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United States Court of Appeals  
for the Fifth Circuit

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No. 24-50053

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 4, 2025

Lyle W. Cayce  
Clerk

MARTHA JANE FORD,

*Plaintiff—Appellant,*

*versus*

BANK OF NEW YORK MELLON, *Trustee*, FOR CWABS,  
INCORPORATED ASSET-BACKED CERTIFICATES, SERIES 2007-2,

*Defendant—Appellee.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:18-CV-299

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Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:\*

After Defendant-Appellee Bank of New York Mellon (“BoNYM”) filed an application in Texas court for an order authorizing it to foreclose on Plaintiff-Appellant Martha Jane Ford’s home, Ford filed an independent suit in a different Texas court to stay the foreclosure application. BoNYM removed the suit to federal court and the parties entered into mediation

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\* This opinion is not designated for publication. *See 5TH CIR. R. 47.5.*

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culminating in a settlement agreement. Ford moved to set aside the agreement, and after conducting a hearing, the district court denied that motion. Ford now appeals the district court's denial of her motion to set aside. We AFFIRM.

## I.

We review a district court's exercise of its inherent power to encourage and enforce settlement agreements for abuse of discretion. *See Bell v. Schernayder*, 36 F.3d 447, 449 (5th Cir. 1994). “A district court abuses its discretion if it: (1) relies on clearly erroneous factual findings; (2) relies on erroneous conclusions of law; or (3) misapplies the law to the facts.” *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 310 (5th Cir. 2008) (quoting *McClure v. Ashcroft*, 335 F.3d 404, 408 (5th Cir. 2003)).

Ford raises four arguments on appeal: (a) that BoNYM engaged in fraud in the handling of the mortgage, (b) that her counsel engaged in manipulative practices that constituted a conflict of interest or coercion, (c) that the “high pressure-tactics” of mediation coerced her into entering the agreement, and (d) that her counsel’s actions constituted negligence and a breach of fiduciary duty. She has waived each argument.

“Although pro se briefs are afforded liberal construction, even pro se litigants must brief arguments in order to preserve them.” *Mapes v. Bishop*, 541 F.3d 582, 584 (5th Cir. 2008) (citation omitted). First, Ford cites to *no* legitimate<sup>1</sup> authority to support any of these issues throughout her brief, which constitutes waiver of those issues. *See Sindhi v. Raina*, 905 F.3d 327,

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<sup>1</sup> The five “cases” Ford cites in her table of authorities do not appear to exist. “An attempt to persuade a court or oppose an adversary by relying on fake opinions is an abuse of the adversary system.” *Park v. Kim*, 91 F.4th 610, 615 (2d Cir. 2024) (quoting *Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443, 461 (S.D.N.Y. 2023)).

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334 (5th Cir. 2018). Further, the issues raised either fail to challenge the bases of the district court’s decision, which itself constitutes waiver, *see Jones v. Nueces Cnty., Tex.*, 589 F. App’x 682, 685 (5th Cir. 2014) (per curiam), or were not raised before the district court and therefore cannot be raised for the first time on appeal, *see Webster v. Kijakazi*, 19 F.4th 715, 720 (5th Cir. 2021).

Ford faces a difficult situation, but even had she not waived these issues, she has demonstrated no right to relief. Although Ford may have felt coerced by BoNYM’s practices or the stress of mediation, “emotional strain and negotiation pressures” are not enough. *Lee v. Hunt*, 631 F.2d 1171, 1178 (5th Cir. 1980). Ford may have felt manipulated or neglected by her attorney, but under Texas law that provides no basis to invalidate her contract with BoNYM. *See King v. Bishop*, 879 S.W.2d 222, 224 (Tex. App.—Houston [14th Dist.] 1994, no writ). And Ford’s mistaken beliefs about the terms of the settlement agreement or her ability to cancel it are similarly irrelevant. *See id.*; *Nat’l Prop. Holdings, L.P. v. Westergren*, 453 S.W.3d 419, 425 (Tex. 2015).

## II.

Because Ford has demonstrated no error on the part of the district court, we AFFIRM.

United States Court of Appeals  
for the Fifth Circuit

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No. 24-50053

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United States Court of Appeals  
Fifth Circuit

**FILED**

June 3, 2025

Lyle W. Cayce  
Clerk

MARTHA JANE FORD,

*Plaintiff—Appellant,*

*versus*

BANK OF NEW YORK MELLON, *Trustee*, FOR CWABS,  
INCORPORATED ASSET-BACKED CERTIFICATES, SERIES 2007-2,

*Defendant—Appellee.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:18-CV-299

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**ON PETITION FOR REHEARING EN BANC**

Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R.40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P.40 and 5TH CIR. R.40), the petition for rehearing en banc is DENIED.

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\*Judge Patrick E. Higginbotham, did not participate in the consideration of the rehearing en banc.

IN THE UNITED STATES DISTRICT COURT  
• WESTERN DISTRICT OF TEXAS  
WACO DIVISION

**MARTHA J. FORD,**

**Plaintiff,**

V.

**THE BANK OF NEW YORK MELLON  
AS TRUSTEE FOR CWABS, INC.  
ASSET-BACKED CERTIFICATES,  
SERIES 2007-2**

**Plaintiff,** **Defendant/Third-Party**

V.

**ROLANDO FORD,**

### **Third-Party Defendant.**

**CIVIL NO. 6:18-CV-00299-JCM**

**ORDER ON TRUSTEE'S RENEWED MOTION FOR SUMMARY JUDGMENT**

Before the Court is Defendant Bank of New York Mellon as Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2007-2's ("Trustee") Renewed Motion for Summary Judgment (ECF No. 49), Plaintiff Martha Ford's Response to Trustee's Renewed Motion for Summary Judgment (ECF No. 50), and Trustee's Reply to Plaintiff's Response to Trustee's Motion for Summary Judgment (ECF No. 52). For the following reasons, Trustee's Motion for Summary Judgment is **DENIED**.

## I. BACKGROUND

In 1997, Martha and Rolando Ford purchased a home in Killeen, Texas for use as their homestead. Pl.'s Resp. at 2. The couple financed the purchase with a 30-year note secured by a

Deed of Trust with First Community Mortgage. *Id.* The couple later refinanced their mortgage in 2004 with a second 30-year mortgage from Amerigroup Mortgage Corporation. Amerigroup Mortg. Deed of Trust at 2, ECF No. 49-6.

The Fords later executed a third 30-year note with Countrywide. Texas Home Equity Adj. Rate Note at 19, ECF No. 49-2. Countrywide's note was a home equity loan secured by a lien on the couple's home. Texas Home Equity Security Instrument at 24–25, ECF No. 49-2. The Fords appear to have used \$111,743.09 of the \$168,000 Countrywide loan principal to pay principal on a loan to National City Mortgage. HUD-1 Statement at 4, ECF No. 49-5. The record is unclear, however, what lender National City Mortgage is affiliated with or whether that lender released its real property lien after the payment.

The Countrywide home equity loan application included a Texas Home Equity Security Instrument that both Rolando and Martha Ford signed. Texas Home Equity Security Instrument at 34. The security instrument named Mortgage Electronic Registration Systems, Inc. as beneficiary and nominee, granting it the right to foreclose and sell the property if the Fords defaulted. *Id.* at 24. Mortgage Electronic Registration Systems subsequently assigned its interest under the Security Instrument to the Trustee. Assignment of Deed of Trust at 39, ECF No. 49-2.

Countrywide also had the Fords sign a Texas Home Equity Affidavit and Agreement, which averred that they executed the loan documents in the office of the lender, an attorney, or a title company. Aff. and Agreement at 5, ECF No. 49-4. Nevertheless, Martha Ford claims that they actually executed the loan documents in her home. Aff. of Martha Ford at ¶ 7, ECF No. 50. Martha Ford provided two affidavits that support her claim that Countrywide and the Fords executed the loan documents in her home. The first affidavit provides Martha Ford's own

statement. *Id.* The second affidavit provides Elena S. Reynolds's statement. Aff. of Elena S. Reynolds, ECF No. 50. Reynolds was the Notary Public for the Affidavit and Agreement. *Id.* at ¶¶ 4, 8–9.

The Trustee mailed the Fords a notice of default on the Countrywide note. Shortly thereafter, Martha Ford filed suit *pro se* against the Trustee in the 169<sup>th</sup> District Court of Bell County, Texas. Pl.'s Orig. Pet., ECF No. 1-1. The Trustee removed the action to this Court. Def.'s Not. Removal, ECF No. 1. The Trustee counter-claimed against Martha Ford and asserted a third-party claim against Rolando Ford seeking judicial foreclosure and attorney's fees. Def.'s Second Am. Answer, ECF No. 30.

On August 1, 2018, the Trustee moved for summary judgment for the first time. Def.'s Mot. Summ. J., ECF No. 18. The Trustee argued that Martha Ford failed to state a claim under the Federal Rules of Civil Procedure. *Id.* On its counter-claims, the Trustee argued that it was entitled to a court-ordered foreclosure, writ of possession, and its reasonable attorney's fees. *Id.* In the alternative, the Trustee requested leave to file an amended answer counter-claiming for equitable subrogation and fraud.

The District Court granted the Trustee's motion in part and denied in part. Order Granting in Part and Den. in Part, ECF No. 22. The District Court denied the Trustee's motion with regards to Martha Ford's claims and the Trustee's counter-claims because Martha Ford's and Reynolds's statements raised a fact issue as to whether Countrywide's lien was constitutionally valid. *Id.* at 7. Likewise, the District Court held that Martha Ford was not estopped from challenging the validity of the lien. *Id.* The District Court, however, granted the Trustee's alternative request to amend its answer. *Id.* at 9.

After the District Court ruled on the Trustee's motion, the parties consented to the Magistrate Judge's jurisdiction. Notice and Statement Regarding Consent to Magistrate Judge, ECF Nos. 16, 17. Accordingly, the District Court reassigned the case to the Undersigned. Order Reassigning Case, ECF No. 23. The Trustee then amended its answer and re-urged its motion for summary judgment.

## II. LEGAL STANDARD

Summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). A dispute is not genuine if the trier of fact could not, after an examination of the record, find for the nonmoving party. *Matsushita Elec. Indus., Co. v. Zenith Radio Corp.*, 475 U.S. 574, 578 (1986). The moving party bears the burden of showing that no genuine dispute of material fact exists. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). That said, the moving party can satisfy its burden either by producing evidence negating a material fact or pointing out the absence of evidence supporting a material element of the nonmovant's claim. *Duplantis v. Shell Offshore, Inc.*, 948 F.2d 187, 190 (5th Cir. 1991). Throughout this analysis, the Court must view the evidence and all factual inferences in a light most favorable to the party opposing summary judgment. *Tolan v. Cotton*, 134 S. Ct. 1861, 1866 (2014).

## III. DISCUSSION

### A. The Trustee is not entitled to summary judgment on its counterclaims and third-party claims.

The Trustee argues that it is entitled to a court-ordered foreclosure and its reasonable attorney's fees for three reasons. First, the Trustee argues that the Affidavit and Agreement Martha Ford signed when the parties originated the Countrywide note conclusively establishes that the note was executed consistent with Texas's constitutional requirements. Def.'s Renewed

Mot. Summ. J. at 10. Second, the Trustee argues that, in any event, estoppel bars Martha Ford from contradicting the loan's constitutionality. *Id.* at 12. Third, the Trustee argues that even if the Court determines that the Countrywide lien violates the Texas Constitution, the Trustee can still foreclose on the property under equitable subrogation. *Id.* at 17.

**1. Martha Ford raises a genuine issue of material fact on the constitutional validity of the Trustee's lien.**

Under the Texas Constitution, parties must close a home equity loan secured by a lien against a homestead at the office of the lender, an attorney, or a title company. Tex. Const. art. XVI, § 50(a)(6)(N). Closing a home equity loan anywhere else renders the lien invalid. *Id.*

The Trustee argues that the language of the Affidavit and Agreement that Martha Ford signed conclusively establishes that the parties closed the Countrywide loan at the office of the lender, an attorney, or a title company. *Id.* at 10. Martha Ford, however, argues that her affidavit and Reynolds's affidavit raise a fact issue on the lien's validity. Pl.'s Resp. at 5.

The Court holds that, despite the statements in the Affidavit and Agreement, Martha Ford's affidavit and Reynolds's affidavit raise a material issue of fact concerning where the closing occurred. The Court agrees that Martha Ford cannot create a genuine issue of material fact by merely contradicting her previous statement. *See Cleveland v. Policy Mgmt. Sys. Corp.*, 526 U.S. 795, 806 (1999). Martha Ford, however, is not merely contradicting her previous sworn statement. She has also presented the affidavit of a separate individual who was present at the time and place where the Fords executed the Countrywide note and its related documents. *See* Aff. of Reynolds. Courts have recognized that people may remember where they signed a loan several years later. *See Priester v. Long Beach Mortgage Co.*, 4:16-CV-449, 2018 WL 4469679, at \*4 (E.D. Tex. Sept. 18, 2018). Notaries may remember where they notarized loans several

years later as well. The sworn statements of two individuals present at the closing—one disinterested in the litigation—creates a fact issue that precludes summary judgment.

**2. Martha Ford is not estopped from challenging the lien's constitutionality.**

Next, the Trustee argues that Martha Ford is estopped from contradicting the lien's constitutionality. Def.'s Renewed Mot. Summ. J. at 12. The Trustee argues that because Martha Ford signed the Affidavit and Agreement stating the lien documents were signed in accordance with the Texas Constitution, she is now estopped from challenging the constitutionality of the lien. *Id.*

Previously, the District Court ruled that estoppel does not bar Martha Ford from challenging the lien's constitutionality. Order Granting in Part and Den. in Part at 7–8. The District Court's holding relied on Supreme Court of Texas precedent that a homestead lienholder has the burden of first proving that a lien exists by some reason other than estoppel. *Id.* at 7; *see also Hruska v. First State Bank of Deanville*, 747 S.W.2d 783, 785 (Tex. 1988). If a homestead lienholder can carry this burden, then estoppel may prevent the homeowner from denying the lien's validity. *Id.* The District Court held that because Martha Ford raised a fact issue about whether the Security Instrument was unconstitutionally closed in the Fords' home, the Trustee had not carried its initial burden of showing that a valid lien existed for a reason besides estoppel. *Id.*

The Trustee raises its estoppel argument anew by asserting that the District Court misapplied *Hruska*. The Trustee argues that *Hruska* concerned the *existence* of a homestead lien, not its validity. Def.'s Renewed Mot. Summ. J. at 12–13. The Trustee argues that the present case is different because its dispute with Martha Ford concerns the validity of the homestead lien, not the lien's existence. *Id.* at 13–14. The Trustee argues that, rather than attempting to

estop a lien into existence, it is attempting to estop Martha Ford from challenging that lien's constitutionality. *Id.* at 14.

Yet the Trustee's characterization of the dispute is inconsistent with the Supreme Court of Texas's interpretation of home equity liens. In particular, the Supreme Court of Texas has expressly recognized that liens securing constitutionally non-compliant home-equity loans are void unless cured. *Wood v. HSBC Bank USA, N.A.*, 505 S.W.3d 542, 548–49 (Tex. 2016). Thus, absent strict compliance with Texas's constitutional provisions, no valid lien exists. *See id.* This Court has already recognized that Martha Ford has raised a fact issue as to whether the Countrywide note strictly adhered to Texas's constitutional provisions for home equity loans. Accordingly, Martha Ford has raised a fact issue about whether or not a valid lien exists. *See id.* As a result, Martha Ford can challenge the constitutionality of the lien.

A loan created under Section 50(a)(6) of the Texas Constitution is only eligible for foreclosure if the loan satisfies an exacting list of terms and conditions. *Fed. Home Loan Mortg. Corp. v. Zepeda*, 601 S.W.3d 763, 766 (Tex. 2020); *see also* Tex. Const. art. XVI, § 50(a)(6). One of those exacting terms is that the parties must close the loan in the office of the lender, an attorney, or a title company. Tex. Const. art. XVI, § 50(a)(6)(N). Because a fact issue exists as to whether the parties complied with this exacting term, the Trustee is not entitled to foreclosure on summary judgment.

**3. The Trustee has not conclusively established that equitable subrogation applies.**

Finally, the Trustee argues that it is entitled to equitable subrogation because a portion of the home equity loan proceeds were used to pay the Fords' outstanding mortgage. Def.'s Renewed Mot. Summ. J. at 17. To support this argument, the Trustee provides a HUD-1 Settlement Statement showing that proceeds from the home equity loan were used to pay

\$111,743.09 to National City Mortgage. HUD-1 Settlement Statement at 4, ECF No. 49-5. Martha Ford argues that the HUD-1 is unauthenticated and that the Trustee may not rely on the statements therein because no privity exists between the Trustee and the title company. Pl.'s Resp. at 9.

Equitable subrogation is a legal fiction that allows a subsequent lienholder to take the lien-priority status of a prior lienholder in certain circumstances. *Bank of Am. v. Babu*, 340 S.W.3d 917, 925 (Tex. App.—Dallas 2011, pet. denied). Equitable subrogation aims to prevent the unjust enrichment of the debtor by substituting the rights, remedies, and securities of the subsequent lienholder with those of the prior lienholder. *Id.*

Texas courts recognize a limited application of equitable subrogation in the homestead loan context. *Zepeda*, 601 S.W.3d at 766–67. A subsequent lender whose homestead lien is constitutionally void must satisfy three requirements for equitable subrogation to apply. *Id.* at 766–67. First, an original lender must have a constitutionally valid lien asserted against the homeowner's homestead. *Id.* Second, the homeowner must use a portion of the proceeds from the subsequent lender's loan to pay off the remaining balance on the original lender's loan. *Id.* Finally, the original lender must release its lien after the homeowner pays off the remaining balance on the original loan. *Id.*

If these three requirements are met, the subsequent lender “steps into the shoes” of the original lender. *Id.* at 766. Even though the subsequent lender cannot foreclose on its own lien, the subsequent lender gets an equitable lien equal to the amount that the homeowner used to satisfy the original loan. *Id.* The subsequent lender can foreclose on the homestead under this equitable lien. *Id.* After the foreclosure, the subsequent lender is entitled to sales proceeds up to

the value of its equitable lien (i.e., the amount of the subsequent loan that the homeowner used to pay off the original loan). *Id.* at 767.

The Trustee produced a HUD-1 Settlement Statement to support its equitable subrogation claim. Martha Ford argues that the Court should not consider the HUD-1 Settlement Statement because it is not authenticated and because the Trustee lacks the privity required to rely on its assertions. But even if the Court does consider the HUD-1 statement, the HUD-1 statement, standing alone, is not sufficient to conclusively establish that the Trustee is entitled to equitable subrogation.

A HUD-1 Settlement Statement is a document that lists all charges and credits to the buyer and to the seller in a real estate settlement, or all the charges in a mortgage refinance. Consumer Fin. Prot. Bureau, *What is a HUD-1 Settlement Statement* (2020), <https://www.consumerfinance.gov/ask-cfpb/what-is-a-hud-1-settlement-statement-en-178/>. Although a HUD-1 Settlement Statement will indicate if proceeds from refinancing are used to pay an existing lender, it will not show the outstanding balance on that prior loan. *See id.* Likewise, a HUD-1 statement will not indicate whether any existing lien that secures a prior loan is released as a result of the payment. *See id.*

To carry its summary judgment burden, the Trustee must conclusively establish all three homestead equitable subrogation requirements. *See Zepeda*, 601 S.W.3d at 767. Here, neither party disputes that Amerigroup Mortgage had a valid lien on the Ford homestead. But the HUD-1 statement does not reflect that Amerigroup Mortgage received a payment from the proceeds of the home equity loan. *See* HUD-1 Statement at 4, ECF No. 49-5. Rather, the HUD-1 Statement reflects \$111,743.09 was paid to National City Mortgage. *Id.* The record lacks any indication as to which lender National City Mortgage is affiliated with. And even if the Court assumes that

National City Mortgage is affiliated with Amerigroup Mortgage—as the Trustee seems to indicate—the HUD-1 statement does not show whether Amerigroup Mortgage released its lien as a result of the payment. *See id.* Thus, the Trustee has produced no evidence of two of the three homestead equitable subrogation requirements. *See Zepeda*, 601 S.W.3d at 766–67. Accordingly, the Trustee has not conclusively established that equitable subrogation applies.

