

CAUSE NO. 2021-03881

AMENDED AFFIDAVIT IN SUPPORT OF PLAINTIFF'S MOTION TO VACATE

MOTION FOR SUMMARY JUDGMENT

STATE OF TEXAS §

{ } COUNTY §


Before me, the undersigned notary, on this day personally appeared Charles Mosely, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

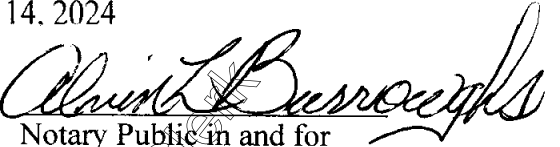
1. "My name is Charles Mosely. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. "I Charles Mosely Pro per is responsible for the documents described below.
3. "Defendant served the motion for summary judgment and notice of submission on defendant on June 28, 2024, by mail. The notice of submission identifies the date for the submission July 15, 2024. The motion and notice were received by plaintiff 3005 Nita Street Houston, Texas 77051 on June 28, 2024. Attached as Exhibit (A) is a copy of the envelope that proves the date of service. Plaintiff was given only 16 days' notice of the submission. . Generally, a nonmovant is entitled to 21 days' notice of the date set for hearing or submission of the motion. Tex. R. Civ. P. 166a(c); Lewis v. Blake, 876 S.W.2d 314, 316 (Tex. 1994). But if the motion is served by mail, the nonmovant is entitled to 24 days' notice. see Tex. R. Civ. P. 4, 21a(c), 166a(c); Lewis, 876 S.W.2d at 315-16; Chadderdon v. Blaschke, 988 S.W.2d 387, 388 (Tex. App.—Houston [1st Dist.] 1999, no pet.).

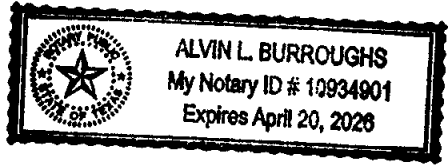
4. Plaintiff filed on July 14, 2024 Plaintiffs Motion to Reset Hearing on Motion for Summary Judgment by night drop box see attached as Exhibit (B) is a copy of the motion and efile number 2501826 was Returned for Correction.
5. Attached as Exhibit (C) is a copy of permission to utilize night drop box.
6. Plaintiff's Supplemental Motion to Correct Clerical Error, to Reset Hearing on Motion for Summary Judgment submitted on July 19, 2024. See attachment: (D).
7. Plaintiff was adversely affected by the Beryl Storm. See attachment: (E)
8. The Procedural Violation prejudiced my ability to respond effectively, the lack of deprived me of sufficient time to gather evidence, prepare affidavits or research legal Precedents and Case Law.
9. Lack of notice affected the outcome of the summary judgment. Plaintiff contends lack of proper notice demonstrate prejudice to my case and had a material impact on the outcome.
10. Plaintiff was not afforded Due Process in this Summary Judgment case.

MISREPRESENTATION by DEFENDANTS

11. PLAINTIFF'S ORIGINAL COMPLAINT EXHIBIT: (F)
12. Pennymac Loan Service LLC EXHIBIT: (G)
13. PLAINTIFF'S MOTION For NONSUIT EXHIBIT: (H)

Sworn to and subscribed before me by  on August 14, 2024


Notary Public in and for
the State of Texas



Unofficial Copy Office of Marilyn Burgess District Clerk

AMENDED AFFIDAVIT IN SUPPORT OF PLAINTIFF'S MOTION TO VACATE
MOTION FOR SUMMARY JUDGMENT
EXHIBITS

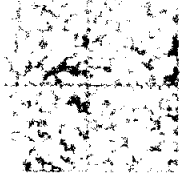
- MAILED ENVELOPE (A)
- MOTION AND EFILE(B)
- HARRIS COUNTY PRO SE DROP BOX PERMISSION.....(C)
- PLAINTIFF'S ERROR CORRECTED MOTION.....(D)
- ADVERSE WEATHER CONDITION VERIFICATION.....(E)
- PLAINTIFF'S ORIGINAL COMPLAINT..... (F)
- PENNYMAC LOAN SERVICE LLC.....(G)
- PLAINTIFF'S MOTION FOR NON SUIT.....(H)

Unofficial Copy Office of Marilyn Burgess District Clerk

EXHIBIT

Unofficial Copy Office of Marilyn Burgess District Clerk

akerman



Charles Mosely
3005 Nita Street
Houston, TX 77051

Unofficial Copy Office of Marilyn Burgess District Clerk

EXHIBIT

B

Unofficial Copy Office of Marilyn Burgess District Clerk

FILED
MARILYN BURGESS
DISTRICT CLERK
HARRIS COUNTY, TEXAS

CHARLES MOSELY,
Plaintiff,

2024 JUL 14 PM 4:49

IN THE DISTRICT COURT

vs.

CIVIL AFTER HOURS

**OF HARRIS COUNTY,
TEXAS**

NEWREZ MORTGAGE LLC
d/b/a
SHELLPOINTMORTGAGE
SERVICING
Defendant,

§
§
§
§
§
§

215 JUDICIAL DISTRICT

**PLAINTIFF'S MOTION TO RESET
HEARING ON MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Charles Mosely, asks the Court to reset the hearing on Defendant NewRez Mortgage LLC d/b/a Shellpoint Mortgage Servicing's motion for summary judgment until {O date), because plaintiff was not given the required notice under Texas Rule of Civil Procedure 166a(c).

INTRODUCTION

1. Plaintiff, Charles Mosely, sued defendant, NewRez Mortgage LLC d/b/a Shellpoint Mortgage Servicing, for escrow account dispute.
2. The motion for summary judgment is set for submission/hearing on July 15, 2024.

