

Cause No. DC-25-10952

MICHAEL A. STUART, § IN THE DISTRICT COURT
Plaintiff §
§
v. § 101ST DISTRICT COURT
§
BROOKFIELD PROPERTIES, et al §
Defendant. § DALLAS COUNTY, TEXAS

**DEFENDANT'S OBJECTION TO PLAINTIFF'S REPLY TO DEFENDANT'S OBJECTIONS
TO SUMMARY JUDGMENT EVIDENCE AND TO PLAINTIFF'S SUPPLEMENTAL
DECLARATION IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Brookfield Properties Multifamily, LLC, "Defendant" in the above-styled and numbered cause, objecting to Plaintiff's Reply to Defendant's Objections to Summary Judgment Evidence and to Plaintiff's Supplemental Declaration in Support of Plaintiff's Motion for Summary Judgment as follows:

1. On Friday, September 19, 2025, pro se Plaintiff Michael Stuart filed his Reply to Defendant's Objections to Summary Judgment Evidence and Plaintiff's Supplemental Declaration in Support of Plaintiff's Motion for Summary Judgment. Both filings appear to be presenting additional evidence in support of Plaintiff's Motion for Summary Judgment. Defendant objects the additional evidence offered because each Exhibit offered fails to comply with the requirements of Texas Rule of Civil Procedure 166a(f) and because they constitute hearsay.

2. Texas Rule of Civil Procedure 166a discusses the requirements for evidence offered in support of summary judgment in subsection (f), which states:

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith.

3. None of the “evidence” offered by Plaintiff in support of his Motion for Summary Judgment meets this criteria. Instead, Plaintiff has offered a curated hodgepodge of screenshots and printouts of emails which are not sworn or certified and would not be admissible in evidence, even if they were probative. The Declaration, offered in lieu of a sworn affidavit, fails to meet the requirements of Tex. Civil Practice & Rem. Code § 132.001 as it states “I declare under penalty of perjury that the foregoing is true and correct *to the best of my knowledge.*” (*emphasis added*) A declaration made “to the best of my knowledge” does not qualify as a declaration under penalty of perjury.

4. Further, to the extent that Plaintiff argues that his evidence is admissible pursuant to Tex. R. Evid. 801(e)(2) (party admissions) and/or Tex. R. Evid. 803(6) (business records), Defendant would state that none of the documents provided are authenticated in any manner. It is not sufficient to merely state that a document was written by Defendant in order to make a document fall under the party admissions exception to the hearsay rule. In the same manner, a document does not qualify as a business record under TRE 803(6) merely because Plaintiff offers an unsworn statement asserting it to be such. Plaintiff has failed to offer any admissible evidence proving that the exceptions to the hearsay rule apply.

5. Finally, Plaintiff’s attempted supplementation of the record was made without leave of court less than 7 days prior to the submission hearing. Texas Rule of Civil Procedure 166a(c) states that, except on leave of court, with notice to opposing counsel, the motion and any supporting affidavits shall be filed and served at least twenty-one days before the time specified for hearing. Because the Plaintiff has not sought leave of court for the late filed “evidence”, such “evidence” should be disregarded.

WHEREFORE, PREMISES CONSIDERED, Defendant Brookfield Properties Multifamily, LLC respectfully requests that the Court disregard any evidence filed by Plaintiff which does not reach the criteria set forth in Tex. Rule of Civil Procedure 166a(c) or (f) and grant Defendant such other and further relief to which it may show itself justly entitled.

Respectfully submitted,

MATTHEWS, SHIELS, KNOTT,
EDEN, DAVIS & BEANLAND, L.L.P.

By: /s/ Marlene D. Thomson

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CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing document has been served upon the pro se Plaintiff via e-service on this the 22nd day of September, 2025 as follows:

Michael Stuart
1800 Main Street, Apt. 1554
Dallas, TX 75201

Via E-service: michaelalanstuart@hotmail.com

/s/ Marlene D. Thomson
Marlene D. Thomson

Automated Certificate of eService

This automated certificate of service was created by the efilng system. The filer served this document via email generated by the efilng system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Marlene Thomson on behalf of Marlene Thomson

Bar No. 19963090

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Filing Code Description: Objection

Filing Description: TO REPLY OBJECTIONS TO MSJ AND
DECALRATION

Status as of 9/22/2025 3:47 PM CST

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