Wells Fargo pays $12M for wrongly denying mortgage modifications

More than 1,800 mortgage borrowers will receive a compensation in class action lawsuit settlement

Wells Fargo agreed to pay $12 million to more than 1,800 mortgage borrowers to resolve a class action lawsuit that alleged the bank's clients had loan modifications wrongfully denied due to calculation errors in the bank's system.

A judge from the U.S. District Court for the Southern District of Ohio approved the settlement on Tuesday after a hearing between the parties.

A spokesperson for Wells Fargo, the largest depository residential mortgage lender in the U.S., told HousingWire that the bank is "pleased to be able to put this lawsuit behind us" but had no more comments to add about the settlement.

The deal will provide $9 million to the class members, with the remainder going to plaintiffs' attorneys, costs, service awards, and settlement expenses. The benefit distribute date is currently scheduled to occur on March 15.

Plaintiffs Diane Hawkins and Ethan Ryder filed the class action in 2019.

The lawsuit alleges that, between 2010 and 2018, Wells Fargo failed to detect errors in its automated system to determine whether consumers in default would be eligible for loan modifications with Fannie Mae or Freddie Mac, or under the U.S. Department of Treasury's Home Affordable Modification Program (HAMP).

Also, the bank failed to audit the software for compliance with government requirements, allowing life-changing error to remain uncorrected for years. One caveat: the government provided a free tool for the bank, but Wells Fargo decided to use its own software, according to the lawsuit.

Wells Fargo publicly acknowledged the calculation error in 2018, including the information in filings with the Securities and Exchange Commission (SEC). The bank estimated that approximately 625 customers were incorrectly denied a mortgage modification, and 400 of them were foreclosed.

The bank set aside $8 million to be used to remediate the customers, but plaintiffs filed the lawsuit alleging breach of contract, fraudulent concealment, and intentional infliction of emotional distress. Wells Fargo denies plaintiffs' allegations, and the settlement document clarifies that it may not be used as an admission, or evidence, of the validity of the claims.

In September, Wells Fargo was slapped with a $250 million civil penalty by the Office of the Comptroller of the Currency for "unsafe or unsound" practices pertaining t its home lending loss mitigation program.

Specifically, the agency accused the bank of charging customers mortgage interest rate lock extension fees, even though some of the loan closings failed due to the bank's own volition.

The bank recently entered into a three-year deferred prosecution agreement that required changes to Wells Fargo's management and its board of directors. It also required a stronger compliance program.

Last week, Wells Fargo appointed Derek Flowers as its new chief risk officer.