IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
GREENBELT DIVISION

DEMETRIUS ROBINSON and
TAMARA ROBINSON
10016 Founders Way
Damascus, Maryland 20872

On behalf of themselves and all others similarly situated,

Plaintiffs,

v.

NATIONSTAR MORTGAGE LLC
350 Highland Drive
Lewisville, Texas 75067

Defendant.

Case No. ______________________

(JURY TRIAL DEMANDED)

CLASS ACTION COMPLAINT

Plaintiffs Demetrius and Tamara Robinson individually on behalf of themselves and all others similarly situated, bring this Class Action Complaint against defendant Nationstar Mortgage LLC ("Nationstar") and in support allege as follows:

NATURE OF THIS ACTION

1. Mortgage servicers are companies responsible for the day-to-day management of a mortgage loan, including collecting payments from borrowers, holding funds in escrow accounts for insurance and tax purposes, remitting such escrow funds, interacting with borrowers, and administering the mortgage foreclosure process. Mortgage services are also responsible for overseeing and implementing loss mitigation opportunities for borrowers to avoid loan delinquency and foreclosure.

2. After the 2007 and 2008 global financial crisis, the number of mortgage-loan borrowers in the United States that became delinquent on their loans increased sharply. Mortgage servicers were unable to handle the rise in loss mitigation applications. A loss mitigation application is a request from a borrower to change the terms of their payment obligations to avoid delinquency or foreclosure. Loss mitigation plans can take many forms, including those that would allow borrowers to retain ownership of their homes, such as loan modifications and forbearance agreements, but also ones that would allow the borrowers to transfer ownership of their homes under more favorable terms than those allowed for by the loan agreement, such as short-sale agreements and deed-in-lieu of foreclosure programs. Mortgage servicers lacked adequate infrastructure to process loss mitigation applications from borrowers or ensure that the foreclosure process was properly and effectively executed.

3. The industry-wide deficiencies of mortgage servicers laid bare by the financial crises led to a number of enforcement actions by federal and state regulators. The nation's largest servicers were forced to change many of their practices, including how they administered loss mitigation opportunities for borrowers. The Federal government also created programs designed to incentivize servicers to process more borrower loss mitigation applications according to certain guidelines.

4. Despite these actions, regulators were still concerned that mortgage servicers were not devoting sufficient resources to ensure both that borrowers were being adequately informed about potential loss mitigation opportunities and that borrowers' applications were being processed. Thus, in January 2013, the United States Consumer Financial Protection Bureau issued a number of final rules amending the provisions of the

Real Estate Settlement Procedures Act (RESPA) to require servicers to follow strict procedures for processing loss mitigation applications and to disclose certain information to borrowers about the status of their application. *See* 12 C.F.R. § 1024.41. The rules also afford consumers a private right of action against servicers that fail to comply. The effective date of these rules was delayed for a year to give the servicers time to bring their systems for processing loss mitigation applications into compliance with the new rules. The rules became effective on January 10, 2014.

5. Nationstar is one of the country's leading mortgage servicers. As of the date of this Complaint, Nationstar has failed to bring its system for processing loss mitigation applications into compliance with the new RESPA regulations. As described in detail below, Nationstar has a pattern and practice of failing to provide the notices required by RESPA, failing to process loss mitigation applications within the time frames set forth in the new rules, and failing to provide borrowers with certain information about how their application was processed.

6. Plaintiffs and members of the proposed classes submitted loss mitigation applications after the new RESPA regulations went into effect. Nationstar violated RESPA by failing to adhere to the requirements of 12 C.F.R. § 1024.41 with respect to the Plaintiffs and class members' loss mitigation applications. Nationstar's conduct with regard to its loss mitigation programs also violated the Maryland Consumer Protection Act, Md. Comm. Law, §§ 13-101 *et seq.*

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 (federal question).

8. This Court has personal jurisdiction over Nationstar because it transacts business in this District and because a substantial part of the events or omissions giving rise to this action occurred in this District.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the acts giving rise to this action occurred in this District and because Nationstar transacts business in this District.

PARTIES

10. Mr. and Mrs. Robinson are residents of Montgomery County, Maryland.

11. Defendant Nationstar is a Delaware corporation with its principal office located at 350 Highland Drive, Lewisville, Denton County, Texas 75067. Nationstar does business in Montgomery County, as well as other locations throughout Maryland and the nation.

