

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DANA GRIER and LAURIE GRIER,	:	
Husband and wife,	:	
PLAINTIFFS	:	NO.
	:	
v.	:	
	:	JURY TRIAL DEMANDED
LITTON LOAN SERVICING, LP,	:	
DEFENDANT	:	

COMPLAINT

AND NOW, TO WIT, this the 24th day of March, 2006, come Plaintiffs, Dana Grier and Laurie Grier, by and through their undersigned counsel, CGA Law Firm (Countess Gilbert & Andrews, P.C.) and file the within Complaint and state as follows in support thereof:

1. Plaintiffs, Dana Grier and Laurie Grier, are adult individuals, husband and wife with a present address of 2439 Beeler Avenue, York, Pennsylvania 17404.
2. Defendant, Litton Loan Servicing, LP (hereinafter "Litton") is a Texas limited partnership that maintains its principal place of business at 4828 Loop Central Drive, Houston, Harris County, Texas.
3. Litton is a loan servicing company, which conducts business nationwide, including services provided throughout the Commonwealth of Pennsylvania.
4. Jurisdiction is proper before this court pursuant to 12 U.S.C. § 2605, 15 U.S.C. § 1692, and 28 U.S.C. § 1331. This court has jurisdiction over the Plaintiffs' state law claims by supplemental jurisdiction.

5. The subject property is situated in this judicial district and the actions giving rise to this claim occurred in this judicial district, therefore venue is proper before this Court.

6. Plaintiffs purchased their residence at 2439 Beeler Avenue, York, Pennsylvania (hereinafter “the Property”) on or about June 19, 1998.

7. Plaintiffs are the current record owners of the Property as evidenced by the deed recorded with the Recorder of Deeds of York County Pennsylvania at Book 1329 Page 1601-2, a true and correct copy of which is attached hereto and incorporated herein as Exhibit “A”.

8. Plaintiffs executed a Note (hereinafter “Note”) with IMC Mortgage Company (hereinafter “IMC”) agreeing to pay \$80,250.00 plus interest to IMC Mortgage Company on or about June 19, 1998 when they purchased the Property. A copy of the Note is attached hereto and incorporated herein as Exhibit “B”.

9. Additionally, Plaintiffs executed a Mortgage (hereinafter “Mortgage”) with IMC on June 19, 1998. A copy of the Mortgage is attached hereto and incorporated herein as Exhibit “C”.

10. Plaintiffs made payments pursuant to the Note’s terms to IMC beginning in July of 1998.

11. Subsequently, in approximately December 1999, IMC Mortgage Company assigned all of its rights under the Note to Ocwen Federal Bank FSB (hereinafter “Ocwen”).

12. Plaintiffs began making payments to Ocwen on or about December 21, 1999 to fulfill their obligations pursuant to the terms of the Note and Mortgage.

13. Thereafter, on or about March 17, 2000, Ocwen assigned its rights under the Note and Mortgage to Credit Based Asset Servicing and Securitization, LLC, (hereinafter "CBASS").

14. From on or about March 17, 2000, Litton has serviced the loan secured by the Note and Mortgage as the servicing agent for CBASS.

15. At all times material to the allegations set forth in this Complaint, Defendant acted through its authorized employees and agents.

COUNT I
VIOLATION OF THE REAL ESTATE SETTLEMENT PROCEDURES ACT

16. Plaintiffs incorporate herein all preceding paragraphs of this pleading as though fully set forth herein.

17. The Plaintiffs have issued written requests to Litton on several occasions including March 20, 2005, July 7, 2005, August 7, 2005, and September 11, 2005 requesting information in compliance with the Real Estate Settlement Procedures Act (hereinafter "RESPA"). Copies of the requests are attached hereto and incorporated herein as Exhibits "D", "E", "F" and "G" respectively.

18. The Plaintiffs either did not receive a response from Litton to their qualified written requests or the responses that were provided including contradictory statements, less than full and fair disclosure of information or did not address the questions presented by the Plaintiffs.

19. RESPA requires that loan servicers provide a written response to a qualified written request or to make appropriate corrections to the account within sixty (60) days of receipt of the request for information.

20. Litton either failed to respond to requests from the Plaintiffs or did not fully and completely respond to the Plaintiffs' questions set forth in Exhibits "D", "E", "F" and "G".

21. Additionally, on October 11, 2005, counsel for Plaintiffs forwarded a written request for documentation and credits to the Griers account, and as of the date of this filing, Litton has failed to fully respond to the written inquiry. A copy of the written request is attached hereto and incorporated herein as Exhibit "H".

22. By failing to respond to the requests of the Plaintiffs for information regarding the servicing of their mortgage, Litton has committed a violation of RESPA.

23. As a result of Litton's violation, Plaintiffs have been unable to determine the true and correct balance due and owing on their mortgage and have been subjected to repeated collection efforts from Litton.

