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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

DORON RUDIN,

Plaintiff,

v.

MTGLQ INVESTORS, L.P., a foreign
limited partnership, NEWREZ LLC d/b/a
SHELLPOINT MORTGAGE SERVICING,
a foreign limited liability company, and
CLEAR RECON CORP, a Washington
corporation,

Defendants.

NO. 19-2-17081-6 SEA

AMENDED CLASS ACTION
COMPLAINT [PROPOSED]

JURY TRIAL DEMANDED

I. INTRODUCTION

In response to predatory schemes targeting homeowners and the resulting foreclosure crisis, the Washington Legislature enacted the Foreclosure Fairness Act (“FFA”) in 2011. The FFA “encourage[d] and strengthen[ed] the communication between homeowners and lenders to assist homeowners in navigating through the foreclosure process[.]” See Laws of 2011, ch. 58, §1(1)(c). As part of the FFA, beneficiaries, like Defendant MTGLQ, and borrowers, like Plaintiff Doron Rudin can participate in mediation.

When banks and homeowners mediate under the FFA, they are required to equally divide the fees paid to mediators. RCW 61.24.163(17). Furthermore, the FFA

1 requires recoverable fees and charges to be “accurately” disclosed and itemized prior
2 to mediation. See RCW 61.24.163(5). Defendant MTGLQ and/or its agents, Defendants
3 Shellpoint and/or CRC, did not and do not accurately disclose and itemize the fees and
4 charges that are recoverable from the borrower at mediation. Instead, they impose and
5 collect fees against borrowers that are false, unauthorized, or unreasonable and
6 unnecessary. The practice of imposing and collecting these fees is often automatic and
7 initiated well before FFA mediation, at the time a borrower defaults on his or her loan
8 and faces foreclosure.

9 This lawsuit targets Defendants’ systematic practice of imposing false,
10 unauthorized, or unreasonable and unnecessary fees and charges on borrowers in
11 Washington. Many – but not all – of these fees arise out of Defendants’ use of third-
12 party vendors for property inspection and property preservation services, which allows
13 the Defendants to generate additional revenue on the backs of struggling homeowners.
14 Plaintiff brings this lawsuit under Washington’s Consumer Protection Act, Chapter 19.86
15 RCW on behalf of himself and a putative class, or putative classes, of similarly situated
16 borrowers.

17 II. PARTIES, JURISDICTION, AND VENUE

18 1. Plaintiff Doron Rudin is a resident of the state of Washington and former
19 owner of the property at issue.

20 2. Defendant MTGLQ Investors, L.P. (“MTGLQ”) is a foreign limited
21 partnership doing business in King County and throughout the State of Washington.

22 3. During the time period at issue, Defendant MTGLQ was the beneficiary
23 under Chapter 61.24 RCW to a promissory note secured by a deed of trust on real
24 property owned by Plaintiff.

25 4. Defendant Newrez, LLC, d/b/a Shellpoint Mortgage Servicing
26 (“Shellpoint”) is a foreign limited liability company doing business in King County and
27 throughout the State of Washington.

1 5. During the time period at issue, Defendant Shellpoint serviced a loan
2 secured by a deed of trust on real property owned by Plaintiff.

3 6. Defendant Clear Recon Corp (CRC), is a Washington for profit
4 corporation doing business in King County and throughout the State of Washington.

5 7. During the time period at issue, CRC performed trustee services on
6 behalf of the beneficiary.

7 8. During the time period at issue, King County is the county where
8 Defendant CRC has its residence.

9 9. Jurisdiction and venue are proper pursuant to RCW 4.12.020(3) and
10 RCW 4.12.25(1) and (3).

11 III. FACTUAL ALLEGATIONS

12 10. On or about July 26, 2005 Plaintiff Doron Rudin purchased a home in
13 Arlington, Washington.

14 11. The property is located at 18015 Champions Drive.

15 12. The property was purchased pursuant to a 30-year promissory note with
16 an adjustable interest rate that was secured by a deed of trust.

17 13. The promissory note identifies Northwest Mortgage Alliance, LLC, as the
18 lender.

19 14. The deed of trust identifies Chicago Title Insurance Co. as the trustee.

20 15. Deeds of trust are governed by Washington's Deed of Trust Act, Chapter
21 61.24 RCW.

