



FACT SHEET
Culliver et al. v. Alarcon Law Group, P.C. et al.

CONTACT MEDIA RELATIONS

Stacie B. Royster
Lawyers' Committee for Civil Rights Under Law
Office: (202) 662-8314
Email: sroyster@lawyerscommittee.org

Christopher Rieck
Director of Media Relations
McDermott Will & Emery LLP
Office: (212) 547-5367
Email: crieck@mwe.com

All statements below are allegations provided by the plaintiffs. None of these allegations have been proven yet.

ABOUT Culliver et al. v. Alarcon Law Group, P.C. et al.

Seventeen homeowners from New York and nine other states filed a lawsuit against a network of loan modification companies based in Long Island, New York, as well as their owner and chief employee, asserting several causes of action arising out of the companies' loan modification activities, including those for breach of contract, fraud, legal malpractice, and violations of consumer protection statutes in New York. The lawsuit alleges that the defendants operated a fraudulent scheme in which they lured homeowners in need of mortgage assistance with false promises of guaranteed mortgage loan modifications—often backed by money-back guarantees—and then failed to deliver on those promises or provide a refund after collecting thousands of dollars in upfront fees and monthly membership fees from the homeowners. The plaintiffs now seek monetary and injunctive relief against the defendants for the damages they have alleged defendants' loan modification scams caused. The Lawyers' Committee for Civil Rights Under Law and McDermott Will & Emery LLP are representing the plaintiffs free of charge.

ABOUT THE PLAINTIFFS

The plaintiffs in Culliver et al. v. Alarcon Law Group, P.C. et al. include:

Ms. Paula Lopez and Ms. Ramona Gonzales (Brooklyn, NY) (¶¶ 223-237):

- Paula Lopez is a retiree from her career in human resources and now lives on a fixed income.
- Ms. Lopez purchased her home in approximately 1996 with a loan from Wells Fargo. Her sister, Ramona Gonzales, is employed as a home care attendant and cosigned on the loan. Ms. Gonzales helps with mortgage payments to the extent she is able to do so.

- In early 2011, Ms. Lopez became concerned that she would not be able to continue to make her mortgage payments because the economic downturn led to a decrease in Ms. Gonzales' income and, consequently, her ability to help with mortgage payments.
- Ms. Lopez initially sought a modification by contacting her lender directly, but she was refused a modification.
- Ms. Lopez sought other options that would help her keep her home. She searched for information about loan modifications on the internet and filled out an online form for Alarcon & Associates, P.C.
- In about April 2011, Ms. Lopez received a call from an Alarcon representative. He promised Ms. Lopez that, if she made three payments of \$2,695 (\$8,085 total) to Alarcon, she would receive a loan modification.
- The Alarcon representative told Ms. Lopez that the funds she paid to Alarcon would be placed "in escrow" for Wells Fargo. He also told Ms. Lopez that she should stop making her regular mortgage payments to Wells Fargo.
- Based on the Alarcon representative's assurances, and although she was not behind on her mortgage payments at that time, Ms. Lopez agreed to hire Alarcon and signed a contract for Alarcon's services in early April 2011. That contract specifically limited Alarcon's services to "Loss Mitigation," which did not include legal services such as court appearances or representation in any foreclosure action.
- Alarcon deducted the three payments of \$2,695 each from Ms. Lopez's bank account in May, June, and July 2011.
- In May, June, and July 2011, Ms. Lopez provided Alarcon with various information and documents in response to their requests. The information and documents were purportedly for the purpose of obtaining a loan modification for Ms. Lopez.
- In July 2011, Ms. Lopez received a notice of foreclosure for non-payment from Wells Fargo. She immediately phoned Wells Fargo and was informed that Alarcon had not contacted Wells Fargo about her loan or about a modification. She learned that she owed approximately \$13,450 to Wells Fargo in past due payments and late fees.
- Ms. Lopez immediately e-mailed her contact at Alarcon to inquire about why Wells Fargo had not been contacted and to demand a full refund of \$8,085. Her contact ignored the request for a refund, reprimanded her for speaking with Wells Fargo, and advised her to stop speaking with Wells Fargo and to be patient.
- Thereafter, Ms. Lopez became completely unable to contact Alarcon. Alarcon never responded to her request for a refund and never obtained a loan modification on her behalf.
- Luckily, Ms. Lopez was later able to negotiate with Wells Fargo directly for a loan modification, which has allowed her to avoid foreclosure for the time being.

Ms. Connie Culliver (Harpersville, Alabama) (¶¶ 71-94):

- Ms. Culliver purchased her home in approximately 2000 with a \$75,000 loan from HFC Mortgage.
- In 2011, a series of events caused Ms. Culliver to begin to struggle to make her mortgage payments. First, her daughter turned 19 and left for college, creating a double financial hit in that her daughter's child support payments ceased and Ms. Culliver helped pay for some college expenses. Second, Ms. Culliver was suffering from medical problems – likely stemming from stress related to her sister's fight with late-stage breast cancer, which led to her sister's death in late 2011 – which required her to visit a specialist not covered by her employer's health insurance.

