

Attorney General Eric T. Schneiderman

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A.G. Schneiderman To Sue Wells Fargo & Bank Of America For Violating National Mortgage Settlement

Attorney General Has Documented Hundreds Of Cases Of Homeowners Put At Risk By Banks' Violations Of Settlement Terms

Schneiderman: The Terms Of The Settlement Are Clear And They Will Be Enforced In New York State

NEW YORK — Attorney General Eric T. Schneiderman today announced his intention to sue Bank of America and Wells Fargo for repeatedly violating the terms of the National Mortgage Settlement. Signed in 2012, the Settlement required the five largest mortgage servicing banks in the United States to improve their customer service practices by complying with new mortgage servicing rules, known as the Servicing Standards. Among these are four standards dictating the timeline for banks to process mortgage modification applications. Attorney General Schneiderman's office has documented 339 violations of those standards by Wells Fargo and Bank of America since October 2012.

In response to complaints from New York homeowners put at risk by these banks' violations of the standards, Attorney General Schneiderman sent a letter to the parties that oversee the National Mortgage Settlement informing them that he intends to sue Wells Fargo and Bank of America. This would be the first time an Attorney General will have brought a legal enforcement claim under the auspices of the National Mortgage Settlement.

"The five mortgage servicers that signed the National Mortgage Settlement are legally required to take specific, rigorous, and enforceable steps to protect homeowners," **Attorney General Schneiderman** said. "Wells Fargo and Bank of America have flagrantly violated those obligations, putting hundreds of homeowners across New York at greater risk of foreclosure. I intend to use every tool available to my office to hold these companies accountable under the terms of the National Mortgage Settlement."

Last year, Attorney General Schneiderman joined 48 states, the Department of Justice and the five largest mortgage servicers in negotiating the settlement. The Agreement includes \$25 billion for 49 states and mandated forms of consumer relief, such as mortgage modifications for at-risk homeowners, which could include lower-interest rates, forbearance agreements, and principal reductions.

The Settlement also includes 304 "Servicing Standards" which participating servicers are required to adhere to, and which are intended to make it easier for homeowners to seek loan modifications. The Servicing Standards were incorporated into the National Mortgage Settlement in order to address long standing complaints from consumers and advocates that servicers subject to the Settlement—Ally Financial/GMAC, JP Morgan Chase, Citibank, Bank of America and Wells Fargo—persistently failed to provide fair and timely services to their customers.

The Servicing Standards include: a prohibition against dual tracking (the practice of negotiating a loan modification with a borrower while simultaneously pursuing foreclosure); a requirement that every customer requesting assistance be assigned a single point of contact; and four requirements that dictate the timeline in which the servicers must respond to customers who are actively seeking loan modifications.

The Settlement Agreement also provides that any party to the Settlement may bring an

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enforcement action in U.S. District Court for the District of Columbia following a 21-day notice to the Monitoring Committee set up to enforce the agreement. During the 21-day notification period, the Committee may choose to pursue the litigation on behalf of the party using the Committee's own authority under the Settlement, or they may defer action. If the Committee defers then the complaining party may pursue the legal claim on their own after waiting an additional 21 days.

On Friday, Attorney General Schneiderman sent a letter to the Monitor, Joseph Smith, and to each member of the Monitoring Committee notifying them of his intention to bring a legal claim if the Committee does not act. The letter includes written complaints against Bank of America and Wells Fargo, and a significant amount of back up documentation demonstrating the severity of the violations. Schneiderman intends to ask the court to impose injunctive relief and to require strict compliance under the Settlement.

"We appreciate Attorney General Schneiderman's efforts to hold the big banks accountable to communities," said **Josh Zinner, co-director of the Neighborhood Economic Development Advocacy Project**. "The banks are systematically violating the terms of the National Mortgage Settlement, and we hope this action by the AG will push other state and federal regulators to draw a line in the sand against abusive mortgage servicing practices."

Attorney General Schneiderman announced the legal action at his office. In addition to Mr. Zinner, the Attorney General was joined by New York Communities for Change, Center for New York City Neighborhoods, Empire Justice Center, Faith NY, South Brooklyn Legal Services, and representatives of housing counseling agencies and legal services organizations that assisted his office in documenting violations by the banks. Many of the organizations that attended are grantees of the Attorney General's Homeowner Protection Program, or HOPP, a three year, \$60 million commitment to fund housing counselors and legal services providers in order to help homeowners avoid foreclosure. He was also joined by homeowners who have suffered delays in the mortgage modification process in violation of the Servicing Standards.

Violations of the timeline standards increase the likelihood that distressed homeowners will lose their homes because the longer mortgage modification are delayed, the deeper homeowners fall in to arrears. Additional fees, penalties and interest accrue during periods of delay, making a modification more difficult and pushing homeowners closer to the brink of foreclosure.

"It is beyond frustrating," said **Megan Faux, Acting Director of Legal Services NYC Brooklyn**. "We have many clients who are at risk of losing their homes to foreclosure simply because Wells Fargo failed to properly review complete loan modification packages sitting in their office for months. Accountability to the servicing standards is essential to ensuring homeowners have a fair opportunity to negotiate an affordable mortgage and ending the housing crisis. I am so grateful to AG Schneiderman for his leadership on this issue and for taking full advantage of this powerful enforcement tool."

The problem is all too real for Joyce and Alton Harden who have lived in their home in the Rockaways for 35 years, and who have been trying to negotiate with Wells Fargo for a loan modification for the past three years. After suffering a series of setbacks, starting with an on-the-job injury that kept Mr. Harden out of work for several months, and culminating with suffering massive damage to their home when Hurricane Sandy hit, the Hardens ended up in foreclosure. The Hardens reached out to MFY Legal Services who helped them prepare a full loan modification package that was submitted to Wells Fargo in early March.

Under the Settlement, Wells Fargo is required to respond to the loan modification request within 30 days. Despite that requirement, the Hardens did not hear a word back until late last week when Wells Fargo wrote to ask them to start the process over again and to resubmit a new application. Meanwhile the Hardens remain in foreclosure, uncertain about their future and desperate to move past this process.

"My husband and I are heading into our 70's and we want to move past this and enjoy this part of our lives without this constant threat hanging over our heads," said **homeowner Joyce Harden**. "We hope Attorney General Schneiderman's actions

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will finally help us settle this case and save our home.”

The 339 violations received by the Office of the Attorney General allege that Wells Fargo and Bank of America violated four Servicing Standards relating to the timeline for processing mortgage modifications. Specifically:

1. Borrower must receive written acknowledgement of receipt of a loan modification application within 3 business days or receipt.
2. Servicer must notify borrower of all missing documents or deficiencies in the application within 5 business days of receipt of the borrower’s initial loan modification application.
3. Servicer must give borrower 30 days to submit missing documentation or correct a deficiency.
4. Servicer must make a decision on a complete loan modification application within 30 days.

By mid-November of last year, the Attorney General’s Office received numerous complaints from HOPP housing counselors and legal services attorneys from across New York State alleging that Bank of America and Wells Fargo repeatedly failed to respond to homeowners seeking loan modification within the timeline dictated by the Servicing Standards. In response, the Attorney General created a special complaint form to monitor compliance with the four timeline related Servicing Standards. By the end of April, Attorney General Schneiderman’s office had collected complaints citing 210 violations by Wells Fargo, and 129 violations by Bank of America.

Attorney General Schneiderman’s letter to the Monitoring Committee notifying them of his intent to sue Bank of America and Wells Fargo may be found here:

www.ag.ny.gov/pdfs/Letter%20to%20Monitoring%20Committee%20NYS%20AG%205%206%2013.pdf

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