**B. The Trustee is not entitled to summary judgment on Martha Ford's claims.**

The Trustee also argues that it is entitled to summary judgment on Martha Ford's claims. As discussed, the Court finds that Martha Ford has raised a genuine issue of material fact on the constitutionality of the home equity lien. Accordingly, summary judgment on Martha Ford's claims is inappropriate.

**IV. CONCLUSION**

For the foregoing reasons, the Trustee's Renewed Motion for Summary Judgment (ECF No. 49) is **DENIED**.

**SIGNED this 26th day of April, 2022.**



\_\_\_\_\_  
JEFFREY C. MANSKE  
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

MARTHA FORD,

Plaintiff,

v.

BANK OF NEW YORK MELLON AS  
TRUSTEE FOR CWABS, INC.  
ASSET-BACKED CERTIFICATES,  
SERIES 2007-2,

Defendant,

CASE NO. 6:18-CV-00299-JCM

ORDER

Came before the Court to be considered Plaintiff's Motion to Set Aside the Mediated Settlement Agreement (ECF No. 79), Plaintiff's Counsel's Motion to Withdraw as Attorney (ECF No. 80), and Plaintiff's Counsel's Oral Motion to Withdraw as Attorney made at the October 31, 2023, hearing in this cause. For the following reasons, these Motions are **DENIED**.

**I. BACKGROUND**

This is a case about a litigant who got cold feet after entering into a mediated settlement agreement and desires a chance to renegotiate. The Court has held two hearings on this matter. The first was a status conference held on October 31, 2023. The second was a hearing on all motions currently pending which the Court held on December 11, 2023.

At the first hearing, the Court heard testimony that Ms. Ford was displeased with the settlement agreement and felt that her attorney, Dan MacLemore, and the mediator, Judge Robert Stem, had unintentionally pressured or coerced her into entering a settlement agreement that she did not agree with after having additional time to review it. Based on these allegations, Mr. MacLemore orally moved to withdraw as Ms. Ford's attorney. The Court gave the parties

additional time to discuss a potential resolution of the relevant disputes. After those discussions proved fruitless, the Court directed Plaintiff to file a written motion to withdraw or motion to set aside the settlement agreement by November 15, 2023.

Plaintiff filed her Motion to Set Aside the Settlement Agreement on November 15, 2023. Plaintiff then filed a Renewed Motion to Withdraw on November 20, 2023. ECF No. 80. Defendant responded to the Motion to Set Aside on November 22, 2023. ECF No. 81. The Court set the motions for a hearing on December 11, 2023. At the hearing, the Court heard testimony from Judge Robert Stem, Plaintiff, and Letawna St. George (Plaintiff's mother who attended the mediation). Judge Stem and Plaintiff are the key witnesses in resolving this dispute.

Judge Stem testified that he is a retired Texas District Judge who serves as a visiting judge in central Texas and as a mediator in several central Texas counties including McLennan County. The Court finds all of Judge Stem's testimony credible. Judge Stem also testified that he mediated this case on July 14, 2023, resulting in the mediated settlement agreement ("MSA") in dispute. Judge Stem testified that Mr. MacLemore, Plaintiff, and Ms. St. George attended the mediation in one room and Defendant's lawyer and representative attended in a different room. He specifically noted that nothing about this mediation was meaningfully different from typical mediations.

When the Court asked about Judge Stem's mediation procedures, Judge Stem testified that he makes sure the parties have sufficient time to confer with their attorneys to understand the terms of a MSA, he discusses the terms of the MSA, gives additional time for the parties to ask their attorneys and Judge Stem questions about terms, and advises the parties at the beginning of the mediation that any MSA entered is binding and not subject to revocation. Judge Stem also testified that he had no concerns that Plaintiff did not understand the agreement, that he had no

## App 2

### A. Plaintiff has failed to establish the affirmative defense of duress.

Plaintiff argues that the MSA should be set aside because she entered it under pressure, duress, and coercion. Pl.'s Motion to Set Aside at 1-2. Defendant argues that Plaintiff has failed to establish legal duress or coercion sufficient to set aside the MSA. Def.'s Resp. at 9.

Courts have limited discretion to set aside mediated settlement agreements. *Bell v. Schexnayder*, 26 F.3d 447, 449 (5th Cir. 1994). In Texas, duress is an affirmative defense that must be proved by the party seeking to avoid the contract. *F.D.I.C. v. White*, 76 F. Supp. 2d 736, 739 (N.D. Tex. 1999) (citations omitted). To prove the affirmative defense of duress or undue influence, a plaintiff must prove that (1) there is a threat to do some act which the party threatening has no legal right to do, (2) there must be some illegal exaction or some fraud or deception, and (3) the restraint must be imminent and such as to destroy free agency without present means of protection. *Lee v. Hunt*, 631 F.2d 1171, 1178 (5th Cir. 1980) citing *Tower Contracting Co., Inc., of Tex. v. Bruden Bros., Inc.*, 482 S.W.2d 330, 335 (Tex. Civ. App. Dallas 1972, writ ref. n. r. e.). The plaintiff must also demonstrate that the “persuasion, entreaty, importunity, argument, intercession, and solicitation” were so strong as to ‘subvert and overthrow the will of the person to whom they are directed.’” *Id.* citing *DeGrassi v. DeGrassi*, 533 S.W.2d 81, 85 (Tex. Civ. App. Amarillo 1976, writ ref. n.r.e.). Finally, “emotional strain and negotiation pressures are not by themselves enough to overcome the will of the party to a contract.” *Id.* Especially where there is no evidence that the emotional strain and negotiation pressures “resulted from threats, illegal exaction, fraud or deception.” *Id.*

Here, Plaintiff has undoubtedly produced evidence showing that she suffered from emotional strain and negotiation pressures which affected her greatly. But Plaintiff was abundantly clear that neither Judge Stem nor Mr. MacLemore made any threats or intentionally

## App 2

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coerced or pressured her. The only evidence Plaintiff produced that could be construed as a threat was being told that the MSA was the best deal Plaintiff was going to get. But statements such as those, unsupported by any allegation or evidence that it was intended as a threat or intentional coercion, cannot establish duress and coercion by themselves. The Court also notes that Plaintiff signed the MSA which expressly states that, "Each party to this agreement has entered into this settlement agreement freely and voluntarily, and without any duress. . . . [E]ach party has fully read and understand [sic] the attached agreement." ECF No. 81-2 at 2. Accordingly, Plaintiff has failed to carry her burden of establishing the affirmative defense of coercion or duress.

The Court also notes that even if Plaintiff's testimony were enough to prove undue influence and duress by Judge Stem or Mr. MacLemore, the settlement agreement would still be enforceable. To set aside a contract based on duress, "the duress must come from the other party to the contract," "not the claimant's attorney." *Kosowska v. Khan*, 929 S.W.2d 505, 508 (Tex. App.—San Antonio 1996, writ denied). Here, Mr. McKleroy, counsel of record for Defendant, testified by declaration that, "[He] never saw [Plaintiff] or her mother during the mediation. At no time during the mediation did [he] or anyone acting on [Defendant's] behalf see, speak to or communicate in any way with Ms. Ford and/or her mother." McKleroy Decl. (ECF No. 81-1) at ¶ 3. The only potential wrongdoing Plaintiff identified on Defendant's part was a conclusory allegation that Defendant retained new counsel as part of the bait-and-switch tactics Defendant has allegedly employed throughout litigation. Even if that is true, it does not amount to duress or coercion. Accordingly, Plaintiff has failed to establish the affirmative defense of duress or coercion.

**B. Plaintiff's mistake of law is not a legal basis for invalidating the MSA.**

Plaintiff also argues that the Court should set aside the MSA because "it was her understanding that she, as a consumer had three days to withdraw from the settlement agreement" under § 601.052 of the Texas Business and Commerce Code. Pl.'s Mot. Set Aside at 2. She claims she did not know that the statute did not apply to mediated settlement agreements and that "had she known this was the case, she would not have executed the MSA." *Id.* Defendant argues that, even if this is true, the MSA cannot be set aside because of Plaintiff's mistake of the law. Def.'s Resp. at 6.

"Generally, a contract cannot be avoided for a mistake of law." *In re Bettis*, 97 B.R. 344, 348 (Bankr. W.D. Tex. 1989) citing *Ussery v. Hollebeke*, 391 S.W.2d 497 (Tex. Civ. App.—El Paso 1965, writ ref. n.r.e.). "All persons of sound mind are presumed to know the law." *Id.* citing *Roberts v. Lucas*, 388 S.W.2d 764 (Tex. Civ. App.—Tyler 1965). Accordingly, Plaintiff is presumed to know the law and the MSA cannot be avoided because of her mistake of it.

**C. Plaintiff's confusion expressed after entering the MSA is not a basis to avoid the MSA.**

Plaintiff also argues that "she did not understand the MSA and that the MSA was not explained to her before she signed it." Pl.'s Mot. Set Aside at 2. The Court first notes that the testimony from the hearing establishes that Judge Stem and Mr. MacLemore explained the MSA to Plaintiff. Judge Stem provided Plaintiff with time to discuss the MSA's terms with Mr. MacLemore, Judge Stem gave Plaintiff the opportunity to ask him questions about the MSA, and that Judge Stem had no concerns that Plaintiff did not understand the MSA.

Absent "fraud, misrepresentation, or deceit, a party is bound by the terms of the contract he signed, regardless of whether he read it or thought it had different terms." *In re McKinney*,

167 S.W.3d 833, 835 (Tex. 2005) (citations omitted). As discussed above, Plaintiff maintains that no one intentionally coerced her or committed fraud. Plaintiff is, therefore, bound by the terms of the MSA even though she was confused about whether the agreement was revocable.

**III. CONCLUSION**

For the reasons discussed above, Plaintiff's Motion to Set Aside the Mediated Settlement Agreement (ECF No. 79) is **DENIED**. The Court holds that the Mediated Settlement Agreement is enforceable. Since the Mediated Settlement Agreement expressly provides that, "The undersigned parties to this Mediated Settlement Agreement have agreed to fully compromise and settle all claims and controversies between the Parties," this Order constitutes a final judgment. See *GeoSouthern Energy Corp. v. Chesapeake Operating, Inc.*, 241 F.3d 388, 391 (5th Cir. 2001) (holding that decisions are final when they end the litigation on the merits and leave nothing for the court to do but execute the judgment).

Since the Court's Order denying Plaintiff's Motion to Set Aside the Mediated Settlement Agreement is a final judgment, Plaintiff's Renewed Motion to Withdraw is **DENIED** as moot. The Clerk of the Court is hereby **DIRECTED** to close this case.

**IT IS SO ORDERED.**

SIGNED this 19th day of December 2023.

  
Jeffrey C. Manske  
UNITED STATES MAGISTRATE JUDGE

2018-04-25 10:22 AM

Filed 4/23/2018 10:22 AM  
Joanne Stanton, District Clerk  
District Court - Bell County, TX  
by Melissa Wallace, Deputy

# ORIGINAL

**CAUSE NO. 298,331-B**

**IN RE: ORDER FOR FORECLOSURE  
CONCERNING 141 MIGHTY OAK LN,  
KILLEEN, TX 76542-5681 UNDER TEX.  
R. CIV. PROC. 736**

**IN THE DISTRICT COURT**

**PETITIONER:**

**THE BANK OF NEW YORK MELLON  
AS TRUSTEE FOR CWABS, INC.  
ASSET-BACKED CERTIFICATES,  
SERIES 2007-2**

## BELL COUNTY, TEXAS

**RESPONDENT(S):**

ROLANDO FORD, MARTHA J FORD

**146TH DISTRICT COURT**

1. On this day, the Court considered Petitioner's motion for a ~~default~~ order granting its application for an expedited order under Rule 736. Petitioner's application complies with the requirements of Texas Rule of Civil Procedure 736.1.
2. The name and last known address of each Respondent subject to this order is Rolando Ford, whose last known address is 141 Mighty Oak Ln, Killeen, TX 76542-5681. Each Respondent was properly served with the citation, but none filed a response within the time required by law. The return of service for each Respondent has been on file with the court for at least ten days.
3. The property that is the subject of this foreclosure proceeding is commonly known as 141 Mighty Oak Ln, Killeen, TX 76542-5681 with the following legal description:

LOT FOURTEEN (14), BLOCK TWO (2), TANGLEWOOD ESTATES  
ADDITION, PART III, A SUBDIVISION IN BELL COUNTY, TEXAS,  
ACCORDING TO THE MAP OR PLAT OF RECORD IN CABINET A,  
SLIDE 24-B, PLAT RECORDS OF BELL COUNTY, TEXAS.

**DEFALKT ORDER ALLOWING FORCLOSURE**

PAGE 1 OF 2

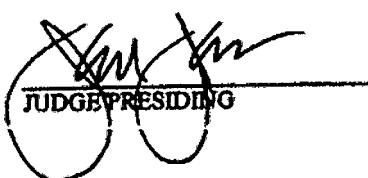
9550-4673

**146TH DISTRICT COURT 4/25/2018  
BELL COUNTY, TEXAS**

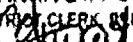
24 SEPTEMBER, 1916

4. The lien to be foreclosed is indexed or recorded at Instrument Number: 2007-00004195 and recorded in the real property records of Bell County, Texas.
5. The material facts establishing Respondent's default are alleged in Petitioner's application and the supporting affidavit. Those facts are adopted by the court and incorporated by reference in this order.
6. Based on the affidavit of Petitioner, no Respondent subject to this order is protected from foreclosure by the Servicemembers Civil Relief Act, 56 U.S.C. App. § 501 et seq.
7. Therefore, the Court grants Petitioner's motion for a ~~definite~~ order under Texas Rules of Civil Procedure 736.7 and 736.8. Petitioner may proceed with foreclosure of the property described above in accordance with applicable law and the loan agreement, contract, or lien sought to be foreclosed.
8. This order is not subject to a motion for rehearing, a new trial, a bill of review, or an appeal. Any challenge to this order must be made in a separate, original proceeding filed in accordance with Texas Rule of Civil Procedure 736.11.

SIGNED this 13<sup>th</sup> day of July, 2016.

  
\_\_\_\_\_  
JUDGE PRESIDING

CERTIFIED COPY  
DOCUMENT ATTACHED IS A  
TRUE & CORRECT COPY  
OF THE ORIGINAL ON FILE

 JOANNA SIA JN  
DISTRICT CLERK, BELL CO., TEXAS  
BY  DEPUTY

DEFAULT ORDER ALLOWING FORECLOSURE

PAGE 2 OF 2

9550-4673

24P30058.166

Cause No. 298,331-B

IN RE ORDER FOR FORECLOSURE  
CONCERNING 141 MIGHTY OAK LN.  
KILLEEN, TX 76542-5681  
UNIFER TFX R. CIV PROC 736

IN THE DISTRICT COURT

Petitioner,

THE BANK OF NEW YORK MELLON AS  
TRUSTEE FOR CWABS, INC. ASSET-BACKED  
CERTIFICATES, SERIES 2007-2

OF BELL COUNTY, TEXAS

Respondents:

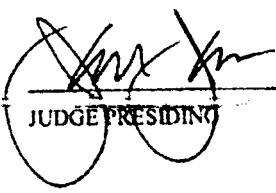
ROLANDO FORD, MARTHA J. FORD

146<sup>th</sup> JUDICIAL DISTRICT COURT

ORDER VACATING AND SETTING ASIDE JUDGMENT AND  
DISMISSING PETITIONER'S APPLICATION FOR EXPEDITED ORDER ALLOWING  
FORECLOSURE

THERE CAME BEFORE THIS COURT FOR CONSIDERATION the Motion to Vacate and Set Aside Judgment, Dismiss Application for Expedited Order for Foreclosure; and, in the Alternative, Motion for New Trial ("Motion") filed by Respondent, Martha J. Ford. After considering the record and the argument of counsel, the Court finds the Motion should be GRANTED. IT IS THEREFORE

ORDERED the Order Allowing Foreclosure signed July 13, 2018 is vacated and set aside, and the Application for Expedited Order Allowing Foreclosure is dismissed.

  
JUDGE PRESIDING

146TH DISTRICT COURT  
BELL COUNTY, TEXAS 8/13/2018  
Hrg necessary





HINSHAW & CULPERTON LLP

Attorneys at Law

1717 Main Street  
Suite 3625  
Dallas, TX 75201

Michael J. McKleroy  
partner  
mmckleroy@hinshawlaw.com

O 945-228-6390  
D 945-229-6380  
F 312-764-3001

[www.hinshawlaw.com](http://www.hinshawlaw.com)

December 26, 2023

**VIA CERTIFIED MAIL RECEIPT**

**NO. 9589 0710 5270 0733 3205 02**

**AND VIA EMAIL [maclemore@thetexasfirm.com](mailto:maclemore@thetexasfirm.com)**

Martha Ford

c/o Dan MacLemore

Beard Kultgen Brophy Bostwick & Dickson, PLLC  
220 South Fourth Street  
Waco, Texas 76701

Re: *Martha J. Ford v. The Bank of New York Mellon, as trustee; Case 6:18-cv-299-ADA-JCM* in the United States District Court for the Western District of Texas.

Dear Ms. Ford:

On July 14, 2023, you and The Bank of New York Mellon, as trustee for CWABS, Inc. Asset-Backed Certificates, Series 2007-2 (BoNYM) entered into a binding and enforceable agreement to settle the above-referenced lawsuit. A copy of the settlement agreement is attached as exhibit 1. Despite your agreement to settle this case, you moved to set the settlement agreement aside. On December 19, 2023, the court denied your motion and entered a final judgment closing this case consistent with the terms of the settlement agreement. A copy of the court's December 19, 2023 order is attached as exhibit 2.

Demand is hereby made that you comply with the remaining terms of the settlement agreement. The settlement agreement provides that the loan which was the subject of the lawsuit will be modified. It expressly contemplates the "preparation and execution of additional documents to effectuate the terms of the settlement agreement," including "final loan modification documents." Finally, you agreed to make monthly payments of principal and interest in the amount of \$516.67, plus escrow, beginning October 1, 2023 on the modified loan.

On multiple occasions, we requested you complete, sign, date and return to us an "Assumption Request Form/Successor in Interest Credit Check Authorization" form. A copy of the form is attached as exhibit 3. Because you were not the original borrower on the loan, the form is necessary to put the loan in your name and effectuate the terms of the settlement agreement. Once the form is provided, we will provide you with a copy of the final loan modification documents consistent with the settlement agreement. You will need to sign and return this final loan modification agreement as well.

## App 4

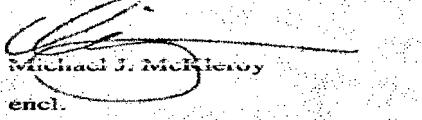
**Martha Ford c/o Dan MacLemore**  
**December 26, 2023**

**page 2 of 2**

Please complete, sign, date and return the "Assumption Request Form/Successor in Interest Credit Check Authorization" form within 30 days of the date of this letter. A return envelope is included for your convenience. Your failure to do so, or your failure to otherwise comply with any of the other material terms of the settlement agreement, is a material breach of the settlement agreement and BoNYM reserves the right to terminate any of its remaining obligations thereunder.

Should you have any questions, please contact me at your earliest convenience.

Sincerely,



Michael J. McElroy  
encl.

# EXHIBIT 1

CAUSE NO 6:18-CV-299-ADA-JCM

MARTHA FORD

IN THE UNITED STATES

!

DISTRICT COURT

THE BANK OF NEW YORK MELLON,  
TRUSTEE FOR CWABS, INC.

WESTERN DISTRICT OF TEXAS

MEDIATED SETTLEMENT AGREEMENT

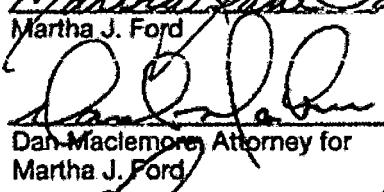
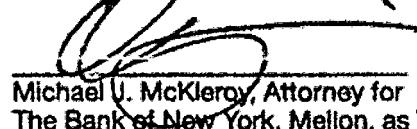
On July 14, 2023, the Parties participated in a mediation session in the above matter with Robert Stem, Senior District Judge serving as Mediator. The undersigned parties to this Mediated Settlement Agreement have agreed to fully compromise and settle all claims and controversies between the Parties. The parties wish to avoid protracted and costly litigation.

