



governed by the expedited-actions process under Rule 169 of the Texas Rules of Civil Procedure.

### **PARTIES**

2. Plaintiffs Sook Yee Choy and Kenneth Choo are individuals residing in Harris County, Texas.

3. Defendant Plan B Financial, LLC is a Texas limited liability company that may be served with process by serving its registered agent Keith Buchanan, 5315-B Cypress Parkway, #532, Houston, Texas 77069, or wherever he may be found.

4. Defendant JPMorgan Chase Bank, N.A. is a national banking association doing business in Texas that may be served with process by serving its registered agent CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas 75201, or wherever it may be found.

5. Defendant Amir Ardalan Mosavi f/k/a Amirardalan Mosavi Khandanhighi is an individual living in Virginia who may be served with process at 936 Dead Run Drive, McLean, Virginia 22101, or wherever he may be found.

6. Defendant Maryam Sadat Sakhaeifar is an individual living in Virginia who may be served with process at 936 Dead Run Drive, McLean, Virginia 22101, or wherever she may be found.

7. Defendant Massood Danesh Pajooch is an individual living in Texas who may be served with process at 15015 Turkey Trail Court, Houston, Texas 77079, or wherever he may be found.

### STATEMENT OF RELIEF

8. Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiffs hereby plead that Plaintiffs seek monetary relief under \$600,000 and non-monetary relief.

### JURISDICTION & VENUE

9. The Court has jurisdiction over the lawsuit because it concerns title to real property located in Harris County, Texas. Pursuant to Section 15.011 of the Texas Civil Practices & Remedies Code, venue is proper in Harris County, Texas because the real property that is at issue in this litigation is located in said county.

### FACTS

10. This lawsuit involves the title to the real property purchased by Plaintiffs in January of 2022. The real property and its improvements are located at 617 Rancho Bauer Drive, Houston, Texas 77079 (the “**Property**”).

11. Plaintiffs purchased the Property from Defendants Mosavi and Sakhaeifar for \$545,787.00. At closing, Plaintiffs delivered the required funds for the purchase.

12. On January 14, 2022, Defendants Mosavi and Sakhaeifar conveyed the Property to Plaintiff Sook Yee Choy by General Warranty Deed with Vendor’s Lien (“**Choy Deed**”). See **Exhibit A-1**. The Choy Deed was recorded in the real property records of Harris County, Texas on January 14, 2022 at Clerk’s File No. RP-2022-27646. Under the terms of the Choy Deed, Defendants Mosavi and Sakhaeifar agreed to “WARRANT AND FOREVER DEFEND all and singular the said Property unto the said Grantees [Plaintiffs]... against every person whomsoever lawfully claiming or to claim the same or any part thereof except as to the reservations from and exceptions to conveyance and warranty.” The Choy Deed did not except to any liens against the Property.

13. Unbeknownst to Plaintiffs, at the time of their purchase, Defendant Chase purportedly claimed a lien against the Property. Defendant Chase's claimed lien allegedly arose from a deed of trust pursuant to a home equity line of credit ("**HELOC**") taken out by Defendant Massood Danesh Pajooch ("**Pajooch**"), a prior owner of the Property. The subject deed of trust was executed and recorded in 2006, sixteen years before Plaintiffs purchased the Property.

14. Significantly, the subject deed of trust explicitly states that "The Loan is personal to Grantor [Defendant Pajooch] and to the extent permitted by law, the entire Debt shall become immediately due and payable in full upon any sale or other transfer of the Property or any interest therein by Grantor including, without limitation, further encumbrance of the Property. Grantor agrees to advise Beneficiary immediately in writing of any change in Grantor's name, address or employment." See **Exhibit B**. As shown below in the relevant history of the conveyance of the Property, Defendant Pajooch sold the Property in 2006, long before Chase ever attempted to foreclose on its deed of trust.

15. Moreover, at the time of the closing of their purchase of the Property, Plaintiffs had no knowledge of Defendant Chase's claimed lien against the Property which prior owners reasonably believed had been released by Chase when the HELOC was paid off at closing on Pajooch's sale of the Property in 2006.

***Relevant History of the Conveyance of the Property***

16. On or about December 29, 2005, Defendant Pajooch acquired the Property from Behnda, Inc. by General Warranty Deed (the "**Pajooch Deed**"). The Pajooch Deed was recorded in the real property records on March 1, 2006, at Clerk's File No. Z120816. See **Exhibit A-2**.

