1/3/2020 12:01:32 PM Marilyn Burgess - District Clerk Harris County

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JOSEPH JOHNSON	§ IN THE DISTRICT COURT OF §
¥,	§ HARRIS COUNTY, TEXAS
WILMINGTON TRUST, N.A.	§JUDICIAL DISTRICT
STATE OF TEXAS §	
COUNTY OF HARRIS §	KNOW ALL THESE BY MEN PRESENTS:

CATICENO

## DECLARATION OF JOSEPH JOHNSON

- 1. "My name is Joseph Johnson. I am the Plaintiff in the above-captioned lawsuit. I have read the Plaintiff's Original Petition, Application for Injunctive Relief, and Requests for Disclosures to which this Declaration relates and offer this Declaration in support of the statements and arguments asserted herein.
  - 2. The subject matter of this lawsuit is the real property and the improvements thereon located at 11606 Lakewood Crossing, Tomball, TX 77377 (the "Property").
  - 3. My wife Margaret I and I purchased the Property on or about September 2, 2005. During the process of purchasing the Property, I executed a Note ("Note") in the amount of \$224,950 as well as a Deed of Trust ("Deed") in which First Franklin is listed as the Lender.
- 4. Upon information and belief, the Note and related Deed of Trust were subsequently transferred to Wilmington Trust, N.A. ("Wilmington") for which Nationstar Mortgage LLC ("Nationstar") acts as the loan servicer, but the original Deed of Trust was not assigned properly.
- 5. The alleged assignment of the Deed of Trust does not meet the requisites of a valid assignment and, therefore the chain of title was and is broken from the original lender.
- 6. I began to have severe health issues in 2015 which caused me to incur financial difficulties. Realizing that I may soon become in default on my mortgage payments, I reached out to Wilmington to obtain loss mitigation options. Over the past several years, Wilmington has continually equested that I apply for a loan modification; however, each time I submitted a loan modification application and goes through the long process, Wilmington denied me sometimes without explaining why I was denied. Now, the reinstatement is so high I can't afford to reinstate.
- 7. Accordingly, I began researching other options including, but not limited to, selling my Property. I hired a real estate agent to sell my home and the Property was put on the MLS; however, the Property did not sell as fast as I anticipated.

- I maintained my efforts to sell the Property; however, in December 2019, I began to receive a barrage of mail from investors who wished to purchase my Property due to the forthcoming foreclosure sale. I was frustrated because I had not received any notices from Wilmington informing me that I was in danger of losing my property. Apparently, Wilmington posted my Property for foreclosure sale without sending me proper and timely notice of default, an opportunity to cure the default, notice of intent to accelerate, notice of acceleration, and notice of foreclosure sale as required by the Texas Property Code thereby violating my due process rights as well as the Deed of Trust.
- 9. Further, Plaintiff is informed and believes, and thereon alleges, that in order to conduct a foreclosure action, a person or entity must have standing under the deed of trust and statute. Plaintiff is informed and believes, and thereon alleges, that in order to assign a deed of trust, some person or entity must rightfully hold the note that the deed of trust secures payment on; an assignment of the mortgage note carries the deed of trust with it, while an assignment of the deed of trust alone is a nullity.
- 10. Wilmington cannot produce any evidence that the my mortgage note has ever been transferred to them. Any attempt to transfer the beneficial interest of a deed of trust without actual ownership of the underlying mortgage note is void under the law. Therefore, Wilmington cannot establish that is entitled to assert a claim in this case such that the assignment to Wilmington was effective at all. As such, Defendant Wilmington does not have standing to seek a non-judicial foreclosure of the Property.

My name is Joseph Johnson, my date of birth is August 01, 1957, and my address is 11606 Lakewood Crossing Tomball, TX 77377. I declare under penalty of perjury that the foregoing information is trucked correct."

Executed in Harris County, State of Texas, on the \_\_\_\_\_day of January, 2020.

J**OSEPH JØ**FINSON