

**CAUSE NO. 2024-12037**

**THE BANK OF NEW YORK MELLON § IN THE DISTRICT COURT**  
**v. §**  
**§ OF HARRIS COUNTY, TEXAS**  
**§**  
**CONSTANCE UPCHURCH § 190<sup>TH</sup> JUDICIAL COURT**

**DEFENDANTS' ORIGINAL ANSWER**

ON THIS DATE Defendant, Constance Upchurch, respectfully file this her Original Answer against Plaintiff, The Bank of New York Mellon ("Plaintiff") and in support thereof would show the Court as follows:

**GENERAL DENIAL**

1. Subject to such verified denials and affirmative defenses as are hereafter made, Defendant asserts a general denial as is authorized by Rule 92 of the Texas Rules of Civil Procedure. Defendant respectfully requests that Plaintiff be required to prove the charges and allegations against Defendant by a preponderance of the evidence as is required by the Constitution and laws of the State of Texas. Also, Defendant reserves the right to amend their answer at a future date in accordance with the Texas Rules of Civil Procedure.

**AFFIRMATIVE DEFENSES**

2. Even if Plaintiffs proves the allegations set forth in their Original Petition, Defendant is not liable to Plaintiffs because:

- A. unclean hands;
- B. No standing;
- C. Prior Breach;
- D. Estople;

E. Limitations;

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that upon final hearing or trial herein, Plaintiff takes nothing by way of her causes of action herein; the Court award a judgment in favor of Defendant against Plaintiff, for their actual damages, costs of court, expenses, attorney's fees, pre-judgment and post-judgment interest; and for such other and further relief, both general and special, at law or in equity, to which Defendant may be entitled.

Respectfully Submitted by,

**Law Office of Erick DeLaRue, PLLC**

By: /s/ Erick DeLaRue

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**ATTORNEY FOR DEFENDANTS**

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Unofficial Copy Office of Marilyn Burgess District Clerk