

repossession of property. For a violation to be established under this section, the following four requirements must be met:

1. Debt Collector: The action must be taken by a "debt collector," as defined by the FDCPA. This includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.
2. Non-Judicial Action: The debt collector must have taken or threatened to take any non-judicial action to effect dispossession or disablement of property.
3. Property: The property in question must be exempt by law from such dispossession or disablement, or the debt collector must not have the present right to possession of the property claimed as collateral through an enforceable security interest.
4. Violation Grounds: The action taken by the debt collector must fall under one of the following prohibitions:
 - a. The property is exempt by law from such dispossession or disablement.
 - b. There is no present right to possession of the property through an enforceable security interest.
 - c. The property is being taken or threatened to be taken where there is no present intention to take possession of the property.
 - d. The property is being taken or threatened to be taken for an amount which is not authorized by the agreement creating the debt or permitted by law.

To summarize, for a violation of FDCPA under section 1692f(6) to occur, a debt collector must take or threaten non-judicial action to dispossess or disable property where the property is exempt, there is no present right to possession, the debt collector has no present intention to take the property, or the amount sought is unauthorized.

Respectfully submitted,
/s/ Harriet Nicholson
Harriet Nicholson
2951 Santa Sabina Drive
Grand Prairie, Texas 75052
817-217-0245
harrietcholson@yahoo.com

Dated: June 24, 2024

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2024, I electronically filed the foregoing Motion for Summary Judgment with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

/s/ Harriet Nicholson

II. STATEMENT OF UNDISPUTED FACTS

Date	Event	Evidence
July 3, 2012	Non-judicial foreclosure sale occurred, and substitute trustee's deed was conveyed to Bank of New York.	Trustee's Deed, Exhibit D
July 4, 2015	Plaintiff Harriet Nicholson's fee simple title was perfected after the minimum statutory requirement of three years post-foreclosure.	Affidavit of Harriet Nicholson, Exhibit A
June 21, 2018	Plaintiff filed an Affidavit of Adverse Possession in Tarrant County, Texas, real property records.	Affidavit of Adverse Possession, Exhibit E
April 15, 2024	Defendant sent Plaintiff a notice of substitute trustee sale.	Notice of Substitute Trustee's Sale, Exhibit C

III. LEGAL STANDARD

Summary judgment is appropriate where the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). Federal Rules of Civil Procedure Rule 56(b) provides that "a party may file a motion for summary judgment at any time until 30 days after the close of all discovery. Fed. R. Civ. P. 56(6)). We evaluate an award of summary judgment by reviewing the record under the same standards which guided the district court. *Brookd, Tarlton, Gilbert, et al v. US Fire Inc., v. US Fire Ins.*, 832 F.2d 1358, 1364 (5th Cir. 1987). Courts are authorized under Rule 56(d) to defer ruling on a summary judgment motion and allow discovery, but "Rule 56 does not require that *any* discovery take place before summary judgment can be granted. *Mendez v. Poitevent*, 823 F.3d 326 (5th Cir.

2016) (quoting *Baker v. Am. Airlines, Inc.*, 430 F.3d 750, 756 (5th Cir. 2005) (quoting *Washington v. Allstate Ins. Co.*, 901 F.2d 1281, 1285 (5th Cir.1990))).

And under Rule 56(d), deferring summary judgment and ordering discovery is appropriate only if the "nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition." Fed.R.Civ.P. 56(d). A party "may not simply rely on vague assertions that additional discovery will produce needed, but unspecified, facts." *Am. Family Life Assurance Co. of Columbus v. Biles*, 714 F.3d 887, 894 (5th Cir. 2013)). To prevail on his Rule 56(d) motion, the party (1) must show that additional discovery will create a genuine issue of material fact, and (2) that he diligently pursued discovery. *Bailey v. KS Mgmt. Servs., L.L.C.*, 35 F.4th 397, 401 (5th Cir. 2022).

Summary judgment is appropriate if "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Id.* (quoting Fed. R. Civ. P. 56(a). *Williams v. Estelle Unit Prison Officials*, No. 23-20036 (5th Cir. June 17, 2024). Disputes about material facts are genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986).

SUMMARY JUDGMENT EVIDENCE

Plaintiff incorporates by reference all summary-judgment evidence filed by Defendant or otherwise properly before the Court.

Plaintiff also relies upon and incorporate herein by reference the following evidence:

EXHIBITS

Exhibit A: **Affidavit of Harriet Nicholson**
Ex. B: Defendant's Admission

Ex. C: April 16, 2024, Notice of Substitute Trustee Sale
Ex. D: August 2, 2012, Trustee's Deed
Ex. E: June 21, 2018, Affidavit of Adverse Possession

IV. ARGUMENT

A. *The FDCPA and Debt Collectors*

The FDCPA aims to eliminate abusive debt collection practices and ensure equitable competition for those abstaining from such practices. Under the FDCPA, "debt collector" encompasses entities engaged in the business of enforcing security interests, per the statute's limited-purpose definition. *See Obduskey v. McCarthy & Holthus LLP*, 139 S.Ct. 1029, 1036, 586 U.S. 466, 473–74 (U.S., 2019):

The third sentence, however, provides what we shall call the limited-purpose definition:

“For the purpose of section 1692f(6) [the] term [debt collector] also includes any person ... in any business the principal purpose of which is the enforcement of security interests.” *Ibid.*

The subsection to which the limited-purpose definition refers, § 1692f(6), prohibits a “debt collector” from:

“Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if—

“(A) there is no present right to possession of the property ... ;

This definition is directly applicable to Barrett Daffin Frappier Turner & Engle LLP, whose actions in this instance involve enforcing a security interest via non-judicial foreclosure.

When proceeding with nonjudicial foreclosure actions, [*security interest enforcers*] *are only obligated to ensure that (1) there is a "present right to possession of the property" resulting from "an enforceable security interest"*¹ ... (*emphasis added*) ... 15 U.S.C. § 1692f(6); see *Obduskey*

¹ See *Prentice v. TROTT LAW, PC*, Civil Action No. 23-cv-12364 (E.D. Mich. Dec. 18, 2023).

v. McCarthy & Holthus LLP, 139 S. Ct. 1029, 1036-38 (2019).

B. Defendant Violated 15 U.S.C. § 1692f(6)

1. No Present Right to Possession

Defendant's notice of substitute trustee sale threatened non-judicial action to affect the possession of Plaintiff's property without any present right to possession, as the security interest was unenforceable. This constitutes a violation of 15 U.S.C. § 1692f(6)(A).

