

the loan. AVT's sole involvement was as the trustee that performed the foreclosure sale and there are no allegations of any mishandling of the sale—just that the sale allegedly should not have been allowed to proceed by AVT's co-defendants. As such, AVT reasonably believes it was sued solely in its capacity as a trustee and not for any purported misconduct.

III. AFFIRMATIVE DEFENSES

AVT asserts the following affirmative defenses:

3. AVT's conduct or activity conformed at all times to any and all applicable state and federal statutes, codes, and regulations.

4. Any allegedly wrongful acts or omissions of AVT, if and to the extent such acts and omissions occurred, were legally excused or justified.

5. AVT is not liable for the acts, omissions, or conduct of other persons or entities not authorized to act on behalf of it; pleading further, and in the alternative, AVT is not liable for the acts, omissions, or conduct of its agents who exceeded the scope of their authority.

6. AVT's actions and omissions were undertaken in good faith, with the absence of malicious intent to injure Plaintiff, and constitute lawful, proper and justified means to further the business purposes of AVT. Any purported conduct of individuals who were or are agents of AVT were privileged, and those individuals were and are justified in engaging in the conduct attributed to them. AVT pleads all statutory and common law privileges that may apply to its conduct and those of its agents.

7. Plaintiff has failed to mitigate its damages.

8. Plaintiff's damages, if any, were proximately caused by the acts, omissions, or breaches of other persons and entities, including Plaintiff, and the acts, omissions, or breaches were intervening and superseding causes of Plaintiff's damages, if any.

9. Plaintiff lacks clean hands to bring an action in equity.

10. Plaintiff is not entitled to punitive or multiple damages, and any and all excessive amounts of such damages sought herein violate Chapter 41 of the Texas Civil Practice and Remedies Code, the Texas Constitution and the United States Constitution, all of which set limits on the award of punitive damages. AVT hereby invokes the caps on damages as provided in Chapter 41 of the Texas Civil Practice and Remedies Code, the Texas Constitution and the United States Constitution.

11. Plaintiff has failed to state a claim upon which relief may be granted.

WHEREFORE, PREMISES CONSIDERED, Defendant AVT Title Services, LLC prays that Plaintiff take nothing on its claims; Defendant recover its attorneys' fees and costs; Defendant be dismissed from this case, and the Court award such other and further relief to which Defendant may be justly entitled at law or in equity.

Respectfully submitted,

By: /s/ Mark D. Cronenwett
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**ATTORNEYS FOR DEFENDANT AVT
TITLE SERVICES, LLC**

DECLARATION

Pursuant to Section 132.001 of the Texas Civil Practice and Remedies Code, I declare under penalty of perjury that the following statements are true and correct:

1. My name is Mark D. Cronenwett. I am over the age of 21 years, have never been convicted of a crime, and am fully competent to make this declaration. I have personal knowledge of all the facts stated herein, and all statements of fact contained herein are true and correct.

2. I am lead counsel of record for Defendant AVT Title Services, LLC in the above-numbered and styled cause.

3. I have read the foregoing *Original Answer and Verified Denial* and affirm that the statements contained in Section II, Verified Plea, are within my personal knowledge and are true and correct.

4. My name is Mark D. Cronenwett, my date of birth is July 21, 1968 and my address is 14160 N. Dallas Parkway, Suite 9020, Dallas, Texas 75254, in the United States of America. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on January 3, 2024.



MARK D. CRONENWETT

CERTIFICATE OF SERVICE

The undersigned certifies that on January 3, 2024, a true and correct copy of the foregoing document was delivered via electronic notification to the counsel of record listed below:

Bruce W. Akerly
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Attorney for Plaintiff

/s/ Mark D. Cronenwett
MARK D. CRONENWETT

Unofficial Copy Office of Marilyn Burgess District Clerk

Automated Certificate of eService

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Envelope ID: 83030948
Filing Code Description: Answer/ Response / Waiver
Filing Description: US Bank Answer (State)
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Case Contacts

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