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# Ocwen, PHH Corp. Pay \$12.5 Million Settlement to Homeowners Charged 'Processing Fees' on Mortgage Payments

"Such abusive collection practices surrounding convenience fees have run rampant across the country in recent years and some courts have found them to be illegal," said Coral Gables Attorney Adam Moskowitz.

By **Michael A. Mora** | August 27, 2020 at 03:37 PM



Adam Moskowitz, left, and Howard Bushman, right. Courtesy photos

Two major mortgage processors agreed to pay \$12.5 million to settle a nationwide class action alleging they engaged in abusive collection practices by charging "convenience" and "processing" fees to clients to process mortgage payments on time.

The defendants, PHH Mortgage Corp. and OCWEN Loan Servicing, will pay mortgage loan credits or cash refunds of 28% or 18% to class members who paid convenience fees to make telephone or web-based mortgage payments.

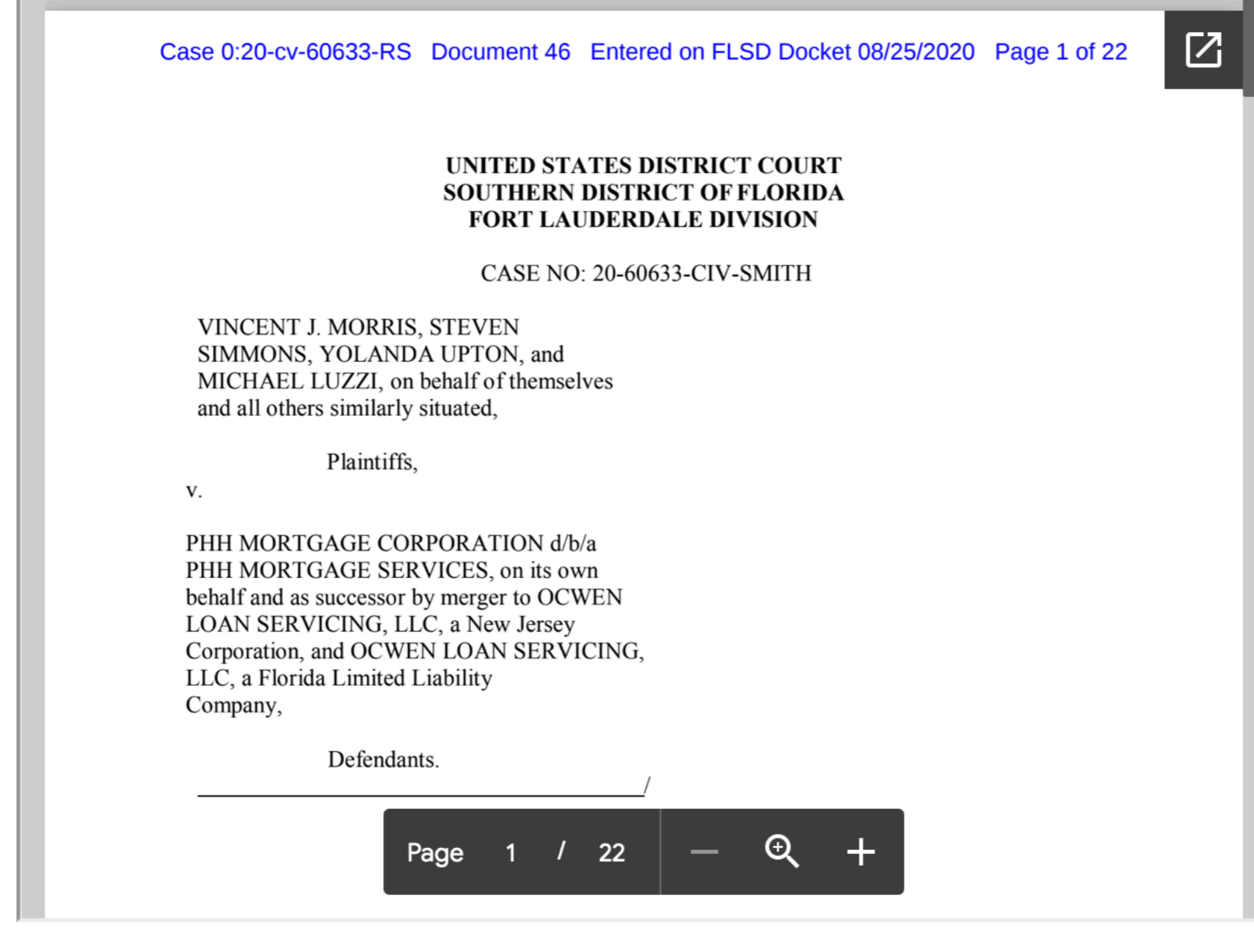
As a result, the defendants have agreed to injunctive relief that will reduce the charge to pay mortgages online. They've also agreed not to increase any of these charges for three years and to clarify the language on their website. The new online text will emphasize the charges for these optional services, while pointing out that there are also free options.

