

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO.:502017CA003860XXXXMBAG

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR SG
MORTGAGE SECURITIES TRUST 2005
OPTI ASSET-BACKED CERTIFICATE
SERIES 2005,

Plaintiff/Counter-Defendant,

vs.

MONIQUE L'ITALIEN, and STEFANIE L'ITALIEN,
etc., et. ux., et al.,

Defendants/Plaintiffs-in-Counterclaim

vs.

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR SG
MORTGAGE SECURITIES TRUST 2005
OPTI ASSET-BACKED CERTIFICATE
SERIES 2005, and OCWEN LOAN
SERVICING, LLC.,

Defendants-in-Counterclaim

**MOTION FOR FINAL APPROVAL OF SETTLEMENT AND TO APPROVE
DISTRIBUTION OF CLASS DAMAGES, ATTORNEY FEES AND THE CLASS
REPRESENTATIVE FEES**

Monique L'Italien, as class representative, and the Class Plaintiffs (who, with Monique L'Italien, are referred to herein as "Class Plaintiffs") respectfully ask this Court to enter an order granting final approval of settlement of the class action counterclaim asserted by Class Plaintiffs against Counterclaim Defendant HSBC Bank USA, National

Association as Trustee for SG Mortgage Securities Trust 2005 OPTI Asset-Backed Trust 2005-OPTI ("HSBC"), and Counterclaim Defendant PHH Mortgage Corporation, as successor by merger to Ocwen Loan Servicing, LLC ("Ocwen" and collectively with HSBC, "Counterclaim Defendants"), and enter a Final Judgment on behalf of the Class Plaintiffs in the amount of the agreed upon monetary damages, the agreed upon attorney fees and costs, and the agreed upon Class Representative incentive fee, and authorize distribution of the same as outlined herein.

As grounds for this motion, Class Plaintiffs state:

1. This is a class action counterclaim alleging that the Counterclaim Defendants improperly charged and attempted to collect from Class Plaintiffs, improper and illegitimate charges through mortgage account statements ("MAS"), in violation of the Florida Consumer Collection Practices Act ("FCCPA"), the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), and in breach of the mortgage contracts. The Counterclaim Defendants denied these allegations and raised numerous affirmative defenses.

2. The Court certified the class on September 30, 2024 (D.E. 1178), and the certification was affirmed by the Fourth District Court of Appeal on May 15, 2025. On August 8, 2025, at the Court ordered mediation, conducted by the Honorable retired Circuit Court Judge Michael A. Hanzman, the parties settled all pending issues of the class action counterclaim, including attorney fees and costs. The parties formalized their settlement in a Settlement and Release Agreement, which is attached as **Exhibit A**.

3. The terms of the settlement include the following:
- a. Counterclaim Defendants will pay Class Plaintiffs monetary damages totaling \$1,200,000. As to those Class Members with loans that have reached a final outcome or disposition ("Resolved Loans"), the damages shall be allocated as follows:
 1. **Property Maintenance Class:** Each member of this class shall receive statutory damages in the amount of \$250 for a total of \$36,750.00.
 2. **Service of Process Class:** Each member of this class shall receive damages in the amount of \$65.00 for a total of \$769,405.00
 3. **Attorney Fee Class:** Each member of this class shall receive damages in the amount of \$14.14 for a total of \$383,845.00.
 - b. For those Class Members with loans that have not yet reached a final outcome or disposition ("Active Loans"), Counterclaim Defendants shall reduce the balance of each such class members' account in accordance with the three classes outlined above. Counterclaim Defendants will notify, either on its own or through the Class Administrator, the class members that the specific amount(s) of their account balance has been reduced pursuant to the class action Settlement and Release Agreement and provide a copy of the notice to Class Counsel and the Class Administrator.
 - c. Separately, and only after the Class Plaintiffs' damages were resolved, Counterclaim Defendants agreed to pay Class Counsel \$1,990,000.00 to settle the claim for attorneys' fees and costs. Therefore, the Class Plaintiffs' damages will not be reduced by any amount for attorneys' fees or costs. Further, Class

Counsel significantly reduced their lodestar to secure the final settlement of this action and bring the class action counterclaim to a conclusion.

d. Counterclaim Defendants also agreed to pay \$10,000.00 to Monique L'Italien for her services as Class Representative, which included two depositions, attendance and testifying at the five-day class certification hearing, attending the all-day mediation, and always being available to consult with Class Counsel on behalf of the class.

e. Counterclaim Defendants agreed to be responsible for all administrative costs incurred by the Class Administrator after the effective date of the Class Action Settlement and Release Agreement in relation to sending out the Class Notice, and all costs in relation to providing the settlement checks to Class Members as outlined in **Exhibit A**.

f. Class Plaintiffs have agreed to the appropriate release provisions outlined in **Exhibit A**.

4. It is well established that under Florida law, settlement agreements such as the one in this case are "highly favored." *Dozier v Scruggs*, 380 So. 3d 505, 508-509 (Fla. 5th DCA 2024) (citing *Robbie v City of Miami*, 469 So. 2d 1384, 1385 (Fla. 1985) ("settlement agreements are highly favored and will be enforced whenever possible")). This "strong policy in Florida... is especially fitting when the settlement resulted from formal mediation." *Id.* (*Lentz v. Cmty Bank of Florida*, 189 So. 3d. 882, 887, (Fla 3d DCA 2002)).

5. In addition to this well-established law, Class Plaintiffs point out this class action counterclaim has been in litigation since 2018 and involved complex legal claims

and defenses. The case was aggressively defended in both the trial and appellate courts. The Counterclaim Defendants filed motions to dismiss and for summary judgment that were denied. After a five-day evidentiary hearing, the Court certified the four separate classes sought by Class Plaintiffs.

6. Over the last seven years, no attorneys' fees or costs have been paid to Class Counsel. Class Counsel, on behalf of the class, believe they have achieved a favorable outcome given the amount of damages allowed under Florida law. Additionally, Class Counsel has and will continue to have responsibilities in obtaining the necessary Court approvals, and with the assistance of the Class Administrator send out the notice of the settlement to the class. Further, Class Counsel will work with and supervise the Class Administrator regarding the distribution of monetary damages to class members. Class Counsel will not be seeking any additional fees for these services.

7. On November 25, 2025, the Class Plaintiffs filed their Motion for Preliminary Approval of Settlement (D.E. 1304). On December 17, 2025, the Court granted the Motion for Preliminary Approval and set a hearing for final approval for February 19, 2026, at 10 a.m. (D.E. 1306). The Court also issued a separate notice for the final approval hearing. (D.E. 1305). The Motion for Preliminary Approval, the Court's Order granting said motion, and the Notice of Hearing, are listed on the Silber & Davis website link for this litigation, which was previously provided to Class Plaintiffs, with the Notice of Class Certification. Additionally, a Class Notice of Settlement, approved by the parties and the Court, has been sent to all class members advising them of the terms of the settlement, including attorney fees and expenses, and again provided the Silber & Davis website link to allow class members to review the Settlement and Release Agreement, and related pertinent

pleadings in this case. The Class Notice of Settlement also informed class members of the date and time the Court set for the final approval hearing, along with the Zoom link for said hearing, so any class member and/or their counsel could attend the hearing in person or by Zoom. The Notice of Settlement also advised that any class member could file an objection in writing to any portion of, or to the entire settlement, indicating whether the objection applies solely to the objector or to the entire class. Other requirements and procedures for filing an objection were clearly explained in the Notice of Settlement. Importantly, the Notice of Settlement specified that any objection had to be filed and served on counsel for the respective parties, by February 4, 2026, 15 days before the February 19, 2026, hearing, or the Court may not consider the objection. As of the date of this motion, Class Counsel has not received any objections.

8. At the hearing for final approval, Class Counsel will be prepared to answer any questions the Court may have regarding the terms of the settlement and the fairness of the agreed upon attorneys' fees. Attached as **Exhibit B** is the affidavit of the Honorable Lucy Chernow Brown, retired Circuit Court Judge of the Fifteenth Judicial Circuit who as a Circuit Court Judge presided over a number of class action cases, some dealing with similar issues involved in this case. Judge Brown is also familiar with the reputation and experience of Class Counsel. Judge Brown will be available to testify at the hearing and answer any questions the Court may have regarding the attorneys' fees.

