Cause No. 2023-77154

SYLVESTER R. CLINTON	§	IN THE DISTRICT COURT OF
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	8	
PLAINTIFF,	8	
	§	
V.	§	113TH JUDICIAL DISTRICT
	§	
RUSHMORE LOAN MANAGEMENT	§	. O
SERVICES, LLC; NATIONSTAR LLC	8	
D/B/A MR. COOPER AND	8	
	8	
PENNYMAC CORP,	8	
	§	
	§	
	§	
DEFENDANTS.	§	HARRIS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant Nationstar Mortgage LLC d/b/a Mr. Cooper ("Defendant") and files its *Original Answer and Affirmative Defenses* to *Plaintiff's Original Petition, Application for Temporary Restraining Order and Temporary Injunction and Request for Disclosures* (the "Petition") filed by Plaintiff Sylvester R. Clinton ("Plaintiff") and respectfully shows the Court as follows:

I. GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rule of Civil Procedure, Defendant generally denies each and every allegation contained within Plaintiff's *Petition* and any amendment thereto, and demands strict proof thereof as required by the Constitution and the laws of the State of Texas. Defendant further reserves the right to plead further and in greater particularity as this case progresses.

II. AFFIRMATIVE DEFENSES

- 1. Plaintiff fails to state a claim upon which relief can be granted and therefore, Plaintiff's claims should be dismissed with prejudice.
- 2. Plaintiff's claims fail, in whole or in part, because Plaintiff failed to mitigate his damages, if any.
- 3. Plaintiff's claims fail, in whole or in part, because Defendant complied with all statute(s) and provision(s) of law.
- 4. Plaintiff's claims fail, in whole or in part, because Defendant complied with all relevant contract(s) and agreement(s).
- 5. Plaintiff's claims fail, in whole or in part, because Defendant satisfied all conditions precedent to recovery.
- 6. Plaintiff's claims fail, in whole or in part, because Plaintiff failed to plead facts sufficient to recovery.
 - 7. Defendant claims all offsets, setoffs, and/or credits available to it.
- 8. Plaintiff's claims fail in whole or in part, because Plaintiff failed to allege and prove all conditions precedent to recovery.
- 9. Plaintiff's claims fail, in whole or in part, because Defendant's acts and/or omissions were not the eause of Plaintiff's damages, if any. Rather, Plaintiff's damages, if any, were proximately eaused by the acts, omissions, or breaches of other persons and/or entities, including Plaintiff himself, and the act, omissions, or breaches were intervening and superseding causes of Plaintiff's damages, if any.
 - 10. Defendant strictly denies all damages asserted by Plaintiff.

III. RESERVATION OF RIGHTS

As authorized by the Texas Rules of Civil Procedure, Defendant reserves the right to amend this pleading and assert additional defenses before the trial of this cause on the merits.

IV. <u>CONCLUSION</u>

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by his claims against it. Defendant further prays that the Court grant Defendant such other and further relief, at law and in equity, to which it may be justly entitled.

Respectfully Submitted,

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP

/s/ Shawnika L. Brooks

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DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES BDFTE No. 9881624 / CLINTON

CERTIFICATE OF SERVICE

On January 9, 2024, I hereby certify that a copy of the foregoing instrument was delivered to the following pursuant to the Texas Rules of Civil Procedure:

Via E-service:

rhonda@rhondarossattorney.com Rhonda S. Ross 121 East 12th, Suite 6 Houston, TX 77008 281-216-8778

Attorney for Plaintiff

/s/ Shawnika L. Brooks
Shawnika L. Brooks

Automated Certificate of eService

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Angela Brennan on behalf of Shawnika Brooks

Bar No. 24106058

angelamb@bdfgroup.com Envelope ID: 83240014

Filing Code Description: Answer/ Response / Waiver

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AFFĬRMATIVE DEFENSES

Status as of 1/9/2024 3:53 PM CST

Case Contacts

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