22 16. Under the DTA, Mr. Rudin is a "borrower." See RCW 61.24.005(3).

23 17. Mr. Rudin made regular payments on the property until he lost his job and
24 defaulted.

25 18. After defaulting on the property, a servicer preceding Defendant Shellpoint
26 began imposing fees and charges on the property for third party vendors that allegedly
27 inspected the property and allegedly preserved the property.

1 19. The fees and charges for inspection and preservation were automatically
2 imposed, false, unauthorized, or unreasonable and unnecessary.

3 20. For instance, inspection fees and charges were imposed even though
4 there was no requirement or need to inspect the property.

5 21. Inspection fees and charges were imposed even though they were
6 excessive and exceeded the servicer's fee schedule.

7 22. Fees and charges were also excessive because they were marked up by
8 Defendants.

9 23. Inspection fees and charges were imposed even though the property was
10 occupied.

11 24. Additionally, preservation fees and charges were imposed even though
12 there was no requirement or need to preserve the property.

13 25. Preservation fees and charges were imposed even though they were
14 excessive.

15 26. Fees and charges were excessive because they were marked up by
16 Defendants.

17 27. Preservation fees and charges were imposed even though the property
18 was occupied.

19 28. Preservation fees and charges were imposed even though the property
20 was maintained by Plaintiff and/or his representatives.

21 29. Preservation fees and charges included, but are not limited to, lawn
22 maintenance, tree trimming, securing, door knocking, skip trace, BPO, winterization,
23 and/or "GS Package."

24 30. Defendant Shellpoint began servicing the mortgage sometime after Mr.
25 Rudin defaulted.

26 31. Shellpoint imposed false, unauthorized, or unreasonable and unnecessary
27 fees and charges on Plaintiff that had been imposed by previous servicers.

1 32. Shellpoint also imposed fee and charges on the property for third party
2 vendors that allegedly inspected the property and allegedly preserved the property.

3 33. The fees and charges for inspection and preservation were automatically
4 imposed, false, unauthorized, or unreasonable and unnecessary.

5 34. For instance, inspection fees and charges were imposed even though
6 there was no requirement or need to inspect the property.

7 35. Inspection fees and charges were imposed even though they were
8 excessive.

9 36. Inspection fees and charges were imposed even though the property was
10 occupied.

11 37. Additionally, preservation fees and charges were imposed even though
12 there was no requirement or need to preserve the property.

13 38. Preservation fees and charges were imposed even though they were
14 excessive.

15 39. Preservation fees and charges were imposed even though the property
16 was occupied.

17 40. Preservation fees and charges were imposed even though the property
18 was maintained by Plaintiff and/or his representatives.

19 41. Preservation fees and charges included, but are not limited to, lawn
20 maintenance, tree trimming, securing, door knocking, skip trace, BPO, winterization,
21 and/or "GS Package."

22 42. Many of the fees and charges at issue are referenced in a Loan Corporate
23 Advance Fee History but Plaintiff was never provided with a copy of the Loan Corporate
24 Advance Fee History until more than a year after this litigation was commenced.

25 43. Indeed, Plaintiff was not provided with proof or even notice of many of the
26 fees and charges that were imposed by Defendants.

1 44. On October 24, 2017, Defendant Shellpoint executed a declaration
2 asserting that Defendant MTGLQ actually held and owned the promissory note or other
3 obligation secured by the deed of trust.

4 45. The declaration is not notarized.

5 46. Defendant MTGLQ is the “beneficiary” under the DTA. See RCW
6 61.24.005(2).

7 47. Defendants MTGLQ and/or Shellpoint initiated foreclosure proceedings on
8 the property after Mr. Rudin defaulted.

9 48. Defendants MTGLQ and/or Shellpoint engaged Defendant CRC to act as
10 the trustee for purposes of foreclosing on the property.

11 49. Defendant CRC is the “trustee” under the DTA. See RCW 61.24.005(16).

12 50. As the trustee, CRC owed Mr. Rudin a duty of good faith.

13 51. The duty of good faith requires trustees to remain impartial and protect the
14 interests of all the parties.

