

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF LANE

NATIONAL STAR MORTGAGE LLC
d/b/a Mr. Cooper, a Delaware limited
liability company,

Plaintiff,

v.

CASEY N. CRONIN, an individual,

Defendant,

v.

FEDERAL NATIONAL MORTGAGE
ASSOCIATION, (Fannie Mae) a
corporation organized and existing
under the laws of the United States of
America,

Counterclaim-Defendant.

Case No. 23CV04280

**ANSWER TO AMENDED
COMPLAINT, AFFIRMATIVE
DEFENSES, AND
COUNTERCLAIMS**

**CLAIM NOT SUBJECT TO
MANDATORY ARBITRATION**

For her answer to Plaintiff's Amended Complaint, Defendant Casey N. Cronin ("Cronin" or "Defendant") answers, denies, and alleges as follows. Defendant's responses are made as of the date of filing. Except as expressly admitted herein, Defendant denies all of the allegations in Plaintiffs' Amended Complaint. As used herein, "Plaintiffs" is inclusive of Nationstar Mortgage LLC and Federal National Mortgage Association.

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1 **PARTIES AND JURISDICTION**

2 1.

3 Exhibit A speaks for itself.

4 2.

5 Exhibit H speaks for itself.

6 3.

7 Defendant admits that she is an Oregon citizen residing in Lane County. She
8 further admits that she claims an interest in the Property.

9 4.

10 Paragraph 4 is a legal conclusion, which requires no response.

11 **FACTUAL ALLEGATIONS**

12 5.

13 Paragraph 5 is an incorporation paragraph to which no response is required.
14 To the extent a response is required, Defendant incorporates its responses to the
15 preceding paragraphs.

16 6.

17 Defendant admits that she purchased the Property in 2007. Exhibit C speaks
18 for itself.

19 7.

20 Defendant admits that she obtained a loan to purchase the Property. Exhibit
21 A speaks for itself.

22 8.

23 The real property records, including any deed of trust concerning the
24 Property, speak for themselves.

25 ///

26 ///

1 9.

2 The real property records, including any deed of trust concerning the
3 Property, speak for themselves.

4 10.

5 Defendant admits that her marriage was dissolved on or about August 22,
6 2016, and that she was awarded the Property in that proceeding. Defendant further
7 admits that her former husband subsequently transferred the Property to her.

8 11.

9 Paragraph 11 contains legal conclusions to which no response is required. It
10 also contains allegations directed at third persons to which no response is required.

11 12.

12 Exhibit D speaks for itself.

13 13.

14 Exhibit E speaks for itself.

15 14.

16 Exhibit B speaks for itself.

17 15.

18 Defendant admits the allegations in Paragraph 15.

19 16.

20 Defendant admits filing a Complaint, which speaks for itself.

21 17.

22 Defendant admits that she obtained a preliminary injunction. The case file in
23 the Federal Action speaks for itself.

24 18.

25 Defendant admits that the case settled on September 13, 2018. The court's
26 subsequent orders speak for themselves.

19.

Defendant denies the allegations in Paragraph 19.

20.

The case file in the Federal Action speaks for itself.

21.

Defendant admits signing Exhibit F, which speaks for itself.

22.

Defendant denies having any obligations under Exhibit F because Plaintiffs did not perform their corresponding settlement obligations.

23.

Defendant admits not having remitted funds under Exhibit F, but denies having any obligations under Exhibit F because Plaintiffs did not perform their corresponding settlement obligations.

24.

Exhibit F speaks for itself.

25.

Defendant admits not having signed rescission documents because the documents Plaintiffs presented for signature went far beyond the scope of mere rescission while Plaintiffs have continued to refuse to perform their settlement obligations.

26.

Exhibit G speaks for itself.

27.

Exhibit G speaks for itself.

28.

Defendant denies the allegations in Paragraph 28.

29.

Paragraph 29 does not contain any factual allegations requiring a response.

30.

Exhibit H speaks for itself.

FIRST CLAIM FOR RELIEF

(Quiet Title)

31.

Paragraph 31 is an incorporation paragraph to which no response is required. To the extent a response is required, Defendant incorporates its responses to the preceding paragraphs.

32.

Paragraph 31 does not contain any factual allegations requiring a response, but Defendant denies Plaintiffs are entitled to the specific relief requested without performance of their obligations under the Settlement Agreement.

33.

Defendant admits that the Trustee's Deed must be rescinded in accordance with the parties' settlement agreement, but deny that Plaintiffs are entitled to any relief beyond that, including restoration to a position that would vitiate Defendant's settlement rights.

34.

Defendant admits the allegations in Paragraph 34.

35.

Defendant denies the allegations in Paragraph 35.

36.

Defendant denies the allegations in Paragraph 36.

///

37.

Defendant denies the allegations in Paragraph 37.

38.

Defendant admits that she should be reinstated as the Property's record title owner.

