



Defendant for an injunction and seeks only to restrain Defendant in its trustee capacity from proceeding with the subject foreclosure sale.

### III. AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative defenses:

3. Defendant'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 Defendant, if and to the extent such acts and omissions occurred, were legally excused or justified.

5. Any alleged wrongful acts or omissions of Defendant, if and to the extent such acts or omissions occurred, were not intentional and resulted from a bona fide error.

6. Defendant 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, Defendant is not liable for the acts, omissions, or conduct of its agents who exceeded the scope of their authority.

7. Defendant'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 Defendant. Any purported conduct of individuals who were or are agents of Defendant were privileged, and those individuals were and are justified in engaging in the conduct attributed to them. Defendant pleads all statutory and common law privileges that may apply to its conduct and those of its agents.

8. Plaintiff's claims are barred, in whole or in part, by the doctrines of judicial estoppel, collateral estoppel, quasi estoppel, contractual estoppel, equitable estoppel and res judicata.

9. Plaintiff has failed to mitigate his damages.

10. 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.

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

12. 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 his claims; Defendant recover its attorneys' fees and costs; Defendant be dismissed from this case pursuant to Texas Rules of Civil Procedure 93(2), 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/ Nicholas M. Frame

**MARK D. CRONENWETT**

Texas Bar No. 00787303

mcronenwett@mwzmlaw.com

**NICHOLAS M. FRAME**

Texas Bar No. 24093448

nframe@mwzmlaw.com

**MACKIE WOLF ZIENTZ & MANN, P.C.**

14160 N. Dallas Parkway, Suite 900

Dallas, Texas 75254

(214) 635-2650 (Phone)

(214) 635-2686 (Fax)

**ATTORNEYS FOR DEFENDANT**

**AVT TITLE SERVICES, LLC**

**CERTIFICATE OF SERVICE**

The undersigned certifies that on June 27, 2022, a true and correct copy of the foregoing document was delivered to the following via electronic service:

Robin L. Sowell  
Ali Hakeem  
Sowell, Alvares, & Walls, PLLC  
21320 Provincial Blvd., Suite 100  
Katy, Texas 77450  
Telephone: (832) 437 0973  
Facsimile: (832) 437-0980  
rule21aservice@sawpllc.com  
*Attorneys for Plaintiff*

/s/ Nicholas M. Frame  
**NICHOLAS M. FRAME**

Unofficial Copy Office of Marilyn Burgess District Clerk

**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 Nicholas M. Frame. 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 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 Plea* 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 Nicholas M. Frame, my date of birth is November 26, 1987, 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 Harris County, State of Texas, on June 27, 2022.



**NICHOLAS M. FRAME**

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Alma Cruz on behalf of Mark Cronenwett  
Bar No. 787303  
acruz@MWZMLaw.com  
Envelope ID: 65798540  
Status as of 6/27/2022 12:44 PM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Rob Mowrey		rmowrey@lockelord.com	6/27/2022 12:33:35 PM	SENT
Matt HoganDavis		mdavis@lockelord.com	6/27/2022 12:33:35 PM	SENT
Nicholas Frame		Nframe@mwzmlaw.com	6/27/2022 12:33:35 PM	SENT
Susan Taplin		staplin@mwzmlaw.com	6/27/2022 12:33:35 PM	SENT
Robin Lee Sowell	791706	rule21aservice@sawpllc.com	6/27/2022 12:33:35 PM	SENT
Vincent JHess		vjhess@lockelord.com	6/27/2022 12:33:35 PM	SENT
Alma Cruz		acruz@mwzmlaw.com	6/27/2022 12:33:35 PM	SENT
Mark D. Cronenwett		mcronenwett@mwzmlaw.com	6/27/2022 12:33:35 PM	SENT
Vanee Alfred		Valfred@mwzmlaw.com	6/27/2022 12:33:35 PM	SENT
Ali Hakeem	24065354	ali@hakeemlaw.com	6/27/2022 12:33:35 PM	SENT