damages of up to $500,000 and (b) costs and reasonable attorney's fees.

COUNT TWO
VIOLATIONS OF FDCPA, 12 U.S.C. § 1692f
(On Behalf of Plaintiffs and the Class)

87. Plaintiffs incorporate all previous allegations by reference and reallege them herein.

88. Plaintiffs bring this claim on behalf of themselves and the Class.

89. Defendant violated the FDCPA by engaging in "unfair or unconscionable means" in collecting or attempting to collect a debt. 15 U.S.C. § 1692f, among other reasons,

a. By hiding its identity from the obligated consumer and withholding communication regarding the amounts allegedly due, only to surface with foreclosure threats, demanding thousands of dollars in interest that, for years, had never been demanded and that it had

retroactively assessed, in violation of the general prohibition of § 1692f;

b. By demanding or collecting interest that it assessed in violation of §1692f(1), (i) in the case of Plaintiff Litwin and class members with similar loan provisions, which only permitted interest accruals during periods when borrowers were being furnished periodic statements; (ii) in the case of Plaintiff Cancelliere and other class members who were actually informed by prior servicers that interest was not accruing; and (iii) in the case of Plaintiff Colbert and class members with closed-end contracts covering periods during which Regulation Z specifically prohibited interest accruals.

90. Pursuant to 15 U.S.C. § 1692k, Plaintiffs and the members of the FDCPA Class are entitled to actual damages, as well as (a) statutory damages of up to $500,000 and (b) costs and reasonable attorney's fees.

COUNT THREE
VIOLATIONS OF THE PENNSYLVANIA FAIR CREDIT EXTENSION UNIFORMITY ACT, 73 P.S. §§ 2270.1-2270.7
(On Behalf of Plaintiffs and the Class)

91. Plaintiffs incorporate all previous allegations by reference and reallege them herein.

92. Plaintiffs bring this claim on behalf of themselves and the Class.

93. Defendant Shellpoint is a " debt collector" under the Fair Credit Extension and Uniformity Act ("FCEUA"), 73 Pa. Stat. §2270.1 *et seq.*, because it is a person conducting business within this Commonwealth that collects debts alleged to be owed a creditor or assignee of a creditor. 73 Pa. Stat. § 2270.3.

94. Under the FCEUA, it is an "unfair or deceptive collection act or practice" for any debt collector to violate a provision of the FDCPA. *See* 73 P.S. §§ 2270.2, 2270.4(a).

95. This Court has jurisdiction to remedy FCEUA violations that occurred within two years of this action, 73 P.S. § 2270.5(b).

96. As set forth in Counts One and Two, Defendant's conduct violated Sections 1692e and 1692f of the FDCPA and, therefore also violated the FCEUA, 73 P.S. §2270.4(a).

97. Under Pennsylvania law, "unfair or deceptive collection acts or practices" are enforceable under the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL"), 73 P.S. § 201 et seq. *See* 73 P.S. §2270.5(a).

98. The remedy provided by the UTPCPL is available to any "persons" who suffer an "ascertainable loss of money or property" as a result of an unfair or deceptive practice.

99. As a Pennsylvania-based debt collector, Defendant is subject to UTPCPL liability with respect to conduct directed to debtors both within and outside of the Commonwealth. *See Danganan v. Guardian Prot. Servs.*, 645 Pa. 181, 195–96, 179 A.3d 9, 17 (2018) ("[W]e hold that a non-Pennsylvania resident may bring suit under the UTPCPL against a Commonwealth-headquartered business based on transactions that occurred out of state.").

100. The acts or practices by Defendant caused Plaintiffs and members of the Class ascertainable losses of home equity, with such losses of equity constituting actual damages.

101. On account of these losses, Plaintiffs and the members of the Class are entitled to treble damages, costs and reasonable attorney's fees, as well as declaratory relief that the retroactively assessed interest is not due and owing, pursuant to 73 P.S. § 201-9.2(a).

COUNT FOUR
VIOLATIONS OF THE PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION LAW, 73 P.S. § 201-2(4)
(On Behalf of Plaintiff Litwin and the Payment Subclass)

102. Plaintiffs incorporate all previous allegations by reference and reallege them herein.

103. Defendant is a Pennsylvania-headquartered company that engages in "trade" and "commerce" with consumers both inside and outside of the Commonwealth of Pennsylvania 73 P.S. § 201-2.

