

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF DELAWARE

CONSUMER FINANCIAL PROTECTION :  
BUREAU, :  
 :  
vs. : CASE NO.  
 : 3:17-CV-00101 RDM  
 :  
NAVIENT CORPORATION, ET AL. :

\*\*DEPOSITION\*\*

DEPONENT: Johnathan Powell  
DATE: Tuesday, July 24, 2018  
TIME: 9:33 a.m.  
PLACE: 235 North Washington Avenue  
Scranton, PA  
REPORTER: Steven R. Mack  
SOLICITOR: Nicholas Jabbour  
David Dudley

1                   You know, we have all different kinds  
2   of call listening, so it's hard to enumerate.

3       Q.       What is the minimum requirement for the  
4   number of calls that you have to listen to for each  
5   agent each month?

6       A.       It's around that five to ten. I don't  
7   know the exact number there.

8       Q.       Is there a policy document that indicates  
9   an exact number?

10      A.       No, there's not a specific document or  
11   anything.

12      Q.       Is there a policy document that sets forth  
13   the procedures for listening to calls?

14      A.       Not that I'm aware of. I mean I --  
15   honestly, I've been there so long that they -- they  
16   go over that stuff with new supervisors, so there --  
17   I should say I don't have awareness of that because  
18   I've been doing it for so long, you know? So . . .

19      Q.       How do you choose the minimum five to ten  
20   calls you listen to per month for an individual  
21   agent?

22      A.       Certainly. So -- so we as supervisors  
23   have to listen to, you know, a call that's longer  
24   than 15 minutes for each agent. The team leaders  
25   have to listen to calls that are longer than 10

1 minutes.

2 And then we essentially when we coach  
3 our agents we listen to, you know, shorter calls and  
4 medium calls. I listen to calls with my agents  
5 almost every time I meet with them, so I probably  
6 listen to, you know, two a coaching at least.

7 Q. So for the five to ten minimum per month,  
8 one has to be longer than 15 minutes. Are there any  
9 other criteria?

10 A. Not specifically. All right. So there --  
11 there's different reports, like the low talk time  
12 report. So if somebody comes up on that for, you  
13 know, going under a certain amount of time in  
14 resolving an account, we're going to listen to that  
15 call.

16 There's -- there's first call  
17 resolution calls. So we kind of -- you know, if --  
18 if the borrower does not get the help that they need  
19 to get into the right repayment option, so if  
20 somebody doesn't explain.

21 You know, if they're going through an  
22 income-driven repayment plan and the borrower still  
23 needs assistance, we're going to help coach that  
24 agent on how they could better provide like a hey,  
25 here's how you fill out this application, let me

1     need to listen to, and that we listen to them to  
2     verify everything was done correctly.

3           Q.     Does that report contain every instance in  
4     which a call was under 3 minutes and 30 seconds and  
5     resulted in forbearance or is it something else?

6           A.     Forbearance primarily.  If they did a  
7     payment under that amount, if they probably did like  
8     a graduated repayment option.  Those are pretty much  
9     the -- and also if they did like a -- I don't know  
10    how to describe it.  Like a FORA FORN, which is like  
11    what we use to -- a temporary forbearance we place  
12    that's like -- the FORN is non-capitalizing.  You  
13    know, in case we send somebody paperwork to fill out  
14    or something to give them the 60-day hold that's  
15    non-capitalizing to, you know, apply for an  
16    income-driven repayment plan or a deferment, those  
17    calls as well that are under like a certain -- that  
18    certain like threshold of 3 minutes and 30 seconds.

19                   And we do it as like a check to make  
20    sure they're doing everything correctly and -- you  
21    know, because sometimes people call in and they're  
22    very specifically that they want things, but we like  
23    to have those checks in place.

24                               (Reporter requested clarification of  
25    a term.)

1           Q.     -- earlier calls on that screen that you  
2     see, right?

3           A.     Yes.

4           Q.     Okay.  Are there any other tools that you  
5     can think of to kind of expedite locating a call if  
6     you know the date and the borrower name but not  
7     necessarily the phone number?