BACKGROUND

- 3 Defendant served its motion for summary judgment and notice of submission/hearing on Plaintiff on July 15, 2024, by mail. The notice of submission/hearing identified the date for the submission/hearing July 15, 2024.

4. To support the facts in this motion, Plaintiff includes the affidavit of Charles Mosely affiant and the exhibits attached to that affidavit Exhibit (A) and incorporates the evidence into this motion by reference.

5 A copy of the envelope is attached to the affidavit in support of this motion as Exhibit (A).

ARGUMENT & AUTHORITIES

6. Generally, a nonmovant is entitled to 21 days' notice of the date set for hearing or submission of the motion. Tex. R. Civ. P. 166a(c); *Lewis v. Blake*, 876 S.W.2d 314, 316 (Tex. 1994). But if the motion is served by mail, the nonmovant is entitled to 24 days' notice. see Tex. R. Civ. P. 4, 21a(c), 166a(c); *Lewis*, 876 S.W.2d at 315-16; *Chadderdon v. Blaschke*, 988 S.W.2d 387, 388 (Tex. App.—Houston [1st Dist.] 1999, no pet.).

7. Because summary judgment is a harsh remedy, the notice requirements of Rule 166a are strictly construed. *Chadderdon*, 988 S.W.2d at 388; *Luna v. Estate of Rodriguez*, 906 S.W.2d 576, 582 (Tex. App.—Austin 1995, no writ). The notice provisions of the rule are intended to prevent the rendition of a judgment without allowing the opposing party a full opportunity to respond on the merits. *Chadderdon*, 988 S.W.2d at 388.

8. Rule 166a(c) allows a party to file a late motion only "on leave of court, with notice to opposing counsel." Tex. R. Civ. P. 166a(c). Defendant did not secure leave of court to file the motion with less than { 21 days'/24 days'} notice.

9. In computing the deadline to give proper notice, the day of the hearing is counted, but the day the motion and notice of hearing are served is not. Tex. R. Civ. P. 4; Lewis, 876 S.W.2d at 316; see Tex. R. Civ. P. 166a(c).

10. Because the motion and notice of submission/motion and notice of hearing/ notice of submission/notice of hearing were served by mail, Plaintiff is entitled to 24 days' notice of the hearing, counting from the day after the notice/motion and notice was mailed. *Lewis*, 876 S. W.2d at 388; see Tex. R. Civ. P. 4, 21a(c), 166a(c).

11. Plaintiff did not receive the 21/24} days' notice of the summary-judgment submission/hearing}; Plaintiff was given only 16 days' notice. Plaintiff received Notice and Motion for hearing on June 28, 2024, four days less than the requirement, pursuant to Tex. R. Civ. P. 4, 21a(c), 166a(c).

CONCLUSION

12. Due to the insufficiency of the Notice period, plaintiff request a new hearing date that complies with the Texas Rules of Civil Procedure.

PRAYER

13. For these reasons, Plaintiff asks the Court to reset the hearing on the motion for summary judgment that the Court deem equitable.

Sincerely,

Charles Mosely
P. O. Box 450662
Houston, Texas 77245
Plaintiff Pro per

CERTIFICATE OF SERVICE

This is to fax or certify that a true, correct, and complete copy of the forgoing document has been served via U.S. Mail as follows on July 14, 2024,

R. Martin Dungan
2001 Ross Ave., Ste. 3600
Dallas, Texas 75201

Charles Mosely

Affidavit

STATE OF TEXAS §

HARRIS COUNTY §

AFFIDAVIT OF Charles Mosely

Before me, the undersigned notary, on this day personally appeared Charles Mosely, the affiant, a person whose identity is known to me. After I administered an oath, affiant testified as follows:

1. My name is Charles Mosely. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

SWORN TO and SUBSCRIBED before me by Charles Mosely on _____, 2024..

Notary Public in and for the State of Texas

ORDER

After considering plaintiff Charles Mosely's Motion to Reset Hearing and affidavits, the Court finds there is evidence to Reset Hearing.

Therefore, by this order, the Court does the following:

SIGNED on _____, 2024, at a.m./p.m.

PRESIDING JUDGE

Unofficial Copy Office of Marilyn Burgess District Clerk

EXHIBIT

Unofficial Copy Office of Marilyn Burgess District Clerk



[Z1B]

E-Mail Email:

Password:

[New User](#) [Forgot](#)

<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

Password:

[back to top navigation](#)

Civil/Family Filing Methods

There are several ways to file your legal documents. You do not have to file in person. Make sure before proceeding to an alternate method that you check to see if the court requires electronic filing only by Mandate of the court.

Alternate methods include:

Internet

The Internet is the quickest way to file documents with our office.

- Access [TexFile](#) to eFile and review payment method
- Complete all necessary information
- Attach documents
- Click submit

Mail

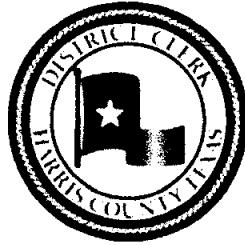
To file documents by mail:

- Include additional copies of your document and self-addressed stamped envelope for return receipt, if desired
- [Payment options](#)
- Allow 2-3 weeks for confirmation and/or return receipt

24-Hour Drop Box

The District Clerk's Office provides after hour filing privileges for customers needing to file documents after the office is closed. This area is located at 201 Caroline at the north side of the building (the left side). This service is available 24 hours daily, 365 days a year.

