

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10352
Non-Argument Calendar

VICTOR PADILLA,

Individually and on behalf of those similarly situated,

LILYSABEL PADILLA,

Individually and on behalf of those similarly situated,

Plaintiffs-Appellants,

versus

NATIONSTAR MORTGAGE, LLC,

d.b.a. Mr. Cooper,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 0:25-cv-61630-WPD

Before NEWSOM, LUCK, and LAGOA, Circuit Judges.

PER CURIAM:

Victor Padilla and Lilysabel Padilla defaulted on their mortgage. As part of the foreclosure-and-sale process, they needed “payoff statements” from their loan servicer, Nationstar Mortgage LLC, specifying the amount of outstanding debt. After nine requests, Nationstar obliged and charged nine expedited-delivery fees. When asked about the nature of these fees, Nationstar explained that they corresponded with each of the Padillas’ requests. In this appeal of the dismissal of the Padillas’ putative class action, we must decide whether Nationstar’s imposition of these fees violates Florida Statutes § 701.04, the Florida Consumer Collection Practices Act (FCCPA), and the Florida Deceptive and Unfair Trade Practices Act (FDUTPA). We must also decide whether Nationstar’s response to the Padillas’ related inquiry violates the Real Estate Settlement Procedures Act (RESPA) and its implementation regulation, 12 C.F.R. § 1024.35(e)(1)(i). For the reasons that follow, we find no reversible error concerning Nationstar’s imposition of the fees or its accompanying response to the Padillas’ inquiry. Accordingly, we affirm the district court’s order of dismissal.

I

After defaulting on their mortgage, the Padillas entered into a contract with a third-party buyer to sell their home. In anticipation of closing, they requested, on a number of different occasions, payoff statements from Nationstar. None of these requests specifically asked for expedited delivery. On March 24, 2025, Nationstar sent a payoff statement that included, as relevant here, a \$25 “Expedited Delivery Fee,” along with \$125 worth of “Other Fees Due.”

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The Padillas then sent Nationstar a notice of error pursuant to federal regulation asserting that these fees were erroneously charged and, in any event, lacked sufficient support, clarification, or explanation. Nationstar acknowledged receipt on May 2, 2025, stating it would respond by June 13, 2025. Before it responded, it sent the Padillas an updated payoff statement now detailing \$225 in “Other Fees Due.”

On June 2, 2025, Nationstar responded to the Padillas’ notice of error. In its response, it stated that no errors occurred and explained that the \$225 worth of “fees in question are for expedited delivery of payoff quote requests.” “Specifically, there were a total of 9 expedited payoff quotes, each incurring a \$25.00 fee. One of these fees is listed separately, while the other 8 * \$25 = \$200.00 are reflected in your transaction history.” It further asserted that the fee total was consistent with the loan documents and didn’t represent any sort of miscalculation. The relevant provision of the loan document reads as follows:

Lender may charge Borrower fees for services performed in connection with Borrower’s default, for the purpose of protecting Lender’s interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys’ fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of

such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

Mortg. Agreement at 10, Dkt. No. 1–3.

The Padillas then initiated this putative class action against Nationstar in the district court, alleging a number of state and federal claims on behalf of themselves and a class of similarly situated individuals. Both their initial and amended complaint were dismissed for failure to state a claim. We now review the dismissal of the Padillas’ amended complaint.¹

II

The Padillas begin by alleging that Nationstar’s imposition of these fees violates Florida Statutes § 701.04, the Florida Consumer Collection Practices Act (FCCPA), and the Florida Deceptive and Unfair Trade Practices Act (FDUTPA). All three statutes can fairly be read to prohibit the deliberate inflation of amounts properly due under, as relevant here, a mortgage. *See Laptopplaza, Inc. v. Wells Fargo Bank, NA*, 276 So. 3d 375, 376 (Fla. 3d Dist. Ct. App. 2019) (recognizing a cause of action for a lender’s alleged deliberate inflation of amounts “properly due under or secured by” a mortgage under Florida Statutes § 701.04); Fla. Stat. § 559.72(9) (similar for FCCPA); Fla. Stat. § 501.204 (barring any variety of “unfair or deceptive acts or practices”). So the question here is whether

¹ We review a district court’s grant of a motion to dismiss for failure to state a claim de novo. *Hill v. White*, 321 F.3d 1334, 1335 (11th Cir. 2003) (per curiam).

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Nationstar charged an amount not properly due under the mortgage agreement.