2. Extinguished Security Interest

The security interest, Deed of Trust D202032012, that Barrett Daffin Frappier Turner & Engle LLP purports to foreclose had been extinguished and merged into a trustee's deed on August 2, 2012, following a non-judicial foreclosure sale. The Bank of New York Mortgagee/Buyer accepted the substitute trustee's deed, thereby rendering any further security interest unenforceable. (Trustee's Deed, Exhibit D)

Under well-established Texas law, [t]he merger doctrine provides that "[w]hen a deed is delivered and accepted as performance of a contract to convey, the contract is merged in the deed. *Chicago Title Insurance Company v. Cochran Investments, Inc.*, 602 S.W.3d 895, 906–07 (Tex., 2020) (quoting *Burlington Res. Oil & Gas Co. v. Tex. Crude Energy, LLC*, 573 S.W.3d 198, 209 (Tex. 2019) (quoting *Alvarado v. Bolton*, 749 S.W.2d 47, 48 (Tex. 1988)). Thus, where "the terms of the deed ... vary from those contained in the contract," courts must look to the deed "alone to determine the rights of the parties." *Alvarado*, 749 S.W.2d at 48 (quoting *Baker v. Baker*, 207 S.W.2d 244, 249 (Tex. App.—San Antonio 1947, writ ref'd n.r.e.)). As such, the merger doctrine "operates when earlier contracts are 'contradicted in the deed.'" *Burlington*, 573 S.W.3d at 209 (quoting *Alvarado*, 749 S.W.2d at 48))

The Second Court of Appeals of Fort Worth, Texas succinctly stated:

A deed that is voidable is “valid and represents prima facie evidence of title *until there has been a successful suit to set it aside.*” *Nobles v. Marcus*, 533 S.W.2d 923, 926 (Tex.1976) (emphasis added); see *Ford v. Exxon Mobil Chem. Co.*, 235 S.W.3d 615, 618 (Tex.2007) (“Deeds obtained by fraud are voidable rather than void, and remain effective *until set aside.*” (emphasis added)); *Lighthouse Church of Cloverleaf v. Tex. Bank*, 889 S.W.2d 595, 601 (Tex.App.–Houston [14th Dist.] 1994, writ denied) (op. on reh'g) (“A voidable deed operates as valid and perfect *until set aside.*”) (emphasis added)).

.....

Indeed, a voidable act, by definition, is one that “may be voided.” See Black's Law Dictionary 1805 (10th ed.2014); see *also* Webster's Third New International Dictionary 2562 (2002) (defining “voidable” as “capable of being voided” or “capable of being adjudged void”).

Orca Assets, G.P., L.L.C. v. Dorfman, 470 S.W.3d 153, 165–66 (Tex.App.-Fort Worth, 2015)

3. Nicholson's Perfected Fee Simple Title

Plaintiff's fee simple title was perfected on July 4, 2015, pursuant to Texas Civil Practice and Remedies Code §§ 16.021, 16.024, and 16.030(a), after the minimum statutory requirement of three years post-foreclosure. (Affidavit of Harriet Nicholson, Exhibit A)

Under Texas law, a party claiming title by adverse possession must demonstrate “(1) actual and (2) visible possession that is (3) under a claim of right, (4) hostile to another's claim to the property, and (5) peaceable for the applicable limitations period.” See *Couch v. Bank of New York Mellon as Trustee for JPMorgan Chase Bank, N.A.*, 2024 WL 846267, at *7 (N.D.Tex., 2024) (quoting *Luminant Mining Co., L.L.C. v. PakeyBey*, 14 F.4th 375, 380 (5th Cir. 2021))

Under the Texas Civil Practice and Remedies Code, adverse possession requires “an actual and visible appropriation of real property, commenced and continued under a claim of right that is inconsistent with and is hostile to the claim of another person” for a minimum statutory period. See

Williams v. Select Portfolio Servicing, Inc., 2020 WL 4018832, at *3 (S.D.Tex., 2020)

(quoting *BP Am. Prod. Co. v. Marshall*, 342 S.W.3d 59, 69 (Tex. 2011) (citing Tex. Civ. Prac. & Rem. Code § 16.021(1) (1986)). **“If done under color of title, the time period is three years** (*emphasis added*); if the person pays taxes on the land and claims the property under a duly registered deed, the period is five years; otherwise the period is ten years.” Tex. Civ. Prac. & Rem. Code Ann. §§ 16.024–026 (1986). The party claiming adverse possession has the burden of proving that the minimum statutory period is met. *Wilboite v. Sims*, 401 S.W.3d 752, 763, 757 (Tex. App.—Dallas 2013, no pet.); see also *Tex. Capital Bank, N.A. v. Hoppe*, No. 14-98-00621-CV, 2000 WL 1125425, at *2, 2000 Tex. App. LEXIS 5331, at *2 (Tex. App.—Houston [14th Dist.] 2000, pet. denied) (citing *Warnecke v. Broad*, 138 Tex. 631, 161 S.W.2d 453 (1942)) (“The law is well-settled in Texas that, for adverse possession purposes, the statute of limitations does not run against the mortgagee out of possession and in favor of an adverse claimant until the mortgagee acquires title to land at the foreclosure sale.”)).

The adverse possession statutes—whether three years, five years, ten years, or twenty-five years—are found in Texas Civil Practice and Remedies Code §§ 16.021 et seq. Following these statutes is Texas Civil Practice and Remedies Code § 16.030(a), which states, “[i]f an action for the recovery of real property is barred under this chapter, the person who holds the property in peaceable and adverse possession has full title, precluding all claims.” (*Emphasis added*). See *In re Kelly*, 568 B.R. 19, 23 (*Bkrtcy. N.D.Tex.*, 2017)

Section 16.030(a) thus contemplates full title, not inchoate title, partial title, contingent title, or anything other than absolute title, once a competing (e.g. record) title holder has allowed the prescribed limitations period to lapse and the adverse possessor has met any other requirements. See *Id.*

4. Nicholson’s Affidavit of Adverse Possession

On June 21, 2018, Plaintiff filed an Affidavit of Adverse Possession in the Tarrant County, Texas real property records to notice her absolute title to her homestead property, precluding all claims pursuant to Texas Civil Practice and Remedies Code §§16.021, 16.024, and 16.030(a). (Affidavit of Adverse Possession, Exhibit E) See *Id.*

V. CONCLUSION

For the foregoing reasons, Plaintiff Harriet Nicholson respectfully requests that this Court grant her partial motion for summary judgment, award her actual and statutory damages as prescribed by 15 U.S.C. § 1692k, along with costs and grant such other and further relief as the Court deems just and proper.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Statutory damages pursuant to 15 U.S.C. § 1692k(a)(2)(A);
3. Costs pursuant to 15 U.S.C. § 1692k(a)(3);
4. Such other and further relief as the Court deems just and proper.