[back to top navigation](#)



HARRIS COUNTY DISTRICT CLERK

Marilyn Burgess, Harris County District Clerk
201 Caroline, Suite 420
Houston, TX 77002

Follow us

ABOUT

Unofficial Copy Office of Marilyn Burgess District Clerk

EXHIBIT

D

Unofficial Copy Office of Maitlyn Burgess District Clerk

Cause No. 2021-03881

CHARLES MOSELY, § **IN THE DISTRICT COURT**
Plaintiff, §
§ **OF HARRIS COUNTY**
vs. § **TEXAS**
§
NEWREZ MORTGAGE LLC D/B/A § **215th JUDICIAL DISTRICT**
SHELLPOINT MORTGAGE §
SERVICING, §
DEFENDANT, §

**PLAINTIFF'S SUPPLEMENTAL MOTION TO CORRECT CLERICAL ERROR, TO
RESET HEARING ON MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Charles Mosely, asks the Court to reset the hearing on Defendant NewRez Mortgage LLC d/b/a Shellpoint Mortgage Servicing's motion for summary judgment because plaintiff was not given the required notice under Texas Rule of Civil Procedure 166a(c).

INTRODUCTION

1. Plaintiff, Charles Mosely, sued defendant, NewRez Mortgage LLC d/b/a Shellpoint Mortgage Servicing, for escrow account dispute.
2. The motion for summary judgment was set for submission/hearing on July 15, 2024.

BACKGROUND

3 Defendant served its motion for summary judgment and notice of submission/hearing on Plaintiff on June 28, 2024, by mail. The notice of submission/hearing identified the date for the submission/hearing July 15, 2024.

4 To support the facts in this motion, Plaintiff includes the affidavit of Charles Mosely affiant and the exhibits attached to that affidavit Exhibit (A) and incorporates the evidence into this motion by reference.

5 A copy of the envelope is attached to the affidavit in support of this motion as Exhibit: (A)

ARGUMENT & AUTHORITIES

6 Generally, a nonmovant is entitled to 21 days' notice of the date set for hearing or submission of the motion. *Campos v. Cintas Corp.*, No. 13-04-365-CV (Tex. App. Aug. 22, 2005) Tex. R. Civ. P. 166a(c); *Lewis v. Blake*, 876 S.W.2d 314, 316 (Tex. 1994). But if the motion is served by mail, the nonmovant is entitled to 24 days' notice. see Tex. R. Civ. P. 4, 21a(c), 166a(c); *Lewis*, 876 S.W.2d at 315-16; *Chadderdon v. Blaschke*, 988 S.W.2d 387, 388 (Tex. App.—Houston [1st Dist.] 1999, no pet.).

7 Because summary judgment is a harsh remedy, the notice requirements of Rule 166a are strictly construed. *Chadderdon*, 988 S.W.2d at 388; *Luna v. Estate of Rodriguez*, 906 S.W.2d 576, 582 (Tex. App.—Austin 1995, no writ). The notice provisions of the rule are intended to prevent the rendition of a judgment without allowing the opposing party a full opportunity to respond on the merits. *Chadderdon*, 988 S.W.2d at 388.

8. Rule 166a(c) allows a party to file a late motion only "on leave of court, with notice to opposing counsel." Tex. R. Civ. P. 166a(c). Defendant did not secure leave of court to file the motion with less than { 21 days'/24 days'} notice.

9. In computing the deadline to give proper notice, the day of the hearing is counted, but the day the motion and notice of hearing are served is not. Tex. R. Civ. P. 4; Lewis, 876 S.W.2d at 316; see Tex. R. Civ. P. 166a(c).

10. Because the motion and notice of submission/motion and notice of hearing/notice of submission/notice of hearing were served by mail, Plaintiff is entitled to 24 days' notice of the hearing, counting from the day after the notice/motion and notice was mailed. Lewis, 876 S. W.2d at 388; see Tex. R. Civ. P. 4, 21a(c), 166a(c).

11. Plaintiff did not receive the 21/24} days' notice of the summary-judgment submission/hearing}; Plaintiff was given only 16 days' notice. Plaintiff received Notice and Motion for hearing on June 28, 2024, four days less than the requirement, pursuant to Tex. R. Civ. P. 4, 21a(c), 166a(c).

CONCLUSION

12. Due to the insufficiency of the Notice period, plaintiff request a new hearing date that complies with the Texas Rules of Civil Procedure.

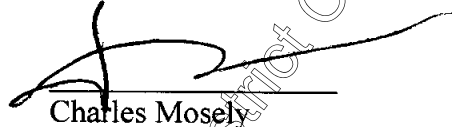
PRAYER

13. For these reasons, Plaintiff asks the Court to reset the hearing on the motion for summary judgment that the Court deem equitable.

CERTIFICATE OF SERVICE

This is to fax or certify that a true, correct, and complete copy of the forgoing document has been served via U.S. Mail as follows on July 14, 2024,

R. Martin Dungan
2001 Ross Ave., Ste. 3600
Dallas, Texas 75201


Charles Mosely

Affidavit

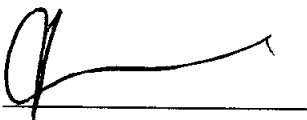
STATE OF TEXAS §

HARRIS COUNTY §

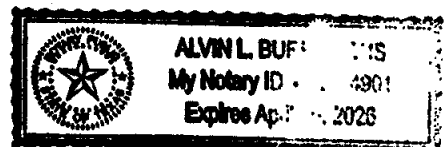
AFFIDAVIT OF Charles Mosely

Before me, the undersigned notary, on this day personally appeared Charles Mosely, the affiant, a person whose identity is known to me. After I administered an oath, affiant testified as follows:

1. My name is Charles Mosely. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.



SWORN TO and SUBSCRIBED before me by Charles Mosely on 7/14, 2024..