17. On or about August 11, 2006, Defendant Pajooch conveyed the Property to Non-Party Mikhail Bouilov (“**Bouilov**”) via General Warranty Deed with Vendor’s Lien (the “**Bouilov Deed**”). The Bouilov deed was recorded in the real property records on August 15, 2006, at Clerk’s File No. Z529956. See **Exhibit A-3**. When Defendant Pajooch conveyed the Property to Bouilov, he warranted he was conveying to Bouilov clear title to the Property without reference to Defendant Chase’s deed of trust. *Id.* Significantly, the Bouilov Deed does not require Bouilov to assume the Chase loan and take title subject to its deed of trust. *Id.* In fact, the vendor’s lien in the deed indicates Bouilov is granting his own lender a first lien on the Property to secure the debt. *Id.* Further, based on information and belief, Bouilov’s purchase of the Property closed at a title company. From all indications, Bouilov’s purchase money was used to fully satisfy the Chase’s deed of trust.

18. Inexplicably, Chase failed to release its lien on the Property when the line of credit was paid in full from sale proceeds in the Pajooch to Bouilov sale. Instead, the deed of trust remained of record and apparently, Pajooch retained the line of credit and kept it active thereafter. On or about January 16, 2014, Bouilov and Non-Party Nadejda Bouilova conveyed the Property to Defendants Mosavi and Sakhaeifar by General Warranty Deed with Vendor’s Lien (the “**Mosavi Deed**”). The Mosavi Deed was recorded in the real property records on January 21, 2014 at Clerk’s File No. 20140023551. See **Exhibit A-4**. Again, the Chase deed of trust was neither excepted from the warranties, nor was it assumed by Mosavi and Sakhaeifar. *Id.* Presumably, all parties reasonably believed the Chase loan had been paid in full years prior and the lender simply failed to release its deed of trust, a common problem in the lending industry.

***Pajooch's Fraud, Notice of Eviction, and Chase's Purported Lien***

19. At the time he conveyed the Property, Pajooch did not close his line of credit which used the Property as security. Nor did he cause the subject deed of trust to be released. Likewise, despite the fact that the debt was accelerated upon Pajooch's sale of the Property to Bouilov in 2006, Chase did not release its lien. Instead, Pajooch continued to draw money on the HELOC, and Chase continued to loan Pajooch money, despite it being secured by property he no longer owned. Every time Pajooch drew money on the HELOC, Pajooch was creating liability for the subsequent owners of the Property.

20. Finally, on or about January 14, 2022, Plaintiff Sook Yee Choy purchased the Property from Mosavi and Sakhaeifar. At the time of Plaintiff's purchase of the Property, the Chase lien had been fully satisfied for at least 16 years. The title records from the subsequent transactions made it clear that subsequent purchasers and their lenders reasonably believed the Chase loan to have been paid in full from the sale by Pajooch and that a release of the Chase lien had not been recorded by oversight. Choy was never informed that the Chase deed of trust secured a debt that Pajooch had created under an existing line of credit.

21. In fact, the situation was far more dire than Choy could have ever imagined. Pajooch, having run up over \$180,000 of debt to Chase on his line of credit, filed for protection under Chapter 11 of the Bankruptcy Code in September of 2021. Chase was a creditor in that proceeding. Chase sought in the bankruptcy permission from the bankruptcy court to foreclose on the Property. Pajooch, who had not owned the Property since 2006, agreed to allow Chase to foreclose on Property he no longer owned so that

Chase could get pain money that Pajoooh had borrowed and failed to repay. In other words, Pajoooh falsely and fraudulently allowed Chase to use Choy's Property as a means to recoup its losses from Pajoooh's borrowing.

22. Thereafter, and without notice to Choy, Chase posted the Property for foreclosure. On December 6, 2022, the Property was struck off at foreclosure to Plan B for the sum of \$393,000.00. Presumably, Chase paid itself the \$180,000 to pay off Pajoooh's line of credit debt, and then sent the overage of approximately \$200,000 to Pajoooh. Certainly, Chase did not send the \$200,000 to Choy, the owner of the Property.

23. On or about December 27, 2022, Defendant Plan B mailed Plaintiffs a notice of eviction. See **Exhibit A-5**. In the notice, Plan B advised Plaintiffs it had purchased the Property at a foreclosure sale on December 6, 2022. Additionally, Plan B threatened to initiate eviction proceedings against Plaintiffs if they did not vacate the Property within eleven days of their receipt of the notice. Prior to the notice sent by Plan B, Plaintiffs were entirely unaware that the Property had been listed for foreclosure; they never received any notice.

24. As more fully discussed below, Defendant Chase's claimed lien was invalid and/or ineffective against the Property and, therefore, the foreclosure is void ab initio. In the alternative, Defendants Mosavi and Sakhaeifar are liable to Plaintiffs for breach of contract, Defendants Mosavie, Sakhaeifar, and Pajoooh are liable to Plaintiffs for breach of warranty of title/against encumbrances, and Defendant Pajoooh is liable to Plaintiffs for fraud.

