

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DAVID GOAD, *Applicant*,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for Securitized Asset Backed
Receivable LLC Trust 2007-BR4, Mortgage Pass-Through Certificates, Series 2007-BR4.
Respondent.

PRESENTED TO THE HONORABLE SAMUEL A. ALITO

this

EMERGENCY APPLICATION FOR STAY OF ENFORCEMENT OF
THE JUDGMENT BELOW PENDING APPEAL IN
THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH DISTRICT

DAVID GOAD, *In propria persona*
1154 Rivertree Drive
New Braunfels, Texas 78130
1983tj@protonmail.com
512-730-0762

TABLE OF CONTENTS

	Page
Table of Cited Authorities.....	2
Rules.....	2
Statutes.....	3
Constitution.....	3
Parties—Attorneys	3

TABLE OF CITED AUTHORITIES

<i>Barnhill v. Agnew</i> , No. 12-12-00080-CV, 2013 Tex. App. LEXIS 12820, at*1 (Tex. App.—Tyler Oct 16, 2013).....	6
<i>Burciaga v. Deutsche Bank Nat'l Tr. Co.</i> , 871 F.3d 380, 382 (5th Cir. 2017).....	5,7
<i>Craig v. Pittman & Harrison Co.</i> , 250 S.W. 667 (Tex. Comm'n App. 1923, judgment adopted).....	6
<i>Galbraith v. Bishop</i> , 287 S.W. 1087 (Tex. Comm'n App. 1926, holding approved).....	6
<i>Grozier v. L-B Sprinkler & Plumbing Repair</i> , 744 S.W.2d 306, 308 (Tex. App.—Fort Worth 1988) Id. at 981.....	6
<i>Texas-Louisiana Power Co. v. Wells</i> , 121 Tex. 397, 48 S.W.2d 978 (1932).....	6

RULES

SUP. CT. R. 23.....	4
Tex. R. Civ. P. § 18a.....	6
Tex. R. Civ. P. § 18a(f)(1).....	6
Tex. R. Civ. P. § 18b.....	6
Tex. R. Civ. P. § 86.....	6
Tex. R. Civ. P. § 87.....	6

Tex. R. Civ. P. § 735.....	5
Tex. R. Civ. P. § 736.....	5,6,7
Tex. R. Civ. P. § 736.6.....	5
Tex. R. Civ. P. § 736.8.....	7
Tex. R. Civ. P. § 736.8(c).....	7
Tex. R. Civ. P. § 736.11.....	7
Tex. R. Civ. P. § 736.11(a).....	7
Tex. R. Civ. P. § 736.11(c).....	7
Tex. R. Civ. P. § 736.11(d).....	7

STATUTES

28 U.S.C. § 1651.....	4
-----------------------	---

CONSTITUTION

FIFTH AMENDMENT.....	9
----------------------	---

PARTIES - ATTORNEY

Deutsche Bank National Trust Company, as Trustee for Securitized Asset Backed Receivable LLC Trust 2007-BR4, Mortgage Pass-Through Certificates, Series 2007-BR4.

Legal Counsel for Deutsche:

MACKIE WOLF ZIENTZ & MANN, P.C.

Lori Liane Long, Esq.

llong@mwzmlaw.com

Tracey Midkiff, Esq.

tmidkiff@mwzmlaw.com

14160 North Dallas Parkway

Dallas, Texas 75254

(214)635-2650

EMERGENCY STAY REQUESTED

Pursuant to this Court's Rule 23 and the All Writs Act, 28 U.S.C. 1651, David Goad (Mr. Goad) respectfully applies for a stay of the order to foreclose on his home issued by the District Court of Comal County, Texas, 274th District (Judge Dibrell "Dib" Waldrip), pending the consideration and disposition of his case (see footnote 7) from the United States District Court for the Western District of Texas, now in the Fifth Circuit Court of Appeals, and if necessary, pending the filing and disposition of a petition for a writ of certiorari and any further proceeding in this court.

When Mr. Goad was disabled, his home became his sole source of income. Losing it to fraud will place Mr. Goad homeless and on the street (irreparable harm). For these reasons, he asks the United States Supreme Court to *stay* or act *sua sponte* to protect the status quo while the federal appeal is in progress.

Mr. Goad (*pro se*), has been systematically barred from participation in Texas court proceedings. While on appeal his opponents have taken advantage of his disabilities and filed a fourth court action¹ to foreclose, knowing Mr. Goad's disabilities prevent him from keeping up with the paperwork. While preparing his appellate brief, the defendants filed a fourth action. Mr. Goad had to choose between completing his brief to the 5th Cir., or to file a motion for summary judgment. He could not do both so he completed his brief to the 5th Cir. filing it one day after the default date on the fourth case. Mr. Goad's disabilities limit his productivity to approximately 14 hours/wk (productivity) as compared to his past of 60+ hours a week. Foreclosure sales are held the first Tuesday of each month.

¹ 1st Original State Court case, 2nd Federal Court case filed by Goad, 3rd Appeal to 5th Cir. filed by Goad, and 4th New case filed by a new third party PHH Mortgage.

TEXAS STATE CASE

In the 274th District Court of Comal County, Texas. No. C2018-1485C. *Deutsche Bank National Trust Company, as Trustee for Securitized Asset Backed Receivable LLC Trust 2007-BR4, Mortgage Pass-Through Certificates, Series 2007-BR4*. Petitioner v. *David C. Goad*, Respondent (Mr. Goad). This is an expedited foreclosure proceeding under Texas Rules of Civil Procedure (TRCP) § 735-736.

Five defenses were timely pled; forgery of the recorded loan documents; statute of limitation to foreclose (4 years) had expired; and refusal to provide previously issued insurance funds² to replace the roof resulting in black mold forming on the ceiling, rendering the home unsalable, and forced default as tendered payments were returned after loan servicer breached an implied agreement in place for approximately two years.

