EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ASHLY ALEXANDER, CEDRIC BISHOP, AMY THOMAS-LAWSON, BRENDA BOLEY, MIGUEL PADILLA, WILLIAM GREEN, and VICTORIA DAWKINS,
On Behalf of Themselves and All Others Similarly Situated,

Plaintiffs,

v.

CARRINGTON MORTGAGE SERVICES, LLC,

Defendant.

Case No. 1:20-cv-02369-RDB

JURY TRIAL DEMANDED

Action for Breach of Contract; Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.; State Debt Collection and Mortgage Servicing Laws

SECOND AMENDED COMPLAINT

1. Defendant Carrington Mortgage Services, LLC ("Carrington"), one of the largest servicers of residential mortgages in the country, routinely violated the Fair Debt Collection Practices Act ("FDCPA") and state debt collection law, and breached the uniform terms of borrowers' mortgages ("Uniform Mortgages") by charging and collecting illegal processing fees when borrowers paid their monthly mortgage payments by phone or online ("Pay-to-Pay fees"). Carrington illegally charged homeowners $5.00 for each online payment, and either $10.00 or $20.00 for payments made over the phone ("Pay-to-Pay Transactions").

2. The FDCPA prohibits Carrington from collecting any amount in addition to the principal obligation unless *such amount is explicitly stated in the agreement creating the debt or permitted by law.* 15 U.S.C. § 1692f(1). Importantly, Pay-to-Pay fees are found nowhere in the Uniform Mortgages and are not permitted by state debt collection law.

3. A mortgage servicer such as Carrington works pursuant to an assignment of servicing rights agreement with the mortgage lender or noteholder. Under such an agreement, the servicer

performs the everyday tasks of managing the loan, such as collecting monthly payments, applying payments, managing escrow accounts, and, in the event of a default, enforcing the mortgage through foreclosure.

4. The assignment of servicing rights agreement transfers the lender's servicing rights under the mortgage, as well as its obligations. Servicers are bound by the terms of the mortgages.

5. Carrington services mortgages throughout the United States and is supposed to be compensated out of the interest paid on each borrower's monthly payment. Carrington may charge borrowers fees actually authorized by the Uniform Mortgage or amounts actually paid to third parties who perform services for Carrington's borrowers. But Carrington cannot mark-up the amounts it pays third parties to provide borrowers' services and impose unauthorized charges to create a profit center for itself. Here, Carrington charged borrowers for online Pay-to-Pay fees through Speedpay, an automated online and telephone payment processing system created and maintained by Western Union. For performing this work, Carrington paid Western Union about $0.50 or less per online Pay-to-Pay Transaction and pocketed the difference ($4.50) for itself as profit. Upon information and belief, Carrington also charged more for telephone Pay-to-Pay Fees than it spent to process the telephone Pay-to-Pay Transactions, pocketing for itself the difference ($9.50 or $19.50 per phone transaction).

6. Despite its uniform contractual obligations to charge only fees explicitly allowed under the mortgage and applicable law, and only those amounts actually disbursed, Carrington leveraged its position of power over homeowners and demanded exorbitant Pay-to-Pay Fees. Even if some fees were allowed, the mortgage uniform covenants and applicable law only allow Carrington to pass along the actual cost of fees incurred by it to the borrower – here only a few cents per transaction.

7. Plaintiffs Ashly Alexander, Cedric Bishop, Amy Thomas-Lawson, Brenda Boley, Miguel Padilla, William Green, and Victoria Dawkins all paid these Pay-to-Pay fees, and they bring this class action lawsuit individually and on behalf of all similarly situated putative class members.

JURISDICTION AND VENUE

8. This Court has jurisdiction over Carrington because Carrington conducts business in Maryland and commits torts in Maryland, as described in this Complaint.

9. Venue is proper because the cause of action accrued in this District.

10. Subject matter jurisdiction exists under the Class Action Fairness Act because diversity exists between the defendant and at least one class member and the amount in controversy exceeds $5,000,000, and because the Complaint states a federal question.

PARTIES

11. Plaintiff Ashly Alexander has a mortgage loan serviced by Carrington on her home located at 12 Stoneridge Ct., Unit 26 Baltimore, MD 21239. Ms. Alexander's mortgage loan is a federally related mortgage (as that term is defined by 12 U.S.C. § 2602(1)). When Carrington acquired the servicing rights to Ms. Alexander's mortgage loan, her loan had a past-due balance. Ms. Alexander made several payments online and incurred an illegal fee each time, including on October 2, 2018, November 5, 2018, December 3, 2018, January 3, 2019, February 4, 2019, March 4, 2019, April 8, 2019, June 3, 2019, July 1, 2019, August 30, 2019, and September 16, 2019.

12. Plaintiff Cedric Bishop had an FHA-insured mortgage loan serviced by Carrington on his home at 8983 Centerway Rd., Gaithersburg, MD 20879. Mr. Bishop's mortgage loan was a federally related mortgage (as that term is defined by 12 U.S.C. § 2602(1)). When Carrington acquired the servicing rights to Mr. Bishop's mortgage loan, his loan had a past-due balance. Mr. Bishop made several payments online and incurred an illegal fee each time, including on March 15, 2019, April 12,

2019, May 15, 2019, June 15, 2019, July 15, 2019, August 16, 2019, October 11, 2019, November 16, 2019, and December 16, 2019. This mortgage loan was paid off on or about January 27, 2020.

13. Plaintiff Amy Thomas-Lawson has a mortgage loan serviced by Carrington on her home located in Baltimore County, Maryland. When Carrington acquired the servicing rights to Ms. Thomas-Lawson's mortgage loan, her loan had a past-due balance. Ms. Thomas-Lawson has made several payments online and incurred an illegal $5.00 fee each time, including on September 21, 2017, October 21, 2017, September 17, 2017, and February 8, 2019.

14. Plaintiff William Green has a mortgage loan serviced by Carrington on his home located in Warrensburg, New York. When Carrington acquired the servicing rights to Mr. Green's mortgage loan, his payments were delinquent. Mr. Green has made payments online and incurred a $5.00 fee. Mr. Green has also made payments over the phone, and incurred fees of $10.00 or $20.00 fee. For example, Carrington charged Mr. Green a $20.00 fee for making a payment over the phone in November 2019.

15. Plaintiff Brenda Boley has a mortgage loan serviced by Carrington on her home located in Frisco, Texas. When Carrington acquired the servicing rights to Ms. Boley's loan, the loan had a past-due balance. Ms. Boley has made several payments online and incurred an illegal $5.00 fee each time. For example, she was charged a Pay-to-Pay Fee in November 2019.

16. Plaintiff Miguel Padilla has a mortgage loan serviced by Carrington on his home located in Indio, California. Mr. Padilla has made his mortgage payments online since September of 2018. Each time he does so, Carrington charges him a $5.00 fee.

17. Plaintiff Victoria Dawkins is a natural person residing at Margate, Broward County, Florida, who has an FHA-insured mortgage loan serviced by Carrington. Ms. Dawkins sometimes makes loan payments online, and each time she does so, Carrington charges her a Pay-to-Pay Fee. For

example, and as detailed below, on February 20, 2020, Carrington charged Ms. Dawkins a $5.00 Pay-to-Pay Fee for making payments online.

