

**IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND**

**MARCELINE WHITE**

*On behalf of herself individually and  
similarly situated persons.*

Plaintiffs

v.

**NEWREZ LLC d/b/a SHELLPOINT  
MORTGAGE SERVICING**

&

**FEDERAL NATIONAL MORTGAGE AS-  
SOCIATION**

Defendants

Civil Case: C-02-CV-001060

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**AMENDED CLASS ACTION COMPLAINT<sup>1</sup>**

**&**

**REQUEST FOR JURY TRIAL**

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Plaintiff Marceline White (“**White** or “**Named Plaintiff**”), on her individual behalf and on behalf of similarly situated individuals defined *infra*, by her attorneys, Phillip R. Robinson and the Consumer Law Center LLC and pursuant to MD. RULE 2-231 (Class Actions), sue NewRez LLC (f/k/a New Penn Financial, LLC) d/b/a Shellpoint Mortgage Servicing (“Shellpoint”) and the Federal National Mortgage Association (“Fannie Mae”)(collectively “Defendants”). White, on behalf of herself and similarly situated persons, demands a trial by Jury on all counts for which a right to trial by jury is allowed and, in support of her Class Action Complaint, states:

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<sup>1</sup> Attached hereto as Exhibit 1 is a comparison copy of the changes made hereto.

## INTRODUCTION

1. In instances, such as the underlying matters involving Shellpoint, the mortgage servicer places its interest and pattern of unsafe and unsound mortgage service practices above the remedial rights of homeowners and consumers. Moreover, Shellpoint unfairly and deceptively ignores its statutory and contractual duties including those which were agreed to as part of its license to legally operate in the State of Maryland and nationwide.

2. In this action Shellpoint has imposed certain fees and charges onto the residential, mortgage accounts of White and the putative class members she seeks to represent for accepting payments by telephone and/or by the Internet. These so-called convenience fees are not authorized by the documents governing the Plaintiff's loan, Maryland law, and the putative class members' loans. In addition,

a. Since the consumer debts subject to this action involve mortgage loans and related real property in the State of Maryland the statute of frauds that applies in Maryland does not permit the Defendants to impose and charge fees that are not memorized in a written agreement.

b. The so-called convince fees are a profit center imposed and collected by Shellpoint and Fannie Mae are also not simply pass-through costs to White and the putative class members. Rather, they represent materially excessive sums over Shellpoint's actual costs to accept a fee by electronic means over the phone or over the Internet. Specifically, Shellpoint's and Fannie Mae's actual costs to its various vendors who facilitate the telephonic and electronic payments charge pennies for the transaction but Shellpoint and Fannie Mae impose fees ranging 10 to 50 times the above their actual costs.

3. By their contract and agreement, Fannie Mae and Shellpoint also have a joint, common interest in relation to White's loan subject to this action. Upon information and belief based on the guidelines published by Fannie Mae, Shellpoint has agreed to indemnify Fannie Mae for its actions on Fannie Mae's behalf in relation to White and certain of the putative class members defined *infra*. However, at all times relevant and material herein, Shellpoint has acted with Fannie Mae's express authority and Fannie Mae has taken no steps to stop Shellpoint's unfair and deceptive acts and omissions on its behalf and ratified those acts and omissions to its benefit.

#### **JURISDICTION AND VENUE**

4. This Court has jurisdiction asserted for the claims herein because Shellpoint transacts business, performs work in, and has interested in real property, and provides services in Maryland and Anne Arundel County, Maryland. *See e.g. Pacific Mortg. and Inv. Group, Ltd. v. Horn*, 100 Md.App. 311, 324 (Md.App.,1994)(a person who "buys and sells [] mortgage liens has done more than merely transacted business...but has, in fact, carried on a regular business").

5. This Court also has jurisdiction for the claims asserted because the injuries caused by Shellpoint to the Plaintiffs and certain of the putative class members occurred in Maryland.

6. Further, Shellpoint owns real property, or has an interest in real property in the State of Maryland and Anne Arundel County thereby subjecting itself to the jurisdiction of this Court.

7. The Court has declaratory judgment authority pursuant to CTS & JUD. PROC. § 3-409.

#### **PARTIES**

8. Plaintiff Marceline White ("White") is a natural person who owns the real property known as 1531 Park Avenue, Baltimore, Md 21217 ("White Property"). White is also the borrower on the mortgage loan subject to this action which is associated with the White Property and

was utilized entirely for personal, consumer purposes (“White Loan”). The White Loan is a federally related mortgage. White is also a borrower pursuant to COM. LAW § 12-1001(c).

