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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RANI YADAV-RANJAN,

Plaintiff,

v.

RUSHMORE LOAN MANAGEMENT
SERVICES, LLC, and WILMINGTON
SAVINGS FUND SOCIETY, FSB,

Defendants.

Case No. 17-cv-03939-NC

**ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

This mortgage foreclosure case arises out of a loan for \$2,240,000 taken out in 2007 by plaintiff Yadav-Ranjan to refinance her family home in San Jose. After two rounds of amended complaints and motions to dismiss, the following claims remain: (1) breach of contract; (2) bid rigging; (3) the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692f(6), 1692g; (4) the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 et seq.; (5) California Homeowner Bill of Rights, Cal. Civ. Code § 2923.7; and (6) California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200. Defendants Rushmore Loan Management Services, the servicer of the loan, and Wilmington Savings, the beneficiary under the Deed of Trust and possessor of the original Promissory Note on the loan, moved for summary judgment on all of these claims. For the reasons stated below, the Court GRANTS the defendants' motion.

1 **I. BACKGROUND**

2 **A. Procedural History**

3 Yadav-Ranjan filed this case in California Superior Court against Wilmington,
4 Rushmore, J.P. Morgan Chase Bank, and Nationstar Mortgage, LLC in July 2017. Dkt.
5 Nos. 1 & 2. The defendants then removed the case to federal court. Dkt. Nos. 1 & 2.
6 Following motions to dismiss, Yadav-Ranjan was granted leave to file a First Amended
7 Complaint, which she did in December 2017. Dkt. No. 68. The Court granted in part and
8 denied in part another round of motions to dismiss in February 2018, again giving Yadav-
9 Ranjan leave to amend the complaint. Dkt. No. 88. Defendant Nationstar Mortgage, LLC
10 was voluntarily dismissed from the case in March 2018. Dkt. No. 106.

11 Yadav-Ranjan filed a Second Amended Complaint in April 2018. Dkt. No. 118.
12 The Second Amended Complaint is the operative basis of this Order. The Second
13 Amended Complaint included claims against unserved defendant Quality Loan Service
14 Corporation. Dkt. No. 118. Following the Court's order to show cause why it should not
15 strike this new unserved defendant, Quality Loan Service Corp. was voluntarily dismissed
16 in June 2018. Dkt. Nos. 139 & 140.

17 Remaining defendants Rushmore, Wilmington, and J.P. Morgan Chase filed two
18 motions to dismiss the Second Amended Complaint. Dkt. Nos. 123 & 125. The court
19 granted in part and denied in part those motions in July 2018. Dkt. No. 145. Defendant
20 J.P. Morgan Chase Bank was voluntarily dismissed in September 2018. Dkt. No. 168.

21 Remaining defendants Wilmington and Rushmore then filed a Motion for Summary
22 Judgment on all remaining claims of the Second Amended Complaint. Dkt. No. 170. The
23 following claims survived the Motions to Dismiss and are addressed in this Order: (1)
24 breach of contract; (2) bid rigging; (3) the Fair Debt Collection Practices Act, 15 U.S.C. §§
25 1692f(6), 1692g; (4) the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §
26 1788 et seq.; (5) California Homeowner Bill of Rights, Cal. Civ. Code § 2923.7; and (6)
27 California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200.

28 In addition to filing an Opposition and Reply to the Motion for Summary Judgment,

1 both parties filed numerous objections, errata, responses, and requests for judicial notice in
2 connection with this Order. Dkts. No. 179, 183, 188, 194, 195, 196, 197, 198. The Court
3 responds to these requests throughout this Order only insofar as it relies on the relevant
4 evidence in deciding on the Motion.