The mandatory 736 hearing³ set for February 14, 2019, was scuttled by a pop-up⁴ judge whom without authority backdated a Home Equity Foreclosure Order to February 8, 2019. See (Exhibit 1a) Motion to Void 736 Order and attached response from the Regional Presiding Judge (Exhibit 1b)

The state courts refusal to set Mr. Goad's motions after multiple requests rendered actions taken thereafter void. See ATTEMPTS to SET. The first plea, a motion to transfer venue⁵

² Mr. Goad's insurance, not "placed insurance", issued the funds to replace the roof, however, Ocwen, the loan servicer refused to cooperate and the funds were lost back to the insurance co.

³ "Once the petitioner files a Rule 736 application for foreclosure, if the respondent files a response, Tex. R. Civ. P. 736.6 requires that the court hold an evidentiary hearing before issuing an order on the application." *Burciaga v. Deutsche Bank Nat'l Tr. Co.*, 871 F.3d 380, 382 (5th Cir. 2017)

⁴ A pop-up judge is a judge who pops-up in a case only to sign an order. The judge comes unannounced, has no appointment, provides no notice, and the parties have no opportunity to question his/her appointment. No statute can be found addressing this procedure.

⁵ "Tex. R. Civ. P. 87 requires the court to promptly determine the issue of venue, nevertheless it is equally clear that if the movant wants to rely upon his motion for change of venue, or complain of the trial court's failure to act upon it, he has an affirmative duty to request a setting and pursue the court's ruling on his motion, else the same may be waived. The test is whether he has pursued a hearing on his motion." *Grozier v. L-B Sprinkler & Plumbing Repair*, 744 S.W.2d 306, 308 (Tex. App.—Fort Worth

(TRCP 86-87) filed concurrently with a *motion to disqualify/recuse the judge* (TRCP 18a-18b) were refused. 137 days after motion to transfer venue and the motion to disqualify/recuse, Mr. Goad threatened to pursue a writ of mandamus. After the threat, the disqualified judge whom was barred from further action⁶ and without notice, while a mandatory hearing date had been set by the Petitioner, handed an order to foreclose to a second pop-up judge in the same courthouse. The second judge backdated, signed, and then filed the order to foreclose (Exhibit 2) without addressing the motions before the court or holding the mandatory hearing. Neither the court nor the Petitioner provided a copy of the foreclosure order to Mr. Goad. A potential buyer's letter placed at the home alerted Mr. Goad to the posted sale.

Mr. Goad proceeded to timely file a separate, original proceeding⁷ in the U.S. District Court.

1988) *Id.* at 981. "The effect of the rule stated in *Wells* is specifically that the *filing of the plea divest the trial court of jurisdiction*, pending disposal of the plea, *to enter judgment* in the main suit against the defendant. The Court in *Wells* noted that the precise question of *divestiture of jurisdiction to enter judgment* was specifically decided in the cases of *Craig v. Pittman & Harrison Co.*, 250 S.W. 667 (Tex. Comm'n App. 1923, judgment adopted) and *Galbraith v. Bishop*, 287 S.W. 1087 (Tex. Comm'n App. 1926, holding approved). *Id.*"

⁶ "When a party files a motion to recuse a trial judge, the responding judge, regardless of whether the motion complies with the requisites of Tex. R. Civ. P. 18a, *must, within three business days* after the motion is filed, (1) sign and file with the clerk an order of recusal, or (2) sign and file with the clerk an order referring the motion to the regional presiding judge. Tex. R. Civ. P. 18a(f)(1). *Failure to comply with the Rule renders void any actions taken subsequent to the violation.*" *Barnhill v. Agnew*, No. 12-12-00080-CV, 2013 Tex. App. LEXIS 12820, at *1 (Tex. App.—Tyler Oct. 16, 2013)

⁷ "Tex. R. Civ. P. 736 provides an exclusive procedure for challenging an order on a Rule 736 application: Any challenge to a Rule 736 order must be made in a suit filed in a separate, independent, original proceeding in a court of competent jurisdiction. Tex. R. Civ. P. 736.8(c). An order granting or denying a Rule 736 application is not subject to a motion for rehearing, new trial, bill of review, or appeal. Rule 736.8. However, if a party files an independent suit challenging a Rule 736 foreclosure order before 5:00 p.m. on the Monday before the scheduled foreclosure sale, the Rule 736 proceeding or order is automatically stayed. Tex. R. Civ. P. 736.11(a). Once the Rule 736 court is notified that an independent suit has been filed challenging the Foreclosure Order, the court is required to dismiss the Rule 736 proceeding or vacate the foreclosure order. 736.11(c). If the automatic stay under Rule 736.11 is in effect, any foreclosure sale of the property is void. 736.11(d)" *Burciaga v. Deutsche Bank Nat'l Tr. Co.*, 871 F.3d 380, 382 (5th Cir. 2017)

U.S. DISTRICT COURT WESTERN DISTRICT OF TEXAS

Mr. Goad's timely filed suit in the U. S. District Court for The Western District of Texas, *David Goad v. Gary Steel, et al.*, No. 5:19-CV-00329, *voided*⁸ the state court order to foreclose. That is what the law states, but when the Texas Courts do not allow access to a "*pro se*" litigant, all is just ink upon paper!

Mr. Goad was denied a protective order (Exhibit 3). In light of Mr. Goad's disabilities, the federal court also refused a motion to file electronically. Mr. Goad could no longer drive, encountered delayed mail(ing) issues⁹ and required the assistance of a care provider to mail documents and obtain money orders to pay court fees. Mr. Goad pays debts with plastic, which the court accepts if allowed to file electronically. Moreover, the federal court *refused* to issue the prepared summonses provided to the court on April 2, 2019. The failure to serve the defendant's for lack of summonses *enhanced* their ability to pursue a fourth case.