FACTS COMMON TO ALL CLAIMS

I. Regulatory Background.

12. The mortgage market is the largest market for consumer financial products in the United States, with over $10 trillion in loans outstanding. Mortgage servicers play an important role in this market, taking on the day-to-day management of mortgage loans for lenders or for investors. Investors are entitled to the loan proceeds when a loan has been securitized. The majority of mortgage loans serviced by mortgage servicers are owned by investors of securitized loans.

13. Mortgage servicers are responsible for billing borrowers for amounts owed on the loan, collecting and distributing payments, maintaining and disbursing funds from escrow accounts, reporting to creditors and investors, and pursuing collection and

loss mitigation activities—such as foreclosures and loan modifications for delinquent borrowers.

14. Mortgage servicing is performed by banks and non-bank entities according to different business models. For example, some lenders service the mortgage loans they originate or purchase and hold in a portfolio. Other lenders sell the ownership interest of their mortgage loans, but retain the servicing rights. In other cases, servicers have no role in loan origination or ownership. Instead, they are hired to either service the loans in a lender's portfolio or purchase the mortgage servicing rights on securitized loans.

15. Contracts between the mortgage loan owner and servicer delineate the rights of each party. Such contracts may specify the circumstances under which a servicer may offer loan modifications to borrowers.

16. Although compensation models may vary, servicers generally recoup their investment in purchasing servicing rights and earn a profit through the following: (i) a net servicing fee, which is usually expressed as a constant rate assessed on unpaid mortgage balances; (ii) interest float on escrow accounts prior to disbursement; and (iii) marketing other products and services to borrowers.

17. Using this model, servicers are effectively compensated for functioning as payment collectors and processors. As a result, they have little incentive to provide other customer service to borrowers.

18. Furthermore, servicers are not subject to market discipline from borrowers because borrowers' ability to switch servicers is limited. On the other hand, servicers

compete for business from loan owners by lowering the price of servicing, resulting in a concomitant decrease in the quality of loan servicing provided to borrowers.

19. Compounding the fraught relationship between the borrower and the servicer is the fact that servicers earn revenue from fees assessed on borrowers, such as late fees and fees for additional ministrations such as providing payoff statements and processing telephone inquiries and payments. Servicers therefore have an incentive to search for opportunities to impose fees to the borrowers' detriment.

20. The inherent characteristics of the mortgage servicing market accordingly created problems for many borrowers. And these problems increased dramatically during the global financial crisis of 2007 and 2008.

21. When the financial crisis hit, mortgage loan servicers were unable to handle the surge in delinquent loans, mortgage modification requests, and foreclosures they were required to process. Delinquency rates nearly doubled from 2007 to 2009 and servicers had inadequate procedures and infrastructure to handle the upturn.

22. Servicers' inability to handle the increase in delinquent mortgage loans resulted in a variety of different harms to borrowers. Borrowers were unable to obtain information about, and servicers were unable to process, applications for loss mitigation programs to avoid foreclosure. Foreclosure proceedings were commenced without proper documentation and without adequate resources to administer the foreclosure process. Servicers also failed to sufficiently oversee third-parties handling foreclosure-related services.

23. These and other consumer harms prompted State and Federal regulators to initiate a number of different regulatory and enforcement actions. Perhaps the most well-

known was the National Mortgage Settlement, in which the Federal government joined with 49 State attorneys general to enter into a settlement with the nation's five largest servicers in February 2012. As part of the settlement, the nation's largest servicers were required to comply with certain standards, including standards for offering borrowers loss mitigation options to avoid foreclosure.

24. The Federal government also implemented plans, such as the Making Home Affordable Program, to help stabilize the housing market and help borrowers avoid foreclosure. The Making Home Affordable Program included sub-programs such as the Home Affordable Modification Program (HAMP), which provided eligible borrowers with an opportunity to modify their mortgage loans to make them more affordable. Servicers were eligible for incentive payments for participating in HAMP.

25. These different enforcement and regulatory actions were intended to incentivize—and in some cases force—servicers to provide borrowers with alternative payment options for their mortgage loans to avoid foreclosure. But despite these actions, regulators were still of the view that servicers were not devoting sufficient resources to this effort. Accordingly, they believed it was necessary to develop national mortgage servicing standards.

II. The New RESPA Regulations.

26. Congress originally enacted the Real Estate Settlement Procedures Act of 1974 (RESPA) based on findings that reforms to the real estate settlement process were necessary to ensure that consumers were provided with greater information on the settlement process and to protect consumers against unwarranted settlement charges. The

law was amended in 1990 to cover persons responsible for servicing federally-related mortgage loans and imposed certain obligations on such servicers.

27. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act") transferred rulemaking authority for RESPA to the United States Consumer Financial Protection Bureau (CFPB). The Dodd-Frank Act also added a section to RESPA giving the CFPB the authority to establish prohibitions on servicers of federally-related mortgage loans for the purpose of carrying out the consumer protection goals of RESPA.

28. In January 2013, the CFPB issued several final rules to address the systemic problems in the mortgage servicing industry described above and to implement protections for borrowers with regard to mortgage servicing. These rules amended 12 C.F.R. Part 1024, RESPA (Regulation X). The new rules became effective on January 10, 2014.

29. Specifically, the new rules implemented procedural protections for borrowers with regard to the process of obtaining an evaluation for loss mitigation options and restrictions on the foreclosure process while a borrower is being evaluated for a loss mitigation option. *See* 12 C.F.R. § 1024.41.

30. Under RESPA, "[l]oss mitigation option means any alternative to foreclosure offered by the owner or assignee of a mortgage loan that is made available through the servicer to the borrower." 12 C.F.R. § 1024.31. This definition was intended to be expansive, encompassing not just loan modifications, but also forbearance plans, short sale agreements, and deed-in-lieu of foreclosure programs.

31. "Loss mitigation application means any oral or written request for a loss mitigation option that is accompanied by any information required by a servicer for evaluation for a loss mitigation option." *Id.*

32. Under RESPA, "[s]ervicer means a person responsible for servicing a federally related mortgage loan (including the person who makes or holds such loan if such person also services the loan)." *Id.*

33. "Servicing means receiving any scheduled periodic payments from a borrower pursuant to the terms of any federally related mortgage loan, including amounts for escrow accounts . . . and making the payments to the owner of the loan or other third parties of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the mortgage servicing loan documents or contract." *Id.*

34. "Federally related mortgage loan" means any loan that is secured by a first or subordinate lien on residential real property and that *inter alia* is made in whole or in part by any lender that is either regulated by or whose deposits or accounts are insured by any agency of the Federal Government or is made in whole or in part by a creditor that makes or invests in residential real estate loans aggregating more than $1,000,000 per year.

35. If a servicer receives a loss mitigation application from a borrower 45 days or more before a scheduled foreclosure sale for the borrower's property, then the servicer is required to promptly review the application and determine whether it is complete.[1]

[1] Although the timing of servicer obligations in response to a loss mitigation application under RESPA is calculated based on when a foreclosure sale for the borrower's property

The servicer must then notify the borrower within 5 days after receiving the loss mitigation application that the servicer acknowledges receipt of the loss mitigation application and that the servicer has determined that the application is either complete or incomplete. 12 C.F.R. § 1024.41(b)(2).

36. If a servicer receives a complete loss mitigation application more than 37 days before a foreclosure sale for the borrower's property, then within 30 days of receiving the borrower's loss mitigation application the servicer must: "(i) Evaluate the borrower for all loss mitigation options available to the borrower; and (ii) Provide the borrower with a notice in writing stating the servicer's determination of which loss mitigation options, if any, it will offer to the borrower on behalf of the owner or assignee of the mortgage loan." *Id.* at § 1024.41(c)(1).

37. If a borrower's loss mitigation application is denied for any trial or permanent loan modification option, then the servicer shall state in the notice sent to the borrower pursuant to 12 C.F.R. § 1024.41(c) "[t]he specific reasons for the servicer's determination for each such trial or permanent loan modification option[.]" *Id.* at § 1024.41(d)(1).

38. Importantly, any determination not to offer a loan modification option constitutes a denial of the borrower for that loan modification option, notwithstanding whether the servicer offers the borrower a different loan modification option or other loss mitigation option. 12 C.F.R. § 1024, Supp. I, § 41(d) cmt. 4. In other words, the servicer must still provide notice under 12 C.F.R. § 1024.41(c) explaining the specific reasons for

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is scheduled to take place, there is no requirement that the borrower be delinquent on his or her loan in order to submit a loss mitigation application.

denying a borrower a loan modification option, even if the servicer offers the borrower a different loan modification or loss mitigation option.

39. Furthermore, with regard to the content of the notice under § 41(c), if the loan modification is denied because of a requirement of the owner or assignee of the borrower's mortgage loan, then the denial notice must identify the owner or assignee of the mortgage loan and state the requirement that is the basis of the denial. It is not sufficient to just state that denial of a loan modification option is "based on an investor requirement." The servicer must specifically identify the relevant investor and the specific requirement that purportedly constitutes the basis for the denial. 12 C.F.R. § 1024, Supp. I, § 41(d) cmt. 1.

