

District Court concludes mortgage servicer's actions violated RESPA

On January 28, the U.S. District Court for the Western Division of Washington, having determined that a mortgage loan servicer violated the Real Estate Settlement Procedures Act (RESPA) and **COMMITTED THE TORT OF OUTRAGE**, ordered the servicer to pay more than \$200,000 in economic and emotional distress damages to a borrower. *Lucero v. Cenlar FSB*, No. 13-0602 (W.D. Wash. Jan. 28, 2016). The borrower and servicer had agreed to a loan modification in early 2013. The borrower soon learned that the servicer was misreporting her loan as delinquent, in spite of the modification. In April 2013, the borrower filed a lawsuit against the mortgage servicer alleging “that [it] violated its credit reporting obligations” and “seeking damages related to the way in which [the mortgage servicer] (and others) had sought to foreclose on her mortgage.” The servicer then began charging the plaintiff for attorney’s fees and costs that it was incurring in defending the ongoing litigation. The plaintiff requested additional information regarding the charges on numerous occasions, but it was not until June 2014 that the servicer’s counsel said “that the fees that were charged to her account had incurred in this litigation, that they are recoverable under the Deed of Trust, and that the notifications were required by a federal regulation.” The court found that the servicer “failed to timely and fully respond to [the plaintiff’s] March 25, 2014 requests for information regarding the nature of and jurisdiction for the fees that were appearing on her monthly statements,” a violation RESPA, which requires “servicers to respond to a qualified written request...for information within specified time frames.” It also held that the charging of attorney’s fees to the borrower was not permitted under the Deed of Trust under the circumstances. In awarding emotional distress damages, the court stated that the servicer’s message to the plaintiff - “continue this litigation and we will take your home” - was “beyond the bounds of decency and utterly intolerable.”