

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

KACEY NICOLE WAGNER,

plaintiff,

v.

NEWREZ, LLC dba Shellpoint  
Mortgage Servicing,

defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 3:22-cv-00257

**JOINT MOTION TO HOLD DISCOVERY AND DISPOSITIVE MOTION DEADLINES  
IN ABEYANCE PENDING DECISION ON PENDING MOTIONS**

Plaintiff Kacey Nicole Wagner and defendant NewRez LLC dba Shellpoint Mortgage Servicing jointly request an order holding all discovery and dispositive motion deadlines in abeyance pending decisions on Shellpoint's motion to enforce settlement agreement and to dismiss with prejudice (**motion to enforce**) (Doc. 13) and Robert Newark's motion to withdraw as counsel for plaintiff (**motion to withdraw**) (Doc. 11).

**I. Background**

1. Plaintiff Kacey Wagner took out a home equity line of credit against the property located at 21 Edgewater St., Bayou Vista, Texas 77653 in May 2015. (*See* Compl. ¶ 9, Doc. 1-1.) Shellpoint serviced Ms. Wagner's loan, which was secured by a deed of trust recorded against the property. A foreclosure under the deed of trust took place on July 5, 2022.

2. Ms. Wagner filed this lawsuit in state court on July 5, 2022, to assert claims for negligence, violation and RESPA and violation of Texas Property Code against Shellpoint. (Doc. 1-1.) Shellpoint answered and removed the case to this court on July 20, 2022. (Docs. 1, 1-4.)

3. Ms. Wagner's counsel, Robert Newark, moved to withdraw on March 1, 2023. (Doc. 11.) Shellpoint opposed Mr. Newark's motion, and Mr. Newark filed a reply in support of his motion.<sup>1</sup> (Doc. 12, 14.)

4. On March 8, 2024, Shellpoint filed a motion to enforce a settlement between Shellpoint and Ms. Wagner.<sup>2</sup> (Doc. 13.)

5. Discovery is scheduled to close on March 17, 2023. (Doc. 9.)

6. Dispositive motions are due March 24, 2023. (Doc. 9.)

7. Because the decision on Shellpoint's pending motion to enforce settlement may render further discovery and dispositive motion briefing unnecessary, and because the ruling on Mr. Newark's motion to enforce will dictate his obligations to Ms. Wagner moving forward, the parties jointly request that those deadlines be held in abeyance and subject to rescheduling pending the Court's ruling on Shellpoint's motion to enforce settlement and Mr. Newark's motion to withdraw. (Docs. 13 and 11.)

WHEREFORE, Shellpoint and Mr. Newark request an order that the March 17, 2023 discovery cut-off deadline and March 24, 2023 dispositive motion deadlines be held in abeyance and subject to rescheduling by the Court pending the Court's ruling on Shellpoint's motion to enforce settlement and Mr. Newark's motion to withdraw.

---

<sup>1</sup> Mr. Newark's motion to withdraw was based, at least in part, on the fact that Ms. Wagner had stopped communicating with him. Shellpoint's objection was based, in part, on the fact that Ms. Wagner's deposition had been noticed for March 10, 2023. On March 9, 2023, with less than 24 hours remaining before the deposition, Ms. Wagner renewed communication with Mr. Newark. Given the short notice of Ms. Wagner's renewed participation in the litigation and the uncertainties surrounding the motion to withdraw and motion to enforce, counsel agreed to vacate Ms. Wagner's March 10, 2023 deposition with the understanding it could be reset if necessary either prior to the current March 17, 2023 close of discovery or afterwards, should the court grant this joint motion.

<sup>2</sup> Details of the settlement and undersigned counsel's communications with Mr. Newark about settlement are outlined in Shellpoint's underlying motion to enforce settlement, which Shellpoint filed under seal due the confidential nature of the settlement.

Dated: March 10, 2023

Respectfully submitted,

*/s/ Robert C. Newark (w/permission)*

Robert C. Newark  
State Bar No. 24040097  
1341 W. Mockingbird Lane, Suite 600W  
Dallas, Texas 75247  
Telephone: 866.230.7236  
Facsimile: 888.316.3398  
E-Mail: robert@newarkfirm.com  
**ATTORNEY FOR PLAINTIFF KACEY  
NICOLE WAGNER**

*/s/ Melanie D. Morgan*

Melanie D. Morgan, SBN: 24039096  
-- *Attorney in Charge*  
AKERMAN LLP  
2001 Ross Avenue, Suite 3600  
Dallas, Texas 75201  
Telephone: 214.720.4300  
Facsimile: 214.981.9339  
E-Mail: melanie.morgan@akerman.com  
**ATTORNEY FOR NEWREZ LLC DBA  
SHELLPOINT MORTGAGE SERVICING**