9. Shellpoint is a wholly-owned subsidiary of Shellpoint Partners LLC, a Delaware limited liability company. Shellpoint Partners LLC is wholly-owned by NRM Acquisition LLC and NRM Acquisition II LLC, both of which are Delaware limited liability companies. Both NRM Acquisition entities are wholly-owned by New Residential Mortgage LLC, a Delaware limited liability company. New Residential Mortgage LLC is wholly-owned by New Residential Investment Corporation, a Delaware corporation. New Residential Investment Corporation is publicly traded on the New York Stock Exchange under the ticker symbol NRZ. In addition:

a. NRZ advertises on its website the reason why it is focused on Shellpoint’s business model which acquires the mortgage servicing rights from others. “A mortgage servicing right (MSR) provides a mortgage servicer with the right to service a pool of residential mortgage loans in exchange for a portion of the interest payments made on the underlying residential mortgage loans. Advances are required capital outlays by the servicer to fund missed payments from delinquent borrowers and foreclosure-related expenses. The servicer has limited risk of not being reimbursed for advances, because advances are almost always ‘top of the waterfall’ in the event of a property sale” (<https://www.newresi.com/about-us>). In other words, Shellpoint makes more money on behalf of NRZ by churning fees and making advances related to borrowers it believes are delinquent or in foreclosure and there is “limited risk” that those sums will not be reimbursed to it—even if it has no right to impose the fees and charges in the first instance.

b. Shellpoint is a mortgage lender and servicer as defined by FIN. INST. § 11-501(j)(n).

c. Shellpoint is also a collector as defined by CTS. & JUD. PROC. § 14-201(b).

d. Shellpoint is a credit grantor pursuant to COM. LAW § 12-1001(g).

10. Fannie Mae is the owner of White's loan. Maryland law recognizes that mortgage assignees like Fannie Mae step into the shoes of the assignors. *See e.g.* REAL PROP. § 2-103; *Thompkins v. Mountaineer Investments, LLC*, 439 Md. 118, 139 (2014). Fannie Mae, as thassignee of those who originally made the loans under its specific guidelines, stands in their shoes and is therefore the maker of White's loan. Fannie Mae requires that Shellpoint service its agreements with White in accordance with Maryland law and is responsible for the acts of its authorized servicer. Shellpoint has a duty to notify Fannie Mae when White noticed it of its errors and has access to all of Shellpoint's records related to White pursuant to its policies and practices. Finally, it is widely recognized that Fannie Mae routinely acquires loans from others, including the former entity known as Countrywide Home Loans Inc., who extend on its behalf and in accordance with its guidelines. In fact, it publishes forms, guidelines, and more for persons to use when arranging sales of loans to Fannie Mae and publishes the same on its website: <https://www.fanniemae.com/singlefamily/originating-underwriting>. Fannie Mae is also a credit grantor pursuant to COM. LAW § 12-1001(g).

### **FACTUAL ALLEGATIONS**

#### ***General Allegations About Shellpoint's Knowledge***

11. All persons, including licensed mortgage lender/servicers in the State of Maryland like Shellpoint, are expected to know the law—including the laws governing their activities. As part of its license to even conduct business in the State of Maryland, Shellpoint “has a duty of good faith and fair dealing in communications, transactions, and course of dealings with a borrower in

connection with the advertisement, solicitation, making, servicing, purchase, or sale of any mortgage loan.” MD. CODE REGS. 09.03.06.20. White and other Maryland borrowers like White are third party beneficiaries of MD. CODE REGS. 09.03.06.20.

12. The Court of Appeals in 2005 recognized that a real estate professional who had no direct communication with a borrower nevertheless had a duty to the consumer under the Maryland Consumer Protection Act and Maryland common law to make a “reasonable investigation” of the true facts in the real estate transaction on which the borrower (and other parties) would rely in order to complete the transaction. *Hoffman v. Stamper*, 385 Md. 1, 867 A.2d 276 (2005). This duty of care applies to Shellpoint and Fannie Mae as their work involves secured, consumer mortgage loans subject to Maryland and Federal laws those discussed herein.

13. Pursuant to 12 C.F.R. § 1024.38(b)(1)(i), Shellpoint is required to “[p]rovide accurate and timely disclosures to a borrower as required by [12 C.F.R. § 1024.38] or other applicable law.” Pursuant to 12 C.F.R. § 1024.35(b)(5), Shellpoint is not permitted to “impos[e]... a fee or charge that the servicer lacks a reasonable basis to impose upon the borrower.” It is unreasonable and a violation of its duties for Shellpoint to impose and collect sums never properly disclosed to the borrower.

14. Pursuant to 12 U.S.C.A. § 2605(k)(1)(C)(E), Shellpoint has duties to the Plaintiffs and putative class members to (i) take appropriate steps to avoid foreclosure (and not churn the collection of fees and costs not permitted under the law or actually incurred) and (ii) comply with any other obligation(s) found by the Bureau of Consumer Financial Protection, by regulation, to be appropriate to carry out the consumer protection purposes of 12 U.S.C.A. § 2605. Amongst these obligations are the servicer’s duties to comply with state laws and regulations that are not expressly preempted by RESPA; in other words Congress and the CFPB expressly intended for

RESPA to work in concert with state regulation. *See e.g.* 12 U.S.C.A. § 2605(h) and 12 C.F.R. § 1024.33(d) (expressly limiting preemption to certain notice issues).