9. Finally, the Class Administrator will have the responsibility, if necessary, to follow up in attempting to locate the appropriate addresses of the class members.

WHEREFORE, it is respectfully prayed that the Court grant this Motion, and enter an Order granting Final Approval of Settlement, and enter a Final Judgment for the agreed

upon monetary class damages, attorney fees, costs, and Class Representative fees. It is further requested that the Court's Order approving the settlement contain the following:

- a. A finding that the Court has personal jurisdiction over all Settlement Class Members, subject matter jurisdiction over the claims asserted, and that venue is proper.
- b. A finding that the Settlement is fair, reasonable, and adequate.
- c. A finding that the Settlement Class Plaintiffs will be prohibited from filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise) any Released Claims as that term is defined in **Exhibit A** attached hereto.
- d. A finding that by operation of the entry of the Final Judgment, all Settlement Class Plaintiffs shall have forever released, relinquished, and discharged the Released Persons from any and all Released Claims, as defined in **Exhibit A**.
- e. That the Court's Order specify that "Released Claims" do not include claims unrelated to the Class Action Litigation and also do not include any related or unrelated claim to the extent it arises from actions undertaken after the effective date of the Settlement and Release Agreement.
- f. That the Settling Parties implement the terms of the Settlement Agreement, including the following:
 1. That the Counterclaim Defendants, within 30 days from the date of the Court's Order, transmit to the Class Administrator \$1,200,000.00 less all amounts related to the Active Loans in accordance with Section II(b) of attached **Exhibit A**. That within 30 days after the reduction in balance is

effectuated, Counterclaim Defendants shall notify, either on its own or through the Class Administrator, each such class member that the specific amount(s) of their account balance has been reduced pursuant to this Class Action Settlement and Release Agreement, and provide a copy of such notice to Class Counsel and the Class Administrator.

2. That the Counterclaim Defendants, within 30 days from the date of the Court's Order, transmit to the trust account of Silber & Davis, \$1,990,000, the agreed amount of attorneys' fees and costs.
3. That the Counterclaim Defendants, within 30 days from the date of the Court's Order, transmit to the trust account of Silber & Davis, \$10,000.00, the agreed amount of fees to be paid to the Class Representative, Monique L'Italien.
4. Authorize the Class Administrator to distribute the appropriate monetary damages via check to the class members, and authorize Class Counsel to distribute the attorneys' fees and costs to Class Counsel, and the class representative fee to the Class Representative.
5. Reserve jurisdiction to enforce the terms of the Settlement, including the issuance of any related orders necessary to effectuate the Final Approval of the Settlement Agreement and its implementation.

CERTIFICATE OF SERVICE

We hereby certify that a true and correct copy of the foregoing was filed and served via an automatic email generated by the Florida Courts E-filing Portal in compliance with

Fla. R. Gen. Prac. & Jud. Adm. 2.516 to all counsel listed on the Court's e-Filing Portal,
this 4th day of February, 2026.

Respectfully submitted,

Philip M. Burlington, Esq.
Nichole J. Segal, Esq.
Burlington & Rockenbach, P.A.
1601 Forum Pl., Ste. 600
West Palm Beach, FL 33401
(561) 721-0400
pmb@FLAppellateLaw.com
njs@FLAppellateLaw.com
kbt@FLAppellateLaw.com

SILBER & DAVIS
501 S. Flagler Drive, Suite 306
West Palm Beach, FL 33401
(561) 615-6262 Tel.
(561) 615-6263 Fax:
lsilber@silberdavis.com
adavis@silberdavis.com
dnigels@silberdavis.com

By: /s/ Louis M. Silber
Louis M. Silber
Fla. Bar No. 176031

LAW OFFICES OF
JAMES A. BONFIGLIO, PA
James A. Bonfiglio, Esq.
PO Box 1489
Boynton Beach, FL 33425-1489
(561) 734-4503 Tel
(561) 734-1872 Fax
tilalawyer@aol.com

Searcy Denney, etc.
Jack Scarola, Esq.
2139 Palm Beach Lakes Blvd.
West Palm Beach, FL 33409
Primary: JSX@SearcyLaw.com

SERVICE LIST

John Anthony Van Ness, Esq.
Van Ness Law Firm, P.A.
1239 E. Newport Center Drive, Suite 110
Deerfield Beach, FL 33442
E-Filing@vanlawfl.com
TVanness@vanlawfl.com
Nancy A. Perez, Esq.
nperez@vanlawfl.com
Nelson Perez, Esq.
pleadings@vanlawfl.com

Bridget Ann Berry, Esq.
berryb@gtlaw.com
whitfieldd@gtlaw.com

Greenberg Traurig, P.A.
777 S. Flagler Drive, Suite 300 East
West Palm Beach, FL 33401

Patrick Broderick, Esq.

broderickp@gtlaw.com

Brandon Leon, Esq.

leonb@gtlaw.com

Adam P. Hartley, Esq.

hartleya@gtlaw.com

Robert Stephen Galbo, Esq.

galbor@gtlaw.com

burket@gtlaw.com

flservice@gtlaw.com

Brenden I. Herbert, Esq.

Polsinelli, PC

315 S. Biscayne Blvd., Suite 400

Miami, FL 33131-2380

bherbert@polsinelli.com

Richard A. Jacobsen, Esq. (Pro Hac Vice)

51 West 52nd Street

New York, NY 10019-6142

rjacobson@orrick.com

Thomas N. Kidera, Esq. (Pro Hac Vice)

tkidera@orrick.com

pateam1@orrick.com

nymao@orrick.com

Aaron M. Rubin, Esq. (Pro Hac Vice)

arubin@orrick.com

EXHIBIT A

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (the "Agreement") is made and entered into as of the last day set forth on the signature page ("Effective Date") by and between Counterclaim Plaintiff Monique L'Italien ("Counterclaim Plaintiff"), both individually and on behalf of the Settlement Class defined below, and Counterclaim Defendant HSBC Bank USA, National Association as Trustee for SG Mortgage Securities Trust 2005 OPT1 Asset-Backed Securities Trust 2005-OPT1 ("HSBC") and Counterclaim Defendant PHH Mortgage Corporation, as successor by merger to Ocwen Loan Servicing, LLC ("Ocwen," and collectively with HSBC, "Counterclaim Defendants") (Counterclaim Plaintiff and Counterclaim Defendants shall be referred to as the "Settling Parties" or "Parties").

RECITALS

This Agreement is entered into with reference to the following facts:

- A. WHEREAS, on June 11, 2020, Counterclaim Plaintiff filed the operative Third Amended Class Action Counterclaim (the "Action"), which the Court deemed filed on June 22, 2020. On December 16, 2022, Counterclaim Defendants filed a Motion for Summary Judgment, which was subsequently denied by the Court on May 8, 2023.
- B. WHEREAS, on September 30, 2024, the Court granted Counterclaim Plaintiff's Amended Motion for Class Certification. On October 9, 2024, Counterclaim Defendants filed their Notice of Appeal of the Class Certification Order. On May 15, 2025, Counterclaim Defendants' appeal was denied.
- C. WHEREAS, on January 23, 2025, Counterclaim Plaintiff filed a Motion for Partial Summary Judgment, which was scheduled for hearing on August 15, 2025, but has since been taken off calendar per the request of the Settling Parties.
- D. WHEREAS, on March 3, 2025, the Court set the case to be ready for trial by September 5, 2025.
- E. WHEREAS, the Settling Parties have engaged in extensive settlement negotiations and engaged the assistance of mediator Hon. Michael A. Hanzman of Bilzin Sumberg Baena Price & Axelrod LLP, including participating in a full day mediation session on August 8, 2025.
- F. WHEREAS, the Settling Parties are fully apprised of the facts set forth in these Recitals and of the facts and contentions raised in the Action.
- G. WHEREAS, the Settling Parties understand that Counterclaim Defendants deny all allegations, claims and defenses made by Counterclaim Plaintiff, individually and on behalf of the Settlement Class (as defined below).
- H. WHEREAS, Counterclaim Plaintiff, individually and on behalf of the Settlement Class (as defined below), desires to settle the Action upon the terms and conditions of this Agreement (the "Settlement"). The Settling Parties have concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the legal and factual defenses thereto and the applicable law, that it is in the best interest of the Settling

Parties to enter into this Agreement to avoid the uncertainties of litigation and to assure that the benefits set forth below are obtained for Counterclaim Plaintiff and the Settlement Class (as defined below). Further, Class Counsel (as defined below) considers the Settlement set forth in this Agreement to be fair, reasonable, and adequate and in the best interests of Counterclaim Plaintiff and the Settlement Class (as defined below).