18. Defendant Carrington is a Delaware limited liability corporation with a principal office in Connecticut.

APPLICABLE LAW

Fair Debt Collection Practices Act ("FDCPA")

19. The purpose of the FDCPA is "to eliminate abusive debt collection practices . . . and to promote consistent State action to protect consumers against debt collection abuses." 15 U.S.C. § 1692.

20. The FDCPA prohibits debt collectors from using "any false, deceptive, or misleading representation or means in connection with the collection of any debt," which includes the false representation of "the character, amount, or legal status of any debt." *Id.* § 1692e.

21. The FDCPA also prohibits debt collectors from "unfair or unconscionable means to collect or attempt to collect any debt," including "the collection of any amount unless such amount is expressly authorized by the agreement creating the debt or permitted by law." *Id.* § 1692f.

22. The FDCPA creates a private right of action under 15 U.S.C. § 1692k.

23. The FDCPA defines "consumer" as "any natural person obligated or allegedly obligated to pay any debt." *Id.* § 1692a(3).

24. The FDCPA defines "debt collector" as "any person who uses . . . any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect . . . debt owed . . . or asserted to be owed or due another." *Id.* § 1692a(6). A loan servicer like Carrington is subject to the FDCPA when it services mortgages that were in default at the time the servicer acquired the servicing rights, or when it treats the mortgages as if they were in default at the time it acquired the servicing rights.

25. The FDCPA defines communication as "conveying of information regarding a debt directly or indirectly to any person through any medium." *Id.* § 1692a(2).

26. The FDCPA defines "debt" as "any obligation or alleged obligation of a consumer to pay money arising out of a transaction . . . [that] are primarily for personal, family, or household purposes." *Id.* § 1692a(5).

Maryland Consumer Debt Collection Act ("MCDCA")

27. The Maryland Consumer Debt Collection Act offers broad protection to consumers from underhanded methods used by unscrupulous creditors and debt collectors. It applies more broadly than the FDCPA.

28. The MCDCA defines "collector" as "a person collecting or attempting to collect an alleged debt arising out of a consumer transaction." Md. Code, Com. L. § 14-201(b). It allows recovery against both creditors collecting debts in their own names, and those whose primary business is debt collection.

29. A "consumer transaction" under the MCDCA is "any transaction involving a person seeking or acquiring real or personal property, services, money, or credit for personal, family, or household purposes." Md. Code, Com. L. § 14-201(c).

30. The MCDCA prohibits "collectors" from claiming, attempting, or threatening to enforce a right with knowledge that the right does not exist. *Id.* § 14-202(8). Seeking to collect a debt that includes "an unauthorized type of charge" violates this provision of the MCDCA.

31. The MCDCA also makes it illegal to engage in conduct prohibited by the federal FDCPA. *Id.* § 14-202(11).

Texas Finance Code

32. Chapter 392 of the Texas Finance Code protects Texas consumers from deceptive and predatory debt collection practices.

33. The Texas Finance Code defines "consumer debt" as "an obligation, or an alleged obligation, primarily for personal, family, or household purposes and arising from a transaction or alleged transaction." Tex. Fin. Code § 392.001(2).

34. A "debt collector" is a person who "directly or indirectly engages in debt collection," which is in turn defined as "an action, conduct, or practice in collecting . . . consumer debts that are due or alleged to be due a creditor." Tex. Fin. Code §§ 392.001(5)-(6).

35. The Texas Finance Code prohibits "(1) collecting or attempting to collect a … charge, fee, or expense incidental to the obligation unless the … incidental charge, fee, or expense is expressly authorized by the agreement creating the obligation or legally chargeable to the consumer." Tex. Fin. Code § 392.303(a)(2).

36. The Texas Finance Code also prohibits representing that a consumer debt "may be increased by the addition of … service fees, or other charges if a written contract or statute does not authorize the additional fees or charges." Tex. Fin. Code § 392.304(a)(12).

California Rosenthal Fair Debt Collection Practices Act

37. The Rosenthal Fair Debt Collection Practices Act ("Rosenthal Act") is a remedial statute that protects California residents from unfair debt collection tactics.

38. The Rosenthal Act defines "debt collector" as "any person who, in the ordinary course of business, regularly, on behalf of himself or herself or others, engages in debt collection." Cal. Civ. Code § 1788.2(c).

39. The Rosenthal Act defines "consumer credit transaction" as "a transaction between a natural person and another person in which property, services, or money is acquired on credit by that natural person from such other person primarily for personal, family, or household purposes." Cal. Civ. Code § 1788.2(e).

40. The Rosenthal Act makes it illegal for any entity covered by it to violate the FDCPA. Cal. Civ. Code § 1788.17. By violating the FDCPA, Carrington violated the Rosenthal Act.

41. The Rosenthal Act also prohibits "collecting or attempting to collect from the debtor the whole or any part of the debt collector's fee or charge for services rendered, or other expense incurred by the debt collector in the collection of the consumer debt, except as permitted by law." Cal. Civ. Code § 1788.14.

42. The Rosenthal Act also makes it illegal to represent that consumer debt "may be increased by the addition of . . . charges if, in fact, such fees and charges may not be legally added to the existing obligation." Cal. Civ. Code § 1788.13(e).

Florida Consumer Collection Practices Act (FCCPA)

43. The FCCPA prohibits debt collectors from engaging in certain abusive practices in the collection of consumer debts. *See generally* Fla. Stat. § 559.72.

44. The FCCPA's goal is to "provide the consumer with the most protection possible." *LeBlanc v. Unifund CCR Partners*, 601 F.3d 1185, 1192 (11th Cir. 2010) (citing Fla. Stat. § 559.552).

45. Specifically, the FCCPA states that no person shall "claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate, or assert the existence of some other legal right when such person knows that the right does not exist." Fla. Stat. § 559.72(9).

46. To define the legal rights between parties, courts "must refer to other statutes that establish the legitimacy of a debt and define legal rights." *Cliff v. Payco Gen. American Credits, Inc.*, 363 F.3d 1113, 1126 (11th Cir. 2004) ("With respect to determining what constitutes a misrepresentation of a legal right under Section 559.72(9), the Court "must refer to other statutes that establish the legitimacy of a debt and define legal rights."); *Brook v. Suncoast Sch., FCU*, 8:12-CV-01428-T-33, 2012 WL 6059199, at *3 (M.D. Fla. Dec. 6, 2012) (finding FCCPA violated when defendant asserted illegitimate legal right by attempting to collect a debt using unfair and deceptive practices in violation

of FDUTPA.); *Ortega v. Collectors Training Inst. of Illinois, Inc.*, 09-21744-CIV, 2010 WL 11505559, at *5 (S.D. Fla. Mar. 31, 2010) (finding FCCPA violated when defendant used debt collection techniques prohibited by the Fair Debt Collection Practices Act.)

47. The FCCPA creates a private right of action under Fla. Stat. § 559.77.

48. The FCCPA defines "consumer" as "any natural person obligated or allegedly obligated to pay any debt." Fla. Stat. § 559.55(8).

49. The FCCPA mandates that "no person" shall engage in certain practices in collecting consumer debt. Fla. Stat. § 559.72. This language includes all allegedly unlawful attempts at collecting consumer claims. *Williams v. Streeps Music Co.*, 333 So. 2d 65, 67 (Fla. Dist. Ct. App. 1976).

