

Cause No. 202339642

DHI HOLDINGS, LP,

Plaintiff,

v.

**U.S. BANK TRUST NATIONAL
ASSOCIATION, NOT IN ITS
INDIVIDUAL CAPACITY BUT SOLELY
AS OWNER TRUSTEE FOR LEGACY
MORTGAGE ASSET TRUST 2018-RPL2;
and RUSHMORE LOAN
MANAGEMENT SERVICES, LLC,**

Defendants.

§ **IN THE DISTRICT COURT**

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HARRIS COUNTY, TEXAS

190TH JUDICIAL DISTRICT

**UNOPPOSED MOTION TO TRANSFER
CASE TO 61ST HARRIS COUNTY DISTRICT COURT**

Pursuant to Rule 3.2.2 of the Rules of the Civil Trial Division for Harris County District Courts, Defendants Rushmore Loan Management Services, LLC (“Rushmore”) files this unopposed motion to transfer this case from this court to the 61st District court. For cause, Rushmore shows the following;

CASE HISTORY

A. PRIOR LITIGATION

On June 28, 2019, Plaintiff filed a like case against Rushmore and others on like claims involving Harris County realty located at 12973 Wireline Lane, Houston, TX, 77072 (“Property”), and more particularly described as:

**BEING A TRACT OR PARCEL CONTAINING 0.0364 ACRE OF LAND BEING UNIT 402,
BUILDING 40 OUT OF UNRESTRICTED RESERVE "E" OF WILDFLOWER GREEN, SECTION 2 A**

SUBDIVISION OF RECORD IN VOLUME 265, PAGE 111 OF THE HARRIS COUNTY MAP RECORDS, HARRIS COUNTY, TEXAS, BEING THAT SAME CALLED 0.0364 ACRE TRACT OF RECORD UNDER HARRIS COUNTY CLERK'S FILE NUMBER (H.C.C.F. NO.) P136601, SAID 0.0364 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH ALL BEARINGS REFERENCED TO SAID SECTION 2:

BEGINNING AT AN IRON ROD SET FOR THE COMMON NORTHEAST CORNER TO SAID UNIT 402, THE HEREIN DESCRIBED TRACT AND THAT CERTAIN CALLED 0.0364 ACRE TRACT (UNIT 403) OF RECORD UNDER H.C.C.F. NO. W321751;

THENCE, SOUTH 01°53'44" EAST, 21.17 FEET TO THE CORNER OF A BRICK WALL FOUND FOR THE COMMON SOUTHEAST CORNER TO SAID UNIT 402, THE HEREIN DESCRIBED TRACT AND THE NORTHEAST CORNER TO THAT CERTAIN CALLED 0.0379 ACRE TRACT (UNIT 401) OF RECORD UNDER H.C.C.F. NO. T676043;

THENCE, SOUTH 88°06'16" WEST, 75.00 FEET TO A BUILDING CORNER FOUND FOR THE COMMON SOUTHWEST CORNER TO SAID UNIT 402, THE HEREIN DESCRIBED TRACT AND THE NORTHWEST CORNER TO SAID UNIT 401;

THENCE, NORTH 01°53'44" WEST, 21.17 FEET TO A BUILDING CORNER FOUND FOR THE COMMON NORTHWEST CORNER TO SAID UNIT 402, THE HEREIN DESCRIBED TRACT AND THE SOUTHWEST CORNER TO SAID UNIT 403;

THENCE, NORTH 88°06'16" EAST, 75.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.0364 ACRE OF LAND;

The case number assigned to the Prior Litigation by the clerk was 2019-44270, styled *DHI Holdings, LP v. Fieldstone Mortgage Company; Legacy Mortgage Asset Trust 2018-RPL2; Rushmore Loan Management Services, LLC and Mortgage Electronic Registration Systems, Inc.*

("Prior Litigation"). The Prior Litigation concluded with the 61st District Court's entry of an order dismissing Plaintiff's claims with prejudice.

B. APPEAL

Plaintiff appealed to the 14th Court of appeals under appeal number 14-19-00987-CV. The 14th Court of Appeals affirmed the judgment of the 61st District court by memorandum opinion on October 26, 2021 and issued its mandate on June 14, 2022. Upon return of the case to the 61st district court, the Court dismissed any remaining issues for want of prosecution by order signed December 15, 2022.

C. PRESENT LITIGATION

A year later, on June 28, 2023, Plaintiff filed this case. Plaintiff's petition makes clear that by this action, Plaintiff seeks review and resolution of issues and claims concerning the same property, the same Plaintiff and Rushmore, a Defendant common to both cases.

AUTHORITY - LOCAL RULE

Local rule 3.2.2 provides that any matter filed after a non-suit, dismissal for want of prosecution, or other disposition of a previous filing involving substantially-related parties and claims shall be assigned by the Administrative Judge of the Civil Trial Division to the court where the prior matter was pending. Pursuant to local rule, this matter should be assigned by the Administrative Judge of the Civil Trial Division for transfer to the 61st Harris county District court.

PRAYER

WHEREFORE, Rushmore prays that the Court sign an order transferring this matter to the 61st Harris County District Court for further disposition

Respectfully Submitted,
MCCARTHY & HOLTHUS, LLP

/s/ Robert L. Negrin

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ATTORNEY FOR DEFENDANTS RUSHMORE
AND U.S. BANK

CERTIFICATE OF CONFERENCE

I certify that I conferred with counsel for Plaintiff regarding this motion. Counsel and Plaintiff are unopposed to the relief requested

/s/ Robert L. Negrin

Robert L. Negrin

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing motion was served upon the following parties/counsel of record pursuant to the Texas Rules of Civil Procedure on July 11, 2024.

Jeffrey C. Jackson
2500 E. TC Jester Blvd.
Ste. 285
Houston, TX 77008

/s/ Robert L. Negrin

Robert L. Negrin