1. Terms of the settlement agreement are set out on Exhibit A, attached to this agreement, which by reference, is fully incorporated.
2. If any dispute arises with regard to the interpretation or performance of this agreement, or any of its provisions, including the necessity and form of closing documents, the parties shall resolve the dispute by telephone or in person with the mediator who facilitated the agreement.
3. This agreement is made and performable in McLennan County, Texas.
4. Each party to this agreement has entered into this settlement agreement freely and voluntarily, and without any duress. Each party has been advised by the Mediator that the Mediator is not the attorney for any party, and that each party has fully read and understand the attached agreement.
5. The Parties agree to submit to the Court the necessary evidence and documents to secure rendition of Judgment, if necessary, in accordance with the Mediated Settlement Agreement.
6. THIS AGREEMENT IS NOT SUBJECT TO REVOCATION.
7. Each Party releases the other from all claims, demands, and causes of action each may have against the other as of the date of this agreement, save and except those covenants, duties and obligations set forth in this agreement.
8. Parties and Counsel anticipate and agree to the preparation and execution of additional documents to effectuate the terms of the settlement agreement.

9. This agreement is intended to be binding in accordance with the Texas Rules of mediation and alternative dispute resolution.

10. The undersigned warrant and represent that they have authority to bind the parties and execute settlement documents on their behalf.

Signed the 14th day of July, 2023

  
Martha J. Ford  
  
Dan Maclemore, Attorney for  
Martha J. Ford  
  
Michael U. McKleroy, Attorney for  
The Bank of New York, Mellon, as Trustee

  
Robert Stem, Mediator

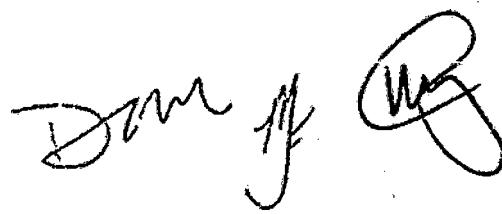
EXHIBIT A

The parties agree the total amount due on the loan as of July 14, 2023 is \$222,263.55 and \$176,508.45 of this amount is accruing interest at the rate of 3.5%. In addition, BoNYM (which includes its mortgage servicer, Select Portfolio Servicing, Inc.) is paying \$139.88 per month to insure the property. As a result, the total amount due will be greater than \$222,263.55 by the time the final loan modification documents are executed. With that understanding, the parties agree the total amount due will become the new unpaid principal amount of the loan and will be repaid as follows:

The total amount due will bear interest at the fixed rate of 2.375%. All but \$160,000 will be deferred principal and not be repaid until maturity. \$160,000 will be amortized over 480 months for a principal and interest payment of \$516.67 per month beginning on October 1, 2023 and continuing on the first day of each month until the maturity date. The maturity date will remain February 1, 2040. On the maturity date, the deferred principal and any remaining amount of the non-deferred principal shall become due and will bear interest at 2.375%.

In addition to making the monthly principal and interest payments on the non-deferred principal, Ms. Ford will pay into escrow for an taxes and hazard insurance due. Based upon the current taxes and insurance, the escrow amount is calculated to be \$163.19, which represents \$139.88 for the current monthly hazard insurance premiums and the 1/6th (\$23.31) cushion. The parties acknowledge the monthly premium and cushion is subject to change, including the premiums for any qualifying hazard insurance policy covering the replacement value of the improvement obtained by Ms. Ford and provided to BoNYM for payment. The escrow does not currently include any amount for taxes assessed against the property. As of July 14, 2023, the property is not assessed any taxes based upon a disabled Veteran's exemption and has not since the tax year 2015. In the event the exemption is discontinued and the property is assessed for taxes, including any retroactive reassessments, BoNYM reserves the right to pay any and all taxes due, recover any amounts paid from Ms. Ford, and escrow for future taxes.

The terms of settlement will remain confidential, except to the extent necessary for tax or legal advice, to enforce or defend enforcement of the agreement and/or to respond to a subpoena, court order or other valid discovery request.

A handwritten signature in black ink, appearing to read "Diane M. Ford". The signature is fluid and cursive, with "Diane" on the left and "M. Ford" on the right, enclosed in a small circle.

# **EXHIBIT 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

|                                   |          |
|-----------------------------------|----------|
| <b>MARTHA FORD,</b>               | <b>S</b> |
|                                   | <b>S</b> |
| Plaintiff,                        | <b>S</b> |
|                                   | <b>S</b> |
| <b>v.</b>                         | <b>S</b> |
|                                   | <b>S</b> |
| <b>BANK OF NEW YORK MELLON AS</b> | <b>S</b> |
| <b>TRUSTEE FOR CWABS, INC.</b>    | <b>S</b> |
| <b>ASSET-BACKED CERTIFICATES.</b> | <b>S</b> |
| <b>SERIES 2007-2,</b>             | <b>S</b> |
|                                   | <b>S</b> |
| Defendant.                        | <b>S</b> |
|                                   | <b>S</b> |

**CASE NO. 6:18-CV-00299-JCM**

**ORDER**

Came before the Court to be considered Plaintiff's Motion to Set Aside the Mediated Settlement Agreement (ECF No. 79), Plaintiff's Counsel's Motion to Withdraw as Attorney (ECF No. 80), and Plaintiff's Counsel's Oral Motion to Withdraw as Attorney made at the October 31, 2023, hearing in this cause. For the following reasons, these Motions are **DENIED**.

**I. BACKGROUND**

This is a case about a litigant who got cold feet after entering into a mediated settlement agreement and desires a chance to renegotiate. The Court has held two hearings on this matter. The first was a status conference held on October 31, 2023. The second was a hearing on all motions currently pending which the Court held on December 11, 2023.

At the first hearing, the Court heard testimony that Ms. Ford was displeased with the settlement agreement and felt that her attorney, Dan MacLemore, and the mediator, Judge Robert Stem, had unintentionally pressured or coerced her into entering a settlement agreement that she did not agree with after having additional time to review it. Based on these allegations, Mr. MacLemore orally moved to withdraw as Ms. Ford's attorney. The Court gave the parties



additional time to discuss a potential resolution of the relevant disputes. After those discussions proved fruitless, the Court directed Plaintiff to file a written motion to withdraw or motion to set aside the settlement agreement by November 15, 2023.

Plaintiff filed her Motion to Set Aside the Settlement Agreement on November 15, 2023. Plaintiff then filed a Renewed Motion to Withdraw on November 20, 2023. ECF No. 80. Defendant responded to the Motion to Set Aside on November 22, 2023. ECF No. 81. The Court set the motions for a hearing on December 11, 2023. At the hearing, the Court heard testimony from Judge Robert Stem, Plaintiff, and Letawna St. George (Plaintiff's mother who attended the mediation). Judge Stem and Plaintiff are the key witnesses in resolving this dispute.

Judge Stem testified that he is a retired Texas District Judge who serves as a visiting judge in central Texas and as a mediator in several central Texas counties including McLennan County. The Court finds all of Judge Stem's testimony credible. Judge Stem also testified that he mediated this case on July 14, 2023, resulting in the mediated settlement agreement ("MSA") in dispute. Judge Stem testified that Mr. MacLemore, Plaintiff, and Ms. St. George attended the mediation in one room and Defendant's lawyer and representative attended in a different room. He specifically noted that nothing about this mediation was meaningfully different from typical mediations.

When the Court asked about Judge Stem's mediation procedures, Judge Stem testified that he makes sure the parties have sufficient time to confer with their attorneys to understand the terms of a MSA, he discusses the terms of the MSA, gives additional time for the parties to ask their attorneys and Judge Stem questions about terms, and advises the parties at the beginning of the mediation that any MSA entered is binding and not subject to revocation. Judge Stem also testified that he had no concerns that Plaintiff did not understand the agreement, that he had no

## App 4

Case 6:18-cv-00299-JCM Document 85 Filed 12/19/23 Page 3 of 7

competency concerns about Plaintiff, and that he was satisfied that Plaintiff understood and agreed to the terms of the MSA.

The Court then heard testimony from Plaintiff. Plaintiff testified that the MSA was entered under undue stress and pressure which started the moment she arrived at the mediation. She testified that Judge Stem introduced his wife to Plaintiff. Judge Stem's wife then left to shop while Judge Stem mediated this case. Plaintiff testified that during the mediation she was very concerned about Judge Stem's wife because of the record setting summer heat and that this caused her to experience severe stress and pressure. Plaintiff also testified that Mr. MacLemore knew Plaintiff could not think straight under severe stress and pressure.

Nonetheless, Plaintiff testified that no one intentionally threatened or coerced her into entering the MSA. She also testified that no one made any promises to her outside of the MSA. Plaintiff testified that she was told that this was the best deal she was going to get. Plaintiff clarified that items two and six of the MSA confused her because she thought that she had three days to revoke any agreement reached. Finally, and most importantly, Plaintiff reiterated that neither Judge Stem nor Mr. MacLemore intentionally coerced or pressured her into entering the agreement.

### II. DISCUSSION

Plaintiff requests this Court to set aside the MSA on the grounds that (1) she felt pressured by Mr. MacLemore and Judge Stem to enter into the agreement which she believes was a bad deal, (2) she believed she had three days to withdraw from the settlement agreement, and (3) she did not understand the settlement agreement and it was not adequately explained to her. Pl.'s Mot. Set Aside at 2-4. Defendant argues that none of these arguments provides a legal basis for the Court to set aside the MSA.

**A. Plaintiff has failed to establish the affirmative defense of duress.**

Plaintiff argues that the MSA should be set aside because she entered it under pressure, duress, and coercion. Pl.'s Motion to Set Aside at 1-2. Defendant argues that Plaintiff has failed to establish legal duress or coercion sufficient to set aside the MSA. Def.'s Resp. at 9.

Courts have limited discretion to set aside mediated settlement agreements. *Bell v. Schexnayder*, 26 F.3d 447, 449 (5th Cir. 1994). In Texas, duress is an affirmative defense that must be proved by the party seeking to avoid the contract. *F.D.I.C. v. White*, 76 F. Supp. 2d 736, 739 (N.D. Tex. 1999) (citations omitted). To prove the affirmative defense of duress or undue influence, a plaintiff must prove that (1) there is a threat to do some act which the party threatening has no legal right to do, (2) there must be some illegal exaction or some fraud or deception, and (3) the restraint must be imminent and such as to destroy free agency without present means of protection. *Lee v. Hunt*, 631 F.2d 1171, 1178 (5th Cir. 1980) citing *Tower Contracting Co., Inc., of Tex. v. Bruden Bros., Inc.*, 482 S.W.2d 330, 335 (Tex. Civ. App. Dallas 1972, writ ref. n. r. e.). The plaintiff must also demonstrate that the ““persuasion, entreaty, importunity, argument, intercession, and solicitation” were so strong as to ‘subvert and overthrow the will of the person to whom they are directed.”” *Id.* citing *DeGrassi v. DeGrassi*, 533 S.W.2d 81, 85 (Tex. Civ. App. Amarillo 1976, writ ref. n.r.e.). Finally, “emotional strain and negotiation pressures are not by themselves enough to overcome the will of the party to a contract.”” *Id.* Especially where there is no evidence that the emotional strain and negotiation pressures “resulted from threats, illegal exaction, fraud or deception.” *Id.*

Here, Plaintiff has undoubtedly produced evidence showing that she suffered from emotional strain and negotiation pressures which affected her greatly. But Plaintiff was abundantly clear that neither Judge Stem nor Mr. MacLemore made any threats or intentionally

## App 4

Case 6:18-cv-00299-JCM Document 85 Filed 12/19/23 Page 5 of 7

coerced or pressured her. The only evidence Plaintiff produced that could be construed as a threat was being told that the MSA was the best deal Plaintiff was going to get. But statements such as those, unsupported by any allegation or evidence that it was intended as a threat or intentional coercion, cannot establish duress and coercion by themselves. The Court also notes that Plaintiff signed the MSA which expressly states that, "Each party to this agreement has entered into this settlement agreement freely and voluntarily, and without any duress. . . [E]ach party has fully read and understand [sic] the attached agreement." ECF No. 81-2 at 2. Accordingly, Plaintiff has failed to carry her burden of establishing the affirmative defense of coercion or duress.

The Court also notes that even if Plaintiff's testimony were enough to prove undue influence and duress by Judge Stem or Mr. MacLemore, the settlement agreement would still be enforceable. To set aside a contract based on duress, "the duress must come from the other party to the contract," "not the claimant's attorney." *Kosowska v. Khan*, 929 S.W.2d 505, 508 (Tex. App.—San Antonio 1996, writ denied). Here, Mr. McKleroy, counsel of record for Defendant, testified by declaration that, "[He] never saw [Plaintiff] or her mother during the mediation. At no time during the mediation did [he] or anyone acting on [Defendant's] behalf see, speak to or communicate in any way with Ms. Ford and/or her mother." McKleroy Decl. (ECF No. 81-1) at ¶ 3. The only potential wrongdoing Plaintiff identified on Defendant's part was a conclusory allegation that Defendant retained new counsel as part of the bait-and-switch tactics Defendant has allegedly employed throughout litigation. Even if that is true, it does not amount to duress or coercion. Accordingly, Plaintiff has failed to establish the affirmative defense of duress or coercion.

**B. Plaintiff's mistake of law is not a legal basis for invalidating the MSA.**

Plaintiff also argues that the Court should set aside the MSA because "it was her understanding that she, as a consumer had three days to withdraw from the settlement agreement" under § 601.052 of the Texas Business and Commerce Code. Pl.'s Mot. Set Aside at 2. She claims she did not know that the statute did not apply to mediated settlement agreements and that "had she known this was the case, she would not have executed the MSA." *Id.* Defendant argues that, even if this is true, the MSA cannot be set aside because of Plaintiff's mistake of the law. Def.'s Resp. at 6.

"Generally, a contract cannot be avoided for a mistake of law." *In re Bettis*, 97 B.R. 344, 348 (Bankr. W.D. Tex. 1989) citing *Ussery v. Hollobaugh*, 391 S.W.2d 497 (Tex. Civ. App.—El Paso 1965, writ ref. n.r.e.). "All persons of sound mind are presumed to know the law." *Id.* citing *Roberts v. Lucas*, 388 S.W.2d 764 (Tex. Civ. App.—Tyler 1965). Accordingly, Plaintiff is presumed to know the law and the MSA cannot be avoided because of her mistake of it.

**C. Plaintiff's confusion expressed after entering the MSA is not a basis to avoid the MSA.**

Plaintiff also argues that "she did not understand the MSA and that the MSA was not explained to her before she signed it." Pl.'s Mot. Set Aside at 2. The Court first notes that the testimony from the hearing establishes that Judge Stem and Mr. MacLemore explained the MSA to Plaintiff. Judge Stem provided Plaintiff with time to discuss the MSA's terms with Mr. MacLemore. Judge Stem gave Plaintiff the opportunity to ask him questions about the MSA, and that Judge Stem had no concerns that Plaintiff did not understand the MSA.

Absent "fraud, misrepresentation, or deceit, a party is bound by the terms of the contract he signed, regardless of whether he read it or thought it had different terms." *In re McKinney*,



167 S.W.3d 833, 835 (Tex. 2005) (citations omitted). As discussed above, Plaintiff maintains that no one intentionally coerced her or committed fraud. Plaintiff is, therefore, bound by the terms of the MSA even though she was confused about whether the agreement was revocable.

### III. CONCLUSION

For the reasons discussed above, Plaintiff's Motion to Set Aside the Mediated Settlement Agreement (ECF No. 79) is **DENIED**. The Court holds that the Mediated Settlement Agreement is enforceable. Since the Mediated Settlement Agreement expressly provides that, "The undersigned parties to this Mediated Settlement Agreement have agreed to fully compromise and settle all claims and controversies between the Parties," this Order constitutes a final judgment. See *GeoSouthern Energy Corp. v. Chesapeake Operating, Inc.*, 241 F.3d 388, 391 (5th Cir. 2001) (holding that decisions are final when they end the litigation on the merits and leave nothing for the court to do but execute the judgment).

Since the Court's Order denying Plaintiff's Motion to Set Aside the Mediated Settlement Agreement is a final judgment, Plaintiff's Renewed Motion to Withdraw is **DENIED** as moot. The Clerk of the Court is hereby **DIRECTED** to close this case.

**IT IS SO ORDERED.**

SIGNED this 19th day of December 2023.

  
\_\_\_\_\_  
JEFFREY C. MANSKE  
UNITED STATES MAGISTRATE JUDGE

# **EXHIBIT 3**

## App 4

### Assumption Request Form/Successor in Interest Credit Check Authorization

#### Assumption Request

By signing and returning this form, you are requesting that Select Portfolio Servicing, Inc. (SPS) review you for an assumption of the obligations of the loan serviced by SPS secured by the property, and you agree that you understand the consequences of an assumption. Through an assumption, you would be added to the loan as an obligor, which means you would be obligated to comply with all the terms of the original mortgage loan documents and any modifications to the same. In particular, you would be obligated to pay the loan amounts due and the loan would be reported on your credit. You understand that for SPS to approve an assumption, the loan must be brought current through a modification. This does not guarantee that you will be approved for a modification. Finally, no original obligors will be released from their obligations on the loan if you assume the loan; you will be added as an obligor.

#### Successor in Interest Credit Check Authorization

SPS must obtain a credit report as part of the consideration of your assumption request. Before we obtain a credit report, we must have your written authorization to do so.

Please note that if SPS obtains your credit report, your credit score may be adversely affected. SPS would be making an "inquiry" on your credit information. The possible impact of the inquiry on your credit score depends on your entire credit profile. For more information about credit scores, go to:  
<http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm>

Please sign below and return the authorization to SPS at:

Select Portfolio Servicing, Inc.  
PO Box 65250 Salt Lake City, UT 84165-0250

Fax: 866-867-3019  
Email: Relationship.Manager@SPServicing.com

By signing below, I acknowledge that I am applying for an assumption and I am authorizing Select Portfolio Servicing, Inc. to obtain my credit report. I agree that SPS will not be held responsible in any manner for relying upon such credit report or for following the authorization I have given herein.

#### Social Security Number

Requestor's Printed Name

Requestor's Signature

Date

#### Social Security Number

Requestor's Printed Name

Requestor's Signature

Date



## App 4



### Non-Obligor Credit Check Authorization

If you are requesting that we include income from a non-borrower residing in the property in determining what options are available for your account, SPS must obtain a credit report to verify the occupancy for each non-borrower before we can consider using their household income in our determination. Before we obtain a credit report, we must have each non-borrower's written authorization to do so.

Please note that if SPS obtains the non-borrower's credit report, their credit score may be adversely affected. SPS would be making an "inquiry" on the non-borrower's credit information. The possible impact of the inquiry on a credit score depends on the non-borrower's entire credit profile. For more information about credit scores, go to <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.shtm>.

Please have each non-borrower whose income you have requested we consider sign the authorization below. Return the signed authorization to SPS at:

Select Portfolio Servicing, Inc.  
PO Box 65250 Salt Lake City, UT 84165-0250

Or fax to:  
Fax: 866-867-3019

SPS Account Number \_\_\_\_\_

I hereby authorize Select Portfolio Servicing, Inc. to obtain my credit report. I agree that SPS will not be held responsible in any manner for relying upon such credit report or for following the authorization I have given herein.

Non-Borrower Signature \_\_\_\_\_

Non-Borrower Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_

Social Security Number \_\_\_\_\_

Social Security Number \_\_\_\_\_

Dollar Amount of Monthly Contribution OR  
Percentage of Net Pay Contribution \_\_\_\_\_

Dollar Amount of Monthly Contribution OR  
Percentage of Net Pay Contribution \_\_\_\_\_

If you have any questions or concerns, please contact our Loan Resolution Department. Our toll-free number is 888-818-6032 and representatives are available Monday through Friday between the hours of 8 a.m. and 9 p.m., and Saturday from 8 a.m. to 2 p.m., Eastern Time.



**UPS CampusShip: Shipment Label**

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.

**3. GETTING YOUR SHIPMENT TO UPS**

Customers with a Daily Pickup  
Your driver will pickup your shipment(s) as usual.

Customers without a Daily Pickup

Take your package to any location of The UPS Store, UPS Access Point™ locations, UPS Drop Box, UPS Customer Center, ShipEasy or Authorized Shipping Outlets near you. Returns sent via UPS Return Services (SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations. Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages. Hand the package to any UPS driver in your area.

