

P.11

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

JUDICIAL DISTRICT __ 333th

LARRY PRESTON ('LAWFUL REPRESENTATIVE'),

CAUSE NO. 2024-76386

C/O: LARRY PRESTON PRIVATE TRUST,

SUI JURIS PRO SE,

PLAINTIFFS,

v.

SOCA FUNDING, L.L.C.,

SPCO FEDERAL CREDIT UNION,

OCWEN LOAN SERVICING, LLC,

PHH MORTGAGE CORPORATION, AND

BARRY GROUP, LP,

NANIK BHAGIA,

DEFENDANTS.

FILED
Marilyn Burgess
District Clerk

MAY - 9 2025
Time: 10:40 A.M.
Harris County, Texas
By Jessica Pannell
Deputy

5-9-25

**AFFIDAVIT IN SUPPORT OF MOTION TO REMOVE IMPROPER WRIT OF
EXECUTION AND AFFILIATED LEVIES/LIENS**

STATE OF TEXAS
COUNTY OF HARRIS

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging.

BEFORE ME, the undersigned authority, on this day personally appeared **Larry Preston**, known to me to be the person whose name is subscribed below, and being by me first duly sworn, upon his oath deposes and says:

1. Affiant's Identity

My name is Larry Preston, and I am the Plaintiff in the above-captioned cause, as well as the individual who owns the real property located at **5709 Langley Road, Houston, Texas 77016** (the "Property"). I am over the age of 18, of sound mind, and capable of making this Affidavit. The facts stated in this Affidavit are within my personal knowledge, and I am competent to testify to the matters contained herein.

2. Re-allegation of Claims

I hereby re-allege all of the claims previously filed in the original claim, Cause No. 2024-76386, filed on October 31, 2024, and incorporate those claims by reference herein.

3. Venue and Jurisdiction

I affirm that this Court has jurisdiction over this matter, as the real property in question is located in Harris County, Texas, and this is a civil action seeking to remove a cloud on title and for injunctive relief.

4. Factual Background and Supporting Exhibits

I make the following statements in support of the Motion to Remove Improper Writ of Execution and Affiliated Levies/Liens:

a. On **May 19, 2009**, a default judgment was entered against me in favor of **SOCA Funding, L.L.C. and SPCO Federal Credit Union** (collectively, "Judgment Creditors") in **Cause No. 936272.701** (Exhibit A).

b. On **August 7, 2014**, the Harris County Clerk issued a Writ of Execution against my property, despite the judgment not involving title to real property (Exhibit A).

c. On **September 9, 2014**, a levy was recorded on the Property for the judgment amount, interest, and costs (Exhibit B).

d. On **October 7, 2014**, a purported auction of the Property was held, although I contend that the payment for the underlying judgment had already been received by the Harris County Constable prior to the auction (Exhibit C).

e. On **December 10, 2014**, a Deed Under Execution was recorded in favor of **Barry Group, LP** (Exhibit D).

f. I was pressured by **Barry Group, LP** into entering a “for sale by owner” agreement and made payments exceeding \$6,900.00 (Exhibit D).

g. **Barry Group, LP** later attempted to evict me, but ultimately dropped the lawsuit, acknowledging my continued ownership of the Property (Exhibit E).

h. I filed for **bankruptcy protection**, and all debts related to the Writ of Execution were discharged (Exhibit F).