Mr. Goad's loan to value ratio is at or near 39% (loan 39% of value without disputing endless fraudulent/deceptive fees and charges) which is not often seen in foreclosures, attorneys can take this opportunity *carte blanche* to increase their billable hours, since the loan-agreement includes *unilateral* attorney's fees. With \$150,000.00 to \$200,000.00 in equity, paperwork tends to grow. This brings up the issue of a bond. No bond is needed from Mr. Goad due to the equity in which opposing counsel has *carte blanche* to.

Mr. Goad's motions were struck based upon an order directed to the clerk of the court regarding an *alleged unpaid* and *unspecified* six-year-old filing fee (2013). In that instant case,

⁸ "If the automatic stay under Rule 736.11 is in effect, any foreclosure sale of the property is *void*." 736.11(d). *Burciaga v. Deutsche Bank Nat'l Tr. Co.*, 871 F.3d 380, 382 (5th Cir. 2017)

⁹ Mail is delayed up to 14 days and sometimes a bit longer. Mail comes through a mail center and picked up once a week (as a rule). Mail is not delivered to Mr. Goad's home. If an outgoing piece of mail is larger than a regular business sized envelope, it has to be delivered to the post office. The fixed slot restricts size.

the magistrate judge issued a dispositive order regarding an *unrelated* issue that was *not pending before the court*. The magistrate's order was received one day after the date Mr. Goad was allowed to respond as a result of his disabilities and mail(ing) issues. Ten days after receiving the magistrate's order the case was dismissed without prejudice. If Mr. Goad had been allowed to file electronically he could have timely responded.

U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

David Goad v. Gary Steel, et al No. 19-50568. Mr. Goad argues the case was dismissed (effectively) with prejudice while he was barred/restricted from participation, violating his Fifth Amendment rights.

While preparing his brief, Mr. Goad was served with the fourth case seeking another order to foreclose. The Plaintiffs were re-using the state court order, which was *void*.

Given Mr. Goad's disabilities and twelve years experience wherein not one stay or protective order was granted, or even one deposition, or interrogatories were allowed by Federal Courts in Texas, he directed his energy towards the appeal.

The appellate brief was filed one day after the default date of the fourth case. A protective order/stay for additional time to brief the appellate court on the underlying state court order to foreclose was denied (Exhibit 4). Reconsideration denied (Exhibit 5). Mr. Goad is asking the appeals court among other things to order the federal court to issue summonses.

ATTEMPTS TO SET

Below is a list of Mr. Goad's submissions to the state court prior to the order to foreclose. Not one setting was granted. On the other hand, the Plaintiff's attorney made one setting request (736 mandatory hearing) and it was instantly provided.

Exhibit 6a-6d were placed on top of Mr. Goad's motions after prior submissions failed to gain settings. Additionally, #7 is highlighted because the clerks had to be asked twice and six days later the "Setting Request" was entered. For quick reference, the corresponding motion # is placed on the exhibit(s) and an asterisk is placed in front of the number on the foregoing list.

S-submit date**	F-filed date**	Document type/Description	
Setting			
1. S 09-23-18, F 09-26-18		<i>Motion for Change of Venue / Disqualify Judge Steel</i>	none
2. S 09-26-18, F 09-27-18		<i>Notice of Motion to Disqualify Judge Steel</i>	none
3. S 10-07-18, F 10-08-18		<i>Verified Response to Petitioners Application for Expedited Order Under Rule 736</i>	none
4. S 10-16-18, F 10-16-18		<i>Memorandum to Clerk (requested all communication be sent electronically.</i>	
5. S 10-22-18, F 10-22-18		Verified ADA <i>Motion to Appear Telephonically</i>	none
6. S 10-25-18, F 10-25-18		<i>72 Hour Motion to Turn Over Information Prior to Hearing</i>	none
7. S 01-29-19, F 02-04-19		<i>Setting Request</i>	none
*8. S 02-01-19, F 02-01-19		<i>Notice of Objection / Motion to Cancel Hearing</i>	none
*9. S 02-04-19, F 02-05-19		<i>1st Amended Motion to Transfer</i>	none
10.S 02-08-19, F 02-08-19		<i>Request for Settings</i>	none
*11.S 02-11-19, F 02-11-19		<i>Motion for Attorney to Show Authority</i>	none
*12.S 02-12-19, F 02-12-19		<i>1st Amended Motion to Disqualify /Include Recusal w/Threat of Writ of Mandamus</i>	none
13.S 02-19-19, F 02-19-19		<i>Memorandum to Heather Keller, District Clerk</i>	

Note: ** *Submit date* is the date the document was electronically filed. ***Filed date* is the date the clerk of the court entered the document.

CONCLUSION

The foreclosure order is void. It is void because Judge Waldrip had no legal authority to sign it. It was void because Judge Gary Steel, the judge who originally sat in the case was barred from any action whatsoever 137 days prior to him handing the order off to Judge Waldrip. It is void because there was a pending motion to change venue that the court refused to set and rule upon. It is void because the court refused to hear Mr. Goad's other motions also, he did everything he could to have the hearings set, except for employing the use of a bull-horn.

For these reasons, Mr. Goad respectfully asks your Honor to provide whatever order you see fit for this situation (stay or other).

December 26, 2019

Respectfully submitted,



David Goad *pro se*
1154 Rivertree Drive
New Braunfels, Texas 78130
1983tj@protonmail.com
512-730-0762

DECLARATION

I, David Goad, if requested to do so, could and would competently testify based upon my personal knowledge and belief to following:

1. All exhibits are true copies of the original and have only been altered for identification purposes.
2. The information contained in this Document is true.

I, freely swear under the penalty of perjury under the laws of the United States of America that my above statements are true and correct.

