

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**
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§
§ **61ST JUDICIAL DISTRICT**
§

DEFENDANTS' DESIGNATION OF EXPERT WITNESSES

Pursuant to Rule 195.5, Defendants Rushmore Loan Management Services, LLC ("Rushmore") and U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for Legacy Mortgage Asset Trust 2018-RPL2 ("U.S. Bank") files their designation of expert witnesses as follows:

1. Identity of Expert Witnesses

MCCARTHY & HOLTHUS, LLP
Rob Negrin / TBN: 14865550
Cole Patton / TBN: 24037247
1255 West 15th Street, Suite 1060
Plano, Texas 75075
Phone: 214.291.3800
Fax: 214.291.3801

2. Subject-Matter of Expert Testimony

Mr. Negrin and/or Mr. Patton will testify on the subject of attorneys' fees, both in rebuttal to any experts timely and properly designated by Plaintiff, and in support of any claim for attorneys' fees and expenses by Defendants.

3. Substance of Expert Testimony

Mr. Negrin and/or Mr. Patton will testify in rebuttal to the testimony of any expert retained, and timely and properly disclosed by Plaintiff, as to the reasonableness of attorneys' fees, if any, incurred in the prosecution of any claims upon which attorney fees are recoverable. Plaintiff has not yet provided a report by its attorney on the total amount of attorneys' fees, or the amount of time spent prosecuting this action. To the extent additional testimony is provided as to the reasonableness of attorneys' fees incurred in the prosecution of this action or as to any other matter to which testimony is later offered, Defendants reserve the right to supplement this response.

If one or more of Plaintiff's claims succeeds, Mr. Negrin and/or Mr. Patton will testify that: (1) all time and expenses incurred by Plaintiff's attorneys advancing claims for which attorneys' fees are recoverable must be segregated from the time and expenses incurred by Plaintiff's attorneys advancing claims for which attorneys' fees are not recoverable; (2) the reasonable and necessary amount of time to prepare and present Plaintiff's recoverable claims through trial; and (3) Plaintiff's total reasonable attorneys' fees and expenses through trial depending upon Plaintiff's counsel's hourly rate.

Mr. Negrin and/or Mr. Patton will also testify as to the reasonableness of attorneys' fees incurred by Defendants in the defense of Plaintiff's claims. Mr. Negrin and/or Mr. Patton will testify regarding: (1) the reasonable and necessary amount of time expended by Defendants attorneys in the preparation and presentation of its defense of Plaintiff's claims through trial,

including, but not limited to, the analysis of the claims and allegations made by Plaintiff in its pleading, the research and preparation of Defendants' response to Plaintiff's pleadings, including, but not limited to, the exchange of written discovery with Plaintiff, and issues attendant thereto, the preparation for and attendance at oral depositions, the preparation of pre-trial materials, and the preparation and presentation of Defendants' claims and defenses at trial, and post-trial matters through the entry of judgment, and miscellaneous communications with clients, counsel, witnesses and the Court relating to the foregoing; (2) whether the fees charged are reasonable; and (3) the total attorneys' fees and expenses expended through trial.

The opinions expected to be given by Mr. Negrin and/or Mr. Patton are based upon their personal knowledge of the activities conducted on behalf of Defendants in this suit and other similar actions in Harris County, as evidenced by the documents produced or generated in connection with this case and the expected preparation and presentation of Plaintiff's claims and defenses at the trial and appellate levels, and their knowledge of the reasonable amounts.

Mr. Negrin and/or Mr. Patton will also base their opinions on their education, training, and experience as an attorney, the amount of work performed in this matter, and the following factors:

- (a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (b) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer(s);
- (c) The fee customarily charged in the locality for similar legal services;
- (d) The amount involved and the results obtained;
- (e) The time limitations imposed by the client or by the circumstances;

- (f) The nature and length of the professional relationship with the client;
- (g) The experience, reputation, and ability of the lawyer(s) performing the services;

and

- (h) Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Defendants anticipate Mr. Negrin will be their principal witness in this regard. Mr. Negrin has been licensed by the State Bar of Texas since 1987 and by the New Mexico State Bar since 2016. Mr. Negrin represents banks and financial institutions in state and federal courts throughout the States of Texas and New Mexico. Mr. Negrin is not receiving any additional compensation for his testimony.

Mr. Patton has been licensed by the State Bar of Texas since 2002. Mr. Patton represents banks and financial institutions in state and federal courts throughout the State of Texas. Mr. Patton is not receiving any additional compensation for his testimony

The qualifications of the above experts are available at:

www.mccarthyholthus.com/about.aspx.

4. Reservation of Rights

Defendants reserve the right to call, as an adverse witness, Plaintiff regarding any opinions they may have in the case and Plaintiff's expert witnesses, if any. Defendants further reserve the right to supplement this designation further within the time limitations imposed by the court and/or any alterations of same by subsequent court order and/or by agreement by the parties. Defendants further reserve the right to withdraw the designation of any expert witness and to aver positively that such previously designated expert will not be called as an expert

witness at trial and to re-designate same as a consulting expert, who cannot be called by opposing counsel.

Dated: October 11, 2024.

Respectfully Submitted,
MCCARTHY & HOLTHUS, LLP

/s/ Rob Negrin

Robert L. Negrin / TBN: 14865550

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1255 West 15th Street, Suite 1060

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Phone: 214.291.3800

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Rnegrin@mccarthyholthus.com

ATTORNEYS FOR DEFENDANTS

RUSHMORE AND U.S. BANK

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on the following parties in interest in accordance with the Texas Rules of Civil Procedure on October 11 2024:

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

/s/ Rob Negrin

Robert L. Negrin

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.

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Filing Description: Defendants' Designation of Expert Witnesses

Status as of 10/14/2024 8:01 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jeffrey Jackson		jeff@jjacksonpllc.com	10/11/2024 5:37:14 PM	SENT
Robert Negrin		RNegrin@McCarthyHolthus.com	10/11/2024 5:37:14 PM	SENT
Ashley Crout		acrout@mccarthyholthus.com	10/11/2024 5:37:14 PM	SENT
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