50. The FCCPA defines "debt" as "any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment." Fla. Stat. § 559.55(6).

FACTUAL ALLEGATIONS

51. Carrington is a loan servicer that operates across the country. Its principal purpose is to collect debt, and it uses interstate commerce to collect debt.

52. Each time a mortgage borrower whose loan is serviced by Carrington made a loan payment online or over the phone, Carrington charged the borrower a Pay-to-Pay Fee: $5.00 for each online payment, $10.00 for payments made over the phone via an automated system, and $20.00 for payments made over the phone with a customer service representative.

53. Carrington's online Pay-to-Pay Transactions, which incurred a $5.00 fee, are processed by Western Union, through its Speedpay system. The usual cost that a loan servicer pays Western Union to process Pay-to-Pay Transactions payments is $0.50 or less for each transaction. Therefore, the actual cost for Carrington to process online Pay-to-Pay Transactions is well below the amounts

charged to borrowers, and Carrington illegally pocketed the difference as profit. The actual cost for Carrington to process telephone Pay-to-Pay Transactions is also likely $0.50 or less and is also well below the $20.00 or $10.00 fees it collected from its borrowers.

54. The Uniform Mortgage does not authorize Carrington to charge Pay-to-Pay Fees. In fact, the Pay-to-Pay Fees violate multiple uniform provisions of borrowers' mortgages.

55. For example, Plaintiffs Bishop, Thomas-Lawson, Green, Padilla, and Dawkins like many borrowers, have FHA mortgages, meaning that the mortgage is issued by an FHA-approved lender and insured by the FHA. The uniform covenants of FHA mortgages state that the lender may only assess fees authorized by the Secretary of the U.S. Department of Housing and Urban Development ("HUD").

56. HUD permits servicers of FHA mortgages to collect "allowable fees and charges," i.e., fees and charges specifically delineated in Appendix 3 to the HUD Single Family Housing Policy Handbook ("Servicing Handbook"). *See* Handbook 4000.1, FHA Single Family Housing Policy Handbook § III(A)(1)(f). Servicers seeking to assess fees "not specifically mentioned" in the Servicing Handbook must request approval from the National Servicing Center to charge such fees. *Id.* § III(A)(1)(f)(B). HUD prohibits servicers from charging the borrower for "activities that are normally considered a part of a prudent Mortgagee's servicing activity." *Id.* § III(A)(1)(f)(C).

57. The Handbook does not authorize Pay-to-Pay Fees. And, Carrington has not sought authorization from the National Servicing Center to charge Pay-to-Pay Fees.

58. Plaintiffs Alexander and Boley, like many other borrowers, have mortgage agreements that incorporate model language from Fannie Mae. Such mortgage agreements contain uniform covenants that generally state that the servicer may not charge fees that are expressly prohibited by the mortgage or by applicable law. These mortgage agreements typically state that "applicable law" means controlling federal, state, and local statutes, regulations, ordinances, and administrative rules

and orders, as well as final non-appealable judicial opinions. Carrington assessed fees that are prohibited by "applicable law" when it charged Pay-to-Pay Fees in violation of state and federal statutes.

59. In short, the Uniform Mortgages do not authorize Carrington to charge Pay-to-Pay Fees, and Carrington violated its borrowers' Uniform Mortgages when it assessed such fees. Carrington collected the Pay-to-Pay Fees even though it knew that such fees are not authorized under its clients' mortgage agreements, and that it therefore had no right to collect them.

Ms. Alexander

60. Ms. Alexander acquired her property in Baltimore, Maryland with Sydney Wright on November 2, 2005. The couple financed their purchase of the property in part with an extension of credit in the sum of $200,000.00 made on the same date by America's Wholesale Lender ("Alexander Loan"). The proceeds of the Alexander Loan were utilized entirely for personal, consumer purposes by Alexander and Wright. After the death of Ms. Wright, Ms. Alexander became the sole owner of the Alexander Property on October 23, 2017.

61. The Alexander Loan was later assigned to The Bank of New York Mellon, f/k/a the Bank of New York as Trustee for the Certificateholders of the CWABS Inc., Asset-Backed Certificates, Series 2005-13 on or about February 24, 2012 ("CWABS").

62. Carrington was retained by CWABS to service the Alexander Loan on its behalf and act as its collector at a time when it believed the Alexander Loan was in default since, according to the documents memorializing the Alexander Loan, the loan was in default if a periodic payment was not made. Specifically, when Carrington acquired the servicing and collection rights to the Alexander Loan on August 16, 2017, it claimed the loan was past due and the August 1, 2017 payment was owed on the loan and had not been paid by the due date.

63. The documents memorializing the Alexander Loan expressly incorporate Maryland law and regulations as the Applicable law governing the Alexander Loan, and the Alexander Loan does not expressly permit Carrington to charge fees for accepting payments from Ms. Alexander related to the Alexander Loan by telephone or by the Internet. None of the loan documents governing the Alexander Loan (which include the Note, the Deed of Trust, and the loan modification effective January 1, 2016) expressly permit CWABS or anyone else acting it its behalf, including Carrington, to charge or impose upon them fees for accepting payments from Ms. Alexander by telephone or by the Internet.

64. Neither Carrington, nor any of its predecessors in interest or its principal CWABS, ever executed and returned to Ms. Alexander any agreement it had with her expressly authorizing the imposition and collection of Pay-to-Pay Fees in relation to the collection of her mortgage payments.

65. Notwithstanding that there is no written agreement between Ms. Alexander and CWABS for it or anyone acting on its behalf expressly authorizing the imposition and collection Pay-to-Pay Fees incidental to the Alexander Loan, Carrington has collected such fees anyway without the right to do so. Specifically, Carrington has imposed and collected from Ms. Alexander fees for collecting her payments on the Alexander Loan due to CWABS over the Internet on the following dates: 9/16/2019, 8/30/2019, 7/1/2019, 6/3/2019, 4/8/2019, 3/4/2019, 2/4/2019, 1/3/2019, 12/3/2018, 11/5/2018, and 10/2/2018.

66. In each of the payments identified in the previous paragraph, a portion of Ms. Alexander's payments were partial payments to her then outstanding unpaid indebtedness then due under the Alexander Loan. Pursuant to its duties under 15 U.S.C. § 1638(f), 12 C.F.R. § 1026.41, and Md. Code, Com. L. § 12-106, Carrington also reported to Ms. Alexander on her subsequent monthly, periodic statements the Pay-to-Pay fees it imposed and collected on the Alexander Loan from her as summarized in the prior paragraph. The dates of these statements include: 9/16/2019, 8/30/2019,

7/1/2019, 6/3/2019, 4/8/2019, 3/4/2019, 2/4/2019, 1/3/2019, 12/3/2018, 11/5/2018, and 10/2/2018.