- I. WHEREAS, this Agreement does not address, release, or waive in any way Counterclaim Defendants' rights to prosecute foreclosures and/or foreclose upon properties, including with respect to the pending foreclosure action against Counterclaim Plaintiff.
- J. NOW THEREFORE, in consideration of the foregoing and the covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged herein, the Settling Parties agree, subject to the approval by the Court, as follows:

I. SETTLEMENT PROCEDURES

1. **Reasonable Best Efforts to Effectuate This Settlement.** The Settling Parties: (a) acknowledge that it is their intent to consummate this Agreement, and (b) agree, subject to their fiduciary and other legal obligations, to cooperate to the extent reasonably necessary to effectuate and implement the terms and conditions of this Agreement and to exercise their best efforts to accomplish the terms and conditions of this Agreement. The Parties, Class Counsel (as defined below), and Counterclaim Defendants' Counsel agree to cooperate with one another reasonably and in good faith in (a) seeking Court approval of the Preliminary Approval Order, the Agreement, and the Final Order and Judgment and, in the event of any appeal(s), to use their reasonable best efforts to effect prompt consummation of this Agreement and the proposed Settlement; (b) promptly agreeing upon and executing all such other documents as may be reasonably required to obtain final approval of the Agreement; and (c) resolving any disputes that may arise in the implementation of the terms of this Agreement.
2. **Certification of Class and Class Counsel.** The settlement class is defined as follows: All persons in the State of Florida whose mortgage contracts have been or are being serviced by Ocwen acting on behalf of HSBC and for other note or mortgage holders from February 15, 2014, until the present, where Ocwen attempted to collect through the mortgage account statements the following:
 - a. Amounts for service of process for unknown spouse(s) and/or unknown tenant(s) in possession of subject property or any such reference to unknown spouses or tenants such as "John Doe" or "Jane Doe".
 - b. Amounts of attorney fees where legal services were not performed, or where there was no proof that any such legal services were performed or how much time was involved in performing said services, such as the legal services alleged to have occurred after the filing of the complaint through service of process.
 - c. Amounts for property maintenance where neither Ocwen nor anyone on Ocwen's behalf provided any maintenance on the property or the amount of a registration fee

for properties located in West Palm Beach, Florida from 2014 to 2020 where the property owner never vacated or abandoned the property; and

d. Amounts attributable to attempts to collect mortgage payments that are not yet due.

(collectively the "Settlement Class"). Additionally, class counsel for the Settlement Class is defined as Jack Scarola (Searcy Denney Scarola Barnhart & Shipley, PA), Louis M. Silber (Silber & Davis), James Bonfiglio (Law Offices of James A. Bonfiglio), and Philip M. Burlington and Nichole Segal (Burlington & Rockenbach, P.A.) (collectively, "Class Counsel").

3. **Preliminary Approval.** After good-faith consultation with Counsel for Counterclaim Defendants, and within twenty (20) days after the execution of this Agreement, Class Counsel shall move the Court for entry of an order granting preliminary approval of this Agreement (the "Preliminary Approval Order"), which order shall (a) preliminarily approve the settlement memorialized in this Agreement as fair, reasonable, and adequate; (b) approve the proposed class notice (the "Class Notice"), authorize its dissemination to the Class, and determine that such Class Notice complies with all legal requirements, including, but not limited to, the Due Process Clause of the United States Constitution; (c) set a date for a final approval hearing (the "Final Approval Hearing"); (d) set deadlines consistent with this Agreement for submissions of objections, and the filing of papers in connection with the Final Approval Hearing; (e) authorize the Settling Parties to take all necessary and appropriate steps to establish the means necessary to implement the Settlement Agreement; and (f) issue related orders to effectuate the preliminary approval of the Settlement Agreement. The Settling Parties shall, in good faith, take reasonable steps to secure expeditious entry by the Court of the Preliminary Approval Order.
4. **Class Notice.** As part of the motion for preliminary approval, Class Counsel shall submit to the Court for approval a proposed form of, method for, and schedule for dissemination of notice to the Class (the "Notice Plan") to be administered by the Class Administrator through mail and email, where available. The Notice Plan shall ask the Court to find that the proposed form of and method for dissemination of notice to the Settlement Class constitutes valid, due, and sufficient notice to the Class; constitutes the best notice practicable under the circumstances; and complies fully with the requirements of Fla. R. Civ. P. 1.220 and constitutional due process. The proposed form of notice to the class ("Class Notice") will be attached to the Motion for Preliminary Approval as Exhibit A. The Class Administrator may adjust the font size, folding, and other printing elements or presentation as necessary for efficient envelope and postage considerations.

The failure of any Settlement Class Member to receive the Class Notice or any other document as described in this Agreement shall not be a basis for invalidating this Agreement, any order entered pursuant thereto, or any of the exhibits or documents referenced herein.

5. **Final Approval.** Not fewer than fifteen days prior to the date set by the Court to consider whether this Settlement should be finally approved, Class Counsel shall submit a motion for final approval ("Final Approval Motion") of this Agreement by the Court. Class Counsel shall seek entry of the final approval order ("Final Approval Order") and Final Judgment after

good-faith consultation with Counsel for Counterclaim Defendants. The Final Approval Order shall (a) find that the Court has personal jurisdiction over all Settlement Class Members, subject-matter jurisdiction over the claims asserted in this action, and that venue is proper; (b) finally approve the Settlement as fair, reasonable, and adequate; (c) give the terms of this Agreement final and complete effect; (d) permanently bar Counterclaim Plaintiff and all Settlement Class Members from filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise) any Released Claims; (e) find that, by operation of the entry of the Judgment, Counterclaim Plaintiff and all Settlement Class Members shall be deemed to have forever released, relinquished, and discharged the Released Persons from any and all Released Claims; (f) authorize the Settling Parties to implement the terms of the Settlement Agreement; (g) find that all other requirements necessary to effectuate this Settlement have been met and satisfied; and (h) otherwise enter final judgment in the Action, including any related orders necessary to effectuate the Final Approval of the Settlement Agreement and its implementation. The Settling Parties agree to support entry of the Final Approval Order and the Judgment. The Settling Parties will reasonably cooperate with one another in seeking entry of the Final Approval Order and of the Judgment.

Class Counsel and counsel for the Counterclaim Defendants agree to exchange drafts of any motions, memoranda or other materials to be filed with the Court in connection with this Settlement at least two (2) days prior to the date any such motion, memoranda or other materials are to be filed with the Court. Upon entry of the Final Approval Order and the Judgment: (i) the Settlement Agreement shall be the exclusive remedy for any and all Settlement Class Members; (ii) the Released Persons shall not be subject to liability or expense for any of the Released Claims to any Settlement Class Member(s); and (iii) Settlement Class Members shall be permanently barred from filing, commencing, prosecuting, intervening in, or participating in (as class members or otherwise) any action in any jurisdiction based on any of the Released Claims.

II. SETTLEMENT COMPENSATION

In full, complete, and final settlement of the Settlement Class's released claims, the Parties agree to the following:

1. **Settlement Benefits.** The Settlement Class Members shall be entitled to aggregate relief totaling \$1,200,000, which shall be distributed in the following manner:

- a. **Settlement Class Members with Resolved Loans**

For Settlement Class Members with loans that have reached a final outcome or disposition ("Resolved Loans"), Counterclaim Defendants shall provide payment to each such member as follows:

- A. **Property Maintenance Class:** Each member of this class shall receive statutory damages in the amount of \$250, for a total of \$36,750 (the "Property Maintenance Class")
 - B. **Service of Process Class:** Each member of this class shall receive damages in the amount of \$65.00 for a total of \$769,405.00 (the "Service of Process Class")

- C. **Attorney Fee Class:** The remaining Settlement funds of \$393,845 shall be allotted on a pro rata basis to the members of this class, and each member shall receive damages in the amount of \$14.14 (“the Attorney Fee Class”).