15. The Maryland Mortgage Fraud Protection Act, REAL PROP. § 7-401, *et seq.*, establishes a statutory duty upon Shellpoint to disclose to mortgage borrowers, homeowners, and its predecessor servicers with respect to the mortgage lending process in an honest and truthful manner. *Ademiluyi v. PennyMac Mortgage Inv. Trust Holdings I, LLC*, 929 F. Supp. 2d 502, 531 (D. Md. 2013); *Castle v. Capital One, N.A.*, No. CIV.A. WMN-13-1830, 2014 WL 176790, at \*5 (D. Md. Jan. 15, 2014); *Stovall v. SunTrust Mortgage, Inc.*, No. CIV.A. RDB-10-2836, 2011 WL 4402680 (D. Md. Sept. 20, 2011).

16. In addition, Shellpoint and Fannie Mae also understand and are aware of the widely recognized understanding in the secondary mortgage market that much of the loan data transferred by other mortgage entities to Shellpoint and Fannie Mae is inaccurate as exemplified by the following:

- a. The Mortgage Servicing Collaborative (“MSC”) of the Urban Institute’s Housing and Finance Policy Center has identified in its comprehensive report, [\*The Case for Mortgage Servicing Data Standards\* \(Urban Institute, 2018\)](#) that “[D]uring the foreclosure crisis when hundreds of billions of dollars of servicing portfolios were transferred from one servicer to another in a short period...Some [transfers between servicers] were affected by widespread data errors that led to borrower harm through missed opportunities for loss mitigation, misapplication of escrow payments, or erroneous fees. Servicers incurred significant financial costs, penalties, and reputational harm.” [\*Id.\* at 6](#) (citations omitted).

- b. A 2017 market survey of the servicing industry conducted by the Federal Housing Finance Agency, i.e. [Future of Mortgage Servicing: Market Survey Results](#) (Apr. 2018), identified the known challenges faced by the mortgage servicing market including that “[a]pproximately 60% of respondents indicated the key challenges for servicing transfers are ensuring data accuracy and completeness, and minimizing borrower impacts.” [Id.](#) at 6. More specifically the FHFA survey found,
- Respondents stated that varied data and document standards followed by different servicers leads to data inconsistencies and gaps during the [Mortgage Servicing Rights (MSR)] transfer process.
  - Respondents also expressed that system limitations inhibit the ability to effectively execute MSR transfers.
  - Servicer transfer processes can be manual and time consuming with the need to map every data field, even when transferring to the same servicing system.
  - 50% of nonbanks also highlighted document custody as one of their top three challenges in transferring servicing. [Id.](#)
- c. The credit rating agencies who review the secondary mortgage market of residential mortgage-backed securities for investors also account that loans available on the secondary market are characterized by “impaired payment histories [which impact]...the servicer’s ability to foreclose and liquidate the property.” [FitchRatings: Structured Finance, U.S. RMBS Non-performing Loan Criteria – Effective Aug. 12, 2016 to Dec. 1, 2016](#) at Page 6.

17. The problems involved in the integrity of loan data in servicing transfers is well known by state-based regulators (including Shellpoint’s regulators as a licensed collection agency and mortgage lender in Maryland) as well. *See e.g.* [Conference of State Bank Supervisors’ Proposed Regulatory Standards for Non-Bank Mortgage Servicers at Page 5, 11](#) (“Regulators and the

industry have also recognized widespread data quality and integrity issues, especially in the context of transferring servicing rights. Non-bank mortgage servicers often struggle to integrate acquired loan portfolios, and to locate legal and collateral documents associated with the transferred loans. All of these issues are exacerbated if a servicer's operational capacity has not kept pace with its growth...[these issues involve not only] data mapping problems so often experienced during a large transfer, but also the compatibility of the data").

### **Factual Allegations Relevant to Plaintiff White**

18. White acquired the White Property with her former husband on November 14, 2001. As part of the couple's divorce she became the sole owner of the White Property on March 21, 2007 and White refinanced the Property for the sum of \$309,300 with an extension of credit to settle the divorce case on the same date with Countrywide Home Loans, Inc. ("White Loan"). The proceeds of the White Loan were utilized entirely for personal, consumer purposes by White.

19. The terms of the White Loan are subject to Maryland's Closed End Credit law ("CLEC"), COM. LAW § 12-1001, *et sec.* Countrywide made this voluntary election on the note it wrote and memorialized for the White Loan and Fannie Mae accepted assignment of the note with this condition and is subject to it. *See* COM. LAW § 12-1001(g)(2)(iii)(applying CLEC to assignees of a CLEC loan). The White Loan qualified as a federally related mortgage when it was originated.

20. White's prior mortgage servicer Ditech Financial LLC ("Ditech") f/k/a Green Tree Servicing LLC, who acted on behalf of Fannie Mae in relation to the White Loan, is currently in Chapter 11 Bankruptcy Proceedings in the United States Bankruptcy Court for the Southern District of New York (Case No. 19-10412). White's loan was never serviced by Ocwen Loan Servicing LLC.

21. Before filing for bankruptcy protection, Ditech utilized incorrect and unreliable mortgage data related to the residential loans it serviced including the White Loan. This is exemplified as follows:

a. The CFPB filed a complaint Ditech on this basis in the United States District Court for the for the District of Minnesota (Case No. 15-2064) addressing Ditech's inaccurate mortgage, record keeping practices and many related issues.

b. In the June 17, 2019 Asset Purchase Agreement in which Shellpoint's parent, NRZ, acquired Ditech's MSRs, including the right to collect upon the White Loan, did not provide adequate representations and warranties to NRZ and Shellpoint that the data transferred to it was accurate and/or reliable. Further, NRZ and Shellpoint knew Ditech's bankruptcy was due in part to its systems failures and inability to manage mortgage loan servicing functions without cutting corners that led to inaccurate data, record keeping practices, and other related issues.