40. Additionally, if a trial or permanent loan modification is denied because of a net present value calculation, then the denial notice under § 41(c) must include all the inputs used in the net present value calculation. *Id.* at cmt. 2.

41. Finally, if a trial or permanent loan modification is denied, then the denial notice must state that the borrower has the right to appeal the servicer's determination. 12 C.F.R. § 1024.41(d)(2).

42. The appeal must be reviewed by different personnel than those responsible for evaluating the borrower's application. And within 30 days of the borrower making an appeal, the servicer must provide a notice to the borrower stating the servicer's determination of whether the servicer will offer the borrower a loss mitigation option based on the appeal. *Id.* at § 1024.41(h).

43. RESPA also prohibits the practice of "dual tracking" while the loss mitigation process is under way. That is, a servicer is precluded from initiating

foreclosure proceedings while a loss mitigation application is being processed. *Id.* at § 1024.41(f), (g).

44. More specifically, the new RESPA regulations broadly prohibit a servicer from instituting foreclosure proceedings until a borrower's mortgage loan is more than 120 days delinquent. *Id.* at § 1024.41(f)(1).

45. Furthermore, if a borrower submits a loss mitigation application before the servicer has started the foreclosure process, then the servicer is prohibited from going forward with foreclosure proceedings until the servicer has sent the borrower the notice required by 12 C.F.R. § 1024.41(c)(1)(ii) and the borrower either did not appeal the notice or the borrower's appeal has been denied. *Id.* at § 1024.41(f)(2), (g).

46. A borrower may enforce the requirements of 12 C.F.R. § 1024.41 through a private right of action under section 6(f) of RESPA, 12 U.S.C. 2605(f). *Id.* at 1024.41(a). Under this provision, whoever fails to comply with any portion of 12 C.F.R. § 1024.41, shall be liable to the borrower for each such failure: (i) in the case of an individual, any actual damages to the borrower as a result of the failure and any additional damages in an amount not to exceed $2,000; (ii) in the case of a class, any actual damages to each of the borrowers in the class as a result of the failure and any additional damages as the court may allow, in an amount not greater than $2,000 for each member of the class, except that the total amount of damages under this subparagraph may not exceed the lesser of $1,000,000 or 1% of the net worth of the servicer.

III. Nationstar's Failure To Comply With The Requirements Of The New RESPA Regulations.

47. Defendant Nationstar is a leading residential mortgage loan servicer and is engaged primarily in the servicing of residential mortgage loans for others. Its servicing

portfolio consists of over 2.3 million loans with an aggregate unpaid principal balance of $390.7 billion as of December 2013. For the vast majority of these loans, Nationstar became the servicer by acquiring the mortgage servicing rights from the mortgage owner.

48. Nationstar services mortgage loans in all 50 states, including Maryland, and is licensed as a residential mortgage loan servicer and debt collector in all states that require such licensing.

49. In addition to its core servicing business, Nationstar also originates primarily conventional agency (Fannie Mae and Freddie Mac, collectively the government-sponsored enterprises or GSEs) and government (Federal Housing Administration and Department of Veterans Affairs) residential mortgage loans.

50. As a residential mortgage loan servicer, Nationstar has significant relationships with leading mortgage investors, such as major banks, private investment funds, GSEs, regulatory agencies, and other financial institutions and investors whose portfolios Nationstar services on their behalf.

51. Like all mortgage loan servicers, Nationstar's servicing primarily involves the calculation, collection, and remittance of principal and interest payments, the administration of mortgage escrow accounts, and administration of foreclosure procedures on behalf of owners of the loans. It earns fee-based revenues based upon contractually established servicing fees that consist of an amount based on either the unpaid principal balance of the loans serviced or a per-loan fee amount. Nationstar also generates revenue from ancillary fees, such as late fees. In addition, Nationstar earns float income, which is interest income on amounts deposited in escrow accounts for property taxes and insurance.

52. Nationstar also purports to utilize loss mitigation tools to decrease borrower delinquencies and defaults, and increase borrower repayment performance with a goal of homeownership preservation.

53. As a servicer of federally-related mortgage loans, Nationstar is subject to the new RESPA regulations described above. Notwithstanding this fact, Nationstar has engaged in a pattern and practice of violating these regulations.

54. Specifically, Nationstar does not notify borrowers within 5 days after receiving a loss mitigation application that it has received the loss mitigation application and that it has determined that the application is either complete or incomplete, as required by 12 C.F.R. § 1024.41(b)(2).