The Class Administrator will be responsible for mailing all settlement checks to the appropriate Class Members using the addresses provided by the Counterclaim Defendants. The Class Administrator will have the responsibility, if necessary, to follow up in attempting to locate the appropriate addresses of the class members.

Counterclaim Defendants will be responsible for all administrative costs by the Class Administrator incurred after the effective date of this Agreement in relation to sending out the Class Notice, and all costs in relation to providing the settlement checks to Class Members. The Class Administrator’s charges will be in accordance with reasonable and customary charges for services provided by class administrators considering the size of the three classes and the amount of damages. The Class Administrator will send out invoices either directly to the Counterclaim Defendants or to Class Counsel, who will transmit the same to counsel for the Counterclaim Defendants. Counterclaim Defendants will arrange payment directly with the Class Administrator.

All settlement checks issued shall be void if not deposited within 180 calendar days of their date of issue and shall state on the face of the check that the check will expire and become null and void unless cashed within one hundred and eighty (180) days after the date of issuance.

Neither the Settling Parties nor their counsel shall have liability whatsoever with respect to the distribution of payments to the Settlement Class Members; their determination, administration, or calculation of the payments to the Settlement Class Members; or any losses incurred in connection with any such matters. In addition to the releases set forth herein, the Settlement Class Releasers hereby fully, finally, and forever release, relinquish, and discharge the Settling Parties and their counsel from any and all such liability.

b. Settlement Class Members with Active Loans

For Settlement Class Members with loans that have not yet reached a final outcome or disposition (“Active Loans”) as of October 21, 2025, Counterclaim Defendants shall reduce the balance of each such Settlement Class Members’ account as set forth in Section II.1.a of this Agreement based on the class member category such individuals fall into. Counterclaim Defendants will notify each such class member that the specific amount(s) of the account balance has been reduced pursuant to this Class Action Settlement Agreement, and will provide a copy of said notice to Class Counsel and the Class Administrator

III. RELEASES

Subject to the Court’s entry of the Final Approval Order and Final Judgment, the Settling Parties provide the following releases:

1. **Release.** Upon entry of the Final Approval Order, Counterclaim Plaintiff and each and every Settlement Class Member, on behalf of himself or herself and on behalf of his or her respective heirs, assigns, beneficiaries, successors, agents, administrators, servants, employees,

representatives, executors, trustees, joint venturers, partners, predecessors, and attorneys (the "Settlement Class Releasers") shall be deemed to have fully, conclusively, irrevocably, forever, and finally released, relinquished, and discharged Counterclaim Defendants, and each of their future, present and former direct and indirect parents, subsidiaries, divisions, affiliates, predecessors, successors and assigns, and the future, present and former directors, officers, employees, managers, servants, principals, agents, insurers, reinsurers, shareholders, investors, attorneys, advisors, consultants, representatives, partners, joint venturers, divisions, predecessors, successors, assigns, and agents thereof ("Released Persons") from any and all claims, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, damages, losses, controversies, costs, expenses and attorneys' fees of any claims included in or related to this Class Action whether based on any federal law, state law, common law, territorial law, foreign law, contract, rule, regulation, any regulatory promulgation (including, but not limited to, any opinion or declaratory ruling), common law or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, punitive or compensatory, as of the date of Final Approval, which are included in or relate to this Class Action ("Released Claims").

For clarity, "Released Claims" do not include claims unrelated to the Class Action Litigation and also do not include any related or unrelated claim to the extent it arises from actions undertaken after the effective date of the Settlement and Release Agreement

Without in any way limiting their scope, the Released Claims cover by example and without limitation, any and all claims and defenses related to the Class Action Litigation, for attorneys' fees, costs, expert fees, or consultant fees, interest, or litigation fees, or any other fees, costs, and/or disbursements incurred by Class Counsel, Counterclaim Plaintiff, or any Settlement Class Members in connection with or related in any manner to this Settlement, the administration of this Settlement, and/or the Released Claims, except to the extent otherwise specified in the Settlement Agreement.

Counterclaim Plaintiff and the Settlement Class Members covenant and agree: (i) not to file, commence, prosecute, intervene in, maintain, or participate in (as class members or otherwise) any action in any jurisdiction based on any of the Released Claims against any of the Released Persons; and (b) that the foregoing covenant and this Agreement shall be a complete defense to any of the Released Claims against any of the Released Persons. However, this Agreement is not intended to and does not prohibit a Settlement Class Member from responding to inquiries from federal, state or local agencies and/or law enforcement, even if the inquiries relate to the Released Claims. Similarly, this Agreement is not intended to and does not prohibit a Settlement Class Member from bringing their concerns to federal, state or local agencies and/or law enforcement, even if those inquiries relate to the Released Claims.

- 2. Release of Unknown Claims.** For the avoidance of doubt, Counterclaim Plaintiff and Settlement Class Members acknowledge and agree that they may hereafter discover facts different from, or in addition to, those facts known to them or which they now believe to be true with respect to any and all of the claims, demands, actions, causes of action, suits, liens, debts, obligations, damages, liabilities, judgments, costs, expenses, and fees existing on the effective date of this Agreement. Counterclaim Plaintiff and Settlement Class Members nevertheless agree that the releases set forth herein have been negotiated and agreed upon,

notwithstanding such acknowledgment and agreement, and hereby expressly waive any and all rights which they may have under any federal or state statute or common law principle which may provide that a general release does not extend to claims which are not known to exist at the time of execution. Counterclaim Plaintiff and Settlement Class Members understand and acknowledge the significance and consequences of this waiver and assume full responsibility for any and all damages, losses, costs, and expenses they may incur hereafter related to the Released Claims.

3. **Release Limitations.** This Agreement does not address, release, or waive in any way Counterclaim Defendants' rights to prosecute foreclosures and/or foreclose upon properties related to the Settlement Class Members, including with respect to the pending foreclosure action against Counterclaim Plaintiff.

Counterclaim Defendants' execution of this Agreement shall not be construed to release any claim they may have or make against any insurer, reinsurer, indemnitor, client, loan investor, prior loan servicers, consultant, or vendor for any judgment, payment, liability, cost or expense incurred in connection with this Agreement, including, without limitation, for attorneys' fees and costs.

4. **Waiver of Appeal.** The Counterclaim Defendants, Class Plaintiffs, and Class Counsel waive their appellate rights to contest any rulings, orders, settlements, including this Settlement and Release Agreement, or final judgments entered in this Class Action Litigation.

IV. SERVICE AWARDS, ATTORNEYS' FEES, AND REIMBURSEMENT OF EXPENSES

1. **Class Representative Service Award.** The Settling Parties have agreed that, subject to court approval, a Service Award shall be awarded to the Class Representative of \$10,000 and shall be paid by Counterclaim Defendants within thirty (30) business days after entry of the Final Approval Order. This provision will be included in the Motions for Preliminary Approval and Final Approval and said service award is subject to Court Approval

Counterclaim Plaintiff acknowledges and agrees that the Court may deny the Service Award Application or award an amount less than \$10,000 to Counterclaim Plaintiff. Counterclaim Plaintiff further agrees that her agreement to this Settlement is not conditioned upon the possibility of receiving a Service Award in any amount and represents and warrants that she supports this Settlement even in the absence of a Service Award.

2. **Attorneys' Fees and Expenses.** The Settling Parties have agreed that, subject to court approval, Class Counsel shall receive \$1,990,000 for payment of (a) reasonable attorneys' fees; plus (b) reimbursement of reasonable expenses incurred in connection with prosecuting the Class Action Litigation, and shall be paid by Counterclaim Defendants within thirty (30) days after entry of the Final Approval Order. The amount of the attorney fees and costs agreed to by the Settling Parties shall be included in the Motions for Preliminary Approval and Final Approval, and the amount is subject to Court Approval.