22. At all times relevant to this action, Shellpoint has had record and/or actual knowledge of the factual allegations identified in the previous paragraph but still has taken no reasonable steps to inquire about the accuracy of loan data it received from Ditech related to White or any other for Ditech borrower. Instead it has simply utilized that incorrect information and adopted it into its own records thereby infecting the accuracy of the loan account it manages related to White and the White Loan.

23. On November 30, 2020, Ditech ceased serving as White's loan servicer and Shellpoint became the loan servicer of the White Loan on behalf of Fannie Mae.

24. At the time of the servicing transfer from Ditech to Shellpoint, Shellpoint believed White was in default and otherwise was delinquent on the White Loan.

25. At the time of the servicing transfer from Ditech to Shellpoint, Ditech provided to Shellpoint White's contact information and other material information related to the White Loan. However, Shellpoint did not also did not timely notify White of the transfer as required by 12 U.S.C.A. § 2605(c) ("Hello Letter"). Instead, White was not provided the Shellpoint notice required by 12 U.S.C.A. § 2605(c) until approximately April 2, 2020 when it was provided by Shellpoint's on-line portal to which White had been given access by it. However, the notice provided by Shellpoint's on-line portal was materially defective in that it was:

- a. not addressed to White's actual mailing address (i.e. the White Property address);
- b. addressed with an incomplete address to White's counsel that did not identify counsel's name, the name of the law firm, or even the suite number for counsel's office which made it undeliverable; and
- c. dated December 10, 2019 but was not delivered to White by Shellpoint until April 2, 2020—109 days after the time required for the notice pursuant to 12 U.S.C.A. § 2605(c).

26. Shellpoint was provided sufficient information by Ditech to send correspondence to White as demonstrated by the following:

- a. On or about January 22, 2020, it sent a notice of default and intent to foreclose to White at the White Property.
- b. On or about March 4, 2020, its vendor sent correspondence to White using Shellpoint's name in care of the complete address for White's counsel (street and suite number completed) claiming falsely that White owed Shellpoint delinquent taxes.

27. Since it became White’s loan servicer, Shellpoint has also failed to send periodic statements to White identifying certain information as required by 15 U.S.C.A. § 1638(f) and 12 C.F.R. § 1026.41. *See also* COM. LAW § 12-106.

28. Notwithstanding Shellpoint’s failure to send periodic statements to White as required, she made payments to “New Rez LLC” at the address provided to her by Ditech’s Goodbye Letter prior to the receipt of the notice of default but upon information and believe Shellpoint did not give White credit for those payments.

29. Upon information and belief, Shellpoint had reason to know that the address it utilized for White for the Hello Letter and periodic statements since it became her servicer through the filing of this complaint was wrong because it or its authorized vendor received notice of the returned mail or inaccuracy from the United States Postal Service that indicated that the address it utilized was wrong but Shellpoint took no reasonable steps to correct the errors or provide timely notice to White.

30. Since it became the servicer for the White Loan and began utilizing the infected mortgage data it received from Ditech without any reasonable verification, Shellpoint imposed and/or collected the following fees and charges (other than principle and interest) onto White’s loan account but never disclosed those fees to White as required by 15 U.S.C.A. § 1638(f), 12 C.F.R. § 1026.41, and COM. LAW § 12-106. These include:

	<u>Description</u>	<u>Transaction Date</u>	<u>Amount</u>
a.	“Register Vacant Prop Payment”	March 17, 2020	\$30.00
b.	“Late Charge Payment”	March 17, 2020	\$200.66
c.	“Register Vacant Prop Payment”	March 17, 2020	\$40.00
d.	“Property Pres Payment”	March 17, 2020	\$30.00

- e. “Schd Payment Fee Payment”                      March 17, 2020                      \$15.00  
(Convenience Fee for a payment by phone)

31.        The fees and charges imposed identified in the paragraph are actual damages to White in that Fannie Mae, directly and indirectly through Shellpoint, are not entitled to impose since it did not timely disclose its Hello Letter or even provide to White the accurate periodic statements as required by Federal and State law.    In addition,

a.        Shellpoint was barred from imposing the fees in ¶ 30(a)(c)(d)(e) pursuant to COM. LAW § 12-1005(a)(2)(i) since Fannie Mae and White have never entered into any “agreement, note, or other evidence of the loan so provides and the borrower agrees in writing to pay those charges.”

b.        Shellpoint was barred from imposing the fees in ¶ 30(a)(c)(d) pursuant to COM. LAW § 12-1027 since the fees imposed are not related to (i) the construction of a new home or (ii) repairs, alternations, or other work required by Fannie Mae or Shellpoint.

c.        Shellpoint was barred from imposing the fees in ¶ 30(e) pursuant to 15 U.S.C.A. § 1692f(1).

d.        Shellpoint was barred from imposing the fees in ¶ 30(e) pursuant to COM. LAW § 14-202(11) which makes any violation of the Fair Debt Collection Practices Act, including 15 U.S.C.A. § 1692f(1), a violation of Maryland law.