December 26, 2019



David Goad

CASE NO. C2018-1485C

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR
SECURITIZED ASSET BACKED
RECEIVABLES LLC TRUST 2007-BR4,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-BR4,

PETITIONER.

v.

DAVID C. GOAD,

RESPONDENT.

IN THE DISTRICT COURT OF

COMAL COUNTY, TEXAS

274th DISTRICT COURT.

MOTION TO VOID 736 ORDER

1. This motion is being presented to both the 274 Judicial District Court in Comal County, and the Presiding Judge Billy Ray Stubblefield (Judge Stubblefield) for the Third Administrative Judicial Region. Only Judge Stubblefield has authority to sign or appoint a judge to sign the attached order.

2. Respondent, David Goad, moves to void a HOME EQUITY FORECLOSURE ORDER (736 order) signed by Judge Dibrell W. Waldrip (Judge Waldrip) on February 8, 2019, see Exhibit A. Judge Waldrip was without authority to sign the order. Said order came under Tex. R. Civ. P. 736.8.

3. This motion is filed within the 10 day automatic stay if independent suit is filed. *Id* at 736.11. Respondent filed an independent suit on April 1, 2019 regarding Judge Waldrip's actions in issuing said order, along with other participants and petitioner. Petitioners' joint participation breached the covenants found in the original loan agreement.

4. Respondent is not merely asking to have the 736 order stayed, or dismissed, but rather demanding that the order be declared **void** for the following reasons:

5. On September 26, 2018 respondent filed a motion for change of venue and to disqualify Judge Gary Steel (Judge Steel). One hundred forty days later, and one day after respondent filed an amended

Exhibit 1a

MD

motion to disqualify/recuse, with the threat of mandamus, backdated orders and a recusal mysteriously appeared in the court record. The 736 order had been passed to Judge Waldrip, while a mandatory hearing that had been set for the 14th of February, 2019 was ignored. *Id* 736.6. Additionally, numerous motions from the respondent were before the court, see Exhibit B. All exhibit's are attached and incorporated herein.

6. Respondent believes Judge Stubblefield may not have authority to disturb the 736 order based upon Judge Gary Steel (Judge Steel) and Judge Waldrip's willful intentions to disregard the due process of TRCP 739, or the same due process deserved in each alienated motion respondent placed before the court. However, since the mandated Rule 18a was intentionally violated for 137 days (140-3day requirement=137), Judge Stubblefield may have authority to void anything which came after violating the mandated Rule 18a. After all, Rule 18a states in part "within three business days after the motion is filed (1) sign and file with the clerk an order of recusal or (2) sign and file with the clerk referring the motion to the regional presiding judge (Judge Stubblefield)."

AUTHORITIES

7. All action after the three day rule was void. See *Barnhill v. Agnew*, *Barnhill v. Agnew*, No. 12-12-00080-CV, 2013 Tex. App. Lexus 12820, at *3 2013 WL 5657644, at *2 (Tex. App.-Tyler [12th Dist.] Oct 16, 2013) (When a party files a motion to recuse a trial judge, the responding judge, regardless of whether the motion complies with the requisites of [Rule] 18a, must within three business days after the motion is filed (1) sign and file with the clerk an order of recusal or (2) sign and file with the clerk referring the motion to the regional presiding judge...Failure to comply with the rules renders void any actions taken subsequent to the violation...In the case at hand, the trial judge did not refer the motion to the regional presiding judge or recuse himself, but rather, denied Barnhill's motion to recuse because it was not timely filed under [Rule] 18a. However, Rule 18a(f) specifically states that a trial judge must adhere to its mandates regardless of whether the motion complies with the requisites of

Rule 18a”) citing Tex. R. Civ. P. 18a(f)(1). Recusal and Disqualification of Judges, Richard Flamm §33.7.

8. Judge Steel and Heather Keller (clerk) did not abide by the rule. They waited 137 days, hoping plaintiff would not take the next step. Then, when the water got hot they tossed the order to Judge Waldrip. The three day rule had already been broken so the order is void. See *SPRADLIN v. JIM WALTER HOMES, INC.*, 34 S.W. 3d 578, 580 (Tex. 2000) (“Presuming that the language of the Texas Constitution is carefully selected, we construe its words as they are generally understood. *City of Beaumont v. Bouillion*, 896 S.W.2d 143, 148 (Tex 1995). We rely heavily on the plain language of the Constitution’s literal text. *Republican Party v. Dietz*, 940 S.W.2d 86, 89 (Tex 1997); *Edgewood Indep. Sch Dist. v. Kirby*, 777 S.W.2d 391, 394 (Tex 1989). Consistent with these fundamental principles, we “give effect to all the words of a statute and [do] not treat any statutory language as surplusage[,] if possible.” *Chevron Corp v. Redmon*, 745 S.W.2d 314, 316 (Tex 1987). We avoid constructions that would render any constitutional provisions meaningless or nugatory. *Hanson v. Jordan*, 145 Tex. 320, 198 S.W. 262, 263 (1946). The U.S. Supreme Court stated that if a court is “without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers.” *Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828) *Elliot v. Piersol*.

EVIDENTIARY HEARING

9. Respondent requests an evidentiary hearing wherein court staff will testify that they backdated entries in the official court record to reflect that Judge Steel had entered into the record a recusal on February 5, 2019, when in fact he signed it after respondent’s threat of mandamus and filed it on February 13, 2019 (day after threat of mandamus). Furthermore, Judge Waldrip backdated the 736 order also to reflect a date prior to the threat of mandamus. Respondent will also prove the official court

record that reflects the dates of entry for documents into the computer system was also altered after respondent stated to Heather Keller that he had reported the issue (obstructing justice) to the FBI.

