

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

)	
Paulette E. Rakestraw, on behalf of)	
herself and all persons similarly situated,)	
)	
Plaintiff,)	
)	CIVIL ACTION FILE
v.)	
)	NO. _____
Nationstar Mortgage, LLC.,)	
)	
Defendant.)	
)	

CLASS ACTION COMPLAINT

Plaintiff Paulette E. Rakestraw, by and through her attorney of record, files this Complaint on behalf of herself and all persons similarly situated within the United States and hereby alleges as follows:

PARTIES

1.

Plaintiff Paulette E. Rakestraw (“Ms. Rakestraw”) is a resident of the State of Georgia. She currently resides at 116 Trailside Circle, Hiram, GA 30141.

2.

Defendant Nationstar Mortgage, LLC. (“Nationstar”) is a Texas corporation

authorized to do business in the State of Georgia and is currently in good standing. Nationstar may be served through its registered agent, Corporation Service Company, 40 Technology Parkway South, Suite 300, Norcross, GA 30092.

JURISDICTION AND VENUE

3.

Jurisdiction and venue are proper over the parties as pled in this Complaint. This Court has federal question jurisdiction over Plaintiffs' RESPA claim. Venue is proper in this district as Ms. Rakestraw resides in this district, the violation occurred here and Nationstar does business here.

FACTUAL ALLEGATIONS

4.

Ms. Rakestraw is the maker of a promissory note and the grantor of a security deed dated April 1, 2004, for a loan on her home at 391 Quail Ridge Rd., Hiram, Georgia 30141. The lender for this loan was American Mortgage Network, Inc. ("AMN"). This loan is a federally related mortgage loan.

5.

Defendant Nationstar is a servicer of federally related mortgage loans and has represented itself to Ms. Rakestraw as the servicer of this loan.

6.

Ms. Rakestraw has paid this loan in full and the Cancellation of Deed to Secure Debt is dated June 11, 2018.

7.

Ms. Rakestraw sent Qualified Written Requests (QWR) to Nationstar on or about November 28, 2017, January 1, 2018, and May 4, 2018, which asked for a: “1) Complete payment history that includes an explanation and breakdown of all charges and credits applied during the life of the loan, dating back to 2003 [sic], the origination of the loan.”

Nationstar failed to provide this information most notably by not providing account information for most of the years before it became the servicer. Nationstar also failed to provide explanations for some of the charges or credits it did list; instead characterizing some items only as: “CORP ADVANCE ADJUST,” “NON CASH FEE ADJ,” “CORP ADV DISP,” DecCorp Adv Deferred I,” “PMT-MISC SUSP,” and “MISC ADJ.”

8.

Ms. Rakestraw sent Qualified Written Requests to Nationstar on or about March 26, 2018 and April 16, 2018 which asked: “1. Please provide an explanation and detailed breakdown of all BofA Mics [sic] payments. 2. Please provide an

explanation and detailed breakdown of all escrow payments on each amount since the beginning of my loan (2004).” This information also was not provided.

9.

Ms. Rakestraw sent a Qualified Written Request to Nationstar on or about May 27, 2018, which asked for: “1. An explanation and detailed breakdown of all Countrywide, BofA, Nationstar and Mr. Cooper charges and credits on my account history. Specifically a breakdown of all escrow charges, miscellaneous postings and corporate advancements. 2. A legible and comprehensible breakdown of the account history or a code sheet to be able to interpret the account history. Nationstar also failed to provide this information.

10.

Nationstar’s incomplete and incomprehensible responses are potentially damaging to Ms. Rakestraw because she has paid for charges that it refused to explain to her, and which she may not owe.

11.

Nationstar’s failure to provide the account information from the years Bank of America serviced the loan is particularly troubling because Nationstar has admitted it does not know if the account totals it received from Bank of America are accurate. Nationstar informed Ms. Rakestraw in a response dated May 10, 2018:

“Unfortunately we could not provide one for Bank of America, as it is not legible and you will need to reach out to them directly.” Nationstar then obtained a legible copy from Bank of America, which it provided with its May 31, 2018 response, but warned Ms. Rakestraw to “Please keep in mind that we are unable to account for the prior servicer’s record keeping and we are unable to provide a code sheet to assist in reconciling the accounting for the prior servicer’s pay history.”

12.

Ms. Rakestraw has suffered actual damages that include the costs of sending the follow-up requests for the information that Nationstar failed to provide.

13.

Ms. Rakestraw may have suffered actual damages from paying for charges she did not owe because Nationstar failed to provide explanations for many of the charges to her account.

CLASS ACTION ALLEGATIONS

14.

Class Plaintiff brings this action both individually and on behalf of all persons whose qualified written requests for information about their mortgage loan account payments and charges were not completely or comprehensibly responded to by Nationstar since June 30, 2015 (the “Class”).

15.

The Class of persons described above is so numerous that joinder of all members is impracticable. Important questions of law and fact exist which are common to the entire Class and predominate over any questions that may affect individual Class Members in that Defendant has acted on grounds generally applicable to the entire Class.

16.

All questions as to the actions attributable to Defendant herein are similarly common. A determination of liability for such conduct will also be applicable to all members of the Class.

17.

The claims of the Class representative, Plaintiff Ms. Rakestraw, are typical of the claims of the Class in that all Plaintiffs are suing for damages under 12 U.S.C. § 2605(e) and (f). The Class violations are all violations of the same federal law and Nationstar has the same illegal practice nationwide, so common questions of law and fact will predominate over questions affecting only individual members. A determination of a violation will be applicable to all members of the Class. Class certification will also eliminate the need for duplicative litigation.

