

BORROWERS MUST DEMONSTRATE INJURIES WERE CAUSED BY RESPA VIOLATION

The United States Court of Appeals for the Seventh Circuit recently affirmed a district court's grant of summary judgment to a loan servicer on a Real Estate Settlement Procedures Act ("RESPA") claim when the borrowers could not sufficiently allege any connection between their alleged injury and the RESPA violation. See Diedrich v. Ocwen Loan Servicing, LLC, 2016 WL 5852453 (7th Cir. Oct. 6, 2016). In the case, the defendant loan servicer initiated a foreclosure action against the plaintiffs, and later entered into a loan modification agreement. The plaintiffs then became concerned about whether the defendant was correctly administering their escrow account and whether they were being improperly charged fees from the litigation. The plaintiffs then sent a qualified written request to the defendant. See 12 USC § 2605(e). The defendant responded with a form letter explaining its policies, and eventually another letter stating it could not identify a problem and requesting more information. The plaintiffs then sued under RESPA, alleging that the defendant's response was insufficient. Although the defendant acknowledged the deficiency in its response, it argued that the plaintiffs could not present anything connecting their alleged injuries with the RESPA violation. The district court agreed and granted the defendant's summary judgment motion. On appeal, the Seventh Circuit affirmed. Although it acknowledged that the plaintiffs had alleged a concrete injury, including damage to their credit and higher interest rates, they failed to connect these damages with the defendant's failure to properly respond to their qualified written request. More specifically, most of the damages alleged were related to the foreclosure and modification process, not the RESPA violation. Therefore, **although the plaintiffs properly alleged a violation and injuries, “THEY FAILED TO DEMONSTRATE THE ESSENTIAL ELEMENT THAT THEY WERE INJURED specifically by [the defendant's] inadequate response to a request for information under RESPA.”**

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