32.        Using Shellpoint’s portal on or about April 2, 2020, White requested and was given a payoff quote from Shellpoint. In that quote, Shellpoint demanded payoff fees in the amount of \$68.00 without the right do so. Shellpoint and Fannie Mae are not permitted to impose release fees on White for the preparation of the release pursuant to CLEC. COM. LAW § 12-1024. Further, a release fee, and applicable surcharge that would be owed is only \$50.00. Therefore, the sum

claimed by Shellpoint on behalf of and with the express authority of Fannie Mae would be barred by COM. LAW § 12-1024.

33. The White Loan is not satisfied.

34. Fannie Mae's and Shellpoint's violations of CLEC are not as a result of any bona fide error or computation since they are express violations of the prohibitions established in CLEC itself. Upon information and belief, the errors are directly the result of NRZ's business practices in relation to the MSRs it has acquired from another to churn all sorts of non-bona fide fees and advances which it will recoup under its business model since these fees and "are almost always 'top of the waterfall' in the event of a property sale." Fannie Mae and Shellpoint received additional notice of their errors in relation to the White Loan by certified, restricted mail to its authorized persons to receive such correspondence on April 22, 2020 (New Rez) and April 20, 2020 (Fannie Mae) and each have taken no action to correct their errors identified in White's original complaint.

35. White disputed the fees and charges imposed and collected by Shellpoint on Fannie Mae's behalf in written correspondence to Shellpoint dated March 18, 2020. Shellpoint received this correspondence on March 27, 2020. Shellpoint took no action in the ten days since receipt of White's notice to it to correct its errors and as of the filing of this Amended Class Action Complaint.

36. As a result of Fannie Mae's and Shellpoint's violations of CLEC there is a controversy between them and White about the sums she owes on her loan. Pursuant to CLEC, because of their violations, White only owes to Fannie Mae and New Rez the principal amount of the monthly sums due on the White Loan and Shellpoint and Fannie Mae may not collect any interest, costs, fees, or other charges with respect to the loan. COM. LAW § 12-1018(a)(2). However despite

this express requirement of the law governing the White Loan, Shellpoint and Fannie Mae are not applying White's payments (including a payment made more than ten days after Shellpoint and Fannie Mae received notice of their errors) correctly and instead are wrongfully applying White's payments to sums not permitted by COM. LAW § 12-1018(a)(2) and the terms and conditions of White's Loan which is subject to CLEC.

37. As a direct and proximate result of Shellpoint's adoption and utilization of mortgage data related to the White Loan which has errors and without any reasonable verification or a policy and practice to even correct the errors it detects, Shellpoint has harmed White by not conveying accurate and timely disclosures and imposing and collecting fees and charges with no proper notice to White. White has also suffered informational injuries as a result of Shellpoint's conduct related to information Congress and the General Assembly found to be relevant and material under Federal and State laws. Shellpoint's failure to convey the necessary information created uncertainty, frustration, worry, and fear for White who was denied the information required by Congress and the General Assembly to be necessary in the mortgage servicing arena and were vital to the successful achievement of the goals intended for the remedial laws at issue and are the ones most critical for consumers, without which consumers suffer the most significant harm or risk of harm. Congress could not have given a clearer indication of its determination that this informational injury creates a material case or controversy by permitting White to recovery statutory damages as a result of the violations subject to this action.

#### **CLASS ALLEGATIONS**

38. The Named Plaintiff brings certain claims, *infra*, on behalf of classes of similarly situated persons related to Defendants Shellpoint and Fannie Mae under MD. RULE 2-231 defined as follows:

a. **Maryland Convenience Fee Class:** White also proposes, as the definition of the Maryland Convenience Fee Class, that it be defined as follows:

All individuals in Maryland who since October 1, 2018 (i) paid a “convenience fee,” (ii) collected in whole or in part by Shellpoint, (iii) in order to make a payment on a residential mortgage debt, and (iv) where the term “convenience fee” was not specifically enumerated in the original agreement creating such debt.

b. **Fannie Mae Subclass:** White also proposes, as the definition of the Fannie Mae Subclass, that it be defined as follows:

All members of the Maryland Convenience Fee Class who Shellpoint acts as a collector on behalf of Fannie Mae.

39. White qualifies as a member of the the Maryland Convenience Fee Class and the Fannie Mae Subclass and proposes to be appointed by the Court as the Named Plaintiff for the Maryland Convenience Fee Class and Fannie Mae Subclass.

40. Excluded from each of the putative classes are any person who falls within the definitions if the person is (i) an employee or independent contractor of the Shellpoint or Fannie Mae; (ii) a relative of an employee or independent contractor of the Shellpoint and Fannie Mae; or (iii) any person whose personal, mortgage loan was serviced by Ocwen Loan Servicing, LLC on or before August 1, 2019; or (iv) an employee of the Court where this action is pending.