18.

Plaintiff will fairly and adequately represent and protect the interests of the entire Class. Plaintiff has retained counsel competent and experienced in the prosecution of class action litigation. Plaintiff has no interests that are contrary to or in conflict with those of the Class he seeks to represent.

19.

Class actions are specifically provided for by 12 U.S.C. § 2605, and this action is superior to all other available methods for fair and efficient adjudication of this controversy. There is no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

20.

The prosecution of separate actions by individual Class Members would create a risk of inconsistent and varying adjudications concerning the subject of this action, which adjudications could establish incompatible standards for Defendant under the laws alleged herein. A class action is superior to other available methods for fairly and efficiently adjudicating this controversy.

21.

Plaintiff intends to send notice to all members of the Class as required by Fed. R. Civ. P. 23. The names and addresses of the Class are available from Defendant's

records.

REQUEST FOR CLASS RELIEF
VIOLATIONS OF 12 U.S.C. § 2605

22.

Plaintiffs incorporated by reference the allegations from paragraphs 1-21 as if set forth verbatim herein.

23.

The Real Estate Settlement Practices Act (“RESPA”), codified at 12 U.S.C. § 2605, governs the duty of loan servicers to respond to borrower inquiries it categorizes as Qualified Written Requests (QWRs).

24.

Servicers are required to provide information related to the servicing of the loans in response to QWRs. Defendant has failed to comply with this requirement because it has refused to provide the complete and comprehensible account history and the explanations of charges and credits requested by Ms. Rakestraw and the other class members, as required in 12 U.S.C. § 2605(e).

PRAYER FOR RELIEF

25.

WHEREFORE, Plaintiff, on behalf of herself and the Class, prays:

1. For an award of actual and statutory damages,
2. For an award of all reasonable attorney's fees and costs incurred by Plaintiffs, and
3. For such other and further relief as the Court may deem just and equitable.

DEMAND FOR JURY TRIAL

26.

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff and the Class demand a trial by jury.

Submitted this 29th day of June, 2018 .

BY: Wayne Charles, P.C.

s/Wayne Charles
Wayne Charles
Georgia State Bar No. 515244

WAYNE CHARLES, PC
395 Highgrove Dr.
Fayetteville, GA 30215
(770) 241-8936
(770) 460-0412 (fax)

Attorney for named Plaintiff and the
Class

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

I hereby certify that I prepared the foregoing in Times New Roman, 14-point font, as approved by Local Rule 5.1.

s/Wayne Charles
Wayne Charles

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

<p>I. (a) PLAINTIFF(S) Paulette E. Rakestraw, on behalf of herself and all persons similarly situated</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>Paulding</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>DEFENDANT(S) Nationstar Mortgage, LLC.</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>Gwinnett</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>
<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)</p> <p>Wayne Charles Wayne Charles, PC 395 Highgrove Dr., Fayetteville, GA 30215 770-241-8936 wc115@bellsouth.net</p>	<p>ATTORNEYS (IF KNOWN)</p>

II. BASIS OF JURISDICTION
 (PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. GOVERNMENT PLAINTIFF	<input checked="" type="checkbox"/> 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
<input type="checkbox"/> 2 U.S. GOVERNMENT DEFENDANT	<input type="checkbox"/> 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
 (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
 (FOR DIVERSITY CASES ONLY)

<small>PLF</small>	<small>DEF</small>	<small>PLF</small>	<small>DEF</small>	
<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	CITIZEN OF THIS STATE INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5	CITIZEN OF ANOTHER STATE INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY FOREIGN NATION

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

<input checked="" type="checkbox"/> 1 ORIGINAL PROCEEDING	<input type="checkbox"/> 2 REMOVED FROM STATE COURT	<input type="checkbox"/> 3 REMANDED FROM APPELLATE COURT	<input type="checkbox"/> 4 REINSTATED OR REOPENED	<input type="checkbox"/> 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)	<input type="checkbox"/> 6 MULTIDISTRICT LITIGATION - TRANSFER	<input type="checkbox"/> 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
<input type="checkbox"/> 8 MULTIDISTRICT LITIGATION - DIRECT FILE						

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

12 U.S.C. § 2605 Defendant failed to respond as required to requests for information about the servicing of home loans.

(IF COMPLEX, CHECK REASON BELOW)

<input checked="" type="checkbox"/> 1. Unusually large number of parties.	<input type="checkbox"/> 6. Problems locating or preserving evidence
<input type="checkbox"/> 2. Unusually large number of claims or defenses.	<input type="checkbox"/> 7. Pending parallel investigations or actions by government.
<input type="checkbox"/> 3. Factual issues are exceptionally complex	<input type="checkbox"/> 8. Multiple use of experts.
<input checked="" type="checkbox"/> 4. Greater than normal volume of evidence.	<input type="checkbox"/> 9. Need for discovery outside United States boundaries.
<input type="checkbox"/> 5. Extended discovery period is needed.	<input type="checkbox"/> 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ <small>(Referral)</small>	NATURE OF SUIT _____	CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI TRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ 1,000,000

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

Wayne Charles

June 29, 2018

SIGNATURE OF ATTORNEY OF RECORD

DATE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Nationstar Mortgage Sued Over Alleged Failure to Provide Complete Payment History](#)
