

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

CYNTHIA NAKAMURA, individually	)	CIVIL NO. 07-1-0730-04 (SSM)
and on behalf of all others similarly	)	(Class Action)
situated,	)	
	)	NOTICE OF PENDENCY OF CLASS
Plaintiff,	)	ACTION
	)	
vs.	)	
	)	
HAWAII ESCROW & TITLE, INC.; DOE	)	
DEFENDANTS 1-50,	)	
	)	
Defendants.	)	
	)	

---

NOTICE OF PENDENCY OF CLASS ACTION

TO: All individuals who contracted with Hawaii Escrow & Title, Inc. for escrow services which involved the pay-off of a mortgage.

I. WHY YOU SHOULD READ THIS NOTICE

Your rights may be affected by a class action lawsuit now pending in the Circuit Court of the First Circuit, State of Hawaii known as *Cynthia Nakamura v. Hawaii Escrow & Title, Inc.*, Civil No. 07-1-0730-04 (SSM). This is not a lawsuit against you. Please do NOT contact the Court about this lawsuit or the settlement. The Court cannot assist you or answer any questions. If you need additional assistance, please contact Plaintiff's counsel as set forth below. Your participation in this Class Action will not cost you anything or expose you to liability.

II. THE CLASS

On February 19, 2008 the Circuit Court of the First Circuit certified a group, or "class" of plaintiffs in this class action lawsuit (the "Class"). You have been sent this Notice because you may be a member of this Class. The Class is defined as:

**Individuals who contracted with Hawaii Escrow & Title, Inc. for escrow services, who were charged a Recordation Fee for release of their mortgage which Hawaii Escrow & Title did not pay to the Bureau of Conveyances and which release of mortgage was recorded after April 24, 2001.**

III. THE LITIGATION

This class action was filed on April 24, 2007 and involves a class of persons who contracted with Hawaii Escrow & Title, Inc. for escrow services.

Plaintiff Cynthia Nakamura has brought this action individually and on behalf of all other class members similarly situated. Plaintiffs allege that Defendant Hawaii Escrow & Title, Inc. charged certain escrow customers a \$25 “Recordation Fee” for recording a release of mortgage with the State of Hawaii Bureau of Conveyances, which release of mortgage was in fact recorded by a third party. Plaintiffs allege that Defendant Hawaii Escrow & Title, Inc.’s failure to record the release of mortgage resulted in damage to Class members, and that it constitutes an unfair and deceptive trade practice, breach of fiduciary duty, and unjust enrichment. Nakamura has also asserted a claim for injunctive relief individually and on behalf of all other class members.

Hawaii Escrow & Title, Inc. denies these claims. To date, the Court has not made a ruling as to the validity of these claims. Accordingly, this notice merely notifies you that a lawsuit has been filed which may affect your rights. This notice is not a guarantee that you are entitled to recover anything.<sup>1</sup>

#### IV. REMAINING IN OR EXCLUDING YOURSELF FROM THE CLASS

##### a. Remaining in the Class

**You do not need to do anything to remain in the Class.** You will be notified as the case progresses. You will not be required to pay anything if you remain in the Class, but you will be legally bound by all proceedings, orders, and judgments entered in the Class Action, whether favorably or unfavorably. You will be represented by the named Plaintiffs and their attorneys for purposes of the Class Action, whom the Court has deemed appropriate. You must remain in the Class in order to receive any benefits obtained in the Class Action, unless you enter a separate appearance as set out in section IV(c) below.

##### b. Opting Out

You may choose to “opt out” and not be a Class Member. If you opt out, you will not be bound by any orders or judgments in the Class Action, and you will not be eligible for any benefits that might be obtained in the Class Action by settlement or trial. You must opt out to exclude yourself from the Class Action. If you opt out, you will be free to pursue whatever legal rights you believe you may have against the Defendants at your own expense.

If you wish to opt out and not participate in the Class Action, you can return the attached form to request exclusion OR simply send written notice of your intent to Plaintiffs’ counsel at the address set forth below. Your written request to opt out and be excluded from the

---

<sup>1</sup> This summary is not a complete and exhaustive explanation of the pleadings which have been filed and the hearings which have taken place to date in this lawsuit. Pleadings and other documents filed in this lawsuit are available for inspection and/or copying during normal business hours at the Circuit Court of the First Circuit, State of Hawaii, 777 Punchbowl Street, Honolulu, Hawaii 96813.

Class must contain your: (1) legal name(s), (2) address(es), (3) telephone number, (4) a statement setting forth that you wish to be excluded from the Class, and (5) your signature(s).

In order to be effective, any request to opt out must be sent to Plaintiffs' counsel and postmarked by APRIL 8, 2008, (no later than 30 days from the mailing of this Notice). Failure to opt out in this manner and by this deadline will result in your automatic inclusion in the Class, the details of which are set forth in Section IV(a).

c. Right to Participate in the Class Action Individually

You do not need to hire your own lawyer for this case because Class Counsel is already working on your behalf. If you want your own lawyer, you will have to retain that lawyer separately at your own expense. You may also choose to remain in the Class and enter an individual appearance at your own expense. If you do so, you must file an appropriate pleading with the Circuit Court of the First Circuit, State of Hawaii before the Honorable Sabrina S. McKenna, Kaahumanu Hale, 777 Punchbowl Street, Honolulu, Hawaii 96813. Copies of pleadings should be served on (1) Plaintiffs' counsel at the addresses outlined below; and (2) counsel for Hawaii Escrow & Title, Inc., through Karin L. Holma, Bays Deaver Lung Rose & Holma, Alii Place, 16<sup>th</sup> Floor, 1099 Alakea Street, Honolulu, Hawaii 96813.

V. PLAINTIFFS AND THEIR COUNSEL

The Court has appointed Plaintiff Cynthia Nakamura and her counsel to act on behalf of the Class and determined that the chosen counsel is appropriate to pursue this action on behalf of the Class. The Court has not yet scheduled the date for the trial of this matter but is expected to do so shortly. Updated information including the trial date, when it has been set, will be available at Plaintiffs' counsel's website at [www.perkinlaw.com](http://www.perkinlaw.com). You may also email Plaintiffs' counsel at [info@perkinlaw.com](mailto:info@perkinlaw.com) to add your email address to a list which will allow you to automatically receive periodic updates as to the status of your case.

Counsel for Plaintiffs can be contacted at the following addresses or electronically as provided:

JOHN FRANCIS PERKIN  
BRANDEE J.K. FARIA  
Suite 2000, Davies Pacific Center  
841 Bishop Street  
Honolulu, Hawaii 96813  
[Info@perkinlaw.com](mailto:Info@perkinlaw.com)

GEORGE W. VAN BUREN  
ROBERT G. CAMPBELL  
Hawaii Tower, Suite 1950  
745 Fort Street  
Honolulu, Hawaii 96813

**EXCLUSION FORM**

I, \_\_\_\_\_, hereby request to be excluded from the class certified by the Circuit Court of the First Circuit in Cynthia Nakamura v. Hawaii Escrow & Title, Inc., Civil No. 07-1-0730-04 (SSM). I make this request pursuant to Hawaii Rules of Civil Procedure Rule 23(c)(2)(A), and understand that any statutes of limitation applicable to claims I may have against Hawaii Escrow & Title, Inc. will begin to run after my exclusion from this class. I further understand that the judgment in the above referenced lawsuit will not be binding upon me following my exclusion from this class.

DATED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

**Return to:**

**Perkin & Faria LLC  
John F. Perkin  
Brandee J.K. Faria  
Davies Pacific Center  
841 Bishop Street, Suite 2000  
Honolulu, HI 96813**