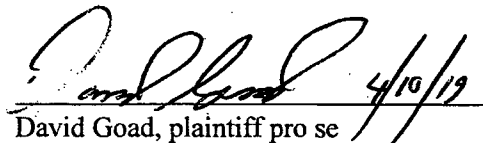
Respondent will need seven subpoena duces tecums. It will take no more than 10 minutes per witness for testimony.

SUMMARY and REQUESTS

10. Respondent has well documented similar acts carried out in courtrooms associated with Judge Gary Steel in both Guadalupe and Comal Counties, dating back 10 years. As Texas's idol Trump would say "it is time to drain the swamp," with some RULE OF LAW.

11. Respondent respectfully requests Judge Stubblefield sign the attached order voiding the 736 order, or in the alternative, allow an evidentiary hearing to prove respondents allegations and then sign the order.

Respectfully submitted,



David Goad, plaintiff pro se
1154 Rivertree Drive
New Braunfels, Texas 78130
512-730-0763
1983tj@protonmail.com

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR
SECURITIZED ASSET BACKED
RECEIVABLES LLC TRUST 2007-BR4,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-BR4,

RESPONDENT.

Judge Billy Ray Stubblefield

CAUSE NO. C2018-1485C

FILED
C2018-1485C
1/11/2019 1:41 PM
Heather N. Kellar
Comal County
District Clerk

IN RE: ORDER FOR FORECLOSURE
CONCERNING 1154 RIVERTREE DR
NEW BRAUNFELS, TX 78130 UNDER
TEX. R. CIV. PROC. 736

IN THE DISTRICT COURT OF

FILED FOR RECORD
Accepted By Lalahi Sanchez
At 2:28 o'clock P.M.

FEB 08 2019

PETITIONER:

COMAL COUNTY, TEXAS

HEATHER N. KELLAR
CLERK OF DISTRICT COURT
COMAL COUNTY, TEXAS
BY [Signature] DEPUTY

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR SECURITIZED
ASSET BACKED RECEIVABLES LLC TRUST
2007-BR4, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-BR4

RESPONDENT(S):

DAVID C. GOAD

274th JUDICIAL DISTRICT

HOME EQUITY FORECLOSURE ORDER

1. On this date the Court considered 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:

DAVID C. GOAD 1154 RIVERTREE DR NEW BRAUNFELS, TX 78130	
---------------------------------------------------------------	--

Each respondent was properly served with the citation, and 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 1154

RIVERTREE DR, NEW BRAUNFELS, TX 78130 with the following legal description:

LOT 39, BLOCK 3, RIVERTREE SUBDIVISION, UNIT 1, SITUATED IN THE CITY OF NEW BRAUNFELS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 8, PAGE 267, MAP AND PLAT RECORDS, COMAL COUNTY, TEXAS.

4. The lien sought to be foreclosed is indexed or recorded at Document 200706010455 and recorded in the real property records of Comal 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. Therefore, the Court grants Petitioner's order under Texas Rules of Civil Procedure 736.8. Petitioner may proceed with foreclosure of the property described above in accordance with applicable law and the loan agreement sought to be foreclosed.
7. 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 8 day of FEB - , 2019.


JUDGE PRESIDING

Approved and Entry Requested:



MACKIE WOLF ZIENTZ & MANN, P.C.

Lori Liane Long

Attorney, State Bar No. 24072443

llong@mwzmlaw.com

Chelsea Schneider

Attorney, State Bar No. 24079820

cschneider@mwzmlaw.com

Brandon Wolf

Attorney, State Bar No. 24025724

bwolf@mwzmlaw.com

Ester Gonzales

Attorney, State Bar No. 24012708

egonzales@mwzmlaw.com

Parkway Office Center, Suite 900

14160 North Dallas Parkway

Dallas, TX 75254

(214) 635-2650 (Phone)

(214) 635-2686 (Fax)

EXHIBIT B

List of motions / pleadings *Electronically* filed by respondent David Goad

S-submit date	F-filed date	Document type/Description	Action taken/setting
B1. S 09-23-18, F 09-26-18		<i>Motion for Change of Venue / Disqualify Judge Steel</i>	none
B2. S 09-26-18, F 09-27-18		<i>Notice of Motion to Disqualify Judge Steel</i>	none
B3. S 10-07-18, F 10-08-18		<i>Verified Response to Petitioners Application for Expedited Order Under Rule 736</i>	none
B4. S 10-16-18, F 10-16-18		<i>Memorandum to Clerk</i>	none
B5. S 10-22-18, F 10-22-18		Verified ADA <i>Motion to Appear Telephonically</i>	none
B6. S 10-25-18, F 10-25-18		<i>72 Hour Motion to Turn Over Information Prior to Hearing</i>	none
B7. S 01-29-19, F 02-04-19		<i>Setting Request</i>	none
B8. S 02-01-19, F 02-01-19		<i>Notice of Objection / Motion to Cancel Hearing</i>	none
B9. S 02-04-19, F 02-05-19		<i>1st Amended Motion to Transfer</i>	none
B10.S 02-08-19, F 02-08-19		<i>Request for Settings</i>	none
B11.S 02-11-19, F 02-11-19		<i>Motion for Attorney to Show Authority</i>	none
B12.S 02-12-19, F 02-12-19		<i>1st Amended Motion to Disqualify /Include Recusal w/Threat of Writ of Mandamus</i>	* none
B13.S 02-19-19, F 02-19-19		<i>Memorandum to Heather Keller, District Clerk</i>	none

* The following day after the threat of a Writ of Mandamus was filed on 2-13-19, a new backdated entry appeared on the court's docket, **Exhibit C**, underlined "#### Judges Docket Sheet/Notes ####." Also, only one entry is found for 02-08-19: Respondents B10 Request for Settings. Less than ½ hour later, another backdated entry appeared, **Exhibit C1**. Underlined is Judge Waldrip's order, **Exhibit C1**, which strictly denied the statutory hearing under TRCP 736.6, scheduled for the following day on 2-14-19, as well as **all** the motions Respondent placed before the court. Moreover, **Exhibit A** was only emailed to the petitioner. NO copy was provided to the respondent. Two court staff will testify under oath verifying the times and dates provided. At this time, it is unknown how the setting for the 2-14-19 TRCP 736.6 hearing vanished from the docket.