41. The Class and Subclass definitions in ¶ 38 as limited by ¶ 40 may be amended or modified.

42. The particular members of the (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass are capable of being described without difficult managerial or administrative problems. The members of the putative class and subclass are also readily identifiable from the information and records in the possession or control of Shellpoint or its affiliates and agents and from

public records. Shellpoint is required to maintain this information for the entire class period. *See e.g.* Md. Code Regs. 09.03.06.04.

43. The putative class and subclass are sufficiently numerous, exceed more than one hundred persons each, such that individual joinder of all members is impractical. This allegation is based on a data search of public records which identify that thousands of public complaints have been filed against Shellpoint show that it services thousands of residential, mortgage loans in Maryland. Further, as a matter of public records in the State of Maryland and Fannie Mae owns thousands of loans in Maryland.

44. There are questions of law and fact common to the (i) the Maryland Convenience Fee Class and (ii) Fannie Mae Subclass which predominate over any questions affecting only individual members of the putative classes and, in fact, the wrongs alleged against Shellpoint by (i) the Maryland Convenience Fee Class and (ii) Fannie Mae Subclass members and the remedies sought by Named Plaintiff and the putative class and subclass members against the Shellpoint are identical.

45. These common questions of law or fact for the Maryland Convenience Fee Class and Fannie Mae Subclass members include but are not limited to:

- a.
- b. Whether Shellpoint and Fannie Mae qualify as “collectors” as that term is defined under the MCDCA;
- c. Whether Shellpoint’s and Fannie Mae’s conduct, directly or indirectly, violated the MCDCA;
- d. Whether Fannie Mae may be vicariously liable to the Fannie Mae Subclass members for the acts and omissions of Shellpoint on its behalf;

e. Whether Fannie Mae may be liable under the doctrine of *respondeat superior* to the Fannie Mae Subclass members for the acts and omissions of Shellpoint on its behalf; and

f. Whether the members of the class and subclass are entitled to the convenience fees collected from them as actual damages.

46. Shellpoint's and Fannie Mae's defenses (which defenses are denied) would be typical or identical for each of the member of the (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass will be based on the same legal and factual theories.

47. Certification of the (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass under MD. RULE 2-231 is appropriate as to the members of the putative class and subclass in that common questions predominate over any individual questions and a class action is superior for the fair and efficient adjudication of this controversy.

48. A class action will cause an orderly and expeditious administration of claims by the members of the (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass and economies of time, effort and expenses will be fostered and uniformity of decisions will be insured.

49. The only individual questions concern the identification of members of the (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass. This information can be determined by a ministerial examination of public records or from Shellpoint's and Fannie Mae's business records or other sources, which are admissible as an exception to the hearsay rule and as a statement by a party.

50. White's class claims are typical of the claims of the (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass members pursuant to MD. RULE 2-231 since they are based on

and arise out of identical facts constituting the wrongful conduct of the Shellpoint and Fannie Mae (directly and indirectly).

51. White will also fairly and adequately represent and protect the interests of the (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass. White is similarly situated with, and has suffered similar injuries as, the putative class and subclass she proposes to represent. She has also retained counsel experienced in consumer class actions including actions involving unlawful collection and mortgage servicing practices. White does not have any interests which might cause her not to vigorously prosecute this action or are otherwise adverse to the interests of the members of the (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass. She feels that she and the putative class and subclass members have been wronged, wishes to obtain redress of the wrong, and wants Shellpoint and Fannie Mae stopped from failing to comply with its mandatory duties that form the basis of the class claims.

52. The (i) Maryland Convenience Fee Class and (ii) Fannie Mae Subclass members have suffered actual damages, losses, and harm similar those sustained by White.

**COUNT I: VIOLATIONS OF MARYLAND'S CONSUMER DEBT COLLECTION ACT ("MCDCA"), COM. LAW § 14-201, et seq., & MARYLAND CONSUMER PROTECTION ACT ("MCPA"), COM. LAW §§ 13-101 et seq.**  
**(On behalf of the Plaintiff White Individually and on behalf of White and the Maryland Convenience Fee Class and the Fannie Mae Subclass against Shellpoint and Fannie Mae)**

53. White adopts by reference the factual allegations contained in the preceding paragraphs of this Complaint with the same effect as if herein fully set forth. This claim is brought on behalf of White individually and as the named plaintiff on behalf of the Maryland Convenience Fee Class against Shellpoint and also as the named plaintiff on behalf of the Fannie Mae Subclass against Fannie Mae.

54. At all times described herein since October 1, 2018, Shellpoint and Fannie Mae have acted as collectors by attempting to collect, directly and indirectly, upon alleged, invalid debts and sums claimed due from White and the Maryland Convenience Fee Class and Fannie Mae Subclass members arising out of consumer transactions—their mortgages loan used for personal, consumer purposes related to the Property. COM. LAW §14-201(b).

55. Shellpoint and Fannie Mae are aware of the Federal and State laws governing its activities described herein but recklessly disregarded those laws and duties without any consideration of the negative consequences to White or the Maryland Convenience Fee Class and Fannie Mae Subclass members respectfully.

