FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ AUG 30 2018 ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
---X
JEAN ROBERT SAINT-JEAN, et al.,

Plaintiffs,

11 CV 2122 (SJ) (RLM)

-against-

MEMORANDUM AND ORDER

EMIGRANT MORTGAGE COMPANY, et al.,

Defendants.
---X

A P P E A R A N C E S

SOUTH BROOKLYN LEGAL SERVICES
Foreclosure Prevention Project
105 Court Street
Brooklyn, NY 11201
By: Jennifer Sinton
Meghan Faux
Rachel Geballe
Attorneys for Plaintiffs

RELMAN DANE & COLFAX, PLLC
1225 19th St., NW, Suite 600
Washington, DC 20036
By: John P. Relman
Glenn Schlactus
Tara Ramchandani
Attorneys for Plaintiffs

PROSKAUER ROSE LLP
Eleven Times Square
New York, NY 10036
By: Bettina B. Plevan
Evandro Cristiano Gigante
Keisha-Ann G. Gray

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

Jeffrey B. Wall
Attorneys for Defendants

SULLIVAN & CROMWELL LLP
125 Broad Street
New York, NY 10004
By: John P. Collins, Jr.
Richard H. Klapper
Attorneys for Defendants

DORSEY & WHITNEY LLP
51 West 52nd Street
New York, NY 10019-6119
By: David A. Scheffel
Eric B. Epstein
Gina Susan Spiegelman
Attorneys for Defendant

JOHNSON, Senior District Judge:

The facts and circumstances surrounding this action have been set forth in two previous orders and in the transcript of the February 26, 2016 oral argument after which the Court denied defendants Emigrant Mortgage Company's, and defendant Emigrant Bank's ("Emigrant" or "Defendants") motion for summary judgment. (See Dkt. Nos. 206, 258; see generally Tr. of 2/26/16.) Familiarity therewith is assumed. However, due to both the voluminous nature of the record since developed in this case and the verdict entered on June 27, 2016 against Defendants in the amount of $950,000 following a jury trial, the following additional summary is in order.

The plaintiffs ("Plaintiffs") are Black property owners or former property owners living in various parts of New York City who, prior to the subprime mortgage meltdown of the late 2000s, applied for and received "STAR NINA" loans from

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

Emigrant, loans for which Emigrant did not require proof of income or assets. Plaintiffs claim those loans were predatory and targeted certain minority communities (particularly Black and Hispanic), designed specifically to strip the equity from their homes by imposing an onerous 18% interest rate upon the occurrence of one late payment. They argue that the one late payment triggering the 18% interest rate was a calculated plan by Emigrant to so deprive them of that home equity, given Plaintiffs' 600 or below credit scores; their payment histories on prior mortgages; the fact that Emigrant's advertising and mortgage closing practices were designed to obscure the likelihood of default (such as allegedly "burying" the rider disclosing the default interest rate in stacks of closing documents); and Plaintiffs' lack of sophistication. Additionally, it is undisputed that none of the Plaintiffs had salaries equaling or exceeding that which would be otherwise required by Emigrant for loans of the amounts disbursed. According to Plaintiffs, Emigrant attempted to avoid responsibility for the inevitable default by having the homeowners sign "Resource Letters" drafted by Emigrant which stated, inter alia, that Plaintiffs had access to funds from family and friends to repay the loans in the event of default, and that Plaintiffs understood they would have to be willing to sell their homes to foot the bill in the event of default.

Eight Plaintiffs are involved in this suit, all of whom had significant equity in their homes prior to borrowing from Emigrant, and all of whom have either been forced to sell their homes or live in homes that, pursuant to the terms of their

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

respective STAR NINA loans, were secured by mortgages that applied an 18% interest rate once each of the Plaintiffs made a late payment, which each of the Plaintiffs did.

Jean Robert Saint-Jean and his wife Edith Saint-Jean (the "Saint-Jeans") live in a Canarsie home subject to a foreclosure action. At the relevant time, Jean Robert Saint-Jean had a credit score of 540 and Edith Saint-Jean had a credit score of 545. They were approved for a $370,000 loan with an interest rate of 11.75%. Pursuant to their loan, the mortgage payment was $4,174, about $2,000 more per month than their previous mortgage. After they fell behind on their payments and the 18% default interest rate was applied, their monthly payment became $6,130. During the relevant time period, Mr. Saint-Jean worked as a paraprofessional for the New York City Department of Education, and Mrs. Saint-Jean as a home health aide. They never earned the required $102,000 per year otherwise required to obtain this loan.

Felex and Yanick Saintil (the "Saintils") also live in a forecloseable Canarsie home. Mr. Saintil works as a truck driver and Mrs. Saintil, prior to the stroke she suffered during the pendency of this action, worked as a home health aide. The Saintils closed on a $325,000 STAR loan with an initial interest rate of 9.65% and a monthly payment of $3,145.85. They never earned the approximately $94,000 otherwise required for their loan, and their approximately $3,000 per month payment ballooned to over $4,000 per month by 2007. The Saintils made several unsuccessful attempts to modify their loan. By March 2010, Emigrant approved a loan

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

modification for the Saintils, waived both the default interest provision and approximately $14,000 in "unpaid charges" and reduced their monthly payments to $2,804.38 and their interest rate to 6% for five years. As part of the modification, the Saintils signed a document intended to waive and release all claims they may have had up to the date of the modification. The Saintils were unable to keep up with the $2,804.38 monthly payment and remain in several years' worth of arrears.

Jeanette and Beverley Small (the "Smalls"), a mother and daughter, refinanced their home with Emigrant in August of 2006. They borrowed $330,000 with an interest rate of 9.875%, and a monthly payment of $3,261. After one late payment, their monthly payment shot up to $5,480. The Smalls never earned the approximately $82,000 required for their loan. The Smalls eventually sold their home to avoid foreclosure. The parties dispute the extent of the financial loss the Smalls suffered from their STAR NINA loan, but it is undisputed that the Smalls repaid the amounts then-owed Emigrant in full.

Linda Commodore ("Commodore") refinanced the mortgage on her Manhattan co-op in 2004 through Emigrant's STAR NINA program, and received $125,000. Commodore did not earn the annual income of $54,792 required for the loan and her credit score was 553. Her payments ballooned from $983.38 to almost double that amount after a missed payment. Like other Plaintiffs, she too was denied the opportunity to make a late payment and, like the Smalls, also sold her home to avoid foreclosure. Indeed, Commodore sold her home for $40,000 less than its value.

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

WHAT WILL YOU BUILD? | **sales@docketalarm.com** | **1-866-77-FASTCASE**

fastcase®
Smarter legal research.