UPS Access Point™  
THE UPS STORE  
1717 N AMANDA ST  
DALLAS, TX 75201

UPS Access Point™  
THE UPS STORE  
2622 MCKINNEY AVE  
DALLAS, TX 75201

UPS Access Point™  
EAGLE POSTAL CENTER  
2807 ALLEN ST  
DALLAS, TX 75201



FOLD HERE

## App 5

Case: 24-50053 Document: 76 Page: 30 Date Filed: 02/12/2025



Lady J Ford <msjaneford@gmail.com>

**Fwd: Martha Ford v The Bank Of New York Mellon, Trustee for CWABS, Inc.; Case 6:18-CV-299 - Demand Letter**

Dan MacLemore <dmaclemore@thetexasfirm.com>  
To: Lady J Ford <msjaneford@gmail.com>

Sat, Jan 6, 2024 at 12:45 PM

The hearings were not recorded. There may be transcripts you can order. If so, you would do that as part of your appeal and you would have to pay for them I believe

I do not have the final draft of the agreement.

You should have all emails. There's had not been much and I'm pretty sure you've been copied on all of them.

We sent all the documents to you a couple of months ago and have been copying you on everything since

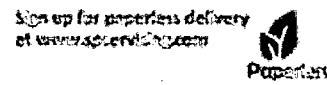
Ben MacLemore

[www.thetexasfirm.com](http://www.thetexasfirm.com)  
220 Braum Fourth Street  
Waco Texas 76701  
Main (254) 776-3500  
Direct (254) 733-5848  
Cell (254) 733-1828  
Fax (254) 776-3591  
maclemore@thetexasfirm.com

Sent from my iPhone

On Jan 6, 2024, at 12:15 PM, Lady J Ford <msjaneford@gmail.com> wrote:

[\(Edited for posting\)](#)



## TRIAL MODIFICATION PLAN



ROLANDO FORD  
141 MIGHTY OAK LANE  
KILLEEN, TX 76542

Customer Name: ROLANDO FORD  
Account Number: 0021102025  
Property Address: 141 MIGHTY OAK LANE  
KILLEEN, TX 76542

Dear Customer(s):

SPS is pleased to inform you that you have been approved for a Trial Modification Plan (the Plan). The Plan is designed to assist you in making your mortgage payments while you are considered for a possible modification of your loan. The terms of the Plan, including payment amounts and due dates, are listed below. In order for SPS to consider you for a loan modification, you must timely remit all of your payments under the Plan, and if required, you must provide SPS with information necessary to verify your income and assets, which will support your ability to repay your loan if a modification is approved.

**Plan Acceptance**

To accept the Plan, you must make your First Payment by the date indicated below.

**The Plan will become active and valid if, and only if, SPS receives the first payment by the scheduled date of your first payment under the Plan, as listed below.**

**Plan Payments**

Your trial Plan payments will take the place of your normal monthly mortgage payments during the term of the Plan. You must make each of the below-listed payments by or before the listed due dates, or the Plan will be cancelled. Your monthly Plan payments and due dates are as follows:

| Payment       | Due Date         | Amount    |
|---------------|------------------|-----------|
| First Payment | October 1, 2023  | \$ 679.86 |
| Payment 2     | November 1, 2023 | \$ 679.86 |
| Payment 3     | December 1, 2023 | \$ 679.86 |
| Payment 4     | January 1, 2024  | \$ 679.86 |
| Payment 5     | February 1, 2024 | \$ 679.86 |
| Payment 6     | March 1, 2024    | \$ 679.86 |



## App 5

### **Form of Payment**

You must make your first payment on or before the due date by certified funds. Certified funds include, Western Union Quick Collect (code city Oswald), cashier's check, money order or wire transfer (contact SPS at the number listed below for wire instructions). Subsequent payments must be made on or before the applicable due date and can be made by personal check, EZ pay via telephone or SPS's website, or by certified funds. Please send payments to:

PO Box 65450 Salt Lake City, UT 84165-0450

Overnight payments can be mailed directly to:

Select Portfolio Servicing, Inc.  
3217 S. Decker Lake Dr., Salt Lake City, UT 84119

### **Application of Payments**

Payments made under the Plan will be applied to amounts due and past due on your account. Funds may be held in a non-interest bearing account until they total an amount that is enough to pay the oldest delinquent monthly payment. Although these payments will not bring your loan contractually current, they are required in order for SPS to forbear from proceeding with a foreclosure sale or commencing foreclosure proceedings and in order for SPS to consider your loan for a possible modification.

### **Plan Term**

The Plan becomes effective as of the date that you have made the First Payment shown above. The Plan will terminate upon SPS receiving the final payment before the end of the last day of the month in which it is due. Failure to make any of the specified payments in full, by the due date, will also result in the termination of the Plan.

### **Forbearance**

During the Plan term, SPS will not proceed to foreclosure sale or commence foreclosure proceedings on the above-referenced property, provided that you are making timely payments in compliance with the terms of the Plan. We may commence foreclosure proceedings or commence a sale of the property if you do not comply with the terms and conditions of the Plan.

### **Modification**

If you make the required payments under the Plan, and you submit the required information to SPS verifying your income and assets, SPS will consider a modification of your loan terms to make repayment of the loan obligations more affordable. You will be notified of the income and asset verification documents that SPS must receive in order for you to be considered for a modification. The Plan is not a credit application or credit commitment for the modification.

### **TAX CONSEQUENCES OF LOAN MODIFICATIONS.**

If you complete the offered trial plan and your loan is modified, there may be income tax consequences related to the loan modification. For example, you may have to pay income tax due as a result of the loan modification. You may wish to consult with a tax advisor about these potential income tax consequences.

You will receive further information about the terms of any loan modification offered to you after you have completed your trial plan. This information may assist you in further evaluating potential income tax consequences related to the loan modification.

### **Credit Reporting**

During the Plan term, we will continue to report the loan to credit reporting agencies according to the payments due under your current loan documents. If your account is currently past due, you will continue to be reported as past due. The Plan may adversely impact your credit rating if you pay less than your current contractual payment. However, our credit report will acknowledge that you are paying under an agreed Plan.

### **Terms Not Modified**

All terms and conditions of the current loan documents pertaining to this account, including but not limited to the note, deed of trust/mortgage, or other security instrument, remain in full force and effect, and you agree to comply with those terms and conditions. However, during the term of the Plan you may make the Plan payment instead of the payment required under your loan documents. Nothing in the Plan shall be understood or construed to be a satisfaction or release, in whole or in part, of your obligations under the loan documents.

## App 5

### **Delinquent Taxes and Insurance**

You agree to pay any and all delinquent property taxes relating to the real property and provide proof of such payment to SPS prior to the date that the final payment is due under the Plan. You also agree to provide proof of hazard insurance coverage (and, where required, proof of flood insurance coverage) for the real property and deliver such proof of insurance to SPS prior to or on the due date of your first payment. If you fail to provide proof of insurance, SPS may, pursuant to applicable law and SPS policies, purchase insurance on the real property, in which case you agree to repay SPS for such insurance.

You may have entered into a separate advance repayment plan regarding delinquent taxes and insurance. If so, it is possible that the term of that advance repayment plan will extend beyond the term of the Plan, and accordingly, you will continue to make payments under the advance repayment plan as required.

### **Questions?**

At SPS, any of our Customer Care Experts can assist you with answers to your questions about the status or history of your account, document requirements, or any of our available loan resolution options. If you have any questions or concerns, please contact SPS. Our toll-free number is 888-818-6032 and representatives are available Monday through Friday between the hours of 8 a.m. and 9 p.m., and Saturday from 8 a.m. to 2 p.m., Eastern Time.

Sincerely,

Select Portfolio Servicing, Inc.

**Esta carta contiene información importante concerniente a sus derechos. Por favor, traduzca esta carta. Nuestros representantes bilingües están a su disposición para contestar cualquier pregunta. Llamenos al número 800-831-0118 y seleccione/marque la opción 2.**

**This communication from a debt collector is an attempt to collect a debt and any information obtained will be used for that purpose.**

**New York City - Collection Agency License # 1170514**

## App 6

Case: 24-50053 Document: 76 Page: 20 Date Filed: 02/12/2025

Faith Point  
3504 E. Central TX Expwy. Killeen, TX 76543  
Tel: (254)699-5231 | Fax: (254)699-7632  
faithpointkilleen@gmail.com



FAITHPOINT

Date: March 1, 2017

Remarks: Recommendation and summary of notes for Jane Ford  
I have been seeing Jane Ford in psychotherapy since January 17, 2017

Mrs. Ford has reported a history of major depressive disorder in the past. She was recently referred to me and at this point I have diagnosed her with: F43.23 Adjustment Disorder w/mixed mood. My rationale for this diagnosis is that the stress from her current situation has aggravated and heightened the symptoms that follow.

Symptoms include: anxiety, anger, losing temper, heightened vigilance, inability to relax, consistently high blood pressure with reported correct medicine dosage, excessive worrying, difficulty controlling emotions, depressed emotions, isolating behavior, hopelessness, insomnia, tiredness, sadness, lack of concentration and focus. Mrs. Ford reports that these symptoms have lasted over the duration of the separation and divorce proceedings. There has been an alarming increase of these symptoms in the last month and a half.

During our sessions we have established that Mrs. Ford lacks ability to process most emotions and is constantly in stressed unstable mood. We have been working on finding suitable solutions for day to day living which relates to the difficulty to maintain given her present state. Her social relationships have been greatly affected, as well as relationship with her children. I am currently seeing her son Tyler due to this situation as well. One of the repetitive themes that we have discussed and worked on is her impaired thought process and emotional response to her situation and on coping skills to avoid harm. Another major theme that we have addressed repetitively and the reason she began to come see me, is her difficulty in adapting to this stressful circumstance. This theme includes change of plans, rule changes and lack of knowledge manifesting from her husband and the divorce proceedings.

Although we do not work on this disability specifically Mrs. Ford has made several trips recently to urgent care/emergency room for heightened blood pressure. Another accommodation we have made for her due to her mental processing is that we must text or call her to remind her the times of her appointments.

My recommendation at this time is that she does not have the ability to make sound decisions for herself or express her needs appropriately in any binding or legal agreement. I believe that at this point she has been greatly affected physically and mentally. I believe she needs intense psychiatric care to bring her back to a mentally healthy state so that she can abide by the terms of the court and represent herself with a sound mind. I advise that the proceedings are postponed to a date determined by a physician or mental health professional that can determine that she is in an appropriate state of mind.

Sincerely,

Jo Anne Newton MEd, LPC

## App 6

Case: 24-50053 Document: 76 Page: 22 Date Filed: 02/12/2025



Restorative Hope Services  
Mental Health Clinic  
Ph: (214)787-0423 Fax: (214)220-8486  
[www.restorativehope.org](http://www.restorativehope.org)

Date: 10 Sept 2024

To: To whom it may concern

Remarks: Statement of Mental State for Martha J Ford

From: Jo Harrison LPC, EAP

I have been seeing Martha J Ford many years after Mr. Ford abandoned her and her son. Mrs. Ford who has already suffered from PTSD from sexual trauma in the military was triggered. A major depressive episode and acute stress prolonged for an extensive period. During this time the ordeal with the house ensued even before the divorce was final. Throughout her mental state dipped into a dangerous area that affected her not only through her thought processes but also physically. Her physical health continues to decline over the years so much that she is continuously in pain. Her mental state has short lengths of regulation but only with weekly therapy.

In these last years Mrs. Ford is susceptible to quick decline. This decline usually comes with triggers around the trauma and abandonment from her now ex-husband. Her abandonment from several attorneys has kept her feeling like she has been set up to fail. This last incident with the house has sent her into a spiral. During our sessions around the last mediation, she reported her confusion about what was going to happen. I questioned her about what had happened, and she could never clearly explain. From documentation shared with me I also know that she did not have appropriate counsel at time due to his withdrawal almost instantly after this mediation. Because of her history and the heightened anxiety through this process that she has been dealing with gives me the acuity that Mrs. Ford was not in her right mind during that meeting, nor do I feel she had the ability to sign a contract or legal document. Due to her mental state that has been not only documented with me as therapist but also with the VA hospital. My recommendation is that the last document should be voided. I also recommend that Mrs. Ford receives the appropriate counsel that understands mental health that can give her good counsel in this situation to allow for sound decision making.

F43.10 Post Traumatic Stress Disorder  
204.89 Sexual Assault  
F33.2 Major Depressive Disorder Recurrent  
F43.0 Acute Stress Disorder

Sincerely,

Jo Harrison LPC, EAP



Lady J Ford <msjaneford@gmail.com>

**Mediation**

7 messages

From: Dan MacLemore <maclemore@thetexasfirm.com>  
To: "msjaneford@gmail.com" <msjaneford@gmail.com>

Mon, Apr 24, 2023 at 1:10 PM

It is earlier than we discussed, but can you make July 10, 12, or 14 work for a mediation in our offices?

Dan MacLemore:

**BEARD KULTGEN**

[www.thetexasfirm.com](http://www.thetexasfirm.com)

220 South Fourth Street  
Waco, Texas 76701  
Phone: (254) 776-6500

Direct (254) 732-5848  
Cell (254) 733-1628  
Fax (254) 776-3591

[maclemore@thetexasfirm.com](mailto:maclemore@thetexasfirm.com)

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**CONFIDENTIALITY STATEMENT:** THE FOREGOING MESSAGE (INCLUDING ATTACHMENTS) IS COVERED BY THE ELECTRONIC COMMUNICATION PRIVACY ACT, 18 U.S.C. SECTIONS 2510-2521, IS CONFIDENTIAL AND MAY ALSO BE PROTECTED BY ATTORNEY-CLIENT OR OTHER PRIVILEGE. IF YOU BELIEVE THAT IT HAS BEEN SENT TO YOU IN ERROR, DO NOT READ IT. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY RETENTION, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. PLEASE REPLY TO THE SENDER THAT YOU HAVE RECEIVED THE MESSAGE IN ERROR, THEN DELETE IT. THANK YOU.

Lady J Ford <msjaneford@gmail.com>  
To: Dan MacLemore <maclemore@thetexasfirm.com>

Fri, Apr 28, 2023 at 1:10 PM

What would that look like, as for my being here until after the 28th? In other words, if we can come to an agreement to sell (which now is NOT in either of our interest to make a good profit as it would've been had they kept their word & signed the agreement so I could have gone forward... And IF we can't come to an agreement how much longer until we'd have to go to court?

## App 7

Case: 24-50053 Document: 76 Page: 105 Date Filed: 02/12/2025

I really need to focus on THAT case more right now since it's been 40+ yrs in the making. The outcome of that one could have a huge impact on this case. Plus as I said, I'd be better able to make an agreement. Or is that not what they want to do? I'm again sensing they are still up to their dirty tricks to just take my home. After all they've continued to do, I DO NOT trust them at all. I'm again receiving SPS notices here being sent to the ex which we both know he is not here or getting them & they are again sending people to sit outside my house taking pictures. Isn't there ANY way to postpone this one until after the 28th of July & if not, why not? It's only a few more days.

(Quoted text hidden)

~  
Sincerely,

Jane Ford  
Jer 29:11

Dan MacLemore <maclemore@thetexasfirm.com>  
To: Lady J Ford <msjaneford@gmail.com>

Sat, Apr 29, 2023 at 12:02

The court only gave us to 6/2, and the dates I sent are the only ones that work for the mediator in July.

Dan MacLemore

www.thetexasfirm.com  
220 South Fourth Street  
Waco, Texas 76701  
Main (254) 776-3500  
Direct (254) 732-5248  
Cell (254) 733-1828  
Fax (254) 776-3591  
maclemore@thetexasfirm.com

Sent from my iPhone

Lady J Ford <msjaneford@gmail.com>  
To: Dan MacLemore <maclemore@thetexasfirm.com>

Sat, Apr 29, 2023 at 11:16 AM

I just forwarded that VA notice to you. Would you please use that to ask the court to give us a little longer that works for the mediator even if it's given a little further into Aug? Not that I want it in, however that would also give the other side more time to take care of the closure side of things, or whatever it is that's actually the issue. Someone should have done their due diligence & included me in the original agreement with full mental capacity & well being to know & understand what was happening. Nothing after the '04/'05 refi was legit. I'm more than willing to work with them on the '04/'05 refi considering they (meaning the banks that were behind it all,) acknowledge all that was done wrong on their end as well as take into consideration ALL the monies paid in good faith on the mortgage since then...

(Quoted text hidden)

Lady J Ford <msjaneford@gmail.com>  
To: Dan MacLemore <maclemore@thetexasfirm.com>

Sat, Apr 29, 2023 at 11:16 AM

Spel check. Sorry., 'Mediator'

On Sat, Apr 29, 2023 at 12:02 AM Dan MacLemore <maclemore@thetexasfirm.com> wrote:

(Quoted text hidden)

(Quoted text hidden)

## App 7

Dan MacLemore <maclemore@thetexasfirm.com>  
To: Lady J Ford <mjaneford@gmail.com>

Sat, Apr 29, 2023 at 2:56 PM

I do not think the court will give us more time. It has been [redacted] dangerous with the time it has given us.

Dan MacLemore

Board Kurgen Brophy Bastwick & Dickson, PLLC  
www.thetexasfirm.com  
220 South Fourth Street  
Waco, Texas 76701  
Cell (254) 733-1828  
Email: [redacted]  
Direct (254) 733-0948  
Fax (254) 776-3591  
maclemore@thetexasfirm.com

Sent from my iPad

On Apr 29, 2023, at 11:17 AM, Lady J Ford <mjaneford@gmail.com> wrote.

[Redacted text header]

**BEARO<sup>®</sup> KULTGEN** image001.png  
8K

Lady J Ford <mjaneford@gmail.com>  
To: Dan MacLemore <maclemore@thetexasfirm.com>

Mon, May 1, 2023 at 12:56 PM

Yes Sir, and I am so very grateful for their patience & generosity. I absolutely don't want to sound as if I'm not. I just can't control the other hearing either & am praying for grace & favor that we can work it out for one hearing to take place before the other which will be more beneficial for both parties IF the VA hearing happens first. So what I'm asking is since we've already been here for several years in the waiting... What would a few more days matter? Just a few more days until after the 28th & in accordance with the mediation Judge. How soon could he be available after the 28th? I'm sure, if the court sees the whole picture, it would be willing to push it out just a little further. After all, what would this court really have to lose if we held the mediation off until after the VA hearing (again, only a few days difference)?

Remember, this is a God thing. I'll forward to you the txt as well. I feel very positive that if you can find out when the mediation judge could be available, following the July 28th VA hearing & present this to the Waco Judge that he would see the importance of pushing his date out just a little further. After all, how could it 'harm' his case? I would think it would only have a win/win outcome.

Thank you again so very much for all you're doing & trust me when I say, I DO understand the frustration of it all. I've been dealing with it since 2016 so I do get it. I'm riding my heart to follow God in faith & he lead by His spirit. THAT'S what I'm seeing here. His hand moving in this situation. I truly feel that this is coming to a close very soon which all can benefit. We just need to coordinate the dates with the Mediator (after the VA hearing of July 28th) and the Waco Judge after the mediation, hopefully to be all wrapped up in Aug. for all our benefits.

[Redacted text header]

My thought was to describe the potential sale and settlement for the court in a motion asking for 90 days from all current deadlines (depending on where the trial date would then hit and moving my daughter into college in August). I think the court will give us whatever we want.

Thoughts?

Dan MacLemore

**BEARD KULTGEN**

[www.linetex.com](http://www.linetex.com)

220 South Fourth Street  
Waco, Texas 76701  
Main (254) 776-5500

Direct (254) 732-5848

Cell (254) 733-1828

Fax (254) 776-3391

[dk@linetex.com](mailto:dk@linetex.com)

## App 7

Case: 24-50053 Document: 76 Page: 87 Date Filed: 02/12/2025

**BEARD KULTGEN**  
Attorneys at Law

• Student VA Reps  
• Standard VA Reps  
• Non-VA Reps

2 attachments

**BEARD KULTGEN** image001.png  
8K

**BEARD KULTGEN** image001.png  
8K

Lady J Ford <msjanetford@gmail.com>  
To: Dan MacLemore <maclemore@thetexasfirm.com>

Thu, May 11, 2023 at 6:18 PM

I need to check with the one coming with me as she will need to cancel all her appoints for that day but again, IF the VA case can benefit this case I wouldn't they extend it just a little longer for as soon as the mediator can mediate? After all the other side got delay after delay with no problem so I'm only asking for this one to be after the 28th of July. As soon as I receive the official notice I will forward it to you. I'll try to let you know by tomorrow.