56. Shellpoint, directly and on behalf of Fannie Mae indirectly, also attempted to collect and did in fact collect unlawful convenience fees for accepting payments by telephone and/or other the Internet from White and the Maryland Convenience Fee Class and Fannie Mae Subclass members in violation of the terms of the documents governing their loans and Maryland law.

57. Maryland's debt collection and mortgage lending laws and Shellpoint's and Fannie Mae's duties under Maryland law, do not permit them to utilize methods and means of collection not permitted by law or the relationship governing the parties. Shellpoint and Fannie Mae know the law. However, each knowingly and recklessly attempted to interfere or otherwise infect White's and the Maryland Convenience Fee Class and the Fannie's Mae Subclass members' rights on the basis of alleged sums not lawfully due. By such acts Shellpoint and Fannie Mae have engaged in conduct which violates §§ 804 through 812 of the Federal Fair Debt Collection Practices Act including but not limited to 15 U.S.C. §§ 1692e, § 1692f. COM LAW §14- 202(11).

58. Shellpoint's and Fannie Mae's violations of the MCDCA are also *per se* violations of the MCPA. COM. LAW § 13-301(14)(iii).

59. The mortgage loan servicing and collection practices described herein by Shellpoint and Fannie Mae, as set forth herein, are governed by the Maryland Consumer Protection Act (“MCPA”), COM. LAW. § 13-101, *et seq.*

60. COM. LAW. § 13-303 prohibits unfair or deceptive trade practices in the extension of consumer credit or collection of consumer debts. The collection and attempted collection of the convenience fees by Shellpoint and Fannie Mae indirectly through its agent Shellpoint related to their consumer, debt collection practices involves both the extension of credit and the collection of debts.

61. COM. LAW. § 13-303 also prohibits unfair or deceptive trade practices in the sale or provision of consumer services, such as those provided by Shellpoint.

62. The MCPA defines unfair or deceptive trade practices to include, *inter alia*, the following: (a) False, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind which has the capacity, tendency or effect of deceiving or misleading consumers; and (b) Failure to state a material fact if the failure deceives or tends to deceive. COM. LAW §§13-301(1) and (3).

63. Shellpoint’s and Fannie Mae’s acts and omissions described herein, and including but not limited to seeking and demanding sums not legally or contractually due from White and the Maryland Convenience Fee Class and Fannie Mae Subclass members, constitutes unfair and deceptive trade practices in violation of COM. LAW § 13-301(1)(3) and COM. LAW §§13-303(4)(5).

64. White and the Maryland Convenience Fee Class and Fannie Mae Subclass members reasonably relied upon the direct and indirect material acts and actions of Shellpoint and Fannie Mae as exemplified *supra* and further demonstrated herein (i) by their communications with Shellpoint and Fannie Mae, and (ii) their payment of the illegal convenience fees demanded by

Shellpoint and Fannie Mae through Shellpoint. Shellpoint's acts omissions are simply unreasonable, unfair, abusive, and deceptive.

65. Had Shellpoint and Fannie Mae not acted unfairly and deceptively, White and the Maryland Convenience Fee Class and Fannie Mae Subclass members would not have suffered the damages and losses they have described *supra*.

66. Plaintiff has pled sufficient facts to put Shellpoint and Fannie Mae on notice as to the claims against each as exemplified *supra* (i.e. dates of key acts and representations of Shellpoint and Fannie Mae and its agents and representatives and platforms; and the regulatory and statutory duties of Shellpoint and Fannie Mae which each simply ignored and thereby infected the subject transactions to ensure harm and damage to White and Maryland Convenience Fee Class and Fannie Mae Subclass members).

67. In the alternative that the Court finds Fannie Mae is not directly or vicariously liable to White's claims under the MCDCA and MCPA for the acts and omissions of Shellpoint on its behalf, Fannie Mae is liable for the acts and omissions under the pursuant to the doctrine of *respondeat superior* for the acts and omissions of Shellpoint acting on its behalf since it engaged and authorized Shellpoint to communicate with White and the Fannie Mae Subclass members in relation to their mortgages subject to this action and did not utilize reasonable standards and methods to ensure that Shellpoint was not imposing and collecting sums from its customers which are not permitted under Maryland laws and the contracts governing its relationship with the Fannie Mae Subclass members.

**Count II: DECLARATORY JUDGMENT**  
**CTS & JUD. PROC. § 3-409 & COM. LAW § 12-1018(a)(2)**  
**(On behalf of the White Individually against**  
**Shellpoint and Fannie Mae)**

68. White adopts by reference the factual allegations contained in the preceding paragraphs of this Complaint with the same effect as if herein fully set forth. This claim is brought on behalf of White individually against Shellpoint and Fannie Mae.

69. The Maryland Commissioner of Financial Regulation notified all of its licensees, including Shellpoint, on January 7, 2014 that property inspection fees may not be imposed upon or collected from Maryland mortgage borrowers. Shellpoint received this notice and otherwise had notice of it from the Commissioner's website but continued to collect inspection fees more than ten days later including from White in March 2020 without the right to so.