VII. DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,
/s/ Harriet Nicholson
Harriet Nicholson
2951 Santa Sabina Drive
Grand Prairie, Texas 75052
817-217-0245
harrietnicholson@yahoo.com

Dated: June 24, 2024

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2024, I electronically filed the foregoing Motion for Summary Judgment with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

/s/ Harriet Nicholson

2. I am a consumer as defined by 15 U.S.C. § 1692a(3).
3. Defendant Barrett Daffin Frappier Turner & Engle LLP is a debt collector as defined by 15 U.S.C. § 1692a(6) and 1692f(6). This is pursuant to a letter sent to me by Barrett Daffin Frappier Turner & Engle LLP around March 19, 2024, indicating their role in attempting to collect a debt. A true and correct copy of this letter is attached as **Exhibit B** to Plaintiff's Motion for Summary Judgment.
4. On or about April 16, 2024, I received a notice of substitute trustee's sale from Defendant Barrett Daffin Frappier Turner & Engle LLP. A true and correct copy of this notice is attached as **Exhibit C** to Plaintiff's Motion for Summary Judgment.
5. The notice of substitute trustee sale indicated that Defendant intended to execute a non-judicial foreclosure sale on my property located at 2951 Santa Sabina Drive, Grand Prairie, Texas 75052.
6. The security interest, D202032012 Deed of Trust, that Defendant purported to enforce had been extinguished and was unenforceable, as it was merged into a trustee's deed almost 12 years ago. A true and correct copy of the trustee's deed is attached as **Exhibit D** to Plaintiff's Motion for Summary Judgment.
7. My fee simple title to the property was perfected on July 4, 2015, after the minimum statutory requirement of three years post-foreclosure, pursuant to Texas Civil Practice and Remedies Code §§ 16.021, 16.024, and 16.030(a).
8. On June 21, 2018, I filed an Affidavit of Adverse Possession in the Tarrant County, Texas real property records to memorialize my fee simple title ownership to the property, precluding all claims pursuant to Texas Civil Practice and Remedies Code §§ 16.021, 16.024, and 16.030(a). A true and correct copy of this affidavit is attached as **Exhibit E** to Plaintiff's Motion for Summary Judgment.
9. Despite having no present right to possession of my property or an enforceable security interest, Defendant threatened to take a non-judicial action to affect the possession or disablement of my property.
10. Defendant's actions caused me significant emotional distress and concern over the potential wrongful foreclosure and loss of my property.
11. I submit this declaration in support of my Partial Motion for Summary Judgment to establish that there is no genuine dispute as to any material fact and that I am entitled to judgment as a matter of law for Defendant's violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Harriet Nicholson

Executed on this 23rd day of June, 2024 in Tarrant County, Texas.

BARRETT DAFFIN FRAPPIER

TURNER & ENGEL, LLP

A PARTNERSHIP INCLUDING
PROFESSIONAL CORPORATIONS

ATTORNEYS AND COUNSELORS AT LAW

ISRAEL SAUCEDO
ASSOCIATE ATTORNEY
TEXAS FORECLOSURE GROUP

4004 BELT LINE ROAD
SUITE 100, DEPARTMENT 2018
ADDISON, TEXAS 75001
TELEPHONE: (972) 386-5040
TELECOPIER: (972) 341-5075

March 19, 2024

SENT VIA harriethnicholson@yahoo.com

RE: Borrower: NICHOLSON
Property Address: 2951 SANTA SABINA DRIVE, GRAND PRAIRIE, TX 10070571
BDF No.: 10070571

As counsel for Nationstar Mortgage, LLC, DBA Mr. Cooper, we are responding to your recent correspondence regarding the above-referenced matter.

In accordance with the Federal Fair Debt Collections Practices Act, as verification of the indebtedness, please find enclosed a copy of Note executed by HARRIET H NICHOLSON and a copy of the Deed of Trust executed by HARRIET H NICHOLSON on JANUARY 16, 2001, from the records held by our client, the current mortgagee. The original mortgagee was MID AMERICA MORTGGE, INC. 5900 W PLANO PARKWAY, SUITE 650, PLANO, TEXAS 75093. Nationstar Mortgage, LLC, DBA Mr. Cooper, whose address is 8950 Cypress Waters, Blvd., Coppell, TX 75019, is the servicer and the current mortgagee,

Please contact our clients Loss Mitigation department directly at (888) 480-2432 to discuss options that maybe available to you if you are not able to reinstate your account. Payoff and reinstatement quotes are available from Nationstar Mortgage by calling 866-316-2432.

Pursuant to the Federal Fair Debt Collection Practices Act, we advise you that this firm is a debt collector attempting to collect the indebtedness referred to in the above paragraphs and any information we obtain from you will be used for that purpose.

Sincerely,

/s/ Israel Saucedo
Israel Saucedo

IS/ab
Encls.

7775134 Copy

Multistate

NOTE

Loan No.: 10001258

FHA Case No.
492-5968619-703 - 203(b)

January 16, 2001

2951 Santa Sabina Drive
Grand Prairie, TEXAS 75052
(Property Address)

1. PARTIES

"Borrower" means each person signing at the end of this Note, and the person's successors and assigns.
"Lender" means

Mid America Mortgage, Inc.

and its successors and assigns.

2. BORROWER'S PROMISE TO PAY; INTEREST

In return for a loan received from Lender, Borrower promises to pay the principal sum of **ONE HUNDRED TWENTY-FIVE THOUSAND FORTY-EIGHT and no/100**

Dollars (U.S. \$125,048.00),

plus interest, to the order of Lender. Interest will be charged on unpaid principal, from the date of disbursement of the loan proceeds by Lender, at the rate of **SIX AND NINETEEN TWENTIETHS** percent (6.950%) per year until the full amount of principal has been paid.

3. PROMISE TO PAY SECURED

Borrower's promise to pay is secured by a mortgage, deed of trust or similar security instrument that is dated the same date as this Note and called the "Security Instrument." The Security Instrument protects the Lender from losses which might result if Borrower defaults under this Note.

4. MANNER OF PAYMENT

(A) Time

Borrower shall make a payment of principal and interest to Lender on the 1st day of each month beginning on **March, 2001**. Any principal and interest remaining on the 1st day of **February, 2001**, will be due on that date, which is called the "Maturity Date."

(B) Place

Payment shall be made at **Mid America Mortgage, Inc.
5900 W. Plano Parkway, Suite 650
Plano, TX 75093**

or at such other place as Lender may designate in writing by notice to Borrower.

(C) Amount

Each monthly payment of principal and interest will be in the amount of **U.S. \$827.75**.

This amount will be part of a larger monthly payment required by the Security Instrument, that shall be applied to principal, interest and other items in the order described in the Security Instrument.

(D) Allonge to this note for payment adjustments

If an allonge providing for payment adjustments is executed by Borrower together with this Note, the covenants of the allonge shall be incorporated into and shall amend and supplement the covenants of this Note as if the allonge were a part of this Note. (Check applicable box.)

- Graduated Payment Allonge
- Growing Equity Allonge
- Other (specify)

5. BORROWER'S RIGHT TO PREPAY

Borrower has the right to pay the debt evidenced by this Note, in whole or in part, without charge or penalty, on the first day of any month. Lender shall accept prepayment on other days provided that Borrower pays interest on the amount prepaid for the remainder of the month to the extent required by Lender and permitted by regulations of the Secretary. If Borrower makes a partial prepayment, there will be no changes in the due date or in the amount of the monthly payment unless Lender agrees in writing to those changes.