-----Original message-----

Dan MacLemore <maclemore@thetexasfirm.com>  
To: Lady J Ford <msjanetford@gmail.com>

Thu, May 11, 2023 at 9:56 PM

Who is coming with you? That is generally not allowed under the law because of the confidentiality issues.

Dan MacLemore

www.thetexasfirm.com  
220 South Fourth Street  
Waco, Texas 76701  
Main (254) 776-5500  
Direct (254) 732-5848  
Cell (254) 733-1828  
Fax (254) 776-3591  
maclemore@thetexasfirm.com

Sent from my iPhone

On May 11, 2023, at 6:17 PM, Lady J Ford <msjanetford@gmail.com> wrote:

-----Original message-----

2 attachments

**BEARD KULTGEN** image001.png  
8K

## App 7

Case: 24-50053 Document: 76 Page: 88 Date Filed: 02/12/2025

### BEARD & KULTGEN image001.png

lady J Ford <mspanelord@gmail.com>  
to: Dan MacLemore <maclemore@thetexasfirm.com>

Mon, May 15, 2023 at 11:39 PM

It was going to be my counselor but she won't be able to make it due to scheduling conflicts. However, I have an appt with her the Monday before. I will be bringing my mother since she lives with me now & took a fall the other day so I don't feel safe leaving her here alone. She's having bad dizzy spells & if she moves the wrong way & goes down there's no one here to help her if I'm there & she's here. I apologize for being late getting back to you. I've had a lot going on here trying to work things out with my counselor & take care of my mother. This is why I'm just now able to get back with you.

As for the best date, the 14th would be the best for me, but the absolute best would be after the 28th of July's court case with the VA. I can't understand how the other side can get all the delays they want but I can't get just this one? Especially since it would benefit this case. Why is that? It's been almost 8 yrs, what's a couple more weeks going to hurt? I feel like we just are going to start my home. As soon as the judge signs off on the 28th we should be able to get there. So could you please request it? I sent you the copies of the notice & as soon as I receive the detailed notice I can send you that as well.

I'd greatly appreciate it if you would get that last little extension. Thank you for ALL you do.  
to: Dan MacLemore <maclemore@thetexasfirm.com>

Wed, May 17, 2023 at 4:18 PM

to: Lady J Ford <mspanelord@gmail.com>

Your mom should not be a problem, but your counselor could not come.

Let's plan on 7/14, but we will work on getting something later.

Dan MacLemore

### BEARD & KULTGEN

www.thetexasfirm.com

800.222.1111

## App 8

Case: 24-50053 Document: 76 Page: 90 Date Filed: 02/12/2025



Lady J Ford <msjaneford@gmail.com>

### Another follow up

2 messages

Lady J Ford <msjaneford@gmail.com>  
To: maclemore@tholtxasfirm.com

Wed May 25, 2022 at 9:53 AM

Good morning Dan.

I just wanted to follow up and get more detail on the last conversation. You mentioned the court document with house description & no problem with getting the house in my name however I DO NOT want it in my name until I get the signed agreement from the other party. You never filled me in completely so I still don't know what is going on.

This has been the hold up from the beginning. It's been a pattern I'm seeing of how dirty they operate. I've said this before & I still stand by it. PLEASE get that agreement to me ASAP so we can move forward.

I've got time & willing to take them to a higher court if that's what they want. I've done my best to cooperate but they are determined to try to steal my home & THAT's what I have a problem with. After recovering more evidence I'm SURE they don't want to go court now. I'll just say in their OWN words. So please get that agreement & DO NOT do anything on my behalf to put that house in my name until after we get a signed agreement that I can see, agree to & have a copy of.

Thank you.

Sincerely,

Jane Ford  
Jen 2011

Dan MacLemore <maclemore@tholtxasfirm.com>  
To: Lady J Ford <msjaneford@gmail.com>

Wed May 25, 2022 at 9:58 AM

Legally, it is already in your name. It just is not recorded in the deed records. The divorce decree is enough.

Dan MacLemore

**BEARD KULTGEN**

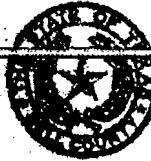
[www.tholtxasfirm.com](http://www.tholtxasfirm.com)

220 South Fourth Street  
Waco, Texas 76701  
Main (254) 776-5500

Direct (254) 732-5848  
Cell (254) 733-1825

App 8

Case: 24-50053 Document: 76 Page: 89 Date Filed: 02/12/2025

|   |  |
|---|--|
| <p style="text-align: center;"><b>BELL COUNTY TEXAS</b><br/><b>Shelley Coston</b><br/><b>County Clerk</b><br/><b>Bethel, Texas 76513</b></p>  |  |
| <p>Instrument Number: 2022033405<br/>As<br/>DIVORCE</p>   |  |
| Recorded On: May 25 2022<br>Parties: FORD ROLANDO<br>To: FORD MARTINEZ SAIE   | BCourt Pages: 7<br>Number of Pages: 8  |
| <p>Comments:<br/>(Parties listed above are for Clerk's reference only)</p>  |  |
| <p>** Examined and Charged as Follows **</p>  |  |
| <p>CLERK'S NAME<br/>COURTHOUSE SECURITY<br/>RECOMMENDED</p>   |  |
| <p>***** DO NOT REMOVE. THIS PAGE IS PART OF THE<br/>Any provision herein which restricts the sale, return or use of the instrument<br/>because of color or makes it void and unenforceable in law.</p> |  |
| <p>File Information</p> <p>Instrument Number: 2022033405<br/>Receipt Number: 281398<br/>Recorded Date/Time: 05/25/2022 10:05:43 AM<br/>User / Station: rbranead - BCCC00547</p>                         | <p>Record and Return To:<br/>220 S 4TH ST<br/>WACO, TX 76701<br/>(Dawn Muchenbach)</p> |
| <p>I hereby certify that this instrument was filed on the date and time indicated above, and is the same as<br/>recorded in the Real Property Records of Bell County, Texas.</p>                        |  |
| <p><br/>Shelley Coston<br/>Bell County Clerk <i>Shelley Coston</i></p>   |  |

7/1/25, 11:53 AM

20250701\_114316.jpg

MC CREEARY, VESELKA, BRAGG & ALLEN, P.C.  
 ATTORNEYS AT LAW  
 P.O. BOX 1269  
 ROUND ROCK, TEXAS 78680-1269

April 1, 2024

Martha Jane Ford  
 141 Mighty Oak Ln  
 Killeen, Texas 76542-5681

### NOTICE OF INTENT TO FILE TAX FORECLOSURE LAWSUIT

| Tax Account Number(s) | Property Description  | Tax Years Due |
|-----------------------|---|---------------|
| 26784                 | Lot 14, Block 2, Tanglewood Estates Part III, City of Killeen, Bell County, Texas<br>Property Address: 141 Mighty Oak Ln, Killeen, Texas 76542-5681<br>Assessed Name: FORD, MARTHA JANE | 2018-2022     |

The tax records show there are delinquent taxes on the property described above due the bidding units owned herein. Unless payment is made within thirty days, it will be necessary to file a tax foreclosure lawsuit. A tax foreclosure lawsuit incurs court costs and title research fees for which you will be personally liable, and ultimately results in the seizure and sale of your property.

| Pay This Amount | Pay Directly To:  |
|-----------------|---|
| \$45,043.65     | Tax Appraisal District of Bell County<br>P.O. Box 390, Belton, Texas 76513-0390 |

Amounts shown if paid during 04/2024. The amount due will increase each month until paid.

Note the Tax Account Number on your check or correspondence to the Tax Office or this law firm.

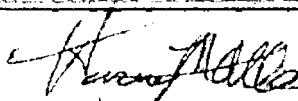
IF YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED, AND YOU OCCUPY THE PROPERTY DESCRIBED IN THIS DOCUMENT AS YOUR RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE APPRAISAL DISTRICT REGARDING ANY ENTITLEMENT YOU MAY HAVE TO A POSTPONEMENT IN THE PAYMENT OF THESE TAXES.

IF THE PROPERTY DESCRIBED IN THIS DOCUMENT IS YOUR RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE TAX OFFICE REGARDING A RIGHT YOU MAY HAVE TO ENTER INTO AN INSTALLMENT AGREEMENT DIRECTLY WITH THE TAX OFFICE FOR THE PAYMENT OF THESE TAXES.

If you are or have been in bankruptcy, legal action against you or this property will be confined to that which is authorized by the Bankruptcy Code.

If you have any questions, you may contact our office in Belton at (254) 613-1780.

Sincerely,



Harvey M. Allen

GCPLRI.pab

| Definquent Notice   |           | Property Subject to Tax  |               |          |            |            |            |            |
|---|-----------|--|---------------|----------|------------|------------|------------|------------|
| <b>TAX APPRAISAL DISTRICT</b><br><b>P.O. BOX 330</b><br><b>KILLEEN, TX 76513-0330</b>   |           | <b>Property ID:</b> 25794 <b>Type:</b> Residential<br><b>Geographic ID:</b> 0428180903<br><b>Legal Acres:</b> 1.1450<br><b>Legal Description:</b> TANGLEWOOD ESTATES PART II, BLOCK 002, LOT 0014, ACRES 1.145<br><b>Street:</b> 141 MIGHTY OAK LN<br><b>KILLEEN, TX 76542</b> |               |          |            |            |            |            |
|   |           | <b>DDA:</b> <input type="checkbox"/><br><b>Adj. Codes:</b> <input type="checkbox"/> N  |               |          |            |            |            |            |
| <b>FORD, MARTHA JANE</b><br><b>141 MIGHTY OAK LN</b><br><b>KILLEEN, TX 76542</b><br><b>United States</b>  |           | <b>The amount due is based on the date payment is made. See Payment Schedule below for amount due.</b><br><b>Write in Amount Paid:</b> <input type="text"/>  |               |          |            |            |            |            |
| Please Sign and Return Top Portion  |           |  |               |          |            |            |            |            |
| <b>Property ID:</b> 25794<br><b>Geographic ID:</b> 0428180903<br><b>Legal Acres:</b> 1.1450<br><b>Legal Description:</b> TANGLEWOOD ESTATES PART II, BLOCK 002, LOT 0014, ACRES 1.145 |           | <b>Owner:</b> (917421) FORD, MARTHA JANE<br><b>141 MIGHTY OAK LN</b><br><b>KILLEEN, TX 76542</b>   |               |          |            |            |            |            |
| Pet Ownership: 100.0000000000   |           |  |               |          |            |            |            |            |
| Year  | Street ID | Taxing Unit  | Taxable Value | Tax Rate | Base Tax   | March 2024 | April 2024 | May 2024   |
| 2018  | 51736     | BELL COUNTY WCID #6  | 187,147       | 0.030000 | \$56.14    | \$112.34   | \$112.34   | \$112.34   |
| 2018  | 51238     | CLEARWATER U.W.C.D.  | 187,147       | 0.035390 | \$67.17    | \$14.35    | \$14.43    | \$14.51    |
| 2018  | 51735     | CITY OF KILLEEN  | 187,147       | 0.748800 | \$1,403.23 | \$2,807.87 | \$2,824.00 | \$2,840.14 |
| 2018  | 51735     | KILLEEN ISD  | 187,147       | 1.200000 | \$4,334.85 | \$4,718.46 | \$4,749.48 | \$4,772.70 |
| 2018  | 51238     | BELL COUNTY ROAD   | 187,147       | 0.030000 | \$56.14    | \$112.34   | \$112.34   | \$112.34   |
| 2019  | 51735     | BELL COUNTY WCID #6  | 187,147       | 0.030000 | \$56.14    | \$112.34   | \$112.34   | \$112.34   |
| 2019  | 51735     | BELL COUNTY  | 187,147       | 0.421200 | \$786.26   | \$1,582.51 | \$1,582.58 | \$1,585.44 |
| 2019  | 52423     | BELL COUNTY WCID #6  | 180,339       | 0.029700 | \$365.53   | \$705.32   | \$705.36   | \$706.62   |
| 2019  | 52423     | CLEARWATER U.W.C.D.  | 180,339       | 0.035570 | \$66.80    | \$12.67    | \$12.76    | \$12.83    |
| 2019  | 52423     | CITY OF KILLEEN  | 180,339       | 0.748800 | \$1,427.16 | \$2,658.80 | \$2,676.21 | \$2,691.62 |
| 2019  | 52423     | KILLEEN ISD  | 180,339       | 1.161100 | \$2,210.03 | \$4,417.29 | \$4,427.70 | \$4,438.11 |
| 2019  | 52423     | BELL COUNTY ROAD   | 180,339       | 0.030000 | \$56.14    | \$103.55   | \$105.19   | \$106.62   |
| 2019  | 52423     | CENTRAL TEXAS COLLEGE  | 180,339       | 0.279000 | \$424.44   | \$853.53   | \$858.32   | \$865.13   |
| 2019  | 52423     | BELL COUNTY  | 180,339       | 0.420000 | \$800.08   | \$1,492.18 | \$1,501.38 | \$1,510.59 |
| 2020  | 228116    | BELL COUNTY WCID #6  | 214,684       | 0.030000 | \$66.44    | \$111.11   | \$111.11   | \$112.69   |
| 2020  | 228116    | BELL COUNTY  | 214,684       | 0.030000 | \$66.44    | \$12.44    | \$12.44    | \$12.77    |
| 2020  | 228116    | CITY OF KILLEEN  | 214,684       | 0.739000 | \$1,573.03 | \$2,774.41 | \$2,782.00 | \$2,792.59 |
| 2020  | 228116    | KILLEEN ISD  | 214,684       | 1.089300 | \$2,338.96 | \$4,034.74 | \$4,051.54 | \$4,068.54 |
| 2020  | 228116    | BELL COUNTY ROAD   | 214,684       | 0.028500 | \$81.18    | \$105.54   | \$106.24   | \$106.64   |
| 2020  | 228116    | CENTRAL TEXAS COLLEGE  | 214,684       | 0.121800 | \$261.49   | \$545.08   | \$545.08   | \$547.09   |
| 2020  | 228116    | BELL COUNTY  | 214,684       | 0.396800 | \$881.87   | \$1,469.47 | \$1,476.27 | \$1,483.07 |
| 2021  | 228007    | BELL COUNTY WCID #6  | 258,515       | 0.028000 | \$72.38    | \$114.87   | \$115.70   | \$116.54   |
| 2021  | 228007    | CLEARWATER U.W.C.D.  | 258,515       | 0.030100 | \$8.01     | \$12.71    | \$12.80    | \$12.89    |
| 2021  | 228007    | CITY OF KILLEEN  | 258,515       | 0.700400 | \$1,810.84 | \$2,872.49 | \$2,894.31 | \$2,915.14 |
| 2021  | 228007    | KILLEEN ISD  | 258,515       | 1.043200 | \$2,438.03 | \$3,885.98 | \$3,903.98 | \$3,922.01 |
| 2021  | 228007    | BELL COUNTY ROAD   | 258,515       | 0.028000 | \$67.98    | \$107.90   | \$108.69   | \$109.47   |
| 2021  | 228007    | CENTRAL TEXAS COLLEGE  | 258,515       | 0.171600 | \$220.08   | \$357.78   | \$358.47   | \$359.16   |
| 2021  | 228007    | BELL COUNTY  | 258,515       | 0.368000 | \$551.84   | \$850.78   | \$852.73   | \$853.68   |
| 2022  | 56703     | BELL COUNTY WCID #6  | 264,267       | 0.026600 | \$76.77    | \$108.79   | \$110.68   | \$111.53   |
| 2022  | 56703     | CLEARWATER U.W.C.D.  | 264,267       | 0.022708 | \$7.71     | \$11.18    | \$11.27    | \$11.35    |
| 2022  | 56703     | CITY OF KILLEEN  | 264,267       | 0.423300 | \$1,776.56 | \$2,872.81 | \$2,893.24 | \$2,913.63 |
| 2022  | 56703     | KILLEEN ISD  | 264,267       | 1.016600 | \$2,489.31 | \$3,887.07 | \$3,905.63 | \$3,924.27 |
| 2022  | 56703     | BELL COUNTY ROAD   | 264,267       | 0.023300 | \$68.37    | \$96.16    | \$98.93    | \$100.66   |
| 2022  | 56703     | CENTRAL TEXAS COLLEGE  | 264,267       | 0.036000 | \$273.47   | \$404.27   | \$406.41   | \$402.66   |
| 2022  | 56703     | BELL COUNTY  | 264,267       | 0.318000 | \$908.18   | \$1,304.36 | \$1,314.71 | \$1,325.08 |

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT  
WESTERN DISTRICT OF TEXAS  
(Court Level and Jurisdiction)

|  |   |
|--|---|
| Martha Jane Ford<br><br>Plaintiff<br><br>-VS-<br><br>Bank of New York Mellon, Trustee, for CWABS,<br>Incorporated Asset-Backed Certificates, Series<br>2007-2<br><br>Defendant | 23-50053 (C.A. NO. 6:18-CV-00299-ADA-<br>JCM)<br>(Case I.D. Number) |
|--|---|

AFFIDAVIT

I, Sonya Kaiser, of Conroe, in Montgomery County, Texas, MAKE OATH AND SAY THAT:

1. I, Sonya Kaiser as a witness to the mediation agreement of July 14, 2023 of Martha Jane Ford (hereafter, Jane) Vs The Bank of New York Mellon hereby state; that the parties that were present was Latana St George, Myself, Martha Jane Ford, her attorney Dan McLemore and Judge Stem. Upon arrival, we were then introduced to Judge Stem and his wife who he brought with him. After the introduction she excused herself to go out into the town to spend time in the area.

We then entered the conference room and before the meeting Judge Stem began sharing his wife's medical story and what she had recently gone through to the point of near death by the antibiotics she had been taking over the years. It affected her body, shutting it down to where

## App 10

she was hospitalized for a time being paralyzed. He explained how it affected her ability to have any normality whatsoever. He was showing us pictures of the traumatic experience. We all shared in his joy for her survival yet later it became a major concern for Jane as to the well being of his wife during the passing hours due to the extreme Texas heat temperatures of the day.

To start the meeting, Mr MacLemore and Judge Stem, the Mediator started talking of how the meditation was going to go about, and giving Jane instruction of how it would be conducted. For starters the other attorneys for the bank, being kept in another room, gave Mr MacLemore their proposal so he could discuss it with Jane.

Prior to the meditation we had discussed two different options.

Option One was to be Jane's preference to go back to the 2004 re-finance with all the mortgage payments up to June of 2016, equity and fees charged, be applied to the balance.

Option two was to sell the house at 70-30% split with a \$100,000k cap with Jane receiving the 70 percent and they would receive no more than the 30% capped at \$100,000 for the bank.

After Jane received an email from her lawyer Dan MacLemore, saying the bank would agree to the terms of a 70-30% split. It was about this time that my broker did the stats on the property located at 141 Mighty Oak Lane, Killeen, Tx 76542.

As the mediation began neither option was offered. We were confused as to why. It was obvious we were led there under false intentions to begin with. Instead the only option available was the one they now presented at mediation for approximately \$222,000. We were shocked and in total dismay, as to what just occurred. However, to sweeten the deal, they were going to split the balance in two and have her pay the first half with a low interest rate for 20 years. The other half would set dormant with no interest charge and at the end of the 20 years. The second balance would be added to the first part and then the interest would go up not to exceed 3 percent with another 20 years to pay it off. So we're looking at a 40 year mortgage. Where and how does this make any sense? But Mr MacLemore was very adamant that Jane was getting the best deal because it would fit her budget of \$500 dollars a month. This went back and forth for hours with the other attorneys. The pressure was very heavy in the room. I could see the dismay in Jane's face and I could sense and feel how stressed and emotional she was. I have known her for over 27 years, and I can tell you her demeanor. She was at a breaking point. Myself being a realtor, felt that here again an injustice was being done yet didn't want to add to her already heaviness by causing any problems with her attorney as he had already told her I couldn't say

anything which was the stipulation of m  bble to attend, even as her Realtor.