The mortgage agreement here authorized the imposition of these fees. Mortgages are “interpreted and applied like any other contract.” *Deutsche Bank Nat’l Tr. Co. ex rel. J.P. Morgan Mortg. Acquisition Tr. 2007-CH1 Asset Backed Pass-Through Certificates v. Sheard*, 249 So. 3d 736, 738 (Fla. 2d Dist. Ct. App. 2018). And “[w]hat a contract provision means” is a “question[] of law, which we review *de novo*.” *Reynolds v. Roberts*, 202 F.3d 1303, 1313 (11th Cir. 2000). The relevant portion of the mortgage agreement expressly allows Nationstar to charge the Padillas “fees for services performed in connection with [the Padillas’] default” so long as such fees are not “expressly prohibited” by the mortgage or applicable law. Mortg. Agreement at 10, Dkt. No. 1–3. While the Padillas invoke a separate provision in the mortgage that requires all fees be paid to third parties, that restriction is inapplicable here as it applies only “[u]pon payment of all sums secured by” the mortgage—a condition that isn’t met here. Their argument that these fees violate 12 U.S.C. § 2610 also fails. By its terms, that provision governs Truth-in-Lending disclosures which are “provided before the extension of credit,” not payoff statements, which “can be provided only after a loan has been made and contains the amount yet to be repaid.” *Evanto v. Federal Nat. Mortg. Ass’n*, 814 F.3d 1295, 1297 (11th Cir. 2016); *see also* 12 U.S.C. § 2610 (barring fees “for or on account of the preparation and submission by such . . . servicer of the statement or statements required (in connection with such loan) by . . . the Truth in Lending Act”).

The Padillas argue in the alternative that they never requested expedited delivery or received the payoff statements in an expedited manner. While it's true that they alleged that they never *requested* expedited delivery, it would be implausible to conclude that they didn't *receive* expedited delivery. Following the Padillas' nine requests made in the process of selling their home, Nationstar provided them multiple payoff quotes. Totally absent from the complaint is any allegation that these quotes were not delivered on an expedited basis. Accordingly, in arguing before us that "[t]he Amended Complaint contains no factual allegations that Nationstar sent the payoff statements in an expedited manner," Br. of Appellants at 12, the Padillas are bypassing an important aspect of their pleading burden. Only through plausibly alleging that they did not in fact receive expedited service can they meet their burden to establish a claim under Florida consumer-protection law. Because they didn't, these claims fail.

III

The Padillas next allege that Nationstar's response to their notice of error explaining these fees violates RESPA and its implementing regulation, 12 C.F.R. § 1024.35(e)(1)(i). "RESPA requires mortgage servicers . . . to reasonably respond to notices of error." *Renfroe v. Nationstar Mortg., LLC*, 822 F.3d 1241, 1244 (11th Cir. 2016). "Basically, a servicer must respond by," as relevant here, "concluding that there is no error based on an investigation and then explaining that conclusion in writing to the borrower." *Id.* The implementing regulation clarifies that this investigation must

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be reasonable and that written notification must include, as relevant here, “a statement that the servicer has determined that no error occurred, [and] a statement of the reason or reasons for this determination” 12 C.F.R. § 1024.35(e)(1)(i)(B).

Here, Nationstar did not violate RESPA. As already explained, Nationstar responded to the Padillas’ notice of error a month after they certified receipt. In its response, Nationstar explicitly concluded that no error occurred and explained that the “fees in question are for expedited delivery of payoff quote requests.” Resp. to Notice of Error at 6, Dkt. No. 20–8. It further explained that its investigation involved a review of the Padillas’ account, the loan documents, and its records. That is sufficient to comply with the relevant provision of RESPA.

The Padillas insist that this response was insufficient because it failed to point out any explicit legal support for the expedited-delivery fees. But this argument fails. The Padillas merely asked for “line-item support or documentation,” elaborating that “[w]ithout a basis in contract or itemized invoice, these charges constitute unauthorized additions.” Ex. 6 at 3, Dkt. No. 20–6. By explaining that, following review of the loan documents, Nationstar concluded it was authorized to charge nine expedited-delivery fees corresponding to the nine expedited-delivery requests reflected in the Padillas’ transaction history, the company adequately furnished a “statement of . . . reasons for th[e] determination” that no error occurred. 12 C.F.R. § 1024.35(e)(1)(i)(B).

IV

For these reasons, the district court properly dismissed the Padillas' amended complaint for failure to state a claim.

AFFIRMED.