

CAUSE NO. 2023-69776

ANTHONY WELCH DBA SUPERIOR
CONSULTING GROUP AND
ANTHONY JACKSON
Plaintiffs

vs.

PLANET HOME LENDING, CATAMOUNT
PROPERTIES 2018, LLC, PRESTIGE
DEFAULT SERVICES, LLC, AUCTION.COM,
INC., AND JEFF LEVA
Defendants

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IN THE JUDICIAL COURT

270TH JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

JEFF LEVA'S SECOND AMENDED ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, DEFENDANT JEFF LEVA ("Defendant"), and files his Answer to, and in support thereof would respectfully show unto this Honorable Court the following:

I. GENERAL DENIAL

1. Pursuant to RULE 92, TEXAS RULE OF CIVIL PROCEDURE, Defendant hereby generally denies each and every allegation contained in Plaintiffs' Third Amended Original Petition, and demands strict proof thereof in accordance with the Constitution and laws of the State of Texas.

II. AFFIRMATIVE DEFENSES

2. Failure to State a Claim: Defendant is not liable to Plaintiffs, in whole or in part, because Plaintiffs failed to state a claim upon which relief may be granted.

3. Third Persons: Defendant further alleges that the occurrence made the basis of this suit was caused in whole or in part by third persons, including but not limited to, other parties, including Plaintiffs, over whom Defendant had no control and for whose acts and/or omissions it

was not in fact nor in law responsible.

4. Percentage of Responsibility: In accordance with Section 33.003 of the Texas Civil Practice and Remedies Code, Defendant asserts that the jury shall determine the percentage of responsibility for each plaintiff, each defendant, each settling party, and each responsible third party designated under Section 33.004 of the Texas Civil Practices and Remedies Code, with respect to each person's causing or contributing to cause in any way the harm for which recovery of damages is sought.

5. Joint and Several Liability: Pursuant to Section 33.013 of the Texas Civil Practice and Remedies Code, Defendant may not be held jointly and severally liable for any amount of damages claimed herein unless the percentage of responsibility to Defendant as found by the trier of fact is greater than fifty percent (50%).

6. Exemplary Damages: Defendant denies that the harm with respect to which Plaintiffs seek recovery of exemplary damages resulted from fraud, malice, or gross negligence on the part of Defendant as required by Section 41.003(a) of the Texas Civil Practice and Remedies Code. Defendant affirmatively asserts and pleads that Plaintiffs' claims for exemplary and punitive damages is controlled and limited by Chapter 41 of the Texas Civil Practice and Remedies Code, by decisions of the Texas Supreme Court, the United States Supreme Court and by Defendant's constitutional rights, including the right to due process of law.

7. Texas Property Code 51.007(f): Defendant is not liable to Plaintiffs, in whole or in part, because a Trustee shall not be liable for any good faith error resulting from reliance on any information in law or fact provided by the mortgagor or mortgagee pursuant to the Texas Property Code.

III. VERIFIED DENIAL

8. Pursuant to Texas Rule of Civil Procedure 93 and Section 51.007 of the Texas Property Code, Defendant asserts the following verified denial:

9. Subject to and without waiving the above General Denial, or in the alternative, Defendant specifically denies he is a necessary or proper party to this lawsuit. Defendant avers that there is a defect in parties as he is not a proper party to this lawsuit.

10. The Third Amended Petition demonstrates that Plaintiff Welch named Defendant Jeff Leva as a party to the quiet title cause of action solely in his alleged capacity as a trustee under a deed of trust. *See* Tex. Prop. Code § 51.007(a). Specifically, Plaintiff seeks to set aside a foreclosure sale related to real property located at 15407 Arrowhead Ridge Drive, Humble, Texas 77396 on September 5, 2023, as evidenced by the Substitute Trustee's Deed. Defendant hereby requests a dismissal from this lawsuit.

PRAYER

11. WHEREFORE, PREMISES CONSIDERED, Defendant prays that:

- a. Plaintiffs recover no judgment against Defendant; and
- b. All such other and further relief to which they may be justly entitled.

Respectfully submitted,

/s/ Tiffany Serbousek Gilbert

TIFFANY S. GILBERT

State Bar No. 24058776

GREGORY BREWER

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ATTORNEYS FOR DEFENDANT JEFF LEVA

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent by TexFile e-service to all counsel of record, pursuant to the Texas Rules of Civil Procedure on August 26, 2024.

/s/ Tiffany Serbousek Gilbert

Tiffany S. Gilbert

VERIFICATION

My name is Tiffany S. Gilbert, my date of birth is March 12, 1983, and my address is 6900 Dallas Parkway, Suite 610, Plano, Texas 75024. Pursuant to Section 132.001 of the Texas Civil Practice and Remedies Code, I declare under penalty of perjury that the foregoing statements contained in Section III of Jeff Leva's First Amended Answer are within my personal knowledge and are true and correct.

Executed in Collin County, Texas on August 26, 2024.



Tiffany S. Gilbert

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.

Rachel Perez on behalf of Tiffany Gilbert

Bar No. 24058776

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Envelope ID: 91316935

Filing Code Description: Answer/ Response / Waiver

Filing Description: JEFF LEVAS SECOND AMENDED ANSWER

Status as of 8/26/2024 1:13 PM CST

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