UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 0:14-cv-60649-GOODMAN
[consent case]

JENNIFER LEE, et al., on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

OCWEN LOAN SERVICING, LLC, et al.,

Defendants.
_____/

ORDER ON OBJECTIONS TO REQUESTED FINAL APPROVAL OF CLASS ACTION SETTLEMENT

The Undersigned has reviewed three recent objections to the proposed class action settlement. Specifically, the Court has reviewed objections filed by Margo Perryman [ECF No. 146], Shane and Cecilia Valdez [ECF No. 147] and Michael Hobbs [ECF No. 148]. Because the motion for final approval of the class action settlement [ECF No. 144] was filed recently (i.e., on April 27, 2015), there may be other objections filed. The Final Approval Hearing is currently scheduled for June 11, 2015.

The parties to the settlement shall file responses to the objections by May 26, 2015. They may file an omnibus, joint response or they may file separate responses or they

may submit responses in other configurations. The settling parties are free to craft their responses in the manner they choose, but the responses must collectively address all the objections raised. Thus, Plaintiffs could submit a response discussing three categories of objections, Ocwen Loan Servicing, LLC could submit a response analyzing two other categories of objections, American Security Insurance Company could file a submission responding to four other types of objections, etc.

No individual response may be longer than 20 pages, double-spaced, excluding signature block and certificate of service, but a joint response collectively filed by several parties may be longer. A joint response filed by 2 parties may be 32 pages, a joint response filed by 3 parties may be 48 pages, and a joint response filed by 4 parties may be 60 pages.

As noted, all categories of objections must be examined, but the Court is specifically flagging the following issues as being worthy of comprehensive discussion:

1. Why should the Undersigned not reschedule the final approval hearing until after the Eleventh Circuit issues its rulings in two appeals raising the same objections as have been raised here? Those two appeals appear to be well underway. In *Hall v. Tripasso*, 11th Cir. Case No. 14-15712 (S.D. Fla. Case 12-cv-22700-FAM), Objectors-Appellants Michael and Jill Tripasso filed their initial brief on May 12, 2015. The briefing in *Nadeau v. Wells Fargo Bank, NA*, 11th Cir. Case No. 14-1500 (S.D. Fla. Case 13-cv-60721-FAM) appears even further developed. Specifically, Appellants Pearson,

Vanskyoit and Yoho filed their brief on December 24, 2014; Appellant Kirby filed an initial brief on January 14, 2015; Appellants Amirali Jabrani and Janet Jabrani filed their brief on February 9, 2015; Objector-Appellant Jennifer Deachin n/k/a Jennifer Hinjosa filed her corrected brief on February 17, 2015 and the Pearson Appellants filed a supplemental authority on March 25, 2015.[1]

2. Even if not required, why would the settling parties not **want** to provide the additional information demanded by the objectors? Would an order approving the settlement and the attorney's fee award be less likely to be reversed on appeal if the Undersigned had more information to analyze?

3. Given the appellate decisions which the objectors pinpointed from the Seventh and Ninth Circuits, should the Undersigned by concerned that the proposed Settlement Agreement contains "clear sailing" and "kicker" provisions?

4. Why should the Court not wait until the claims period is over before having a final hearing? Would that arrangement not provide for a clearer understanding of the actual value of the Settlement Agreement?

5. Would it not make sense for the Court to learn the actual dollar amount which will be paid to the Settlement Class, or at least a reasonable understanding of the likely *range*, before determining whether the agreement and the proposed fees are fair?

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[1] Interested Parties-Appellants Owings Law Firm, Wagoner Law Firm and Walker Law PLC filed their brief on January 30, 2015, but the Eleventh Circuit dismissed their appeal on March 30, 2015.

6. Why should the Court not postpone a ruling on attorney's fees and expenses until after the settling parties advise how much Defendants will actually pay out under the settlement?

7. The Undersigned understands that class counsel reviewed a declaration from an Ocwen representative to support the conclusion that Ocwen's databases cannot determine, on a systematic basis, which class members paid for lender-placed insurance. Nevertheless, it appears as though counsel never took any discovery on this point. Under these circumstances, would it not be less risky for counsel to take the declarant's deposition, to confirm the accuracy of his statements? Would discovery not shed additional light on the logic (or illogic) of a claims-made procedure?

8. Should the Court be at all concerned that it is being asked to approve an attorney's fee protocol without the submission of lodestar information and backup documentation?

9. Would the analysis of the percentage of the recovery for an attorney's fees award change significantly if the award were evaluated against the dollars actually paid, as opposed to the potential dollars if all claimants submitted claims and did not opt out?

DONE and ORDERED, in Chambers, in Miami, Florida, May 13, 2015.

Jonathan Goodman
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
All counsel of record