15 52. Specifically, a trustee must treat “both sides equally and investigate
16 possible issues using its independent judgment.” See *Lyons v. U.S. Bank National*
17 *Ass’n*, 81 Wn.2d 775, 787 (2014).

18 53. After defaulting, Mr. Rudin exercised his right to engage support from a
19 housing counselor at Parkview Services.

20 54. The housing counselor referred Mr. Rudin to mediation under the
21 Foreclosure Fairness Act. See RCW 61.24.163.

22 55. A notice dated November 9, 2018 for Foreclosure Mediation was sent by
23 mail from the Department of Commerce to Defendants MTGLQ and Shellpoint, and by
24 email to CRC.

25 56. Defendants received the Department of Commerce’s mediation notice.

26 57. The mediation was ultimately scheduled for January 24, 2019.

27

1 58. When a matter has been referred for mediation under the FFA, the
2 borrower and beneficiary are required by law to exchange a series of documents prior
3 to mediation.

4 59. A beneficiary is required to provide the borrower with an “accurate
5 statement concerning the balance of the loan,” an “itemized statement of the
6 arrearages,” and an “itemized list” of fees and charges outstanding. See RCW
7 61.24.163(5)(a)-(j).

8 60. The beneficiary or beneficiary’s representative must attend the mediation
9 in person. See RCW 61.24.163(8)(a).

10 61. The parties must participate in the mediation in good faith and produce
11 sufficient information to “ensure that the parties have all the necessary information and
12 documents to engage in a productive mediation.” See RCW 61.24.163(7)(a).

13 62. Payment of the mediator’s fee “must be divided equally between the
14 beneficiary and the borrower.” RCW 61.24.163(17).

15 63. Defendants MTGLQ, Shellpoint, and/or CRC did not provide Mr. Rudin
16 with accurate statements concerning the balance of the loan and did not properly itemize
17 arrearages or the fees and charges actually outstanding.

18 64. Although required to do so, Defendant MTGLQ also did not attend the
19 mediation in person.

20 65. Defendant Shellpoint also did not attend the mediation in person.

21 66. Defendants MTGLQ, Shellpoint, and/or CRC also did not equally divide
22 the mediator’s fee.

23 67. Instead, Defendants MTGLQ, Shellpoint, and CRC required Plaintiff to pay
24 both the borrower’s \$300 portion of the mediator’s fee and the beneficiary’s \$300 portion
25 of the mediator’s fee.

1 68. Defendants MTGLQ, Shellpoint, and CRC did not provide Plaintiff or his
2 representatives at Parkview Services with a copy of the Loan Corporate Advance Fee
3 History.

4 69. Defendants MTGLQ, Shellpoint, and CRC did not provide Plaintiff or his
5 representatives at Parkview Services with proof or adequate notice of many of the fees
6 and charges that were imposed by Defendants.

7 70. Mr. Rudin, through his representatives at Parkview Services, specifically
8 asked Defendants about the imposition of unauthorized fees and charges, including a
9 \$300 fee identified in the January 16, 2019 payoff quote as a “Lawn Maintenance” fee.

10 71. Defendants MTGLQ, Shellpoint, and/or CRC admitted that they did not
11 know what the \$300 fee was for.

12 72. Defendants MTGLQ, Shellpoint, and/or CRC told Mr. Rudin and/or his
13 representatives that they would investigate and find out.

14 73. Defendants MTGLQ, Shellpoint, and/or CRC did not bother to justify the
15 “Lawn Maintenance” fee against Mr. Rudin.

16 74. Although Defendant CRC had duties to Mr. Rudin that included treating
17 both sides equally, investigating possible issues, and using its independent judgment, it
18 did not do so.

19 75. Instead, Defendants MTGLQ, Shellpoint, and/or CRC imposed
20 unauthorized fees on Mr. Rudin contrary to law.

21 76. The parties did not enter into an agreement at mediation.

22 77. Mr. Rudin exercised his right to sell the property in lieu of foreclosure.

23 78. After listing the property, Mr. Rudin entered into a purchase and sale
24 agreement with a third party.

25 79. The property was sold to a third party for a price that allowed Mr. Rudin to
26 satisfy all alleged obligations under the note.

27

1 80. The alleged obligations under the note that were paid included false,
2 unauthorized, and/or unreasonable and unnecessary fees imposed by Defendants
3 MTGLQ, Shellpoint, and/or CRC.

