

NO. 2021-02915

NICIA VITORINO	§	IN THE DISTRICT COURT OF
	§	
VS.	§	
	§	
RAMESH KAPUR, INDIVIDUALLY,	§	HARRIS COUNTY, TEXAS
D/B/A AIC MANAGEMENT COMPANY,	§	
FORT BEND MDS, LLC, RK PARIVAR	§	
HOLDING, PLLC, BLUETEX	§	
MANAGEMENT SOLUTIONS, INC.	§	
AND JERRY SCHUTZA	§	334 th JUDICIAL DISTRICT

**AMENDED PETITION IN
INTERVENTION**

Come now, HREAL COMPANY, LLC and ALDENS ACQUISITIONS, LLC (jointly “Intervenors”), Intervenors complain against **Nicia Vitorino** (“**Vitorino**”), Plaintiff and Engelhardt Law PLLC and Steven Engelhardt (Englehardt) and states the following:

I. Discovery Level

1. Discovery conducted in this case is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II. Claims for Relief

1. The damages sought by Intervenors are within the jurisdiction limits of this Court. **Intervenors** seek monetary relief greater than Forty-six Thousand and No/100 (\$46,000) Dollars and less than One Hundred Thousand and No/100 (\$100,000.00) Dollars.

III. Parties

1. Intervenor are residents of Harris County, Texas.
2. Plaintiff **Nicia Vitorino** is a resident of Harris County, Texas and may be served with **Intervenors** Petition in Intervention by serving her pro se via nicia.vitorino@gmail.com.
3. Defendant **Jerry Schutza** (“**Schutza**”) is an individual residing in Houston, Harris County, Texas and be served with **Intervenors** Petition in Intervention by serving Jerry Schutza,

Attorney at Law, 815 Walker, Suite 1453, Houston, Texas 77002 via email: schutzalaw@yahoo.com.

4. Intervenors Engelhardt Law PLLC and Steven Engelhardt may be served with **Intervenors** Petition in Intervention by serving Steven Engelhardt, Attorney at Law, 4544 Post Oak Place Dr., Suite 270, Houston, Texas 77027 via email: steven@engelhardtlaw.com

IV. Jurisdiction and Venue

1. This Court has jurisdiction over the person and subject matter of this cause under the common law and by statute. The claims of the Intervenors are intertwined with the claims of Vitorino.

2. Venue is proper in Harris County, Texas. The contract made the basis of this Intervention occurred in Harris County, Texas.

V. Facts and Standard of Intervention

1. On March 24, 2021, Plaintiff, MARCUS VISER (“Viser”) sued Defendants HREAL COMPANY, LLC and ALDENS ACQUISITIONS, LLC and NICIA CALLEDARE / A/K/A NICIA VITORINO to quiet title to real property located in Harris County, Texas in Cause No. 2021-17223, IN THE DISTRICT COURT, 269TH JUDICIAL DISTRICT. Plaintiff alleges that Defendants have clouded his title by HREAL COMPANY, LLC purchasing the property at a foreclosure sale and by ALDENS ACQUISITIONS, LLC selling the property at a foreclosure sale.

2. A Warranty Deed With Vendor's Lien was granted from Abdul Zaveri to Nicia Calledare, a single woman recorded on 07/22/2015 in Instrument No. 20150325403 of the Official Public Records of Harris County, Texas. The \$12,000.00 Vendor's Lien was secured by the Deed of Trust recorded in Instrument No. 20150325404.

3. A Deed Under Execution and Order of Sale granted from Harris County, Texas,

Precinct 7 Constable May Walker to Marcus Viser was recorded on 09/24/2019 at Instrument No. RP-2019-423523 of the Official Public Records of Harris County, Texas. The order of sale issued on the March 28, 2018 out of the 113th Judicial District Court, Harris County, Texas, pursuant to a judgment and decree of sale in Cause No. 201357726 Fondren Southwest Tempos Association, Inc. vs. Abdul Zaveri rendered on April 01, 2015.

4. HReal purchased the property at a Trustee's foreclosure sale on 06/02/2020. A Substitute Trustee's Deed from Jerry L. Schutza, Substitute Trustee to HReal Company, L.L.C. was recorded on 06/15/2020 in Instrument No. RP-2020-255109 and References the Deed of Trust dated 07/14/2015 executed by Nicia Calledare, payable to Alden Acquisitions, L.L.C. of the Official Public Records of Harris County, Texas.