5 In its Order on the Motions to Dismiss the Second Amended Complaint, this Court
6 stated that the plaintiff was not permitted any further amendments. Dkt. No. 145 at 21.
7 This Court has also previously instructed Yadav-Ranjan that adding facts via an opposition
8 brief is improper. See Dkt. No. 145 at 18, n.7. New claims are not generally permitted at
9 the summary judgment stage anyway. See *Pickern v. Pier 1 Imps.*, 457 F.3d 963, 969 (9th
10 Cir. 2006). Therefore, any new claims, allegations, or facts that were submitted in the
11 plaintiff's Opposition to the Motion for Summary Judgment have not been considered in
12 the Court's rulings in this Order. The Court focuses this Order on the claims and evidence
13 presented in the Second Amended Complaint.

14 All parties consented to the jurisdiction of a magistrate judge under 28 U.S.C. §
15 636(c). Dkt. Nos. 5, 16, 22, 26.

16 **B. Factual Findings**

17 The Court makes the following relevant factual findings based on the evidence
18 presented by the parties in connection with the Second Amended Complaint. Dkt. No.
19 118. The parties each presented objections to the evidence provided in support of the
20 Motion, Opposition, and Reply. Insofar as it relies on that evidence in the foregoing
21 factual findings, the Court hereby OVERRULES the plaintiff's objections to the
22 Declarations of Brandon Kirkham and Bounlet Louvan and attached exhibits on the
23 grounds that the defendants have properly laid foundation for those declarants' knowledge
24 of the contents. The Court similarly OVERRULES the defendants' objections to the
25 Declaration of Rani Yadav-Ranjan to the extent that she has personal knowledge of its
26 contents.

27 **i. The Loan's Chain of Title and the 2013 Modification**

28 Plaintiff Yadav-Ranjan refinanced her home with a \$2,240,000 loan from

1 Washington Mutual in 2007. See Dkt. No. 187, Ex. 1 ¶¶ 5–10 (Yadav-Ranjan Decl.).
2 When Washington Mutual was taken over by the FDIC in 2008, Yadav-Ranjan’s loan was
3 sold to Chase. Id. at 2; see also Dkt. No. 98 at 2. Yadav-Ranjan missed a few payments
4 on her loan between 2007 and 2012, but also made at least one larger payment to help
5 make up for the missed payments. See Yadav-Ranjan Decl. ¶¶ 38, 39; see also Dkt. No.
6 98 at 6.

7 In 2013, Chase offered and Yadav-Ranjan signed a loan modification agreement
8 which increased the principal balance to \$2,293,742.72 and fixed the interest rate at
9 4.125% annually. See Dkt. No. 187, Ex. B; see also Yadav-Ranjan Decl. ¶ 44. The
10 modification also increased her monthly payments from \$8,850.71 to \$12,447.72. See Dkt.
11 No. 98 ¶ 15. This Modification forms the basis for much of this Order. Yadav-Ranjan
12 made a few payments under the 2013 Modification and then stopped; the September 2013
13 payment was due at the time of foreclosure in 2016. Id. at ¶ 23; see also Dkt. No. 170, Att.
14 3, Ex. 9 at 2.

15 In March 2014, a Substitution of Trustee was recorded naming Quality Loan
16 Service Corporation as the Trustee. See Dkt. No. 170, Att. 3, Ex. 2. In July 2014, the
17 loan’s beneficial interest was transferred from Chase to U.S. Bank. Id. at Ex. 4. In
18 November 2014, Quality recorded a Notice of Default and Election to Sell Under Deed of
19 Trust due to Yadav-Ranjan’s default. Id. at Ex. 9. The foreclosure sale was scheduled for
20 December 10, 2014. Id. at Ex. 10.

21 **ii. Postponements of the Foreclosure Sale**

22 Yadav-Ranjan filed for bankruptcy on December 5, 2014. See Yadav-Ranjan Decl.
23 ¶ 55; see also Dkt. No. 170 ¶ 13 (Kirkham Decl.). Therefore, the December 10 foreclosure
24 sale was postponed. Id. The bankruptcy case was dismissed in February 2015. Id.
25 Yadav-Ranjan filed for bankruptcy again on May 12, 2015. Id. at ¶ 14. That case was
26 stayed until November 2016. Id.

