

Re: PLANET HOME LENDING LLC vs. Michael Locke Et Al, 05-2021-CA-047073-XXXX-XX Continuance

Michael Locke <mb122885@msn.com>

Fri 6/3/2022 1:35 PM

To: Matthew Wasinger <mattw@wasingerlawoffice.com>

Motion for Continuance

Introduction

Defendant Michael Locke is requesting a continuance of the hearing set for 6/15/2022 in this case. A FOIA request to the VA for all VALERI (VA Loan Electronic Reporting Interface) records concerning the loan in question is currently pending. These records are a crucial piece of discovery with the unique ability to definitively substantiate the claims of both parties. The Plaintiff currently has access to these records, while the Defendant does not.

Facts

1. Defendant has submitted interrogatories and the interrogatories led to the request from the VA for all VA Loan Electronic Reporting Interface records for the loan in question. The case management plan in this case calls for a trial in September of 2022. Defendant is right where he should be with regards to timeliness of discovery.
2. Those records are the only way of confirming issues like this case being filed while Defendant was under a CARES ACT COVID-19 forbearance, as well as other issues that will be detailed below.
3. "The following VA circulars are current policies and procedures for servicing VA loans. Circulars are supplemental to the VA Home Loan regulations." See https://www.benefits.va.gov/HOMELOANS/resources_circulars_valeri.asp [https://web.archive.org/web/*/https://www.benefits.va.gov/HOMELOANS/resources_circulars_valeri.asp]
4. The last 6 months of CARES ACT COVID-19 forbearance consist of two 3-month periods.

Veterans Benefits Administration
Department of Veterans Affairs
Washington, DC 20420

Circular 26-21-04
February 16, 2021

Approving Forbearance Requests for Veterans Affected by COVID-19

1. Background and Purpose. VA remains firmly committed to assisting Veterans as they experience financial hardships due to the COVID-19 pandemic. Veterans who have recently begun experiencing financial hardships due to the pandemic are uncertain about forbearance options available to them. Many Veterans who requested forbearance early on and have or will soon be coming to the end of their forbearance periods, are also uncertain. This Circular provides guidance for granting COVID-19 forbearance to Veterans who continue experiencing financial hardships, directly or indirectly, because of the pandemic.

2. Action.

a. Under this Circular, VA expects servicers to approve a Veteran's request for COVID-19 forbearance, or continued forbearance, if a Veteran is experiencing a financial hardship, directly or indirectly, due to COVID-19, and the hardship negatively affects the Veteran's ability to make on-time loan payments. Veterans with VA-guaranteed loans may be eligible for COVID-19 forbearance, regardless of the delinquency status of the VA-guaranteed loan. The Veteran's initial request for COVID-19 forbearance may be granted for up to six months. If needed by the Veteran, the Veteran may request, and VA expects the servicer to approve, additional COVID-19 forbearance for up to six months. Servicers may approve a Veteran's initial COVID-19 forbearance if the request is made on or before June 30, 2021. A COVID-19 forbearance period may extend through June 30, 2022.

b. For Veterans who requested their initial COVID-19 forbearance on or before June 30, 2020, VA expects that, if needed, the Veteran may request, and the servicer will approve, up to two additional three-month COVID-19 forbearance periods, after twelve months of COVID-19 forbearance. The Veteran must request each three-month extension individually. Neither of the two additional three-month COVID-19 forbearance periods may extend beyond December 31, 2021.

c. Any period of COVID-19 forbearance may be shortened at the Veteran's request.

d. The servicer should waive all late charges, fees, and penalties, if any, that might otherwise accrue because of payments missed during a COVID-19 forbearance.

e. The COVID-19 forbearance described in this guidance does not supersede or otherwise eliminate the special forbearance loss mitigation option defined in 38 C.F.R. § 36.4301.

