

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

Joanna Burke)
) **CIVIL ACTION No.**
) **4:24-cv-00897**
Plaintiff)
)
 vs.)
)
Deutsche Bank National Trust Company, PHH)
Mortgage Corporation, AVT Title Services,)
LLC, Mackie Wolf Zientz & Mann, PC, Judge)
Tami Craft aka Judge Tamika Craft-Demming,)
Judge Elaine Palmer, Sashagaye Prince, Mark D)
Hopkins, Shelley L Hopkins, Hopkins Law,)
PLLC, John Doe, and/or Jane Doe)
)
)
Defendants)
)
)

**VERIFIED SUPPLEMENT TO PLAINTIFF’S RESPONSE TO PHH MORTGAGE
CORPORATION’S MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE, AND ALL INTERESTED PARTIES:

INTRODUCTION & NECESSITY OF SUPPLEMENT

The Plaintiff respectfully submits this supplement to address the omission of the "How" element in Count IV, Fraud (Doc. 35, Oct. 7, 2024), as identified in the Defendants' motion for summary judgment (Doc. 27, Aug. 5, 2024).

In Plaintiff's prior response, under the section titled "F. Burke Fails to Assert a Claim for Fraud," the "How" element was inadvertently omitted. As required by *Williams v. WMX Technologies, Inc.*, 112 F.3d 175, 178 (5th Cir. 1997), fraud claims must be pleaded with particularity, including the "Who, What, Where, Why, When, and How" elements. This

supplement aims to correct the omission and provide the necessary detail to fully respond to the fraud claim.

DETAILED LEGAL ANALYSIS & ARGUMENT

The First Fraudulent Attempt to Foreclose (the January 2, 2024 Sale)

HOW (THE FRAUD WAS COMMITTED)

The fraud occurred when Mark Cronenwett, as attorney for Mackie Wolf, acting on behalf of AVT Title Services, LLC, knowingly refused to cancel the January 2, 2024 foreclosure sale after being informed of the legal impediments, including the Plaintiff's notice of intent to contest the foreclosure. Despite receiving the Plaintiff's letter on December 3, 2023, which clearly requested the cancellation of the sale and attached the lis pendens, Cronenwett, in his capacity as attorney, refused the request and continued with the foreclosure process. His failure to voluntarily cancel the sale, despite knowledge of the Plaintiff's legal challenge, and the continued reliance on a deficient Notice of Foreclosure Sale and Judgment, created the fraudulent situation of attempting to conduct the sale despite the invalid notice and the ongoing dispute. This action was fraudulent because it involved a clear misrepresentation of the legality of the foreclosure proceedings, knowing that the sale was unlawful.

The Second Fraudulent Attempt to Foreclose (the March 5, 2024 Sale)

HOW (THE FRAUD WAS COMMITTED)

The second fraudulent foreclosure attempt occurred when Mark Cronenwett, again representing AVT Title Services, LLC, failed to acknowledge the legal protection afforded to the Plaintiff under the newly filed bankruptcy petition. Despite the Plaintiff's automatic stay in effect following the March 1, 2024 bankruptcy filing, Cronenwett and his client proceeded to schedule the foreclosure sale for March 5, 2024, knowing that the Plaintiff had filed for bankruptcy and was

thus protected from foreclosure under federal law. The continued efforts to schedule and attempt to execute the foreclosure sale after knowledge of the bankruptcy filing as well as continuing to rely upon a second deficient notice of sale and relying upon the same void judgment, constitute fraudulent activity. Cronenwett's actions were intentional, aiming to proceed with an illegal sale while disregarding the automatic stay and the Plaintiff's right to contest the foreclosure in bankruptcy court. This deliberate disregard for the Plaintiff's legal protections demonstrates fraudulent conduct with the intent to unlawfully seize the Plaintiff's property.

DECLARATION

Pursuant to Texas Civil Practice and Remedies Code Section 132.001 and "In lieu of a sworn affidavit, a litigant may submit an unsworn declaration as evidence against summary judgment. See 28 U.S.C. §1746.", I hereby provide my unsworn declaration. My name is Joanna Burke, my date of birth is Nov. 25, 1938, my address is 46 Kingwood Greens Dr, Kingwood, Texas, 77339, and I declare under penalty of perjury that all information herein is true and correct.

CONCLUSION

The Plaintiff respectfully requests that the Court grant this Supplement, responding to Count IV, Fraud which addressed the HOW question. To the extent this court maintains the opinion it has jurisdiction in these proceedings, the Motion for Summary Judgment should be DENIED.

RESPECTFULLY submitted this 11th day of November, 2024.

Joanna Burke, Harris County
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on November 11, 2024 as stated below on the following:

VIA U.S. Mail:

Nathan Ochsner
Clerk of Court
P. O. Box 61010
Houston, TX 77208

VIA e-Mail:

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PHH MORTGAGE CORPORATION

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