

CAUSE NO. 2024-77031

BRANDON O'NEILL

Plaintiff,

v.

**NEWREZ, LLC D/B/A
SHELLPOINT MORTGAGE
SERVICING,**

Defendant.

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IN THE DISTRICT COURT

295TH JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

SHELLPOINT'S ANSWER AND REQUEST FOR DISCLOSURE

NewRez LLC d/b/a Shellpoint Mortgage Servicing supplements its answer and claims as follows:

I. GENERAL DENIAL

1. Shellpoint generally denies all the material allegations Mr. O'Neill asserts in support of his claims or defenses in this action and, inasmuch as said allegations are questions of fact, demands strict proof by a preponderance of credible evidence if Mr. O'Neill can do so.

II. AFFIRMATIVE DEFENSES

2. Mr. O'Neill's allegations fail to state a claim upon which relief can be granted.

3. To the extent Mr. O'Neill's claims rely upon one or more alleged promises or understandings purporting to modify the parties' rights and obligations under, or any other terms of, the loan agreement, his claims are barred, in whole or in part, because the alleged promise or understanding is barred by the statute of frauds, lacks new, independent, or adequate consideration, or is too vague, ambiguous, or indefinite to enforce.

4. Mr. O'Neill's claims are barred, in whole or in part, for failure to perform conditions precedent, including, but not limited to, complying with the terms of the loan agreement, tendering

the amount necessary to bring the loan current and cure the default, paying the amount tendered at any foreclosure sale or vacating the property, and providing adequate, sufficient, or timely notice, demand, or request upon which any of his claims are based.

5. The alleged damages Mr. O'Neill seeks to recover, if any, were caused or contributed to by Mr. O'Neill's own prior breach of contract.

6. Mr. O'Neill's claims are barred, in whole or in part, because he lacks standing, capacity or authority to make them.

7. Mr. O'Neill's claims are barred, in whole or in part, because he failed to mitigate his damages, if any.

8. Mr. O'Neill's claims are barred, in whole or in part, by the economic-loss rule.

9. Mr. O'Neill's claims are barred, in whole or in part, by the doctrines of privilege, consent, bona fide error, knowledge, waiver, ratification, estoppel, or laches.

10. Shellpoint is not liable because Mr. O'Neill fails to plead a viable claim.

11. Shellpoint is not liable because its acts or omissions were privileged, justified, or legally excused.

12. Mr. O'Neill's claims are barred, in whole or in part, by any applicable statute of limitations and/or laches.

13. Shellpoint is entitled to an offset against any damages to be awarded to Mr. O'Neill for, among other things, the amounts Mr. O'Neill owes under the loan agreement, for the use and occupation of the subject property, and attorneys' fees Shellpoint incurs in this suit.

III. REQUEST FOR ATTORNEYS' FEES

14. Shellpoint seeks to recover all of its attorneys' fees incurred in this case under any statute, common law rule, or contract authorizing same. Shellpoint retained the undersigned

counsel to represent it against Mr. O'Neill's claims and is entitled to recover its reasonable and necessary attorneys' fees through trial and upon appeal.

IV. REQUEST FOR DISCLOSURE

15. Shellpoint hereby requests Mr. O'Neill disclose the materials and information required by Texas Rule of Civil Procedure 194.2 within thirty (30) days from the date of the service of this document.

V. EMAIL CONSENT

16. Shellpoint consents to email service of all motions, pleadings, or other documents filed in this case to be sent to its attorneys via email as follows: aliza.malouf@akerman.com and byron.keaton@akerman.com.

VI. PRAYER

Shellpoint prays this court enter judgment Mr. O'Neill takes nothing on his claims for relief and award Shellpoint such further relief to which it may be entitled.

Date: December 2, 2024

Respectfully submitted,

/s/ Byron T. Keaton

Aliza Malouf, SBN: 24094811

--Attorney in Charge

Byron T. Keaton, SBN: 24135511

AKERMAN LLP

2001 Ross Avenue, Suite 3600

Dallas, Texas 75201

Telephone: 214.720.4300

Facsimile: 214.981.9339

E-Mail: aliza.malouf@akerman.com

byron.keaton@akerman.com

ATTORNEYS FOR NEWREZ

CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2024, a true and correct copy of the foregoing was served as follows:

VIA E-FILING AND
CERTIFIED MAIL RECEIPT
NO. 9414 7266 9904 2186 4874 96

David M. Medearis,
1560 W Bay Area Blvd., Suite 200
Friendswood, Texas 77546
dmedearis@medearislaw.com
Attorney for Brandon O'Neill

/s/ Byron T. Keaton
Byron T. Keaton

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Byron Keaton

Bar No. 24135511

byron.keaton@akerman.com

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Filing Code Description: Answer/ Response / Waiver

Filing Description: Shellpoint's Answer and Request for Disclosure

Status as of 12/2/2024 9:56 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
David MMedearis		dmedearis@medearislaw.com	12/2/2024 9:15:10 AM	SENT
Mindi Campbell		mcampbell@medearislaw.com	12/2/2024 9:15:10 AM	SENT
Ivanna Cruz		lcruz@medearislaw.com	12/2/2024 9:15:10 AM	SENT
Byron Keaton		byron.keaton@akerman.com	12/2/2024 9:15:10 AM	SENT
Aliza Malouf		aliza.malouf@akerman.com	12/2/2024 9:15:10 AM	SENT
Lisa Endtricht		lisa.endtricht@akerman.com	12/2/2024 9:15:10 AM	SENT
Diana Reboloso		diana.reboloso@akerman.com	12/2/2024 9:15:10 AM	SENT

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