8           A.     By the date and borrower name, no.  In the  
9     past like if I struggled to find a call, I maybe  
10    reached out to my dialer team and said hey, can you  
11    help me find this call with this phone number  
12    attached to it like if I knew it was via a certain  
13    phone number and maybe they have helped me.  But  
14    yeah, not -- not really by borrower name, no, not  
15    that I could think of.  But there might be.  I  
16    don't -- I'm not really aware.

17          Q.     Okay.

18          A.     It's I usually don't struggle to find.  
19    Like it's pretty easy to find the calls most of the  
20    time, you know?

21          Q.     Okay.  Have you ever not been able to find  
22    a call?

23          A.     No.

24          Q.     And when you were using the NICE software  
25    instead of ICBM, was it the same search criteria

1     that you could use to locate calls?

2           A.     It's been some time, so I believe it was  
3     pretty similar. I haven't used them forever,  
4     honestly, you know, so the thousands of calls I've  
5     listened to, you kind of -- it's kind of a blur, but  
6     I -- from what I remember, it was similar.

7           Q.     Okay. Were there any other systems you  
8     used, you've used during your time at Navient to  
9     listen to calls besides ICBM and NICE?

10          A.     Not that I can remember, no. No.

11          Q.     Okay. And just so I understand all the  
12     criteria that you can search by in ICBM. I know  
13     we've been through phone number, we've been through  
14     the date. There's the recording ID and the agent.  
15     Are there any other criteria that you can search by?

16          A.     Just the couple other ones I mentioned to  
17     you. By like the person who scored a quality call,  
18     the person who was scored. There is other criteria;  
19     just nothing that I really use, you know?

20          Q.     Right. And you said -- remind me. Did  
21     you say you could search by disposition if it was a  
22     CRS call?

23          A.     Correct. You could select like, you know,  
24     includes these words in the disposition or it  
25     doesn't include this, that kind of thing. Like if,

1 and, or statements somewhat.

2 Q. Okay. Was there ever a time in NICE when  
3 you couldn't locate a call you were looking for?

4 A. No, I honestly have never had a time that  
5 I've run into where I couldn't find a call.

6 Q. Have you ever had a situation where  
7 someone was placed into forbearance without any  
8 contact whatsoever? So in other words, there was no  
9 call with the borrower, there was no -- there was no  
10 forms submitted by the borrower. It was basically  
11 fraudulently done without the borrower's permission  
12 without any call whatsoever.

13 A. Yeah, I mean at some point there's been  
14 agents who have done something of that nature. You  
15 know, and then typically obviously when that happens  
16 and it's discovered, we investigate further and kind  
17 of take the appropriate action that's needed. A  
18 PDA, coaching depending on how severe it was, you  
19 know.

20 Q. Okay. In those situations how would --  
21 you know, if you saw that -- how would that  
22 situation be detected since there is no call to --  
23 to locate?

24 A. Since there is no call to locate?

25 Q. Right. How would you -- how would you

1 we assessed them correctly. You know, I might bring  
2 it up to my manager because it is pretty -- you  
3 know, that agent might need a lot of coaching to get  
4 that call flow straightened out.

5                   You know, I definitely would  
6 obviously meet with that agent as well and kind of  
7 come up with a coaching plan to -- to help them kind  
8 of navigate through those calls better because that  
9 should have -- that call should have been a lot  
10 better for her and the customer, you know?

11       Q.       Okay. Would a call like that  
12 automatically trigger any disciplinary action? Or  
13 would that be like a verbal warning?

14       A.       Yeah, I mean for -- depending on the  
15 infraction and the level, yeah, we definitely would  
16 take the appropriate steps based on that level of  
17 risk for those specific infractions.

18       Q.       Okay. If there was no compliance issue.  
19 Let's say that the agent presented all of the  
20 information, you know, about say forbearance  
21 accurately --

22       A.       Sure.

23       Q.       -- and the big issue was just that she did  
24 not go through income-driven repayment with the  
25 borrower. She didn't adequately ask questions to



1 probe the borrower's situation and determine that  
2 income-driven repayment might be appropriate for  
3 that borrower's circumstance, but otherwise every  
4 other aspect of the call was fine.