67. In 2019, Ms. Alexander became aware that she had been paying additional fees to Carrington while making her payments online, but was not sure the basis of the charge. Trying to be proactive, she contacted Carrington by letter on September 3, 2019 pursuant to 12 U.S.C. § 2605(e), 12 C.F.R. § 1024.35, and 12 C.F.R. § 1024.36. Ms. Alexander requested that Carrington explain the following:

a. What the "default costs paid" represented in the first statement Carrington sent her;

b. What authorized Carrington on behalf of CWABS to charge the fees to accept payments electronically, since none of the documents governing the loan (i.e., the Note, the Deed of Trust, and the modification) authorized such costs;

c. How much (if anything) it actually cost Carrington to take Alexander's payments electronically; and

d. An accounting of the fees which Alexander had paid on the loan since Carrington acquired servicing.

68. Carrington received Ms. Alexander's September 3, 2019 letter at the address it has designated for correspondence under RESPA on September 6, 2019.

69. Carrington responded to Ms. Alexander's letter on September 20, 2019. It made the following representations in response to her inquiries.

a. Carrington represented that the "default costs paid" were uncollected fees advanced by its predecessor in July and August 2016, which were owed at the time the loan transferred. Carrington was not permitted to add these default costs that its predecessor never imposed because it knew the costs were waived by the Parties

modification and prior agreements. Carrington, however, claimed greater rights than its predecessor had to give it which was unfair and unconscionable.

b. Carrington represented in conclusory terms that the fees it charged for electronic payments were "reasonable;" were "permitted by law;" and were acceptable because other companies charged such fees. As shown *supra*, Carrington had no right to impose the fees under Maryland law which governs the Alexander Loan, and the Alexander loan documents do not expressly authorize the imposition and collection of the Pay-to-Pay Fees.

c. Carrington made no response to Ms. Alexander's inquiry about whether the governing loan documents permitted Pay-to-Pay Fees, thereby acknowledging that the fees are not expressly authorized in the agreements between Ms. Alexander and CWABS.

70. Carrington's September 20, 2019 response did confirm, however, that the Pay-to-Pay Fees (it labeled as SpeedPay Fees) it collected were in fact related to its servicing of the mortgage loan by including confirmation of the fees on the mortgage servicing transaction history it sent to Ms. Alexander to demonstrate Carrington's accounting of the loan. If the fees were not incidental to the mortgage loan Carrington would not have included them on the mortgage transaction history it provided to Alexander since, under Md. Code Regs. 09.03.06.14(B), the accounting statement it provided to Alexander was required to "set[] forth: (1) All payments made on the loan; (2) All amounts credited to principal and interest; and (3) Any other charges."

71. Carrington's September 20, 2019 response did not provide Ms. Alexander with any written agreement between CWABS and Ms. Alexander that both parties signed and executed authorizing it to impose and collect Pay-to-Pay Fees directly or indirectly from Ms. Alexander. Nor did Carrington's September 20, 2019 response provide any agreement signed and executed by it authorizing it to impose and collect Pay-to-Pay Fees directly or indirectly from Ms. Alexander.

72. Carrington never refunded the Pay-to-Pay fees it took from Ms. Alexander.

73. The Alexander Loan is not satisfied.

74. Ms. Alexander has been damaged and sustained losses as a proximate cause of Carrington's improper, unfair, and/or deceptive practices in relation to the collection of the Alexander Loan including payment and collection of Pay-to-Pay Fees not permitted as a matter of Maryland law and the terms and conditions of the Alexander Loan. Ms. Alexander has also suffered informational injuries as a result of Carrington's conduct related to information Congress and the General Assembly found to be relevant and material under Federal and State laws. Carrington's knowing retention of the funds it took and failure to acknowledge that the loan documents did not authorize it to demand or collect a Pay-to-Pay Fee even after being directly asked by Ms. Alexander created uncertainty, frustration, worry, and fear for Ms. Alexander, who was denied the information identified by Congress and the General Assembly as necessary in the mortgage servicing arena and as vital to the successful achievement of the goals intended for the remedial laws at issue and are the ones most critical for consumers, without which consumers suffer the most significant harm or risk of harm. Congress could not have given a clearer indication of its determination that this informational injury creates a material case or controversy by permitting Ms. Alexander to recover statutory damages as a result of the violations subject to this action.

Mr. Bishop

75. Mr. Bishop acquired his property in Gaithersburg, Maryland on April 27, 2001. He financed his purchase of the property in part with an extension of credit, which was ultimately refinanced through an FHA loan made on May 22, 2010 ("Bishop Loan"). The proceeds of the Bishop Loan were utilized entirely for personal, consumer purposes by Mr. Bishop.

76. Carrington was retained to service and collect upon the Bishop Loan. Carrington was assigned the servicing and collection rights to the Bishop Loan on or about September 8, 2018, at a

time when it believed the Bishop Loan was in default since, according to those documents governing the Bishop Loan, the loan was in default if a periodic payment was not made. Specifically, when Carrington acquired the servicing and collection rights to the Bishop Loan on September 8, 2018, it claimed the loan was past due and the August 1, 2018 payment was owed on the loan and had not been paid by the due date.

77. The documents memorializing the Bishop Loan expressly incorporated Maryland law and regulations as the Applicable law governing the Bishop Loan, and the Bishop Loan did not permit Carrington or anyone to charge fees for accepting payments from Mr. Bishop related to the Bishop Loan by telephone or by the Internet. None of the loan documents governing the Bishop Loan (which include the Note, the Deed of Trust, and the modification dated effective July 1, 2013) expressly permit Carrington to charge fees for accepting payments from Mr. Bishop by telephone or by the Internet. In addition, under the FHA guidelines governing the Bishop Loan, Carrington was required to "comply with all laws, rules, and requirements applicable to mortgage servicing" in its relationship with Mr. Bishop (and other FHA borrowers). *See* HUD's *Handbook 4000.1: FHA Single-Family Housing Policy Handbook* ("HUD Handbook") at § III(A)(1)(a).

78. Neither Carrington, nor any of its predecessors in interest, ever executed and returned to Mr. Bishop any agreement it had with him expressly authorizing the imposition and collection of Pay-to-Pay Fees in relation to the collection of his mortgage payments.

79. Notwithstanding that there was no written agreement between Mr. Bishop and Carrington for it or anyone acting on its behalf expressly authorizing it to impose and collect Pay-to-Pay Fees incidental to the Bishop Loan from Mr. Bishop, Carrington collected such fees anyway without the right to do so. Specifically, Carrington has imposed and collected from Mr. Bishop fees for collecting his payments on the Bishop Loan over the internet on the following dates: 12/16/2019,

11/16/2019, 10/11/2019, 8/16/2019, 7/15/2019, 6/15/2019, 5/15/2019, 4/12/2019, and 3/15/2019.

80. In each of the payments identified in the previous paragraph, a portion of Mr. Bishop's payments were partial payments to his then outstanding unpaid indebtedness then due under the Bishop Loan. Pursuant to its duties under 15 U.S.C.A. § 1638(f), 12 C.F.R. § 1026.41, and Md. Code, Com. L. § 12-106, Carrington also reported to Mr. Bishop on his subsequent monthly periodic statements the Pay-to-Pay Fees it imposed and collected on the Bishop Loan from him as summarized in the prior paragraph. The dates of these statements include: 12/16/2019, 11/16/2019, 10/11/2019, 8/16/2019, 7/15/2019, 6/15/2019, 5/15/2019, 4/12/2019, and 3/15/2019.