Adam Moskowitz and Howard M. Bushman, partners at The Moskowitz Law Firm in Coral Gables, represented the homeowners. Moskowitz said this mediated settlement could be a framework for settlements with other companies in numerous pending class actions nationwide.

"Such abusive collection practices surrounding convenience fees have run rampant across the country in recent years, and some courts have found them to be illegal," Moskowitz said. "The Consumer Financial Protection Bureau recently cautioned lenders and servicers to review applicable laws to determine whether they may charge processing fees, and to review underlying debt agreements to determine whether such fees are authorized by the contract."

Now, U.S. District Judge Rodney Smith in the Southern District of Florida will decide whether to grant preliminary approval to allow the notices to be distributed to all class members.

## Read the mediated settlement agreement:



Moskowitz alleged the defendants "knowing full well" that these convenience fees were not expressly authorized by standard-form mortgages or permitted by law. And, "the question at the heart of this lawsuit," is whether by charging customers extra fees to make payments by phone or online is a violation of the Fair Debt Collection Practices Act, according to court documents.

"This question has the exact same answer for each and every settlement class member who paid these fees," Moskowitz said.

Whether a homeowner receives a mortgage loan credit or a cash refund under the proposed settlement depends on the mortgage loan status, according to court documents.

Class members will get a credit worth 28% of the fee if PHH didn't own their mortgage, if it acquired servicing rights when the loan was 30 days or more delinquent, and if they were charged a convenience fee from March 25, 2019, to Aug. 25, 2020.

Any settlement class member not fitting into these two categories will receive 18% as a mortgage loan account credit or a cash payment. In either instance, if the settlement class member's mortgage loan has been paid off, a cash payment will be paid rather than a mortgage loan credit.

Both PHH Mortgage Corp. and OCWEN Loan Servicing have stated in court documents the convenience fees for loan payments made by telephone and the internet were not only lawful.

In fact they say the services helped borrowers.

The companies claimed when payment was tendered near a loan's grace period deadline that the convenience fees were less than the contractual late fees imposed by defendants.

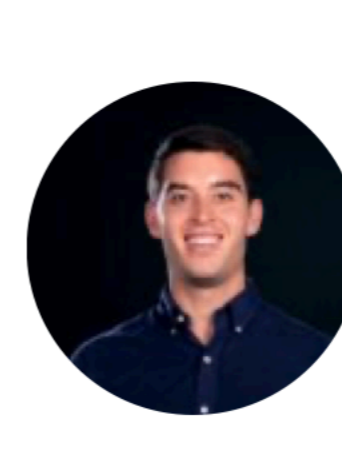
Timothy A. Andreu, a partner at Bradley Arant Boult Cummings in Tampa who represented both PHH Mortgage Corp. and OCWEN Loan Servicing in the class action, did not respond to a request for comment.

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**Bradley Arant Boult Cummings LLP**

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