

CAUSE NO. _____

CLIFTON AMMONS	§	IN THE DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
Vs.	§	
	§	
WILMINGTON SAVINGS FUND SOCIETY,	§	
FSB, AS TRUSTEE ON FINANCE OF	§	_____ JUDICIAL DISTRICT
AMERICA STRUCTURED SECURITIES	§	
ACQUISITIONS TRUST 2019-HBI	§	HARRIS COUNTY TEXAS

PLAINTIFF’S ORIGINAL PETITION

COMES NOW, Clifton Ammons (“Plaintiff”) to this files Original Petition, complaining of Wilmington Savings Fund Society, FSB, as Trustee of Finance of American Structured Securities Acquisitions Trust 2019-HB1 (“Defendant”) , and would show the Court as follows:

NOTICE OF AUTOMATIC STAY

The Defendant filed an application for expedited foreclosure in Cause Number 2020-06793 - *Wilmington Savings Fund Society, FSB, as Trustee of Finance of American Structured Securities Acquisitions Trust 2019-HB1 v. Clifton Ammons* which resulted in a default Order on September 23, 2021. The Defendant then posted the Plaintiff’s homestead for foreclosure sale on September 6, 2022. The property in foreclosure is described as follows:

LOT 14, BLOCK 1 OF HADEN TERRACE, AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF, RECORDED IN VOLUME 1163, PAGE 145 OF THE DEED RECORDS OF HARRIS COUNTY, TEXAS.

3355 Rosedale St, Houston, TX 77004

Rule 736.11 provides that a proceeding under 736 is automatically stayed if a respondent files a separate, independent, original proceeding challenging the petitioner's right to foreclosure. This

puts in issue matters related to the origination, servicing, or enforcement of the loan agreement contract and/or lien. Rule 736.11 (d) provides that if the automatic stay is in effect, any foreclosure sale of the property is void.

I. PARTIES

1. Plaintiff, **Clifton Ammons** is a resident of the State of Texas residing in Harris County.

2. Defendant, **WILMINGTON SAVINGS FUND SOCIETY, FSB** is a foreign is a foreign corporation fiduciary doing business in the State of Texas. Defendant Wilmington may be served with process pursuant to the Texas Long-Arm Statute, TEX. CIV. PRAC. & REM. CODE § 17.044 et seq., by serving the Texas Secretary of State, Citations Unit, James E. Rudder Building, 1019 Brazos, Room 105, Austin, Texas 78701, with two (2) copies of the citation and this petition, who may then serve the same upon any authorized officer, director or designated agent at the Defendant's address at 500 Delaware Avenue Wilmington, DE 19801.

II. DISCOVERY

3. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure Plaintiff states that discovery is to be conducted under Rule 190.3, Level 2 Discovery.

III. VENUE

5. Venue is proper in Harris County because the case concerns real property located in Harris County, the actions and omissions occurred in Harris County.

IV. FACTS

6. Plaintiff is the owner of a home located at 3355 Rosedale St. Houston, Texas 77004 (the "Property"). Plaintiff took out a reverse mortgage with the Defendant on or about August 30, 2006. The Defendant failed to properly disclose the Plaintiff that by entering into the Reverse

Mortgage, the Plaintiff would be required to pay his annual property taxes, regardless of his exemptions.

7. Plaintiff fell behind on his property taxes that the Defendant paid them.

8. Plaintiff then entered into a payment agreement to reimburse the Defendant. Plaintiff complied with the agreement and the Defendant did not.

9. Defendant now seeks to foreclose upon Plaintiff's property and Plaintiff disputes the Defendant's right to seek foreclosure.

V. DECLARATORY JUDGMENT

10. Pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code (and if necessary, the Federal Declaratory Judgment Act), Plaintiff respectfully requests that this Court issue a declaratory judgment specifying Plaintiff and Defendant rights and duties in connection with the Deed of Trust and the underlying Note, including the principal balance due or in default.

13. Specifically, a controversy exists as to whether all credits have been applied and the current balance remaining due after applying all credits.

14. Pursuant to the Declaratory Judgment Act, the Plaintiff also seeks reasonable and necessary attorney fees.

PRAYER

15. WHEREFORE, Plaintiff prays for judgment against Defendant and all further relief, both general and special, legal and equitable, to which Plaintiff may be entitled.

Respectfully submitted,

MEDEARIS LAW FIRM, PLLC



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Alexa Rivera on behalf of David Medearis

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Status as of 9/2/2022 2:05 PM CST

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