Being in the position I was, I was not allowed to speak or share my professional opinion with Jane. After many conversations with tears over the last few years Jane stated that she was going to lose her home according to her own attorney and had no choice but to comply with their resolutions. Time and time again, I would try to keep her calm and encourage her to not give up and trust God. Yet, on this day more than any other, the pressure mounted. I could tell she was overwhelmed, confused, beyond stressed and still had everyone else's concerns above her own, that's who she is.

She was concerned with my travels having left Oklahoma at 6am that morning to Waco, Tx and then to proceed home to Conroe, Texas.

She was concerned for her mother's health having to sit there all day in her condition which became apparent a few months later when she was admitted to hospital with a 25 percent heart function.

Add to that, even more pressure, now knowing the story behind the Judge's wife's health

All of these things added tremendous pressure and great concern to Jane already struggling deeply with PTSD. How could she really make a conscious decision which would affect her entire being and not just her own but her Mother's as well because Jane now cares for her Mother in her home. Knowing how she felt that she had no options, and seeing for myself how the pressure was applied by their many manipulating comments of 'what a great deal this was,' she was being strongly compelled to sign this agreement.

As Jane began to sign this agreement, Mr MacLemore took the agreement away from her and left the room saying something was incorrect. Jane and I looked at each other confused. A few minutes later her attorney returned back into the room with an agreement and was very vague about why he had taken the agreement away and did not correctly share or explain any corrections. There were no details as to what we soon found out they actually did. The pressure mounted for Jane to sign the agreement by the attorney stressing how great of a deal it was with the Mediator confirming his comments but not having full details of her story himself. Again, under so much pressure and to get everyone on their way she did sign. It was never offered to her that she could re-examine the agreement whatsoever, rather it was implied she needed to sign or she could lose her home.

## App 10

The next day Jane called me explaining that her neighbor read the agreement and saw how they had added interest to the second part of the mortgage balance that was supposed to be dormant for the next 20 years with no interest charged. Which would significantly increase the balance closer to \$300,000 or more. The increase would come from the added interest rate being charged for the "dormant" 20 years without the balance decreasing. She was frantic and angry at the same time. She had been taken advantage of again. I tried to calm her down and told her to call her attorney right away. Fast forward to Oct 31, 2023, when they had their first Zoom hearing due to her frantic attempts to correct the mistakes on the agreement. Again I could hear it, but I could not speak. I was not called on or allowed to share my professional opinion as a Realtor.

In conclusion, I felt like Jane had no chance because I could sense the prejudice backed up by the sarcastic remarks and responses. Furthermore, this whole tragic incident has cost her her health, her well being mentally and physically, her finances and above all, her sense of trust. So again, I ask, where was the justice and fairness in these hearings. I am praying and believing that justice will prevail and that God Yehovah almighty gives her the favour she deserves.

In his service,  
Sonya Kaiser  
11380 Dawn Beach Lane  
Conroe, TX 77304  
254 238 1282  
Sbs5267@aol.com.

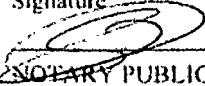
STATE OF TEXAS

COUNTY OF MONTGOMERY

SUBSCRIBED AND SWORN TO BEFORE  
ME, on the 6 day of

FEBRUARY, 2025

Signature

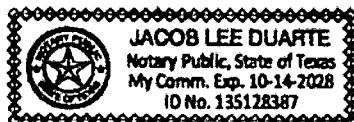


(Seal)

NOTARY PUBLIC

My Commission expires:

10-14-2028



Sonya C. Kaiser

(Signature)

Sonya Kaiser

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT  
WESTERN DISTRICT OF TEXAS

(Court Level and Jurisdiction)

Martha Jane Ford

24-50053 (6:18-CV-299)

(Case I.D. Number)

Plaintiff

-vs-

Bank of New York Mellon

Defendant

AFFIDAVIT

I, Lantana St George, of Killeen, in Bell County, Texas, MAKE OATH AND SAY THAT:

1. On 07/14/23 I, Lantana St George, attended an agreement mediation in Waco, Texas. I went along to merely give or be a support to Martha Jane Ford (here, referred to as Jane). As we arrived and went inside we were greeted by Jane's attorney, Dan MacLemore who then introduced us to Judge Stem who was to be the mediator for the mediation, as well as Judge Stem's wife who soon left. While waiting for everyone to be ready to start, Judge Stem was telling us all about how he recently almost lost his wife to a near death situation. She had been paralyzed and on life support.

Finally the attorney said they were ready to start. It was a long afternoon with the back and forth negotiations. All the time the attorney and judge were telling her what a great deal she was getting. They kept commenting that this was a sweetheart of a deal, it was a deal unheard of, a phenomenal deal, best deal she would ever get, etc.

## App 10

As time went on during the day, Jane became very concerned for the mediator's wife walking around alone during our hottest time of the year with record highs. She had made a comment about not wanting to hold Judge Stem up if something should happen to her. She was also concerned for her friend, Sonya, who still had to drive a few more hours to get home in Conroe, TX as well as for my own health issues. All this added to the constant push to sign the deal.

Because she did not know all their terms and was having trouble understanding the agreement, she asked all kinds of questions and had them do lots of explaining. They kept trying to raise the monthly amount which she was adamant about not being able to pay more than \$500 a month but they still had her agreeing to pay just a little more bringing it closer to \$520 a month. When they got down to the final figures I began to listen more intently in order to not be confused as well because I could see in her face she was very stressed, confused and was beginning to, as I've heard soldiers say, "zone out" because of her stress disorder.

The attorney began explaining two different amounts like they were dividing the balance due. She had her attorney Dan MacLemore explain that to her so she could understand it better. He said, it is like having 2 buckets of money, bucket 1 and bucket 2, you will pay bucket 1 with a very low interest rate for 20 years and at the end of the 20 years when you have paid it down, bucket 2 will move over to bucket 1. He was telling her that there would be no interest on bucket 2 while it sat in the bucket until after the first 20 years then there would be another very small interest rate about 1.something % higher that would be added.

Jane's attorney then left the room asking her to initial and sign it. She was looking it over and had just laid it down to sign it when her attorney came back saying that the other attorney spoke to someone at the bank and that they had made a small mistake that needed to be corrected, however it wouldn't affect the numbers. He snatched the paper off the table before she could sign and left for a short time then returned and said ok now you can sign and initial the agreement. He was very evasive about the change made and did not explain that part at all, although she did ask, he was very vague. All the time continuing to tell her what a good deal she got.

I know my daughter and how stressed she was under all the pressure she had been under, even more so during this day. I can see what a toll it has taken on her own health. We left feeling fairly good that it was finally going to be over, until the next morning. The neighbor came over to see how she did. After Jane shared what she was told he looked at the agreement and told her that what she was told and what she had signed did not add up. He found what the error was

## App 10

right away. They had added a percentage onto bucket 2 during the first 20 years after telling her there wouldn't be any interest. This would add an additional approximate \$90,000 minimum or far more depending on how it was calculated the growing interest, to the amount they told her she would pay which was about \$222,000 total. That added amount would have brought the total up to about \$300,000 or far more, which is what that bank wanted from the very beginning.

I was sitting in the living room when her neighbor was explaining the agreement that we now know was switched on her without being informed of the details of the changes they made. Instead they pressured her into signing the second one that had been switched. The attorneys never gave her an option to take it home, clear her head and to look it over. It was just a hurry up and sign pressure on their part. Jane immediately tried to reach out to her attorney and he did answer her call. She had him on speaker phone so I could hear him say something about going on vacation and they could take care of it upon his return. I heard her also tell him she had 3 days to cancel an agreement in Texas and due to the switch, that's what she wanted to do. She matter of factly stated that the one she signed, she now knew was not the same they had discussed and that she had been deceived, once again.

Jane continued to try and work things out with her attorney who kept blowing her off at this point. After Jane realized what they did to her and tried putting a stop to more fraud being committed against her, she then tried to contact the mediator according to the agreement, but to no avail. She then tried to call the court to find a good way to reach him or get a message to him. She was told she had to give details in order for that to happen. After trying to explain the situation an urgent zoom hearing was set for Oct 11, 2023 in which I sat in on as well. Even the sitting Judge, Judge Manske agreed that it was a good deal during the hearing, but I doubt he knew the whole story when he held the follow up hearing.

I did give testimony after hearing her being falsely accused over and over again, knowing that no matter what, she will not lie, period. I don't just say that because she's my daughter, I say that because it is a fact and it's been proven for over 56 years following a lesson she learned the hard way about lying. She is a God-fearing woman with deep integrity as I tried to convey in my testimony to the Waco court. I hope and pray she gets the justice that is long overdue.

STATE OF TEXAS

COUNTY OF BELL

SUBSCRIBED AND SWORN TO BEFORE

ME, on the 6 day of  
February, 2025

Latana St George

(Signature)

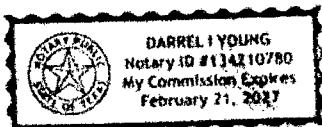
Signature

Darrel I Young (Seal)  
NOTARY PUBLIC

My Commission expires:

02/21/2027

Latana St George



Page 4 of 4

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT  
WESTERN DISTRICT OF TEXAS

(Court Level and Jurisdiction)

Martha Jane Ford

24-50053 (C.A. NO. 6:18-CV-00299-ADA-  
JCM)  
(Case I.D. Number)

Plaintiff

-vs-

Bank of New York Mellon, Trustee, for CWABS,  
Incorporated Asset-Backed Certificates, Series  
2007-2

Defendant

**AFFIDAVIT**

I, Anthony Coney, of Killeen, in Bell County, Texas, MAKE OATH AND SAY THAT:

1. A. On July 14, 2023, I came to Ms. Ford's home and was able to sit in on her zoom hearing. The presiding judge was at the least partial to the plaintiff since he did not fully allow Ms. Ford to completely explain her side of the issue. I saw and heard him make his personal opinions showing favor to the bank while being bias to Ms. Ford.
  
- B. Since 2020, I have seen Ms. Ford suffer tremendous stress and high levels of anxiety due to the unfathomable idea that the bank continues to send people out to her home, pull up on the street and begin to take pictures indiscreetly at different hours of the day. I have approached several to question their presence.

C. I am well aware that the agreement between Jane M. Ford The Bank of New York Mellon was to re-establish the 2004 refi with all payments, fees and equity that had been taken be applied to the balance. The other option was a 70%/30% split with Ms. Ford receiving the lion's share of the proceeds from the sale of her home. The final deal showed the bank wanting her to pay an approximate total of \$220,000 until paid off over 40 years. After viewing the agreement, I could see that would not be correct and she would actually end up paying approximately a \$100,000 extra.

D. I have known Jane Ford since 2018. She is an upstanding member of her community, who shows kindness and compassion to anyone in need. Her home has been a haven for hungry souls and helping them is her goal so that they may get back on their feet. She is a spiritual woman who believes in doing the right thing by people. She has helped me in many ways. She works around other people's schedule in order to help and let them know that there is someone on your side. She is honest and giving of herself and every way.

E. Ms. Ford does struggle remembering many issues and events and attempts to reread things in order to remember. She can get easily confused, will ask for me to repeat things several times and will tell you that she does not understand and will ask to re-explain something several times. She has not been able to concentrate on important subjects due to mental anguish created by her previous attorneys, the courts, and The Bank of New York Mellon

F. Ms. Ford followed the #2 rule of the agreement that stated to contact her attorney or mediator if a dispute arose, which it did. She called her lawyer to let him know she wanted him to challenge the mediation agreement that had been switched on her prior to signing. This agreement was never an option discussed prior to the mediation. Her attorney told her that he was leaving to go on vacation and would talk to her when he returned. She stated that she had 3 days in order to reject or challenge the mediation agreement in Texas. He told her that did not apply to this agreement.

The paperwork gave her a right to choose, which she did by right and it was unjustly stripped from her.

STATE OF TEXAS

COUNTY OF BELL

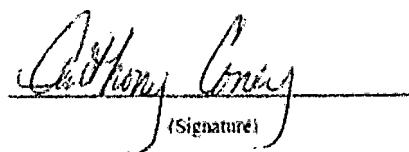
SUBSCRIBED AND SWORN TO BEFORE  
ME, on the 11 day of  
Dec 2025

Signature  (Seal)

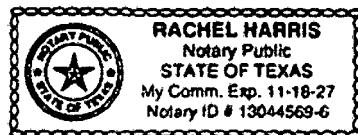
NOTARY PUBLIC

My Commission expires:

18 Nov 2027

  
(Signature)

Anthony Coney



## App 11

Case: 24-50053 Document: 82 Page: 1 Date Filed: 03/10/2025

**United States Court of Appeals  
Fifth Circuit  
Office of the Clerk**

March 10, 2025

**Case Number: 24-50053**

Martha J Ford vs Bank of New Your Mellon USDC No. 6:18-CV-299

**EMERGENCY MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF**

**TO THE HONORABLE JUDGES OF THE UNITED STATES COURT OF APPEALS FOR  
THE FIFTH CIRCUIT:**

Appellant Martha Jane Ford respectfully moves this Court for an emergency extension of time to file the reply brief, currently due today, March 10, 2025. Appellant requests an extension until March 31, 2025, or until 14 days after the supplemental records are made available, whichever is earlier. In support of this motion, Appellant states as follows:

**1. INTRODUCTION**

This is an emergency motion due to the critical need for supplemental records that are essential to Appellant's reply brief. Despite diligent efforts, these records remain unavailable, significantly impacting Appellant's ability to present a comprehensive and accurate argument to this Court.

**2. BACKGROUND**

- a. The current deadline for filing the reply brief is March 10, 2025.
- b. Appellant has made three attempts to submit motions for supplemental records to be added, with the last reconsideration motion submitted on March 7, 2025.
- c. These supplemental records are crucial to Appellant's case for the following reasons: The supplement records contain evidence of possible fraud on the court and definite fraud against my, the Appellant, a bait and switch tactic, a miscarriage of justice, attorney misconduct and collusion that led to false assumptions, which ended in a wrong conclusion in judgment and more. These records also show a pattern of deception and betrayal, as well as psychological

coercion and manipulation that has pervaded this case from its inception through the mediation process.

### 3. ARGUMENT

Good cause exists for granting this emergency extension:

a. Necessity of Supplemental Records: The supplemental records in question contain evidence in the form of emails, texts, affidavits, medical reports and articles pertaining to the facts of what I, the Appellant, have endured that has pervaded this case from its inception through the mediation process, which directly addresses key issues in this appeal, specifically:

1. The extent and severity of the physical and emotional harm suffered, and the long-term impact of the alleged actions on the Appellant's well-being and quality of life, as documented in medical reports, medical articles, personal communications and expert opinions.
2. The timeline of events and interactions between the parties, as evidenced by email and text exchanges.
3. The accuracy and completeness of statements made during the mediation process, which can be corroborated or challenged by the affidavits and other documentary evidence.
4. The consistency of the Appellant's claims throughout the legal process, which can be demonstrated through the chronological review of all communications and documents.<sup>1</sup> Without these records, Appellant's ability to present a complete and accurate argument is severely compromised [FRAP 10(e)].

b. Diligent Efforts: Appellant had made all reasonable efforts to obtain the records in a timely manner, including, making numerous phone calls and several trips to government offices out of town to obtain copies of specific records proving attorney misconduct and betrayal, requesting and staying in continued contact with witnesses until receiving their sworn affidavits, reviewing many documents in the ROA that I, the Appellant, did not have access to when needed. Despite these efforts, the records remain unavailable due to:

1. Procedural complexities and a pending decision on the motion for reconsideration.
2. Additionally, Appellant faces significant medical hardships of both self and mother of whom I am her full time caregiver. (see Attachment A) this substantially impairs the ability to focus on and advance the case effectively.

## App 11

Case: 24-50053 Document: 82 Page: 3 Date Filed: 03/10/2025

c. Prejudice to Appellant: Denying this extension would result in significant prejudice to Appellant, as it would force the filing of an incomplete reply brief that fails to address critical aspects of the case. Pursuant to FRAP 26(b) and 27, Appellant seeks an emergency extension pending, I pray, an acceptance of response for reconsideration of supplement records, to prevent prejudice from filing an incomplete reply brief, as denial would impede addressing critical case aspects.

These supplemental records are material to my case as they provide direct evidence of the fraudulent nature of the agreement I was ordered to honor. Without these records, the court's decision was based on incomplete information, potentially leading to a miscarriage of justice. The principles established in *Brady v. Maryland* (1963), while typically applied in criminal cases, underscore the importance of considering all material evidence to ensure a fair proceeding."

d. No Undue Delay: Granting this extension will not cause undue delay in the proceedings. The requested extension is limited and directly tied to the availability of essential records.

### 4. CONCLUSION

Your Honor, I respectfully request an emergency time extension based on the precedent established in *Brady v. Maryland* (1963). Like the suppression of evidence addressed in *Brady*, my case has been compromised by the unavailability of crucial records and my former attorney's withdrawal, which effectively suppressed evidence material to prove the fraudulent nature of the agreement in question. This situation has violated my due process rights and impaired my ability to present a full and fair case.

The last-minute nature of my attorney's withdrawal, combined with the sudden unavailability of key records, mirrors the type of evidence suppression that *Brady* sought to prevent. Granting an emergency time extension would allow me to properly present this newly available evidence, ensuring that the court has all material information necessary to make a just decision. Furthermore, the potential misconduct of my former attorney in withdrawing from the case while aware of evidence crucial to my defense parallels the concerns about fairness and justice central to the *Brady* decision.

The principles established in *Brady v. Maryland* (1963) regarding the suppression of evidence is congruent to my situation. Just as *Brady* held that withholding exculpatory evidence violates due process, my former attorney's withdrawal without presenting key evidence has similarly compromised my right to a fair proceeding. An extension would provide the opportunity to address these issues and ensure that the interests of justice are served.

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Case: 24-50053 Document: 82 Page: 4 Date Filed: 03/10/2025

The supplemental records are crucial to correct a miscarriage of justice caused by false accusations and wrong assumptions that led to an unfair judgment. They are crucial to file a complete and thorough reply brief.

For the foregoing reasons, Appellant respectfully requests that this Court grant an emergency extension of time to file the reply brief until March 31, 2025, or until 14 days after the supplemental records are made available, whichever is earlier.

Respectfully submitted,

*S/ Martha Jane Ford*  
Martha J. Ford  
141 Mighty Oak Ln  
Killeen, TX 76542  
254-251-8991  
msjaneford@gmail.com  
Pro Se Appellant

Cc: Mr Michael J. McKleroy Jr.  
Mr. Alfredo Ramos

### CERTIFICATE OF CONFERENCE

I hereby certify that on 10 March 2025, I sent notice to counsel for Appellee regarding this motion. Counsel for Appellee and awaiting a response.

*/S/ Martha Jane Ford*  
Martha J. Ford

### CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2025], I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

*/S/ Martha Jane Ford*

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Martha J. Ford

### CERTIFICATE OF COMPLIANCE

To the best of my knowledge, I certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains [number of words] words, excluding the parts exempted by Fed. R. App. P. 32(f).

/S/ *Martha Jane Ford*

Martha J. Ford

### ATTACHMENT A

## App 11

Case: 24-50053 Document: 82 Page: 6 Date Filed: 03/10/2025

Your Honor,

I am the primary caregiver for my 85-year-old mother, who is currently experiencing severe health decline due to heart failure and a debilitating back injury. Her condition has left her practically immobile, requiring my constant attention and assistance for nearly all daily activities. My caregiving duties include, but are not limited to:

- Assisting with personal care and hygiene
- Preparing meals and ensuring proper nutrition
- Managing and administering medications
- Coordinating and attending numerous medical appointments
- Providing physical support for limited mobility
- Monitoring her heart condition and managing related symptoms
- Addressing her pain management needs related to her back injury

These responsibilities consume a significant portion of my time and energy, directly impacting my ability to meet other obligations, including those related to this legal proceeding."

### **2. Medical Documentation and Evidence**

To substantiate the severity of my mother's condition and the extent of care required, I am prepared to submit the following documentation:

- Recent medical records detailing her heart failure diagnosis and prognosis
- Physician's notes regarding her back injury and mobility limitations
- Documentation of recent and upcoming medical appointments
- Any formal disability determinations or assessments
- Statements from healthcare providers outlining the necessity of full-time care

This documentation will clearly demonstrate the medical basis for my extensive caregiving responsibilities and the time-sensitive nature of her care needs.