## CAUSES OF ACTION

### DECLARATORY JUDGMENT *(Plan B and Chase)*

25. Plaintiffs hereby incorporate by reference the preceding paragraphs as if fully restated herein.

26. Plaintiffs seek and are entitled to a declaration under Chapter 37 of the Texas Civil Practice and Remedies Code of the rights, status, and legal relations between them and Defendants Plan B and Chase. Specifically, a justiciable controversy exists between Plaintiffs and Defendants Plan B and Chase regarding the title to the Property, the validity of Defendant Chase's claimed lien, and the validity of the subsequent foreclosure.

27. The Chase lien was invalid and/or unenforceable because of the applicable statute of limitations and/or laches. Pursuant to the subject deed of trust, the entire debt was due and payable upon the sale of the Property by Pajoooh in 2006. Upon information and belief, Chase knew the Property had been sold because it was requested to give the closing agent a payoff for the loan. See Ex. B. Defendant Pajoooh then sold the Property to Bouilov in 2006. Defendant Chase did not seek foreclosure for nearly seventeen years after Defendant Pajoooh's sale, which is well beyond the applicable four-year statute of limitations. See Tex. Civ. Prac. & Rem. Code § 16.035. As such, the subsequent foreclosure by J.P. Morgan Chase was void ab initio.

28. Plaintiffs are interested parties and have a legal interest in the Property. A declaration would resolve the controversy, which is real and substantial, involving a genuine conflict of material interests, and not merely a hypothetical dispute. Therefore, Plaintiffs seek a declaration that:

- a. Plaintiffs are the fee simple owners of the Property;
- b. Defendant Chase's claimed lien was invalid and/or unenforceable due to the applicable statute of limitations and/or laches;
- c. The December 6, 2022, foreclosure of the Property was void ab initio; and
- d. Therefore, Defendant Plan B has no interest in the Property.

**SUIT TO QUIET TITLE**  
***(Plan B and Chase)***

29. Plaintiffs hereby incorporate by reference the preceding paragraphs as if fully restated herein.

30. A suit to quiet title – also known as a suit to remove cloud from title – relies on the invalidity of the defendant's claim to the property. *Gordon v. West Houston Trees, Ltd.*, 352 S.W.3d 32, 42 (Tex. App. — Houston [1st Dist.] 2011, no pet.). A cloud on title exists when an outstanding claim or encumbrance is shown, which on its face, if valid, would affect or impair the title of the owner of the property. *Id.* The effect of a suit to quiet title is to declare invalid or ineffective the defendants' claim to title. *Id.*

31. Plaintiffs hold superior title to the Property. Outstanding encumbrances and claims to title are shown in the Harris County Real Property Records which, if valid, impair Plaintiffs' title as the owners of the Property. Specifically, Defendant Chase's purported deed of trust and Defendant Plan B's substitute trustee's deed, which it acquired via foreclosure of Defendant Chase's purported deed of trust.

32. However, the Chase lien was invalid and/or unenforceable because of the applicable statute of limitations and/or laches. Pursuant to the subject deed of trust, the entire debt was due and payable upon the sale of the Property. See Ex. B. Defendant Pajooch then sold the Property to Bouilov in 2006. Defendant Chase did not seek

foreclosure for nearly seventeen years after Defendant Pajoooh's sale, which is well beyond the applicable four-year statute of limitations. See Tex. Civ. Prac. & Rem. Code § 16.035. As such, the subsequent foreclosure by J.P. Morgan Chase was void ab initio.

33. Accordingly, Defendant Chase does not possess a valid claim to the Property through its deed of trust. Further, Defendant Plan B does not possess a valid claim to the Property through foreclosure of Defendant Chase's deed of trust. Therefore, Plaintiffs request that this Court remove the following clouds on Plaintiffs' title to the Property:

- Texas Deed of Trust Dated March 28, 2006, executed by Massood Danesh Pajoooh in favor of Washington Mutual Bank, recorded in the Real Property Records of Harris County, Texas under Clerk's File No. Z233495 on April 18, 2006; and
- Substitute Trustee's Deed Dated December 6, 2022, purportedly conveying the Property to Plan B Financial, LLC, recorded in the Real Property Records of Harris County, Texas under Clerk's File No. RP-2022-600445 on December 27, 2022.