5. **Legal Grounds for Removal of the Writ of Execution and Affiliated Levies/Liens**

I assert that the Writ of Execution and subsequent levies and liens on my Property are improper for the following reasons:

- a. **The underlying judgment did not involve title to real property:** The judgment entered in **Cause No.936272.701** did not relate to or concern any title to real property, and thus the Writ of Execution issued against real property was improper.
- b. **The payment for the judgment was already in possession of the Harris County Constable:** At the time of the purported auction, the fund's necessary to satisfy the judgment were already in the possession of the Harris County Constable, this document serves to confirm that the check was received by The Ken Jones Constable Office and Stamped with the official date and time. According to records from the Constable office, the home owner was entitled to a redemption period of 120 days or six months however documentation from Ken Jones Constable Precinct 3 indicates that The Right of Redemption which should have been granted was not made available. Official records show that the constable office filed the necessary papers on December 5, 2014 and returned them to Berry Group. Action took place only 60 Days after the Sale date of October 7, 2014, rather than the Expected Redemption Period, rendering the auction and subsequent sale improper. All document is submitted for review and support in this matter.
- c. **My constitutional rights were violated:** My Texas Constitutional rights, including those under **Article 1, sections 9, 10, and 19**, were violated by the improper execution on my property. Specifically, the execution and levy procedures failed to provide due process and were conducted without regard to applicable legal protections for property owners.
- d. **The Statute of Limitations has expired:** The statute of limitations has long since barred any claims related to the original debt underlying the Writ of Execution. The judgment creditors' actions are therefore untimely and improper.

6. Relief sought

I respectfully request the following relief:

An order removing the improper **Writ of Execution** and all **affiliated levies**/from the public record.

b. A **permanent injunction** prohibiting the Defendants from asserting any claim or interest in my property arising from the Writ of Execution or the affiliated levies and liens.

c. An award of all ill-gotten funds received by **Barry Group, LP** under duress from me, including the sum of over \$6,900.00, and reimbursement for all **attorney's fees and costs** I have paid to defend my rights and protect my domicile (Exhibit G).

d. Any further relief that the Court may deem just and equitable under the circumstances.

7. **Texas Constitutional Rights**

In addition to the reasons mentioned above, I assert that the actions of the Defendants in placing a cloud on the title of my property and proceeding with an improper levy and sale violate my **rights under the Texas Constitution**, particularly **Article 1, Sections 9, 10, and 19**, which guarantee the right to due process, protection from unlawful seizures, and the protection of property rights.

I swear and affirm that the facts contained in this Affidavit are true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

Signed on this the [date] day of [month], 2025.

9th of May, 2025

[Signature of Affiant]

Larry Preston

Plaintiff

SWORN TO AND SUBSCRIBED before me on this the [date] day of [month], 2025.

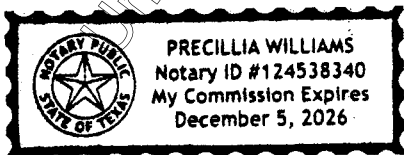
[Notary]

[Date]

Notary Public, State of Texas

My Commission Expires: December 5, 2026

Notary Seal





OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
CIVIL COURTS DEPARTMENT

THE STATE OF TEXAS

DOCKET NO: 936272, 701

SPCO FEDERAL CREDIT UNION PLAINTIFFS VS LARRY PRESTON DEFENDANTS

EXECUTION

To the sheriff or any constable within the State of Texas..... Greetings:

WHEREAS on May 19, 2009 a Judgment was rendered in the above styled and numbered case as follows:

Judgment in Favor of: SOCA FUNDING, L.L.C. ("Assignee"), SPCO Federal Credit Union ("Assignor")
3346 East T.C. Jester, Suite B-23
Houston, Texas 77018

Judgment Against: Larry Preston
13222 Elaine Rd.
Houston, Texas 77047

Judgment Awarded:

Amount: \$ 2,237.34

Attorney's Fees: \$555.00

Court Costs: \$263.80

Prejudgment Interest Rates: interest at the rate of 10.5% per annum on \$2,237.34 beginning on September 8, 2008, until the entry of final judgment

Post-Judgment Interest Rates: interest at the rate of 10.5% per annum, except attorneys fees at 5% per annum

Judgment Credits: 1st

Amount:

Court Costs:

Constable:

Attorney's Fees:

Interest:

Total Credits:

1st Credit - N/A

Now therefore you are hereby commanded, that all goods, chattels, land and tenements subjected to execution, of the said defendants you cause to be made, the amount of said judgment and your costs of executing this writ less prior collection by execution of credits herein specified:

Herein Fail Not, to make due execution and return of this writ, within 90 days from this date.

