

# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

EDWARD WEST and PAMELA WEST,

Plaintiffs,

v.

DOVENMUEHLE  
MORTGAGE, INC. and LNV  
CORPORATION,

Defendants.

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Civil Action No. 4:22-cv-4245

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1446(a), Defendant Dovenmuehle Mortgage, Inc. (“DMI” or “Defendant”) files this notice of the removal of this action from the 165<sup>th</sup> Judicial District Court of Harris County, Texas. Defendant submits this Notice in support of their removal. Removal is based on the ground that diversity jurisdiction exists over this action because there is complete diversity between Plaintiffs and Defendant and the amount in controversy exceeds \$75,000.00, pursuant to 28 U.S.C. Section 1332. Defendant respectfully shows as follows:

**INTRODUCTION**

1. On or about June 3, 2022, Plaintiffs filed their *Original Verified Petition and Application for Temporary Restraining Order and Temporary Injunction* (the “Petition”) bearing Cause No. 2022-33207 in 165<sup>th</sup> Judicial District Court, Harris County, Texas, styled *Edward West, Pamela West v. Dovenmuehle Mortgage, Inc. and LNV Corporation*. (the “State Court Action”). A true and correct copy of the Docket Sheet from the State Court Action is attached hereto as **Exhibit A**. In accordance with 28 U.S.C. Section 1446(a), copies of all process, pleadings, and orders served in the State Court Action, including the Petition, are attached hereto within the contents of **Exhibit B**.

2. The allegations in the Petition relate to a deed of trust and foreclosure proceedings on Plaintiffs' real property and improvements located at 4015 Black Locust Drive, Houston, Texas 77088, and more particularly described as:

LOTS 13 AND 14, IN BLOCK 11, OF OAKS OF INWOOD,  
SECTION THREE (3), A SUBDIVISION IN HARRIS COUNTY,  
TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF,  
RECORDED IN VOLUME 279, PAGE 76 OF THE MAP  
RECORDS OF HARRIS COUNTY, TEXAS.

(the "Property"). (*See Petition* at ¶9.) In the Petition, Plaintiffs allege that Defendant committed fraud by allegedly instructing the Plaintiffs to dismiss their Chapter 13 Bankruptcy Petition to pursue a loan modification which they did not qualify for. (*See Petition* at ¶¶ 9-13.) Plaintiffs bring claims for declaratory judgment that Defendant lack standing to foreclose and common law fraud. (*See id.* at ¶¶ 14-24.) Plaintiffs further seek injunctive relief to prevent Defendant from foreclosing on the Property. (*See id.* at ¶¶ 26-30.)

3. On June 6, 2022, the Court granted Plaintiffs' request for a Temporary Restraining Order. (See Exhibit B, B-2.)

4. The Notice of Removal is timely because thirty (30) days have not expired since establishing full diversity in the case, making removal proper in accordance with 28 U.S.C. Section 1446(b).

5. This action is removable to federal court pursuant to 28 U.S.C. Section 1441 because it could have been filed originally in this Court pursuant diversity jurisdiction conferred by 28 U.S.C. Section 1332.

#### **BASIS FOR REMOVAL – DIVERSITY JURISDICTION**

A. **There is complete diversity among all parties.**

6. There is diversity jurisdiction in this Court because there is complete diversity of

citizenship between Plaintiffs and Defendant DMI, and more than \$75,000 is in controversy, exclusive of interest and costs. *See* 28 U.S.C. § 1332.

7. Plaintiffs Edward West and Pamela West are individuals and citizens of the state of Texas. (*See Petition* at ¶¶ 2-3.)

8. A corporation is a citizen of its state of incorporation and principal place of business. 28 U.S.C. § 1332(c). Defendant DMI is a Delaware corporation with its principal place of business in Illinois.

9. Defendant LNV Corporation has been fully dismissed from the case. (*See Exhibit B, B-41.*) Therefore, because Plaintiffs and the remaining Defendant DMI do not share a state citizenship, there is diversity of citizenship.

**B. The amount in controversy exceeds \$75,000.00**

6. The amount in controversy exceeds the sum or value of \$75,000.00. Plaintiffs seek injunctive relief to prevent Defendant from foreclosing on the Property. (*See Petition* at ¶¶ 26-30.)

