

No. 05-23-00259-CV

IN THE COURT OF APPEALS
FIFTH DISTRICT OF TEXAS AT DALLAS

FILED IN
5th COURT OF APPEALS
DALLAS, TEXAS
08/01/23 2:33:32 PM
Ruben Morin
Clerk

NEW RESIDENTIAL MORTGAGE, LLC

Appellant

Vs.

LEGACY BROKERAGE, LLC

Appellee

ON APPEAL FROM THE 366TH JUDICIAL DISTRICT
COURT COLLIN COUNTY, TEXAS
TRIAL COURT CAUSE No. 366-01691-2022

MOTION TO DISMISS APPEAL AS MOOT

To the Honorable Justices of Said Court:

Comes now LEGACY BROKERAGE, LLC, Appellee, and files this its Motion to

Dismiss this appeal as moot, and in support hereof would show:

1. This Motion is brought pursuant to Rule 10.1, Tex.R.Civ.Pro.
2. Appellee moves the Court to dismiss this appeal as moot.
3. Upon reviewing closely the opening brief of Appellant, Appellee reviewed the property records of the Collin County Clerk.
4. Attached hereto as Exhibit is an assignment of the deed of trust at issue from Appellant to LoanCare, LLC.
5. Appellant transferred its interest in the deed of trust, the property and this appeal on February 23, 2023, before filing this appeal.
6. Reversal of the judgment below will not affect any right of Appellant. It has no stake in the outcome of this appeal.
7. When a matter is mooted, the court loses subject matter jurisdiction.
[*Meeker v. Tarrant Cnty. Coll. Dist.*, 317 S.W.3d 754, 759 \(Tex. App.—Fort Worth 2010, pet. denied\)](#)
8. At the time it filed this appeal, Appellant had no interest in the property. Accordingly, it lacks standing, lacks an interest in the litigation, and this results in this matter being now moot. [*Meeker v. Tarrant Cnty. Coll. Dist.*, 317 S.W.3d 754, 759 \(Tex. App.—Fort Worth 2010, pet. denied\)](#)
9. For the reasons stated above, Appellee moves the Court to dismiss this appeal as moot.

Respectfully submitted,

/s/ Kenneth S. Harter

Kenneth S. Harter
State Bar ID 09155300

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ken@kenharter.com
Attorneys for Legacy Brokerage

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on counsel of record via the e-filing system on August 1, 2023, addressed to:

Mark D. Hopkins
3 Lakeway Centre Ct. Suite 110
Austin, Tx. 78734

Bobbie L. Stratton
1301 McKinney St. Suite 3700
Houston, Tx. 77010

/s/ Kenneth S. Harter
Kenneth S. Harter

CERTIFICATE OF CONFERENCE

I certify that I attempted to confer with co-counsel for Appellant, Ms. Bonnie L. Stratton, and that counsel was unavailable and is presumed opposed to the relief sought herein.

/s/ Kenneth S. Harter
Kenneth S. Harter

EXHIBIT 1

ASSIGNMENT

44-23-0225
Zanetell, Marilyn J
LoanCare, LLC
Conventional
8800 AVIARY DRIVE
MCKINNEY, TX 75070

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.

FOR VALUE RECEIVED, the undersigned New Residential Mortgage LLC by LoanCare, LLC as attorney in fact under a limited power of attorney hereby grants, conveys, assigns and transfers to LoanCare, LLC, 3637 Sentara Way, Virginia Beach, VA 23452 that certain Deed of Trust, dated December 12, 2003, executed by Marilyn J Zanetell, Grantor, to M.G. Davis or Don Sallinger, Trustee, and recorded in Volume 5567, Page 003715, or Clerk's File No. 2003-0242790, real property records of COLLIN County, State of Texas, described land therein as:

LOT 20, BLOCK D, OF FALCON CREEK, PHASE IV, AN ADDITION TO THE CITY OF MCKINNEY, COLLIN COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME K, PAGE 589, OF THE MAP RECORDS OF COLLIN COUNTY, TEXAS.

As set forth in said Deed of Trust and incorporated by reference herein.

**NEW RESIDENTIAL MORTGAGE LLC BY
LOAN CARE, LLC AS ATTORNEY IN FACT UNDER
A LIMITED POWER OF ATTORNEY**

By: Antoine Hurdle

Its: Antoine Hurdle Assistant Secretary

Date: 2/23/23

STATE OF VIRGINIA

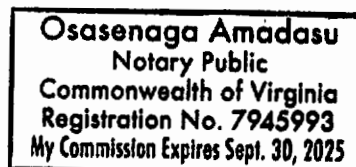
CITY/COUNTY OF VIRGINIA BEACH

On this 23 day of FEBRUARY, 2023, before me, the undersigned, a Notary Public, duly commissioned and sworn personally appeared Antoine Hurdle, who acknowledged himself/herself to be ASST SECY of the above named entity, and that he/she, as such officer, executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

Witness my hand and official seal hereto affixed the day and year first written.

Osasenaga Amadasu
Notary Public **Osasenaga Amadasu**

RETURN TO:
CODILIS & MOODY, P.C.
400 N. Sam Houston Pkwy E, Suite 900A
Houston, TX 77060



**Collin County
Honorable Stacey Kemp
Collin County Clerk**

Instrument Number: 2023000019340

eRecording - Real Property

ASSIGNMENT

Recorded On: February 28, 2023 10:02 AM

Number of Pages: 2

" Examined and Charged as Follows: "

Total Recording: \$26.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

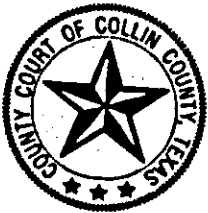
Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2023000019340
Receipt Number: 20230227000546
Recorded Date/Time: February 28, 2023 10:02 AM
User: Amanda J
Station: Station 9

Record and Return To:

Simplifile



**STATE OF TEXAS
COUNTY OF COLLIN**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Public Records of Collin County, Texas.

Honorable Stacey Kemp
Collin County Clerk
Collin County, TX

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.

Envelope ID: 78093417
Filing Code Description: Motion
Filing Description: motion to dismiss appeal
Status as of 8/1/2023 2:48 PM CST

Associated Case Party: New Residential Mortgage, LLC

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------------|-----------|------------------------------|---------------------|--------|
| Kirsten Vesel | | kvesel@bakerdonelson.com | 8/1/2023 2:33:32 PM | SENT |
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| Bobbie Stratton | | bstratton@bakerdonelson.com | 8/1/2023 2:33:32 PM | SENT |

Case Contacts

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