55. Nor does Nationstar (i) evaluate borrowers for all available loss mitigation options or (ii) provide borrowers with a notice in writing stating its determination of which loss mitigation options, if any, it will offer to the borrower on behalf of the owner or assignee of the mortgage loan within 30 days of receiving the borrower's loss mitigation application, as required by 12 C.F.R. § 1024.41(c)(1).

56. Nationstar does not state in the notice sent to borrowers pursuant to 12 C.F.R. § 1024.41(c) the specific reasons for the servicer's determination for each such trial or permanent loan modification option as required by 12 C.F.R. § 1024.41(d)(1).

57. Nationstar does not provide borrowers that appeal the denial of a loss mitigation application with a notice stating Nationstar's determination of whether the servicer will offer the borrower a loss mitigation option based on the appeal within 30 days of the borrower making an appeal, as required by 12 C.F.R. § 1024.41(h).

58. Nationstar also does not refrain from instituting foreclosure proceedings while a loss mitigation application or appeal is still being processed as required by 12 C.F.R. § 1024.41(f)(2), (g).

59. Nationstar's conduct with respect to its loss mitigation programs also violations of the Maryland Consumer Protection Act (MCPA) because Nationstar offers loss mitigation options to consumers without intending to provide them as offered and without intending to supply reasonably expected public demand. Md. Comm. Law § 13-301(5)(i), (ii). Nationstar also violates the MCPA by failing to respond to consumer complaints and inquiries in a timely fashion as required by the MCPA. *Id.* at § 13-316(c).

NAMED PLAINTIFFS' FACTS

60. Plaintiffs Demetrius and Tamara Robinson own residential real property located at 10016 Founders Way, Damascus, Maryland 20872 (the "Property").

61. On or about January 26, 2007, the Robinsons received a loan from Freemont Investment & Loan in the amount of $755,000.00 with an interest rate of 7.990%. The loan was secured by a deed of trust on the Property.

62. On or about July 6, 2007, Nationstar became the servicer of the Robinson's loan.

63. On March 4, 2014, Mr. Robinson mailed a loss mitigation application to Nationstar. Mr. Robinson also submitted a copy of his loss mitigation application to Nationstar online on March 7, 2014.

64. A foreclosure sale had not been scheduled for the Property. Accordingly, Nationstar received the Robinson's loss mitigation application more than 45 days before a foreclosure sale.

65. The Robinsons are the owners of a small business that provides waste management and recycling services. Mr. Robinson noted in his loss mitigation application that income from their business had decreased recently because the rates of his primary subcontractor had increased. As a result, he was forced to negotiate a payment plan with this company, which had resulted in substantial decrease in the Robinsons' household income.

66. In his loss mitigation application, Mr. Robinson requested a home loan modification that would significantly reduce his monthly payments because under the current payment plan the Robinsons could not keep current with both their mortgage and their federal and state income taxes. The Robinsons had already entered into a payment plan with the Internal Revenue Service and the State of Maryland to bring themselves current on their taxes. Mr. Robinson was requesting a loan modification that would enable him to also keep current on his mortgage payments.

67. Nationstar did not notify the Robinsons in writing within 5 days after receiving their loss mitigation application that Nationstar had received the application and that it had determined that the loss mitigation application was either complete or incomplete as required by 12 C.F.R. § 1024.41(b).

68. Nor did Nationstar evaluate the Robinsons for all loss mitigation options or provide the Robinsons with a notice in writing stating Nationstar's determination of

which loss mitigation options, if any, it will offer to the Robinsons within 30 days of receiving a loss mitigation application as required by 12 C.F.R. § 1024.41(c).

69. Instead, on March 18, 2014, the Robinsons received a letter from Nationstar dated March 14, 2014 enclosing a document entitled "loan modification agreement" with the same date. The letter explained the terms of the agreement. The agreement offered to reduce the interest rate on the Robinson's loan by less than 1 percent—from 7.990% to 7.00%—for a period of only two years.

70. Nationstar also did not comply with 12 C.F.R. 1024.41(d), which required Nationstar to state the reasons why the Robinsons were denied for any trial or permanent loan modification option besides the one set forth in the proposed loan modification agreement and that the Robinsons had a right to appeal Nationstar's determination for any such trial or permanent loan modification. Nationstar did neither. Instead, it just sent the Robinsons the Loan Modification Agreement with a letter explaining the terms.

71. Disappointed with Nationstar's response, Mrs. Robinson called Nationstar and was informed by a customer service representative that she could appeal the proposed loan modification agreement. On April 10, 2014, the Robinsons faxed a letter to Nationstar appealing the agreement.

