

CAUSE NO. 2023-35600

IN RE: ORDER FOR FORECLOSURE	§	IN THE DISTRICT COURT OF
CONCERNING	§	
14234 CINDYWOOD DRIVE	§	
HOUSTON, TX 77079	§	
	§	
UNDER TEX. R. CIV. PROC. 736	§	HARRIS COUNTY, TEXAS
	§	
PETITIONER:	§	
	§	
ZIONS BANCORPORATION, N.A.,	§	
SUCCESSOR BY MERGER AND	§	
NAME CHANGE TO AMEGY	§	
MORTGAGE COMPANY, LLC	§	
	§	
RESPONDENT(S):	§	
	§	
JOHN J. BARRY, IV	§	
AND ANN A. BARRY	§	133rd JUDICIAL DISTRICT

MOTION FOR ENTRY OF ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Zions Bancorporation, N.A., successor by merger and name change to Amegy Mortgage Company, LLC, its Successors and Assigns (hereinafter Petitioner), the Petitioner in this cause, and would respectfully show the court as follows:

I. FACTS

On June 9, 2023, the Petitioner filed an Application for Order for Foreclosure (the “Application”) pursuant to and in compliance with Texas Rules of Civil Procedure 736.

Pursuant to Rule 736 of the Texas Rules of Civil Procedure, the District Clerk served citation on June 9, 2023 to the Respondents, John J. Barry, IV and Ann A. Barry and the Occupant. The Respondents’ written response was due on or before 10:00 a.m. on Monday, July

24, 2023. No response was filed on behalf of the Respondents within the time allowed by Rule 736.5 of the Texas Rules of Civil Procedure.

II. ARGUMENT

Because no response has been filed by Respondents, the Petitioner is entitled to an order granting the relief requested in the Application. Rule 736.6 states the following: “The court must not conduct a hearing under this rule unless a response is filed.” Respondents have failed to file any response to the Application and the response due date has passed. The return of service has been on file with the clerk for at least 10 days. Therefore, the Petitioner is entitled to an order granting the relief requested in the Application without the necessity of a hearing or further notice to Respondents pursuant to Rule 736.6. Rule 736.7 (a) (b) states the following:

(a) If no response to the application is filed by the due date, the petitioner may file a motion and proposed order to obtain a default order. For the purposes of obtaining a default order, all facts alleged in the application and supported by the affidavit of material facts constitute prima facie evidence of the truth of the matters alleged.

(b) The court must grant the application by default order no later than 30 days after a motion is filed under (a) if the application complies with the requirements of Rule 736.1 and was properly served in accordance with Rule 736.3. The petitioner need not appear in court to obtain a default order.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED Petitioner respectfully requests the entry of the attached order granting the relief requested in the Application.

Respectfully submitted,

CODILIS & MOODY, P.C.

By: /s/ William A. Morphis
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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion, along with a copy of the proposed Order, was sent by certified mail to the following on the 11th day of October, 2023.

John J. Barry, IV
14234 Cindywood Drive
Houston, TX 77079

Ann A. Barry
14234 Cindywood Drive
Houston, TX 77079

/s/ William A. Morphis
William A. Morphis