

CAUSE NO. 2024-76386

LARRY PRESTON, SUI JURIS § **IN THE DISTRICT COURT OF**
v. § **HARRIS COUNTY, TEXAS**
PHH MORTGAGE CORP., ET AL § **333rd JUDICIAL DISTRICT**

ORIGINAL COUNTERCLAIM

Counter-Plaintiff Berry Group, LP (“Berry Group”), files its Original Counterclaim.

PARTIES

1. Counter-Plaintiff is Berry Group, LP.
2. Counter-Defendant is Larry Preston (“Preston”).

FACTS

3. This dispute involves the real property (the “Property”) which is located at 5709 Langley, Houston, Texas 77016 which is legally described as:

Lot 487, Block 2 of Fontaine Place, Section four (4); an Addition in Harris County, Texas, according to the Map or plat thereof recorded in Vol. 4, P. 24 of the Map Records of Harris County, Texas.

4. Preston was a former owner of the Property.

5. On May 19, 2009, in case styled *SPCO FCU v. Larry Preston*, Case No. 936272, Harris County Civil Court No. 4 signed a Judgment in the amount of \$2,237.34 plus attorney’s fees and court costs, against Preston.

6. The Judgment was not paid and pursuant to a Writ of Execution issued by the Court, on October 7, 2014, the Property was sold by the Harris County Constable to Berry Group for the sum of \$6,400.00.

7. On December 5, 2014 the Harris County Constable executed a Deed Under Execution (the “Constable Deed), which conveyed title to the Property to Berry Group. The

Constable Deed was recorded under County Clerk's File no. 20140552026 in the Official Public Records of Real Property of Harris County.

8. There has been no conveyance of the Property by Berry Group who is still the owner of the Property.

CAUSES OF ACTION

Declaratory Judgment

9. Plaintiff claims to be the prior owner of the Property.

10. Counter-Plaintiff Berry Group seeks a Declaratory Judgment that it is the owner of a fee simple interest in the Property and which interest is free and clear of any claims made by Counter-Defendant Preston and that Preston has no interest in the Property.

Trespass To Try Title

11. On October 7, 2014, Berry Group became the owner, in fee simple, of the Property. On that date, Berry Group was entitled to both possession of and title to the Property and Counter-Defendant unlawfully entered and dispossessed Counter-Plaintiff of such premises. Counter-Defendant continues to withhold possession of the Property from Berry Group.

REMEDIES

12. Berry Group seeks judgment for title and possession of the Property.

13. Berry Group additionally seeks recovery of its reasonable attorney's fees under applicable law.

WHEREFORE, Berry Group, LP requests judgment as requested and all other relief to which it proves itself justly entitled.

Respectfully submitted,

JERRY L. SCHUTZA

/s/ Jerry L. Schutza

Jerry L. Schutza

State Bar No. 17853800

808 Travis St., Ste. 1005

Houston, Texas 77002

Tel. (713) 963-9988

Email: schutzalaw@yahoo.com

ATTORNEY FOR BERRY GROUP, LP

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing legal instrument has been forwarded to all parties and/or their attorneys of record as provided under Rules 21 and 21a of the Texas Rules of Civil Procedure this the 6th day of December 2024.

USPS REGULAR MAIL

Larry Preston
5709 Langley
Houston, Texas 77016

/s/ Jerry L. Schutza

Jerry L. Schutza

Unofficial Copy Office of Marilyn Burgess District Clerk

Automated Certificate of eService

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JERRY SCHUTZA on behalf of JERRY SCHUTZA
Bar No. 17853800
schutzalaw@yahoo.com
Envelope ID: 95039143
Filing Code Description: Counter Claim/Cross
Action/Interpleader/Intervention/Third Party
Filing Description: Original Counterclaim
Status as of 12/6/2024 3:21 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Larry Preston		Larrypreston68@gmail.com	12/6/2024 3:12:03 PM	SENT
Helen O.Turner		helen.turner@lockelord.com	12/6/2024 3:12:03 PM	SENT
Helen O.Turner		helen.turner@lockelord.com	12/6/2024 3:12:03 PM	SENT
B. David L. Foster		dfoster@lockelord.com	12/6/2024 3:12:03 PM	SENT
B. David L. Foster		dfoster@lockelord.com	12/6/2024 3:12:03 PM	SENT
Robert T.Mowrey		rmowrey@lockelord.com	12/6/2024 3:12:03 PM	SENT
Robert T.Mowrey		rmowrey@lockelord.com	12/6/2024 3:12:03 PM	SENT

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