EXHIBIT B

The date found on the docket indicates Judge Steel signed and filed his recusal on the 5th of February, 2019. However, it was actually filed on 2-13-19, with yet another backdate of the 6th of February, **Exhibit D**. These facts will be attested to by court staff. It appears there was a little fumbling in order to disguise documents being sent to the Regional Presiding Judge Stubblefield (Third Administrative Judicial Region) in accordance with TRCP Rule 18a, although five months late.

TRCP Rule 18a(e) Duties of the Clerk, (1) When a motion or response is filled, the clerk of the court must immediately deliver a copy to the respondent judge (Steel) and to the presiding judge of the administrative judicial region (Stubblefield). 18a(f) Duties of the Respondent Judge, which in part states "Regardless of whether the motion complies with this rule, the respondent judge (Steel), within three business days after the motion is filed, must either: (A) sign and file with the clerk an order of recusal or disqualification; or (B) sign and file with the clerk an order referring the motion to the regional presiding judge. The original motion to disqualify was filed on 9-26-2018 (five months prior). 18a(2) (A) If a motion is filed before evidence has been offered at trial, the respondent judge must take no further action in the case until the motion has been decided, except for good cause stated in writing or on the record. Judge Steel took action by passing the order provided by the petitioner to Judge Waldrip who acted in clear absence of all jurisdiction, and presto, Respondent lost his due process right to a hearing under TRCP 736.6, setting his home for foreclosure, in addition to all motions before the court being ignored.

EXHIBIT B

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Civil Search](#) [Refine Search](#) [Back](#)

Location : [Comal](#) [Help](#)

REGISTER OF ACTIONS
CASE NO. C2018-1485C

IN RE: ORDER FOR FORECLOSURE CONCERNING 1154 RIVERTREE DR NEW
BRAUNFELS, TX 78130 UNDER TEX.R. CIV. PROC. 736 PETITIONER: DEUTSCHE BANK
NATIONAL TRUST COMPANY, AS TRUSTEE FOR SECURITIZED ASSET BACKED
RECEIVABLES LLC TRUST 2007-BR4, MORTGAGE PASS-THROUGH CERTIFICATES,
SERIES 2007-BR4

§
§
§
§
§

Case Type: **Suits on Debt**
Date Filed: **08/22/2018**
Location: **274th District Court**

Exhibit C

PARTY INFORMATION

		Attorneys
Defendant	Goad, David C 1154 Rivertree Drive New Braunfels, TX 78130	
Defendant	of the Property, Occupant 1154 Rivertree Drive New Braunfels, TX 78130	
Plaintiff	Deutsche Bank National Trust Company C/O Mackie Wolf Zientz & Mann 14160 Dallas Parkway, Suite 900 Dallas, TX 75254	TRACEY MIDKIFF Retained 214-635-2650(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS	
08/22/2018	ORIGINAL PETITION (OCA)
08/22/2018	CIVIL CASE INFORMATION SHEET
08/22/2018	REQUEST FOR PROCESS
08/27/2018	CITATION
08/27/2018	Citation-By Certified Mail Goad, David C Unserved
08/27/2018	CITATION
08/27/2018	Citation-By Certified Mail of the Property, Occupant Unserved
09/07/2018	REQUEST FOR COPIES
09/07/2018	NOTICE
09/24/2018	MOTION TO TRANSFER
09/27/2018	Motion
10/08/2018	RESPONSES
10/15/2018	CERTIFIED MAIL RECEIPT
10/16/2018	MEMORANDUM
10/17/2018	MAIL RETURNED
10/17/2018	MAIL RETURNED
10/22/2018	Motion
10/23/2018	PROPOSED ORDER
10/25/2018	Motion
01/11/2019	NOTICE OF HEARING

01/11/2019 PROPOSED ORDER
01/29/2019 MOTION TO SET
02/01/2019 NOTICE
02/05/2019 ##### JUDGE'S DOCKET SHEET/NOTES #####
02/05/2019 MOTION TO TRANSFER
02/08/2019 MOTION TO SET
02/11/2019 Motion
02/12/2019 Motion

FINANCIAL INFORMATION

	Defendant Goad, David C		
	Total Financial Assessment		75.00
	Total Payments and Credits		75.00
	Balance Due as of 02/13/2019		0.00
09/26/2018	Transaction Assessment		75.00
09/26/2018	EFile Electronic Payment - Texfile Receipt # 2018-165380	Goad, David C	(75.00)
	Plaintiff Deutsche Bank National Trust Company		
	Total Financial Assessment		549.00
	Total Payments and Credits		549.00
	Balance Due as of 02/13/2019		0.00
08/23/2018	Transaction Assessment		549.00
08/23/2018	EFile Electronic Payment - Texfile Receipt # 2018-164628	Deutsche Bank National Trust Company	(549.00)

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Civil Search](#) [Refine Search](#) [Back](#)
Location : Comal [Help](#)**REGISTER OF ACTIONS**

CASE No. C2018-1485C

IN RE: ORDER FOR FORECLOSURE CONCERNING 1154 RIVERTREE DR §
 NEW BRAUNFELS, TX 78130 UNDER TEX.R. CIV. PROC. 736 PETITIONER: §
 DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR §
 SECURITIZED ASSET BACKED RECEIVABLES LLC TRUST 2007-BR4, §
 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-BR4 §

Case Type: **Suits on Debt**
 Date Filed: **08/22/2018**
 Location: **274th District Court**