81. In January 2020, Mr. Bishop refinanced the Bishop Loan, causing it to be satisfied and paid off on January 27, 2020. The Certificate of Release was recorded in the Land Records for Montgomery County in Book 59068 at Page 43. However, Mr. Bishop's claims here pursuant to Md. Code, Com. L. § 12-114(a)(1)(ii) are timely filed since he qualified as a putative class member in the original Class Action Complaint (ECF No. 1-3) filed in this action less than six months from the satisfaction date of the loan on July 10, 2020 (ECF No. 3). *Am. Pipe & Const. Co. v. Utah*, 414 U.S. 538 (1974).

82. On May 28, 2020, Mr. Bishop wrote to Carrington pursuant to 12 U.S.C. § 2605, 12 C.F.R. § 1024.35, and 12 C.F.R. § 1024.36 to obtain copies of the records it kept concerning the Bishop Loan. Mr. Bishop requested the following information from Carrington:

a. The Note

b. An accounting of the escrow sums Carrington had collected and expended;

c. An accounting of all amounts and fees paid on the loan;

d. All periodic statements Carrington had issued during the period it serviced the Bishop Loan.

83. Carrington received the letter at the address it has designated for correspondence under RESPA on June 8, 2020.

84. Carrington responded to Mr. Bishop's letter on July 20, 2020. In response to his inquiries, Carrington provided the last 12 billing statements generated for the account. Pursuant to its duties under 15 U.S.C. § 1638(f), 12 C.F.R. § 1026.41, and Md. Code, Com. L. § 12-106, many of these monthly, periodic statements disclosed the Pay-to-Pay Fees it imposed and collected on the Bishop Loan from him. The dates of these statements include: 12/16/2019, 11/16/2019, 10/11/2019, 8/16/2019, 7/15/2019, 6/15/2019, 5/15/2019, 4/12/2019, and 3/15/2019. Carrington also provided to Mr. Bishop copies of the last two escrow analyses generated for the account.

85. Carrington's July 20, 2020 response confirmed that the Pay-to-Pay Fees it collected were in fact incidental and related to its servicing and collection of the mortgage by including confirmation of the fees on each periodic mortgage statement during which it had assessed such a fee.

86. Carrington never refunded the Pay-to-Pay Fees it took from Mr. Bishop.

87. The Bishop Loan was satisfied less than six months preceding the commencement of this action.

88. Mr. Bishop has been damaged and sustained losses as a proximate cause of Carrington's improper, unfair, and/or deceptive practices in relation to the collection of the Bishop Loan, including payment and collection of Pay-to-Pay Fees not permitted as a matter of Maryland law and the terms and conditions of the Bishop Loan. Mr. Bishop has also suffered informational injuries as a result of Carrington's conduct related to information Congress and the General Assembly found to be relevant and material under Federal and State laws. Carrington's knowing retention of the funds it took and failure to acknowledge that the loan documents did not authorize it to demand or collect a Pay-to-Pay Fee even after being directly asked by Mr. Bishop created uncertainty, frustration, annoyance, and disappointment for Mr. Bishop, who was denied the information identified by

Congress and the General Assembly as necessary in the mortgage servicing arena and as vital to the successful achievement of the goals intended for the remedial laws at issue and are the ones most critical for consumers, without which consumers suffer the most significant harm or risk of harm. Congress could not have given a clearer indication of its determination that this informational injury creates a material case or controversy by permitting Mr. Bishop to recover statutory damages as a result of the violations subject to this action.

Ms. Thomas-Lawson

89. On or about October 23, 2000, Ms. Thomas-Lawson purchased a home in Baltimore County, Maryland through a loan from GMAC Mortgage Corporation, secured by a mortgage on the property (the "Thomas-Lawson Mortgage Agreement"). Ms. Thomas-Lawson took out the mortgage loan secured by her property for personal, family, or household uses.

90. Carrington acquired the servicing rights to the loan in 2016. Ms. Thomas-Lawson's loan had a past-due balance at the time Carrington acquired the servicing rights.

91. Carrington's principal purpose is to collect debt, and it used interstate commerce to collect debt. Furthermore, Carrington acquired the loan in default. Thus, Carrington is a "debt collector" under the FDCPA. Carrington regularly collects debts which are owed and due another. Thus, Carrington is also a "collector" under the MCDCA.

92. Ms. Thomas-Lawson made timely mortgage payments.

93. Ms. Thomas-Lawson sometimes makes her mortgage payments online. When she makes a mortgage payment online, Carrington charges her a $5.00 fee. This fee is not authorized by the Thomas-Lawson Mortgage Agreement.

94. Ms. Thomas-Lawson has made several payments online and incurred an illegal $5.00 fee each time, including on September 21, 2017, October 21, 2017, September 17, 2017, and February 8, 2019.

95. Carrington collected the Pay-to-Pay Fees even though it knew that such fees were not authorized under the Thomas-Lawson Mortgage Agreement, and that it therefore had no right to collect them.

96. Ms. Thomas-Lawson has an FHA mortgage, which states that the mortgage "shall be governed by Federal law and the law of the jurisdiction in which the Property is located." *See* Thomas-Lawson Mortgage Agreement, ¶ 14.

97. Carrington's collection of the Pay-to-Pay Fees violated the FDCPA ("Federal law") and MCDCA ("the law of the jurisdiction in which the Property is located") because the Thomas-Lawson Mortgage Agreement does not expressly allow Carrington to charge Pay-to-Pay Fees. *See* 15 U.S.C. § 1692f (making it illegal to collect "any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law"); Md. Code, Com. L. § 14-202(8), (11).

98. Like other FHA Mortgages, the Thomas-Lawson Mortgage Agreement only permits Carrington to collect "fees and charges authorized by the Secretary." *See* Thomas-Lawson Mortgage Agreement, ¶ 8.

99. By assessing Pay-to-Pay Fees not "authorized by the Secretary," Carrington violated the uniform covenants of the Thomas-Lawson Mortgage Agreement.

100. Even if Carrington is allowed to collect a fee under the auspice that it is a "default related fee," Carrington's demand for payment of Pay-to-Pay Fees was a direct breach of Paragraph 7 of the Thomas-Lawson Mortgage Agreement, which states that only "amounts *disbursed* by Lender under this Paragraph shall become an additional debt of Borrower and be secured by this Security Instrument." *See* Thomas-Lawson Mortgage Agreement, ¶ 7 (emphasis added). Carrington collected more than the amount it disbursed to process the Pay-to-Pay Transactions.

101. The above paragraphs are contained in the Uniform Covenants section of the Thomas-Lawson Mortgage Agreement. Carrington has thus breached its contracts on a class-wide basis.

102. Prior to filing her initial Complaint, Ms. Thomas-Lawson made a written pre-suit demand upon Carrington.

103. Carrington was given a reasonable opportunity to cure the breaches and violations of law complained of herein, but has failed to do so.

Mr. Green

104. On or about February 2, 2009, Mr. Green purchased a home in Warrensburg, New York through a loan from MetLife Home Loans, secured by a mortgage on the property (the "Green Mortgage Agreement"). Mr. Green took out the mortgage loan secured by his property for personal, family, or household uses.

105. Carrington acquired the servicing rights to the loan. Mr. Green's loan was in default at the time Carrington acquired the servicing rights.