V. CONDITIONS OF SETTLEMENT AND EFFECT OF DISAPPROVAL, CANCELLATION, OR TERMINATION

1. **Class Member Objections.** Any Class Member who wishes to object to the Settlement must serve a timely, signed written objection ("Objection") upon Class Counsel, and counsel for the Counterclaim Defendants, on or before the deadline set by the Court for filing Objections (the "Objection Deadline"). Each Objection must (a) set forth the Class Member's full name, current address, and telephone number; (b) contain the loan number and address of the property bringing the Class Member within the scope of the Class; (c) state that the Class Member objects to the Settlement, in whole or in part; (d) state whether the objection applies only to the objector or to the entire Settlement Class; (e) state with specificity the grounds for the objection; (f) provide copies of any documents that the Class Member wishes to submit in support of his or her position; (g) state whether the Class Member intends to appear at the Final Approval hearing; and (h) state whether the Class Member will be represented by separate counsel.

Objections may be served and filed by counsel for a Class Member. Lawyers asserting objections on behalf of Class Members shall: (1) file a notice of appearance with the Court before the Objection Deadline; and (2) file a sworn declaration (a) attesting to his or her representation of each Class Member on whose behalf the objection is being filed, (b) stating whether the objection applies only to the objector(s) or to the entire Settlement Class; (c) stating with specificity the grounds for the objection; and (d) specifying the number of times during the prior five-year period they have objected to a class action settlement on their own behalf or on behalf of a class member. Any Class Member who does not submit a timely Objection in complete accordance with this Agreement, the Class Notice, and any order of the Court shall not be treated as having filed a valid Objection to the Settlement, and shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or the terms of the Agreement by appeal or other means, unless the Court otherwise directs.

Any Class Member who wishes to appear at the Final Approval hearing, whether *pro se* or through counsel, must file a Notice of Appearance in the Action, take all other actions or make any additional filings as may be required in the Class Notice or as otherwise ordered by the Court, and serve the Notice of Appearance and Notice of Intention to Appear upon Class Counsel and counsel for the Counterclaim Defendants within the time set by the Court (or by the Objection Deadline, if the Court does not set another date). The Notice of Intention to Appear must include the Settlement Class Member's full name, address, and telephone number, as well as any copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member will present to the Court in connection with the Final Approval Hearing. Any Settlement Class Member who does not file a Notice of Intention to Appear in accordance with the deadlines and other specifications set forth in the Agreement and Class Notice shall not be entitled to appear at the Final Approval Hearing or raise any objections.

VI. MISCELLANEOUS PROVISIONS

1. **Counterclaim Plaintiff's Representations and Warranties.** Counterclaim Plaintiff represents and warrants that she is the sole and exclusive owner of all of her Released Claims

and that she has not assigned or otherwise transferred any interest in any of her Released Claims against any of the Released Persons, and further covenant that she will not assign or otherwise transfer any interest in any of her Released Claims. Counterclaim Plaintiff represents and warrants that she has no surviving claim or cause of action against any of the Released Persons with respect to any of the Released Claims.

2. **Voluntary Settlement.** Settling Parties agree that the terms of the Settlement as described herein were negotiated at arms-length and in good faith by the Settling Parties and their counsel and reflect a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties represent and warrant that they are relying solely upon their own judgment, belief, and knowledge, and the advice and recommendations of their own independently selected counsel, concerning the nature, extent and duration of their rights and claims hereunder and regarding all matters which relate in any way to the subject matter hereof; and that, except as provided herein, they have not been influenced to any extent whatsoever in executing the Settlement Agreement by representations, statements, or omissions pertaining to any of the foregoing matters by any Party or by any person representing any Party to the Settlement Agreement. Each of the Settling Parties assumes the risk of mistake as to facts or law.
3. **No Admission of Liability.** The Settlement compromises claims that are contested by Counterclaim Defendants and will not be deemed an admission by any Settling Party as to the merits of any claim or defense. Counterclaim Defendants deny the claims alleged in the Action and do not by this Agreement or otherwise admit any liability or wrongdoing of any kind. Counterclaim Defendants have agreed to enter into this Agreement to avoid further expense, inconvenience, and distraction of burdensome and protracted litigation. Neither the Agreement, nor any act performed or document executed pursuant to or in furtherance of the Agreement: (a) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Counterclaim Plaintiff or Settlement Class Members, or of any wrongdoing or liability of the Released Persons; or (b) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault, omission, wrongdoing, or liability of any of the Released Persons, in the Action or in any proceeding in any court, administrative agency, or other tribunal.

Counterclaim Defendants may file this Agreement (including the Exhibits thereto), the Final Approval Order, and/or the Judgment in any action that may be brought against it in order to support any defense or counterclaim, including, without limitation, those based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar or reduction, or any other theory of claim preclusion, issue preclusion, or similar defense or counterclaim.

4. **Confidentiality.** All agreements made and orders entered during the course of the Action relating to the confidentiality of information will survive this Agreement.
5. **Subsequent Events Impacting Administration.** If there are any developments in the effectuation and administration of this Agreement that are not dealt with by the terms of this Agreement, then such matters shall be dealt with as agreed upon by the Settling Parties, and failing agreement, as shall be ordered by the Court.

6. **Claims in Connection with Administration.** No Person shall have any claim against the Counterclaim Plaintiff, Counterclaim Defendants, counsel for Counterclaim Defendants, Class Counsel, or the Released Persons or their agents based on administration of the Settlement substantially in accordance with the terms of the Agreement or any order of the Court or any appellate court.
7. **Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties hereto. Without limiting the generality of the foregoing, each and every covenant and agreement herein by Counterclaim Plaintiff shall be binding upon all Settlement Class Members, their representatives, heirs, successors and assigns, as upon and to the benefit of the Counterclaim Defendants. The Settlement Agreement shall not be subject to collateral attack by any Settlement Class Member or any recipient of the notices of the Settlement Class after the Final Approval Order and Judgment are entered.
8. **Notices.** Whenever this Agreement requires or contemplates that one of the Settling Parties shall or may give notice to the other, notice shall be provided by e-mail and/or next-day (excluding Saturdays, Sundays, and legal holidays) express delivery service. All notices and responses to notices directed to any Settlement Class Member shall be addressed to Class Counsel at the email addresses set forth below, and if directed to Counterclaim Defendants, shall be addressed to counsel for Counterclaim Defendants at the email addresses set forth below or such other email addresses as Class Counsel or Counterclaim Defendants may designate, from time to time, by giving notice to all Settling Parties hereto in the manner described in this paragraph.

If directed to Counterclaim Plaintiff or any Class Member, email address notice to: Louis Silber, Silber & Davis, at LSilber@silberdavis.com or via mail at Silber & Davis, Attn: Louis Silber, 501 South Flagler Drive, Flagler Center, Suite 306, West Palm Beach, FL 33401.

If directed to Counterclaim Defendants, email address notice to: Thomas Kidera at tkidera@orrick.com, or via mail at Orrick, Herrington & Sutcliffe LLP, Attn: Thomas Kidera, 51 West 52nd Street New York, NY 10019-6142.

Subject to the terms of the Final Order and Judgment, no certifications by the Settling Parties regarding their compliance with the terms of the Settlement and this Agreement will be required. Any dispute as to the Settling Parties' compliance with their obligations under the Settlement and this Agreement shall be brought and resolved only in the Action and only by the Court, and applicable appellate courts, and in no other action or proceeding.

9. **Time Periods.** All time periods set forth herein shall be computed in calendar days unless otherwise expressly provided. In computing any period of time prescribed or allowed by this Agreement or by order of the Court, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a Legal Holiday (as defined in Fla. R. Jud. Admin. 2.514(a)), or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the clerk of court inaccessible, in which event the period shall run until the end of the next day that is not one of the aforementioned days.

The time periods and dates described in this Agreement are subject to the Court's approval. These time periods and dates may be changed by the Court or by the Settling Parties' written agreement without notice to the Settlement Class. The Settling Parties reserve the right, subject to the Court's approval, to agree to any reasonable extensions of time that might be necessary to carry out any of the provisions of this Agreement.