6. BORROWER'S FAILURE TO PAY

(A) Late Charge for Overdue Payments

If Lender has not received the full monthly payment required by the Security Instrument, as described in Paragraph 4(C) of this Note, by the end of **FIFTEEN** calendar days after the payment is due, Lender may collect a late charge in the amount of **FOUR** percent (4.000%) of the overdue amount of each payment.

(B) Default

If Borrower defaults by failing to pay in full any monthly payment, then Lender may, except as limited by regulations of the Secretary in the case of payment defaults, require immediate payment in full of the principal balance remaining due and all accrued interest. Lender may choose not to exercise this option without waiving its rights in the event of any subsequent default. In many circumstances regulations issued by the Secretary will limit Lender's rights to require immediate payment in full in the case of payment defaults. This Note does not authorize acceleration when not permitted by HUD regulations. As used in this Note, "Secretary" means the Secretary of Housing and Urban Development or his or her designee.

(C) Payment of Costs and Expenses

If Lender has required immediate payment in full, as described above, Lender may require Borrower to pay costs and expenses including reasonable and customary attorneys' fees for enforcing this Note to the extent not prohibited by applicable law. Such fees and costs shall bear interest from the date of disbursement at the same rate as the principal of this Note.

7. WAIVERS

Borrower and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require Lender to demand payment of amounts due. "Notice of dishonor" means the right to require Lender to give notice to other persons that amounts due have not been paid.

8. GIVING OF NOTICES

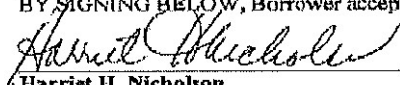
Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at the property address above or at a different address if Borrower has given Lender a notice of Borrower's different address.

Any notice that must be given to Lender under this Note will be given by first class mail to Lender at the address stated in Paragraph 4(B) or at a different address if Borrower is given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. Lender may enforce its rights under this Note against each person individually or against all signatories together. Any one person signing this Note may be required to pay all of the amounts owed under this Note.

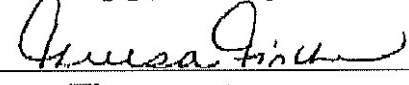
BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note.

	_____ (Seal)	_____ (Seal)
Harriet H. Nicholson	Borrower	Borrower
SSN: 427-08-6429		
_____ (Seal)	_____ (Seal)	
	Borrower	Borrower

Pay to the order of **COUNTRYWIDE HOME LOANS INC.**
Without Recourse

This 16th day of January, 2001.

Mid America Mortgage, Inc. a corporation,

By: 

Its: Theresa Finchum
Asst. Vice President

PAY TO THE ORDER OF

WITHOUT RECOURSE

COUNTRYWIDE HOME LOANS, INC.

BY CH

CAROL HANVUTHINANON ASST. SEC.

Copy

19.00 25.00
00-03-3798

CW # 7775134

25
107

FILED
TARRANT COUNTY TEXAS
2001 JAN 22 15 3:57
SUZANNE HEINER
COUNTY CLERK
BY _____

Prepared by:
Mid America Mortgage, Inc.
5900 W. Plano Parkway, Suite 650
Plano, TEXAS 75093

WHEN RECORDED, MAIL TO:
ATTN: POST-CLOSING
MID AMERICA MORTGAGE, INC.
5900 W. PLANO PARKWAY, SUITE 650
PLANO, TEXAS 75093

MERS Identification Number: 100027200100012585
Loan No.: 10001258
Order No.: 00-03-3798



(Space Above This Line For Recording Data)

State of Texas

CORRECTION
DEED OF TRUST

FHA Case No.
492-5968619-703 - 203(b)

1258

THIS DEED OF TRUST ("Security Instrument") is made on January 16, 2001.
The Grantor is Harriet H. Nicholson, an unmarried person

The trustee is Jeffrey E. Bode
The beneficiary is Mortgage Electronic Registration Systems, Inc. ("MERS"), (solely as nominee for Lender, as hereinafter defined, and Lender's successors and assigns). MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

("Borrower").
("Trustee").

Mid America Mortgage, Inc. a corporation,
is organized and existing under the laws of The State of Texas,
and has an address of 5900 W. Plano Parkway, Suite 650, Plano, TEXAS 75093.

("Lender")

Borrower owes Lender the principal sum of ONE HUNDRED TWENTY-FIVE THOUSAND FORTY-EIGHT and no/100 Dollars (U.S. \$125,048.00).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on February 1, 2031.
This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to the Trustee, in trust, with power of sale, the following described property located in Tarrant County, Texas:

Lot 22, Block D, of Mirabella Village Phase 1, an Addition to the City of Grand Prairie, Tarrant County, Texas, according to the Map or Plat thereof recorded in Cabinet A, Slide 5197 of the Plat Records of Tarrant County, Texas

FHA Texas Deed of Trust With MERS - 4/98 Amended 2/98

Page 1 of 6

Borrower(s) Initials *HN*

109, Inc. - (800) 554-1072

*This Correction Deed of Trust is being corrected and re-recorded solely to mark and attach the TDCA Rider which was not marked on the Deed of Trust. Said document has been corrected herein with all terms remaining the same as the original Deed of Trust

which has the address of

2951 Santa Sabina Drive
Grand Prairie, TEXAS 75052
("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MTRS holds only legal title to the interests granted by Borrower in this Security Instrument; but, if necessary to comply with law or custom, MERS, (as nominee for Lender and Lender's successors and assigns), has the right; to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing or canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Borrower and Lender covenant and agree as follows:

UNIFORM COVENANTS.

1. **Payment of Principal, Interest and Late Charge.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. **Monthly Payment of Taxes, Insurance and Other Charges.** Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum for (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required under paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either: (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to Lender are called "Escrow Funds."

Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and implementing regulations, 24 CFR Part 3500, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for unanticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.

If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b), and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b), and (c).

3. **Application of Payments.** All payments under paragraphs 1 and 2 shall be applied by Lender as follows:

- First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;
- Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;
- Third, to interest due under the Note;
- Fourth, to amortization of the principal of the Note; and
- Fifth, to late charges due under the Note.

4. **Fire, Flood and Other Hazard Insurance.** Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in

paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

8. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) **Default.** Lender may, except as limited by regulations issued by the Secretary, in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or
- (ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.

(b) **Sale Without Credit Approval.** Lender shall, if permitted by applicable law (including Section 341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent), and
- (ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property but his or her credit has not been approved in accordance with the requirements of the Secretary.