106. Carrington's principal purpose is to collect debt, and it used interstate commerce to collect debt. Carrington regularly collects debts which are owed and due another. Since Carrington acquired the loan in default, and because Carrington meets the two-part definition of a "debt collector" under the FDCPA, Carrington is a debt collector.

107. Mr. Green sometimes makes his mortgage payments online or over the phone. When he makes a mortgage payment online, Carrington charges him a $5.00 fee. When he makes his payments over the phone, Carrington charges him a $10.00 or $20.00 fee. For example, Carrington charged Mr. Green a $20.00 fee for making a payment over the phone in November 2019. These Pay-to-Pay Fees are not authorized by the Green Mortgage Agreement.

108. Carrington collected the Pay-to-Pay Fees even though it knew that such fees were not authorized under the Green Mortgage Agreement, and that it therefore had no right to collect them.

109. Mr. Green has an FHA mortgage, which states that it "shall be governed by Federal law and the law of the jurisdiction in which the Property is located." *See* Green Mortgage Agreement, ¶ 14. Carrington's collection of the Pay-to-Pay Fees violated the FDCPA ("Federal law") because the Green Mortgage Agreement does not expressly allow Carrington to charge Pay-to-Pay Fees. *See* 15 U.S.C. § 1692f (making it illegal to collect "any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law").

110. Like other FHA mortgages, the Green Mortgage Agreement only permits Carrington to collect "fees and charges authorized by the Secretary," i.e., the Secretary of the U.S. Department of Housing and Urban Development ("HUD"). *See* Green Mortgage Agreement, ¶ 8.

111. By assessing Pay-to-Pay Fees not "authorized by the Secretary," Carrington violated the uniform covenants of the Green Mortgage Agreement.

112. Even if Carrington is allowed to collect a fee under the auspice that it is a "default related fee," Carrington's demand for payment of Pay-to-Pay Fees were a direct breach of Paragraph 7 of the Green Mortgage Agreement, which states that only "amounts *disbursed* by Lender under this Paragraph shall become an additional debt of Borrower and be secured by this Security Instrument." *See* Green Mortgage Agreement, ¶ 7 (emphasis added). Carrington collected more than the amount it disbursed to process the Pay-to-Pay Transactions.

113. The above paragraphs are contained in the Uniform Covenants section of the Green Mortgage Agreement. Carrington has thus breached its contracts on a class-wide basis.

114. Prior to filing his initial Complaint, Mr. Green made a written pre-suit demand upon Carrington.

115. Carrington was given a reasonable opportunity to cure the breaches and violations of law complained of herein, but has failed to do so.

Ms. Boley

116. On or about November 20, 2007, Ms. Boley purchased a home in Frisco, Texas through a loan from Countrywide Home Loans, secured by a mortgage on the property (the "Boley Mortgage Agreement"). Ms. Boley took out the mortgage loan secured by her property for personal, family, or household uses.

117. Carrington acquired the servicing rights to the loan in 2019. At the time Carrington acquired the servicing rights, Ms. Boley had a past-due balance.

118. Carrington's principal purpose is to collect debt, and it used interstate commerce to collect debt. Carrington regularly collects debts which are owed and due another. Since Carrington acquired the loan in default, and because Carrington meets the two-part definition of a "debt collector" under the FDCPA, Carrington is a debt collector.

119. Ms. Boley made timely mortgage payments.

120. Ms. Boley sometimes makes her mortgage payments online. When she makes a mortgage payment online, Carrington charges her a $5.00 fee. This fee is not authorized by the Boley Mortgage Agreement.

121. Ms. Boley has made several payments online and incurred an illegal $5.00 fee each time. For example, she was charged a Pay-to-Pay Fee in November 2019.

122. Carrington collected the Pay-to-Pay Fees even though it knew that such fees were not authorized under the Boley Mortgage Agreement, and that it therefore had no right to collect them under the FDCPA or Texas Finance Code.

123. Carrington's collection of the Pay-to-Pay Fees violated the FDCPA and Texas Finance Code §§ 392.303 and 392.304 because the Boley Mortgage Agreement does not expressly allow

Carrington to charge Pay-to-Pay Fees. *See* 15 U.S.C. § 1692f (making it illegal to collect "any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law"); Tex. Fin. Code § 392.303(a)(2); *id.* § 392.304(a)(12).

124. The Boley Mortgage Agreement incorporates model language drafted by Fannie Mae. Like other Fannie Mae mortgages, the Boley Mortgage Agreement states that the servicer "may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law." Boley Mortgage Agreement, ¶ 14.

125. "Applicable Law" is defined as "all controlling applicable federal, state and local statutes, regulations, ordinances, and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions." ." Boley Mortgage Agreement, at 2.

126. By collecting fees in violation of Applicable Law, Carrington breached the uniform covenants of the Boley Mortgage Agreement.

127. Even if Carrington is allowed to collect a fee under the auspice that it is a default related fee, under Paragraph 9 of the Boley Mortgage Agreement, Carrington's demand for payment of Pay-to-Pay Fees was a direct breach of that paragraph, too. Paragraph 9 of the Boley Mortgage Agreement states that only "amounts *disbursed* by Lender under this Section 9 shall become an additional debt of Borrower secured by this Security Instrument." *See* ." Boley Mortgage Agreement, ¶ 9 (emphasis added). Carrington collected more than the amount it disbursed to process the Pay-to-Pay Transactions.

128. The above paragraphs are contained in the Uniform Covenants section of the Boley Mortgage Agreement. Carrington has thus breached its contracts on a class-wide basis.

129. Prior to filing her initial Complaint, Ms. Boley made a written pre-suit demand upon Carrington.

130. Carrington was given a reasonable opportunity to cure the breaches and violations of law complained of herein, but has failed to do so.

Mr. Padilla

131. On or about December 10, 2009 Mr. Padilla purchased a home in Indio, California, through a loan from Metropolitan Home Mortgage, Inc (the "Padilla Mortgage Agreement"). Mr. Padilla took out the mortgage secured by his property for personal, family, or household uses.

132. Carrington acquired the servicing rights to the loan in September of 2018. Mr. Padilla made timely mortgage payments.

133. Mr. Padilla has made his mortgage payments online since September of 2018. Each time he does so, Carrington charges him a $5.00 fee. This $5.00 Pay-to-Pay Fee is not authorized by the Padilla Mortgage Agreement.

134. Mr. Padilla has an FHA mortgage which, like other FHA mortgages, only permits Carrington to collect "fees and charges authorized by the Secretary," i.e., the Secretary of the U.S. Department. Padilla Mortgage Agreement, ¶ 8.

135. By assessing Pay-to-Pay Fees not "authorized by the Secretary," Carrington violated the uniform covenants of the Padilla Mortgage Agreement.

136. Even if Carrington is allowed to collect a fee under the auspice that it is a "default related fee," Carrington's demand for payment of Pay-to-Pay Fees were a direct breach of Paragraph 7 of the Padilla Mortgage Agreement, which states that only "amounts *disbursed* by the lender under this Paragraph shall become an additional debt of Borrower and be secured by this Security Instrument." *See* Padilla Mortgage Agreement, ¶ 7. Carrington collected more than the amount it disbursed to process the Pay-to-Pay Transactions.

