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## Ocwen, Assurant's \$140M Force-Placed Deal Draws Objections

By **Dani Kass**

Law360, New York (May 13, 2015, 6:24 PM ET) -- Two members of a federal class action in Florida objected Tuesday to a proposed \$140 million settlement with Ocwen Financial Corp. and Assurant Inc. over an alleged kickback scheme involving force-placed insurance, questioning how that amount was reached and how it will be disbursed.

The settlement for 400,000 class members **announced in April** asks for \$9.8 million in attorneys' fees, which class members Shane and Cecilia Valdez say is unfair given that they don't know how the \$140 million would be split among plaintiffs. The Valdezes call that \$140 million an "illusion" that class members will never receive.

"This is the type of settlement that courts and commentators frequently warn about," the objection states. "It promises large attorneys' fees to class counsel, but will provide very little to the class. Most class members will receive nothing. Yet, defendants — who unquestionably made hundreds of millions of dollars from their forced-place insurance scheme — will be absolved from liability if the court approves this proposed settlement."

The two companies were accused 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.

Before accepting the settlement, the Valdezes want to know how much in force-placed premiums were charged to the class during the class period, how many class members have filed claims for settlement proceeds, what dollar amount will be paid to the class, what percentage of the estimated damages will be paid to class members, and how the attorneys' fees will compare to the actual payout to the class.

The Valdezes, with the same counsel, Stephen J. Fearon Jr. of Squitieri & Fearon LLP, tried to sue Ocwen, other lenders and Assurant in May 2014 under similar claims, but they dismissed both companies from the suit in August.

Under the settlement, class members have to submit claims forms to receive payment. The Valdezes say the companies already have customer information, which they should use instead of relying on self-reporting.

"Defendants are no doubt aware of the historically low claims rate in 'claims-made' settlements and can be certain that their ultimate payout if this settlement is approved will be just a fraction of the premiums that they charged to the class," the objection states.

The class's lead attorney, **Adam M. Moskowitz of Kozyak Tropin & Throckmorton**, said he is still pleased with the settlement.

"It is extremely rare to receive only two objections from the over 400,000 class members across the country who received notice of the proposed settlement," he said in an email. "Unfortunately, these lawyers who have objected in other [lender-placed insurance] settlements are again attempting hold up this recovery, but we are very proud of the settlement and have every confidence that it will be approved."

In response, Fearon said the recovery in this case might be lower than the attorney fees, and he wants the judge to "shine some light" on what the class will be paid.

"While I understand that Class Counsel would rather that we not object to these settlements, they knew what they were doing when they entered these settlements agreements which so far have netted Class Counsel more than \$70 million in fees," he wrote in an email. "Our objection also seeks to test whether Class Counsel is being candid by describing their fee request as 'only 7% of the monetary recovery to the class.'"

Ocwen said in a statement that it still denies the accusations of the scheme, but that the settlement is in the best interest of the company.

"Ocwen plans to ask the court for approval of these proposed settlement terms and find that they are fair, reasonable, and adequate," according to the statement. "Ocwen believes it is adequately reserved against the potential costs of this settlement."

An Assurant spokesman referred Law360 to a statement released when the settlement was announced, denying the allegations but also saying it was in the best interest of the company to settle.

The Valdezes are represented by Stephen J. Fearon Jr. of Squitieri & Fearon LLP.

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

Ocwen is represented by Brian V. Otero, Stephen R. Blacklocks, Ryan A. Becker and Corey Anthony Lee of Hunton & Williams LLP. Assurant is represented by Franklin G. Burt, Farrokh Jhabvala, W. Glenn Merten, Brian P. Perryman and Irma T. Reboso-Solares of Carlton Fields Jordan Burt.

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.

--Editing by Jeremy Barker.

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