24. Plaintiffs believe and therefore aver that Litton has failed to accurately and timely reflect payments to their account.

25. Plaintiffs also believe and aver that Litton has assessed unwarranted late fees, BPO fees, force placed insurance, escrow advances, and inspection fees to their account.

26. Without a true and accurate accounting and payment history from Litton, Plaintiffs are unable to determine the extent of the actual damages they have incurred as a result of Litton's failure to respond to their qualified written requests.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against the Defendant, costs of suit, for reasonable attorney's fees and for such other and further relief as the Court deems just and proper.

COUNT II
FRAUDULENT MISREPRESENTATION

27. Plaintiffs incorporate herein all preceding paragraphs of this pleading as though fully set forth herein.

28. Plaintiffs believe and therefore aver that Litton has intentionally and knowingly misrepresented the actual amount due and owing on their mortgage account.

29. Plaintiffs further aver that in light of the misrepresentations of Litton, they have incurred damages for payment and assessments to their account of unwarranted late fees, BPO fees, force placed insurance, escrow advances, and inspection fees to their account.

30. Plaintiffs believe that Litton has made these misrepresentations in order to accrue additional monies due and owing on the Plaintiffs' mortgage.

31. Plaintiffs reasonably relied upon the misrepresentations and believe that they have incurred damages for payment and assessments to their account of unwarranted late fees, BPO fees, force placed insurance, escrow advances, and inspection fees to their account as a result of Litton's misrepresentations.

32. Without a true and accurate accounting and payment history from Litton, Plaintiffs are unable to determine the extent of the actual damages they have incurred as a result of the misrepresentations.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against the Defendant, costs of suit, and for such other and further relief as the Court deems just and proper.

COUNT III

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT § 807(2)

33. Plaintiffs incorporate herein all preceding paragraphs of this pleading as though fully set forth herein.

34. Based upon the misrepresentations of Litton referenced in Count II above, Litton has falsely represented the amount and status of the Plaintiffs' debt in connection with its collection practices.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against the Defendant, costs of suit, for reasonable attorney's fees and for such other and further relief as the Court deems just and proper.

COUNT IV

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT § 805 (b)

35. Plaintiffs incorporate herein all preceding paragraphs of this pleading as though fully set forth herein.

36. On or about February 9, 2006, an authorized agent on behalf of Litton communicated with the Plaintiffs' daughter, without consent, and provided information regarding the debt collection practices that had occurred.

37. Furthermore, during said communication, the agent used profane language, which caused the Plaintiffs' daughter a great deal of distress.

38. This communication with a third party, without the consent of the Plaintiffs is in direct violation of the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against the Defendant, costs of suit, for reasonable attorney's fees and for such other and further relief as the Court deems just and proper.

COUNT V
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT § 806 (2)

39. Plaintiffs incorporate herein all preceding paragraphs of this pleading as though fully set forth herein.

40. On several occasions between April 2005 and September 2005, authorized agents and/or employees of Litton have used profane and abusive language when communicating with the Plaintiffs regarding their Mortgage status and collection efforts.

41. In April 2005, Mr. Grier was contacted by a Ms. Kennedy from Litton Loan and when advised that the Griers were represented by an attorney, Ms. Kennedy advised that she could contact the Griers as many times as she wanted.

42. Additionally, in July 2005, Mrs. Grier was called a “fucking bitch” by Shamira, an employee of Litton Loan when she was requesting payoff information for their loan.

43. Furthermore, in November 2005, during a discussion with Mrs. Grier, a Litton Loan employee refused to provide information regarding a substantial sum of money that was credited to the Griers’ account. The employee was extremely rude to Mrs. Grier and would not respond to her questions of the origin of the funds.

44. Plaintiffs believe and therefore aver that the profane language was used as a tactic to harass them and coerce them into paying unwarranted late fees, BPO fees, force placed insurance, escrow advances, and inspection fees on their account.

45. Additionally, on many occasions, the Plaintiffs are placed on hold for extended periods of time and transferred to numerous employees when they call to make inquiries about their account.

46. Plaintiffs believe and therefore aver that the tactics used by Litton Loan were attempts to deter them from making inquiries on their account.

47. Litton continuously forwards mortgage foreclosure documents to the Plaintiffs, as frequently as several weeks apart.

48. Litton's actions as outline above have caused the Plaintiffs severe emotional distress, anxiety and embarrassment.

49. Plaintiffs believe and therefore aver that the actions of Litton were made knowingly and intentionally for the purpose of accruing additional charges to their account and with the intent to harass them into making additional unwarranted payments.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against the Defendant, costs of suit, for reasonable attorney's fees and for such other and further relief as the Court deems just and proper.

