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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

SC Court of Appeals

Ellis B. Drew, Jr., Master-in-Equity

Appellant Court Case Number No. 2015-001416

Lower Court Case No. 2011-CP-04-3316

Deutsche Bank National Trust Company as
Indenture Trustee for MortgageIT Trust 2004-1

Respondent,

v.

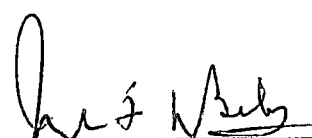
Joseph F. DeBoskey

Appellant.

PETITION FOR REVIEW OF FULL APPELLATE COURT

Joseph F. DeBoskey Appellant, PETITIONS for Full Appellate Court Review of the decision rendered by Justice Cureton denying Appellants Petition for Review filed on September 24, 2015 and for further consideration of such Petition in accordance with the assertions contained herein.

Dated this 5th day of November, 2015



Joseph F. DeBoskey, Pro-se
115 Caribou Cove
Anderson, SC 29621
(864) 221-9057
Dawn810@bellsouth.net

COMES NOW the Defendant, Joseph F. DeBoskey respectfully requests this Court grant this petition for Full Appellate Court Review of the decision rendered by Justice Cureton denying Appellants Petition for Review filed on September 24, 2015 and for further consideration of such Petition. This petition is brought in accordance with Rule 241(d)(2). In support of this petition Appellant further states as follows:

1. On July 24th, 2015, an *ex parte* written ruling, titled as an Order of Continuance, was rendered in the Lower Court that requires DeBOSKEY to post bond and sets an amount therefor, along with other matters (a true copy is attached hereto and marked petition for full panel review - exhibit 1).

2. The aforementioned order clearly states as a basis for the bond requirement as Appellate Rule 241. As such, the Appellant, Joseph F. DeBoskey, petitioned this Court for review of such order. DeBoskey filed a Petition with this Court which was docketed on September 24th, 2015 (a true copy is attached hereto and marked petition for full panel review - exhibit 2). The relief requested in the said Petition for Review is restated below:

For all these reasons, this case on appeal stands inside the general rule of appellate stay. Exceptions to the general rule do not apply. The lower court's order dated July 20, 2015, denominated as an Order of Continuance, is in procedural and substantive error and should be vacated..

This Court should dispense with any requirement of an appeal bond. The case should proceed through appeal with stay and without bond and to suspend any further lower court action pending outcome of the Appeal in accord with South Carolina's rules and federal law.

3. A review of the Appellate Court docket shows opposing counsel failed to file a return to this Petition within the 10 days required under Rule 240(e) of the South Carolina Rules of Appellate Procedure. (a true copy of the docket is attached hereto and marked petition for full panel review - exhibit 3). Rule 240(e) states as follows:

“Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.”

4. Furthermore, the record reflects that the Plaintiff in the Lower Court Case, and in the capacity as the respondent to this Appeal, Deutsche Bank National Trust Company as Indenture Trustee for MortgageIT Trust 2004-1, and counsel thereof, failed to follow proper procedure to lift the automatic stay as mandated by Rule 241(a) of the South Carolina Rules of Appellate Procedure. The proper procedure stated to lift the automatic stay is defined in Rule 241(d)1,2,3,4,5 & 6 of the South Carolina Rules of Appellate Procedure and is outlined below:

(d) Procedure for Obtaining Lift of Stay or Supersedeas.

(1) Except where extraordinary circumstances make it impracticable, an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal. The issuance of an ex parte order or decision, or an unnecessary delay by the lower court or administrative tribunal in ruling on this application shall constitute an extraordinary circumstance.

(2) After the lower court or administrative tribunal has ruled, any party may petition the appellate court where the appeal is pending or an individual judge or justice for review of this order. The individual judge or justice may grant or deny the relief on a temporary basis, and refer the matter to the full appellate court to hear and determine the matter, or he or she may issue a final order. Upon the issuance of a final order by an individual judge or justice, an aggrieved party may petition the full appellate court for review of that decision.

(3) A person seeking an order lifting an automatic stay or granting a writ of supersedeas must file a written petition verified by the client. The petition shall be captioned the same as the appeal. In addition to the petition and verification, the moving party must contemporaneously file a certified copy of the order, judgment, decree or decision of the lower court or administrative tribunal and a copy of the notice of appeal with its proof of service.

(4) The petition shall contain:

(A) the factual background necessary for an understanding of the petition. If the facts are subject to dispute, the petition shall be supported by affidavits or other sworn statements;

(B) the grounds for the petition, and legal arguments with supporting points and authority;

(C) a showing that an application for this relief was made to the lower court or administrative tribunal, and was unjustifiably denied or that the relief granted failed to afford the relief which the petitioner requested. A certified copy of the lower court's or administrative tribunal's ruling must be included. If no application was made to the lower court or administrative tribunal, then the petition shall state the extraordinary circumstances which made it impracticable to make such an application.

(5) The petition and accompanying documents shall be served on the opposing party(ies). Upon application to the full appellate court, one original and six copies, and a certificate of service shall be filed with the clerk of the appellate court. If the relief is sought from an individual judge or justice, the original and two copies must be filed with the judge or justice. The individual judge or justice shall forward the original documents, including a copy of any order issued by the judge or justice in the matter, to the clerk of the appellate court as soon as possible.

(6) A supersedeas or order lifting the automatic stay may be issued ex parte only where exigent circumstances require that action be taken before there is time for a hearing. An ex parte order shall issue only if:

Rather than follow the proper procedure outlined above, and contrary to such requirements thereof, opposing counsel pursued an "off the cuff" *ex parte* discussion with the Lower Court Judge in an attempt to circumvent the established procedure to lift the automatic stay.

