

**ENTERED**

November 30, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DEUTSCHE BANK NATIONAL  
TRUST COMPANY,

Plaintiff,

v.

JOANNA BURKE *and* JOHN  
BURKE,

Defendants.

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Civil Action No. H-11-1658

ORDER

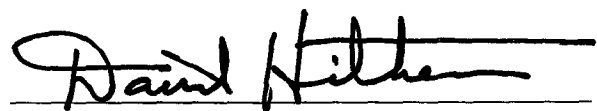
On November 28, 2018, the United States Court of Appeals for the Fifth Circuit issued an opinion remanding with instructions to enter an order of foreclosure to effectuate the Fifth Circuit’s judgment. Having considered the Fifth Circuit’s instructions on remand, submissions, and applicable law, the Court determines an order of foreclosure to effectuate the Fifth Circuit’s judgment should be entered.

On April 29, 2011, Plaintiff Deutsche Bank National Trust Company (the “Bank”) filed this lawsuit against Defendants Joanna Burke and John Burke (collectively, the “Burkeses”), seeking to foreclose on certain real property (the “Property”) owned by the Burkeses. On February 6, 2015, a bench trial occurred before Magistrate Judge Stephen Smith on the parties’ consent. Judge Smith found

the Bank was not entitled to foreclose on the Property because an assignment (the “Assignment”) purportedly giving the Bank rights in the Property was void and ruled in the Burkes’ favor. The Bank appealed to the Fifth Circuit. On July 19, 2016, the Fifth Circuit found the Assignment was valid, vacated the judgment holding otherwise, and remanded with instructions to determine whether the remaining requirements to foreclose on the Property were satisfied. On December 21, 2017, on remand, Judge Smith found the Assignment was invalid and ruled in the Burkes’ favor. The Bank appealed to the Fifth Circuit a second time. On September 5, 2018, the Fifth Circuit reversed and rendered judgment ordering that the Bank was entitled to foreclose on the Property and that such foreclosure shall proceed. On November 28, 2018, the Fifth Circuit modified the judgment to reflect a remand to the Undersigned for the limited purpose of entering an order of foreclosure to effectuate the Fifth Circuit’s judgment and permitting no other action on remand. Accordingly, the Court hereby

**ORDERS** that foreclosure shall occur to effectuate the Fifth Circuit’s judgment.

SIGNED at Houston, Texas, on this 29 day of November, 2018.

A handwritten signature in black ink, appearing to read "David Hittner", written over a horizontal line.

DAVID HITTNER  
United States District Judge