3. Questions. Any questions regarding this Circular should be submitted via email to valerihelpdesk.vbaco@va.gov.

4. Rescission: This Circular is rescinded July 1, 2022.

By Direction of the Under Secretary for Benefits

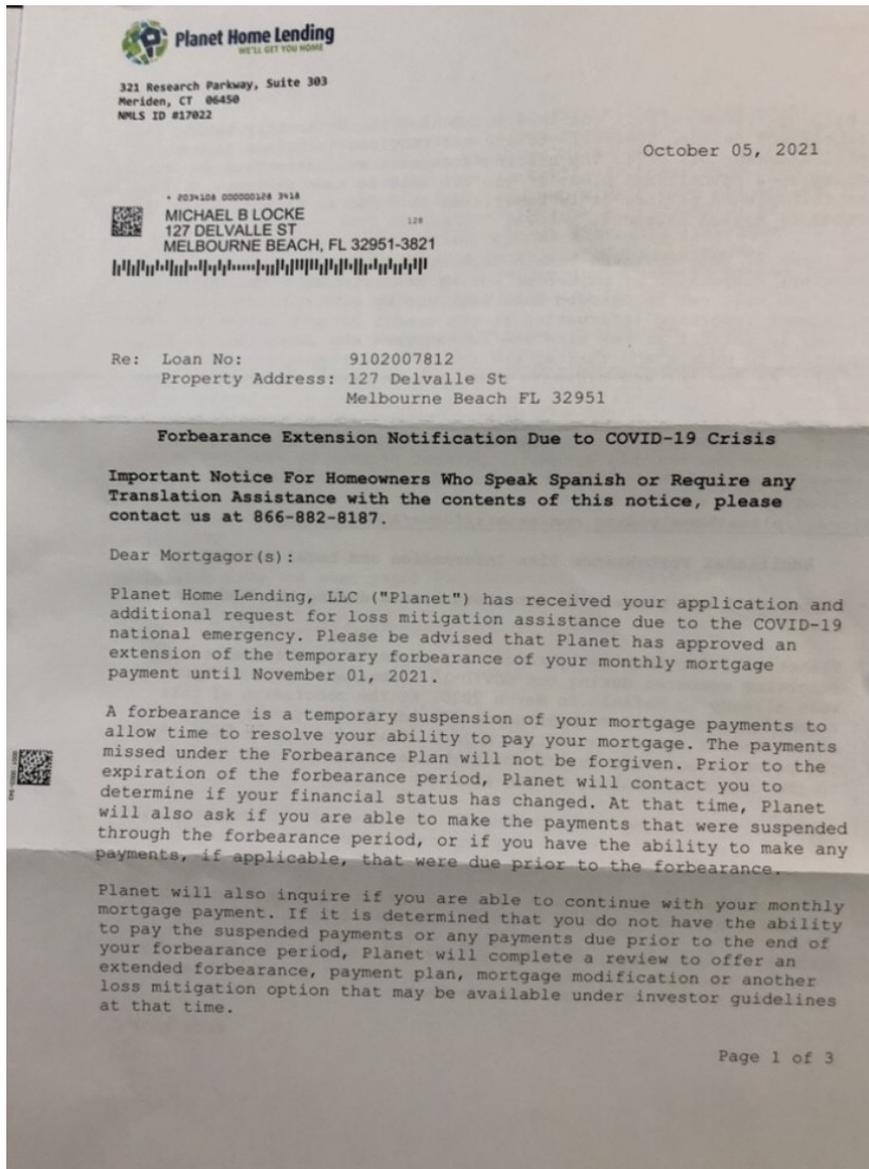
Jeffrey F. London
Executive Director
Loan Guaranty Service

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5. Not 2 months, which is apparently what Planet Home Lending did from August 2021-October 2021.