PARTY INFORMATION

Defendant **Goad, David C**
 1154 Rivertree Drive
 New Braunfels, TX 78130

Attorneys

Defendant **of the Property, Occupant**
 1154 Rivertree Drive
 New Braunfels, TX 78130

Plaintiff **Deutsche Bank National Trust Company**
 C/O Mackie Wolf Zientz & Mann
 14160 Dallas Parkway, Suite 900
 Dallas, TX 75254

TRACEY MIDKIFF
Retained
 214-635-2650(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS
 08/22/2018 **ORIGINAL PETITION (OCA)**
 08/22/2018 **CIVIL CASE INFORMATION SHEET**
 08/22/2018 **REQUEST FOR PROCESS**
 08/27/2018 **CITATION**
 08/27/2018 **Citation-By Certified Mail** Unserved
 Goad, David C
 08/27/2018 **CITATION**
 08/27/2018 **Citation-By Certified Mail** Unserved
 of the Property, Occupant
 09/07/2018 **REQUEST FOR COPIES**
 09/07/2018 **NOTICE**
 09/24/2018 **MOTION TO TRANSFER**
 09/27/2018 **Motion**
 10/08/2018 **RESPONSES**
 10/15/2018 **CERTIFIED MAIL RECEIPT**
 10/16/2018 **MEMORANDUM**
 10/17/2018 **MAIL RETURNED**
 10/17/2018 **MAIL RETURNED**
 10/22/2018 **Motion**
 10/23/2018 **PROPOSED ORDER**
 10/25/2018 **Motion**
 01/11/2019 **NOTICE OF HEARING**
 01/11/2019 **PROPOSED ORDER**
 01/29/2019 **MOTION TO SET**
 02/01/2019 **NOTICE**
 02/05/2019 **##### JUDGE'S DOCKET SHEET/NOTES #####**
 02/05/2019 **MOTION TO TRANSFER**
 02/08/2019 **MOTION TO SET**
 02/08/2019 **ORDER**
 02/11/2019 **Motion**
 02/12/2019 **Motion**
 02/13/2019 **REQUEST**
 02/13/2019 **PROPOSED ORDER**
 02/19/2019 **MEMORANDUM**
 02/20/2019 **RECEIPT OF DELIVERY**

FINANCIAL INFORMATION

Defendant Goad, David C		
Total Financial Assessment		75.00
Total Payments and Credits		75.00
Balance Due as of 03/05/2019		0.00
09/26/2018 Transaction Assessment		75.00
09/26/2018 EFile Electronic Payment - Receipt # 2018-165380	Goad, David C	(75.00)
Textfile		

<http://public.co.comal.tx.us/CaseDetail.aspx?CaseID=933601>
Exhibit C1

		Plaintiff Deutsche Bank National Trust Company	
		Total Financial Assessment	549.00
		Total Payments and Credits	549.00
		Balance Due as of 03/05/2019	0.00
08/23/2018	Transaction Assessment		549.00
08/23/2018	EFile Electronic Payment - Receipt # 2018-164628	Deutsche Bank National Trust Company	(549.00)
	Texfile		

screenshotReceived: **Monday, March 11, 2019 9:40 AM**From: **White, Jamie T. whitej@co.comal.tx.us**

To: '1983tj@protonmail.com' 1983tj@protonmail.com

JUDGE'S DOCKET SHEET**C2018-1485C**

Court: 274th District Court

Filed: 08/22/2018

Type: Suits on Debt

IN

RE: ORDER FOR FORECLOSURE CONCERNING 1154 AVERTREE DR

NEW BRAUNFELS, TX 78130

UNDER TEX.R. CIV. PROC. 736


PETITIONER:


DEUTSCHE BANK NATIONAL TRUST

COMPANY, AS TRUSTEE FOR SECURITIZED

ASSET BACKED RECEIVABLES LLC TRUST 2007-BR4,

MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-BR4

DATE	JUDGE'S NOTES
2/6/19	Stech Received 

 image001.png
378.56 KB**Exhibit D**

Goad matter

Received:  Tuesday, April 23, 2019 9:53 AM

From: **presidingjudge3** presidingjudge3@wilco.org

To: **1983tj** 1983tj@protonmail.com

EXTERNAL email: Exercise caution when opening.

Mr. Goad:

Please accept my apology for the delay in responding to your emailed Motion to Void 736 Order. I appreciate the care and thoroughness you took with the motion and citations. As I believe you may have concluded, I have been unable to discern any authority for me to proceed on your Motion. The Third Administrative Judicial Region, simply put, is not a court per se.

Sincerely,

Billy Ray Stubblefield
Presiding Judge,
3rd Administrative
Judicial Region
405 MLK Jr. Street
Georgetown, TX 78626
512-943-3777

Exhibit 1b

CAUSE NO. C2018-1485C

FILED
C2018-1485C
1/11/2019 1:41 PM
Heather N. Kellar
Comal County
District Clerk

**IN RE: ORDER FOR FORECLOSURE
CONCERNING 1154 RIVERTREE DR
NEW BRAUNFELS, TX 78130 UNDER
TEX. R. CIV. PROC. 736**

IN THE DISTRICT COURT OF

FILED FOR RECORD
Accepted By: Laloni Sanchez 2:28 o'clock PM

PETITIONER:

**DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR SECURITIZED
ASSET BACKED RECEIVABLES LLC TRUST
2007-BR4, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2007-BR4**

COMAL COUNTY, TEXAS

HEATHER N. KELLAR
CLERK DISTRICT COURT
COMAL COUNTY TEXAS
BY: [Signature] DEPUTY

RESPONDENT(S):

