

County, Texas, scheduled for April 6th.³ The state judge granted a temporary restraining order on April 5th.⁴ Substitute trustee Defendant Connie Cobb was served on April 6th and advised Defendant Community Loan Servicing, LLC of the lawsuit.⁵ Defendant Community Loan Servicing filed its answer and counterclaim in state court on April 7th⁶ and removed to this Court on the same day.⁷ Plaintiff filed the instant motion to remand on April 22nd.⁸ Defendant responded on the same day.⁹ The issue of the Court’s jurisdiction is ripe for decision. The Court turns to its analysis.

II. ANALYSIS

Plaintiff first argues that the Court should remand this case because it does not involve a federal question.¹⁰ This Court has already rejected this argument made by Plaintiff’s same counsel Juan Angel Guerra.¹¹ The Court reiterates that diversity jurisdiction is a sufficient basis upon which to maintain jurisdiction over this case.

Plaintiff next argues that the “parties are not divers [sic].”¹² Plaintiff is a citizen of Texas,¹³ Defendant Community Loan Servicing is a citizen of Delaware and Florida.¹⁴ Substitute trustee Connie Cobb is a citizen of Texas,¹⁵ but is an improperly joined party and is thus **DISMISSED** from this case for the same reasons numerous courts have already laid out:

³ Dkt. No. 1-2 at 2–3.

⁴ Dkt. No. 1-3.

⁵ Dkt. No. 1 at 1, ¶ 2.

⁶ Dkt. No. 1-2 at 13.

⁷ Dkt. No. 1.

⁸ Dkt. No. 5.

⁹ Dkt. No. 6.

¹⁰ Dkt. No. 5 at 1, ¶ 3.a.

¹¹ *Garcia v. Metro. Life Ins. Co.*, No. 1:19-cv-113, 2019 WL 4280098, at *4 (S.D. Tex. Aug. 16, 2019) (Morgan, J.) (holding that the Court may have subject matter jurisdiction under federal question jurisdiction *or* diversity jurisdiction), *report and recommendation adopted*, 2019 WL 4274228 (S.D. Tex. Sept. 10, 2019) (Rodriguez, J.).

¹² Dkt. No. 5 at 1, ¶ 3.b.

¹³ Dkt. No. 1-2 at 1, § II.

¹⁴ Dkt. No. 1 at 4, ¶ 13.

¹⁵ *Id.* ¶ 14.

Plaintiff fails to allege any cognizable claim against the substitute trustee and the substitute trustee is not a necessary or relevant party with respect to the relief Plaintiff does seek.¹⁶

Plaintiff last argues that the amount in controversy is less than \$75,000, excluding interest and costs, because Plaintiff is “suing only for the equity.”¹⁷ Numerous courts including this one have rejected this argument.¹⁸ The Court reiterates that the amount in controversy is the value of the property at issue, which the Hidalgo County Central Appraisal District appraised at a value of \$175,045.¹⁹

Accordingly, the Court finds that it has diversity jurisdiction over this case under 28 U.S.C. § 1332. The Court **DENIES** Plaintiff’s motion to remand and request for attorney’s fees.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 27th day of April 2021.



Micaela Alvarez
United States District Judge

¹⁶ *Dempsey v. Deutsche Bank Nat'l Tr. Co.*, No. 1:20-cv-203, 2020 WL 7384687, at *2 (S.D. Tex. Dec. 16, 2020) (Rodriguez, J.) (collecting Fifth Circuit cases); *Ordonez v. NewRez LLC*, No. 7:20-cv-326, 2020 WL 7258363, at *4 (S.D. Tex. Dec. 9, 2020) (Alvarez, J.); *Garcia*, 2019 WL 4280098, at *4–5; *Flores del Campo v. U.S. Bank, N.A.*, No. 7:19-cv-76, 2019 U.S. Dist. LEXIS 212067, at *5 (S.D. Tex. Apr. 9, 2019) (Alvarez, J.); *Rodriguez v. Wells Fargo Bank, N.A.*, No. 7:18-cv-109, 2018 U.S. Dist. LEXIS 231333, at *8 (S.D. Tex. June 11, 2018) (Alvarez, J.); *Padalecki v. Bank of Am., N.A.*, No. SA-14-CV-267-XR, 2014 WL 6965390, at *4 (W.D. Tex. Dec. 5, 2014); *Williams v. Wells Fargo Bank*, No. 4:13-cv-825, 2014 WL 1024003, at *5 (S.D. Tex. Mar. 13, 2014) (Harmon, J.).

¹⁷ Dkt. No. 5 at 2, ¶ 3.c.

¹⁸ *See Ordonez*, 2020 WL 7258363, at *3; *Garcia*, 2019 WL 4280098, at *5; *Silver Gryphon, L.L.C. v. HSBC Bank USA, N.A.*, No. CIV.A. H-14-443, 2014 WL 2611811, at *3 (S.D. Tex. June 11, 2014) (Miller, J.); *Mason v. Bank of Am., N.A.*, No. 4:12CV291, 2013 WL 589556, at *2 (E.D. Tex. Feb. 14, 2013), *report and recommendation adopted*, No. 4:12CV291, 2013 WL 1313769 (E.D. Tex. Mar. 28, 2013); *Martinez v. BAC Home Loans Servicing, LP*, 777 F. Supp. 2d 1039, 1043 (W.D. Tex. 2010).

¹⁹ Dkt. No. 1-7 at 2; *see Statin v. Deutsche Bank Nat. Tr. Co.*, 599 F. App'x 545, 546 (5th Cir. 2014) (“[A] county appraisal district's assessment of the property . . . is a common way the amount-in-controversy requirement is proven . . .”).