72. On April 11, 2014, Mrs. Robinson called Nationstar again to confirm receipt of her appeal letter. During this call, the customer service representative she spoke with informed Mrs. Robinson that Nationstar had erroneously double counted the Robinsons' monthly income, which limited the loan modification options available to them. The representative suggested that the Robinsons send another appeal letter stating that they were appealing because Nationstar used the wrong income figure. On April 15,

2014, the Robinsons mailed a letter to Nationstar supplementing their appeal with this new information.

73. Nationstar failed to provide the Robinsons with a notice stating its determination of whether Nationstar would offer them a loss mitigation option based on the appeal within 30 days of the appeal in violation of 12 C.F.R. § 1024.41(h).

74. Instead, Nationstar sent a letter dated May 5, 2014 to the Robinsons requesting additional information in order to process the Robinsons' loss mitigation application. The information requested was the same information that the Robinsons had submitted with their March 4, 2014 loss mitigation application.

75. On May 30, 2014, Mr. Robinson resubmitted the information he provided to Nationstar with his March 4, 2014 loss mitigation application and any relevant updates to make the information current.

76. On August 20, 2014, Mrs. Robinson called Nationstar to check on the status of their application and was informed that the paperwork had gone to the wrong loss mitigation division within Nationstar and that she needed to resubmit her application again.

77. Nationstar sent a letter dated August 26, 2014 to the Robinsons acknowledging receipt of their loss mitigation application, but again requesting the same information documenting the Robinsons' income that they had provided to Nationstar twice already.

78. On August 27, 2014, Mrs. Robinson resubmitted the requested documentation to Nationstar yet again.

79. Nationstar sent a letter dated September 9, 2014 to the Robinsons stating that it had reviewed their request for assistance and that it was "unable to grant your request at this time." The letter had a heading that stated "**Loss Mitigation Options**," and underneath it stated "Standard Modification—Declined." Below that it stated the following:

> **Denial Reason:** Negative Disposable Income
> We are unable to offer you a modification because after reducing your payment within the program terms your disposable income is still negative.

80. To the extent Nationstar's September 9, 2014 letter was meant to comply with the notice requirements of 12 C.F.R. § 1024.41(c)-(d), it falls woefully short.

81. First, it was obviously not sent within 30 days of the Robinsons' original March 4, 2014 loss mitigation application.

82. Second, it does not state all the trial or permanent loan modification options available to the Robinsons and the specific reasons for denial of those options.

83. Third, with regard to the reason given by Nationstar for denial of a standard loan modification, the "negative disposable income" explanation does not constitute a "specific reason[] for the servicer's determination" within the meaning of 12 C.F.R. § 1024.41(d)(1). Nationstar does not explain the terms of the program for which the Robinsons were evaluated. And to the extent the program was based on a requirement of the owner or assignee of the borrower's mortgage loan, then the denial notice must identify the owner or assignee of the mortgage loan and state the requirement that is the basis of the denial. 12 C.F.R. § 1024, Supp. I, § 41(d) cmt. 1. It did neither.

84. Further, by denying on the basis of negative disposable income, Nationstar engaged in a net present value calculation. As explained in the Comments to 12 C.F.R. §

1024(d), if a trial or permanent loan modification is denied because of a net present value calculation, then the denial notice must include all the inputs used in the net present value calculation. 12 C.F.R. § 1024, Supp. I, § 41(d) cmt. 2. Nationstar's September 9, 2014 letter does not include any inputs it used in this calculation. It does not state what the income figures it was using for the Robinson's were—as explained above, Nationstar already erroneously used the wrong income figure once. This is exactly the kind of information called for by RESPA to enable borrowers to make an informed decision about whether they should appeal the servicer's loss mitigation determination or pursue other options. Nationstar failed to provide it.

85. Because Nationstar failed to comply with RESPA, the Robinsons were not offered a mortgage loan modification that would make their mortgage significantly more affordable.

86. As a result, the Robinsons were unable to continue making payments on their mortgage loan and are now delinquent. Nationstar has assessed approximately $256 a month in late fees, interest, and other fees on the Robinsons due to the delinquency.

87. Furthermore, Nationstar's failure to comply with RESPA substantially delayed the loss mitigation process and caused the Robinsons to refrain from looking into other loss mitigation options as they continued to fall behind on their loan payments.