10. **No Party Deemed to Be the Drafter.** None of the Settling Parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law, rule of interpretation, or construction that would or might cause any provision to be construed against the drafter hereof. All Settling Parties agree that this Agreement was drafted by counsel for the Settling Parties during and through extensive arm's length negotiations with the aid of a neutral mediator. No parol or other evidence may be offered to explain, construe, contradict, or clarify this Agreement's terms, the intent of the Settling Parties or their counsel, or the circumstances under which this Agreement was made or executed.

11. **Governing Law.** This Agreement shall be governed by the laws of the State of Florida and any question arising hereunder shall be construed or determined according to such law.

Any disagreement and/or action seeking directly or indirectly to challenge, modify, construe, obtain relief from, extend, limit, or enforce this Agreement shall be brought in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida.

12. **Amendment; Waiver.** This Agreement shall not be modified in any respect except by a writing executed by Counterclaim Defendants and Counterclaim Plaintiff, by and through Class Counsel, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving party. The waiver by any party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Agreement.

13. **Breach.** If one Party to this Agreement considers the other Party to be in breach of its obligations under this Agreement, that Party must provide the breaching Party with written notice of the alleged breach and provide a reasonable opportunity to cure the breach before taking any action to enforce any rights under this Agreement.

Nothing in this Agreement shall preclude any action to enforce the terms of the Agreement, including participation in any of the processes detailed therein. The Releases set forth herein are not intended to include the release of any rights or duties of the Settling Parties arising out of the Agreement, including the express warranties and covenants contained herein.

14. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall constitute a duplicate original. Counsel for the Settling Parties to this Agreement shall exchange among themselves original signed counterparts and a complete set of executed counterparts shall be filed with the Court. This Agreement may be signed with a facsimile or PDF format signature and in counterparts, each of which shall constitute a duplicate original.

15. **Integrated Agreement.** This Agreement constitutes the sole and entire agreement and understanding amongst the Settling Parties with respect to its subject matter. This Agreement supersedes all prior negotiations, understandings, and agreements amongst the Settling Parties regarding the subject matter of this Agreement and may not be modified or amended except by a writing made in accordance with the provisions of this Agreement signed by the Settling Parties (or their respective successors in interest) and their respective counsel. The Settling Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, or understanding concerning any part of the subject matter of this Agreement has been made or relied on except as expressly set forth in this Agreement. The Settling Parties expressly acknowledge that in deciding to enter into this Agreement, they each have relied solely upon their own judgment and knowledge.

The Settling Parties expressly acknowledge and agree that this Agreement and its exhibits, along with all related drafts, conversations, negotiations, and correspondence, constitute an offer of compromise and a compromise within the meaning of Federal Rule of Evidence 408, Florida Statutes § 90.408, and any other equivalent rule of evidence in any state. In no event shall this Agreement, any of its provisions or any negotiations, statements or court proceedings relating to its provisions, or any documents created for the purposes of mediation, negotiation, or confirmatory due diligence or informal discovery, whether or not exchanged with opposing counsel, in any way be construed as, offered as, received as, used as, or deemed to be evidence of any kind in the Action, any other action, or in any judicial, administrative, regulatory or other proceeding, except in a proceeding to effectuate or enforce this Agreement or the rights of the Settling Parties or their counsel. Without limiting the foregoing, neither this Agreement nor any related negotiations, statements, or court proceedings shall be construed as, offered as, received as, used as or deemed to be evidence of an admission or concession of any proposition of fact or law or of any liability or wrongdoing whatsoever on the part of the Released Persons or as a waiver by the Released Persons of any applicable privileges or immunities (including, without limitation, the attorney-client privilege or work product immunity), claims or defenses.

16. **Attorneys' Fees and Costs.** Except as otherwise expressly provided in this Agreement, each party shall bear its own costs and attorneys' fees. However, notwithstanding this clause, in the event a dispute arises over this settlement agreement including an action to enforce its terms, the non-prevailing party shall pay the prevailing party its reasonable attorney fees and costs.

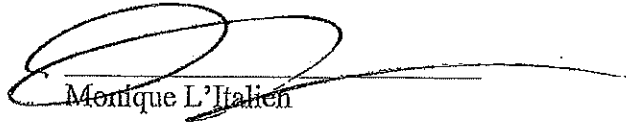
17. **Tax Consequences.** No opinion, representations, or advice regarding the tax consequences, if any, of this Agreement have been made by any Settling Party, nor is any representation or warranty in this regard made by virtue of this Agreement or Settlement. The Class Notice will direct Settlement Class Members to consult their own tax advisor(s) regarding the tax consequences of the Settlement and this Agreement, and any tax reporting obligations they may have with respect thereto. The Settling Parties further understand and agree that each Settling Party, each Settlement Class Member, Class Counsel, and Counterclaim Plaintiff shall be responsible for his, her, its, or their own taxes, if any, resulting from this Agreement and any payments made pursuant to this Agreement, and it is understood that the tax consequences may vary depending on the particular circumstances of each individual Settlement Class Member. Nothing in this Agreement or in the Class Notice is to be construed as tax advice of any kind.

18. **Bankruptcy Proceedings.** The Settling Parties agree that any Settlement Class Member who is in active bankruptcy proceedings or previously was a party to bankruptcy proceedings during the period of time covered in the definition of the Settlement Class may only participate in the Settlement subject to applicable bankruptcy law and procedures.
19. **No Conflict Intended; Headings; Recitals.** All of the Exhibits to this Agreement are material and integral parts hereof and are fully incorporated herein by this reference. Any inconsistency between this Agreement and the exhibits attached hereto shall be resolved in favor of this Agreement. The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement. The recitals of this Agreement are incorporated by this reference and are part of this Agreement.
20. **Severability.** If any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions shall not be affected thereby.
21. **Headings and Captions.** The headings and captions inserted into this Agreement are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement.
22. Nothing herein shall be deemed a waiver of any prior release individually executed between the Counterclaim Defendants and any Settlement Class Member.

IN WITNESS WHEREOF, the Settling Parties hereto, through their fully authorized representatives, have entered into this Agreement as of the date first below written, and have executed this Settlement Agreement on the date indicated below each respective signature. The undersigned hereby certify that they have read and fully understand all of the terms, provisions, and conditions of this Agreement and have executed this Agreement voluntarily.

Counterclaim Plaintiff:

Dated: November 29, 2025

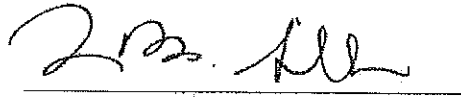


Monique L'Italien

Counterclaim Plaintiff and Class Representative

Class Counsel:

Dated: 12/1/2025, 2025



Louis M. Silber
SILBER & DAVIS

Jack Scarola
SEARCY DENNEY SCAROLA
BARNHART & SHIPLEY, P.A.

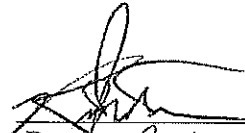
James A. Bonfiglio
LAW OFFICES OF JAMES A.
BONFIGLIO, P.A.

Philip M. Burlington
Nichole Segal
BURLINGTON & ROCKENBACH, P.A.

Counsel for Counterclaim Plaintiff and the Class

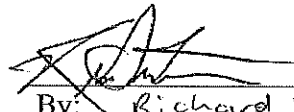
PHH Mortgage Corporation,
successor by merger to Ocwen Loan Servicing, LLC:

Dated: 12/3, 2025


By: Richard Tristan
Its: Authorized Signer


HSBC Bank USA, National Association,
as Trustee for SG Mortgage Securities Trust 2005-OPT1,
Asset Backed Certificates, Series 2005-OPT1
By its attorney in fact NewRez LLC f/k/a New Penn
Financial, LLC d/b/a Shellpoint Mortgage Servicing
By its attorney-in-fact PHH Mortgage Corporation
successor by merger to Ocwen Loan Servicing, LLC:

Dated: 12/3, 2025


By: Richard Tristan
Its: Authorized Signer

Approved as to form:

Dated: December 3, 2025


Richard A. Jacobsen
Thomas N. Kidera
Aaron M. Rubin
ORRICK, HERRINGTON & SUTCLIFFE
LLP

*Counsel for Counterclaim Defendants
HSBC Bank USA, N.A. as Trustee, and
PHH Mortgage Corporation, successor by
merger to Ocwen Loan Servicing, LLC*

EXHIBIT B

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 502017CA003860XXXMB AG

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR SG
MORTGAGE SECURITIES TRUST 2005
OPTI ASSET-BACKED CERTIFICATES
SERIES 2005-OPTI,

Plaintiff/Counter-Defendant,

vs.