39.

Defendant denies the allegations in Paragraph 39.

40.

Defendant admits that she claims an interest in the Property, and that Plaintiffs are treating that interest as adverse.

SECOND CLAIM FOR RELIEF
(Declaratory Relief)

41.

Paragraph 41 is an incorporation paragraph to which no response is required. To the extent a response is required, Defendant incorporates its responses to the preceding paragraphs.

42.

Paragraph 42 does not contain any factual allegations requiring a response, but Defendant denies Plaintiffs are entitled to the specific relief requested.

43.

Defendant admits that the Trustee's Deed must be rescinded in accordance with the parties' settlement agreement, but deny that Plaintiffs are entitled to any relief beyond that, including restoration to a position that would vitiate Defendant's settlement rights.

44.

Defendant admits the allegations in Paragraph 44.

1 45.
2 Defendant denies the allegations in Paragraph 45.
3 46.
4 Defendant denies the allegations in Paragraph 46.
5 47.
6 Defendant denies the allegations in Paragraph 47.
7 48.
8 Defendant admits that she should be reinstated as the Property's record title
9 owner.
10 49.
11 Defendant denies the allegations in Paragraph 49.
12 50.
13 Defendant denies the allegations in Paragraph 50 to the extent they would
14 vitiate Defendant's settlement rights.
15 51.
16 Paragraph 51 contains legal conclusions which require no response.
17 52.
18 Paragraph 52 contains legal conclusions to which no response is required.

19 ****

20 **AFFIRMATIVE DEFENSES**

21 By way of further answer, Defendant asserts the following affirmative
22 defenses. By denominating these defenses as affirmative defenses, Defendant does
23 not undertake any burden of proof or production not otherwise imposed by law.

24 ///

25 ///

26 ///

1 **FIRST AFFIRMATIVE DEFENSE**

2 **(Failure to State a Claim)**

3 53.

4 Plaintiffs have failed to state a claim on which the requested relief may be
5 granted.

6 **SECOND AFFIRMATIVE DEFENSE**

7 **(Laches)**

8 54.

9 Plaintiffs' claims are barred, in whole or in part, by laches.

10 **THIRD AFFIRMATIVE DEFENSE**

11 **(Unclean Hands/In Pari Delicto)**

12 55.

13 Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean
14 hands and/or *in pari delicto*.

15 **FOURTH AFFIRMATIVE DEFENSE**

16 **(Estoppel/Waiver)**

17 56.

18 Plaintiffs are precluded by their actions, conduct, and/or silence from
19 asserting their claims.

20 **FIFTH AFFIRMATIVE DEFENSE**

21 **(Failure of Condition Precedent)**

22 57.

23 Defendant owes Plaintiffs no obligation unless and until Plaintiffs comply
24 with the terms of the settlement agreement as stated on the record on September
25 13, 2018.

26 ///

1 **SIXTH AFFIRMATIVE DEFENSE**

2 **(Frustration of Purpose)**

3 58.

4 The purpose of any documents executed after the settlement agreement as
5 stated on the record on September 13, 2018 was to effectuate the terms of
6 settlement, which Plaintiffs have not complied with.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 **(Reservation)**

9 59.

10 Defendant reserves the right to bring additional affirmative defenses and
11 allege additional counterclaims and third-party claims in the future as discovery
12 develops.

13 *****

14 **COUNTERCLAIMS**

15 Defendant asserts the following counterclaims:

16 **FIRST COUNTERCLAIM**

17 **(Breach of Contract)**

18 60.

19 Defendant incorporates every allegation herein.

20 61.

21 On or about June 27, 2017, Defendant initiated a federal lawsuit against
22 Plaintiffs arising from a wrongful foreclosure of her property located at 2750 La
23 Darrah Street, Eugene, Oregon 97401 (the “Property”)

24 62.

25 The parties reached a settlement agreement as stated on the record on
26 September 13, 2018 (the “Settlement”).

1 63.

2 The parties agreed, in part, that Defendant would “be paid the sum of
3 \$45,000” that she would receive an additional amount of \$5,500 “on or before
4 October 31st of 2018.”

5 64.

6 Defendant did not receive either payment.

7 65.

8 Plaintiffs have continued to refuse to remit that payment.

9 66.

10 As a result, Plaintiffs are in breach of their obligations under the Settlement.

11 67.

12 Defendant is entitled to the amount of \$50,500, plus pre- and post-judgment
13 interest.

14 68.

15 Defendant is also entitled to her consequential damages in an amount to be
16 determined at trial, but estimated to be \$90,500.

17 **SECOND COUNTERCLAIM**

18 **(Unjust Enrichment)**

19 69.

20 Defendant incorporates every allegation herein.

21 70.

22 Defendant signed a modification agreement (the “Modification”) under the
23 belief that Plaintiffs would comply with their obligations under the settlement,
24 which they did not do, and continue to refuse to do.