### **3. Extraordinary Circumstances and Personal Hardship**

The combination of my mother's heart condition and severe mobility issues creates an extraordinary circumstance that goes beyond typical caregiving duties. Her health is in a critical state of decline, requiring constant monitoring and care. This situation has created a significant

## App 11

Case: 24-50053 Document: 82 Page: 7 Date Filed: 03/10/2025

personal hardship, as I must balance these intensive caregiving responsibilities with my legal obligations.

The recent deterioration in her ability to walk or stand has further intensified the level of care required, making it increasingly challenging to allocate time and resources to other matters, including this legal proceeding.

### 4. Current Efforts and Time-Sensitive Nature

At present, I am in the process of attempting to have my mother admitted to a pain assist therapy center. This process is time-consuming and complex, involving multiple steps:

- Coordinating with various healthcare providers
- Completing extensive paperwork and medical histories
- Arranging assessments and evaluations
- Navigating insurance and healthcare system requirements

The urgency of this situation cannot be overstated, as her declining mobility and increasing pain levels necessitate immediate intervention. Any delay in this process could result in further deterioration of her condition.

### 5. Impact on Legal Proceedings

Due to the intensive and time-sensitive nature of my caregiving responsibilities, particularly in light of my mother's rapidly declining health and our current efforts to secure specialized care, I find myself unable to adequately prepare for or participate in these legal proceedings at this time. The emotional and physical demands of this situation have significantly impaired my ability to focus on legal matters and gather necessary information for my case.

### 6. Request for Consideration

In light of these extraordinary circumstances and the documented medical emergencies, I respectfully request the court's consideration for time in filing motions going forward, scheduling, etc.. This accommodation would allow me to ensure my mother's critical health needs are met while also providing me the opportunity to properly address the matters before this court.

I assure the court that this request is made in good faith, and I am committed to fulfilling my legal obligations as soon as my mother's immediate health crisis is stabilized.

Respectfully submitted,

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S/ *Martha Jane Ford*

Martha J. Ford

Pro Se Appellant

## App 11

Case: 24-50053 Document: 96 Page: 1 Date Filed: 03/24/2025

**United States Court of Appeals  
Fifth Circuit  
Office of the Clerk**

March 23, 2025

**Case Number: 24-50053**

Martha J Ford vs Bank of New Your Mellon USDC No. 6:18-CV-299

**MOTION TO STAY PROCEEDINGS**

TO THE HONORABLE JUDGE OF THE COURT:

Appellant Martha Jane Ford, proceeding pro se, respectfully submits this Motion to Stay Proceedings and in support thereof states as follows:

**INTRODUCTION**

Appellant hereby requests that the Court stay the proceedings in the above-captioned matter pending resolution of critical evidentiary issues and due to Appellant's extraordinary caregiving responsibilities for an immediate family member experiencing a medical emergency. A stay is necessary to ensure Appellant has adequate time to address both the evidentiary and personal challenges without prejudice to Appellant's rights or the administration of justice.

**BACKGROUND**

1. On March 7, 2025, Appellant filed a Motion for Supplemental Records, which was denied by the Court on March 18, 2025.
2. Appellant also filed a Motion for Extended Time to File a Reply Brief on March 10, 2025, which the Court denied on March 18, 2025.
3. The supplemental records are crucial to Appellant's claims, as they provide evidence of [fraud/psychological coercion/deception/betrayal/switching agreements during signing (bait and switch)/etc.]. These records were not available to the original judge or the mediating judge, nor

were they submitted by the attorneys involved, likely because they expose misconduct that would have altered the outcome of the case. Without these records, Appellant cannot fully substantiate the claims, resulting in significant prejudice. Appellant respectfully requests that the Court reconsider its position on excluding this evidence, as it is material to the case and directly impacts the fairness and integrity of the proceedings.

4. In addition, I, the Appellant, am the primary caregiver for my 85-year-old mother, who sustained a compression fracture in her back on February 27, 2025 following a primary doctor's visit. Despite multiple doctor visits on February 28, 2025, and a phone followup with her primary on March 10, 2025, as well as x-rays, the fracture was not detected until an MRI was performed on March 14, 2025. During this time, which coincided with Appellant's efforts to prepare the Motions and Reply Brief, Appellant's mother became increasingly immobile and endured excruciating pain causing her to completely depend on the Appellant for her every need. On March 19, 2025, she was transported to the emergency room by ambulance and is currently hospitalized. Following her back surgery on March 21, 2025, she is expected to be transferred to a pain management therapy rehabilitation center within the next few days. (See Exhibit A: Hospital Statement.) Verification can also be obtained by contacting the hospital's Case Management department, specifically POC Bonnie, for confirmation of her post-care facility arrangements.

5. Appellant's caregiving responsibilities, combined with the medical emergency and the demands of this case, have made it impossible to meet court deadlines or adequately address evidentiary issues.

#### **LEGAL ARGUMENT**

A stay of proceedings is warranted for the following reasons:

1. **\*\*Good Cause\*\*:** Appellant's caregiving responsibilities for an elderly parent in a medical emergency constitute extraordinary circumstances. Additionally, the supplemental records remain critical evidence that directly support Appellant's claims. Failing to consider these records would result in a significant miscarriage of justice. A stay would allow Appellant the time necessary to focus on both the family emergency and resolving the evidentiary issues.

2. **\*\*Irreparable Harm\*\*:** If this case proceeds without the supplemental records, Appellant will suffer irreparable harm, as the evidence is necessary to substantiate claims of fraud, coercion, and other misconduct. Furthermore, Appellant is unable to effectively participate in the case at this time due to caregiving duties and hospital-related obligations.

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3. **\*\*No Undue Prejudice to Opposing Party\*\*:** Granting a stay will not unduly prejudice the opposing party, as the request is being made in good faith to ensure fairness and the proper resolution of the case. Moreover, the stay would be temporary and proportional to the circumstances.

### CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court grant a stay of proceedings in this matter for at least four months, as this is a long foreseen health process due to Appellant's mother's 45% heart functionality and immobility caused by several weeks of medical delays and the mishandling of her condition which caused it to worsen. This time is necessary for her to begin walking again and may require a longer period if she needs to be transferred to another facility as she progresses. Additionally, Appellant must travel back and forth to provide her continued care, handle her medical records, and coordinate her treatment.

Appellant is willing to provide the Court with regular updates, including doctor's reports and progress reports, as requested or directed by the Court. Appellant also assures the Court that efforts to work on this case will continue as time allows. For these reasons, Appellant respectfully requests that the stay be granted to ensure fairness and to allow Appellant to fulfill these caregiving responsibilities.

Respectfully submitted,

S/ **Martha Jane Ford**  
Martha J. Ford  
141 Mighty Oak Ln  
Killeen, TX 76542  
254-251-8991  
msjaneford@gmail.com  
Pro Se Appellant

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Stay Proceedings was served on all parties of record, Mr Michael J. McKleroy Jr. and Mr. Alfredo Ramos on March 23, 2025, via email.

S/ **Martha Jane Ford**  
Martha J. Ford

**App 11**

Case: 24-50053 Document: 96 Page: 4 Date Filed: 03/24/2025

**EXHIBIT A**



ADVENTHEALTH CENTRAL TEXAS CCU  
2201 SOUTH CLEAR CREEK RD  
KILLEEN TX 76549-4110  
254-519-8469  
254-519-8180

March 21, 2025

Patient: **Latana Lynn St George**  
Date of Birth: **7/3/1939**  
Date of Visit: **3/19/2025**

To Whom It May Concern:

Latana St George is currently admitted here at Advent Health Central Texas Hospital. Discharge date has not been set.

If you have any questions or concerns, please don't hesitate to call

Sincerely,

Advent Health OSU  
254-519-8466

**MEDICAL POWER OF ATTORNEY  
DESIGNATION OF  HEALTH CARE AGENT**

Advance Directives Act (see § 165.164, Health and Safety Code)

I, Laura St. George (insert your name) appoint:  
Name Martha Jane Ford  
Address 141 Mighty Oak Ln  
Killeen, TX 76542 Phone (254) 251-8991

as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

LIMITATIONS ON THE DECISION-MAKING AUTHORITY OF MY AGENT ARE AS FOLLOWS: N/A

**DESIGNATION OF AN ALTERNATE AGENT:**

(You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the designated agent is unable or unwilling to act as your agent. If the agent designated is your spouse, the designation is automatically revoked by law if your marriage is dissolved, annulled, or declared void unless this document provides otherwise.)

If the person designated as my agent is unable or unwilling to make health care decisions for me, I designate the following person(s) to serve as my agent to make health care decisions for me as authorized by this document, who serve in the following order:

**First Alternate Agent:**

Name [REDACTED]

Address [REDACTED]

Phone [REDACTED]

**Second Alternate Agent:**

Name [REDACTED]

Address [REDACTED]

Phone [REDACTED]

The original of the document is kept at Joint with Laura St. George & Martha J. Ford  
141 Mighty Oak Ln, Killeen, TX 76542

The following individuals or institutions have signed copies:

Name Advent Health Central Texas

Address 2201 S. Clear Creek Rd.  
Killeen, TX 76549

Name Baylor Scott & White Medical Center

Address 2401 S. 31st St.  
Temple, TX 76508

## App 11

Case: 24-50053 Document: 96 Page: 7 Date Filed: 03/24/2025

Notary's printed name

My commission expires:

OR

### SIGNATURE IN PRESENCE OF TWO COMPETENT ADULT WITNESSES

I sign my name to this medical power of attorney on 1/21 day of March <sup>1025</sup> (month, year)

in Wimberley  
(City and State)  
Suzanne B. George  
(Signature)  
10/12/01 S. B. George, RN  
(Print Name)

### STATEMENT OF FIRST WITNESS

I am not the person appointed as agent by this document. I am not related to the principal by blood or marriage. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

Signature Debra M. R.  
Print Name Debra M. R. Date 3/22/2025  
Address 2201 S. Clear Creek Rd., Killeen, TX 76549

### SIGNATURE OF SECOND WITNESS

Signature Jill  
Print Name Jill Ramburgo, RN Date 3/22/2025  
Address 2201 S. Clear Creek Rd., Killeen, TX 76549

Version 01-2016

**AFTER VISIT SUMMARY**

Latana L. St George DoB: 7/3/1939 2/27/2025 1:30 PM Baylor Scott & White Clinic - Killeen 254-680-1294



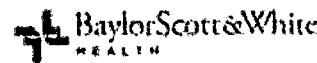
**Instructions from Cassandra Cherington, PA-C**

**Read the attached information**

**AFTER VISIT SUMMARY**

Latana L. St George DoB: 7/3/1939

2/28/2025 4:00 PM Baylor Scott & White Clinic Desk 1H - Temple 254-724-2267



**Instructions from Julian Rodriguez, APRN AGACNP**

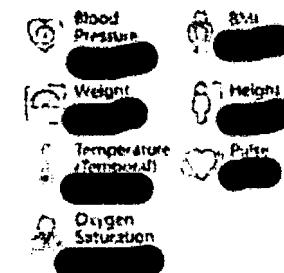


**Return in about 6 months**  
(around 8/28/2025)

**Today's Visit**

You saw Julian Rodriguez, APRN, AGACNP on Friday February 28, 2025. The following issues were addressed:

- HFPEF (heart failure with reduced ejection fraction) (MULTI-HCC)
- LBBB (left bundle branch block)
- Current use of long term anticoagulation
- Back pain
- Sciatic pain
- Encounter for monitoring amiodarone therapy



His guess was a pulled/strained muscle or pinched nerve. He was wrong, but he's a heart practicing doctor.

**Emergency Motion for Clarification and a Reconsideration to Stay  
Proceedings**

Martha Jane Ford  
141 Mighty Oak Lane  
Killeen, Texas 76542  
[MsJaneFord@gmail.com](mailto:MsJaneFord@gmail.com)  
1 (254) 251-8991

March 25, 2025

Clerk of the Court ATTN:  
Lyle W. Cayce, Clerk and Mary Frances Yeager, Deputy Clerk  
United States Court of Appeals  
5th Circuit  
600 S. Maestri Place, Suite 115  
New Orleans, LA 70130

**Re: Emergency Motion for Clarification and a Reconsideration to Stay Proceedings – No.  
24-50053**

Ford v. Bank of New York Mellon, USDC No. 6:18-CV-299

**To the Honorable Judges of the Fifth Circuit Court of Appeals:**

I, Martha Jane Ford, respectfully submit this **Emergency Motion for Clarification and Stay of Proceedings** in light of the court's recent denials of my motions, which have left me unable to proceed effectively in my case. I am a pro se litigant seeking justice and fairness in this matter, and I respectfully request the court's guidance and relief.

**Background**

**1. Procedural History:**

I have filed multiple motions, including:

- o A **Motion for Supplemental Records** to include evidence crucial to my claims.
- o A **Motion for Extension of Time** to file my reply brief.

## App 11

Case: 24-50053 Document: 106 Page: 2 Date Filed: 03/28/2025

- A Motion to Stay Proceedings due to personal hardship and procedural challenges.

All these motions have been denied without explanation, leaving me without direction on how to correct any deficiencies or proceed effectively. These denials have also caused me to miss critical deadlines, further jeopardizing my ability to present my case.

### 2. Personal Hardship:

In addition to the procedural challenges, I am the sole caregiver for my mother, who has been hospitalized due to a serious injury. This has significantly interfered with my ability to focus on my case and meet court deadlines. I have attached supporting documentation, including medical records and a statement from her healthcare provider, to substantiate this hardship.

### Legal Basis for Relief

#### 1. Due Process and Access to Justice:

The Fifth Circuit has a long history of ensuring fairness and access to justice, as seen in cases like **Castano v. American Tobacco Co.**, No. 84 F.3d 734 (5th Cir. 1996) and **Whole Woman's Health v. Hellerstedt** No. 579 U.S. 582 (2016). While these cases addressed broader legal principles, the underlying commitment to procedural fairness and due process applies equally to pro se litigants like myself. Denying motions without explanation deprives me of the opportunity to correct errors or understand the court's reasoning, which undermines my right to a fair process.

#### 2. Extraordinary Circumstances:

In cases involving extraordinary circumstances, courts have the discretion to grant relief to ensure fairness. My role as a caregiver during my mother's hospitalization constitutes such a circumstance, warranting a stay of proceedings and an extension of deadlines to allow me to participate meaningfully in my case.

#### 3. Clarification as a Procedural Necessity:

As noted in **In re: Deepwater Horizon**, No. 15-30574 (5th Cir. 2016); The Fifth Circuit has addressed complex procedural issues to ensure that litigants have a clear understanding of their obligations. I respectfully request clarification of the reasons for the denials of my motions so that I can address any deficiencies and proceed appropriately.

### Relief Requested

I respectfully request the following relief:

#### 1. Clarification:

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A written explanation of the reasons for the denials of my motions, including:

- o The Motion for Supplemental Records.
- o The Motion for Extension of Time.
- o The Motion to Stay Proceedings.

**2. Stay of Proceedings:**

A temporary stay of proceedings to allow me to address the court's concerns, gather necessary evidence, and fulfill my caregiving responsibilities.

**3. Extension of Deadlines:**

An extension of the deadline to file my reply brief and any other applicable deadlines to ensure that I have a fair opportunity to present my case.

**Conclusion**

I am committed to complying with the court's rules and procedures, but I am currently unable to proceed effectively without clarification of the court's rulings and relief from the extraordinary circumstances I am facing. I respectfully request that the court grant this motion to ensure fairness and access to justice in my case.

Thank you for your attention to this urgent matter.

Respectfully submitted,

**Date:** March 25, 2025

**Signature:** S/ Martha Jane Ford  
Martha Jane Ford

Martha Jane Ford, 141 Mighty Oak Ln., Killeen TX 76542, MsJaneFord@gmail.com, (254) 251-8991

**Cc:** Mr Michael J. McKleroy Jr.  
Mr. Alfredo Ramos

## App 11

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### EXHIBIT A



March 26, 2025

**Baylor Scott & White Clinic - Killeen**  
3801 SCOTT & WHITE DR  
KILLEEN TX 76541-5252  
Phone: 254-680-1294  
Fax: 254-680-1212

Latana L St George  
141 Mighty Oak Ln  
Killeen TX 76542-5881

To Whom It May Concern,

I am the primary care physician for Latana St. George. Jane Ford is the primary care giver for her mother, Latana St. George. Her mother had an injury on 2/27/25 which has required multiple visits for testing and ultimately she was hospitalized from 3-19-25 to 3/24/25. Ms. St. George has been requiring 24 hour care and supervision by her daughter. She is currently in a rehabilitation facility but Jane Ford is still helping to care for her mother at the facility as she needs to help her with meals and be present for emotional support.

Sincerely,

*K. Harrison, MD*

Karen P. Harrison, MD  
Baylor Scott & White 65+ Clinic

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March 27, 2025

To Whom It May Concern

Latana St. George has been under my care at Hill Country Heights since 3/24/2025. She is currently immobile and will remain here until she regains mobility. Time frame is undetermined at this time. Jane Ford will need to continue to assist with her care and medical needs throughout her stay and after discharge from Hill Country Heights.

Sincerely,  
  
Dr. Biju Oommen

**UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

**No. 24-50053**

**MARTHA J. FORD,**  
**Appellant,**  
**vs**

**BANK OF NEW YORK MELLON,**  
**Appellee.**

**Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:18-CV-299**

**MOTION TO ACCEPT CORRECTED PETITION FOR REHEARING EN  
BANC**

**Martha J. Ford, Pro se  
141 Mighty Oak Ln  
Killeen, TX 76542  
254-251-8991  
msjaneford@gmail.com**

---

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**RULES**

**Federal Rules of Appellate Procedure:**

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To the Honorable Judges of the United States Court of Appeals for the Fifth Circuit:

Pursuant to Federal Rules of Appellate Procedure 27 and 40, Petitioner Martha Jane Ford respectfully moves this Court to accept the accompanying corrected Petition for Rehearing En Banc.

**BACKGROUND**

1. On April 17, 2025, Petitioner filed a Petition for Rehearing En Banc.
2. The Clerk's Office rejected the petition, noting procedural deficiencies.
3. Petitioner was not notified of the May 1st hearing regarding this or any matter, given any reasons as to why motions were being denied or directions to know what steps to take for corrections.
4. This corrected petition addresses all procedural requirements as specified by the Clerk's Office.

**CORRECTIONS MADE**

The corrected petition now includes:

1. Proper motion format as required
2. Complete procedural compliance with FRAP Rules 35 and 40
3. Additional evidence of systematic fraud affecting judicial integrity (addressed in concurrent Emergency Motion)
4. Documentation supporting extraordinary circumstances (detailed in accompanying Emergency Motion)

(To the best of my knowledge and ability as a pro se litigant without legal training)

The corrected petition now includes:

1. Proper motion format as required (to the best of my understanding)
2. Complete procedural compliance with FRAP Rules 35 and 40 (based on my review of the rules)
3. Additional evidence of systematic fraud affecting judicial integrity (addressed in concurrent Emergency Motion No. 24-50053)
4. Documentation supporting extraordinary circumstances (detailed in accompanying Emergency Motion No. 24-50053)

Note: This certification is made in good faith based on my understanding as a pro se litigant without formal legal training. Any inadvertent errors or omissions are unintentional.

#### LEGAL BASIS

Courts have inherent power to remedy fraud that undermines judicial integrity. See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944). The systematic fraud evidenced in this case warrants careful consideration of the complete record.

#### RELIEF REQUESTED

Petitioner respectfully requests this Court:

1. Accept this corrected Petition for Rehearing En Banc
2. Grant leave to supplement the record with evidence of fraud
3. Consider the extraordinary circumstances affecting Petitioner's physical and mental abilities and filing in a timely manner

Respectfully submitted,

S/*Martha Jane Ford*

Martha J. Ford, Pro se  
141 Mighty Oak Ln  
Killeen, TX 76542  
254-251-8991  
[msjaneford@gmail.com](mailto:msjaneford@gmail.com)

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the email resource as instructed by the clerks for the CM/ECF system. I certify that service will be accomplished by the CM/ECF system on the following:

Mr. Michael J. McKleroy Jr.  
[mmckleroy@hinshawlaw.com](mailto:mmckleroy@hinshawlaw.com)

Mr. Alfredo Ramos  
[framoss@hinshawlaw.com](mailto:framoss@hinshawlaw.com)

S/*Martha Jane Ford*

Martha J. Ford, Pro se  
141 Mighty Oak Ln  
Killeen, TX 76542  
254-251-8991  
[msjaneford@gmail.com](mailto:msjaneford@gmail.com)

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains approximately 338 words, excluding the parts exempted by Fed. R. App. P. 32(f).