Albert L. Burgess

Notary Public in and for the State of Texas

ORDER

After considering plaintiff Charles Mosely's Motion to Reset Hearing and affidavits, the Court finds there is evidence to Reset Hearing.

Therefore, by this order, the Court does the following:

SIGNED on _____, 2024, at a.m./p.m.

PRESIDING JUDGE

Unofficial Copy Office of Marilyn Burgess District Clerk

EXHIBIT.....A

Unofficial Copy Office of Marilyn Burgess District Clerk

akerman

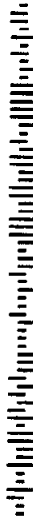
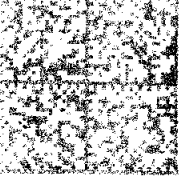
US POSTAGE

Recipient

FIRST CLASS MAIL

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

POSTAGE WILL BE PAID BY ADDRESSEE



Charles Mosely
3005 Nita Street
Houston, TX 77051

Unofficial Copy Office of Marilyn Burgess District Clerk

EXHIBIT

E

Unofficial Copy Office of Marilyn Burgess District Clerk

Frustration grows as Houston's power outage goes into 4th sweltering day

CenterPoint Energy said at least 750,000 won't have power until the weekend.

By **Bill Hutchinson**

July 11, 2024, 2:20 PM



Vehicles line up at a gas station in Houston, TX, Tuesday July 9, 202...

Mark Felix/Bloomberg via Getty Images

[Show More](#)

More than a million electrical customers in Houston remained without power amid sweltering weather on Thursday and most won't have their power restored until the end of this weekend, a full week after Hurricane Beryl swept in and damaged the energy grid, officials said.

Many Houston residents and elected leaders said they were losing their patience with the main utility company in the area, CenterPoint Energy,

accusing the company of being slow in restoring electricity.

"I'm not in the business of grading. I'm in the business of saying, 'Let's get it done.' We demand that they do better," Houston Mayor John Whitmire said of CenterPoint Energy during a news conference Wednesday.

CenterPoint Energy said Wednesday night that of the almost 2.3 million customers who lost power when Beryl came ashore early Monday as a Category 1 hurricane, about a million have had their power restored.

But the utility giant said at least 750,000 customers won't have their electricity back on until the end of this week, including 350,000 who will be without power until Sunday evening, a full week after Hurricane Beryl hit the Gulf Coast of Texas.

"We are fully focused on achieving our next restoration goals, while continuing to address the issues in the hardest-hit areas where there is major damage to our equipment and infrastructure," CenterPoint Energy Lynnae Wilson, the company's senior vice president, said in a statement Wednesday night.

As a CenterPoint Energy official warned residents on Wednesday that "it will take days" to restore power to everyone, Whitmire questioned why the Houston Astro's game was able to be played under the lights of Minute Maid Park on Tuesday night as more than a million residents suffered under hot, humid conditions without power.

"We have to get our priorities right, folks," Whitmire said.

Beryl made landfall in Texas as a Category 1 hurricane early Monday, knocking down power lines, toppling trees onto homes, flooding streets, killing at least six people and leaving Houston, the fourth largest U.S. city with more than 2.3 million residents, under miserable conditions, officials said.

On top of the damage exacted by Beryl, a heat advisory remains in effect in the Houston area, where the temperature is forecast to reach a high of 90 degrees on Thursday with a 40% chance of rain. The National Weather Service said the heat index, which factors in low humidity, will make the Houston area feel more like 106 degrees.

A spokesperson for the Houston Fire Department said Thursday that the agency has received 262 carbon monoxide poisoning calls since Beryl made landfall and urged residents to operate portable generators outside their homes.

At a news conference Thursday afternoon, Mayor Whitmire and acting police Chief Larry Satterwhite announced that more than 100 law enforcement officers from agencies across Texas are going to Houston to relieve the city's police officers, who have been working 12-hour shifts every day since the storm hit. The additional officers will be assigned to patrol neighborhoods left in the dark by the power outage or assist with traffic control at intersections where traffic lights are out, the officials said.

This announcement was made in the shadow of the death of Deputy Fernando Esqueda who was killed last night by a suspect who is still on the run.

"I know that we're all tired and frustrated. We're hot. We are struggling to sleep and cool off and we absolutely have storm fatigue," Judge Lina Hidalgo, the executive of Harris County, said at the start of a news conference on Tuesday afternoon.

Assessing the post-Beryl situation, Hidalgo reported long lines at the few gas stations that remain open, hospitals and senior living facilities without power, food dwindling at grocery stores, widespread damage caused by Beryl's 97 mph wind gusts and 13 inches of rain in some areas.



Harris County Executive Judge Lina Hidalgo updates the community on po...
KTRK-TV

[Show more](#) ▾

"The main point here [is] I really want to encourage people not to panic. We can get through this," said Hidalgo, adding that her home was without power.

But Paul Locke, CenterPoint Energy's director of local government affairs, could only offer cold comfort to customers of the utility giant, saying, "It's going to be days" before power is restored to everyone.

"I can't give you a timeline, but it's not going to be tomorrow," Locke said.

About 12,000 linemen have been deployed to the field as CenterPoint continued Wednesday to assess damage to its electrical grid, the energy provider said.



Vehicles line up for gas along Northpark Drive after Hurricane Beryl made i...
Jason Fochtman/Houston Chronicle via Getty Images

[Show more](#) v

When Beryl blew in on Monday, about 80% of those the utility serves lost power.

Drawing comparisons to a severe storm in May that knocked out power to about 1 million CenterPoint Energy customers, Locke said it took 4 1/2 days to restore power to everyone in the wake of that storm.

