

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

RANDOLPH SELLERS, individually
and on behalf of a class of persons
similarly situated and TABETHA
SELLERS, individually and on behalf
of a class of persons similarly situated,

Plaintiffs,

v.

Case No. 3:15-cv-1106-J-32PDB

RUSHMORE LOAN MANAGEMENT
SERVICES, LLC,

Defendant.

ORDER

This case is before the Court on Plaintiffs' Motion for Reconsideration On Denial of Class Certification Based Upon Applicability of Bankruptcy Code Section 524(j). (Doc. 63). Defendant Rushmore Loan Management Services, LLC filed a response. (Doc. 64).

"A motion for reconsideration cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment." Richardson v. Johnson, 598 F.3d 734, 740 (11th Cir. 2010) (citation and internal quotation marks omitted). As Rushmore emphasizes (Doc. 64 at 3-5), Plaintiffs have merely recapitulated their arguments from earlier phases of this case. The Court has addressed these arguments in the Order on summary judgment (Doc.

55) and the Order denying class certification (Doc. 62). To the extent Plaintiffs now argue that the “Sellers and members of the class did NOT to [sic] reaffirm their mortgage debts,” the Court notes that whether a class member reaffirmed her debt is not included in the proposed class definition.¹ And, even if it was, the Court has already expressed doubts as to whether reaffirmation was ever the correct framework for a class in this case, where the Sellers never had to indicate whether they intended to reaffirm their debt because they instead indicated that they would surrender the property. (Doc. 55 at 29 n.17). Plaintiffs’ arguments that they have proposed a certifiable class are still unavailing.

Accordingly, it is hereby

ORDERED:

Plaintiffs Randolph and Tabetha Sellers’ Motion for Reconsideration On Denial of Class Certification Based Upon Applicability of Bankruptcy Code Section 524(j) (Doc. 63) is **DENIED**.

¹ Plaintiffs proposed class definition is:

All Florida consumers who (1) have or had a residential mortgage loan serviced by Rushmore Loan Management Services, LLC, which Rushmore obtained when the loan was in default; (2) received a Chapter 7 discharge of their personal liability on the mortgage debt; and (3) were sent a mortgage statement dated September 11, 2013 or later, in substantially the same form as Mortgage Statement I and/or Mortgage Statement II, and was mailed to the debtor’s home address in connection with the discharged mortgage debt.

(Doc. 58 at 6).

DONE AND ORDERED in Jacksonville, Florida the 9th day of January, 2018.


TIMOTHY J. CORRIGAN
United States District Judge

sj

Copies:

Counsel of record