137. The above paragraphs are contained in the Uniform Covenants section of the Padilla Mortgage Agreement. Carrington has thus breached its contracts on a class-wide basis.

138. The Padilla Mortgage Agreement also states that it is "governed by federal law and the law of the jurisdiction in which the property is located," i.e., California. Padilla Mortgage Agreement, ¶ 14.

139. Charging Pay-to-Pay Fees not authorized by the Padilla Mortgage Agreement violated the Rosenthal Act. *See* Cal. Civ. Code § 1788.13(e).

140. Carrington collected the Pay-to-Pay Fees even though it knew that such fees were not authorized under the Padilla Mortgage Agreement, and that it therefore had no right to collect them under the Rosenthal Act.

141. Prior to filing his initial Complaint, Mr. Padilla made a written pre-suit demand upon Carrington.

142. Carrington was given a reasonable opportunity to cure the breaches and violations of law complained of herein, but has failed to do so.

Ms. Dawkins

143. On or about June 24, 2010, Ms. Dawkins obtained a mortgage loan from New Penn Financial, LLC secured by her home in Margate, Broward County, Florida (the "Dawkins Mortgage Agreement"). Ms. Dawkins obtained the mortgage loan secured by her property for personal, family or household uses.

144. After Ms. Dawkins closed on the loan in June 2010, Carrington acquired the loan and its servicing rights by way of an assignment.

145. Ms. Dawkins occasionally make her mortgage payments online.

146. Each time she does so, Carrington charges her a Pay-to-Pay Fee.

147. For example, on February 20, 2020, Ms. Dawkins made a mortgage payment online and Carrington charged her a $5.00 Pay-to-Pay Fee for making that online payment.

148. Ms. Dawkins made timely mortgage payments and was never in default under the terms of the Dawkins Mortgage Agreement.

149. These fees are not authorized by the Dawkins Mortgage Agreement.

150. Carrington collects the Pay-to-Pay Fees even though such fees are not authorized under the Dawkins Mortgage Agreement.

151. Carrington's principal purpose is to collect debt, and it regularly collect debts which are owed and due another.

152. Carrington collected the Pay-to-Pay Fees even though it knew that such fees were not authorized under the Dawkins Mortgage Agreement, and that it therefore had no right to collect them.

153. Ms. Dawkins, like many borrowers, has an FHA mortgage, meaning that the mortgage is issued by an FHA-approved lender and insured by the FHA. The uniform covenants of the FHA mortgages state that the lender may only assess fees authorized by the Secretary of HUD.

154. Ms. Dawkins' Mortgage Agreement states that the mortgage "shall be governed by federal law and the law of the jurisdiction in which the Property is located," i.e., Florida law. *See* Dawkins Mortgage Agreement,¶ 14.

155. HUD permits servicers of FHA mortgages to collect "allowable fees and charges," i.e., fees and charges specifically delineated in Appendix 3 to the HUD Handbook. *See* HUD Handbook 4000.1, FHA Single Family Housing Policy Handbook § III.A.1.f. Servicers seeking to assess fees "not specifically mentioned" in the Servicing Handbook must request approval from the National Servicing Center to charge such fees. *Id.* § III.A.1.f.(B). HUD prohibits servicers from charging the borrower for "activities that are normally considered a part of a prudent Mortgagee's servicing activity. *Id.* § III.A.1.f.(C).

156. As set forth herein, the HUD Handbook does not authorize Pay-to-Pay Fees. Carrington has not sought authorization from the National Servicing Center to charge Pay-to-Pay Fees.

157. Like other FHA mortgages, the Dawkins Mortgage Agreement states that "Lender may collect fees and charges authorized by the Secretary." Dawkins Mortgage Agreement, ¶ 8. By assessing Pay-to-Pay Fees not "authorized by the Secretary," Carrington violated the uniform covenants of the Dawkins Mortgage Agreement.

158. Because the above provisions are contained in the Uniform Covenants section of the Dawkins Mortgage Agreement, Carrington has breached its contracts on a class-wide basis.

159. Even if Carrington is allowed to collect a fee under the auspice that it is a default-related fee under Paragraph 7 of the Dawkins Mortgage Agreement, Carrington's demand for payment of Pay-to-Pay Fees was a direct breach of that paragraph, too. Paragraph 7 states that only "amounts *disbursed* by Lender under this Paragraph shall become an additional debt of Borrower." Dawkins Mortgage Agreement, ¶ 7. Carrington collected more than the amounts disbursed to process the Pay-to-Pay Transactions

160. Carrington acted deceitfully by assessing Ms. Dawkins Pay-to-Pay Fees that it was not authorized to collect, and by charging them more in Pay-to-Pay Fees than it actually disbursed to process the Pay-to-Pay Transactions.

161. Prior to filing her initial Complaint, Ms. Dawkins made a written pre-suit demand upon Carrington.

162. Carrington was given a reasonable opportunity to cure the breaches complained of herein but failed to do so.

CLASS ACTION ALLEGATIONS

163. Plaintiffs bring this action under Federal Rule of Civil Procedure 23 on behalf of the following Class:

> **All persons who paid a fee to Carrington for making a mortgage loan payment by telephone, IVR, or the internet, between January 1, 2016 through December 31, 2021 who fall into one or more of the following groups:**

(1) were borrowers on residential mortgage loans on properties located in California, Texas, New York, Maryland, or Florida;

(2) were borrowers on residential mortgage loans on properties in the United States to which Carrington acquired servicing rights when such loans were 30 days or more delinquent on loan payment obligations; or

(3) were borrowers on residential mortgage loans on properties located in the United States insured by the Federal Housing Administration.

164. Class members are identifiable through Defendant's records and payment databases.

165. Excluded from the Class are the Defendant; any entities in which it has a controlling interest; its agents and employees; and any Judge to whom this action is assigned and any member of such Judge's staff and immediate family.

166. Plaintiffs propose that they serve as Class representatives.

167. Plaintiffs and the Class have all been harmed by the actions of Defendant.

168. Numerosity is satisfied. There are hundreds of thousands of Class members. Individual joinder of these persons is impracticable.

169. There are questions of law and fact common to Plaintiffs and to the Class, including, but not limited to:

a. Whether Carrington assessed Pay-to-Pay Fees on Class members;

b. Whether Carrington breached its contracts with borrowers by charging Pay-to-Pay Fees not authorized by their mortgage agreements;

c. Whether Carrington violated the FDCPA by charging Pay-to-Pay Fees not due;

d. Whether Carrington violated the MCDCA by charging Pay-to-Pay Fees not due;

e. Whether Carrington violated the MCPA;

f. Whether Carrington violated the Texas Finance Code;

g. Whether Carrington violated the Rosenthal Act;

h. Whether Carrington violated the FCCPA;

i. Whether Carrington's cost to process Pay-to-Pay Transactions is less than the amount that it charged for Pay-to-Pay Fees;

j. Whether Plaintiffs and the Class were damaged by Carrington's conduct;

k. Whether Plaintiffs and the Class are entitled to actual and/or statutory damages as a result of Carrington's actions;

l. Whether Plaintiffs and the Class are entitled to restitution;

m. Whether Carrington should be enjoined from collecting Pay-to-Pay Fees; and

n. Whether Plaintiffs and the Class are entitled to attorney's fees and costs.