**BREACH OF CONTRACT**  
***(Mosavi and Sakhaeifar)***

34. Plaintiffs hereby incorporate by reference the preceding paragraphs as if fully restated herein.

35. In the unlikely event that Defendant Chase's lien is not declared invalid and/or ineffective against the Property, Defendants Mosavi and Sakhaeifar have breached the contract for the sale of the Property. Plaintiffs had a valid and subsisting contract with Defendants Mosavi and Sakhaeifar to purchase fee simple title to the Property. Plaintiffs performed under the contract by delivering the funds required for closing. However, Defendants Mosavi and Sakhaeifar failed to convey fee simple title to the Property free and clear of the interests of other parties, including Defendant Chase,

which was a material term of the contract. Plaintiffs have sustained actual damages as a result of Defendants Mosavi and Sakhaeifar breach of contract.

**BREACH OF WARRANTY OF TITLE AND  
WARRANTY AGAINST ENCUMBRANCES**  
***(Mosavi, Sakhaeifar, and PajooH)***

36. Plaintiffs hereby incorporate by reference the preceding paragraphs as if fully restated herein.

37. In the unlikely event that Defendant Chase's lien is not declared invalid and/or ineffective against the Property, Defendants Mosavi, Sakhaeifar, and PajooH, have breached the warranty against encumbrances. Under Texas law, a general warranty deed guarantees that the grantee is receiving good, clear title to the real property. *Lawyers Title Ins. Corp. v. Cosby*, 05-95-01349-CV, 1996 WL 682462, at \*2 (Tex. App. – Dallas Nov. 21, 1996, no writ) (citing *City of Beaumont v. Moore*, 202 S.W.2d 448, 453 (Tex. 1947)). The general warranty deed includes a covenant of freedom from encumbrances, which obligates the grantor to satisfy and discharge all liens and encumbrances upon the property being conveyed. *Id.* This covenant is one of indemnity and runs with the land. *Taylor v. Lane*, 18 Tex. Civ. App. 545, 547, 45 S.W. 317, 318 (1898); see also, *Lawyers Title*, 1996 WL 382462 at \*2.

38. Pursuant to the each of the warranty deeds in the chain of title, Defendants Mosavi, Sakhaeifar, and PajooH warranted that the Property was free of any encumbrances and had a duty to satisfy and discharge all encumbrances before transferring the Property. As a result of such warranties, Plaintiffs purchased the Property from Defendants Mosavi and Sakhaeifar. In the unlikely event that Defendant Chase's lien is not declared invalid and/or ineffective against the Property, then Defendants

Mosavi, Sakhaeifar, and Pajooch have breached their warranty against encumbrances, proximately causing Plaintiffs' damages in the amount of the purchase price of the Property.

**FRAUD**  
***(Pajooch)***

39. Plaintiffs hereby incorporate by reference the preceding paragraphs as if fully restated herein.

40. In the unlikely event that Defendant Chase's lien is not declared invalid and/or ineffective against the Property, Defendant Pajooch committed fraud against Plaintiffs. When Defendant Pajooch conveyed the Property to Bouilov, he represented that the Property was free from liens. This representation, however, was false because the Property was encumbered by the subject deed of trust. At the time he made this representation, Defendant Pajooch knew it was false because he continued to draw on the HELOC that was secured by the subject deed of trust against the Property. Defendant Pajooch made this representation in order to convey the Property. Bouilov, and all subsequent purchasers, acted in reliance on this representation and purchased the Property. Significantly, every time Defendant Pajooch drew money on the HELOC, he was creating liability for all subsequent purchasers, without providing them any notice of such. As a subsequent purchaser in Bouilov's chain of title, the Plaintiffs have suffered injury in the amount of the purchase price of the Property.

41. Moreover, Pajooch knew he was drawing on a line of credit that was secured by Property owned by innocent subsequent purchasers, including Plaintiffs. Not only did Pajooch intentionally create a debt burden on the Plaintiffs' property, but he knowingly directed Chase to foreclose on Plaintiffs' property so he would not be responsible for

paying his own debt. Such intentional, callous and appalling conduct constitutes malicious conduct supporting the award of exemplary damages to Plaintiffs.

**APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY  
INJUNCTION, AND PERMANENT INJUNCTION**  
***(Plan B)***

42. Plaintiffs hereby incorporate by reference the preceding paragraphs as if fully restated herein.

43. Under Section 65.011 of the Texas Civil Practices & Remedies Code, a writ of injunction may be granted if:

- a. the applicant is entitled to the relief demanded and all or part of the relief requires the restraint of some act prejudicial to the applicant;
- b. a party performs or is about to perform or is procuring or allowing the performance of an act relating to the subject of pending litigation, in violation of the rights of the applicant, and the act would tend to render the judgment in that litigation ineffectual;
- c. the applicant is entitled to a writ of injunction under the principles of equity and the statutes of this state relating to injunctions;
- d. a cloud would be placed on the title of real property being sold under an execution against a party having no interest in the real property subject to execution at the time of sale, irrespective of any remedy at law; or
- e. irreparable injury to real or personal property is threatened, irrespective of any remedy at law.

