

**SO ORDERED.****SIGNED this 1st day of April, 2026.**

A handwritten signature in cursive script, appearing to read "Benjamin A. Kahn".

BENJAMIN A. KAHN  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
GREENSBORO DIVISION**

In re:

**Wagoner, Teresa A.**

Soc.Sec.No: xxx-xx-9311  
Mailing Address: 330 Slate Dr. Gibsonville, NC 27249

**CASE NO.** 21-10477**CHAPTER** 13

Debtor.

**ORDER SUSTAINING DEBTOR'S MOTION TO DETERMINE VALIDITY OF  
PAYMENT CHANGE NOTICE [DOC. NO. 85] AND AWARDING ATTORNEY'S FEES  
UNDER RULE 3002.1(h)**

This matter came before the Court on March 24, 2026, on the Debtor's Motion to Determine Validity of Notice of Mortgage Payment Change [Doc. No. 85], filed February 13, 2026, concerning the Payment Change Notice filed by Select Portfolio Servicing, Inc. ("SPS"), as servicer for GS Mortgage-Backed Securities Trust 2024-RPL5, on February 5, 2026 (the "Second SPS PCN"). The Court also considered the Debtor's Supplement regarding attorney's fees and expenses incurred in connection with both this Motion and the Debtor's prior Motion [Doc. No. 77], as authorized by the Court's March 23, 2026 Order [Doc. No. 91] sustaining the Debtor's objection to the first Payment Change Notice filed by SPS on April 28, 2025 [Doc. No. 73] (the "First SPS PCN") and reserving the issue of fees for this hearing. Koury L. Hicks appeared on behalf of the Debtor. Sydney Cauthen appeared on behalf of the servicer SPS. Anita Jo Kinlaw-Troxler, Chapter 13 Trustee, appeared. J.P. Cournoyer, Bankruptcy Administrator, appeared. The Court heard argument of counsel. The servicer did not oppose disallowance of the Second SPS PCN and, through counsel, stated it had no basis to oppose the fee request. The Bankruptcy Administrator was heard on the reasonableness of the rates requested.

The Court, having reviewed the Motions, the Supplement, the cases cited therein, and the full record in this case, and having considered the claim holder's entire course of conduct with respect to both Payment Change Notices, FINDS and CONCLUDES as follows:

1. On June 22, 2022, this Court approved a loan modification [Doc. No. 61] between the Debtor and Wells Fargo Bank, N.A. ("Wells Fargo"), establishing a monthly payment of \$662.02. The modification incorporated a shortage cure component to address a known escrow shortage of \$951.06. Between December 2022 and July 2024, Wells Fargo filed four Payment Change Notices under Bankruptcy Rule 3002.1 capturing escrow changes as they arose. The final Wells Fargo PCN, filed July 27, 2024, established a total monthly payment of \$672.07 with a remaining shortage of \$28.49.
2. The claim and servicing of the Debtor's mortgage loan transferred from Wells Fargo to SPS, as reflected in the Transfer of Claim filed January 9, 2025 [Doc. No. 71]. The escrow account carried a positive balance of \$1,635.64 at the time of transfer, as reflected in Wells Fargo's transfer documentation, Wells Fargo's January 28, 2026 written response to the Debtor's request for information [Doc. No. 85, Exhibit A], and SPS's own Table 3 included in the First SPS PCN.
3. SPS filed the First SPS PCN on April 28, 2025, asserting an escrow shortage of \$5,544.67 and seeking to increase the Debtor's payment from \$672.07 to \$1,140.99. That PCN was based on an escrow analysis that did not reliably reflect the account's escrow history. The Court sustained the Debtor's objection to the First SPS PCN and disallowed it by Order entered March 23, 2026. [Doc. No. 91].
4. On January 13, 2026, SPS's counsel provided Debtor's counsel with a reconstructed escrow ledger (the "SPS Ledger") and proposed a revised PCN. The SPS Ledger showed a negative escrow balance for November 2024 of (\$170.25), contradicting the documented positive transfer balance of \$1,635.64. Debtor's counsel advised SPS in writing that the SPS Ledger did not reconcile with the transfer records or the prior payment change history.
5. Despite that notice, SPS filed the Second SPS PCN on February 5, 2026, asserting an escrow shortage of \$1,722.09 and seeking a payment of \$839.24, based on the same reconstructed ledger approach that did not reconcile with the transfer records and prior payment change history.
6. The Second SPS PCN was not filed in compliance with Bankruptcy Rule 3002.1 because it asserted an escrow shortage based on account information and a reconstructed ledger that did not reliably reconcile with the documented escrow history.
7. Throughout the pendency of both Motions, Debtor's counsel repeatedly requested a complete post-transfer payment application history. The Court finds that the absence of a complete and accurate post-transfer payment history materially increased the time necessary to evaluate SPS's positions.
8. Federal Rule of Bankruptcy Procedure 3002.1(h) authorizes the Court to award reasonable expenses and attorney's fees caused by a claim holder's failure to provide accurate information as required by the Rule. The Court finds that an award of attorney's fees is warranted.