In its statement Wednesday night, CenterPoint Energy said crews are "nearing completion on damage assessment, with more than 8,500 miles of its circuits walked and thousands of miles flown across the Greater Houston area."

"Crews have identified extensive tree damage across the company's system. Trees across the Greater Houston area were particularly vulnerable due to three unusual years of weather, including significant freezes, drought and

heavy rain this past spring. Downed trees and a significant amount of tree

wires, the company said.

LOG IN

MORE: 2.7 million people still without power, Texas Lt. Gov. Dan →
Patrick says

Locke assured customers that the utility company was working as fast as possible to restore power, adding many members of the repair crews were without power, too.

"Nobody wants to sleep in a house that's 85 degrees," Locke said.

Compounding the problem, the Red Cross has been unable to set up shelters in Houston because of the lack of electricity, Hidalgo said.



Traffic is directed around a downed power line in Houston, July 9, 2024.

Eric Gay/AP

Hidalgo also noted an emergency that occurred at the Lyndon B. Johnson Hospital in Houston at the onset of the hurricane, saying the facility, which she described as "one of the pillars" of the city's health care system, lost power and could not get its back-up generator to work for several hours.

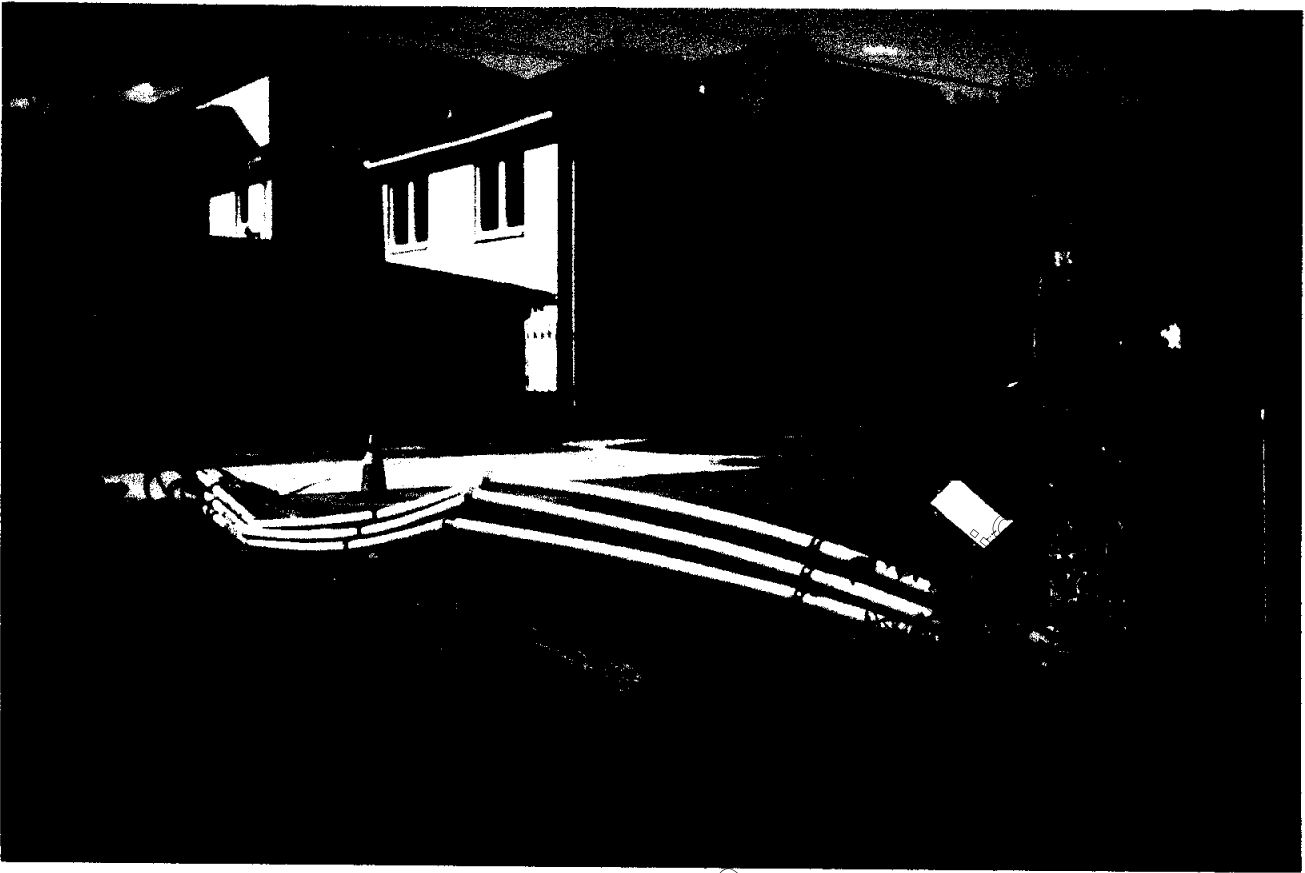
"It got so warm in the hospital that people's lives were at risk," Hidalgo said. "They had to shut down all operating rooms except for two, which meant even a lot of emergency operations were delayed."

MORE: Remnants of Hurricane Beryl move north as Texas →
recovers from deadly storm

Hidalgo also said the storm prompted the closure of the Port of Houston, where much of the fuel for gas stations comes in. She said gas stations are relying on trucks to bring in fuel.

"So the ones that don't have power, they can't supply the fuel and the ones that do have fuel are seeing limitations because everyone is going there," Hidalgo said.

