

# Fourth Circuit Clarifies What Constitutes a QWR Under RESPA

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On February 22, the Fourth Circuit clarified in a published opinion what communications constitute a qualified written request (QWR) under the Real Estate Settlement Procedures Act (RESPA). The Fourth Circuit held that “where a written correspondence to a loan servicer provides sufficient information to identify the account and an alleged servicing error, such correspondence is a QWR for the purpose of RESPA and Regulation X.”

In *Morgan v. Caliber Home Loans, Inc.*, No. 20-1745 (4th Cir. Feb. 22, 2022), the Fourth Circuit considered whether plaintiffs Rogers Morgan and Patrice L. Johnson had sufficiently alleged that they sent correspondence that qualified as a QWR to their mortgage loan servicer Caliber Home Loans, Inc. (Caliber). The district court dismissed the plaintiffs’ claims. Taking all of the plaintiffs’ allegations to be true and viewed in the light most favorable to the plaintiffs, the Fourth Circuit reversed the dismissal of Morgan’s claim but affirmed the dismissal of Johnson’s claim.

## Morgan’s Letter

Morgan alleged that he sent a letter to Caliber stating:

Please find a report from ... stating as of 10/13/15 I owe Caliber \$16,806[.] [A]lso on 9/20/16 I called Caliber and talked to Thomas ID#27662[.] [H]e stated I owe \$30,656.89 and the \$630.00 on my record is late charges. Can you please correct your records[?] Your office reporting the wrong amount to the credit agency is effecting [sic] my employment. Please correct your records.

Slip. Op. 3. He included a copy of his credit report with the letter.

Morgan claimed that Caliber continued to report adverse loan information after receiving his letter, in contravention of RESPA. Caliber argued — and the district court agreed — that Morgan’s letter was not a QWR because it did “not dispute a specific payment.”

The Fourth Circuit reversed, holding that “RESPA does not limit the reporting of overdue payments to disputes of specifically identified payments but includes *any* ‘qualified written request relating to a dispute regarding the borrower’s payments.’” Slip Op. 9 (quoting 12 U.S.C. § 2605(e)(3)) (emphasis added). The holding is significant for several reasons:

- **Rejection of a specificity argument:** The Fourth Circuit rejected the argument that the letter was insufficient due to a “lack of specificity,” holding instead that the letter was a QWR because it was a “written correspondence” that articulated a “statement of reasons” in “sufficient detail” to indicate why Morgan believed the credit reporting was in error.
- **Reliance on a phone call:** The Fourth Circuit next observed that because the letter included an account number and referred to a phone call that Morgan had had with a Caliber agent, “the reference to an oral communication here provided specific information that could have ‘otherwise enable[d] the servicer to identify’ the account at issue.” Slip Op. 10.
- **The letter was not required to identify what information should have been reported:** The Fourth Circuit found that the letter sufficiently met the RESPA requirement that it “includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error,” 12 U.S.C. § 2605(e)(1)(B)(ii), because it identified that the consumer had received “conflicting balance information.” Slip Op. 10. The court noted that although the letter “does not state which amount, if either, is the correct amount, this type of discrepancy is sufficient to indicate a dispute exists as to the servicing of loan.”

Judge Richardson vigorously dissented from the majority’s opinion with regard to Morgan’s letter for two reasons: “A ‘qualified written request’ must include a ‘statement of the reasons for the belief of the borrower ... that the account is in error.’ § 2605(e)(1)(B)(ii). Morgan’s letter fails to identify what he believed the error to be and provides no statement of reasons for his belief.” Slip Op. 15 (Richardson, J., dissenting).

- Judge Richardson noted that the letter identified two account balances about a year apart. In his opinion, the letter could only suggest that the higher balance must be correct, which “would hardly make sense for Morgan to complain that Caliber erred in providing the credit agency with too low of a balance.” Slip. Op. 14 (Richardson, J., dissenting).
- Further, even if the letter identified what the consumer believed was an error, the letter does not meet the RESPA requirement for a “statement of reasons” for that belief. “While precision is not required, there are no reasons provided. And an asserted error without reasons is not a qualified written request.” Slip Op. 15 (Richardson, J., dissenting).

## Johnson’s Letter

After Johnson fell behind on mortgage payments, Caliber began reporting adverse information to credit reporting agencies. Johnson and Caliber discussed a loan modification, with Johnson making trial payments, Caliber declined to initially finalize a loan modification due to the existence of a priority lien by a third party. Johnson wrote a letter challenging “title issues” due to the third-party lien and asking Caliber to correct their “errors.” Slip. Op. 4. Johnson and Caliber later revisited and finalized a loan modification, but in the interim, Caliber continued its adverse credit reporting.

Caliber argued that the Johnson letter was not a QWR because it only disputed a potential loan modification, which does not constitute a QWR under RESPA. Slip. Op. 5. The district court agreed, and the Fourth Circuit affirmed. The court held that “[a] loan modification is a contractual issue, not a servicing matter. The Johnson Letter does not relate to any dispute of Johnson’s payments, or assert an error related to the servicing of the loan.” Slip Op. 12.

## Conclusion

This opinion provides helpful guidance to mortgage servicers in determining whether letters constitute a QWR. It is clear that letters purely challenging loan modifications are not QWRs, as they address “contractual issue[s], not a servicing matter.” However, a letter generally identifying “conflicting information” regarding payments is likely sufficient to constitute a QWR if the correspondence otherwise complies with the statute.

Troutman Pepper attorneys regularly advise their mortgage servicer clients on how to respond to QWRs and other customer correspondence. Troutman Pepper attorneys also defend RESPA claims brought against those same clients in state and federal courts throughout the country. We will continue to monitor how the courts within the Fourth Circuit apply the *Morgan* ruling through our [Consumer Financial Services Law Monitor](#) blog.

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