

No. 19-20267

---

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

JOANNA BURKE; JOHN BURKE,

*Plaintiffs-Appellants,*

v.

OCWEN LOAN SERVICING, L.L.C.,

*Defendant-Appellee.*

---

On Appeal from the United States District Court  
For the Southern District of Texas, Houston Division;  
USDC No. 4:18-CV-4544

---

**PLAINTIFF-APPELLANTS MOTION TO SUPPLEMENT THE RECORD  
ON APPEAL**

---

Joanna Burke  
46 Kingwood Greens Dr  
Kingwood, Texas  
77339  
Telephone: (281) 812-9591  
Fax: (866) 805-0576

John Burke  
46 Kingwood Greens Dr  
Kingwood, Texas  
77339  
Telephone: (281) 812-9591  
Fax: (866) 805-0576

*Pro Se Appellants*

Plaintiff-Appellants Joanna & John Burke (“Burkes”) file this Motion to Supplement the Record on Appeal so this Court may have evidence of the emails between the Court Reporter, SDTX Staff and Joanna Burke as identified on pages 57 of the Burkes Brief and restated below;

“This is in stark contrast to when the Burkes’ reached out to the Court Reporter via email regarding filing the DKT13 again with the Fifth Circuit. The Court Reporter had Heather Carr, Assistant Deputy-in-Charge, SDTX emailing Joanna Burke by return, after 5pm, May 8<sup>th</sup>, 2019 (cc: Ebonee Mathis, SDTX).”

...before this Honorable Court under Rule 10(e) of the Federal Rules of Appellate Procedure, under Federal Rule of Evidence 201 as related to judicial notice, and the interest of justice under the court's inherent equitable powers.

## I. CONCLUSION

Based on the foregoing reasons, the Burkes respectfully request the Fifth Circuit Court of Appeals enter an Order allowing judicial notice under Federal Rule of Evidence 201, or supplementation under Rule 10(e) of the Federal Rules of Appellate Procedure, its inherent equitable powers, and in the interest of justice identified in **EXHIBIT #OCWEN1 (attached herein)** into the Record on Appeal for this case.

DATED: July 26, 2019

JOANNA BURKE

By s/ Joanna Burke  
JOANNA BURKE

JOHN BURKE

By s/ John Burke  
JOHN BURKE

46 Kingwood Greens Dr.,  
Kingwood, TX, 77339  
Telephone: (281) 812-9591

*Pro Se for Plaintiffs-Appellants*

## CERTIFICATE OF CONFERENCE

I hereby certify that, on July 26, 2019, we uploaded the motion ‘out of office hours’ via the Court’s EM/ECF system and as such did not conference with opposing counsel.

*s/ Joanna Burke*

---

JOANNA BURKE

*s/ John Burke*

---

JOHN BURKE

## CERTIFICATE OF SERVICE

I hereby certify that, on July 26, 2019, a true and correct copy of the foregoing Brief of Appellees was served via the Court’s EM/ECF system on the following counsel of record for Appellees:

Mark D. Hopkins  
Shelley L. Hopkins  
HOPKINS LAW, PLLC  
3809 Juniper Trace, Suite 101  
Austin, Texas 78738  
Telephone: (512) 600-4320  
Facsimile: (512) 600-4326

*s/ Joanna Burke*

---

JOANNA BURKE

*s/ John Burke*

---

JOHN BURKE

### CERTIFICATE OF COMPLIANCE

This motion complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts exempted by Fed. R. App. P. 32(f), it contains **195** words.

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in proportionally-spaced typeface, including serifs, using Microsoft Word 2010, in Times New Roman 14-point font, except for the footnotes, which are in proportionally-spaced typeface, including serifs, using Microsoft Word 2010 in Times New Roman 12-point font.

*s/ Joanna Burke*

---

JOANNA BURKE

*s/ John Burke*

---

JOHN BURKE

**EXHIBIT #OCWEN1**

Joanna Burke <ajoburke@gmail.com>

To: Mary

Ms Henry,

We are a bit confused with the Fifth Circuit. They sent what appeared to be a standard letter saying you need to complete a Transcript Form. We wrote back basically seeking clarification that you had filed the transcript directly. Now they sent the attached letter? Do we have to start over with a new blank Transcript form or do we just have to post another copy of what you already filed electronically (see attached)? Your assistance would be grateful as we don't want to burden you with more forms if the current form is all they want.

Thank you in advance.

\*\*\*

Joanna Burke,  
Case 19-20267 Burke v Owen Loan Servicing LLC

On Mon, Apr 22, 2019 at 5:41 AM Mary Henry <mary@judicialtranscribers.com> wrote

The Initial Conference held on 2/6/19 lasted three minutes, which will yield about 5 pages.

Our financial arrangements are that we will prepare the transcript, electronically file it on the case docket, then forward the PDF transcript to you via email along with our invoice. At that time, the invoice can be paid by either calling with a credit card number or mailing a check within 30 days.

An appeal order is usually a 30-day order, which is \$3.65 per page (approximately \$18.25) and would be due to you on May 18, 2019.

If you need the transcript earlier than May 18, 2019, please let me know.

**Thanks so much for choosing JTT to prepare your transcript!  
We're always happy to help with your transcription needs!**

-M-

Mary D. Henry, CEO+JJJ+  
Judicial Transcribers of Texas, LLC  
955 Eldridge Road, #144  
Sugar Land, TX 77478  
Office: 281-477-5326

Mary Henry <mary@judicialtranscribers.com>  
to me  
May 8, 2019, 4:47 PM

I have asked for clarification from downtown and hopefully they can guide us through the right path to satisfy the Fifth Circuit.

Joanna Burke <ajlongwe@gmail.com>  
to Mary  
Thank You!

Heather Carr <hcs.uscourts.gov>  
to Ebonee, Mathis, me, Mary  
Mrs. Burke,

You must comply with the letter the 5th Circuit sent you on May 2, 2019. The 5th Circuit requires that the Transcript Order (DXT13) form be filed with them not just the transcript. The form can be found on the Courts website United States Court of Appeals for the Fifth Circuit or on our Website Transcript Order Forms. If you go to our website use the blue DXT 13 link to access the form.

Heather Carr  
Assistant Deputy-in-Charge  
Southern District of Texas  
Houston Division  
United States District and Bankruptcy Courts



May 8, 2019, 5:41 PM



Joanna Burke <jajorgw@gmail.com>  
to Heather\_Carr, Ebonee\_Mattis, Mary >

Dear Ms Carr

Thank you for your quick response, however, I am still confused.  
We did complete a DKT13 and it was uploaded by the Clerks Office at S.D. Houston; case No.4:18-cv-4544 on April 18th, 2019.  
The question is will the Fifth Circuit want that copy of **that Specific Form**, or is a fresh new application (DKT13) required?  
I apologize for my limited knowledge on such matters and thank you for your continued assistance.

Respectfully,  
Joanna Burke

May 8, 2019, 6:15 PM



Heather Carr@tts.uscourts.gov  
to me, Ebonee\_Mattis, Mary >

It's my understanding that the circuit requires the parties to file the form with them as well, not just with the district court. The Circuit's website may have more information on this. I am not as familiar with their requirements

Heather Carr  
Assistant Deputy Clerk-in-Charge  
Southern District of Texas  
Houston, Texas  
United States District & Bankruptcy Courts  
713-260-5544 Desk  
832-418-8757-Cell

May 8, 2019, 6:20 PM



Joanna Burke <jajorgw@gmail.com>  
to Heather\_Carr, Ebonee\_Mattis, Mary >

Many thanks for your assistance Ms Carr. We'll send them a new form.