27 Due to Yadav-Ranjan’s bankruptcies, the foreclosure sale was postponed many
28 times. Id. Whether notice was sent regarding these postponements is a key issue in this

1 Order. Yadav-Ranjan maintains that she did not receive notice of the postponed
2 foreclosure sales. Yadav-Ranjan Decl. ¶¶ 53–54. Defendants claim to have mailed
3 Yadav-Ranjan 10 notices of postponement. See Dkt. No. 170, Att. 4, Exs. 12, 14, 16, 18,
4 20, 22, 24, 26, 28, 30. Additionally, defendants state that the postponements were
5 recorded via posts on a bulletin board at the Santa Clara City Library, publication in the
6 San Jose Post-Record, and announced by oral proclamation. See *id.*, Exs. 10, 12, 14, 16,
7 18, 20, 22, 24, 26, 28, 30.

8 **iii. Final Foreclosure Sale and Conveyance of Property to Wilmington**

9 In July 2015, the loan’s beneficial interest was transferred from U.S. Bank to
10 Wilmington Savings Fund Society. See Dkt. No. 170, Att. 3, Ex. 5. Rushmore is
11 Wilmington’s loan servicer. *Id.*, ¶ 17. In October 2015, Quality recorded another Notice
12 of Default and Election to Sell Under Deed of Trust due to Yadav-Ranjan’s default. See
13 Kirkham Dec. ¶ 11, Ex. 9.

14 In September 2016, Rushmore sent Yadav-Ranjan a letter offering a review for loss
15 mitigation and including a Borrower Assistance application. *Id.*, Ex. 12. One week later it
16 also sent a letter outlining foreclosure prevention options. *Id.*, Ex. 13. The second letter
17 identified a single point of contact with whom Yadav-Ranjan could discuss loss mitigation.
18 *Id.* Yadav-Ranjan neither returned the application nor requested modification. *Id.*, Exs. 14
19 & 15.

20 After relief from the stay was granted in Yadav-Ranjan’s second bankruptcy case in
21 November 2016, Rushmore instructed Quality to record a new Notice of Sale against the
22 property. *Id.* ¶ 18. A new foreclosure auction was scheduled for December 28, 2016. *Id.*
23 Rushmore alleges that its representative spoke with Yadav-Ranjan on December 19, 2016,
24 to confirm this date. *Id.* ¶ 19. Yadav-Ranjan also acknowledges that she received the
25 Notice of Sale a day or so before the sale. See Dkt. No. 170, Att. 7, Ex. 2, ¶ 13. The
26 property was sold at the December 28, 2016, public auction and conveyed to Wilmington.
27 See Dkt. No. 170, Att. 3, Ex. 17.

28

1 **II. LEGAL STANDARD**

2 Summary judgment may be granted only when, drawing all inferences and resolving
3 all doubts in favor of the nonmoving party, there is no genuine dispute as to any material
4 fact. Fed. R. Civ. P. 56(a); *Tolan v. Cotton*, 134 S. Ct. 1861, 1863 (2014); *Celotex Corp. v.*
5 *Catrett*, 477 U.S. 317, 322 (1986). A fact is material when, under governing substantive
6 law, it could affect the outcome of the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S.
7 242, 248 (1986). A dispute about a material fact is genuine if “the evidence is such that a
8 reasonable jury could return a verdict for the nonmoving party.” *Id.* Bald assertions that
9 genuine issues of material fact exist are insufficient. *Galen v. Cnty. of L.A.*, 477 F.3d 652,
10 658 (9th Cir. 2007).

11 The moving party bears the burden of identifying those portions of the pleadings,
12 discovery, and affidavits that demonstrate the absence of a genuine issue of material fact.
13 *Celotex*, 477 U.S. at 323. Once the moving party meets its initial burden, the nonmoving
14 party must go beyond the pleadings, and, by its own affidavits or discovery, set forth
15 specific facts showing that a genuine issue of fact exists for trial. Fed. R. Civ. P. 56(c);
16 *Barthelemy v. Air Lines Pilots Ass’n*, 897 F.2d 999, 1004 (9th Cir. 1990) (citing *Steckl v.*
17 *Motorola, Inc.*, 703 F.2d 392, 393 (9th Cir. 1983)). All justifiable inferences, however,
18 must be drawn in the light most favorable to the nonmoving party. *Tolan*, 134 S. Ct. at
19 1863 (citing *Liberty Lobby*, 477 U.S. at 255).