4 81. The false, unauthorized, or unreasonable and unnecessary fees imposed
5 against Mr. Rudin were also imposed against other borrowers. Examples of these fees
6 include mediation fees, lawn maintenance fees, tree trimming fees, securing fees, door
7 knocking fees, skip trace fees, BPO fees, winterization fees, "GS Package," and/or FC
8 Costs.

9 82. The false, unauthorized, and/or unreasonable and unnecessary fees
10 imposed against Mr. Rudin are identified in closing documents.

11 83. However, throughout the foreclosure process and at closing, Defendants
12 failed to provide Mr. Rudin with clear information about the fees and charges imposed
13 against him.

14 84. Defendants, for instance, failed to provide Mr. Rudin with a copy of the
15 Loan Corporate Advance Fee History.

16 85. The Loan Corporate Advance Fee History was withheld from Mr. Rudin
17 and his counsel for more than a year after Mr. Rudin's suit was filed.

18 86. The Loan Corporate Advance Fee History identifies the specific fees that
19 are at issue and includes detailed information regarding the fee transaction date, the fee
20 type, the fee amount, the effective date, and a transaction code.

21 87. Mr. Rudin is not challenging each and every fee appearing on the Loan
22 Corporate Advance Fee History.

23 88. Mr. Rudin estimates that the total amount of fees that are at issue is less
24 than \$10,000.00.

25 89. The fees imposed against Mr. Rudin were not authorized by the note, deed
26 of trust, or otherwise permissible under local, state, or federal law.

1 90. False, unauthorized, and/or unreasonable and unnecessary fees were
2 paid by Mr. Rudin to Defendants MTGLQ, Shellpoint, and/or CRC.

3 91. Defendants MTLQ, Shellpoint, and/or CRC knew that Mr. Rudin paid false,
4 unauthorized, and/or unreasonable fees at closing and accepted and retained these
5 fees.

6 92. Defendants MTGLQ, Shellpoint, and/or CRC were unjustly enriched by Mr.
7 Rudin.

8 93. Mr. Rudin suffered injury and damages as a result of the payments to
9 Defendants MTGLQ, Shellpoint, and/or CRC.

10 **IV. CIVIL RULE 23 ALLEGATIONS**

11 94. Plaintiff brings this action on his own behalf and as a class action, pursuant
12 to CR 23(a) and 23(b), on behalf of the following class:

13 All borrowers in the State of Washington from whom Defendant MTGLQ, as
14 beneficiary, or Defendants Shellpoint and/or CRC, acting on behalf of the
15 beneficiary collected false, unauthorized, or unreasonable and unnecessary
fees or charges arising out of Foreclosure Fairness Act mediation, property
inspection, and property preservation.

16 95. The proposed class is so numerous that joinder of all members is
17 impracticable. Although the precise number of class members in the class is known only
18 to Defendants MTGLQ, Shellpoint, and/or CRC, upon information and belief, there are
19 many borrowers from whom Defendants have collected false, unauthorized, or
20 unreasonable and unnecessary fees and charges at issue.

21 96. There are questions of law and fact common to the proposed classes.

22 97. The principal question as to the class is whether Defendants MTGLQ,
23 Shellpoint, and/or CRC violated the FFA and the CPA through their unfair and deceptive
24 practices collected false, unauthorized or unreasonable and unnecessary fees arising
25 out of mediation, property inspection and property preservation and specifically, consist
26 of those fees that are characterized as lawn maintenance, tree trimming, securing, door
27 knocking, skip trace, FC costs, BPO, winterization, and/or "GS Package".

1 98. Another common issue as to the class is whether Defendants MTGLQ,
2 Shellpoint, and/or CRC violated the FFA and the CPA through their unfair and deceptive
3 practice collected false, unauthorized, or unreasonable and unnecessary fees that are
4 not accurately disclosed and itemized under RCW 61.24.163(5).

5 99. Plaintiff's claims are typical of the claims of the proposed class, as they all
6 arise from the same operative facts and are based on the same legal theories.

7 100. Plaintiff will fairly and adequately protect the interests of the proposed
8 class. Plaintiff is committed to vigorously litigating this matter and has retained counsel
9 experienced in handling class actions and claims involving unlawful business practices.
10 Neither Plaintiff nor his counsel has any interests which might conflict with the interests
11 of the proposed class.