- Ms. Culliver sought a modification from HFC on her own in early 2011, but she was declined, purportedly because HFC did not participate in the federal government's Making Home Affordable program. By November 2011, Ms. Culliver had fallen three months behind on her mortgage payments.
- In November 2011, Ms. Culliver was visiting her sister in the hospital, and she discussed her desire to obtain lower mortgage payments with her brother-in-law. Her brother-in-law told her that he was working with a company called R.M.A. Legal Network ("R.M.A.") to obtain a loan modification. Ms. Culliver called R.M.A. from the hospital.
- While on the phone, a R.M.A. representative guaranteed Ms. Culliver a loan modification and told her that she would "definitely" fit within the criteria for a loan modification. He also told her that her sister's illness would constitute a "hardship," which would be helpful in the modification application, and that the entire modification process would take no more than three months.
- Based on the representative's assurances, Ms. Culliver agreed to hire R.M.A. in December 2011. Ms. Culliver also signed a retainer agreement and several other agreements with R.M.A., which she was pressured to sign quickly.
- The cost for R.M.A.'s loan modification services was \$2,565, payable in three installments of \$855. Ms. Culliver made all three payments between January and March 2012.
- R.M.A. instructed Ms. Culliver to stop making her mortgage payments, as any amount she failed to pay would just be tacked onto the end of her modified mortgage. She was also told that she did not need to be in contact with her lender, as R.M.A. was handling all contacts.
- In January 2012, R.M.A. requested various documents from Ms. Culliver, which she provided. In early February, R.M.A. requested additional documents, which Ms. Culliver also provided.
- In May 2012, after months of inaction, R.M.A. requested documents from Ms. Culliver, most, if not all, of which Ms. Culliver had sent in January and February. Ms. Culliver again provided the documents.
- Thereafter, Ms. Culliver spoke with a R.M.A. representative, who indicated that lower payments and a lower interest rate (her current rate is over 12%) were forthcoming. The contact with R.M.A. was short-lived, however, and R.M.A. stopped communicating with Ms. Culliver about the status of her modification.
- Finally, in late-July 2012, Ms. Culliver reached out to the R.M.A. representative she had worked with in May to request a status update. The representative claimed that the modification had been denied. R.M.A. did not refund the \$2,565 she had paid.
- Having followed R.M.A.'s advice to stop making mortgage payments, Ms. Culliver is now more than a year behind on her mortgage payments, and her credit score has decreased.
- R.M.A. also failed to obtain a loan modification for Ms. Culliver's brother-in-law.

ABOUT THE LEGAL CLAIMS

The plaintiffs are seeking monetary damages as well as injunctive relief against the defendants, asserting that without judicial intervention preventing the defendants from engaging in further scams, other homeowners will be at risk of losing thousands of dollars in illegal upfront fees and monthly membership fees, will be at risk of suffering other financial penalties, and will be at risk of facing foreclosure proceedings. The complaint alleges various causes of action including:

- Violation of N.Y. General Business Law § 349 ("Deceptive Practices Act") and § 350 ("False Advertisement"): The defendants are alleged to have made numerous false promises and

misrepresentations to the plaintiffs in violation of the Deceptive Practices Act, including misrepresenting the nature and quality of their loan modification services, misrepresenting the progress of the plaintiffs' loan modification applications, and encouraging the plaintiffs to stop paying their monthly mortgage payments and/or stop communicating with their lenders/servicers. Defendants also falsely advertised their services, and plaintiffs relied on those false advertisements to their detriment. (¶¶ 285-301)

- Violation of New York Banking Law § 590: New York Banking Law § 590 requires persons or entities "who are in the business of soliciting, processing, placing or negotiating mortgage loans" to register as "mortgage brokers" with the Superintendent of the New York State Banking Department. The defendants have flagrantly disregarded this registration requirement. (¶¶ 302-09)
- Violation of Real Property Law § 265-b: The defendants are alleged to have violated N.Y. Real Property Law § 265-b by accepting upfront fees from distressed homeowners in exchange for offering to negotiate the terms of their mortgage loans, and by performing consulting services without a proper consulting contract. According to the complaint, the defendants did not provide direct consulting services in the course of a "regular legal practice." (¶¶ 310-20)
- Fraud and Legal Malpractice: The defendants' false representations also constituted fraud and legal malpractice. For example, the defendants fraudulently concealed the progress of plaintiffs' loan modification applications and avoided communications with several plaintiffs after receiving their upfront fees. The defendants then refused to refund plaintiffs' fees, despite the fact that plaintiffs never received any legal services and/or their "guaranteed" modification. (¶¶ 321-43, 350-53)