20 **III. DISCUSSION**

21 **A. Grounds for Ms. Yadav-Ranjan’s Remaining Claims**

22 Following the Order on the Motion to Dismiss, Yadav-Ranjan’s remaining claims
23 are: (1) breach of contract; (2) bid rigging; (3) the Fair Debt Collection Practices Act, 15
24 U.S.C. §§ 1692f(6), 1692g; (4) the Rosenthal Fair Debt Collection Practices Act, Cal. Civ.
25 Code § 1788 et seq.; (5) California Homeowner Bill of Rights, Cal. Civ. Code § 2923.7;
26 and (6) California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200.

27 The breach of contract and FDCPA claims survived the Motion to Dismiss based on
28 Yadav-Ranjan’s allegation that her loan was not in default at the time of the foreclosure

1 sale. Dkt. No. 145 at 6 & 12. The FDCPA claim also survived based on the plaintiff’s
2 allegation that Rushmore did not provide notice of its servicing change. Id. at 12. The bid
3 rigging claim survived the Motion to Dismiss based on Yadav-Ranjan’s allegation that she
4 did not receive notice of the postponements of the foreclosure sale and, again, her
5 allegation that the loan was not in default. Id. at 9–10. The California Homeowner Bill of
6 Rights claim survived only as to § 2923.7 based on Yadav-Ranjan’s allegation that
7 Rushmore did not provide a single point of contact for her loan modification. See Dkt. No.
8 88 at 6; see also Dkt. No. 145 at 7. The Rosenthal Act claim again relies on plaintiff’s
9 allegations that she was not in default on her loan, that she did not receive notice of the
10 servicing change, and that she did not receive notices of the postponements. See Dkt. No.
11 98 at 34–36. The Unfair Competition claim is tethered to the breach of contract, bid
12 rigging, FDCPA and HBOR claims. Dkt. No. 145 at 19.

13 Because the claims that remain all center around a handful of issues, the Court
14 discusses those issues in turn and then proceeds to apply them to each claim.

15 **B. Yadav-Ranjan Defaulted on Her Loan**

16 Yadav-Ranjan’s breach of contract, FDCPA, bid rigging, and Rosenthal Act claims
17 all rely at least in part on her allegation that her loan was not in default at the time of the
18 foreclosure sale. However, Yadav-Ranjan has not presented any evidence to create a
19 genuine issue of material fact as to whether she had defaulted on her loan at the time of the
20 December 2016 foreclosure.

21 **i. The 2013 Modification was Valid and Enforceable**

22 In her Opposition to the Motion for Summary Judgment, Yadav-Ranjan claims for
23 the first time that the 2013 loan modification was invalid. See Dkt. No. 187 at 6. She
24 argues that Chase “had no legal authority” to act as the Beneficiary of the Deed of Trust or
25 to execute a modification of her loan. See Dkt. No. 187 at 6, 13. The Second Amended
26 Complaint, in contrast, alleged that Chase was the owner and servicer of Yadav-Ranjan’s
27 loan when the modification was executed in 2013. See Dkt. No. 98 at 2–3, 8–9, 12, 13, 14,
28 17–18, 27–28. Thus, Chase would have the legal authority to execute the modification.

1 It appears that Yadav-Ranjan makes this new argument because if this Court finds
2 that the 2013 Modification is unenforceable, Yadav-Ranjan may have a stronger case that
3 she did not default on the loan when she stopped making payments around the time that the
4 modification was executed. The Court does not so find. The undisputed evidence
5 presented in connection with the Second Amended Complaint is clear that the 2013
6 Modification was valid and enforceable.