88. In addition, the Robinsons spent considerable time and effort pursuing the loss mitigation process with Nationstar, which they would not have spent had Nationstar complied with the requirements of 12 C.F.R. § 1024.41. Time and effort that they otherwise would have devoted to their struggling business.

89. The Robinsons were also forced to incur administrative costs such as postage, travel expenses, photocopying, scanning, and facsimile expenses pursuing the loss mitigation process, which they would not have incurred if Nationstar had complied with RESPA.

CLASS ACTION ALLEGATIONS

90. Plaintiffs bring this action on behalf of themselves and the members of the following classes (the "Classes") comprised of:

> Nationwide Class: All persons in the United States that submitted a loss mitigation application to Nationstar after January 10, 2014.
>
> Maryland Subclass: All persons in the State of Maryland that submitted a loss mitigation application to Nationstar after November 21, 2011.

91. Subject to additional information obtained through further investigation and discovery, the foregoing Classes may be expanded or narrowed by amendment or amended complaint. Specifically excluded from the Classes is any entity in which Defendant had a controlling interest or which has a controlling interest in Defendant, and Defendant's legal representatives, assigns, and successors.

92. Members of the Classes are so numerous that joinder is impracticable. While the exact number of class members is unknown to Plaintiffs, it is believed that the Classes are comprised of at least thousands of members geographically dispersed throughout the United States and the State of Maryland. The Classes, however, are readily identifiable from information and records in the possession of Nationstar.

93. Common questions of law and fact exist as to all members of the Classes. These questions predominate over questions that may affect only individual class members because Nationstar has acted on grounds generally applicable to the Classes. Such common legal or factual questions include:

(a) Whether Nationstar violated 12 C.F.R. § 1024.41;

(b) Whether Nationstar engaged in a pattern or practice of violating 12 C.F.R. § 1024.41;

(b) Whether Plaintiffs and members of the Classes were damaged as a result of Nationstar violating 12 C.F.R. § 1024.41;

(c) Whether Plaintiffs and members of the Classes are entitled to penalties and/or statutory damages as a result of Nationstar violating 12 C.F.R. § 1024.41;

(d) Whether Nationstar violated the Maryland Consumer Protection Act, Md. Comm. Law §§ 13-101 *et seq.*;

(e) Whether Plaintiffs and members of the Classes were damaged as a result of Nationstar violating the Maryland Consumer Protection Act;

(f) Whether Plaintiffs and members of the Classes are entitled to injunctive and/or declaratory relief; and

(g) Whether Nationstar is required to modify Plaintiffs' and the Class members' mortgages.

94. Nationstar's defenses to Plaintiffs' claims are typical of its defenses to claims of the members of the Classes.

95. Plaintiffs' claims are typical of the members of the Classes as all members of the Classes are similarly affected by Nationstar's actionable conduct. Plaintiffs and all members of the Classes submitted loss mitigation applications to Nationstar. In addition, Nationstar's conduct that gave rise to the claims of Plaintiffs and members of the Classes (*i.e.* violating 12 C.F.R. § 1024.41 and the Maryland Consumer Protection Act) is the same for all members of the Classes.

96. Plaintiffs will fairly and adequately protect the interests of the Classes because Plaintiffs have no interests antagonistic to, or in conflict with, the Classes that Plaintiffs seek to represent. Furthermore, Plaintiffs have retained counsel experienced and competent in the prosecution of complex class action litigation. Plaintiffs have or

can acquire adequate financial resources to assure that the interests of the Classes will not be harmed.

97. Class action treatment is a superior method for the fair and efficient adjudication of this controversy in that, among other things, such treatment will permit a large number of similarly situated persons or entities to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, expense, or the possibility of inconsistent or contradictory judgments that numerous individual actions would engender. The benefits of the class mechanism, including providing injured persons or entities with a method for obtaining redress on claims that might not be practicable to pursue individually, substantially outweigh any difficulties that may arise in the management of this class action.

98. Plaintiffs know of no difficulty to be encountered in the maintenance of this action that would preclude its maintenance as a class action.

99. Nationstar has acted or refused to act on grounds generally applicable to the Classes, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Classes as a whole.

100. This forum is an appropriate forum for litigation of the claims of the Classes.

COUNT I
(Violation Of 12 C.F.R. § 1024.41)

101. Plaintiffs reallege and incorporate each and every allegation set forth above as if fully written herein.

102. Nationstar is a mortgage loan servicer within the meaning of 12 C.F.R. § 1024.31.

103. Plaintiffs and members of the Classes are borrowers of federally-related mortgage loans within the meaning of 12 C.F.R. § 1024.31.

