

CAUSE NUMBER 2023-20312

NATIONSTAR MORTGAGE, LLC
Plaintiffs,

vs.
LAURA M. DELAGARZA, U.S. BANK
NATIONAL ASSOCIATION, and QUEST
TRUST COMPANY FBO NIKOLA
KNEZEVIC IRA # 11588-21
Defendant.

IN THE DISTRICT COURT

215TH JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, QUEST TRUST COMPANY FBO NIKOLA KNEZEVIC IRA # 11588-21 (hereinafter "Defendant") and files its Original Answer and Affirmative Defenses, and would show unto the Court as follows:

I. GENERAL DENIAL

1. Defendant enters a general denial as to each and every, all and singular, material allegations contained in the Plaintiffs' current Petition and demands strict proof thereof by a preponderance of the evidence or such higher standard as may be applicable.

II. AFFIRMATIVE DEFENSES

2. Defendant pleads that Plaintiffs have failed to name all necessary parties to this suit. 3. Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff's own acts or omissions caused or contributed to their alleged injury. Under Chapter 33 et. seq., of the Texas Civil Practice & Remedies Code, Defendant requests the trier of fact determine the proportionate responsibility of Plaintiff, co-defendants (if any) and any responsible third parties for the damages allegedly suffered by Plaintiff, be those damages suffered themselves, by other plaintiff, third parties or other parties to this suit, and to award Plaintiff judgment, if any, against

Defendant for only those damages (if any) it is found to be proportionately responsible. If Plaintiff settles with any alleged tortfeasor, Defendant reserves its right to full credit for settlements under Chapter 33 of the Texas Civil Practice & Remedies Code. Defendant would also show the acts and omissions of any such settling parties should be submitted for consideration by the trier of fact in determining the relative responsibilities of all parties to the occurrence(s) made the basis of this lawsuit.

4. Plaintiff's claims are precluded, in whole or in part, because any alleged acts and/or omissions of Defendant were not the producing cause of Plaintiff's alleged damages. Rather, such damages, if any, were proximately caused by the acts, omissions, or breaches of other persons and/or entities, including Plaintiff, and the acts, omissions, or breaches were intervening and superseding causes of Plaintiff's damages, if any.

5. Defendant is not liable for the acts, omissions, or conduct of other persons or entities not authorized to act on its behalf. Further, Defendant is not liable for the acts or omissions of its agents, if any, who exceeded the scope of their authority.

6. Defendant pleads that Plaintiff has failed to plead and prove conditions precedent to recovery herein.

PRAYER

WHEREFORE, PREMISES CONSIDERED, QUEST TRUST COMPANY FBO NIKOLA KNEZEVIC IRA # 11588-21 prays the Court find in favor of Defendant and against Plaintiff in all respects and that Plaintiffs take nothing by way of their causes of action.

Respectfully submitted,

BARRY & SEWART, PLLC

/s/John V. Burger

Anna C. Sewart, SBN: 24029832

David W. Barry, SBN: 01835200

Austin R. DuBois, SBN: 24065170

John V. Burger, SBN: 03378650

Christopher T. Boyd, SBN 24108500

4151 Southwest Freeway, Suite 680

Houston, Texas 77027

Telephone: (713) 722-0281

Telecopier: (713) 722-9786

john@barryandsewart.com

ATTORNEYS FOR QUEST TRUST COMPANY
FBO NIKOLA KNEZEVIC IRA # 11588-21

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Defendant's Original Answer and Affirmative Defenses was served upon all parties or their attorneys pursuant to the Texas Rules of Civil Procedure on this the 21st day of May, 2024.

Robert L. Negrin
McCarthy & Holtus, LLP
1255 West a5th Street, Suite 1060
Plano, TX 75075

Email: rnegrin@McCarthyHoltus.com

ATTORNEY FOR NATIONSTAR MORTGAGE, LLC, Plaintiff.

Shawnika L. Brooks
4004 Belt Line Road, Ste. 100
Addison, Texas 75001

Email: ShawnikB@bdfgroup.com

ATTORNEY FOR U.S. BANK NATIONAL ASSOCIATION, Defendant.

/s/ John V. Burger
John V. Burger

Unofficial Copy Office of Marilyn Burgess District Clerk

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e File on behalf of John Burger
Bar No. 3378650
efile@barryandsewart.com
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Filing Description: DEFENDANT'S ORIGINAL ANSWER AND
AFFIRMATIVE DEFENSES
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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Robert Negrin		rnegrin@mccarthyholthus.com	5/21/2024 4:26:14 PM	SENT
Ashley Crout		acrout@mccarthyholthus.com	5/21/2024 4:26:14 PM	SENT
Robert Davis Forster	24048470	robertfo@bdfgroup.com	5/21/2024 4:26:14 PM	SENT
Shawnika Brooks		ShawnikB@bdfgroup.com	5/21/2024 4:26:14 PM	SENT
John VBurger		evictions@barryandsewart.com	5/21/2024 4:26:14 PM	SENT
JOHN VBURGER		john@barryandsewart.com	5/21/2024 4:26:14 PM	SENT
David Barry		dwbarry@barryandsewart.com	5/21/2024 4:26:14 PM	SENT

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