

**CASE 2024-40160**

**ROBERT WALSH,**

**plaintiff,**

**v.**

**WILMINGTON SAVINGS FUND  
SOCIETY, FSB,**

**defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**IN THE DISTRICT COURT**

**157th JUDICIAL DISTRICT**

**HARRIS COUNTY, TEXAS**

**WILMINGTON'S ORIGINAL ANSWER**

Wilmington Savings Fund Society, FSB (**Wilmington**) answers Robert Walsh's complaint as follows:

**I. GENERAL DENIAL**

1. Wilmington generally denies each and every allegation and claim for relief asserted by Mr. Walsh and demands strict proof thereof by a preponderance of credible evidence.

**II. AFFIRMATIVE DEFENSES**

2. Mr. Walsh's claims fail, in whole or in part, because they do not state a claim upon which relief may be granted.

3. Mr. Walsh's claims fail, in whole or in part, because he failed to perform all conditions precedent to recovery, and such conditions have not been waived or excused, including, but not limited to, failing to comply with the terms of his loan agreement, failing to properly apply for loss mitigation, including providing a complete loss mitigation application and timely supplementing information and documents when requested, and/or failing to provide sufficient and timely notice of his claims and/or demands.

4. To the extent Mr. Walsh's claims rely upon one or more alleged representation, promise or understanding, his claims are barred, in whole or in part, because the alleged promise

or understanding is barred by the statute of frauds, lacks new, independent, and/or adequate consideration and/or is too vague, ambiguous and/or indefinite to enforce and/or be relied upon.

5. Mr. Walsh's claims are barred, in whole or in part, by the economic loss rule and/or because the claimed loss is the subject matter of a contract between the parties to the loan agreement made the basis of Mr. Walsh's claims in this suit.

6. Mr. Walsh's claims fail, in whole or in part, because of waiver, estoppel, ratification, privilege, and consent.

7. Mr. Walsh's claims are barred, in whole or in part, because he has not tendered or attempted to tender the amount due and owing on the loan for the subject property.

8. Mr. Walsh's claims are barred, in whole or in part, because he failed to mitigate his damages, if any.

9. Mr. Walsh's claims fail, in whole or in part, because he has unclean hands.

10. Mr. Walsh's claims fail because he is in material breach of the loan agreement and/or he breached the loan agreement first.

11. Mr. Walsh's claims are barred, in whole or in part, because he is proportionately responsible for any damages he claims. Should Mr. Walsh prove entitlement to any damages, Wilmington invokes Texas Civil Practice and Remedies Code chapter 33 and requests the trier of fact determine the proportion of responsibility for said damages by Mr. Walsh, and any other party to this suit and any person or entity who may be designated as a responsible third-party, and to grant judgment against Wilmington, if at all, for only those damages for which Wilmington is found to be proportionately responsible, if any, and as reduced by all settlement amounts.

12. Mr. Walsh's claims are barred, in whole or in part, because the actions complained of, if in error at all, were the result of a bona fide error.

**III. PRAYER**

Wilmington respectfully requests a judgment that Mr. Walsh take nothing on his claims and awarding Wilmington all further relief to which it is entitled.

Date: July 12, 2024

Respectfully submitted,

/s/ C. Charles Townsend

C. Charles Townsend  
SBN: 24028053, FBN: 1018722  
ctownsend@hinshawlaw.com  
--Attorney in Charge

Alfredo Ramos  
SBN: 24110251, FBN: 3687680  
framos@hinshawlaw.com  
HINSHAW & CULBERTSON, LLP  
1717 Main Street, Suite 3625  
Dallas, Texas 75201  
Telephone: 945-229-6380  
Facsimile: 312-704-3001

**ATTORNEYS FOR WILMINGTON**

**CERTIFICATE OF SERVICE**

A true and correct copy of this document was served on July 12, 2024 as follows:

Robert C. Vilt  
Vilt Law, P.C.  
5177 Richmond Avenue, Suite 1142  
Houston, Texas 77056

**VIA TEXFILE**

/s/ C. Charles Townsend

C. Charles Townsend

### Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing 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.

C. Charles Townsend on behalf of Christopher Townsend  
Bar No. 24028053  
ctownsend@hinshawlaw.com  
Envelope ID: 89711214  
Filing Code Description: Answer/ Response / Waiver  
Filing Description: Wilmington's Original Answer  
Status as of 7/12/2024 11:10 AM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Charles Townsend		ctownsend@hinshawlaw.com	7/12/2024 11:03:11 AM	SENT
Robert Vilt	788586	clay@viltlaw.com	7/12/2024 11:03:11 AM	SENT
Jennifer Richardson		jrichardson@hinshawlaw.com	7/12/2024 11:03:11 AM	SENT
Fred Ramos		framos@hinshawlaw.com	7/12/2024 11:03:11 AM	SENT
Sierra Garcia		sgarcia@hinshawlaw.com	7/12/2024 11:03:11 AM	SENT

Unofficial Copy Office of Merit-Bug's District Clerk