- (c) **No Waiver.** If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.
- (d) **Regulations of HUD Secretary.** In many circumstances regulations issued by the Secretary will limit Lender's rights, in the case of payment defaults, to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.
- (e) **Mortgage Not Insured.** Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 60 days from the date hereof, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 9(b). Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. Governing Law; Severability. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

15. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

16. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. Assignment of Rents. Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

18. Foreclosure Procedure. If Lender requires immediate payment in full under paragraph 9, Lender may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender or Trustee shall give notice of the time, place and terms of sale by posting and recording the notice at least 21 days prior to sale as provided by applicable law. Lender shall mail a copy of the notice of sale to Borrower in the manner prescribed by applicable law. Sale shall be made at public venue between the hours of 10 a.m. and 4 p.m. on the first Tuesday of the month. Borrower authorizes Trustee to sell the Property to the highest bidder for cash in one or more parcels and in any order Trustee determines. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying indefeasible title to the Property with covenants of general warranty. Borrower covenants and agrees to defend generally the purchaser's title to the Property against all claims and demands. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

If the Property is sold pursuant to this paragraph 18, Borrower or any person holding possession of the Property through Borrower shall immediately surrender possession of the Property to the purchaser at that sale. If possession is not surrendered, Borrower or such person shall be a tenant at sufferance and may be removed by writ of possession.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 *et seq.*) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.

19. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

20. Substitute Trustee. Lender, at its option and with or without cause, may from time to time remove Trustee and appoint, by power of attorney or otherwise, a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

21. Subrogation. Any of the proceeds of the Note used to make up outstanding liens against all or any part of the Property have been advanced by Lender at Borrower's request and upon Borrower's representation that such amounts are due and are secured by valid liens against the Property. Lender shall be subrogated to any and all rights, superior titles, liens and equities owned or claimed by any owner or holder of any outstanding liens and debts, regardless of whether said liens or debts are acquired by Lender by assignment or are released by the holder thereof upon payment.

22. Partial Invalidity. In the event any portion of the sums intended to be secured by this Security Instrument cannot be lawfully secured hereby, payments in reduction of such sums shall be applied first to those portions not secured hereby.

23. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

(Check applicable box(es)).

- Condominium Rider
- Growing Equity Rider
- Adjustable Rate Rider
- Planned Unit Development Rider
- Graduated Payment Rider
- Other (Specify) TDECA Bond Rider

24. Purchase Money; Vendor's Lien; Renewal and Extension. (Complete as appropriate.)

BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

Harriet H. Nicholson (Seal)
Harriet H. Nicholson -Borrower

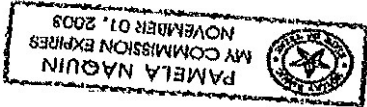
____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

STATE OF TEXAS
County of *Tarrant*

Before me, *A notary Public* on this day personally appeared
Harriet H. Nicholson, known to me (or proved to me on the oath of
or through *Drivers License*) to be the person whose name
is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration
therein expressed.

Given under my hand and seal of office, this *18* day of *January* 2001
Pamela Nagui
Notary Public



ORIGINAL

1258

TDHCA BOND PROGRAM 55A

FORM E

FORMS OF MORTGAGE RIDERS

FOR ALL MORTGAGE LOANS

RIDER TO DEED OF TRUST

**(Texas Department of Housing and
Community Affairs Bond Program No. 55A)**

This Rider is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, Deed to Secure Debt or other security instrument, including any Assumability Policy Rider and any other riders thereto (collectively, the "Deed of Trust") of the same date given by the undersigned (the mortgagor, trustor or grantor under the Deed of Trust, hereinafter referred to as the "Borrower") and affects the rights and obligations of the parties to such Deed of Trust and the Borrower's Note (the "Note") which it secures.

The amendments and supplements to the Deed of Trust contained in this Rider shall be and become effective on the day and date an Assignment of the Deed of Trust and the Note that is secured by the Deed of Trust is made by the Beneficiary named herein (the "Assignor") to _____ (the "Servicer"), as Servicer for the Texas Department of Housing and Community Affairs (the "Department") in connection with the Department's Bond Program No. 55A (the "Program").

In addition to the covenants and agreements made in the Deed of Trust, Borrower further covenants and agrees as follows:

1. AGREEMENT REGARDING TRANSFER OF THE PROPERTY: ASSUMPTION.

Notwithstanding anything to the contrary in Deed of Trust, if all or any part of the Property or an interest therein is sold or transferred by Borrower without the prior written consent of Department, excluding

- (a) the creation of a lien or encumbrance on the Property subordinates to this Deed of Trust other than a leasehold interest, a vendor's or purchase money lien, or a contract for deed (or any other similar form of owner financing), or
- (b) the creation of a purchase money security interest for household appliances, or
- (c) a transfer by devise or operation of law to a joint tenant in common,

Department may, at Department's option, declare all the sums secured by this Deed of Trust to be immediately due and payable.

The Department shall have waived such option to accelerate if, prior to the sale or transfer, the person to whom the Property is to be sold or transferred (i) meets the eligibility requirements of Department under the provisions of the Program, including without limitation the current borrower income limits and maximum acquisition costs applicable to the property, (ii) has reached agreement in writing with Department that the credit of such person is satisfactory to Department, (iii) has entered into a written assumption and release agreement with the transferor and the Servicer or its successor in interest, and (iv) has been approved in writing by Department as an eligible borrower and has otherwise complied with provisions of Section 143 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder (the "Code").

ORIGINAL

If Department has waived the option to accelerate, the stated interest rate on the Note may not be changed.

If Department exercises such option to accelerate, Department shall mail Borrower the notice of acceleration. Such notice shall provide for a period of not less than 30 days from the date notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Department may, without further notice or demand on Borrower, invoke any remedies permitted by law.

2. COVENANT REGARDING CODE AND PROGRAM COMPLIANCE.

(a) Borrower covenants with and warrants and represents to Assignor, Department, and Servicer and their respective agents and successors in interest that Borrower and the Property are in compliance in all respects with the provisions of Section 143 of the Code and the Program and agrees to promptly furnish all documents and information which Department may request to verify such compliance.

(b) Notwithstanding anything to the contrary in the Deed of Trust, Department shall mail written notice to Borrower declaring the unpaid principal balance of the Note hereby secured to be due and payable within ten (10) days of the date of notice if it is determined by Department that one or more of the following events has occurred: (1) that Borrower and/or the Property did not comply with the provisions of the Code or the Program in any material respect (as determined by Department) on the date the Note hereby secured and this Deed of Trust were signed by Borrower; (2) that any third party assuming the obligations of Borrower under the Note hereby secured and this Deed of Trust with the consent of Department (such third party being referred to herein as "Borrower" as if such third party were the maker of the note and grantor under the Deed of Trust) or the Property did not comply with the provisions of the Code or the Program in any material respect (as determined by Department) on the date the Note hereby secured and the Deed of Trust were assumed by such subsequent Borrower; (3) that Borrower submitted one or more documents or furnished information to the Assignor, Department, Servicer, or their respective agents, which contained false or misleading information in any material respect (as determined by Department) with respect to the eligibility of Borrower or the Property under the Code and/or the Program; or (4) that Borrower has otherwise breached the covenant in section (a) of this paragraph in any material respect (as determined by Department).

The notice to Borrower shall specify: (1) the breach; (2) a date, not more than ten (10) days from the date notice is mailed to Borrower, by which the breach must be cured; (3) that failure to cure the breach, refinance the indebtedness as hereafter provided, or otherwise satisfy the indebtedness on or before the date specified in the notice will result in sale of the Property, subject to the right of Borrower to reinstate after acceleration and the right to bring court action to assert the non-existence of a default under this paragraph or any other defense of Borrower to acceleration and sale.