104. Plaintiffs and members of the Classes submitted loss mitigation applications within the meaning of 12 C.F.R. § 1024.31.41.

105. By virtue of the acts described above, Nationstar engaged in a pattern and practice of violating and failing to comply with the requirements of 12 C.F.R. § 1024.41 with respect to Plaintiffs and the class members.

106. Nationstar violated 12 C.F.R. § 1024.41 by failing to notify borrowers within 5 days after receiving a loss mitigation application that Nationstar acknowledges receipt of the loss mitigation application and that it has determined that the application is either complete or incomplete.

107. Nationstar violated 12 C.F.R. § 1024.41 by failing to (i) evaluate borrowers for all available loss mitigation options or (ii) provide borrowers with a notice in writing stating the servicer's determination of which loss mitigation options, if any, it will offer to the borrower on behalf of the owner or assignee of the mortgage loan within 30 days of receiving the a borrower's loss mitigation application.

108. Nationstar violated 12 C.F.R. § 1024.41 by failing to state in the notice sent to borrowers pursuant to 12 C.F.R. § 1024.41(c) the specific reasons for the servicer's determination for each such trial or permanent loan modification option.

109. Nationstar violated 12 C.F.R. § 1024.41 by failing to provide borrowers that appeal the denial of a loss mitigation application with a notice stating Nationstar's determination of whether the servicer will offer the borrower a loss mitigation option based on the appeal within 30 days of the borrower making an appeal.

110. Nationstar violated 12 C.F.R. § 1024.41 by failing to refrain from instituting foreclosure proceedings while a loss mitigation application or appeal is still being processed.

111. As a result, Plaintiffs and members of the Classes suffered damages.

COUNT II
(Violation Of The Maryland Consumer Protection Act,
Md. Comm. Law §§ 13-101 *et seq.*)

112. Plaintiffs reallege and incorporate each and every allegation set forth above as if fully written herein.

113. The Maryland Consumer Protection Act (MCPA) defines a "consumer" as a "recipient of consumer goods, consumer services, consumer realty, or consumer credit." Md. Comm. Law § 13-101(c)(1).

114. The MCPA defines "consumer services" as "services which are primarily for personal, household, family, or agricultural purposes." *Id.* at § 13-101(d)(1).

115. The MCPA defines a "servicer" as a "person responsible for collection and payment of principal, interest, escrow, and other moneys under an original mortgage." *Id.* at § 13-316(a)(3).

116. The Robinsons are "consumers within the meaning of the MCPA.

117. Nationstar is a "servicer" within the meaning of the MCPA.

118. Nationstar offers to provide "consumer services" within the meaning of the MCPA. Such consumer services include offering loss mitigation plans to borrowers.

119. Nationstar represented to the Robinsons and class members that it offers a variety of loss mitigation plans, including those that would allow borrowers to retain ownership of their homes, such as loan modifications and forbearance agreements, but

also ones that would allow the borrowers to transfer ownership of their homes under more favorable terms than those allowed for by the loan agreement, such as short-sale agreements and deed-in-lieu of foreclosure programs.

120. Nationstar offered these consumer services without the intent to provide them as offered in violation of the MCPA. *See id.* at § 13-301(5)(i).

121. Nationstar offered these consumer servicers with the intent not to supply reasonably expected public demand in violation of the MCPA. *See id.* at § 13-301(5)(ii).

122. A contact designated by Nationstar to respond to consumer complaints and inquiries did not respond to complaints or inquiries by the Robinsons or the class members within 15 days in violation of the MCPA. *See id.* at s 13-316(c).

123. The Robinsons and class members relied upon Nationstar's unfair and deceptive practices that violated the MCPA.

124. Nationstar's unfair and deceptive practices that violated the MCPA caused actual injury to the Robinsons and class members.

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, respectfully request that this Court:

a. Certify a class pursuant to Rule 23 of the Federal Rules of Civil Procedure;

b. Award damages, including compensatory and exemplary damages, to Plaintiffs and the Classes in an amount to be determined at trial;

c. Award statutory damages and/or penalties to Plaintiffs and the Classes;

d. Permanently enjoin Nationstar from engaging in the wrongful and unlawful conduct alleged herein;

e. Award Plaintiffs and the Classes their expenses and costs of suit, including reasonable attorneys' fees to the extent provided by law;

f. Award Plaintiffs and the Classes pre-judgment and post-judgment interest at the highest legal rate to the extent provided by law; and

g. Award such further relief as the Court deems appropriate.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.

/s/ Lorenzo B. Cellini

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