Plaintiffs are entitled to the relief demanded and all or part of the relief requires that Defendant Plan B, and its agents, employees and representatives, be immediately restrained from performing certain actions. Due to the nature of Defendant Plan B's conduct, Plaintiffs seek a temporary restraining order and temporary injunction against Defendant Plan B.

44. It is probable that Plaintiffs will recover from Defendants after a trial on the merits because, as discussed above, Defendant Chase's claimed lien should have been released upon payoff of the line of credit in 2006, and in any case, the debt was accelerated and due in 2006 when the Property was sold by Pajooch to Bouilov. As a result the Chase lien was invalid and/or ineffective because of the applicable statute of limitations and/or laches.

45. Unless this Court immediately restrains Defendant Plan B, and its agents, employees, and representatives, Plaintiffs will suffer immediate and irreparable injury for which there is no adequate remedy at law to give Plaintiffs complete, final, and equal relief. More specifically, Plaintiffs will show the Court the following:

- i. The harm to Plaintiffs is imminent because Defendant Plan B plans to evict Plaintiffs on January 31, 2023; and
- ii. This imminent harm will cause Plaintiffs irreparable injury as the Property will be possessed without Plaintiffs' consent by a party without the legal or equitable authority to do so.

46. Pursuant to Section 65.011 of the Texas Civil Practices & Remedies Code, Plaintiffs request that the Court issue a temporary restraining order commanding Defendant Plan B to cease and desist from:

- i. Taking any action to evict or dispossess Plaintiffs of the Property;
- ii. Taking any action to sell, auction, convey, encumber, or transfer title to the Property; and
- iii. Pursuing any other course of action that will hinder, impinge upon, or in any other way prevent Plaintiffs' full use and enjoyment of the Property.

47. Plaintiffs further request that the Court set Plaintiffs' application for temporary injunction for hearing before an answer is due in this action, that Defendant

Plan B be cited to appear for the hearing on Plaintiffs' request for a temporary injunction, and upon hearing, the Court enter a temporary injunction enjoining Defendant Plan B, and its agents, employees, affiliates or those in active concert with it, from those actions set forth above. In the absence of an injunction order, Defendant Plan B will likely continue to attempt to evict Plaintiffs from Property during the pendency of this lawsuit and otherwise interfere with Plaintiffs' use, possession, and enjoyment of the Property.

48. Plaintiffs further request that upon final trial, the Court enter a permanent injunction enjoining Defendant Plan B, and its agents, employees, affiliates or those in active concert with it, to cease and desist with efforts to evict Plaintiffs from the Property at any future date, and from pursuing any other course of action that will hinder, impinge upon or in any other way prevent Plaintiffs' full use and enjoyment of the Property.

49. Plaintiffs are willing to post a bond but requests that the bond be nominal because Defendant Plan B will suffer no harm to its claimed interest if the restraining order issues.

50. Pursuant to Rule 39 of the Texas Rules of Civil Procedure, Plaintiffs believe they have joined all indispensable parties.

51. An affidavit supporting these allegations is attached to this Petition and Application as **Exhibit A**.

### PRAYER

Plaintiffs respectfully request that the court issue citation for Defendants to appear and answer, and that Plaintiffs recover against Defendants the following:

- a. A temporary restraining order, temporary injunction and permanent injunction against Defendant Plan B Financial LLC, enjoining it from:
  - i. Taking any action to evict or dispossess Plaintiffs of the Property;

- ii. Taking any action to sell, auction, convey, encumber, or transfer title to the Property; and
  - iii. Pursuing any other course of action that will hinder, impinge upon, or in any other way prevent Plaintiffs' full use and enjoyment of the Property.
- b. Declaratory relief as set forth herein;
  - c. Actual damages;
  - d. Prejudgment and post judgment interest;
  - e. Court costs;
  - f. Attorney's fees;
  - g. All other relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

**IRELAN McDANIEL PLLC**

By: /s/ Bradford W. Irelan

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**ATTORNEYS FOR PLAINTIFFS**

### Automated Certificate of eService

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Donna Hall on behalf of Bradford Irelan  
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Status as of 1/25/2023 11:48 AM CST

Associated Case Party: SookYeeChoy

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Donna Hall		dhall@imtexaslaw.com	1/25/2023 11:32:22 AM	SENT