Assignor shall offer Borrower refinancing of the remaining principal balance of the Note at Assignor's current conventional interest rate for the remaining term of the Note or such other term as may be agreed upon between Assignor and Borrower. If the breach is not cured on or before the date specified in the notice, or if Borrower is not qualified for refinancing at the interest rate of Assignor for the remaining term of the Note or other term agreed upon between Assignor and Borrower, or if Borrower refuses refinancing or otherwise does not satisfy the indebtedness hereby secured on or before the date specified in the notice, Department, without further demand, shall invoke the power of sale and any other remedies permitted by applicable law. Department shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Deed of Trust, including, but not limited to, reasonable attorney's fees.

ORIGINAL

(c) Except as modified by the provisions of this paragraph, the terms and provisions of the Deed of Trust shall remain in effect and apply to Borrower's breach of any covenant contained in the Deed of Trust, as so modified.

NOTICE TO BORROWERS

THIS RIDER SUBSTANTIALLY MODIFIES THE TERMS OF THE DEED OF TRUST, INCLUDING ANY ASSUMABILITY POLICY RIDER AND ANY OTHER RIDERS THERETO, TO WHICH IT IS ATTACHED.

(I)(We) hereby consent to the modifications of the terms of the Note and Deed of Trust which are contained in this Rider.

Dated this 11 day of December, 2000.

Signature: Harriet Hillen Nicholson Signature: _____

Printed: Harriet Hillen Nicholson Printed: _____

Signature: Harriet H. Nicholson Signature: _____

Printed: Harriet H. Nicholson Printed: _____

Signature: _____ Signature: _____

Printed: _____ Printed: _____

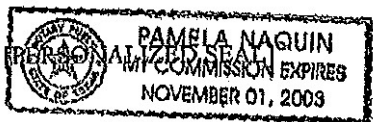
Signature: _____ Signature: _____

Printed: _____ Printed: _____

STATE OF TEXAS

COUNTY OF Tarrant

This instrument was acknowledged before me on this 18 day of January, 2001 by Harriet H. Nicholson



Pamela Naquin
Notary Public Signature

Pamela Naquin
Printed Name of Notary

My commission expires: _____

EX. C

2951 SANTA SABINA DRIVE
GRAND PRAIRIE, TX 75052

0000010070571

NOTICE OF (SUBSTITUTE) TRUSTEE'S SALE

Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately.

1. Date, Time, and Place of Sale.

Date: May 07, 2024

Time: The sale will begin at 10:00 AM or not later than three hours after that time.

Place: WEST SIDE OF THE 1895 COURTHOUSE OR AS DESIGNATED BY THE COUNTY COMMISSIONERS or as designated by the county commissioners.

2. Terms of Sale. Cash.

3. Instrument to be Foreclosed. The Instrument to be foreclosed is the Deed of Trust or Contract Lien dated January 16, 2001 and recorded in Document INSTRUMENT NO. D202032012 real property records of TARRANT County, Texas, with HARRIET H NICHOLSON AN UNMARRIED PERSON, grantor(s) and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS") AS NOMINEE, mortgagee.

4. Obligations Secured. Deed/ of Trust or Contract Lien executed by HARRIET H NICHOLSON AN UNMARRIED PERSON, securing the payment of the indebtedness in the original principal amount of \$125,048.00, and obligations therein described including but not limited to the promissory note and all modifications, renewals and extensions of the promissory note. NATIONSTAR MORTGAGE LLC is the current mortgagee of the note and Deed of Trust or Contract Lien.

5. Property to Be Sold. The property to be sold is described in the attached Exhibit A.

6. Mortgage Servicer Information. The Mortgage Servicer is authorized to represent the Mortgagee by virtue of a servicing agreement with the Mortgagee. Pursuant to the Servicing Agreement and Texas Property Code § 51.0025, the Mortgage Servicer is authorized to collect the debt and to administer any resulting foreclosure of the lien securing the Property referenced above. NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER, as Mortgage Servicer, is representing the current mortgagee, whose address is:

c/o NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER
8950 CYPRESS WATERS BLVD.
COPPELL, TX 75019

FILED

APR 16 2024

COUNTY CLERK, TARRANT CO., TEXAS
BY _____ DEPUTY

2951 SANTA SABINA DRIVE
GRAND PRAIRIE, TX 75052

00000010070571

THIS INSTRUMENT APPOINTS THE SUBSTITUTE TRUSTEE(S) IDENTIFIED TO SELL THE PROPERTY DESCRIBED IN THE SECURITY INSTRUMENT IDENTIFIED IN THIS NOTICE OF SALE THE PERSON SIGNING THIS NOTICE IS THE ATTORNEY OR AUTHORIZED AGENT OF THE MORTGAGEE OR MORTGAGE SERVICER.

The undersigned as attorney for the mortgagee or mortgage servicer does hereby remove the original trustee and all successor substitute trustees and appoints in their stead DAVID STOCKMAN, DONNA STOCKMAN, GUY WIGGS, MICHELLE SCHWARTZ, KATHY ARRINGTON, JANET PINDER, BRANDY BACON, JAMIE DWORSKY, STOCKMAN FORECLOSURE SERVICES INC., ANGELA COOPER, RYAN BOURGEOIS, ISRAEL SAUCEDO, OR ROBERT FORSTER whose address is c/o BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, 4004 Belt Line Road, Suite 100, Addison, Texas 75001-4320 as Substitute Trustee, who shall hereafter exercise all powers and duties set aside to the said original trustee under the said Deed of Trust; and, further does hereby request, authorize, and instruct said Substitute Trustee to conduct and direct the execution of remedies set aside to the beneficiary therein.



Ryan Bourgeois

Certificate of Posting

My name is _____, and my address is c/o 4004 Belt Line Road, Suite 100, Addison, Texas 75001-4320. I declare under penalty of perjury that on _____ I filed at the office of the TARRANT County Clerk and caused to be posted at the TARRANT County courthouse this notice of sale.

Declarants Name:

Date:

Unofficial Copy

FILED
APR 16 2024
COUNTY CLERK, TARRANT CO., TEXAS
BY _____ DEPUTY

2951 SANTA SABINA DRIVE
GRAND PRAIRIE, TX 75052

0000010070571

0000010070571

TARRANT

EXHIBIT A

LOT 22, BLOCK D, OF MIRABELLA VILLAGE PHASE I, AN ADDITION TO THE CITY OF GRAND PRAIRIE, TARRANT COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET A, SLIDE 5197 OF THE PLAT RECORDS OF TARRANTY COUNTY, TEXAS

Unofficial Copy

FILED
APR 16 2024
COUNTY CLERK, TARRANT CO., TEXAS
BY _____ DEPUTY

Official Public Records

8/2/2012 12:03 PM

D212187326

Mary Louise Garcia

PGS 3 \$24.00

Submitter: SIMPLIFILE

EX. D

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

12-6034253 PHA
09-6-337465-02
2951 SANTA SABINA DRIVE, GRAND PRAIRIE, TX 75052

SUBSTITUTE TRUSTEE'S DEED

Deed of Trust Date:
January 16, 2001

Sale of Property Date:
July 3, 2012

Grantor(s)/Mortgagor (s):
HARRIET H. NICHOLSON, AN UNMARRIED PERSON

Time of Sale: 3:27 ~~PM~~ PM

Original Mortgagee:
MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC.