6. Not 1 month.



7. "Use 'must' ...to impose requirements..." See <https://www.plainlanguage.gov/guidelines/conversational/shall-and-must/> [https://web.archive.org/web/*/https://www.plainlanguage.gov/guidelines/conversational/shall-and-must/]
8. "The servicer must ensure the borrower has been given every opportunity to pursue all possible loss mitigation options in order to bring their loan current. Failure to do so could impact a future claim payment and could lead to other legal or administrative action(s) against the servicer." See Circular 26-20-12 (1), Extended Relief Under the CARES Act for those Affected by COVID-19. https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_20_12.pdf [https://web.archive.org/web/*/https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_20_12.pdf]
9. VA Circular 26-21-07 change 1 (2)(1) states in part "Chapter 5 of the VA Servicer Handbook M26-4 lists two types of loan modifications that expressly allow for a servicer to expedite processing for a borrower affected by a disaster. These options are the VA Disaster Modification and the Disaster Extend Modification." https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_21_07_change1.pdf [https://web.archive.org/web/*/https://www.benefits.va.gov/HOMELOANS/documents/circulars/26_21_07_change1.pdf]
10. VA Circular 26-21-07 change 1 (2)(2) states "With this Circular, VA is clarifying that a servicer can enter into a VA Disaster Modification if the modification is made not later than the date that is 18 months after the date on which the COVID-19 national emergency ends without VA preapproval. Additionally, a servicer can offer a VA Disaster Modification regardless of whether the borrower has entered into a COVID-19 forbearance plan and regardless of whether the COVID-19 national emergency caused the default."
11. VA Circular 26-21-07 change 1 (2)(3) states "Additionally, VA is allowing for Disaster Extend Modifications to extend the loan's original maturity date for up to 18 months, in cases where the loan is modified not later than the date that is 18 months after the date on which the COVID-19 national emergency ends. VA does not normally allow for Disaster Extend Modifications to extend the loan's maturity date more than 12 months beyond the original maturity date without VA preapproval. The servicer can offer a Disaster Extend Modification regardless of whether the borrower has entered into a COVID-19 forbearance plan and regardless of whether the COVID-19 national emergency caused the default."
12. VA Circular 26-19-27(1) concerning special relief related to Hurricane Dorian links to the following VA Guidance on Natural Disasters (as do all disaster related circulars):
https://www.benefits.va.gov/homeloans/documents/docs/va_policy_regarding_natural_disasters.pdf
[https://web.archive.org/web/*/https://www.benefits.va.gov/homeloans/documents/docs/va_policy_regarding_natural_disasters.pdf]

13. On page 2 of the VA Guidance on Natural Disasters under the heading "Information for Mortgage Servicers," it is stated that "Mortgage servicers must check with FEMA to obtain the specific counties and corresponding declaration dates (<https://www.fema.gov/disasters>) along with any amendments to the declaration."

14.

Interrogatory No. 7: Does the M26-4(5.01)(d) state in part that "...Servicers must select the best option for all parties involved as early in the delinquency as possible"?

Answer:

Yes

See 05-2021-CA-047073-XXXX-XX, Doc #46, Plaintiff's responses to Defendant's interrogatories.

15.

9. Was the property in question under a mandatory hurricane evacuation order during September of 2019 for Hurricane Dorian?

Answer: Yes.

CONCLUSION

Plaintiff incorporates by reference every general objection set forth above into each specific response set forth above. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Moreover, Plaintiff does not waive its right to amend its responses.


PLANET HOME LENDING, LLC.
By: THOMAS O'CONNELL
Its: SR.VICE PRESIDENT

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See 05-2021-CA-047073-XXXX-XX, Doc #67, Plaintiff's responses to Defendant's interrogatories.

Request

Based on the proceeding, Defendant requests that the court continue the hearing set for 6/15/2022 until such time as Defendant is provided the VALERI records and given a minimum of 2 weeks to review them.

I hereby certify under the penalty of perjury under the laws of the United States of America that the foregoing and following are true and correct. Executed on 6/3/2022.

/s/ Michael Locke

Michael Locke

127 Delvalle St. Melbourne Beach, FL 32951

mb122885@msn.com

From: Matthew Wasinger <mattw@wasingerlawoffice.com>

Sent: Friday, June 3, 2022 9:54 AM

To: Michael Locke <mb122885@msn.com>

Subject: Re: PLANET HOME LENDING LLC vs. Michael Locke Et Al, 05-2021-CA-047073-XXXX-XX Continuance

Mr. Locke, we have moved the hearing to June 15, 2022. That is as far as we will move it. You have had ample time to complete discovery and the VA is not a party to this case. We object to any further continuance.