5. An order was subsequently rendered denying the Petition for Review filed on September 24, 2015. This order was issued by a single Justice, Justice Cureton, and rendered on October 27, 2015 (a true copy is attached hereto and marked petition for full panel review - exhibit 4).

6. Pursuant to the aforementioned order by Justice Cureton, the Appellant now petitions for Full Appellate Court Review of the decision rendered by Justice Cureton denying Appellants Petition for Review filed on September 24, 2015 and for further consideration of such Petition. Rule 241(d)2 of the South Carolina Rules of Appellate Procedure states as follows:

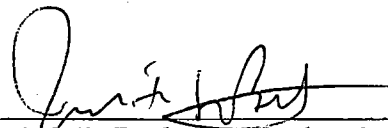
“Upon the issuance of a final order by an individual judge or justice, an aggrieved party may petition the full appellate court for review of that decision.”

Request for Relief

FOR THESE REASONS the Appellant, JOSEPH F. DeBOSKEY, requests this Court, upon review of this Petition by the Full Appellate Court Review, order that this case on appeal stands inside the general rule of appellate stay. Exceptions to the general rule do not apply. The lower court's order dated July 24, 2015, denominated as an Order of Continuance, is in procedural and substantive error and should be vacated.

This Court should dispense with any requirement of an appeal bond. The case should proceed through appeal with stay and without bond and to suspend any further lower court action pending outcome of the Appeal in accord with South Carolina's rules and federal law.

Dated this 5th day of November, 2015.

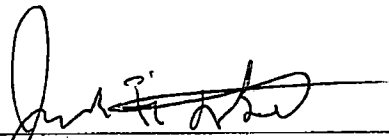


Joseph F. DeBoskey-Defendant-Pro Se
115 Caribou Cove
Anderson, South Carolina 29621
(864) 221-9057
Dawn810@bellsouth.net

VERIFICATION OF JOSEPH F. DEBOSKEY

PERSONALLY APPEARED before me, Joseph F. DeBoskey, a real person and resident of Anderson South Carolina who being duly sworn does state as follows: I am the appellant in this case, I have read the Petition for Full Appellate Court Review and can and do verify under oath that to the best of my knowledge, the facts stated therein are true.

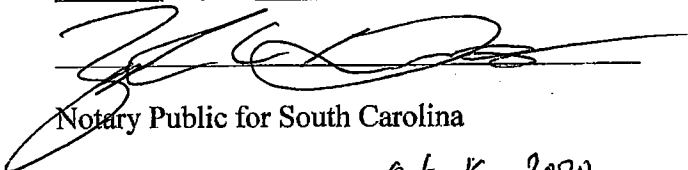
FURTHER AFFIANT SAYETH NOT.



Joseph F. DeBoskey

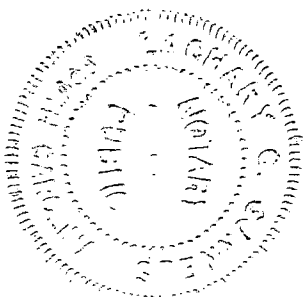
SWORN to before me this

6th day of November, 2015



Notary Public for South Carolina

My commission expires: Oct 15 2020



ZACHARY C GUNNELS
Notary Public
State of South Carolina
Commission Expires Oct. 14, 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Ellis B. Drew, Jr., Master-in-Equity

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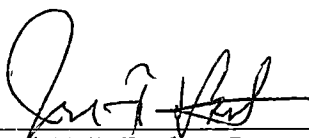
Appellant.

PROOF OF SERVICE

I certify that I served the respondent, Deutsche Bank National Trust Company as Indenture Trustee for MortgageIT Trust 2004-1, this PETITION for Full Appellate Court for Review of the decision rendered by Justice Cureton denying Appellants Petition for Review filed on September 24, 2015 and for further consideration of such Petition on all counsel of record by depositing a copy of it in the United States Mail, postage prepaid on September 23rd, 2015 addressed as below:

Finkel Law Firm
Magalie A. Creech
P.O. Box 71727
North Charleston, SC 29415

Dated this 5th day of November, 2015.



Joseph F. DeBoskey, Pro-se
115 Caribou Cove
Anderson, SC 29621
(864) 221-9057
Dawn810@bellsouth.net

**Joseph F. DeBoskey
115 Caribou Cove
Anderson, South Carolina 29621**

November 4, 2015

Via: United States Certified Mail

The Honorable Jenny Abbott Kitchings
Clerk of the Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

Re: Appellate Case No. 2015-001416

**Deutsche Bank National Trust Company as Indenture Trustee for
MortgageIT Trust 2004-1 v. Joseph F. DeBoskey and Suntrust Bank.
Case No. 2011-CP-04-3316**

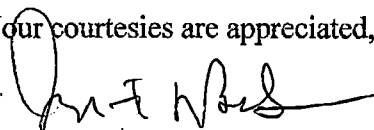
Dear Ms. Kitchings,

Enclosed for filing one (1) original and six (6) copies of the Appellant's Petition for Review of Full Appellate Court in the above referenced case. I have also enclosed the following:

- (1) Verification of Joseph F. DeBoskey
- (2) Proof of service of the Petition to the Respondents.
- (3) A money order in the amount of \$25.00 for the filing fee.

Thank you for your assistance. If you have any questions, please do not hesitate to contact me at your convenience.

Your courtesies are appreciated,



Joseph F. DeBoskey, Pro Se
115 Caribou Cove
Anderson, SC 29621
(864) 221-9057
Dawn810@bellsouth.net

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SC Court of Appeals

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