104. As described above, Defendant is systematically falsely representing to consumers throughout the nation that the "zombie" second mortgages it acquired from SLS have characteristics that they do not have, namely, that they have been accruing interest without interruption during the years when periodic statements ceased, tending to cause confusion and misunderstanding about the actual amont of their mortgage balances, in violation of 73 P.S. § 201-2(4)(v),(xxi).

105. Plaintiff Litwin and the members of the Payment Subclass, relied on these misrepresentations to their detriment, by paying Defendant some or all of these inflated interest demand in order to satisfy their supposed mortgager-secured obligations.

106. On account of these losses, Plaintiff Litwin and the members of the Payment Subclass are entitled to treble damages, costs and reasonable attorney's fees, pursuant to 73 P.S. § 201-9.2(a).

COUNT FIVE
VIOLATIONS OF RESPA, 12 U.S.C. § 2605(e)
(On Behalf of Plaintiff Colbert and the RESPA Subclass)

107. Plaintiffs incorporate all previous allegations by reference and reallege them herein.

108. Plaintiff Colbert brings this action on behalf of herself and the RESPA Subclass.

109. The second mortgages of Plaintiff and the members of the Class that are being serviced by Defendant are "federally related mortgage loans" within the meaning of the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2602(1).

110. RESPA, 15 U.S.C. § 2605(e) imposes certain requirements and obligations on "servicers" of federally related mortgage loans with regard to "qualified written requests" submitted by "borrowers," and these requirements are enforceable by borrowers under 15 U.S.C. § 2605(f).

111. Defendant Shellpoint is the "servicer" within the meaning of RESPA.

112. Plaintiff and the members of the RESPA Subclass are "borrowers" within the meaning of RESPA.

113. Under Section 2605(e), a borrower may submit to its servicer a qualified written request ("QWR") identifying an error in the servicing of the loan ("Notice of Error") or a Request for Information regarding the mortgage. *See* 12 U.S.C. § 2605(e); Regulation X, 12 C.F.R. §§1024.35, 1024.36.

114. The written inquiry sent to Defendant by Ms. Colbert's counsel on July 24, 2024 was a Notice of Error and Request for Information under those provisions, as were the written correspondences sent by the other RESPA Subclass members.

115. Within thirty business days of the receipt of a Notice of Error or Request for Information, the servicer must conduct a reasonable investigation and provide a response. If the servicer determines that an error occurred, the servicer must correct the error identified by the borrower and provide a written notification of the correction. If, pursuant to a reasonable investigation, the servicer determines that no error occurred, the servicer must notify the borrower in writing and provide a statement of the reasons for this determination. See 12 C.F.R. § 1024.35(e)(1)(i).

116. Despite this obligation, Defendant never removed the interest it had wrongfully assessed retroactively on Plaintiff's and Subclass members' loans covering the past periods

during which no periodic statements were being sent or during which the prior servicer had waived the interest, nor did it provide any information about these charges.

117. As a result of Defendant's failures to correct these errors or conduct reasonable investigations into them, Ms. Colbert and Subclass members have suffered additional emotional distress including anxiety and despair aggravated by Defendant's intransigence.

118. Defendant's failure to comply with its obligations under RESPA with regard to Plaintiff is part of a nationwide pattern or practice of noncompliance with regard to borrower inquiries about zombie second mortgage accounts. By way of further example of this pattern and practice, Plaintiff cites Defendant's handling of an inquiry by borrower Mariel Castellon of Vienna, Virginia.

119. Defendant is liable to Plaintiff and to members of the RESPA Subclass in an amount of up to $1 million, plus attorneys' fees and costs, pursuant to 12 U.S.C. § 2605(f).

COUNT SIX
VIOLATIONS OF ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT, 815 ILCS § 505
(On Behalf of Plaintiff Litwin only)

120. Plaintiffs incorporate all previous allegations by reference and reallege them herein.

121. Defendant engaged in "trade" and "commerce" within and outside of the State of Illinois by engaging in the advertising, offering for sale, sale or distribution of services—namely mortgage collection services—that directly or indirectly affected the people of Illinois. 815 ILCS § 505/1.