DAVID C. GOAD

274th JUDICIAL DISTRICT

HOME EQUITY FORECLOSURE ORDER

1. On this date the Court considered 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:

DAVID C. GOAD 1154 RIVERTREE DR NEW BRAUNFELS, TX 78130	
------------------------------------------------------------------------	--

Each respondent was properly served with the citation, and 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 1154

RIVERTREE DR, NEW BRAUNFELS, TX 78130 with the following legal description:

**LOT 39, BLOCK 3, RIVERTREE SUBDIVISION, UNIT 1, SITUATED IN THE CITY
OF NEW BRAUNFELS, ACCORDING TO THE MAP OR PLAT THEREOF,
RECORDED IN VOLUME 8, PAGE 267, MAP AND PLAT RECORDS, COMAL
COUNTY, TEXAS.**

4. The lien sought to be foreclosed is indexed or recorded at Document 200706010455 and recorded in the real property records of Comal 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. Therefore, the Court grants Petitioner's order under Texas Rules of Civil Procedure 736.8. Petitioner may proceed with foreclosure of the property described above in accordance with applicable law and the loan agreement sought to be foreclosed.
7. 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 8 day of FEB - , 2019.


JUDGE PRESIDING

Approved and Entry Requested:



MACKIE WOLF ZIENTZ & MANN, P.C.

Lori Liane Long

Attorney, State Bar No. 24072443

llong@mwzmlaw.com

Chelsea Schneider

Attorney, State Bar No. 24079820

cschneider@mwzmlaw.com

Brandon Wolf

Attorney, State Bar No. 24025724

bwolf@mwzmlaw.com

Ester Gonzales

Attorney, State Bar No. 24012708

egonzales@mwzmlaw.com

Parkway Office Center, Suite 900

14160 North Dallas Parkway

Dallas, TX 75254

(214) 635-2650 (Phone)

(214) 635-2686 (Fax)

FRED BIERY
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-50568

DAVID GOAD,

Plaintiff - Appellant

v.

JUDGE GARY L. STEEL; JUDGE DIBRELL W. WALDRIP; HEATHER KELLER, Clerk; MEAGAN DOW, Coordinator; SAVANNAH MAURER, Coordinator; DOES 1-10, Inclusive; DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for Securitized Asset Backed Receivables LLC Trust 2007-BR4, Mortgage Pass-Through Certificates, Series 2007-BR4; TARA DANIEL; LORI LIANE LONG; BRANDON B. WOLF; NOVIA SALAS,

Defendants - Appellees

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

ORDER:

IT IS ORDERED that appellant's motion for a temporary stay or protective order to stop the issuance of an order to foreclose on his home is DENIED. Goad has not specified any order over which we have jurisdiction to stay. No other basis for jurisdiction is identifiable in the documents he has filed with this court.

Exhibit 4

LYLE W. CAYCE, CLERK
United States Court of Appeals
for the Fifth Circuit
/s/ Lyle W. Cayce

ENTERED AT THE DIRECTION OF THE COURT

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-50568

DAVID GOAD,

Plaintiff - Appellant

v.

JUDGE GARY L. STEEL; JUDGE DIBRELL W. WALDRIP; HEATHER KELLER, Clerk; MEAGAN DOW, Coordinator; SAVANNAH MAURER, Coordinator; DOES 1-10, Inclusive; DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for Securitized Asset Backed Receivables LLC Trust 2007-BR4, Mortgage Pass-Through Certificates, Series 2007-BR4; TARA DANIEL; LORI LIANE LONG; BRANDON B. WOLF; NOVIA SALAS,

Defendants - Appellees

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

Before CLEMENT, ELROD, and OLDHAM, Circuit Judges.

PER CURIAM:

IT IS ORDERED that appellant's motion for leave to file a supplemental brief is GRANTED.

IT IS FURTHER ORDERED that appellant's motion for reconsideration of the December 12, 2019, Court Order, denying appellant's motion for temporary stay or protective order is DENIED.

Exhibit 5

#8

FILED
C2018-1485C
2/1/2019 1:13 PM
Heather N. Kellar
Comal County
District Clerk
Samara Hernandez

Please file the attached upon receipt and forward to the clerk who sets.

Furthermore, on January 29, 2019, respondent filed electronically a Setting Request. Please file said request into the court record.

Thank you, g'day

David Goad

Exhibit 6a

#9

FILED
C2018-1485C
2/5/2019 4:09 PM
Heather N. Kellar
Monterey County
Accepted By:
Samara Hernandez

Please file upon receipt the attached RESPONDENT'S FIRST AMENDED MOTION TO TRANSFER VENUE together with two declarations, exhibit's 2 and 3, a setting of trial (please forward to whomever sets hearings), and an Order. Exhibit 1 is out of sequence and separate do to its size.

Thank you, g'day

Exhibit 6b

#11

Attached please find Respondent's Motion for Attorney to Show Authority.
A Declaration in support of said motion, a setting request, and proposed order.

Exhibit's 1 thru 4 are filed separately as attachments/ exhibits.

Please forward setting request to the clerk who handles settings.

G'day

FILED
C2018-1485C
2/11/2019 2:03 PM
Heather N. Kellar
Comal County
District Clerk

Accepted By:

KIMBERLEY KLAUSNER

#12

FILED
C2018-1485C
2/12/2019 2:39 PM
Heather N. Kellar
Comal County
District Clerk
Accepted By:
KIMBERLEY KLAUSNER

URGENT NOTICE

Please provide a copy of this upon receipt to: Judge Gary Steel and Heather Keller.

Please also provide setting request and notice to whomever set hearings. (Attached)

Additionally, I inadvertently left the setting notice off of yesterday's filing. Please attached a copy of the one attached.

If you have any questions please call 512-730-0762

**Thank you, and g'day
David Goad**

FWD DCT SENT TO DCT

2/12/2019 2:47 PM

KIMBERLEY KLAUSNER

Exhibit 6d