Unofficial Copy Office of Marilyn Burgess District Clerk



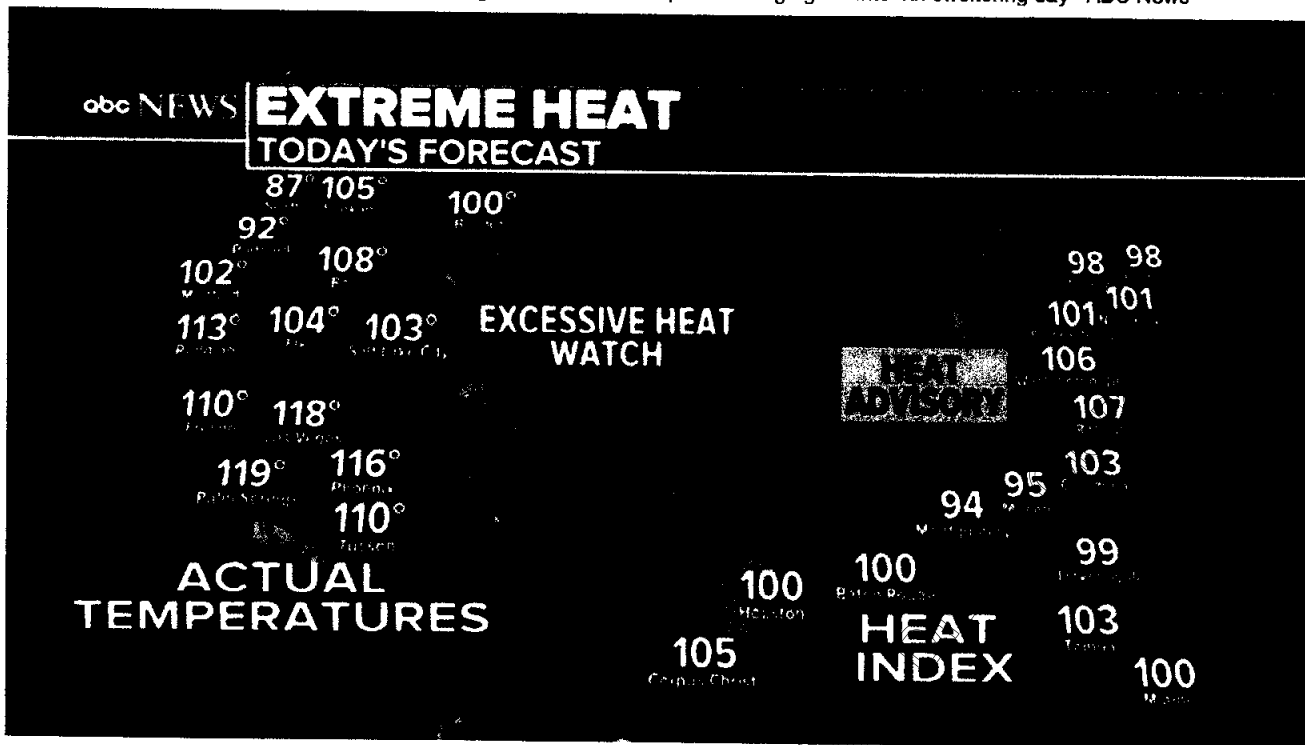
A snapped utility pole in the middle of a street in Houston, TX, on Tuesday, July 9, 2024.

Mark Felix/Bloomberg via Getty Images

She said that while some grocery stores reported running out of perishable items, "We're not in a situation where we are going to run out of food or where it is just impossible for fuel to get to Harris County in the event of a serious emergency."

Houston resident Joanne Posey was among numerous people without power on Wednesday picking up emergency supplies and water at a cooling station established at the LeRoy Crump Stadium in Houston.

"It's hard, but you just keep the faith with sweat going down your face," Posey told ABC Houston station KTRK, as she waited in her car to pick up supplies.



Extreme Heat in the U.S.

ABC News

Susan Balderas of Houston was among those waiting in line at a gas station, telling KTRK that it was the second place she went to fill up her tank.

"I've taken my lunchtime today to find gas because in the area I live, a lot of power is still out," Balderas said. "Gas stations are out. Long lines everywhere."

President Joe Biden granted a federal emergency disaster declaration on Tuesday for 121 Texas counties affected by Beryl, which will speed up federal assistance to the area.

Texas Lt. Governor Dan Patrick is serving as governor in the absence of Gov. Greg Abbott, who is on an economic development mission in Asia. Patrick said he spoke to Biden on Tuesday and made the formal request for federal assistance after he toured the damaged areas.

In an interview with the Houston Chronicle, Biden alleged that state officials in Texas slowed down the federal efforts by not putting in a formal request with the administration sooner.

"I don't have any authority to do that without a specific request from the governor," Biden told the Chronicle.

Patrick, a Republican, later accused Biden of making the storm recovery "a political issue."

Related Topics

[Weather](#)



[ABC News Network](#) [About Nielsen Measurement](#) [Children's Online Privacy Policy](#) [Contact Us](#)
[Interest-Based Ads](#) [Privacy Policy](#) [Terms of Use](#) [Your US State Privacy Rights](#)

© 2024 ABC News

Unofficial Copy Office of Marilyn Burgess District Clerk

EXHIBIT

F

Unofficial Copy Office of Marilyn Burgess District Clerk

FILED

Chris Daniel
District Clerk

DEC 28 2016

PL6

Time: 1:30pm
Harris County, Texas

2016 - 88212

By [Signature]
Deputy Iris Collins

CASE NO. _____

Charles Mosely
Plaintiff,

§

IN THE DISTRICT COURT OF

§

§

vs

§

HARRIS COUNTY, TEXAS

§

SHELLPOINT MORTGAGE SERVICING,

§

PENNYMAC LOAN SERVICE, LLC, AND

§

WELLS FARGO BANK, N.A.