70. By disregarding the remedial rights and protections for White stated in CLEC and imposing and collecting sums from White not authorized by CLEC as discussed *supra*, Shellpoint and Fannie Mae as credit grantors under CLEC are only permitted to "collect only the principal amount of the [White Loan] and may not collect any interest, costs, fees, or other charges with respect to the loan" from White. COM. LAW § 12-1018(a)(2). Notwithstanding this clear prohibition, Fannie Mae and Shellpoint are continuing to demand 'interest, costs, fees, or other charges' from White.

71. Fannie Mae and Shellpoint are assignees of the White Loan originated by Countrywide and by CLEC's express terms each are subject to CLEC. Also, Fannie Mae and Shellpoint merely stand in the shoes of Countrywide and have no greater rights than it had to give anyone in relation to the White Loan. Notwithstanding this clear statement of Maryland law, Fannie Mae and Shellpoint are demanding greater rights than Countrywide ever had on the White Loan to give anyone and they are not permitted to demand as a matter of law.

72. As a result of Fannie Mae's and Shellpoint's acts and omissions related to CLEC as described herein, a controversy exists between (i) White and (ii) Fannie Mae and Shellpoint concerning the sums lawfully due on the White Loan.

### **PRAYER FOR RELIEF**

- A. WHEREFORE, Pursuant to Count I of this Amended Class Action Complaint, Named Plaintiff requests the Court to certify the Maryland Convenience Fee Class and the Fannie Mae Subclass pursuant to MD. RULE 2-231 and appoint the Named Plaintiff as class representative and the undersigned counsel as Class Counsel;
- B. Pursuant to Count I of this Amended Class Action Complaint, Named Plaintiff and the Maryland Convenience Fee Class members ask this Court to determine the issue of Shellpoint's liability to the Maryland Convenience Fee Class members under the MCDCA and award (i) actual damages for its violations of COM LAW §14-202(11), COM. LAW § 13-301(1)(3), and COM. LAW §§13-303(4)(5) pursuant to COM. LAW § 14-203 and COM. LAW § 14-408 in a sum in excess of \$75,000 (on an aggregated basis for the Plaintiff and Maryland Convenience Fee Class) and (ii) reasonable attorney fees and reasonable costs as permitted and authorized by COM. LAW § 13-301(14)(iii) and COM. LAW § 13-408(b).
- C. Pursuant to Count I of this Amended Class Action Complaint, Named Plaintiff and the Fannie Mae Subclass members also ask this Court to determine the issue of Fannie Mae's liability to the Fannie Mae Subclass

members under the MCDCA and award (i) actual damages for its violations of COM LAW §14-202(11), COM. LAW § 13-301(1)(3), and COM. LAW §§13-303(4)(5) pursuant to COM. LAW § 14-203 and COM. LAW § 14-408 in a sum in excess of \$75,000 (on a aggregated basis for the Plaintiff and Fannie Mae Subclass) and (ii) reasonable attorney fees and reasonable costs as permitted and authorized by COM. LAW § 13-301(14)(iii) and COM. LAW § 13-408(b).

D. WHEREFORE, pursuant to Count II of this Complaint and CTS & JUD. PROC. § 3-409 and COM. LAW § 12-1018(a)(2), to find and declare that (i) the relationship between Fannie Mae and Shellpoint on the one hand and White on the other hand in relation to the White Loan is subject to CLEC and Fannie Mae and Shellpoint are entitled to no greater rights in relation to the White Loan than their assignor(s) had to give them; (ii) Fannie Mae and Shellpoint wrongfully imposed and collected certain fees and costs from White that are barred by CLEC or otherwise acted in contravention of CLEC and (iii) as a result of their CLEC violations, Fannie Mae and Shellpoint may not collect or attempt to collect any interest, costs, fees, or other charges with respect to White Loan pursuant to COM. LAW § 12-1018(a)(2).

E. WHEREFORE, Named Plaintiff requests the Court provide such other or further relief as the Court deems appropriate including attorney fees and costs in relation to Count of this Complaint.

Respectfully submitted,

*//s//Phillip R. Robinson*

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*Attorneys for the Plaintiff and Putative Class Members*

**RULED 20-201 CERTIFICATION**

I hereby certify that this filing does not contain any restricted information.

*/s//Phillip R. Robinson*

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*Attorneys for the Plaintiff and Putative Class Members*

**JURY DEMAND**

Plaintiff, on her behalf and on behalf of the putative class members, by her undersigned counsel requests a jury trial in this matter.

//s//Phillip R. Robinson

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Silver Spring, MD 20910  
Phone (301) 448-1304

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing and attached Exhibit (comparison copy) will be served upon the Defendant in this action by prepaid on May 11, 2020 by

U.S. Mail sent to:

**NEWREZ LLC d/b/a SHELLPOINT MORTGAGE SERVICING**  
1100 Virginia Drive, Suite 125  
Fort Washington, PA 19034

And

**NEWREZ LLC d/b/a SHELLPOINT MORTGAGE SERVICING**  
c/o CSC-Lawyers Incorporating Service, Resident Agent  
7 St. Paul Street, Suite 820  
Baltimore, MD 21202

And

**FEDERAL NATIONAL MORTGAGE ASSOCIATION**  
Attention: David Benson, President  
Midtown Center  
1100 15th Street, NW  
Washington, DC 20005

*//s//Phillip R. Robinson*  
Phillip R. Robinson