25 ///

26 ///

1 71.

2 Plaintiffs would be unjustly enriched were they permitted to enforce the
3 Modification agreement without performing their obligations under the Settlement.

4 72.

5 The amount by which Plaintiffs would be unjust enriched is estimated to be
6 \$50,500, plus pre- and post-judgment interest, and consequential damages
7 including, but not limited to, unnecessary forced place insurance in an amount to be
8 determined at trial, but estimated to be \$90,500.

9 **THIRD COUNTERCLAIM**

10 **(Declaratory Relief)**

11 73.

12 Defendant incorporates every allegation herein.

13 74.

14 Defendant is entitled to a declaration voiding the Trustee's Deed, enforcing
15 the Settlement Agreement, and ordering Plaintiffs to pay an amount estimated to
16 be \$50,500, plus pre- and post-judgment interest, and consequential damages
17 including, but not limited to, unnecessary forced place insurance in an amount to be
18 determined at trial, but estimated to be \$90,500.

19 **FOURTH COUNTERCLAIM**

20 **(Rescission of Modification Agreement-Duress)**

21 75.

22 Defendant incorporates every allegation herein.

23 76.

24 Defendant signed the Modification Agreement under fear of losing her home,
25 and under the incorrect belief that Plaintiffs would comply with the Settlement.

26 ///

1 77.

2 The Modification Agreement should be rescinded.

3 78.

4 Defendant should be awarded her reasonable attorney fees under the
5 Modification.

6 **FIFTH COUNTERCLAIM**

7 **(Slander of Title)**

8 79.

9 Defendant realleges each of the preceding paragraphs and incorporates them
10 by reference herein.

11 76.

12 Plaintiffs' actions in falsely maintaining on the records of Lane County a
13 Trustee's Deed that is void and refusing to release it without demanding Defendant
14 relinquish her rights under the Settlement constitutes the uttering of false
15 slanderous words.

16 77.

17 Plaintiffs acted with malice in failing to take the necessary action to remove
18 the Trustee's Deed.

19 78.

20 Defendant has been specially and actually damaged by the presence of the
21 recorded improper encumbrance because the encumbrance has harmed Defendant's
22 credit, prevented her from accessing equity, and resulting in consequential damages
23 in an amount to be determined at trial, but estimated to be \$90,500.

24 79.

25 Defendant reserves her right to amend this claim to allege punitive damages.

26 ///

1 WHEREFORE, Defendant prays for judgment from this Court as follows:

- 2 1. Dismissal of Plaintiff's claims with prejudice;
- 3 2. Declaring the Trustee's Deed to be an invalid encumbrance;
- 4 3. Ordering Plaintiffs to pay an amount estimated to be \$50,500, plus pre-
- 5 and post-judgment interest, and consequential damages in an amount to
- 6 be determined at trial, but estimated to be \$90,500;
- 7 4. Rescinding the Modification Agreement;
- 8 5. Awarding Defendant's reasonable attorney fees;
- 9 6. Awarding Defendant's costs and disbursements incurred herein;
- 10 7. Granting all other relief that this Court finds just or equitable.

11 DATED: January 26, 2024.

12 TONKON TORP LLP

13 By: s/ Lauren B. Bernton

14 Lauren B. Bernton, OSB No. 163439

15 Direct: 503.802.2144

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18 Portland, OR 97204

19 Facsimile: 503.274.8779

20 Attorneys for Defendant Casey B. Cronin

21 Trial Attorney: Lauren B. Bernton, OSB No. 163439

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing **ANSWER TO AMENDED**
3 **COMPLAINT, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS** on:

4 Justin D. Balser
5 Troutman Pepper Hamilton Sanders LLP
6 5 Park Plaza, Suite 1400
7 Irvine, CA 92614
8 Direct: 949.622.2700
9 Email: justin.balser@troutman.com
10 Attorneys for Plaintiffs

- 11 ☒ by electronic means through the Court's File & Serve system (if
12 registered) on the date the court accepts the filing;
- 13 ☒ by mailing a copy thereof in a sealed, first-class postage prepaid
14 envelope, addressed to each attorney's last-known address and
15 depositing in the U.S. mail at Portland, Oregon on the date set forth
16 below;
- 17 ☒ by causing a copy thereof to be emailed to said attorneys at each
18 attorney's last-known email address on the date set forth below;
- 19 ☐ by causing a copy thereof to be hand-delivered to said attorneys at each
20 attorney's last-known office address on the date set forth below; and/or
- 21 ☐ by sending a copy thereof via overnight courier in a sealed, prepaid
22 envelope, addressed to each attorney's last-known address on the date
23 set forth below.

24 DATED: January 26, 2024.

25 TONKON TORP LLP

26 By: s/ Lauren B. Bernton

Lauren B. Bernton, OSB No. 163439
Attorneys for Defendant Casey B. Cronin

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