§

DEFENDANTS

§

125th JUDICIAL DISTRICT

COMPLAINT

Plaintiff, Charles Mosely, files this complaint against Defendants Shellpoint Mortgage Servicing, PennyMac Loan Service, LLC, and Wells Fargo Bank, N. A. state the following:

DISCOVERY- CONTROL PLAN

Plaintiff intends to conduct discovery in accordance with the Texas Rule of Civil Procedures 190.3 as a Level 2 case.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, reside in Houston, Harris, Texas.

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

2. Defendant, Shellpoint Mortgage Servicing, with its principal office in Dallas, Texas which is registered in Texas as a Collection Agency and conducts business in Harris County, Texas.
3. Defendant, PennyMac Loan Service, LLC, with its principal office in Ft. Worth, Tarrant County, Texas which is registered in Texas as a Collection Agency and conducts business in Harris County, Texas.
4. Defendant, Wells Fargo Bank, N.A., is a national banking association with its principal office in Houston, Harris, Texas.
5. The majority of the transactions and occurrences on which this Complaint is based occurred in Harris County, Texas.

JURISDICTION AND VENUE

6. This Court has jurisdiction of the matters complained of in this Complaint pursuant to Texas Civil Practice and Remedies Code section 17.001.
7. Venue is proper in this Court for the matters complained of in this Complaint pursuant to Texas Civil Practice and Remedies Code section 15.035(a).

FACTS ON WHICH ALL COUNTS ARE BASED

8. On October 8, 2008 the Plaintiff, as borrower, entered into a mortgage loan transaction with Wells Fargo Bank, N.A.
9. For that transaction the Plaintiff executed and delivered to Wells Fargo Bank, N.A., a promissory note and mortgage on his home in Houston, Texas to secure the Note. Copies of the Note and the Deed of Trust are attached as Exhibits 1, respectively.

10. On August 1, 2015 the PennyMac Loan Service LLC., as receiver for Wells Fargo Bank, N.A., transferred the lender's ownership of the Note and the Deed of Trust to Shellpoint Mortgage Servicing.
11. In September 8, 2015, Shellpoint Mortgage Servicing, on behalf of Wells Fargo Bank, N.A., asserted that Plaintiff was in default under the Note and Deed of Trust because he failed to make the monthly payments required by the Note and Deed of Trust.
12. That assertion by Shellpoint Mortgage Servicing, on behalf of Wells Fargo Bank, N.A. was erroneous.
13. Due to their own negligence, Shellpoint Mortgage Servicing did not properly receive and record the payments made by the Plaintiff.
14. Based on its fallacious default assertion, Shellpoint Mortgage Servicing began proceeding against the Plaintiff as though he was, in fact in default.
15. In so proceeding, Shellpoint Mortgage Servicing, on behalf of Wells Fargo Bank, N.A., pursued a course of conduct which was ill-conceived, improperly carried out and simply a wrongful perversion of the conduct that Shellpoint Mortgage Servicing should have undertaken to correct the errors that existed with respect to the Plaintiff.
16. When the Plaintiff contacted the employees of PennyMac Loan Services, the Plaintiff was advised that the required payments had, in fact, been paid.
17. On one occasion the Plaintiff was advised that he had a escrow account.
18. That only demonstrated the futility of what PennyMac Loan Services, LLC., employees were doing, because the Plaintiff never had a escrow account for the mortgage loan which is the subject of this litigation.

NEGLIGENCE MISREPRESENTATION

19. As Paragraph 19 all of the statements and allegations in Paragraph 1 through 18 are restated and alleged though fully stated and alleged here.
20. The default claims being pursued by Shellpoint Mortgage Servicing and PennyMac Loan Services, LLC, and Wells Fargo Bank, N.A. were cause solely by the negligence of Shellpoint Mortgage Servicing and PennyMac Loan Services, LLC, and Wells Fargo Bank, N.A.
21. Neither Shellpoint Mortgage Servicing and PennyMac Loan Services, LLC, and Wells Fargo Bank, N.A. made any attempt to correct the default they had wrongfully declared, instead they misrepresented and misled the Plaintiff about their real efforts.
22. Shellpoint Mortgage Servicing and PennyMac Loan Services, LLC, and Wells Fargo Bank, N.A. actively concealed from the Plaintiff their intent to pursue a foreclosure proceeding, regardless of whether that was truly justified.

JURY DEMAND

Plaintiff hereby respectfully demands a trial by jury.

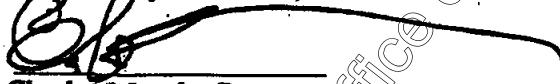
REQUEST FOR DISCLOSURE

Pursuant to Texas Rules of Civil Procedure 194, you are hereby required to disclose within fifty days after date of service of this Request, the information and material described in Rule 194.2(a) through (i).

WHEREFORE, the Plaintiff prays for and Order which provides that:

- A. Shellpoint Mortgage Servicing is required to use its best efforts to cause Wells Fargo Bank, N.A. to cease its attempted foreclosure of the Mortgage and, instead, reinstate the debt evidenced by the Note on equitable basis.**
- B. The Plaintiff is granted a judgment, jointly and severally, against Shellpoint Mortgage Servicing and PennyMac Loan Services, LLC, as the disclosed principal of Wells Fargo Bank, N.A., in the amount that the Plaintiff prove at trial of this cause that they have been damaged by misinformation of Shellpoint Mortgage Servicing.**
- C. The Plaintiff is awarded the allowable cost of this litigation.**
- D. The Plaintiff is granted such other and further relief as Court may deem just and appropriate.**

Respectfully submitted,



Charles Mosely, Pro per
3005 Nita Street
Houston, TX. 77051
(830) 5225836

Unofficial Copy Office of Marilyn Burgess District Clerk

AFFIDAVIT OF CHARLES MOSELY IN SUPPORT OF COMPLAINT

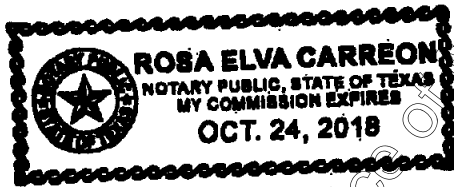
STATE OF TEXAS


COUNTY OF HARRIS

Charles Mosely, being duly sworn, appeared before me, the undersigned notary public, on 12/23/2016 and stated upon his oath that he has personal knowledge of the facts set forth in the COMPLAINT and that such facts are true and correct.