9. SPS filed two Payment Change Notices that were not in compliance with Rule 3002.1. The escrow analyses underlying both notices were not based on a reliable accounting, and SPS filed the Second SPS PCN after being advised in writing that the underlying ledger did not reconcile with the transfer records and prior payment change history. The burden is on the mortgage servicer to file accurate information with the Court, and SPS repeatedly failed to meet that burden. The Debtor and Debtor's counsel should not be penalized for the time reasonably necessary to identify and correct SPS's repeated errors.
10. The Court has reviewed the Debtor's itemized fee declaration and finds that the work performed and costs incurred were necessary and reasonable in light of the complexity of the escrow dispute, the need to reconcile account history spanning multiple years and multiple servicers, the existence of a court-approved loan modification, the filing of two erroneous Payment Change Notices, the absence of a reliable post-transfer payment history, and the multiple hearings required to bring the matter to resolution. The Court finds no wasted or unnecessary time in the entries submitted.
11. The Court finds that an hourly rate of \$495.00 for attorney Koury L. Hicks is reasonable and appropriate given his experience, his certification as a Board Certified Specialist in Consumer Bankruptcy Law, and the nature and complexity of the work performed. The Court further finds that this rate is appropriate for counsel of his experience and ability in contested consumer bankruptcy litigation of this nature. The Court finds that an hourly rate of \$495.00 per hour for attorney Edward Boltz is also reasonable. The paralegal rate of \$175.00 per hour for Angela Sabillon is reasonable.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:**

1. The Debtor's Motion to Determine Validity of Notice of Mortgage Payment Change [Doc. No. 85] is SUSTAINED. The Payment Change Notice filed by SPS on February 5, 2026 is hereby disallowed.
2. The operative payment for purposes of plan administration remains the payment established by the Wells Fargo Payment Change Notice filed July 27, 2024, in the total amount of \$672.07.
3. Pursuant to Federal Rule of Bankruptcy Procedure 3002.1(h), the Court awards the Debtor attorney's fees in the amount of \$11,036.00 for work performed in connection with the Debtor's Motions [Doc. Nos. 77 and 85]. SPS shall pay this amount to the Law Offices of John T. Orcutt, P.C. within thirty (30) days of entry of this Order. This amount shall not be charged to the Debtor, the bankruptcy estate, or the Debtor's escrow account.

END OF DOCUMENT

**DEPUTY CLERK'S SERVICE LIST**  
**Case No. 21-10477**

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Koury L. Hicks  
Attorney for the Debtor Teresa Wagoner  
*By cm/ecf*

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Attorney for Select Portfolio Servicing (SPS)  
*By cm/ecf*

Anita Jo Kinlaw Troxler  
Standing Chapter 13 Trustee  
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