12 101. This action may be certified under CR 23(b)(2) because Defendants
13 MTGLQ, Shellpoint, and CRC have acted or refused to act on grounds generally
14 applicable to the proposed class, thereby making appropriate final injunctive relief or
15 corresponding declaratory relief with respect to the class as a whole. Plaintiff's claim for
16 monetary relief is incidental to the injunctive and declaratory relief that he seeks. The
17 damages flow directly from liability to the class as a whole on the claims forming the
18 basis of the injunctive and declaratory relief. Moreover, computing the monetary relief is
19 simple and relies entirely on objective facts, without the need for subjective assessments
20 of each class member's circumstances. There is no threat of a due process violation
21 because all damages can be objectively determined. Plaintiff's request for declaratory
22 and injunctive relief is more than a basis for monetary relief. The relatively modest
23 monetary relief sought by Plaintiff does not dominate his claim for declaratory and
24 injunctive relief.

25 102. In the alternative, or in addition to certifying under CR 23(b)(2), this action
26 may be certified as a CR 23(b)(3) class action. Certification under CR 23(b)(3) is
27

1 warranted because questions of law or fact common to the class predominate over any
2 questions affecting only individual members.

3 103. The amount in controversy is substantially less than \$5,000,000.

4 104. A class action is superior to other available methods for fairly and
5 efficiently adjudicating this controversy, in that:

- 6 a. Members of the proposed damages class do not have an overriding interest
7 in individually controlling the prosecution of separate actions;
- 8 b. No other litigation concerning this controversy has been commenced by or
9 against members of the damages class;
- 10 c. Concentration of litigation is desirable so that all claims can be resolved in
11 one forum; and
- 12 d. Management of this case as a damages class action will present significantly
13 fewer difficulties than would be presented in many individual claims
14 challenging Defendants' unfair and deceptive practice of requiring borrowers
15 to pay the fees at issue in this case.

16 **V. PLAINTIFF'S INDIVIDUAL CLAIMS**

17 **A. Violation of the Consumer Protection Act**

18 105. Plaintiff re-alleges each and every allegation as set forth in paragraphs 1
19 through 93.

20 106. Defendants MTGLQ, Shellpoint, and/or CRC collected or attempted to
21 collect, or are collecting false, unauthorized, or unreasonable and unnecessary fees in
22 the process of foreclosing on Plaintiff's property.

23 107. Defendants MTGLQ, Shellpoint, and/or CRC collected, or attempted to
24 collect, or are collecting false, unauthorized, or unreasonable and unnecessary fees that
25 were not "accurately" disclosed and itemized to the borrower as required under RCW
26 61.24.163(5).

1 108. Defendants MTGLQ and Shellpoint failed to participate in mediation in
2 good faith as required under RCW 61.24.163(7) and (10).

3 109. The violation of the statutory duty of good faith under RCW 61.24.163 and
4 the violation of the statutory duty to “accurately” disclose and itemize fees under RCW
5 61.24.163 are *per se* unfair and deceptive practice under RCW 61.24.135(2).

6 110. Defendant CRC violated its duty of good faith to the borrower as trustee.
7 *See Lyons v. U.S. Bank National Ass’n*, 81 Wn.2d 775, 787 (2014).

8 111. Defendants’ practices are both *per se* and non *per se* unfair and deceptive
9 practices occurring in trade or commerce in violation of the Consumer Protection Act,
10 Chapter 19.86 RCW.

11 112. There were no benefits to Plaintiff from Defendants’ practices. Any benefit
12 to Plaintiff from Defendants’ practices was substantially outweighed by the detriments
13 to having to pay false, unauthorized, or unreasonable and unnecessary fees.

14 113. Defendants’ practices adversely impact the public interest and caused
15 injury to and has the capacity to injure other persons.

16 114. As a direct and proximate result of Defendants’ practices, Plaintiff suffered
17 injury and damages in an amount to be proven at the time of trial.

18 **B. Unjust Enrichment**

19 115. Plaintiff alleges and re-alleges each and every allegation as set forth in
20 paragraphs 1 through 93.