7. When declaratory or injunctive relief is sought, the amount in controversy is measured by the value of the object of the litigation, and the value of that right is measured by the losses that will follow. *Webb v. Investacorp, Inc.* 89 F.3d 252, 256 (5th Cir. 1996). Stated differently, “the amount in controversy, in an action for declaratory and injunctive relief, is the value of the right to be protected or the extent of the injury to be prevented.” *Leininger v. Leininger*, 705 F.2d 727, 729 (5th Cir. 1983); *see also Lamarr v. Chase Home Finance, LLC*, 2008 WL 4057301 (N.D. Miss. 2008) (finding amount in controversy requirement was satisfied where plaintiff sought to set aside foreclosure sale and home appraised for \$83,000.00, plus unspecified amount of monetary damages); *Bank of America National Trust and Sav. Assoc. v. Reeves*, 1995 WL 96617, \*1 (E.D. La. 1995) (court held that the amount in controversy was met in action seeking

to enjoin foreclosure on property because the suit “puts at issue the entire value of the property on which they attempt to enjoin defendants from foreclosing.”).

8. “Reasonable bases for valuing properties include ‘purchase price, market value, or outstanding principal and interest.’” *McPherson v. Bank of Am., N.A.*, No. H-16-3498, 2016 U.S. Dist. LEXIS 180115, at \*6 (S.D. Tex. Dec. 30, 2016) (citations omitted).

9. Plaintiffs seek injunctive relief to prevent Defendant from foreclosing on the Property. (*See Petition* at ¶¶ 26-30.) Therefore, through their request for injunctive relief, Plaintiffs have put an amount in controversy equal to the value of the Property. The Harris County Central Appraisal District’s most recent valuation of the Property shows a total assessed value of the Property at \$349,880.00. (*See Exhibits C, C-1.*) For this reason alone, the amount in controversy exceeds \$75,000.00.

#### **VENUE**

10. Venue for removal is proper in this district and division, the United States District Court for the Southern District of Texas, Houston Division, under 28 U.S.C. Section 1441(a) because this district and division embrace the 165<sup>th</sup> Judicial District Court, Harris County, Texas, the forum in which the removed action was pending.

#### **NOTICE**

11. Pursuant to 28 U.S.C. Section 1446(d), a copy of this Notice is being filed with the Clerk of Court for the 165<sup>th</sup> Judicial District Court, Harris County, Texas.

12. The contents of Exhibit B constitute the entire file of the State Court Action.

#### **CONCLUSION**

For the reasons described above, Defendant respectfully requests that this Court take jurisdiction over this matter and proceed as if it had been originally filed herein.

Respectfully submitted,

By: /s/ Mark D. Cronenwett

**MARK D. CRONENWETT**

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**ATTORNEYS FOR DEFENDANT  
DOVENMUEHLE MORTGAGE, INC.**

**List of All Counsel of Record**

1. Edward West and Pamela West  
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2. Dovenmuehle Mortgage, Inc.  
Defendant  
c/o Mark D. Cronenwett  
Texas Bar No. 00787303  
Southern District No. 21340  
Mackie Wolf Zientz & Mann, P. C.  
14160 North Dallas Parkway, Suite 900  
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**INDEX OF DOCUMENTS ATTACHED**

- Exhibit A Copy of the Docket Sheet for Cause No. 2022-33207, 165<sup>th</sup> Judicial District Court, Harris County, Texas;
- Exhibit B Pleadings in Cause No. 2022-33207, 165<sup>th</sup> Judicial District Court, Harris County, Texas;
- B-1 Plaintiffs' Original Verified Petition and Application for Temporary Restraining Order and Temporary Injunction, filed June 3, 2022;
  - B-2 Proposed Temporary Restraining Order, filed June 6, 2022;
  - B-3 Plaintiffs' Certificate of Conference, filed June 6, 2022;
  - B-4 Certified Mail Receipt, LNV Corporation & DMI, June 7, 2022;
  - B-5 Domestic Return Receipt, DMI, June 16, 2022;
  - B-6 Domestic Return Receipt, LNV Corporation, June 24, 2022;
  - B-7 Order Signed Granting Temporary Restraining Order, June 6, 2022;
  - B-8 Clerk's Certificate of Cash Deposit in Lieu of Injunction Bond Per Order of the Court, June 6, 2022;
  - B-9 Defendant/Counter-Plaintiff LNV Corporation's Original Counterclaim, filed June 24, 2022;
  - B-10 Defendant LNV Corporation's Original Answer and Affirmative and Other Defenses, filed June 24, 2022;
  - B-11 Original Answer of Defendant Dovenmuehle Mortgage, Inc., filed June 27, 2022;
  - B-12 Plaintiffs' Original Answer to Defendant LNV Corporation's Counterclaims, filed July 14, 2022;
  - B-13 Plaintiff Edward West's Certificate of Written Discovery, filed July 22, 2022;
  - B-14 Plaintiff Pamela West's Certificate of Written Discovery, filed July 22, 2022;
  - B-15 Plaintiffs' Application for Temporary Restraining Order and Temporary Injunction and Proposed Order, filed August 1, 2022;
  - B-16 Docket Control Order, August 22, 2022;



