

**CAUSE NO. 2022-33829**

<b>CHRISTOPHER WYATT,</b>	§	<b>IN THE DISTRICT COURT</b>
	§	
<b>Plaintiff,</b>	§	
	§	
<b>v.</b>	§	
	§	<b>151st JUDICIAL DISTRICT</b>
<b>PHH MORTGAGE CORPORATION,</b>	§	
<b>POWER DEFAULT SERVICES, INC.,</b>	§	
<b>AVT TITLE SERVICES, LLC,</b>	§	
	§	
<b>Defendants.</b>	§	<b>HARRIS COUNTY, TEXAS</b>

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**ORIGINAL ANSWER OF DEFENDANT PHH**

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TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant PHH Mortgage Corporation d/b/a PHH Mortgage Services, successor by merger to Ocwen Loan Servicing, LLC (“PHH”), and files its Original Answer to Plaintiff’s Verified Application for Temporary Restraining Order, Temporary Injunction and Original Petition (the “Petition”) filed by Plaintiff, Christopher Wyatt (“Plaintiff”), as follows:

**I.**  
**GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, PHH denies generally the material allegations contained in the Petition, and demands strict proof thereof by a preponderance of the credible evidence.

**II.**  
**ENTITLEMENT TO RECOVERY OF ATTORNEY FEES**

PHH seeks its attorney fees, costs, and expenses in this litigation. PHH is entitled to recover from Plaintiff the attorney fees, costs, and expenses that it has incurred, and will continue to incur, in enforcing its rights and remedies under the pertinent loan documents. A party may recover attorney fees when such recovery is provided for in statute or contract. *See*

*Holland v. Wal-Mart Stores, Inc.*, 1 S.W.3d 91, 95 (Tex. 1999); *Travelers Indem. Co. of Conn. v. Mayfield*, 923 S.W.2d 590, 593 (Tex. 1996).

In this case, PHH is entitled to recover its attorney fees, costs, and expenses incurred in this litigation pursuant to the subject note and deed of trust. PHH seeks all such other and further relief, at law or in equity, to which it may be justly entitled.

### **III.** **AFFIRMATIVE AND OTHER DEFENSES**

PHH asserts the following defenses:

1. Plaintiff fails to state a claim upon which relief can be granted, and therefore, Plaintiff's claims should be dismissed.
2. Plaintiff's claims are barred, in whole or in part, because Plaintiff has failed to allege and prove all conditions precedent to recovery.
3. Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to allege facts sufficient to state a claim for any damages.
4. Plaintiff's claims are barred, in whole or in part, by unclean hands.
5. Plaintiff's claims are barred, in whole or in part, by the statute of frauds.
6. Plaintiff's claims are barred, in whole or in part, by reason of PHH's compliance with applicable statutes and other provisions of law.
7. Plaintiff's claims are barred, in whole or in part, by reason of PHH's compliance with applicable contracts and agreements.
8. Plaintiff's claims are barred, in whole or in part, because PHH's acts and/or omissions were not the cause of Plaintiff's damages, if any.
9. Plaintiff's claims are barred, in whole or in part, by the economic loss doctrine.

10. Plaintiff's claims are barred, in whole or in part, by Plaintiff's prior material breach of contract.

11. Any loss or damage allegedly suffered by Plaintiff was caused, in whole or in part, by his own conduct, acts, and/or omissions.

12. Plaintiff's claims are barred, in whole or in part, because Plaintiff lacks standing to assert his claims.

13. Plaintiff's claims are barred, in whole or in part, by the doctrines of estoppel, quasi-estoppel, waiver, laches, and/or other equitable doctrines.

14. Plaintiff's claims are barred in whole or in part, because Plaintiff failed to mitigate his damages, if any.

15. Plaintiff's attorney's fees are not recoverable, reasonable, or necessary.

16. Plaintiff's claim for attorney's fees is barred by failure to present and/or excessive demand doctrine.

17. The actions of PHH were taken in good faith, and PHH did not knowingly, intentionally or maliciously violate any laws.

18. Plaintiff's claims are barred, in whole or in part, by the doctrines of offset and/or set-off.

19. PHH denies liability for punitive or exemplary damages. In addition, any claims for punitive or exemplary damages are barred or limited by the United States Constitution, the Texas Constitution, and the Texas Civil Practice and Remedies Code, including without limitation the limitations and constraints of Due Process found in the Fifth and Fourteenth Amendments to the United States Constitution and Article, I § 19 of the Texas Constitution.

20. PHH reserves the right to plead such other and/or affirmative defenses which cannot be anticipated at this time, but which may become apparent and applicable during the pendency of this lawsuit, by reason of future discovery.

WHEREFORE, PREMISES CONSIDERED, PHH prays that, upon final hearing hereof, judgment be rendered that Plaintiff take nothing by this suit, and that PHH be awarded its costs and expenses, as well as such other and further relief, at law and in equity, to which it may be justly entitled.

Respectfully submitted,

*/s/ Vincent J. Hess*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon counsel of record *via electronic notice* pursuant to the Texas Rules of Civil Procedure on this 27th day of June, 2022:

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*/s/ Vincent J. Hess*  
\_\_\_\_\_  
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Unofficial Copy Office of Marilyn Burges District Clerk

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