COUNT VI
BREACH OF CONTRACT

50. Plaintiffs incorporate herein all preceding paragraphs of this pleading as though fully set forth herein.

51. In January 2006, Plaintiffs were notified by Litton that forced placed insurance was being placed on their residence with charges being added to the mortgage for said coverage.

52. The Plaintiffs have provided all necessary insurance coverage for the residence pursuant to the terms of the mortgage documents.

53. The Plaintiffs have provided copies or information regarding their insurance coverage to Litton as requested throughout Litton's servicing of their loan.

54. Litton's imposition of charges on the Plaintiffs' account without cause is a breach of the agreement between the parties.

55. Additionally, between April 27, 2005 and February 28, 2006, Plaintiffs have paid to Litton \$959.21 per month towards the balance due and owing on their loan.

56. Upon information and belief, Litton has failed and refused to apply the amounts paid by Plaintiffs accurately and timely.

57. As a result of Litton's failure to accurately and timely apply payments made, the Plaintiffs have been subjected to foreclosure notices and additional fees being placed on their account.

58. Litton's actions and inactions as outlined above constitute a breach of the contract between the parties.

59. Litton has an obligation under the contract to accept and apply payments as they became due by Plaintiffs and were given by Plaintiffs to Defendant.

60. Litton's breach was material as it failed to perform a material obligation under the contract.

61. As a result of said breach, the Plaintiffs have incurred damages for payments and assessments to their account of unwarranted late fees, BPO fees, force placed insurance, escrow advances, and inspection fees to their account.

62. Plaintiffs' damages were foreseeable as a result of Litton's breach.

63. Without a true and accurate accounting and payment history from Litton, Plaintiffs are unable to determine the extent of the damages they have incurred as a result of Litton's failure to apply all payments and Litton's imposition of unwarranted fees.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against the Defendant, costs of suit, and for such other and further relief as the Court deems just and proper.

COUNT VII
VIOLATION OF PENNSYLVANIA CONSUMER PROTECTION LAW

64. Plaintiffs incorporate herein all preceding paragraphs of this pleading as though fully set forth herein.

65. Plaintiffs purchased their residence at Beeler Avenue for family, household or personal use.

66. Litton's actions and inactions as outlined above, constitute fraudulent and deceptive conduct.

67. Litton's conduct created a likelihood of confusion and misunderstanding by the Plaintiffs, as they have never been provided with clarification regarding the unwarranted charges and fees assessed to their account.

68. Plaintiffs believe and therefore aver that Litton Loan's conduct was intentional, wanton and made with reckless disregard for Plaintiffs' well-being, both financial and emotional.

69. As a result of Litton's conduct, Plaintiffs have incurred damages for payment and assessments to their account of unwarranted late fees, BPO fees, force placed insurance, escrow advances, and inspection fees to their account

70. Pursuant to the Pennsylvania Consumer Protection Law, Plaintiffs are entitled to treble damages and payment of reasonable attorney's fees incurred as a result of Litton's conduct.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against the Defendant, treble damages, reasonable attorney's fees, costs of suit, and for such other and further relief as the Court deems just and proper.

COUNT VIII
DEFAMATION

71. Plaintiffs incorporate herein all preceding paragraphs of this pleading as though fully set forth herein.

72. Plaintiffs believe and therefore aver that by reason of imposition of the unwarranted fees assessed to their account for late fees, BPO fees, force placed insurance, escrow advances, and inspection fees, Litton has communicated false and derogatory financial information to its counsel, agents, employees, independent contractors and credit report agencies.

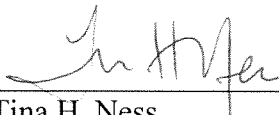
73. In light of these communications to third parties, Litton has caused the Plaintiffs to suffer financial expenses, anxiety, emotional distress and an adverse credit score.

74. Based upon said adverse credit score, the Plaintiffs have been denied further credit.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against the Defendant, reasonable attorney's fees, costs of suit, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

CGA Law Firm

By: 

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Attorneys for Plaintiffs

VERIFICATION

I hereby affirm that the following facts are correct. The attached Complaint is based upon information which has been furnished to counsel in the preparation of this document. The language of the Complaint is that of counsel and not mine. I have read the Complaint and to the extent that the same is based upon information which I have given to counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, I have relied upon counsel in making this Verification. I hereby acknowledge that the averments of fact set forth in the aforesaid Complaint are made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.

Date: 3-20-06

By: Dana Grier
Dana Grier

VERIFICATION

I hereby affirm that the following facts are correct. The attached Complaint is based upon information which has been furnished to counsel in the preparation of this document. The language of the Complaint is that of counsel and not mine. I have read the Complaint and to the extent that the same is based upon information which I have given to counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, I have relied upon counsel in making this Verification. I hereby acknowledge that the averments of fact set forth in the aforesaid Complaint are made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.

Date: 3-20-06

By: Laurie Grier
Laurie Grier