MONIQUE L'ITALIEN, and STEFANIE
L'ITALIEN, etc., et. ux., et al.,

Defendants/Plaintiffs-in-Counterclaim,

vs.

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR SG
MORTGAGE SECURITIES TRUST 2005
OPTI ASSET-BACKED CERTIFICATES
SERIES 2005, and OCWEN LOAN
SERVICING, LLC,

Defendants-in-Counterclaim.

**AFFIDAVIT OF RETIRED JUDGE LUCY CHERNOW BROWN IN SUPPORT OF
SETTLEMENT OF ATTORNEY FEES**

BEFORE ME, the undersigned authority, personally appeared, retired Judge Lucy Chernow Brown, who being duly sworn deposes and says:

1. My name is Lucy Chernow Brown. I am over the age of 18, and am a retired Circuit Judge, and a member of The Florida Bar.
2. I am presently a Mediator/Arbitrator with JAMS and a Court Appointed Neutral. I also serve as a Referee and Special Master. I was a Circuit Judge in Palm Beach County for twenty-four years. During my tenure as a Judge, I presided over

thousands of civil matters including complex commercial litigation cases and class action cases. One of the class action cases I presided over was *Hewitt v. Law Office of David J. Stern, P.A.*, Case Number 50-2009-CA-036046, which included issues like the issues in this class action case. In fact, some of my rulings in that case have been cited by the trial judges in this case. I am the recipient of the Jurist of the Year Awards from the Palm Beach County Justice Association and the North County Section of the Palm Beach County Bar Association, and the Justice Pariente Award from the Palm Beach County Chapter of the Florida Association for Women Lawyers.

3. Here, Class Counsel has retained me to give my opinion on whether the settlement of attorneys' fees and costs of \$1,990,000.00 between the Class Plaintiffs and the Counterclaim Defendants is fair and reasonable. My opinion, based on the reasons explained herein, is that the settlement of attorney fees and costs is fair and reasonable.
4. In rendering my opinion, I reviewed: the docket sheet, with over 1300 entries; the Court's Order Granting the Amended Motion for Class Certification (D.E.1178), which was affirmed by the Fourth District Court of Appeal; Judge Luis Delgado's Order denying the Counterclaim Defendants' Motion for Summary Judgment (D.E. 293); the Class Plaintiff's Motion for Summary Judgment (D.E.1207); the Settlement and Release Agreement entered into by the parties; the Motion for Preliminary Approval of Settlement (D.E.1304); the Order granting the Motion for Preliminary Approval of Settlement (D. E. 1306), and; the Motion for Final Approval of Settlement. I have also spoken at length to Class Counsel to better understand the nature of the litigation, the discovery involved, the various motions filed by the parties, the evidentiary hearing resulting in the Court's Order certifying four separate classes, and the time and effort expended by Class Counsel.
5. Importantly, the case law is well established that settlement agreements are highly favored and should be enforced whenever possible. *Dozier v. Scruggs*, 380 So. 3d. 505, 508-509 (Fla. 5th DCA 2024) (citing *Robbie v. City of Miami*, 469 So. 2d 1384, 1385 (Fla. 1985). "This strong policy in Florida... is especially fitting when the settlement resulted from formal mediation." *Id.* (citing *Lentz v. Cmty Bank of Florida*, 189 So. 3d. 882, 887 (Fla. 3d DCA 2002)).
6. Here, the parties were represented by competent counsel and their settlement agreement at mediation, conducted by retired Circuit Judge Michael A. Hanzman, was agreed to freely and voluntarily, in good faith, and following arms-length negotiation.

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 502017CA003860XXXXMB AG

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR SG
MORTGAGE SECURITIES TRUST 2005
OPTI ASSET-BACKED CERTIFICATES
SERIES 2005-OPTI,

Plaintiff/Counter-Defendant,

vs.

MONIQUE L'ITALIEN, and STEFANIE
L'ITALIEN, etc., et. ux., et al.,

Defendants/Plaintiffs-in-Counterclaim,

vs.

HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR SG
MORTGAGE SECURITIES TRUST 2005
OPTI ASSET-BACKED CERTIFICATES
SERIES 2005, and OCWEN LOAN
SERVICING, LLC,

Defendants-in-Counterclaim.

**AFFIDAVIT OF RETIRED JUDGE LUCY CHERNOW BROWN IN SUPPORT OF
SETTLEMENT OF ATTORNEY FEES**

BEFORE ME, the undersigned authority, personally appeared, retired Judge Lucy Chernow Brown, who being duly sworn deposes and says:

1. My name is Lucy Chernow Brown. I am over the age of 18, and am a retired Circuit Judge, and a member of The Florida Bar.
2. I am presently a Mediator/Arbitrator with JAMS and a Court Appointed Neutral. I also serve as a Referee and Special Master. I was a Circuit Judge in Palm Beach County for twenty-four years. During my tenure as a Judge, I presided over

thousands of civil matters including complex commercial litigation cases and class action cases. One of the class action cases I presided over was *Hewitt v. Law Office of David J. Stern, P.A.*, Case Number 50-2009-CA-036046, which included issues like the issues in this class action case. In fact, some of my rulings in that case have been cited by the trial judges in this case. I am the recipient of the Jurist of the Year Awards from the Palm Beach County Justice Association and the North County Section of the Palm Beach County Bar Association, and the Justice Pariente Award from the Palm Beach County Chapter of the Florida Association for Women Lawyers.

3. Here, Class Counsel has retained me to give my opinion on whether the settlement of attorneys' fees and costs of \$1,990,000.00 between the Class Plaintiffs and the Counterclaim Defendants is fair and reasonable. My opinion, based on the reasons explained herein, is that the settlement of attorney fees and costs is fair and reasonable.
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5. Importantly, the case law is well established that settlement agreements are highly favored and should be enforced whenever possible. *Dozier v. Scruggs*, 380 So. 3d. 505, 508-509 (Fla. 5th DCA 2024) (citing *Robbie v. City of Miami*, 469 So. 2d 1384, 1385 (Fla. 1985). "This strong policy in Florida... is especially fitting when the settlement resulted from formal mediation." *Id.* (citing *Lentz v. Cmty Bank of Florida*, 189 So. 3d. 882, 887 (Fla. 3d DCA 2002)).
6. Here, the parties were represented by competent counsel and their settlement agreement at mediation, conducted by retired Circuit Judge Michael A. Hanzman, was agreed to freely and voluntarily, in good faith, and following arms-length negotiation.

7. It is also significant that the attorney fees and costs were agreed to after the monetary damages for the class were resolved. Since the attorney fees and costs will be paid by the Counterclaim Defendants separately, the attorney fees and costs will not reduce the monetary damages agreed to by the parties for the class. Further, the fact that the parties negotiated attorney fees and costs only after the class monetary damages were resolved, eliminated the conflict that can arise between the amount of class damages and attorney fees. Negotiating and determining the class damages before negotiating attorney fees is the proper and ethical procedure in class action litigation.
8. With regard to the case itself and the amount of time and effort incurred by Class Counsel, the record shows this was a class action counterclaim on behalf of borrowers like Ms. L'Italien, whose residential property is or was in foreclosure, and whose mortgages were serviced by Counter-Defendant Ocwen, since February 2014. These borrowers who became the Class Plaintiffs, were sent monthly mortgage account statements ("MAS"), in which Ocwen attempted to collect the challenged improper charges in violation of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA") and the Florida Consumer Collections Practices Act ("FCCPA"), and in breach of the mortgage contract.

The specific charges that were challenged include:

- a. Fees charged for service of process on "unknown spouses and unknown tenants".
 - b. Attorney fees for legal work that never took place or where Ocwen did not and could meet the legal burden for the recovery of fees from an adverse party.
 - c. Property maintenance expenses where no property maintenance was performed; or alternatively, charging a registration cost for property in foreclosure located in West Palm Beach, from 2014-2020, where the property in foreclosure was neither abandoned nor vacant; and
 - d. Mortgage payments that were not due when the payment was demanded.
9. The original class action counterclaim was filed on February 15, 2014 (D.E. 56), and following discovery, was amended on two occasions so that the operative counterclaim was the third amended class action counterclaim (D.E. 209). The Counterclaim Defendants were represented by Greenberg Traurig and Orrick,

Herrington & Sutcliffe, both respected national law firms, who aggressively defended the counterclaim allegations.