- B-17 Order for Setting Trial and Pre-Trial Conference, August 22, 2022;
- B-18 Defendant LNV Corporation's Motion for Discovery Sanctions and Proposed Order, filed September 23, 2022;
- B-19 Defendant LNV Corporation's Notice of Oral Hearing by Phone, filed September 29, 2022;
- B-20 Plaintiffs' Response to Defendant LNV Corporation's Motion for Discovery Sanctions and Proposed Order to Deny Motion for Discovery Sanctions, October 14, 2022;
- B-21 Plaintiffs' Application for Temporary Restraining Order and Temporary Injunction and Proposed Temporary Restraining Order, filed October 28, 2022;
- B-22 Defendant LNV Corporation's Response to Plaintiffs' Application for a TRO and Proposed Order Denying TRO and TI, filed October 28, 2022;
- B-23 Letter of Continuance of Exhibits, Exhibits I-2, pt. 1 and 2, filed October 28, 2022;
- B-24 Letter of Continuance of Exhibits, Exhibits I-2 pt. 3, filed October 28, 2022;
- B-25 Letter of Continuance of Exhibits, Exhibits J-O, filed October 28, 2022;
- B-26 Order Signed Granting Temporary Restraining Order, October 28, 2022;
- B-27 Clerks Certificate of Cash Deposit in Lieu of Injunction Bond per Order of the Court, October 31, 2022;
- B-28 Deputy Reporter Statement, November 7, 2022;
- B-29 Defendant LNV Corporation's No-Evidence and Traditional Motion for Summary Judgment, filed November 10, 2022;
- B-30 Defendant LNV Corporation's No-Evidence and Traditional Motion for Summary Judgment, Exhibits I-P, filed November 10, 2022;
- B-31 Agreed Motion to Extend Temporary Restraining Order and Proposed Order, filed November 11, 2022;
- B-32 Order Extending Temporary Restraining Order, November 11, 2022;
- B-33 Defendant LNV Corporation's Notice of Hearing for Its No-Evidence and Traditional Motion for Summary Judgment, filed November 11, 2022;

- B-34 Defendant Dovenmuehle Mortgage, Inc's Traditional and No-Evidence Motion for Summary Judgment and Proposed Order, filed November 14, 2022;
- B-35 Notice of Submission on Defendant Dovenmuehle Mortgage, Inc's Traditional and No-Evidence Motion for Summary Judgment, November 29, 2022;
- B-36 Plaintiffs' Motion for Leave to Late-File Plaintiffs' Response to Defendant LNV Corporation's No-Evidence and Traditional Motion for Summary Judgment and Proposed Order, filed December 1, 2022;
- B-37 Plaintiffs' Response to Defendant LNV Corporation's No-Evidence and Traditional Motion for Summary Judgment, filed December 1, 2022;
- B-38 Amended Notice of Submission on Defendant Dovenmuehle Mortgage, Inc.'s Traditional and No-Evidence Motion for Summary Judgment, December 1, 2022;
- B-39 Defendant LNV Corporation's Response to Plaintiffs' Motion for Leave, Objections to Plaintiffs' Response, and Reply in Support of Defendant's Motion for No Evidence and Traditional Summary Judgment, December 2, 2022;
- B-40 Order for Interlocutory Summary Judgment Signed, December 3, 2022;
- B-41 Defendant LNV Corporation's Notice of Non-Suit and Proposed Order, filed December 7, 2022;
- Exhibit C Declaration of Mark D. Cronenwett; and
- C-1 Print out from the Harris County, Texas Appraisal District web-site, December 7, 2022.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served via regular U.S. mail on December 8, 2022 on the following counsel of record:

Brandy M. Alexander  
Alexander Law, PLLC  
2502 La Branch St.  
Houston, Texas 77004

/s/ Mark D. Cronenwett  
**MARK D. CRONENWETT**