7 **ii. Default under the 2013 Modification**

8 Yadav-Ranjan argues that she was not in default under the terms of her original
9 loan’s TILA Disclosure Agreement. See Dkt. No. 187 at 7. Specifically, she claims that
10 she had paid slightly more in total than what the TILA Disclosure Statement required
11 under the terms of the first 60 months (\$562,025.96, more than the \$557,477.45
12 minimum). *Id.* But the TILA Disclosure Statement is not the applicable contract here.
13 Rather, the 2013 Modification controls.

14 Ms. Yadav-Ranjan states that she made a few payments under the 2013
15 Modification, after having already missed a few payments on the loan prior to that time.
16 See Learned Decl., Ex. 3, p. 38–39. She also states that she never made a payment to
17 either Rushmore or Wilmington, who were the beneficial interest holder and servicer on
18 the loan beginning in July 2015. See *id.*, Att. 3, Ex. 5. Defendants have provided evidence
19 in the form of the Notice of Default and Election to Sell Under Deed of Trust that Yadav-
20 Ranjan owed \$107,884.64 on the loan and that the September 2013 payment was still due
21 as of March 2014. See Dkt. No. 171, Ex. F.¹

22 Yadav-Ranjan has provided no evidence to the contrary. Her own accounting of
23 payments made on the loan stops abruptly in July 2013. See Dkt. No. 187, Ex. B. The
24 facts presented by Yadav-Ranjan corroborate, rather than create a dispute with, the

25 _____
26 ¹ The Court takes judicial notice of this document as the Notice of Default and Election to
27 Sell Under Deed of Trust recorded with the Santa Clara County Recorder’s Office on
28 March 27, 2014 as Instrument Number 22553812. The plaintiff’s objection to this request
for judicial notice is overruled because the plaintiff has failed to articulate any cognizable
basis for the objection and because Exhibit F is judicially recognizable as a public record
under FRE 201.

1 evidence presented by the defendants. The undisputed fact is that Ms. Yadav-Ranjan owed
2 over \$100,000 and had not made a payment in over three years at the time of the December
3 2016 foreclosure. In short, the loan was in default.

4 **C. Notice of Servicing Change**

5 Yadav-Ranjan’s Rosenthal Act and FDCPA claims rely in part on her allegation
6 that she did not receive notice of the servicing change. See Dkt. No. 98 at 34–36.
7 However, Yadav-Ranjan has not presented any evidence to create a genuine issue of
8 material fact as to the notice of the servicing change.

9 As the Court stated in its Motion to Dismiss, 15 U.S.C. § 1692a(6) does not appear
10 to require written notice of the debt upon assignment as a servicer. Dkt. No. 145 at 12.
11 Nonetheless, Defendants have presented evidence that Yadav-Ranjan was in fact provided
12 with written notice of the servicing transfer to Rushmore. See Kirkham Decl. ¶ 9, Ex. 7.
13 Yadav-Ranjan did not address this evidence in her Opposition. Therefore, Yadav-Ranjan
14 appears to concede that this notice was sent.

15 **D. Notice of Postponements**

16 Yadav-Ranjan’s bid rigging and Rosenthal Act claims rely in part on her allegation
17 that she did not receive notice of the foreclosure sale postponements. However, Yadav-
18 Ranjan has not presented any evidence to create a genuine dispute of material fact as to the
19 mailing of the notices.

20 Defendants have provided evidence that written notice of every postponement was
21 mailed to Ms. Yadav-Ranjan, as well as evidence that the postponements were announced
22 via a bulletin board, a local newspaper, and oral proclamation. See Dkt. No. 170, Att. 4,
23 Exs. 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30. The notices were sent via first class and
24 certified mail. Id. Yadav-Ranjan does not dispute that these notices were mailed; she only
25 claims that she did not receive them. See Dkt. No. 187 at 7, 8, 9; see also Yadav-Ranjan
26 Decl. at ¶ 53. The Court thus finds that the notices were sent.

27 Importantly, 15 U.S.C. § 1692g(a) does not require that a debt collector ensure that
28 a notice is received. Instead, § 1692g(a) “explicitly states that a Notice must be sent . . .