Place of Sale:
The area outside on the North Side of the George Allen Couris Building facing Commerce Street below the overhang. OR AS DESIGNATED BY THE COUNTY COMMISSIONERS.

Current Mortgagee:
THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWMBS, INC., CWMBS REFORMING LOAN REMIC TRUST CERTIFICATES, SERIES 2005-R2

Grantee/Buyer:
THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWMBS, INC., CWMBS REFORMING LOAN REMIC TRUST CERTIFICATES, SERIES 2005-R2

Mortgage Servicer:
Bank of America, N.A.

Grantee/Buyer's Mailing Address:
400 NATIONAL WAY, SV-35
SIMI VALLEY, CA 93065

Recorded on: January 23, 2001
As Clerk's File No.: D201015378
Re-Recorded on: February 4, 2002
As Clerk's File No.: D202032012

Property County:
Tarrant

Amount of Sale:
\$181,498.91

Legal Description: LOT 22, BLOCK D, OF MIRABELLA VILLAGE PHASE I, AN ADDITION TO THE CITY OF GRAND PRAIRIE, TARRANT COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET A, SLIDE 5197 OF THE PLAT RECORDS OF TARRANT COUNTY, TEXAS.

Grantor conveyed the property to Trustee in trust to secure payment of the Note. Mortgagee, through the Mortgage Servicer, declared that Grantor defaulted in performing the obligations of the Deed of Trust. Current Mortgagee of the Note, through the Mortgage Servicer, accordingly has appointed Substitute Trustee and requested Substitute Trustee to enforce the trust.

Notices stating the time, place and terms of sale of the property were mailed, posted and filed, as required by law. Substitute Trustee sold the property to Buyer, who was the highest bidder at the public auction, for amount of sale in the manner prescribed by law. The subject sale was conducted no earlier than 1:00 PM as set forth in the Notice of Substitute Trustee Sale and was concluded within three (3) hours of such time. All matters, duties and obligations of Mortgagee were lawfully performed as evidenced by the affidavit(s) attached hereto and incorporated herein for all purposes.

Substitute Trustee, subject to any matters of record, and for amount of sale paid by buyer as consideration, grants, sells and conveys to Buyer, Buyer's heirs, executors, administrators, successors or assigns forever, the property together with all rights and appurtenances belonging to Grantor. Substitute Trustee hereby sells the above referenced property AS IS without any expressed or implied warranties, except as to warranties of title, and hereby conveys the property to the purchaser at the purchaser's own risk, pursuant

FILED BY: JUSTICE OF THE PEACE
PRECINCT SEVEN
TARRANT COUNTY, TEXAS

12 SEP -5 AM 10:08

to the terms of Texas Property Code § 51.002 and § 51.009.

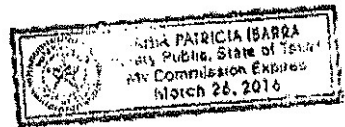
WITNESS MY HAND, 7-31-12 [Signature]
David Stockman or RECONTRUST COMPANY,
N.A., Substitute Trustee
c/o RECONTRUST COMPANY, N.A.
4500 Amon Carter Blvd., TX2-979-02-10
Ft. Worth, TX 76155

STATE OF TEXAS
COUNTY OF Tarrant
Before me, Tania P. Ibarra, the undersigned Notary Public, on this day personally appeared David
Stockman or RECONTRUST COMPANY, N.A., Substitute Trustee, known to me or proved to me through a valid
State driver's license or other official identification described as David Stockman, to be the person
whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for
the purposes and consideration therein expressed.

Given under my hand and seal of office on 7-21-12
Tania P. Ibarra
Notary Public for the State of Texas
Tania Ibarra
Printed Name of Notary Public

Prepared by:
Recontrust Company, N.A.
4500 Amon Carter Blvd.
Ft. Worth, TX 76155

After Recording return to:
Land Records of Texas
A Division of Lender Processing Services
1525 W Walnut Hill Lane Ste 300
Irving, TX 75038



FILED BY
12 SEP -5 AM 10:00
JUSTICE OF THE PEACE
PRECINCT SEVEN
TARRANT COUNTY, TEXAS

2951 Santa Sabina Drive
Grand Prairie, TX 75052
12-0034253 FHA
09-6-337465-02

AFFIDAVIT

STATE OF TEXAS }
COUNTY OF TARRANT }

BEFORE ME, the undersigned authority on this day personally appeared Carolyn Holleman
who after being duly sworn, deposed and stated:

1. I am an employee of RECONTRUST COMPANY, N.A., Substitute Trustee, at the time of the events hereinafter set forth and make this affidavit for the purpose of declaring the incidents of statutory and contractual compliance of the entity or entities set out below.
2. This affidavit is made with respect to the foreclosure of that certain Deed of Trust dated January 16, 2001, recorded on January 23, 2001, as Clerk's File No. D201015378, and re-recorded on February 4, 2002 as Clerk's File No. D202032012, Re: Property Records, Tarrant County, Texas, executed by HARRJET H. NICHOLSON, AN UNMARRIED PERSON TO JEFFERY E. BODE, original Trustee(s), in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC.
3. Bank of America, N.A., FKA Countrywide Home Loans Servicing, LP is the Mortgage Servicer for THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWMBS, INC., CWMBS REPORMING LOAN REMIC TRUST CERTIFICATES, SERIES 2005-R2, the Mortgagee of the indebtedness secured by said Deed of Trust. The Mortgage Servicer is authorized to represent the Mortgagee by virtue of a current servicing agreement with the Mortgagee.
4. To the best of my knowledge and belief, proper notice of default was served prior to acceleration of the indebtedness. All obligations and duties of the Mortgage Servicer were performed in the manner required by law and all notices were served on each debtor at the last known address of each such debtor.
5. To the best of my knowledge and belief, the mortgagors holding an interest in the above described property were not on active duty with any branch of the Armed Forces of the United States or were not protected by the Service Members Civil Relief Act on the date of the Trustee's Sale and were alive on the date of such sale.
6. At the instructions and on behalf of the Mortgage Servicer, notice of acceleration of indebtedness and Trustee's sale was served on each debtor obligated on the debt, in strict compliance with the Texas Property Code, by certified mail at least twenty-one (21) days prior to the date therein specified for sale at the last known address of each such debtor.
7. At the instructions and on behalf of the Mortgage Servicer, Notice of Substitute Trustee Sale was filed with the County Clerk in the county or counties in which the subject property is situated and copies thereof posted at said courthouse(s) as required by the law and in the manner specified by ordinance and custom.

