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## Ocwen, Assurant Deal Objectors Say 9th Circ. Is On Their Side

By **Jody Godoy**

Law360, New York (June 5, 2015, 3:17 PM ET) -- Objectors to a \$140 million deal between homeowners, Ocwen Financial Corp. and Assurant Inc. over allegedly inflated force-placed insurance premiums asked a Florida federal court Thursday to consider a Ninth Circuit ruling pointing to "subtle signs" that class counsel in that case skewed a settlement in their own interest.

The deal proposed in April would settle allegations by a proposed class that the insurer paid the mortgage servicing company to inflate force-placed insurance premiums. Putative class members Shane and Cecilia Valdez said in their supplement to a previous filing that a Ninth Circuit ruling highlighted settlement features implying class counsel bias.

"The Ninth Circuit found that the district court abused its discretion by not probing deeper into the fairness of the settlement," the objectors wrote. In that case, the appellate court ruled "there were 'subtle signs that class counsel have allowed pursuit of their own self-interests ... to infect the negotiations,'" the objectors said.

The **proposed deal** would end a suit accusing the companies of entering into an exclusive contract for force-placed insurance for mortgage borrowers without their own insurance. While admitting that insurance premiums would be higher than market price, the bank failed to tell borrowers that it was up to 10 times more expensive and that the bank would make money off the inflated premiums, according to the suit.

The objectors said Thursday that the Ninth Circuit had pointed to signs that could indicate collusion between class counsel and the defendant in a settlement in *Allen v. Labor Ready Southwest Inc.*

**In that ruling**, the Ninth Circuit said the fact that the class counsel would receive a disproportionate amount of the award taken together with provisions sending undistributed funds back to the defendants and agreeing that the defendants would not oppose the plaintiffs' attorney fees warranted extra scrutiny by the district court.

On May 26, the proposed class had responded to similar arguments in the **objectors' initial filing** saying that, unlike the Ninth Circuit, the 11th Circuit allows attorneys to recover percentages of a settlement without regard to the final payout and that class counsel "should not be penalized" for proposed class members' failure to grab a piece of the settlement.

The plaintiffs also said that while the other two features mentioned in the objectors' latest filing may warrant "closer scrutiny" of the deal, they "should not compel rejection of a settlement that is otherwise reasonable."

In mid-May, U.S. Magistrate Judge Jonathan Goodman **asked the defendants** to fill in details on how the settlement would be paid out. Ocwen and Assurant **defended the deal**

as “extremely generous.”

“We are not sure why this serial objector decided to violate the court’s order regarding supplemental filings and with an opinion that does even relate to final approval,” Adam Moskowitz of Kozyak Tropin & Throckmorton, who represents the class in the settlement, told Law360.

“We are glad that 99.99 percent of the nationwide class reviewed this settlement [and] approved it and we thus look forward to the hearing next week,” Moskowitz said.

Counsel for the objectors and the defendants did not reply to requests for comment.

The class is represented by Adam M. Moskowitz, Thomas Tucker Ronzetti, Rachel Sullivan and Robert J. Neary of Kozyak Tropin & Throckmorton PA, Aaron S. Podhurst, Peter Prieto and Matthew P. Weinshall of Podhurst Orseck PA, and Lance A. Harke, Sarah Clasby Engel and Howard M. Bushman of Harke Clasby & Bushman LLP.

Objectors Shane and Cecilia Valdez are represented by Stephen J. Fearon Jr. of Squitieri & Fearon LLP. Objector Margo Perryman is represented by Barry R. Himmelstein of Himmelstein Law Network and Sheri L. Kelly of the Law Office of Sheri L. Kelly.

Ocwen is represented by Brian V. Otero, Stephen R. Blacklocks, Ryan A. Becker and Corey A. Lee of Hunton & Williams LLP.

Assurant is represented by Frank G. Burt, W. Glenn Merten, Brian P. Perryman and Farrokh Jhabvala of Carlton Fields Jordan Burt PA.

The case is Lee v. Ocwen Loan Servicing LLC et al., case number 0:14-cv-60649, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Dani Kass. Editing by Jeremy Barker.

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