1 nowhere does the statute require receipt” of a mailed notice. Mahon v. Credit Bureau of
2 Placer County Inc., 171 F.3d 1197, 1201–02 (9th Cir. 1999) (emphasis in original).
3 Likewise, Cal. Civ. Code § 2924(a)(5) requires that notice be sent any time a sale of
4 property is postponed for a period of at least ten business days. This statute similarly
5 makes no mention of the sender’s responsibility to ensure that the mailed notice is in fact
6 received. See Civ. Code § 2924(a)(5).

7 Here, there is no dispute as to the fact that the notices were sent. Whether they
8 were received is immaterial.

9 **E. Summary Judgment is Granted on All Claims**

10 **i. Breach of Contract (against Rushmore)**

11 The elements of a breach of contract claim are: (1) the contract, (2) plaintiff’s
12 performance or excuse for nonperformance, (3) defendant’s breach, and (4) resulting
13 damages to the plaintiff. See Reichert v. Gen. Ins. Co. of Am., 68 Cal. 2d 833, 830 (1968).

14 Here, Yadav-Ranjan claims that her contract with Rushmore was breached when
15 Rushmore recorded notice of a default when Yadav-Ranjan was not actually in default on
16 her loan. However, as discussed above, the Court finds that no genuine issue of material
17 fact exists regarding the status of Yadav-Ranjan’s loan. Under the 2013 Modification,
18 Yadav-Ranjan was in default. Therefore the Court GRANTS summary judgment to
19 Rushmore on the breach of contract claim.

20 **ii. Bid Rigging (against Wilmington and Rushmore)**

21 Bid rigging is statutorily based on California Civil Code § 2924h(g)(2), which states
22 that it is unlawful to “fix or restrain bidding in any manner, at a sale of property conducted
23 pursuant to a power of sale in a deed of trust or mortgage.” Section 2924(a)(5) requires
24 written notice when a sale is postponed for at least 10 days.

25 Yadav-Ranjan’s bid rigging claim essentially alleges that the defendants
26 manipulated the foreclosure sale scheduling in order to prevent her from knowing when to
27 “bring her funds to the courthouse steps” to buy her house. Dkt. No. 187 at 9. However,
28 as discussed above, there exists no genuine dispute as to the fact that the notices of

1 postponement were mailed to Yadav-Ranjan. Therefore the Court GRANTS summary
2 judgment to Wilmington and Rushmore on the bid rigging claim.

3 **iii. FDCPA (against Rushmore)**

4 A claim under the FDCPA must include allegations that (1) the plaintiff is a
5 “consumer” under 15 U.S.C. § 1692a(3); (2) the debt arises out of a transaction entered
6 into for personal purposes; (2) the defendant is a “debt collector” under § 1692a(6); and (4)
7 the defendant violated a provision within §§ 1692a–o. See *Martinez v. Trinity Fin. Servs.,*
8 *LLC*, No. 17-cv-03612 LB, WL 4071386, at *3 (N.D. Cal. Sept. 14, 2017); see also
9 *Wheeler v. Premiere Credit of N. Am., LLC*, 80 F. Supp. 3d 1108, 1112 (S.D. Cal. 2015).

10 The Second Amended Complaint alleges violations of §§ 1692f(6) and g. Section
11 1692f(6) provides that a debt collector may not “use unfair or unconscionable means to
12 collect or attempt to collect any debt,” defined as taking nonjudicial action to affect
13 dispossession of property if there is no present right to possession of it. This section
14 applies to security enforcers in non-judicial mortgage foreclosures. *Dowers v. Nationstar*
15 *Mortg., LLC*, 852 F.3d 964, 970 (9th Cir. 2017). Section 1692g requires generally that
16 debt collectors communicate information about the debt to the consumer. Yadav-Ranjan
17 does not specify which provision of this section the defendants violated.