10. The record indicates the discovery in this case was extensive. The Counterclaim Defendants designated four separate corporate representatives to testify regarding the issues raised. All four corporate representatives were deposed and one was deposed twice. The Counterclaim Defendants listed three law firms that Ocwen regularly retained to handle residential foreclosure cases. Lawyers from those firms were deposed and David Friedman of the Van Ness law firm (which represented Ocwen in Ms. L'Italien's foreclosure case), was deposed twice. In addition to these depositions, two process servers were deposed and Ms. L'Italien was deposed on two occasions. Finally, the Counterclaim Defendants retained an expert to give opinions of what he believed were common practices as it related to the contested charges, and his deposition was taken as well.
11. In addition to these fourteen depositions, there were large amounts of paper discovery that went on throughout this case. The Counterclaim Defendants filed two separate summary judgment motions that were fully briefed by both parties; one summary judgment motion was heard by Judge Hafele and the other by Judge Delgado. The Counterclaim Defendants raised a number of legal defenses including that the MASs were not debt collection communications, but required communications mandated by the Truth-Lending-Act (TILA) 15 U.S.C. §1601 et seq., which the Counterclaim Defendants claimed exempted or preempted compliance with the FCCPA and FDUTPA. Other issues raised were Ms. L'Italien's alleged lack of standing, whether the litigation privilege applied to MASs, and whether the contested charges were legitimate and part of the common practices for servicing residential mortgage loans. Summary Judgment based on these legal defenses was denied, as was the motion for reconsideration and Petition for Writ of Prohibition.
12. Following the summary judgments, and after Judge Delgado granted the Counter Defendants' motion for recusal, the Honorable Bradley Harper presided over a five-day class certification evidentiary hearing where hundreds of exhibits were introduced by the parties. The Court granted certification of the four separate classes referred to above. The Class Certification Order was appealed, and the Fourth District Court of Appeal affirmed the trial court's order. Additionally, the Counter Defendants sought review of the trial court's order denying a stay, and that order was also affirmed.

13. The Counterclaim was then set for trial. Class Plaintiffs filed their own Motion for Summary Judgment, along with a motion to strike the testimony of the Counterclaim Defendants' expert, as invading the province of the Court and on the basis that a common practice is not a defense to the statutory violations alleged. Both motions were scheduled to be heard, but shortly before the hearing date, the parties engaged in a full day mediation that settled all the issues raised in the operative counterclaim along with attorney fees and costs.
14. Class Counsel consists of attorneys from four law firms: Louis Silber of Silber & Davis; Jack Scarola of Searcy Denny; James Bonfiglio of the Law Offices of James A. Bonfiglio, and: Phil Burlington and Nichole Segal of Burlington & Rockenbach. The time records of Class Counsel indicate their combined lodestar as of the time of mediation totaled approximately \$3,179,975 and their costs totaled \$128,781. Substantial additional legal services were contemplated to conclude this action on behalf of the Class and have been and continue to be required. Thus, the settlement of attorney fees and costs for \$1,990,000 is a significant reduction of Class Counsel's lodestar. Class Counsel secured monetary damages for the class and avoided the uncertainty and delays that would occur from further litigation in the trial court, and an almost certain appeal from either party.
15. In considering the settlement of attorney fees, I considered the criteria set forth in *Florida Patient Compensation Fund v. Rowe*, 472 So. 2d 1145, 1150 (Fla. 1985):
 - a. The time and labor required, the novelty and difficulty of the issues involved, and the skill requisite to perform the legal services properly.
 - b. The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer.
 - c. The fee customarily charged in the locality for similar legal services.
 - d. The amount involved and the results obtained.
 - e. The time limitations imposed by the client or by the circumstances.
 - f. The nature and length of the professional relationship with the client.
 - g. The experience, reputation, and ability of the lawyer or lawyers performing the services; and

h. Whether the fee was fixed or contingent.

16. These factors support Court approval of the settlement of attorney fees. The results obtained of \$1,200,000 for class damages is highly favorable to the members in the class, since Fla. Stat. §559.72(2) caps statutory damages for a class action ... "up to the lesser of \$500,000 or 1 percent of the defendant's net worth for all remaining class members..." Obtaining actual damages was problematic since the members of the class were all defendants in foreclosure because of alleged unpaid mortgage payments. The skill in handling a class action of this nature requires special expertise that only a handful of lawyers possess. The record in this case, as outlined above, indicates the significant amount of time and labor required by Class Counsel. There were a number of difficult issues raised by both the operative counterclaim and the affirmative defenses. Also, Class Counsel agreed to take on this case based on a prevailing party contingency fee pursuant to the attorney fee provisions of the FCCPA, FDUTPA, and mortgage contract.
17. Regarding the experience, reputation, and abilities of Class Counsel, I was informed that Jack Scarola and Louis Silber handled most of the litigation. I have known Mr. Scarola and Mr. Silber professionally for decades, since they both were assistant state attorneys for Palm Beach County. They are both board certified civil trial attorneys, and their reputation in the legal community is well known and highly regarded. Both appeared before me on a number of occasions, so I know firsthand of their professionalism, skill and ability to handle complex commercial litigation including class actions. Clearly their expertise and experience were essential to Class Plaintiffs' success in this litigation.
18. James Bonfiglio is an attorney who specializes in foreclosure defense and matters relating to the Truth in Lending Act ("TILA") 15 U.S.C. § 1601 et seq. His role was to assist in those issues relating to the mortgage, the promissory note, and TILA. He assisted in drafting interrogatories and other discovery requests and was instrumental in preparing Mr. Scarola and Mr. Silber for the many depositions and hearings that took place in this case. Mr. Bonfiglio, as the original attorney for Ms. L'Italien, also handled most of the client communications. His services were crucial to the success of the litigation. I have known Mr Bonfiglio professionally since the 1980's.
19. Phil Burlington and Nichole Segal are board certified appellate specialists who also provided necessary trial support. Mr. Burlington oversaw the briefing and arguing regarding why the litigation privilege did not apply to MASs. Additionally,

Mr. Burlington and Ms. Segal handled the appeals of the Order granting class certification, including the review of the denial of the motion for stay, and the Petition for Writ of Prohibition after Judge Delgado denied the Counterclaim Defendants motion for Summary Judgment. The Fourth DCA affirmed the trial court orders denying the stay and granting class certification and denied the Writ of Prohibition. These rulings were essential to the eventual resolution of the case. I am familiar with the fine reputation these attorneys enjoy in the Palm Beach legal community.

20. Finally, the hourly rates of Class Counsel, which ranged from \$600-\$1200 are reasonable for the services of lawyers of comparable experience and skill in Palm Beach County, given the nature of this class action case, and based on the expertise, experience, and reputation of Class Counsel. The fact that Class Counsel significantly reduced their lodestar amounts by more than forty percent, further renders the settlement of attorney fees unquestionably fair and reasonable.

CONCLUSION

For these reasons, it is my opinion the settlement of attorney fees is fair and reasonable, and it is my recommendation that the Court approve the settlement.

FURHTER AFFIANT SAYETH NAUGHT

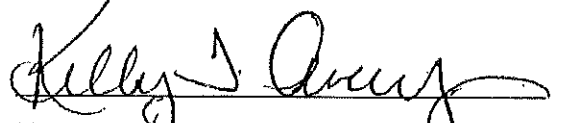
Under penalty of perjury Affiant swears and affirms that all statements contained herein are true and correct based on the personal knowledge of Affiant.


LUCY CHERNOW BROWN

STATE OF FLORIDA
COUNTY OF PALM BEACH

PERSONALLY APPEARED before the undersigned Notary Public on this date, 1/10/20, LUCY CHERNOW BROWN, who is personally known to me OR who has produced _____ as identification.




NOTARY PUBLIC, STATE OF FLORIDA
My Commission Expires: 12/7/27