21 116. An unjust enrichment claim allows an aggrieved party to recover the value
22 of benefits that are wrongly retained by another party where fairness and justice require
23 it.

24 117. An unjust enrichment claim requires a plaintiff to establish the following
25 elements: (1) that the plaintiff conferred a benefit on the defendant; (2) the defendant
26 knew or appreciated the benefit; and (3) that the defendant’s acceptance or retention of
27 the benefit without payment of the benefit’s value would be inequitable under the

1 circumstances. See *Austin v. Ettl*, 171 Wn. App. 82, 92 (2012) (internal citations
2 omitted).

3 118. Defendants' collection of false, unauthorized, or unreasonable and
4 unnecessary fees from Plaintiff is a benefit conferred on Defendants.

5 119. Defendants knew and appreciated that they were collecting unauthorized
6 fees from Plaintiff.

7 120. Defendants accepted and retained the benefit without paying Plaintiff the
8 value of such benefit.

9 121. Defendants' acceptance and retention of the benefit is inequitable under
10 the circumstances.

11 122. Plaintiff is entitled to a relief and remedy for Defendants' conduct, including
12 compensatory damages.

13 **C. Joint Venture**

14 123. Plaintiff re-alleges each and every allegation as set forth in paragraphs 1
15 through 93.

16 124. A joint venture requires a (1) contract, express or implied; (2) common
17 purpose; (3) community of interest; (4) an equal right to a voice, accompanied by an
18 equal right to control. See *Carboneau v. Peterson*, 1 Wn.2d 347 (1939).

19 125. Defendants MTGLQ, Shellpoint, and CRC had an express or implied
20 contract to collect or attempt to collect false, unauthorized, or unreasonable and
21 unnecessary fees from Plaintiff.

22 126. Defendants MTGLQ, Shellpoint, and CRC had a common purpose of
23 collecting or attempting to collect false, unauthorized, or unreasonable and unnecessary
24 fees from Plaintiff.

25 127. Defendants MTGLQ, Shellpoint, and CRC had common interest in
26 collecting or attempting to collect false, unauthorized, or unreasonable and unnecessary
27 fees from Plaintiff because they derived material benefit from the practice.

1 128. Defendants MTGLQ, Shellpoint, and/or CRC had an equal right to a voice
2 accompanied by an equal right to control in that each Defendant has a right in the
3 management and conduct of the collecting or attempting to collect false, unauthorized,
4 or unreasonable and unnecessary fees from Plaintiff and governing how, when and
5 where the agreement is performed.

6 129. Defendants' joint venture proximately caused injury and damages to
7 Plaintiff in an amount to be proven at the time of trial.

8 VI. CLASS CLAIMS

9 A. Violation of the Consumer Protection Act

10 130. Plaintiff alleges and re-alleges every allegation as set forth in paragraphs
11 1 through 104.

12 131. Defendants MTGLQ, Shellpoint, and/or CRC collected false,
13 unauthorized, or unreasonable and unnecessary fees in the process of foreclosing on
14 Plaintiff's property.

15 132. Defendants MTGLQ, Shellpoint, and/or CRC collected false,
16 unauthorized, or unreasonable and unnecessary fees that were not accurately disclosed
17 and itemized to the borrower under RCW 61.24.163(5).

18 133. Defendants MTGLQ and Shellpoint failed to participate in mediation in
19 good faith as required under RCW 61.24.163(7) and (10).

20 134. The violation of the statutory duty of good faith under RCW 61.24.163 and
21 the violation of the statutory duty to "accurately" disclose and itemize fees under RCW
22 61.24.163 are *per se* unfair and deceptive practices under RCW 61.24.135(2).

23 135. Defendant CRC violated its duty of good faith to the borrower as trustee.
24 *See Lyons v. U.S. Bank National Ass'n*, 81 Wn.2d 775, 787 (2014).

25 136. Defendants' practices are unfair and deceptive practices occurring in trade
26 or commerce in violation of the Consumer Protection Act, Chapter 19.86 RCW.

1 137. There were no benefits to Plaintiff from Defendants' practices. Any benefit
2 to Plaintiff from Defendants' practices was substantially outweighed by the detriments
3 to having to pay false, unauthorized, or unreasonable and unnecessary fees.

