

CAUSE NO. 2024-76979

MICHAEL BATISTE,

Plaintiff,

v.

**NEWREZ LLC DBA SHELLPOINT
MORTGAGE SERVICING**

Defendant.

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IN THE DISTRICT COURT

281st JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

DEFENDANT'S REMOVAL NOTICE TO FEDERAL COURT

TO THE HONORABLE COURT, ALL PARTIES AND ALL ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE Newrez LLC d/b/a Shellpoint Mortgage Servicing removed this action to the United States District Court for the Southern District of Texas, Houston Division, on February 21, 2025. A file-stamped copy of the removal notice is attached.

Date: February 21, 2025

Respectfully submitted,

/s/ Byron T. Keaton

R. Martin Dungan, SBN: 24099021

--Attorney in Charge

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ATTORNEYS FOR DEFENDANT

Unofficial Copy Office of Marilyn Burgess District Clerk

CERTIFICATE OF SERVICE

I certify I served this document on February 21, 2025 as follows:

**VIA: E-FILE, REGULAR MAIL &
CM/RRR No. 9414 7266 9904 2195 7049 73**

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/s/ Byron T. Keaton
Byron T. Keaton

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MICHAEL BATISTE,

Plaintiff,

v.

NEWREZ LLC DBA SHELLPOINT
MORTGAGE SERVICING,

Defendant.

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CASE NO. 4:25-cv-00770

DEFENDANT'S REMOVAL NOTICE

Newrez LLC d/b/a Shellpoint Mortgage Servicing (**Newrez**) removes the action Michael Batiste filed in state court pursuant to 28 U.S.C. § 1332(a)(1).

I. STATEMENT OF THE CASE

Mr. Batiste sued Newrez in Harris County district court in the case styled *Michael Batiste v. Newrez LLC dba Shellpoint Mortgage Servicing* and numbered 2024-76979. (Ex. 1, pet. at 1.) Mr. Batiste alleges Newrez failed to timely provide default, intent to accelerate, acceleration, and foreclosure sale notices and provide an opportunity to cure the default. (*Id.* at ¶ 11.) Mr. Batiste further alleges Newrez fraudulently prepared documents to foreclose and does not hold the right to enforce the note. (*Id.* at second ¶ 11, ¶¶ 12 & 17.) Mr. Batiste brings claims for Texas Property Code violations, breach of contract, and declaratory judgment. (*Id.* at ¶¶ 15, 17-22, & 24-25.) He requests the court award him actual damages, exemplary damages, interest, court costs, and attorneys' fees. (*Id.* at ¶¶ 26-28 & WHEREFORE clause.) Mr. Batiste further requests a temporary restraining order, temporary injunction and permanent injunction preventing foreclosure. (*Id.* at ¶¶ 32-34 & WHEREFORE clause.)

II. BASIS FOR JURISDICTION

The court may exercise diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) because the parties are diverse and the amount in controversy exceeds \$75,000.

A. The parties are citizens of different states.

Mr. Batiste is a Texas citizen. Individuals are citizens of the state in which they are domiciled. *Preston v. Tenet Healthsystem Mem'l Med. Ctr.*, 485 F.3d 793, 797-98 (5th Cir. 2007). Mr. Batiste affirmatively pleads his residence at the property in Harris County, Texas. (Ex. 1, pet. at ¶ 3.) His petition to invalidate the property's deed of trust evidences no intent to leave the state. *See Preston*, 485 F.3d at 797-98 ("A person's state of domicile presumptively continues unless rebutted with sufficient evidence of change.").

Newrez is a citizen of Delaware and New York for purposes of diversity jurisdiction. 28 U.S.C. § 1332(c)(1). Newrez LLC d/b/a Shellpoint Mortgage Servicing is a wholly-owned subsidiary of Shellpoint Partners LLC, a Delaware limited liability company. Shellpoint Partners LLC is a wholly-owned subsidiary of NRM Acquisition LLC and NRM Acquisition II LLC, Delaware limited liability companies. Both NRM Acquisition entities are wholly-owned subsidiaries of New Residential Mortgage LLC, a Delaware limited liability company. New Residential Mortgage LLC is a wholly-owned subsidiary of Rithm Capital Corp. a Delaware corporation headquartered in New York.

B. The amount in controversy exceeds \$75,000.

"In actions seeking declaratory or injunctive relief the amount in controversy is measured by the value of the object of the litigation." *Leininger v. Leininger*, 705 F.2d 727, 729 (5th Cir. 1983); *Farkas v. GMAC Mortg., LLC*, 737 F.3d 338, 341 (5th Cir. 2013) (per curiam). Mr. Batiste sues for, among other things, a permanent injunction preventing foreclosure and

declaratory relief to invalidate the deed of trust. (Ex. 1, pet. at ¶¶ 17-22 & 34.) The property appraised at \$771,338. (Ex. 5, appraisal records.¹) The amount in controversy consequently exceeds the \$75,000 diversity threshold. *See Govea v. JPMorgan Chase Bank, N.A.*, No. 2010 WL 5140064, at *4 (S.D. Tex. Dec. 10, 2010) (holding a request for injunctive relief against foreclosure is properly measured by the property value as shown by appraisal district records); *see also Statin v. Deutsche Bank Nat. Tr. Co.*, 599 F. App'x 545, 546 (5th Cir. 2014) (noting appraisal district records may be used to establish the property's value for use as the amount in controversy in foreclosure-related cases).

III. PROCEDURAL REQUIREMENTS SATISFIED

Newrez timely removes this action within thirty days of service of the petition. 28 U.S.C. § 1446(b). Newrez notified the state court of the removal and attaches true and correct copies of all executed process, pleadings, and orders served on it in the state court action. 28 U.S.C. § 1446(a). It further attaches the required document index, docket sheet, all executed process, pleadings asserting causes of action, all orders signed by the state judge, and a list of counsel of record. L.R. 81.

IV. CONCLUSION

The court may exercise diversity jurisdiction over this action.

¹ Newrez requests the court take judicial notice of the Harris County Appraisal District valuation of the property, publicly accessible at <https://hcad.org/property-search/property-search>. *Kew v. Bank of Am., N.A.*, No. H-11-2824, 2012 WL 141978, at *3 n.4 (S.D. Tex. April 23, 2012).

Dated: February 21, 2025

Respectfully submitted,

/s/ Byron T. Keaton

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--Attorney in Charge

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Attorney for plaintiff

/s/ Byron Keaton

Byron Keaton

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Automated Certificate of eService

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Byron Keaton

Bar No. 24135511

byron.keaton@akerman.com

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Filing Code Description: Notice

Filing Description: Defendant's Removal Notice to Federal Court

Status as of 2/21/2025 3:27 PM CST

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