

CAUSE NO. 2024-20589

**SUMEERA KODITHUWAKKU,
SUCCESSOR IN INTEREST TO
LAURA CASSEL,**

Plaintiff,

v.

MIDFIRST BANK,

Defendant.

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IN THE DISTRICT COURT

HARRIS COUNTY, TEXAS

127TH JUDICIAL DISTRICT

NOTICE OF REMOVAL TO FEDERAL COURT

MidFirst Bank (“Defendant”), hereby notifies this Court that it filed a Notice of Removal in the United States District Court for the Southern District of Texas, Houston Division, thereby removing the above-numbered and entitled case to that court. A true and correct copy of the Notice of Removal is attached hereto as Exhibit A.

This notice shall serve to effect the full removal of the above-entitled and numbered action pursuant to 28 U.S.C. Section 1446, precluding this Court from further proceeding in this action unless and until such time as it shall be remanded by the United States District Court.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing; Defendant recovers its attorney fees and costs; and the Court award such other and further relief to which Defendant may be justly entitled at law or in equity.

Respectfully submitted,

By: /s/ Nicholas M. Frame
NICHOLAS M. FRAME
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via electronic case notification on the following counsel of record on June 7, 2024

Erick DeLaRue
Erick DeLaRue, PLLC
2800 Post Oak Blvd., Ste. 5600
Houston, TX 77056
erick.delarue@delaruelaw.com

/s/ Nicholas M. Frame
NICHOLAS M. FRAME

EXHIBIT A

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3. Plaintiff initiated this suit to stop foreclosure and brings claims for (1) violation of the Texas Property Code §5.065 and (2) violation of the Real Estate Settlement and Procedures Act (“RESPA”) and Regulation X. (Petition at ¶¶13-19.) Plaintiff seeks to enjoin foreclosure, recover actual damages, exemplary damages, and attorney fees. (See Petition at Prayer.)

4. A true and correct copy of the Docket Sheet from the State Court Action is attached hereto as **Exhibit A**. In accordance with 28 U.S.C. Section 1446(a), copies of all process, pleadings, and orders served in the State Court Action, including the Petition, are attached hereto within the contents of **Exhibit B**.

5. This Notice of Removal is timely because thirty (30) days have not expired since the State Court Action was filed, making removal proper in accordance with 28 U.S.C. Section 1446(b).

6. This action is removable to federal court pursuant to 28 U.S.C. Section 1441 because it could have been filed originally in this Court pursuant diversity jurisdiction conferred by 28 U.S.C. Section 1331.

BASIS FOR REMOVAL – FEDERAL QUESTION JURISDICTION

7. This action arises under and presents substantial questions of federal law. Specifically, Plaintiff alleges that Defendant’s actions violated RESPA and the Code of Federal Regulations, and she seeks to recover under Regulation X, codified at 12 C.F.R. § 1024. (Petition at ¶¶16-19.) Regulation X rules are codified and expressly made enforceable through RESPA under 12 U.S.C. 2605(f). See 12 CFR §1204.41.

8. Because this action arises under the laws of the United States, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1331, and removal of

this entire cause is therefore proper under 28 U.S.C Section 1441(c). The Court has supplemental jurisdiction over Plaintiff's state law claims. 28 U.S.C. § 1367.

VENUE

9. Venue for removal is proper in this district and division, the United States District Court for the Southern District of Texas, Houston Division, under 28 U.S.C. Section 1441(a) because this district and division embrace the 127th Judicial District Court, Harris County, Texas, the forum in which the removed action was pending.

NOTICE

10. Pursuant to 28 U.S.C. Section 1446(d), a copy of this Notice is being filed with the Clerk of Court for the 127th Judicial District Court, Harris County, Texas.

11. The contents of Exhibit B constitute the entire file of the State Court Action.

CONCLUSION

For the reasons described above, Defendant respectfully requests this Court take jurisdiction over this matter and proceed as if it had been originally filed herein.

Respectfully submitted,

By: /s/ Nicholas M. Frame
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List of all Counsel of Record

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2. MidFirst Bank
Defendant
c/o Nicholas M. Frame
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INDEX OF DOCUMENTS ATTACHED

- Exhibit A Copy of the Docket Sheet for Cause No. 2024-20589 in the 127th Judicial District Court, Harris County, Texas;
- Exhibit B Pleadings in Cause No. 2024-20589 in the 127th Judicial District Court, Harris County, Texas;
- B-1 Original Petition, Application for Injunctive Relief, and Request for Disclosures, filed April 1, 2024;
- B-2 Proposed Temporary Restraining Order, April 1, 2024;
- B-3 Declaration/Verification of Sameera Ushan Kodithuwakku, April 1, 2024;
- B-4 Clerk's Certificate of Cash Deposit in Lieu of Receiver Bond Per Order, April 2, 2024;
- B-5 Order Signed Setting Bond, Hearing, and Granting Temporary Restraining Order, April 2, 2024; and
- B-6 Defendant MidFirst Bank's Original Answer, June 4, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served via regular U.S. mail on the following counsel of record on June 7, 2024

Erick DeLaRue
Erick DeLaRue, PLLC
2800 Post Oak Blvd., Ste. 5600
Houston, TX 77056

/s/ Nicholas M. Frame
NICHOLAS M. FRAME

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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.

Janay Breckenridge on behalf of Nicholas Frame
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Envelope ID: 88566059
Filing Code Description: Notice
Filing Description: Notice of Removal (state)
Status as of 6/7/2024 1:13 PM CST

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