JUSTICE OF THE PEACE
PRECINCT SEVEN
TARRANT COUNTY TEXAS

12 SEP -5 AM '12

FILED BY

DATED: July 3, 2012

By:

Carolyn Holleman 7/3/12
AFFIANT: Carolyn Holleman

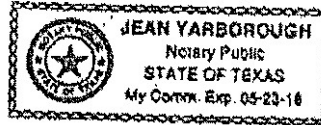
STATE OF TEXAS
COUNTY OF TARRANT

Sworn to and subscribed before me, Jean Yarborough, the undersigned Notary Public, on this day personally appeared Carolyn Holleman, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 23rd day of July, 2012

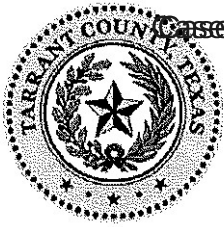
Jean Yarborough

Notary Public, State of Texas
My Commission Expires: 5-23-16



After recording return to:
RECONTRUST COMPANY, N.A.
4500 Aron Carter Blvd., TX2-979-02-10
Pl Worth, TX 76155

After Recording return to:
Land Records of Texas
A Division of Lender Processing Services
1525 W Walnut Hill Lane, Ste 309
Irving, TX 75038



Mary Louise Nicholson
Tarrant County Clerk

record now on file in the Official Public Records of Tarrant County,
Texas.



Mary Louise Nicholson

To verify the authenticity of this copy, capture the QR code or visit:
<https://tarrant.tx.publicsearch.us/verifycert/4SMYN2hB>

Digitally signed by: Mary Louise Nicholson
Date: Apr 24, 2024 07:00 AM -05:00

EX. E

THE STATE OF TEXAS §
COUNTY OF TARRANT §

AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared Harriet H. Nicholson who under oath states the following:

That Affiant, Harriet H. Nicholson, is the owner of the following described property:

Property (including improvements):

That certain property located in Tarrant County, Texas to-wit: Lot 22, Block D,
Of Mirabella Village Phase I, an Addition to the City of Grand Prairie, Tarrant County,
Texas, according to the Map or Plat thereof recorded in Cabinet A, Slide 5197 of the
Plat Records of Tarrant County, Texas.

That Affiant acquired said property by Warranty Deed, D201015373, dated January 18, 2001, recorded
January 23, 2001, in Book 14697, Page 23, Plat records, Tarrant County, Texas.

That Affiant, Harriet H. Nicholson, has had and held peaceable, continuous and adverse possession of the
aboved described property from the date of the above mentioned Warranty Deed until July 3, 2012 when a
foreclosure sale occurred to The Bank of New York Mellon. Affiant, Harriet H. Nicholson has held peaceable,
continuous and adverse possession under title or color of title from July 3, 2012 and claiming the same under the
above mentioned affidavit for more than five years.

That Affiant, Harriet H. Nicholson, is well and personally acquainted with the facts surrounding the above
described property for more than 17 years and state that the facts herein stated are true and correct.

Affiant, Harriet H. Nicholson, claim ownership to the property in question pursuant to the deed referred to
the above but, in addition thereto, pursuant to sections 16.024 of the Texas Civil Practice and Remedies Code.

EXECUTED this 13th day of June, 2018.

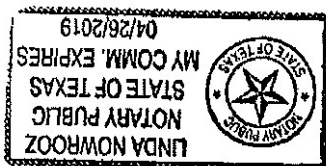
Harriet H. Nicholson

Harriet H. Nicholson

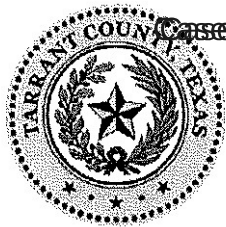
STATE OF TEXAS §

COUNTY OF TARRANT §

This instrument was subscribed, sworn to, and acknowledged before me by Harriet H. Nicholson on this
13th day of June 2018.



Linda Nowroz
Notary Public, State of Texas



Case 4:24-cv-00389-P-B-D Document 142 Filed 05/02/24 Page 49 of 107
record now on file in the Official Public Records of Tarrant County,
Texas.

Mary Louise Nicholson
Tarrant County Clerk



Mary Louise Nicholson

To verify the authenticity of this copy, capture the QR code or visit:
<https://tarrant.tx.publicsearch.us/verifycert/4SMYN2hB>

Digitally signed by: Mary Louise Nicholson
Date: Apr 24, 2024 07:00 AM -05:00

Page 2 of 2



MARY LOUISE GARCIA
COUNTY CLERK

100 West Weatherford Fort Worth, TX 76196-0401

PHONE (817) 884-1195

HARRIET NICHOLSON
2951 SANTA SABINA DR
GRAND PRAIRIE, TX 75052

Submitter: HARRIET NICHOLSON

DO NOT DESTROY
WARNING - THIS IS PART OF THE OFFICIAL RECORD.

Filed For Registration: 6/21/2018 10:56 AM
Instrument #: D218135705
AFF 2 PGS \$16.00

By: *Mary Louise Garcia*

D218135705

ANY PROVISION WHICH RESTRICTS THE SALE, RENTAL OR USE OF THE DESCRIBED REAL PROPERTY
BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

4. The security interest, Instrument D202032012 Deed of Trust, Defendant purported to enforce had been extinguished and merged into a trustee's deed, Instrument D212187326, almost 12 years ago, rendering it unenforceable.
5. Plaintiff's fee simple title to the property was perfected on July 4, 2015, after the minimum statutory requirement of three years post-foreclosure, pursuant to Texas Civil Practice and Remedies Code §§ 16.021, 16.024, and 16.030(a).
6. On June 21, 2018, Plaintiff filed an Affidavit of Adverse Possession in the Tarrant County, Texas real property records to memorialize her fee simple title ownership to the property, precluding all claims pursuant to Texas Civil Practice and Remedies Code §§ 16.021, 16.024, and 16.030(a).
7. Defendant's notice of substitute trustee sale threatened non-judicial action to affect the possession of Plaintiff's property without any present right to possession, violating 15 U.S.C. § 1692f(6).

CONCLUSIONS OF LAW

1. Defendant violated 15 U.S.C. § 1692f(6) by threatening to take a non-judicial action to affect the possession or disablement of Plaintiff's property when there was no present right to possession or enforceable security interest.
2. Plaintiff is entitled to actual and statutory damages under 15 U.S.C. § 1692k, as well as court costs.

ORDER

Accordingly, it is hereby ORDERED that:

1. Plaintiff's Partial Motion for Summary Judgment is GRANTED.
2. Defendant Barrett Daffin Frappier Turner & Engle LLP is found to have violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692f(6).
3. Plaintiff Harriet Nicholson is awarded actual and statutory damages in an amount to be determined by the Court.
4. Plaintiff is awarded court costs.
5. A hearing to determine the amount of actual and statutory damages is set for [Hearing Date] at [Time].

IT IS SO ORDERED.

DATED: _____

Honorable Judge Jeffrey L. Cureton
United States Magistrate Judge