S/*Martha Jane Ford*

Martha J. Ford, Pro se  
141 Mighty Oak Ln  
Killeen, TX 76542  
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msjaneford@gmail.com

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

No. 24-50053

MARTHA J. FORD,  
Appellant,  
vs

BANK OF NEW YORK MELLON,  
Appellee.

Appeal from the United States District Court  
for the Western District of Texas

USDC No. 6:18-CV-299

**MOTION TO ACCEPT CORRECTED PETITION FOR REHEARING EN**

**BANC**

Martha J. Ford, Pro se  
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Killeen, TX 76542  
254-251-8991  
[msjaneford@gmail.com](mailto:msjaneford@gmail.com)

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| <b>CERTIFICATE OF COMPLIANCE.....</b> | <b>6</b>   |

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1. On April 17, 2025, Petitioner filed a Petition for Rehearing En Banc.
2. The Clerk's Office rejected the petition, noting procedural deficiencies.
3. Petitioner was not notified of the May 1st hearing regarding this or any matter, given any reasons as to why motions were being denied or directions to know what steps to take for corrections.
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The corrected petition now includes:

1. Proper motion format as required
2. Complete procedural compliance with FRAP Rules 35 and 40
3. Additional evidence of systematic fraud affecting judicial integrity (addressed in concurrent Emergency Motion)
4. Documentation supporting extraordinary circumstances (detailed in accompanying Emergency Motion)

(To the best of my knowledge and ability as a pro se litigant without legal training)

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1. Proper motion format as required (to the best of my understanding)
2. Complete procedural compliance with FRAP Rules 35 and 40 (based on my review of the rules)
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Note: This certification is made in good faith based on my understanding as a pro se litigant without formal legal training. Any inadvertent errors or omissions are unintentional.

#### LEGAL BASIS

Courts have inherent power to remedy fraud that undermines judicial integrity. See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944). The systematic fraud evidenced in this case warrants careful consideration of the complete record.

#### RELIEF REQUESTED

Petitioner respectfully requests this Court:

1. Accept this corrected Petition for Rehearing En Banc
2. Grant leave to supplement the record with evidence of fraud
3. Consider the extraordinary circumstances affecting Petitioner's physical and mental abilities and filing in a timely manner

Respectfully submitted,

S/Martha Jane Ford  
Martha J. Ford, Pro se  
141 Mighty Oak Ln  
Killeen, TX 76542  
254-251-8991  
[msjaneford@gmail.com](mailto:msjaneford@gmail.com)

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the email resource as instructed by the clerks for the CM/ECF system. I certify that service will be accomplished by the CM/ECF system on the following:

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[mmckleroy@hinshawlaw.com](mailto:mmckleroy@hinshawlaw.com)

Mr. Alfredo Ramos  
[framoss@hinshawlaw.com](mailto:framoss@hinshawlaw.com)

S/Martha Jane Ford  
Martha J. Ford, Pro se  
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I certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains approximately 338 words, excluding the parts exempted by Fed. R. App. P. 32(f).

S/*Martha Jane Ford*

Martha J. Ford, Pro se  
141 Mighty Oak Ln  
Killeen, TX 76542  
254-251-8991  
msjaneford@gmail.com

**Emergency Motion for Clarification and a Reconsideration to Stay  
Proceedings**

Martha Jane Ford  
141 Mighty Oak Lane  
Killeen, Texas 76542  
[MsJaneFord@gmail.com](mailto:MsJaneFord@gmail.com)  
1 (254) 251-8991

March 25, 2025

Clerk of the Court ATTN:  
Lyle W. Cayce, Clerk and Mary Frances Yeager, Deputy Clerk  
United States Court of Appeals  
5th Circuit  
600 S. Maestri Place, Suite 115  
New Orleans, LA 70130

**Re: Emergency Motion for Clarification and a Reconsideration to Stay Proceedings – No.  
24-50053**

Ford v. Bank of New York Mellon, USDC No. 6:18-CV-299

**To the Honorable Judges of the Fifth Circuit Court of Appeals:**

I, Martha Jane Ford, respectfully submit this **Emergency Motion for Clarification and Stay of Proceedings** in light of the court's recent denials of my motions, which have left me unable to proceed effectively in my case. I am a pro se litigant seeking justice and fairness in this matter, and I respectfully request the court's guidance and relief.

**Background**

**1. Procedural History:**

I have filed multiple motions, including:

- o A Motion for Supplemental Records to include evidence crucial to my claims.
- o A Motion for Extension of Time to file my reply brief.

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- o A Motion to Stay Proceedings due to personal hardship and procedural challenges.

All these motions have been denied without explanation, leaving me without direction on how to correct any deficiencies or proceed effectively. These denials have also caused me to miss critical deadlines, further jeopardizing my ability to present my case.

### 2. Personal Hardship:

In addition to the procedural challenges, I am the sole caregiver for my mother, who has been hospitalized due to a serious injury. This has significantly interfered with my ability to focus on my case and meet court deadlines. I have attached supporting documentation, including medical records and a statement from her healthcare provider, to substantiate this hardship.

### Legal Basis for Relief

#### 1. Due Process and Access to Justice:

The Fifth Circuit has a long history of ensuring fairness and access to justice, as seen in cases like **Castano v. American Tobacco Co.**, No. 84 F.3d 734 (5th Cir. 1996) and **Whole Woman's Health v. Hellerstedt** No. 579 U.S. 582 (2016). While these cases addressed broader legal principles, the underlying commitment to procedural fairness and due process applies equally to pro se litigants like myself. Denying motions without explanation deprives me of the opportunity to correct errors or understand the court's reasoning, which undermines my right to a fair process.

#### 2. Extraordinary Circumstances:

In cases involving extraordinary circumstances, courts have the discretion to grant relief to ensure fairness. My role as a caregiver during my mother's hospitalization constitutes such a circumstance, warranting a stay of proceedings and an extension of deadlines to allow me to participate meaningfully in my case.

#### 3. Clarification as a Procedural Necessity:

As noted in **In re: Deepwater Horizon**, No. 15-30574 (5th Cir. 2016):

The Fifth Circuit has addressed complex procedural issues to ensure that litigants have a clear understanding of their obligations. I respectfully request clarification of the reasons for the denials of my motions so that I can address any deficiencies and proceed appropriately.

### Relief Requested

I respectfully request the following relief:

#### 1. Clarification:

A written explanation of the reasons for the denials of my motions, including:

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- The Motion for Extension of Time.
- The Motion to Stay Proceedings.

**2. Stay of Proceedings:**

A temporary stay of proceedings to allow me to address the court's concerns, gather necessary evidence, and fulfill my caregiving responsibilities.

**3. Extension of Deadlines:**

An extension of the deadline to file my reply brief and any other applicable deadlines to ensure that I have a fair opportunity to present my case.

**Conclusion**

I am committed to complying with the court's rules and procedures, but I am currently unable to proceed effectively without clarification of the court's rulings and relief from the extraordinary circumstances I am facing. I respectfully request that the court grant this motion to ensure fairness and access to justice in my case.

Thank you for your attention to this urgent matter.

Respectfully submitted.

**Date:** March 25, 2025

**Signature:** S/ Martha Jane Ford  
Martha Jane Ford

Martha Jane Ford, 141 Mighty Oak Ln., Killeen TX 76542, MsJaneFord@gmail.com, (254) 251-8991

**Cc:** Mr Michael J. McKleroy Jr.  
Mr. Alfredo Ramos

App 11

Case: 24-50053 Document: 106 Page: 4 Date Filed: 03/28/2025

**EXHIBIT A**



March 26, 2025

**Baylor Scott & White Clinic - Killeen**  
3801 SCOTT & WHITE DR.  
KILLEEN TX 76541-5252  
Phone: 254-680-1294  
Fax: 254-680-1212

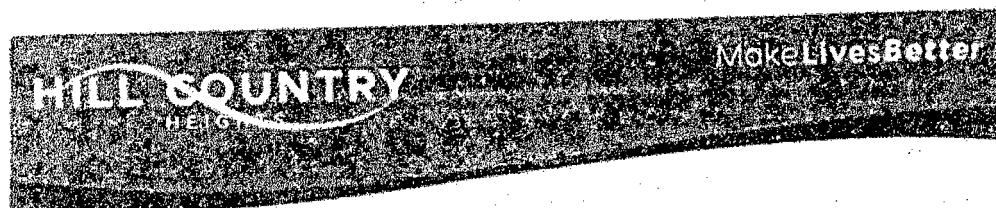
Latana L St George  
141 Mighty Oak Ln  
Killeen TX 76542-5681

To Whom It May Concern,

I am the primary care physician for Latana St. George. Jane Ford is the primary care giver for her mother, Latana St. George. Her mother had an injury on 2/27/25 which has required multiple visits for testing and ultimately she was hospitalized from 3-19-25 to 3/24/25. Ms. St. George has been requiring 24 hour care and supervision by her daughter. She is currently in a rehabilitation facility but Jane Ford is still helping to care for her mother at the facility as she needs to help her with meals and be present for emotional support.

Sincerely,

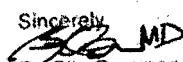
*K. Harrison, MD*  
Karen P. Harrison, MD  
Baylor Scott & White 65+ Clinic



March 27, 2025

To Whom It May Concern:

Latana St. George has been under my care at Hill Country Heights since 3/24/2025. She is currently immobile and will remain here until she regains mobility. Time frame is undetermined at this time. Jane Ford will need to continue to assist with her care and medical needs throughout her stay and after discharge from Hill Country Heights.

Sincerely,  
  
Dr. Biju Oommen

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*United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

June 03, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

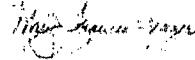
No. 24-50053 Ford v. Bank of New York Mellon  
USDC No. 6:18-CV-299

Enclosed is an order entered in this case.

See FRAP and Local Rules 41 for stay of the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By:  
Mary Frances Yeager, Deputy Clerk  
504-310-7696

Ms. Martha Jane Ford  
Mr. Michael J. McKleroy Jr.  
Mr. Alfredo Ramos

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

No. 24-50053

**FILED**

June 3, 2025

Lyle W. Cayce  
Clerk

MARTHA JANE FORD,

*Plaintiff—Appellant,*

*versus*

BANK OF NEW YORK MELLON, *Trustee*, FOR CWABS,  
INCORPORATED ASSET-BACKED CERTIFICATES, SERIES 2007-2,

*Defendant—Appellee.*

Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:18-CV-299

ON PETITION FOR REHEARING EN BANC

Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R.40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P.40 and 5TH CIR. R.40), the petition for rehearing en banc is DENIED.

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No. 24-50053

---

\*Judge Patrick E. Higginbotham, did not participate in the consideration of the rehearing en banc.



DAN MACLEMORE  
maclemore@thetexasfirm.com  
Waco Office

October 7, 2022

**VIA Electronic Mail**  
Jonathan Neerman  
Jackson Walker, LLP  
2323 Ross Avenue, Suite 600  
Dallas, Texas 7521

**FRE 408 COMMUNICATION**

RE: Cause No. 6:18-cv-299-ADA-JCM: *Martha J. Ford v. The Bank of New York Mellon as Trustee for CWABS, Inc. Asset-Backed Certificates, series 2007-2*  
In the United States District Court for the Western District of Texas, Waco Division

Dear Jonathan:

After our recent conversation where you noted that you inherited this case recently and your corporate counsel may be unfamiliar with the facts and circumstances giving rise to this case because it too recently inherited this case from predecessors, I thought it might be helpful to set out the background of the house, the original mortgage, the various refinancings, the ownership issues associated with the house, and the events leading up to the default. I understand that there may be legal positions that I will address with which your client disagrees. My intent is to provide what we understand the facts to be that led us to this point, and why I have suggested the settlement proposal that you and I have discussed.

It is probably helpful for you first to understand my client and her background. She and her ex-husband, Roland Ford, originally purchased the house together. There were subsequent refinancings, that I will address below. The final modification of the note at issue was overseen and managed solely by Mr. Ford. While this does not change the facts and circumstances supporting or defeating any claims or rights pursuant to the note, my client's lack of participation in the process and lack of knowledge about the process until the original foreclosure was filed hopefully provides some understanding for why this matter has evolved the way that it has.

The Fords originally bought the house in 1997. This purchase was financed by First Community Mortgage. In 1998, it was refinanced into a note with a lower rate by First Community Mortgage. In 2004, the Fords refinanced the house with Amerigroup Mortgage Corporation. Subsequently, they refinanced it in 2007 with Countrywide Home Loans pursuant to a home equity note, the note at issue in this case. The Fords executed a Home Equity Security Instrument with Countrywide in 2007 (only Mr. Ford executed the note but both signed the security instrument). The note was later modified by Mr. Ford without Ms. Ford's knowledge.

Page 1 of 4

**Waco Office:** 220 South Fourth Street Waco, Texas 76701 Main: 254-776-5500

**Dallas Office:** 15150 Preston Road, Suite 230 Dallas, Texas 75202 Main: 214-761-6460

[thetexasfirm.com](http://thetexasfirm.com)

## App 12

Ms. Ford left all of the matters involving these series of transactions to Mr. Ford. When the Fords divorced in 2017, Ms. Ford received the house in the Court ordered divorce (Ms. Ford did not agree to the divorce decree, so the Judge entered one of his own).

Because of how the note at issue was obtained, the process leading up to that, the disputes regarding the divorce, and Ms. Ford's general lack of knowledge regarding her rights and responsibilities with respect to the house and the note, there was a substantial amount of confusion on Ms. Ford's part in 2016 when the initial default occurred (the Fords were separated and only Ms. Ford was living in the house). She certainly did not trust her husband, but she was unsure what obligations she had to the bank and how to meet those obligations. She was unsure of her rights regarding the note. She worked to try to obtain the information necessary to learn about these factors, but, when she would contact the servicer for that information, the servicer would not provide her with the information because the note was in her husband's name. The result was that nobody at the servicer or the bank would cooperate with her in her efforts to meet those obligations or explain changes in the amounts being charged to her. I can provide you with recordings of the phone conversations that evidence this fact.

In June of 2016, Ms. Ford left her home for several weeks to care for her brother while he recovered from a criminal assault. Prior to leaving, Ms. Ford received notice that servicing of the note had been transferred from Ditech to Bank of America, so she contacted Bank of America about making two monthly payments since she would be gone from her home for so long. Bank of America, however, told her to hold off on sending payment until she returned because there would be a 60-day grace period during which there would be no fees or penalties because of the change in services.

When Ms. Ford returned, she received a Bank of America statement that include fees and penalties and a payment that had increased by \$500.00. She called Bank of America to ask questions about the assignment, changes in the amount due, the fees and penalties, have the associated fees and payment requirements explained to her, but the servicer would not provide her with any information since her name was not on the note. The payment amount had increased by \$500.00, but no one could explain to Ms. Ford why that had happened. Interestingly, the note was then sent back to Ditech for servicing, making it even harder to find out what to do and someone to help.

The 2007 security instrument is defective because the constitutional requirements for obtaining a home equity security interest was not followed. Specifically, the security instrument was not executed by Ms. Ford at a bank, title company, or attorney's office. The note was executed at the Fords' house, as sworn to by the notary who notarized Ms. Ford's signature. This renders the security interest void. This is the basis for the trustee's position that the trustee has an equitable subrogation interest in the 2004 note (which was for \$115,900.00).

In addition, when the home equity note was executed, Ms. Ford was gravely ill. She had been in the hospital many times that year. She does not recall the home equity financing process at all. It was something that Mr. Ford handled.

The result of the foregoing is that not only was the home equity security instrument not

properly executed, and thus the security interest is not valid, but Ms. Ford actually attempted to make the payment initially giving rise to the default, and in the shuffle between servicers, the payment was improperly refused. Ms. Ford was incorrectly assessed fees and penalties associated with that payment, and then the servicer refused to cooperate with Ms. Ford because her name was not on the note. Through no fault of her own, Ms. Ford was defaulted on her note when she tried to timely make payments and the bank refused to provide her with the information necessary to make sure that any issues were addressed. This was a perfect storm of the bank's own creation, where Ms. Ford was set up for failure and default.

Nevertheless, Ms. Ford recognizes that it might be difficult, if not impossible, for her, to make payments should all fees and interest be forgiven in light of the servicer's manufactured default and the process restarted conditioned upon Ms. Ford making the payments required on the note moving forward. That is why we have suggested the settlement that we have.

I believe that the settlement that we have proposed is fair because the security instrument is unenforceable and the issues that were created with the note was assigned to a new servicer. The fact that Ms. Ford attempted to make timely payments that were refused because of the change in servicer and that the servicer was unwilling to cooperate with Ms. Ford's efforts to address the situation in 2016 is unconscionable. It is clear to me that the trustee and the servicer bare responsibility for the current situation. Nevertheless, because Ms. Ford is unlikely to be able to make the necessary payments in the future, there is also not much use in arguing about whether the default and foreclosure are appropriate themselves. Instead, I think a settlement in which the bank receives some funds and Ms. Ford receives enough to allow her to find a new home for her and her mother, who lives with her, is appropriate.

Accordingly, my proposal was that Ms. Ford list her house for sale after the parties enter into an agreement whereby the proceeds of any sale will be split between them with the trustee receiving 30% of the proceeds up to a maximum amount of \$100,000. I selected the \$100,000 amount because that recognizes the equitable subrogation interest the trustee has in the 2004 note (assuming that the 2007 home equity process was not properly followed such that the security interest is void) while providing credit for payments between then and the default. Because of these factors, as well as the factors outlined above, I believe that my proposal is equitable to both sides. It is not something that my client is happy with, but it is something that she is prepared to accept.

I am happy to discuss any of the issues outlined above with you in greater detail. As you might imagine, there is evidence that supports the claims (we have recordings of Ms. Ford's phone calls with the servicer in 2016 where the servicer refuses to give her information because her name is not on the note). It is my intent to offer a good faith reasonable resolution to this matter because I think the trustee and the servicer made errors that created the default, the default was not proper, and the foreclosure is improper, but I also believe that it would be difficult for Ms. Ford to remain in her house even if these issues were resolved in her favor. Consequently, this is a situation where we may proceed to trial and Ms. Ford could prevail, but she is not better off for having done so. Similarly, I think that this is a situation where the trustee will be advancing a case against an individual who will be very sympathetic in the face of facts and circumstances that will make it look like the trustee was simply playing tricks with Ms. Ford by

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shifting servicers and not cooperating with Ms. Ford when she asked for information and help, thus creating the environment that he gave rise to the default. As a result, the settlement I have proposed is something that should be attractive to both parties.

I appreciate your help with these issues. I invite you to contact me at any time if you have any questions or concerns regarding any matters associated with this case.

Very truly yours,

**BEARD KULTGEN BROPHY  
BOSTWICK & DICKSON, PLLC**

BY: Dan MacLemore  
Dan MacLemore

Page 4 of 4

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

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July 17, 2025

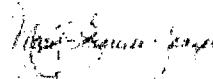
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 24-50053      Ford v. Bank of New York Mellon  
                          USDC No. 6:18-CV-299

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By:  
Mary Frances Yeager, Deputy Clerk  
504-310-7686

Ms. Martha Jane Ford  
Mr. Michael J. McKleroy Jr.  
Mr. Alfredo Ramos

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

No. 24-50053

**FILED**  
July 17, 2025

Lyle W. Cayce  
Clerk

MARTHA JANE FORD,

*Plaintiff—Appellant,*

*versus*

BANK OF NEW YORK MELLON, *Trustee, for CWABS,  
INCORPORATED ASSET-BACKED CERTIFICATES, SERIES 2007-2,*

*Defendant—Appellee.*

**UNPUBLISHED ORDER**

Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellant's motion to recall this Court's mandate is Denied.



A True Copy  
Certified order issued Jul 17, 2025

*Lyle W. Cayce*  
Clerk, U.S. Court of Appeals, Fifth Circuit