18 Yadav-Ranjan’s FDCPA claim is that Rushmore violated § 1692f(6) when it sold
19 her property when her loan was not in default. Dkt. No. 118 at 24. She alleges that
20 Rushmore violated § 1692g was violated when it did not provide notice of the debt being
21 assigned. Dkt. No. 118 at 24. As discussed above, the Court finds that no genuine issue of
22 material fact exists regarding the status of Yadav-Ranjan’s loan. Under the 2013
23 Modification, Yadav-Ranjan was in default. Additionally, as discussed above, the Court
24 finds that no genuine dispute of material fact exists regarding the notice that Rushmore
25 sent Yadav-Ranjan upon its being assigned the servicer of the loan. Therefore the Court
26 GRANTS summary judgment to Rushmore on the FDCPA claim.

27 **iv. Rosenthal Act (against Rushmore)**

28 The Rosenthal Act requires that debt collectors comply with the provisions of the

1 FDCPA. See Cal. Civ. Code § 1788.17. It applies to mortgage servicers. See Davidson v.
2 Seterus, et al., 21 Cal. App. 5th 283, 301 (2018).

3 As with the FDCPA claim, Yadav-Ranjan’s Rosenthal Act claim is based on her
4 allegation that her loan was not in default and on the alleged lack of notice of the debt’s
5 assignment to Rushmore. As above, the Court has found that no genuine issues of material
6 fact exist as to either basis – the loan was in default, and the notice was sent. Therefore the
7 Court GRANTS summary judgment to Rushmore on the Rosenthal Act claim.

8 **v. California Homeowner Bill of Rights (against Wilmington and Rushmore)**

9 California’s Homeowner Bill of Rights requires that a servicer respond to a
10 borrower’s request for a foreclosure alternative by providing a single point of contact with
11 whom the borrower can communicate about foreclosure prevention. Cal. Civ. Code §
12 2923.7(a). That point of contact must remain assigned to the borrower until all options are
13 exhausted or the account becomes current. Cal. Civ. Code § 2923.7(c).

14 Yadav-Ranjan claims that Rushmore and Wilmington failed to provide her with a
15 single point of contact. Dkt. No. 98 at 16–17. Defendants provided evidence that on
16 September 28, 2016, Rushmore sent a letter to Yadav-Ranjan identifying John Torres as
17 her single point of contact to discuss loss mitigation. See Kirkham Decl. ¶ 16, Ex. 3.
18 Yadav-Ranjan did not respond to this claim at all in her Opposition, and so she fails to
19 present any evidence to create a genuine dispute of material fact as the appointment of a
20 single point of contact. Therefore the Court GRANTS summary judgment to Wilmington
21 and Rushmore on the HBOR claim.

22 **vi. California Unfair Competition Law (against Wilmington and Rushmore)**

23 California’s Unfair Competition Law prohibits “any unlawful, unfair, or fraudulent
24 business act or practice.” Cal. Bus. & Prof. Code § 17200. A claim under the UCL must
25 plead either an unlawful, unfair, or fraudulent business practice. *Id.* Here, Yadav-
26 Ranjan’s UCL claim alleges “unlawful” practices. An unlawful business practice can
27 include “anything that can be properly called a business practice and that at the same time
28 is forbidden.” *Cel-Tech Commc’ns, Inc. v. Los Angeles Cellular Tel. Co.*, 20 Cal. 4th 163,

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180 (1999). Acts which are “forbidden” are simply violations of other laws. Id.

Here, Yadav-Ranjan has not alleged any unfair or fraudulent business practices under those two theories of the UCL. Yadav-Ranjan’s UCL claim is based upon the unlawful business practices that she alleges in her breach of contract, bid rigging, FDCPA and HBOR claims. Dkt. No. 145 at 19. As the Court has granted summary judgment to the defendants on all of those claims in this Order, it also GRANTS summary judgment to Wilmington and Rushmore on the UCL claim.

IV. CONCLUSION

The Court finds that no genuine disputes of material fact exist. For the reasons stated above, the Court GRANTS summary judgment to Wilmington and Rushmore on all claims.

IT IS SO ORDERED.

Dated: October 30, 2018



NATHANAEL M. COUSINS
United States Magistrate Judge