

CAUSE NO. 2025-00656

THOMAS RUFF,

Plaintiff,

v.

WILMINGTON SAVINGS FUND
SOCIETY, FSB

Defendants.

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IN THE DISTRICT COURT

55th JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

Defendant, WILMINGTON SAVINGS FUND SOCIETY, FSB, AS OWNER TRUSTEE OF THE RESIDENTIAL CREDIT OPPORTUNITIES TRUST VIII-A¹, respond to Plaintiff's Original Petition, Application for Injunctive Relief, and Request for Disclosures ("Petition") filed on January 6, 2025, as follows:

General Denial

Pursuant to Tex. R. Civ. P. 92, Defendant generally denies every allegation in Plaintiff's Petition.

Specific Denial

Defendant specifically denies that Plaintiff has satisfied conditions precedent for recovery under their claims.

¹ Plaintiff improperly named Wilmington Savings Fund Society, FSB, individually as the sole Defendant. Without waiving any defenses set forth herein, the proper entity name is Wilmington Savings Fund Society, FSB, as Owner Trustee of the Residential Credit Opportunities Trust VIII_A.

Affirmative Defenses

Without admitting liability as to any of Plaintiff's causes of action, and without assuming the burden of proof on any claims, defenses, or factual issues that would otherwise rest with Plaintiff, Defendant asserts the following affirmative defenses in response to the allegations in Plaintiff's Petition:

1. Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.
2. Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel.
3. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.
4. Plaintiff's claims are barred, in whole or in part, by the affirmative defense of failure to mitigate.
5. Plaintiffs' claims are barred, in whole or in part, by the doctrine of unjust enrichment.
6. Plaintiff's claims are barred, in whole or in part, by the affirmative defense of failure of condition precedent.
7. Any recovery by Plaintiff must be reduced in proportion to the wrongful conduct of persons or entities other than Defendant, including other parties to this lawsuit and/or third parties, under the principles of contribution, indemnification, equitable allocation, recoupment, and/or setoff.
8. Plaintiff's claims for exemplary damages are subject to the standards, requirements, and limitations of the law, including but not limited to the Constitution of United States, the Texas Constitution, and Chapter 41 of the Texas Civil Practices & Remedies Code. Defendant pleads the statutory cap on exemplary damages under Tex. Civ. Prac. & Rem. Code § 41.008(b) and the

limitations on exemplary damages pursuant to the Due Process Clause of the U.S. Constitution and the Due Course of Law provisions of the Texas Constitution.

9. Defendant reserves the right to assert additional affirmative defenses in accordance with the Texas Rules of Civil Procedure and/or subsequent court order as they become evident through discovery or investigation.

Attorneys' Fees

Defendant hereby asserts a claim for recovery of reasonable attorney's fees incurred in defending this lawsuit, pursuant to the Civil Practices and Remedies Code Chapter 38 as the prevailing party in this action, and requests that the Court award such equitable and just fees to be determined at the appropriate time, including all costs associated with defending against Plaintiff's claims.

Prayer

WHEREFORE, Defendant respectfully requests that the Court enter judgment in Defendant's favor and against Plaintiff, Plaintiff take nothing by way of its claims, Defendant recover its reasonable attorney's fees and costs of court incurred in this action, and that Defendant be awarded all other relief to which it is entitled.

Respectfully submitted,

**CONDON TOBIN SLADEK
THORNTON NERENBERG, PLLC**

/s/ Jared T.S. Pace

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**ATTORNEYS FOR DEFENDANT
WILMINGTON SAVINGS FUND
SOCIETY, FSB, AS OWNER TRUSTEE
OF THE RESIDENTIAL CREDIT
OPPORTUNITIES TRUST VIII-A**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the forgoing document has been served on all attorneys of record on this 10th day of February 2025, in accordance with TEXAS RULES OF CIVIL PROCEDURE.

s/ Jared T.S. Pace
Jared T.S. Pace

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Chasity Selvy on behalf of Jared Pace

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Envelope ID: 97164422

Filing Code Description: Answer/ Response / Waiver

Filing Description: DEFENDANTS ANSWER AND AFFIRMATIVE DEFENSES

Status as of 2/10/2025 11:09 AM CST

Case Contacts

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