4 138. Defendants' practices adversely impact the public interest and caused
5 injury to and has the capacity to injure other persons.

6 139. As a direct and proximate result of Defendants' practices, Plaintiff and the
7 members of the class he seeks to represent have suffered injury and damages in an
8 amount to be proven at the time of trial.

9 **B. Declaratory Judgement**

10 140. Plaintiff re-alleges each and every allegation as set forth in paragraphs 1
11 through 104.

12 141. A justiciable substantial controversy exists between Plaintiff and
13 Defendants MTGLQ, Shellpoint, and/or CRC over whether Defendants may collect
14 unauthorized fees or charges from borrowers.

15 142. A justiciable substantial controversy exists between Plaintiff and
16 Defendants MTGLQ, Shellpoint, and/or CRC over whether Defendants may refuse to
17 accurately disclose and itemize fees and charges for purposes of FFA mediation.

18 143. Plaintiff has existing and genuine rights or interests concerning whether
19 he must pay false, unauthorized, or unreasonable and unnecessary fees to Defendants.

20 144. Plaintiff's rights or interests in not having to pay false, unauthorized, or
21 unreasonable and unnecessary fees direct and substantial.

22 145. A determination by this Court through entry of a final judgment will resolve
23 and extinguish this controversy regarding the legality of Defendants' practice of
24 compelling borrowers to pay false, unauthorized, or unreasonable and unnecessary fees
25 to Defendants.

26 146. The proceeding is genuinely adversarial in character.
27

1 147. This Court has the power to declare the rights, status, and other legal
2 relations of the parties arising out of the Consumer Protection Act, Chapter 19.86 RCW,
3 and Foreclosure Fairness Act, RCW 61.24.163, pursuant to the Declaratory Judgments
4 Act, RCW 7.24.010 *et seq.*

5 148. Pursuant to Chapter 7.24 RCW, Plaintiff requests a declaratory judgment
6 on behalf of himself and the class he seeks to represent declaring that it is unlawful for
7 Defendants to collect false, unauthorized, or unreasonable and unnecessary fees.

8 **VII. REQUEST FOR RELIEF**

9 149. Plaintiff Doron Rudin respectfully requests that the Court enter judgment
10 as follows:

- 11 (a) Certification of the class as proposed, under CR 23, appointing
12 Plaintiff and his counsel to represent the class;
- 13 (b) A declaratory judgment declaring it is unlawful for Defendants as
14 beneficiary or acting on behalf of the beneficiary to collect from a
15 borrower false, unauthorized, or unreasonable and unnecessary
16 fees;
- 17 (c) A declaratory judgment declaring it is unlawful for Defendants as
18 beneficiary or acting on behalf of the beneficiary to refuse to
19 accurately disclose and itemize fees and charges in conjunction
20 with FFA mediation, Chapter 61.24 RCW;
- 21 (d) An injunction under Chapter 19.86 RCW and Chapter 7.24 RCW
22 enjoining Defendants from collecting false, unauthorized, or
23 unreasonable and unnecessary fees and charges;
- 24 (e) Judgment against Defendants for actual damages pursuant to
25 RCW 19.86.090;
- 26 (f) Treble damages pursuant to RCW 19.86.090;
- 27 (g) Out-of-pocket and investigative expenses;

- 1 (h) An award of costs and reasonable attorneys' fees based on all
2 applicable statutes and other grounds, including RCW 19.86.090;
3 and;
4 (i) Pre-judgment interest on all amounts awarded as allowed by law
5 (j) Post-judgment interest;
6 (k) A supplemental award to cover any adverse tax consequences of
7 the judgment; and
8 (l) Awarding Plaintiff such further equitable, legal or additional relief
9 as may be appropriate and just.

10 DATED: December 8, 2020

11
12 BRESKIN JOHNSON & TOWNSEND, PLLC

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20 *Attorneys for Plaintiff*

1 **CERTIFICATE OF SERVICE**

2 (a) I hereby certify under penalty of perjury under the laws of the state
3 of Washington that on this date I filed and served, on counsel of record listed below, the
4 foregoing document using the King County ECF system.

5
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15 *Investors, LP*

16 DATED this 8th day of December, 2020, at Seattle, Washington.

17
18 *s/ Pear Brown*
19 Pear Brown, Legal Assistant