5. A Summary Judgment Motion is pending filed by Intervenors is pending in the other cause of action asking the Court to find that HREAL Company, LLC is the owner. If the Court does not grant the summary judgment and finds at trial that Marcus Viser is the owner of the property then the foreclosure by Aldens Acquisitions will be invalid, Nicia Vitorino was not the owner and HREAL Company, LLC would be entitled to receive their money back which includes the money held in the registry of this Court. The money held in the registry of this Court are the excess proceeds from the foreclosure sale conducted Jerry Schutza on behalf of Aldens Acquisitions, LLC.

6. Texas Rule of Civil Procedure 60 provides that "[a]ny party may intervene by filing a pleading, subject to being stricken out by the court for sufficient cause on the motion of any party." TEX. R. CIV. 60. "Rule 60...provides...that any party may intervene" in litigation in which they have a sufficient interest. *Mendez v. Brewer*, 626 S.W.2d 498, 499 (Tex. 1982). An intervenor is not required to secure a court's permission to intervene in a cause of action or prove that it has standing. *Guar. Fed. Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652, 657 (Tex. 1990).

VI. Causes of Action

A. Unjust Enrichment

1. Intervenor incorporates by reference paragraphs 1 through 5 and the fact allegations of Section V.

2. A person is unjustly enriched when he obtains a "benefit from another by fraud, duress, or the taking of an undue advantage. If the Plaintiff was not the owner of the property and/or the lien foreclosed upon by Schutza was not valid and enforceable, then the Plaintiff will be unjustly enriched by receiving the funds from the registry of this Court.

VII. Damages

1. **Intervenors** are entitled to damages from **Vitorino** in the sum of not less than the amount presently in the Court's Registry.

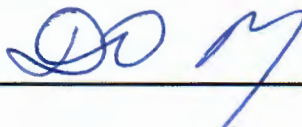
VIII. Prayer

Intervenors request all parties be cited to appear and answer herein and upon a final trial of this cause, **Intervenors** have judgment of and against all parties for the following:

1. A money judgment for damages in the amount at least of Forty-six Thousand and No/100 (\$46,000) to be awarded to **Intervenors** from the amount on deposit in the Registry of the Court;
2. Interest on any amount as provided by law;
3. Reasonable attorney's fees;
4. Costs of Court; and
5. For such other and further relief, both general and special, at law or in equity, to which **Intervenors** may show themselves justly entitled.

Respectfully submitted,

BARRY & SEWART, PLLC



Anna C. Sewart, TBN 24029832
David W. Barry, TBN 01835200
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ATTORNEYS FOR HREAL COMPANY, LLC and
ALDENS ACQUISITIONS, LLC

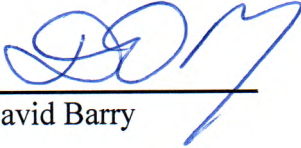
Certificate of Service

This is to certify that a true and correct copy of the above and foregoing Petition in Intervention has been forwarded to the following by hand delivery, email, fax, certified mail, return receipt requested or regular mail on April 1, 2022 to:

Nicia Vitorino
3219 Ashton Park
Houston, Texas 77082
nicia.vitorino@gmail.com

Jerry Schutza
815 Walker Street, Suite 1953
Houston, Texas 77002
schutzalaw@yahoo.com

Steven Engelhardt, Attorney at Law,
4544 Post Oak Place Dr., Suite 270,
Houston, Texas 77027
steven@engelhardtlaw.com



David Barry

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

e File on behalf of John Burger
Bar No. 3378650
efile@barryandsewart.com
Envelope ID: 63173256
Status as of 4/1/2022 10:03 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Steven Engelhardt		steven@engelhardtlaw.com	4/1/2022 9:59:47 AM	SENT
Nicia Vitorino		nicia.vitorino@gmail.com	4/1/2022 9:59:47 AM	SENT
Jerry L. Schutza	17853800	schutzalaw@yahoo.com	4/1/2022 9:59:47 AM	SENT
Charlie Henke		chenke@henkelawfirm.com	4/1/2022 9:59:47 AM	SENT
Kathleen Boll		kboll@henkelawfirm.com	4/1/2022 9:59:47 AM	SENT
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