170. Plaintiffs' claims are typical of the claims of the Class members. Carrington charged them Pay-to-Pay Fees in the same manner as the rest of the Class members. Plaintiffs and the Class members entered into uniform covenants in their Mortgage Agreements that prohibit Pay-to-Pay Fees or, at most, cap the amount of Pay-to-Pay Fees allowed to be charged at the actual amount disbursed by Carrington to process Pay-to-Pay Transactions.

171. Plaintiffs are adequate Class representatives because their interests do not conflict with the interests of the Class members, and they will adequately and fairly protect the interests of the Class members. Plaintiffs have taken actions before filing this amended complaint, by hiring skilled and experienced counsel, and by making pre-suit demands on behalf of Class members to protect the interests of the Class.

172. Plaintiffs have hired counsel that is skilled and experienced in class actions and are adequate Class Counsel capable of protecting the interests of the Class members.

173. Common questions of law and fact predominate over questions affecting only individual Class members, and a class action is the superior method for fair and efficient adjudication of this controversy.

174. The likelihood that individual members of the Class will prosecute separate actions is remote due to the time and expense necessary to conduct such litigation.

COUNT I
Breach of Contract
(All Plaintiffs on behalf of the Class)

175. Plaintiffs incorporate paragraphs 1 through 174.

176. Plaintiffs each have a mortgage loan that is serviced by Carrington. Carrington is bound by the terms of all mortgages it services.

177. Members of the Class have or had mortgages that were serviced by Carrington either as the holder of the loan or pursuant to an assignment from the lender.

178. Carrington is bound by the terms of Plaintiffs' and Class members' mortgage agreements.

179. Carrington improperly collected Pay-to-Pay fees contrary to the express terms of Class members' mortgage agreements that prohibit the charging of fees not authorized by state or federal law.

180. As a proximate result of that breach, Plaintiffs and members of the Class have been damaged by paying fees that should not have been assessed against them and which Carrington was not entitled to collect.

181. On behalf of themselves and the Class, Plaintiffs seek injunctive and compensatory relief.

COUNT II
Violations of the FDCPA
(Plaintiffs Thomas-Lawson, Boley, and Green on behalf of the Class)

182. Paragraphs 1 to 181 are incorporated herein by reference.

183. The FDCPA makes it an illegal, unfair practice for a debt collector to undertake the "collection of any amount (including any interest, fee, charge, or expense incidental to the principal

obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law." 15 U.S.C. § 1692f(1).

184. Plaintiffs Thomas-Lawson, Boley, Green, and the Class are "consumers" as defined by 15 U.S.C. § 1692a(3) because they purchased homes by mortgage primarily for personal, family, or household use.

185. Because Carrington regularly collects debts owed others and because it acquired the loans of Plaintiffs and Class members while those loans were in default, it qualifies as a debt collector under the FDCPA.

186. The Mortgage Agreements of Plaintiffs Thomas-Lawson, Boley, Green, and the Class do not expressly authorize Carrington to collect Pay-to-Pay fees. At most, the Mortgage Agreements permit Carrington to collect the actual amount disbursed to process the Pay-to-Pay transactions.

187. Although the Mortgage Agreements do not expressly authorize collection of Pay-to-Pay Fees, Carrington collected such fees anyway.

188. In so doing, Carrington violated 15 U.S.C. § 1692f(1).

189. Carrington intentionally, frequently, and persistently collected Pay-to-Pay Fees from Plaintiffs Thomas-Lawson, Boley, Green, and the Class.

190. Plaintiffs Thomas-Lawson, Boley, and Green, and the Class were harmed as a result of Carrington's conduct.

191. As a result of Carrington's violation of 15 U.S.C. § 1692f, Plaintiffs Thomas-Lawson, Boley, Green and the Class were harmed monetarily and are entitled to actual damages, plus statutory damages under 15 U.S.C. § 1692k, together with reasonable attorney's fees and costs.

COUNT III
Violations of State Debt Collection and Mortgage Servicing Laws
(All Plaintiffs on behalf of the Class)

192. Paragraphs 1 to 191 are hereby incorporated by reference.

193. The laws of the various states regulate debt collection practices and mortgage servicing activities, including, but not limited to, incorporating provisions of the FDCPA and making those provisions independently actionable under state law, as well prohibiting additional unfair, unconscionable, and/or deceptive acts committed in the course of collecting on consumer debt (collectively "State Debt Collection Laws"). These State Debt Collection Laws include the laws of any and all of the fifty states and the District of Columbia that regulate the conduct of debt collectors and/or mortgage servicers in consumer transactions. Examples of these State Debt Collection Laws include, but are not limited to, California's Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788.01 *et seq.*; Florida's Consumer Collection Practices Act, Fla. Stat. 559.55, *et seq.*; Maryland's Consumer Debt Collection Act, Md. Code, Com. L. § 14-202 *et seq.*; the North Carolina's Debt Collection Act, N.C. Gen. Stat., § 75-55, *et seq.;* the North Carolina Debt Collection and Mortgage Servicing Act, N.C. Gen. Stat. § 45-91, *et seq.,* Texas's Debt Collection Act, Tex. Fin. Code § 392.303, *et seq.;* and any state law that borrows or is predicated on the federal Fair Debt Collection Practices Act.

194. Plaintiffs and the Class are consumers who engaged in consumer debt transactions when they took out mortgage loans secured by their homes for personal and household use within the meaning of the State Debt Collection Laws.

195. Carrington is a debt collector that collects debts incurred for personal and household use within the meaning of the State Debt Collection Laws.

196. Carrington's collection of monthly mortgage payments are attempts to collect debts arising out of consumer transactions within the meaning of the State Debt Collection Laws.

197. Pay-to-Pay Fees are prohibited under State Debt Collection Laws, because, they are: (a) fees incidental to the principal debt when such a fee is not expressly authorized by the agreement creating the debt or applicable law; (b) a portion of the debt collector's fee that is passed on to the

consumer in violation of applicable law; (c) not authorized by the Secretary of HUD and/or any other relevant governmental authority; and/or (d) otherwise an unfair, unconscionable, and/or deceptive means of collecting a consumer debt under the State Debt Collection Laws.

198. As a result of Carrington's collection of Pay-to-Pay fees, Plaintiffs and the Class have suffered financial damages.

PRAYER FOR RELIEF

Wherefore, Plaintiffs, on behalf of themselves and others similarly situated, respectfully request that the Court:

1. Determine that this action may be maintained as a class action under Fed. R. Civ. P. 23, that Plaintiffs are proper Class representatives, and that their counsel are appointed Class Counsel.

2. Award damages, including compensatory and exemplary damages, to Plaintiffs and the Class in an amount to be determined at trial;

3. Award statutory damages and/or penalties to Plaintiffs and the proposed Class as permitted by law;

4. Enter an order enjoining Carrington from continuing to collect Pay-to-Pay Fees;

5. Award Plaintiffs and Class members their expenses and costs of suit, including reasonable attorneys' fees to the extent provided by law;

6. Award pre- and post-judgment interest to the extent provided by law; and

7. Award such further relief as the Court deems appropriate.

PLAINTIFFS DEMAND A JURY ON ALL ISSUES SO TRIABLE.

Dated: May 25, 2022

Respectfully Submitted,

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