

CAROLYN DELORISE PATTON

Plaintiff

v.

WELLS FARGO FINANCIAL
MARYLAND, INC., et al.,

Defendants

* IN THE

* CIRCUIT COURT

* FOR

* ANNE ARUNDEL COUNTY

* Case No.: 02-C-10-149844

* * * * *

ORDER

This matter having come before the Court on Plaintiff's Motion for Class Certification, and after a hearing thereon; it is hereby

ORDERED, this 18th day of June, 2015:

1. For the reasons stated herein, Plaintiff's Motion for Class Certification is **GRANTED**.

The party moving for class certification bears the burden of proving that the requirements for certification have been met. See Bergmann v. Bd. of Regents of Univ. Sys. of Maryland, 167 Md. App. 237, 287 (2006). Maryland Rule § 2-231 enumerates the requirements for class certification:

(a) Prerequisites to a Class Action. One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.

In addition to the four requirements in subpart (a), the moving party must also establish at least one of three requirements in Rule § 2-231(b). Here, the Plaintiff seeks certification under subpart (b)(3), which provides:

(b)(3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting

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only individual members and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions, (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class, (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum, (D) the difficulties likely to be encountered in the management of a class action.

Md. Rule § 2-231. The Court finds that Plaintiff has met her burden of establishing numerosity, commonality, typicality, and adequacy of representation enumerated in Maryland Rule § 2-231(a). Plaintiff has also made sufficient showing to meet her burden as to the “predominance” requirement enumerated in Maryland Rule § 2-231(b)(3).

a. Numerosity

The Court must look to the facts of the case and use its practical judgment to determine if “the class is so numerous that joinder of all members is impracticable.” See *Philip Morris Inc. v. Angeletti*, 358 Md. 689, 732 (2000); Md. Rule § 2-231(b)(3). “Plaintiffs need not state a number with specificity; a good faith estimate is ordinarily sufficient. [A] class consisting of hundreds, or thousands, of members is likely to satisfy this requirement.” *Angeletti*, 358 Md. at 732-33 (internal citations omitted). In the instant matter, the Plaintiff has sufficiently demonstrated the existence of an ascertainable class, and has identified thousands of potential class members.

b. Commonality

“The threshold of commonality is not a high one and is easily met in most cases. It does not require that all, or even most issues be common, nor that common issues predominate, but only that common issues exist.” *Angeletti*, 358 Md. at 734 (internal citations omitted). The Court finds that the Plaintiff has demonstrated sufficient commonality among potential class members. Such commonality consists of those consumers whose automobile financing

agreements elected to conform with the requirements of the Maryland Credit Grantor Closed End Credit Provisions (“CLFC”).

c. Typicality

“This requirement demands a common-sense inquiry into whether the incentives of the plaintiffs are aligned with those of the class, and is meant to ensure that representative parties will adequately represent the class. Representative claims need not be identical to those of the rest of the class; instead, there must be similar legal and remedial theories underlying the representative claims and the claims of the class.” *Angeletti*, 358 Md. at 737-38 (internal citations omitted). The Court finds that the Plaintiff’s claims are typical of the complaints of the class, as such claims are founded singularly in the alleged failure to comply with notice requirements of CLFC.

d. Adequacy of Representation

A party seeking class certification must demonstrate that both the class representative and the legal counsel representing the class “fairly and adequately protect the interests of the class.” See Md. Rule § 2-231(a)(4). Adequacy of Representation requires first “that the named plaintiff have no conflicts of interest with class members and that he or she prosecute the action vigorously on behalf of the class” and secondly, “to verify that counsel is adequate to represent the class.” *Angeletti*, 358 Md. at 740-41. In the instant matter, the Court finds that Ms. Patton is an adequate class representative, and Thomas J. Minton and the law firm of Goldman & Minton, P.C. are adequate legal representatives.

e. Predominance

“The predominance test does not require that common issues be dispositive of the action or determinative of the liability issues. Instead, courts should inquire into ‘whether proposed

classes are sufficiently cohesive to warrant adjudication by representation.’ In order to satisfy the predominance test, ‘common issues must constitute a significant part of the individual cases.’” Angeletti, 358 Md. at 743 (internal citations omitted). The Court finds that common issues between the class members sufficiently predominant as again, they are founded singularly in the alleged failure to comply with notice requirements of CLEC.

2. The issue of standing raised by the Defendant in this matter has been previously litigated and rejected by this Court in Defendant’s Motion for Summary Judgment.

3. Plaintiff’s class is defined as follows:

All Maryland residents who, since February 26, 2006, (a) have or had a finance agreement held by Wells Fargo; (b) had their vehicle repossessed in Maryland by Wells Fargo or its agents; (c) were sent a Notice of Intent to Sell Property which failed to contain one or more mandated statutory disclosures; and (d) were sent a post-repossession sale notice which failed to contain one or more of the mandated statutory disclosures.

4. Thomas J. Minton and the law firm of Goldman & Minton, P.C. are hereby appointed as class counsel.

5. The Casey Group is approved as class administrator for the purpose of identifying class members, providing notice of the pendency of this matter to the class members, and calculating the amount of “interest, fees, and charges collected” by defendant from the class members pursuant to Md. Comm. Law § 12-1018, with Class Counsel to bear the cost of administration.

6. Defendant shall provide access for the Casey Group to Defendant’s computer records pertaining to class members whose account numbers have been furnished to Defendant by Class counsel, within 30 days of this Order.

6. The parties shall submit a proposed class notice to the Court within 30 days of this Order.



GLENN L. KLAVANS,
JUDGE