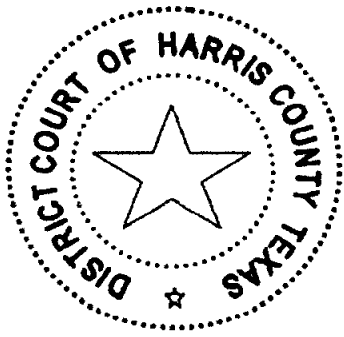

Charles Mosely

SWORN TO and SUBSCRIBED BEFORE ME by Charles Mosely on 12/23/2016 My commission expires on 10/24/18




Notary Public in and for the State of Texas

Unofficial Copy Office of Marilyn Burg District Clerk



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this August 10, 2024

Certified Document Number: 73234297 Total Pages: 6

Marilyn Burgess

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

Unofficial Copy Office of Marilyn Burgess District Clerk

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

EXHIBIT

G

Unofficial Copy Office of Mallyn Burgess District Clerk

CRT - 125 CASE -- 201688212
MOSELY, CHARLES

VS

SHELLPOINT MORTGAGE SERVICING
BE ADVISED ON 12/13/2017 THE
FOLLOWING ACTIVITY OCCURRED.
ORDER FOR INTERLOCUTORY
SUMMARY JUDGMENT SIGNED
AS TO THE FOLLOWING PARTIES--
PENNYMAC LOAN SERVICE L

CHRIS DANIEL
DISTRICT CLERK, HARRIS COUNTY

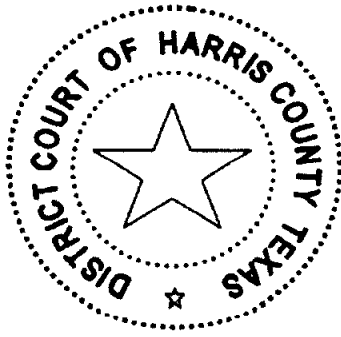
Unofficial Copy Office of Marilynn B. Williams

Uncertified Copy Office of Marilyn Burgess District Clerk

**FILED
CHRIS DANIEL
DISTRICT CLERK
HARRIS COUNTY, TEXAS**

17 DEC 19 AM 9: 58

BY 12-19-17



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this August 13, 2024

Certified Document Number: 77903803 Total Pages: 2

Marilyn Burgess

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

Unofficial Copy Office of Marilyn Burgess District Clerk

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

EXHIBIT

H

Unofficial Copy Office of Mallyn Burgess District Clerk

STATE OF TEXAS

COUNTY OF HARRIS

PLAINTIFF AFFIDAVIT

I, Charles Mosely, Paid \$13,000.00 cash money down payment, with \$225.99 monthly installments on principal and interest, no escrow. I purchase this house with the intention of making a home for my school-age daughter, I'm a single parent. second generation veteran 50 per cent physical disability, verifiable. I was became delinquent on my mortgage primarily due to early retirement due to limitation.

Wells Fargo Bank N. A transferred the of mortgage servicing duties to PennyMac then PennyMac to Shellpoint Mortgage Service. I began monthly ACH payment to PennyMac of the amount of \$225.99, later Initiated bi-weekly payment. See Exhibit: A . Shellpoint failed to indicate they refused to accept my payments after missing two payments and increasing from \$225.99 to \$788.29. Shellpoint alleged I did not have wind insurance I did and do have the required protection.

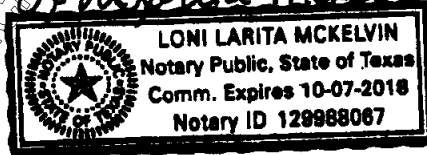
I have been inform by the insurance company that they notify mortgage servicers prior to insurance renewal and after reinstatement. My question is why the game? I written two QWL and was one written and submitted by an attorney. Inquiring how Shellpoint EL AL, what method computation they use, show me the numbers. I made the same request in my first interrogatories they were not forthcoming.

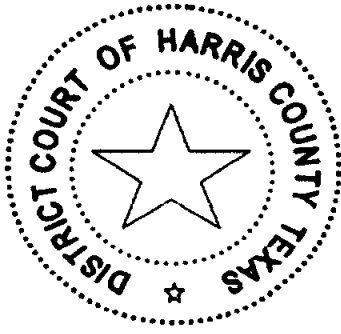
I did not attend mediation, I simply was not available. My daughter a third-generation soldier and 1Lt. deployed to Iraq. I submitted an email to Mr. Womble and faxed request reschedule to Mrs. Hays. See Exhibit C. I know and appreciate the value of mediation. See Exhibit D



Affiant Signature

subscribed and sworn to before me on this 11 day of January 2018





I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this August 10, 2024

Certified Document Number: 78212207 Total Pages: 2

Marilyn Burgess

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

Unofficial Copy Office of Marilyn Burgess District Clerk

In accordance with Texas Government Code 51.301 and 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com