

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE OCWEN FEDERAL BANK FSB  
MORTGAGE SERVICING LITIGATION

Case No. 04-C-2714  
MDL No. 1604

This Document Relates To:

Judge Norgle

ALL ACTIONS.

REVISED

FINAL APPROVAL ORDER AND JUDGMENT

WHEREAS, various cases are pending in the Court entitled *In Re Ocwen Federal Bank FSB Mortgage Servicing Litigation*, Case No. 04-C-2714, MDL No. 1604, by way of a Third Amended Consolidated Class Action Complaint (“Third Amended Complaint”) [Dkt. No. 319] which is a court ordered consolidation of all the actions listed in the Settlement Agreement [see Dkt. No. 355];<sup>1</sup>

WHEREAS, the Plaintiffs have moved with the assent of the Settling Defendants, pursuant to Federal Rule of Civil Procedure 23(e), for an order finally approving the Settlement (the “Final Approval Motion”), in accordance with the Settlement Agreement and the Exhibits annexed thereto, and for dismissal of the Third Amended Complaint with prejudice upon the terms and conditions set forth in the Settlement Agreement;

WHEREAS, the Court preliminarily approved the Settlement Agreement by Preliminary Approval Order dated January 10, 2011 [Dkt. No. 367] and approved the form, content, and method of Notice proposed by the parties;

WHEREAS notice was thereafter given to members of the Settlement Class pursuant to the terms of the Preliminary Approval Order [see Declaration of Julie Redell in Support of Motion for Final Approval of Settlement];

WHEREAS, the Court has read and considered the papers filed in support of the Final Approval Motion, including the Settlement Agreement and the exhibits thereto, memoranda and arguments submitted on behalf of the Plaintiffs, the Settlement Class and the Settling Defendants, together with supporting declarations. The Court has also considered any objections or other written comments submitted to the Clerk of the Court by class members, together with the response of the Parties thereto;

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<sup>1</sup> Capitalized terms herein shall have the same meaning as in the Settlement Agreement, if defined.

WHEREAS the Court held a Final Approval Hearing on May 16, 2011, at which time the parties and all other interested persons were heard in support of and in opposition to the proposed settlement; and

WHEREAS, based on the papers filed with the Court and the presentations made to the Court by the parties and by other interested persons at the hearing, it appears to the Court that the Settlement Agreement is fair, reasonable, and adequate. Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. For purposes of this Settlement only, the Court has jurisdiction over the subject matter of the Third Amended Complaint and personal jurisdiction over the parties and the members of the Settlement Class.

2. Pursuant to Federal Rule of Civil Procedure 23(a), (b)(1)(B), (b)(3), and (g), and based on findings made in the Preliminary Approval Order, the Court certifies, solely for purposes of effectuating this Settlement, the Settlement Class.

3. The Court has determined that the Notice given to members of the Settlement Class fully and accurately informed members of the Settlement Class of all material elements of the proposed Settlement and constituted valid, due, and sufficient notice to members of the Settlement Class consistent with all applicable requirements. The Court further finds that the Notice plan satisfies due process and has been fully implemented.

4. Claims and requests for exclusion not received by the Settlement Administrator as of the date of the Fairness Hearing on May 16, 2011 are disallowed unless otherwise approved by the Court. All persons who made valid requests for exclusion from the automatic Late Fee Waivers and Deficiency Waivers, and the persons who were eligible to receive a Cash Benefit

but did not submit a claim for the Cash Benefit, are excluded from receiving a full benefit under the Settlement and are not bound by the Full Release.

5. All Full Participants who accepted the full benefit offered to them are conclusively deemed to have released and discharged their claims to the extent provided by the Full Release, as set forth in the Settlement Agreement and Notice.

6. All Limited Participants, including Settlement Class Members who are eligible to be Full Participants but chose not to accept the full benefit offered to them, are conclusively deemed to have released and discharged their claims to the extent provided by the Limited Release as set forth in the Settlement Agreement, but otherwise retain their rights against Defendants and Defendants' Related Parties, including without limitation, the right to sue for actual damages under FDCPA and/or RESPA, and/or other claims arising out of state or federal law, to the extent such claims may exist.