5 A. Sure.

6 Q. Would that only warrant a quality write-up  
7 and not a compliance write-up?

8 A. So -- and there's not really a quality  
9 write-up. The way that it would impact her quality,  
10 that is if this is a score that went towards her  
11 incentive and she fell under a certain percent, it  
12 could reduce or even eliminate her bonus. So that  
13 definitely could happen if it was that bad, you  
14 know, because I probably would take off a lot of  
15 points for this one.

16 But it also would, you know, be  
17 followed up by me listening to the call with the  
18 agent, trying to ask them what they saw was wrong  
19 with it and kind of going over each piece and, you  
20 know, trying to put that coaching plan into  
21 practice, so . . .

22 Q. Would that be -- would this be a verbal  
23 warning only?

24 A. I honestly am not a hundred percent sure  
25 of what would be assessed, you know what I mean? So

1 I don't know.

2 Q. Okay. So again if there was no compliance  
3 issue on the call and it was -- it was just --

4 A. Calling.

5 Q. -- it was just about not advising the  
6 borrower about income-driven repayment options, how  
7 would you treat that from -- from a quality  
8 standpoint?

9 A. As far as scoring or just how I'd handle  
10 it?

11 Q. In terms of what the consequences for the  
12 employee would be.

13 A. Okay. Yeah, I mean there -- the direct  
14 consequences would not be a write-up or something.  
15 The direct consequences would be coaching, review  
16 it, figure out what we need to do to change her  
17 practices moving forward.

18 The score would be a direct  
19 consequence which could trickle into her incentive,  
20 you know what I mean? I could see an agent like  
21 this who has those calls could be somebody who, if  
22 you continued to speak to a borrower like that and  
23 you don't really give them the proper explanation,  
24 then sure, it could trigger escalation calls, which  
25 maybe you have longer talk time now, maybe you're

1 not getting as many resolves, which maybe hurts your  
2 performance because you're not really helping people  
3 the way you should, you're not taking the right  
4 steps, you know? Which tends to lead to that long  
5 talk time.

6 So those are the impacts I think that  
7 you would see, but again there's no direct -- there  
8 would be no direct, you know, warning for that if  
9 there was no compliance issues, no -- no PDA  
10 exactly.

11 Q. Okay. So there would -- there would be no  
12 verbal warning and no written warning that would  
13 emerge from a call like that? Again if there were  
14 no compliance issues, it was just about not properly  
15 advising about repayment options.

16 MS. DRYHURST: Objection, form.

17 A. Correct. To clarify it, the only time  
18 that -- you know, so typically, you know, if this  
19 was my agent and this was a one-off call and she had  
20 this call and it was all quality stuff and I coached  
21 her on it and a week passes and she doesn't improve?  
22 You know, when you have people who you continue to  
23 coach and they continue to make these mistakes and  
24 maybe it doesn't fall into compliance?

25 Maybe then, you know, a week -- like

1 I said, we come up with an action plan or I could  
2 talk to employee relations about potentially like  
3 a -- I don't know exactly what they call it. Like a  
4 pattern of -- of -- you know. But that would be in  
5 a very intense situation where somebody -- you're  
6 meeting with somebody and they're just not listening  
7 to you and they're not correcting it. Typically  
8 people correct their -- you know, they correct their  
9 mistakes and they use the instruments that you give  
10 them to be successful.

11 Q. Okay. So if this is just about not  
12 properly advising about repayment options, no  
13 compliance issues, all the information given is  
14 accurate, it would be a coaching situation and you  
15 would monitor it to determine if the problem  
16 persists?

17 A. Yeah. Correct.

18 Q. Do you recognize that agent's voice at  
19 all?

20 A. No. No idea.

21 Q. She referenced 60 months of voluntary  
22 forbearance. Is 60 months still the maximum of  
23 voluntary forbearance that's allowed?

24 A. It really depends on what -- what we're  
25 looking at here. If they're commercial-based loans,