Matthew T. Wasinger

Attorney and Counselor at Law Wasinger Law Office, PLLC

t. [407.308.0991](tel:4073080991)

f. [407.613.2245](tel:4076132245)

a. 605 E. Robinson St., Ste 730, Orlando, FL 32801

[Website](#) [Email](#) [Schedule a Consultation](#)

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NOTE: This law firm is deemed to be a debt collector attempting to collect a debt and any information obtained will be used for that purpose.

On Thu, Jun 2, 2022 at 10:54 AM Michael Locke <mb122885@msn.com> wrote:

Hello,

This is an attempt at conferring on a continuance of the 6/13/2022 hearing until such time that I receive the requested home loan records from the VA and I am able to review said records.

Does the Plaintiff object to said continuance?

<https://www.muckrock.com/foi/united-states-of-america-10/valeri-home-loan-information-128369/>

https://web.archive.org/web/*https://www.muckrock.com/foi/united-states-of-america-10/valeri-home-loan-information-128369/?

I hereby certify under the penalty of perjury under the laws of the United States of America that the foregoing and following are true and correct. Executed on 6/2/2022.

/s/ Michael Locke

Michael Locke

127 Delvalle St. Melbourne Beach, FL 32951

mb122885@msn.com

From: info=muckrock.com@requests.muckrock.com <info=muckrock.com@requests.muckrock.com> on behalf of info@muckrock.com <info@muckrock.com>

Sent: Thursday, June 2, 2022 10:01 AM

To: mb122885@msn.com <mb122885@msn.com>

Subject: Daily Digest: 1 Update



MuckRock

Daily Digest: 1 Update

Requests

Yours

Acknowledged [VALERI Home Loan Information](#)

Department of Veterans Affairs, Veterans Benefits
Administration

Change your digest frequency or disable digests from your [account settings](#).

This email was sent to mb122885@msn.com.

Add to your address book to prevent our emails from being marked as spam.

'''

From: Price, Chaquonna B. <Chaquonna.Price@va.gov>

Sent: Friday, May 27, 2022 10:09 AM

To: Michael Locke <mb122885@msn.com>

Subject: RE: 22-05403-F FOIA Acknowledgment & Notice of Referral

Good Morning Mr. Locke,

I have forwarded your status inquiry to the assigned FOIA specialist. He should be reaching out to you soon.

Thank you,

Chaquonna Price
Government Information Specialist, VA FOIA Service
Quality, Performance, and Risk (QPR)
Office of Information and Technology (OI&T)
Washington, DC 20240
Office: [202 632-7233](tel:202-632-7233)
Cell: [202-714-6560](tel:202-714-6560)
E-Fax: [202-632-7581](tel:202-632-7581)
FOIA Hotline: [877-750-3642](tel:877-750-3642)

QPR's Mission Statement:

"To lead a culture of quality and accountability to drive an exceptional Veteran and customer experience."

From: Michael Locke <mb122885@msn.com>

Sent: Tuesday, May 3, 2022 8:35 PM

To: Foia.vbaco@va.gov <Foia.vbaco@va.gov>

Subject: Fw: VALERI Home Loan Information

From: Michael Locke
Sent: Tuesday, May 3, 2022 8:17 PM
To: VACOFOIASE@VA.GOV <VACOFOIASE@VA.GOV>
Cc: Krejci, Louis, VBAPHNX <Louis.Krejci@va.gov>; jordan.schaefer@va.gov <jordan.schaefer@va.gov>; marcus.young@va.gov <marcus.young@va.gov>
Subject: VALERI Home Loan Information

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

All VALERI records for 127 Delvalle St. Melbourne Beach, FL 32951.

I am the veteran for the VA Home Loan. The VA Home Loan Technician assigned to the loan is refusing to provide the requested documents.

I can be contacted directly at [321-506-9557](tel:321-506-9557) or mbl22885@msn.com to provide identification verification. I currently have a case with the VA White House Hotline regarding this issue, case # [07403269](#).

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Michael Bass Locke

<https://www.muckrock.com/foi/united-states-of-america-10/valeri-home-loan-information-128369/>