122. In connection with the conduct of trade and commerce within and outside Illinois, Defendant engaged in unfair or deceptive acts or practices, including, but not limited to: (1) engaging in deceptive conduct which creates a likelihood of confusion or of misunderstanding as

to the amounts owed on Plaintiff Litwin's second mortgage debt; and/or (2) employing suppression or omission of a material fact with intent that Plaintiff rely upon the concealment.

123. Specifically, Defendant and its predecessor-in-interest SLS, systematically employed a business practice of purchasing long-dormant second mortgage debts, without notice to the consumers of their acquisition of the servicing right to such loans and without providing any notice of the supposed accumulation of any interest on the debts through monthly billing statements. Then, once home values exceeded the value of the first-lien mortgage balances they began demanding payment of tens of thousands in additional interest per loan under threat of foreclosure and in fact foreclosed on peoples' homes when they did not pay these inflated amounts.

124. By using the threat of foreclosure and/or holding up the sale of their homes, Defendant attempted to induce and in fact induced Plaintiff Litwin to pay amounts that he in fact did not owe because no monthly statements had been sent and the prior servicer of the loan had waived the right to collect such interest.

125. Defendant's conduct violates not only federal law and industry standards but also violates the public policy of Illinois. That policy, set forth in the Illinois Interest Act, states that monthly statements must be provided for open-end credit accounts like Mr. Litwin's second-lien HELOC for interest to be collected on the account. See 815 ILCS 205/4.2 (stating that for a lender to "receive or contract to receive interest in any amount," it must comply with subparagraph (b) of the provision, which requires timely notice after each billing cycle of the interest accrued during the billing cycle); see also 815 ILCS 205/4.1 (stating that for revolving credit accounts on which "the lender may from time to time make loans or advances . . . the lender is to render bills or statements to the debtor at regular intervals").

126. The Illinois Interest Act "applies to assignees of the debt that wish to continue to collect interest on those debts." PRA III, LLC v. Hund, 364 Ill. App. 3d 378, 385, 846 N.E.2d 965, 970 (3d Dist. 2006).

127. Defendant's conduct thus violates Illinois's public policy, evinced by the Interest Act, "'to protect weak and necessitous borrowers . . . from oppression of unscrupulous lenders." *See Linderman v. Newrez LLC*, 2026 WL 1266163, at *11, __ F. Supp. 3d __ (N.D. Ill. 2026) (citation omitted); see also id. (finding the plaintiff stated a claim under the Illinois Consumer Fraud Act based on allegations that Shellpoint's conduct in assessing and collecting retroactive interest for periods in which statements were not sent violated Illinois public policy, including the Illinois Interest Act).

128. Additionally, Defendant's conduct independently constitutes an unfair business practice because it is "immoral, unethical, oppressive or unscrupulous." *See Linderman*, 2026 WL 1266163, at *12 n.14 (finding that same conduct by Shellpoint "is also, likely, an unfair practice" under the Illinois Consumer Fraud Act regardless of whether it violated the State's public policy, because it at least plausibly qualified as immoral, unethical, oppressive or unscrupulous).

129. Despite its knowledge of its and SLS's blatant violations of basic principles of fairness, as well as the law, Defendant caused damage to Plaintiff Litwin's property interests, including lost equity in their homes caused by the inflated balances of the secured second mortgage debts. Mr. Litwin suffered monetary damages from his payment of Defendant's wrongfully inflated payoff demand.

130. Accordingly, Plaintiff Litwin is entitled to his actual damages, punitive damages, and his attorney fees and costs of this lawsuit.

VII. PRAYER FOR RELIEF

For the reasons alleged, Plaintiffs seek the following relief:

A. Class certification pursuant to Fed. R. Civ. P. 23;

B. Treble damages and/or declaratory relief under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 Pa. Stat. § 201-9.2, for Plaintiffs and the members of the Class;

C. FDCPA statutory damages up to $500,000;

D. RESPA statutory damages of up to $1 million for the members of the RESPA Subclass;

E. Actual and punitive damages for Plaintiff Litwin under the Illinois Consumer Fraud and Deceptive Business Practices Act;

F. An award of reasonable attorney fees and costs, under each Count above; and

G. Such additional relief deemed appropriate by the Court.

Respectfully submitted,

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