7. The Court finally approves the settlement of this Action in accordance with the terms of the Settlement Agreement and, having considered the matters required under applicable law, finds that the Settlement is in all respects fundamentally fair, reasonable, adequate, and in the best interest of the Settlement Class Members, especially in light of the relative strength of Plaintiffs' case compared to the substantial benefits of Defendants' settlement offer to the Settlement Class; the likely complexity, length, and expense of further litigation; the minimal opposition to the Settlement in comparison to the overwhelmingly positive reaction of the Settlement Class; the opinion of competent counsel in favor of the Settlement, who are experienced in class action litigation including mortgage servicing class actions; and the advanced stage of the proceedings and the extensive discovery completed at the time of settlement. *See Isby v. Bayh*, 75 F.3d 1191, 1199 (7th Cir. 1996) (citing *E.E.O.C. v. Hiram*

*Walker & Sons, Inc.*, 768 F.2d 884, 889 (7th Cir. 1985). The Court has viewed the Settlement in its entirety and is satisfied that the Settlement is fair, reasonable, and adequate. *Isby*, 75 F.3d at 1199. In making such findings, the Court has also considered the large number of claims filed, the small number of exclusions from the Settlement and objections by Settlement Class Members, and the opinions of competent counsel concerning such matters. The Court has considered duly filed objections to the Settlement, and to the extent such objections have not been withdrawn, superseded, or otherwise resolved, they are overruled and denied in all respects on their merits.

8. The Court orders the parties to the Settlement Agreement to perform their obligations thereunder pursuant to the terms of the Settlement Agreement. Cash payments are to be made and cash-equivalent benefits are to be issued consistent with the terms of the Settlement Agreement.

9. The Court dismisses the Third Amended Complaint, and all claims and causes of action asserted therein with prejudice. The Court further dismisses with prejudice all claims and causes of action asserted in all Constituent Class Actions. These dismissals are without costs to any party, except as specifically provided in the Settlement Agreement.

10. The Court adjudges that the Named Class Representative Plaintiffs, Settlement Class Representative Plaintiffs, and all Settlement Class Members shall be bound by this Final Approval Order and Judgment.

11. Without affecting the finality of this Final Approval Order and Judgment in any way, the Court retains jurisdiction over: (a) implementation and enforcement of the Settlement Agreement pursuant to further orders of the Court until the final judgment contemplated hereby has become effective and each and every act agreed to be performed by the parties hereto shall

have been performed pursuant to the Settlement Agreement; (b) any other action necessary to conclude this Settlement and to implement the Settlement Agreement; and (c) the enforcement, construction, and interpretation of the Settlement Agreement.

12. The Court has considered Settlement Class Representative Plaintiffs' request for attorneys' fees and expenses in the amount of \$4.25 million (plus interest accrued thereon from the date interest begins to accrue for the benefit of the Settlement Funds) and finds the requested fees and expenses appropriate and reasonable because:

- a. The Settlement provides substantial benefits for the Class.
- b. The requested award of attorneys' fees is reasonable under the percentage of the common fund method.
- c. The requested fee is below the total lodestar fees of Class Counsel, based on declarations submitted to the Court.
- d. The quality of legal services by Class Counsel has been outstanding, in light of the Settlement itself, the complexity of the litigation, and the efficient litigation and settlement by attorneys with substantial experience in consumer mortgage and loan servicing class action cases.
- e. Class Counsel have taken considerable risks in pursuing this litigation.
- f. By receiving payment from a common fund, Class Counsel's interests were fully aligned, during the settlement negotiation process, with those members of the Settlement Class, such that Class Counsel had appropriate incentives to maximize the size of the common fund.

- g. The expenses incurred by Class Counsel are unreimbursed out-of-pocket expenses and costs that were incurred in prosecution of the claims and in obtaining a settlement, and are therefore reasonable litigation expenses.


Approved Attorney's Fees and Expenses shall be paid from the Settlement Fund as provided by the Settlement Agreement. Distribution of attorneys' fees among Class Counsel will be at the sole discretion of Co-Lead Counsel.

13. The Court approves the Enhancement Awards for each of the thirty-eight (38) specified Class Representatives in the amount of \$7,500 (plus interest accrued thereon from the date interest begins to accrue for the benefit of the Settlement Funds), based on a finding that such amounts represent an appropriate payment for service to the Settlement Class. Approved Enhancement Payments shall be paid from the Cash Settlement Fund as provided by the Settlement Agreement.

14. This Final Approval Order and Judgment is not a finding or a determination of any wrongdoing by any of the Settling Defendants.

15. The Court finds that no just reason exists for delay in entering this Final Approval Order and Final Judgment. Accordingly, the Clerk is hereby directed forthwith to enter this Order and Final Judgment.

DATED: July 1, 2011

  
The Honorable Judge Norgle  
United States District Court