Given under my hand and seal of said court at my office in Houston, Texas, this 7th day of August, A.D. 2014.

STAN STANART, COUNTY CLERK
County Civil Court -at- Law No. Four (4)

Harris County, Texas

HARRIS COUNTY, TEXAS

CONSTABLE PRECINCT #3

ASHLEY N. SHARPE

Ashley N. Sharpe, County Clerk

SOCA FUNDING, LLC

3346 EAST T.C. JESTER, SUITE B-23

HOUSTON, TEXAS 77018

1866321NJRC

Notice of Constable's Sale
Writ of Execution - 936272,701
(See Notes Below)

Ken Jones, Constable Precinct 3, Harris County

Style: Soca Funding, L.L.C., vs. Larry Preston

Under the authority and by virtue of Writ of Execution, Cause Number 936272,701, dated and issued pursuant to the judgment of the County Civil Court At Law No. 4 of Harris County, Texas, by the clerk of said court, and to me directed and delivered as Constable in Harris County, I have on this 09 day of September, 2014, seized and levied upon, and will on the first Tuesday in October, the same being October 07, 2014, at 1115 Congress (Family Law Center) Houston, Texas 77002, between the hours of 10:00 A.M. and 4:00 P.M., proceed to sell for cash to the highest bidder all the right, title and interest of the defendant(s) in the real property as described below in order to satisfy said judgment, interest penalties, costs, and further costs of executing this writ.

Whereas on May 19, 2009 a judgment was rendered in the above styled and numbered case as follows:

Judgment in Favor of: SOCA FUNDING, L.L.C. ("Assignee"), SPCO Federal Credit Union ("Assignor")

Judgment against: Larry Preston

Judgment Awarded: Amount \$ 2,237.34 Attorney's Fee: \$ 555.00 Court Cost: \$263.80

Prejudgment Interest Rates: Interest at the rate of 10.5% per annum on \$ 2,237.34 beginning on September 08, 2008, until the entry of the final judgment.

Post Judgment Interest Rates: interest at the rate of 10.5% per annum, Except attorneys fees at 5% per annum.

Property Description: Lot Four Hundred Eighty Seven (487), Block Two (2), of Fontaine Place, Section Four (4), a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 43, Page 24, Map Records of Harris County, Texas.

5709 Langley Rd.

Houston, Texas 77016

HCAD# 0822620000487

Any properties sold shall be subject to the right of redemption of the defendants or any person having an interest therein, to redeem the property or their interest therein if allowed, within the time and in the manner provided by law.

ALL SALES SHALL BE WITHOUT WARRANTY AS TO TITLE OR CONDITION, EXPRESS OR IMPLIED, AS EVIDENCED BY CONSTABLE'S DEED FOR PROPERTY.

For More Information, Contact: Soca Funding, LLC, Phone: 713-335-3628

The Minimum Bid Is: All Costs Of Suit and Sale

Terms: Cash, or Cashier's Check

Additional Terms:

Published In: Daily Court Review

SALE TO BE HELD:

07 day of October, 2014, approximately: 10:00:00 AM

Location: 1115 Congress (Family Law Center) Houston, Texas 77002

Ken Jones, Constable Precinct 3, Harris County, Texas

701 W. Baker Rd.

Baytown, Texas 77521

(281) 427-4792

By: Cpl. G. Arrington 3C76

Deutsche Bank

2112912155

Date 10.07.2014

1-103/210

Pay to the
order of:

KEN JONES CONSTABLE
HARRIS COUNTY PRECINCT 3

CASHIERS CHECK

Amount

The sum of:

OCWEN LOAN SERVICING LLC

Reference: CHECK

Payable at DBTCo Americas New York Non-Negotiable after 180days

Handwritten Signature: Lisa A. Rami
Authorized Signature

SIGNATURE HAS A COLORED BACKGROUND - BORDER CONTAINS MICROPRINTING

⑈ 2112912155 ⑈

⑆021001033⑆

00905360⑈

DETAILS OF PAYMENT

Check #: 2112912155
Amount: \$5,417.69
Reference: CHECK
By Order: OCWEN LOAN SERVICING LLC
1661 WORTHINGTON ROAD
Date: 10.07.2014
Details: OBI=811620000487 OCWEN LOAN 7092385666
CHECK

To the order of:

KEN JONES CONSTABLE
HARRIS COUNTY PRECINCT 3

0904095

Account Text



OCWEN FINANCIAL CORPORATION
TAX DEPARTMENT
1661 Worthington Rd, Suite 100
West Palm Beach FL, 33409
(561) 682-8000

NAME: Ken Jones Constable
Harris County Precinct 3

ADDRESS: 701 West Baker Road
Baytown TX 77521

LOAN NUMBER: 7092385686

BORROWER: Larry Preston

PROP ADDRESS: 5709 Langley Houston, TX 77016

PARCEL#: 811620000487

CHECK AMOUNT: **\$5,417.69**

2014 OCT -9 AM 9:37
KEN JONES
CONSTABLE PRECINCT #3
HARRIS COUNTY, TEXAS

For questions related to this remittance please contact
Meilyn Rivera Ph: (561) 682-7107
meilyn.rivera@ocwen.com

On the Date of Sale stated above, between the hours of ten o'clock a.m. and four o'clock p.m., I sold the above described land and premises at public vendue in the County of Harris, State of Texas, at the door of the Court House of said Harris County, Texas, and said land and premises were sold to the highest bidder, for the sum stated above and the high bidder being the above-named Grantee(s).

As required by Section 34.0445, Texas Civil Practice and Remedies Code, the Grantee(s) exhibited to me and unexpired written statement issued to the Grantee(s) showing that the Harris County Tax Assessor-Collector determined that: (1) there are no delinquent ad valorem taxes owed by the Grantee(s) to Harris County, and (2) for each school district or municipality having territory in Harris County, there are no known or reported delinquent ad valorem taxes owed by the Grantee(s) to that school district or municipality.

Accordingly, and in consideration of the payment of the sum described above, the receipt of which is hereby acknowledged, I hereby convey to the Grantee(s) all of the right, title and interest owned by the Defendant(s) in the property described above.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this 5th day of December 2014.

[Signature]
Constable, Harris County, Texas Precinct 3

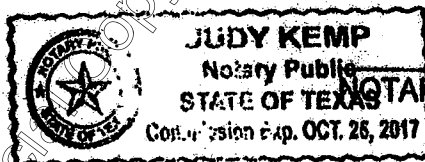
101

THE STATE OF TEXAS
COUNTY OF HARRIS

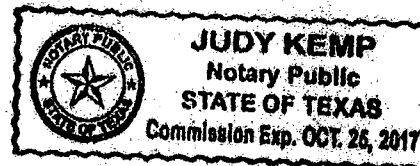
§
§
§

BEFORE ME, the undersigned Notary Public in and for the State of Texas, on this day personally appeared Ken Jones Constable of Harris County Precinct 3, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration, and in the capacity therein expressed.

GIVEN under my hand and seal of office, this 5th day of December 2014.



[Signature]
NOTARY PUBLIC, State of Texas



Return to:
Vernon & Duray, LLP
Attorneys @ Law
9535 Forest Lane, Suite 108
Dallas, Texas 75243

Berry Group
P.O. Box 509
Barker, TX 77412
Texas

[Deed under Execution in Docket No. CC-03-02699-D]
County Court at Law No.4 Court of Dallas County,