

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

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January 29, 2018

Pamela M. Timbes  
304 CARNOUSTIE  
ST SIMONS ISLAND, GA 31522

Appeal Number: 17-10556-CC  
Case Style: Pamela Timbes v. Deutsche Bank National Trust Co, et al  
District Court Docket No: 2:16-cv-00031-LGW-RSB

RETURNED UNFILED: "Emergency Motion for Stay" filed by Pamela M. Timbes is returned unfiled because this case is closed. No further relief is available from this Court.

Also enclosed are instructions for filing Petition for Writ of Certiorari pro se.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Julie F. Cohen, CC  
Phone #: (404) 335-6170

Enclosures

MOT-11 Motion or Document Returned

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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NO. 17-10556

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PAMELA M. TIMBES,

APPELLANT,

VS.

DEUTSCHE BANK NATIONAL TRUST COMPANY,  
As Indenture Trustee for American Home Mortgage  
Investment Trust 2005-3,

OCWEN LOAN SERVICING, LLC, AND

ALDRIDGE PITE, LLP,  
f.k.a. Aldridge Conners,

APPELLEES.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA, BRUNSWICK DIVISION  
NO. CV216-31  
REMOVED FROM SUPERIOR COURT OF GLYNN COUNTY, GEORGIA  
NO. CE16-00001-063

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**EMERGENCY MOTION FOR STAY**

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PAMELA M. TIMBES  
304 Carnoustie  
St. Simons Island, GA 31522  
(912) 222-6773  
ptimbess@gmail.com

*PRO SE APPELLANT*

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT

Pamela Timbes vs. Deutsche Bank National Trust Co. et al Appeal No. 17-10556

Matthew R. Brooks	Attorney
Viraj Prashant Deshmukh	Attorney
Deutsche Bank National Trust Company	Defendant/Appellee
Dallas R. Ivey	Attorney
L. Jason Jones	Attorney
Ocwen Loan Servicing, LLC	Defendant/Appellee
Aldridge Pite, LLP	Defendant/Appellee
Troutman Sanders, LLP	Law Firm for Appellee
Pamela M. Timbes	Plaintiff/Appellant
Marlee Waxelbaum	Attorney
The Honorable Lisa Godbey Wood	Judge, U.S. District Court, Brunswick

EMERGENCY MOTION FOR STAY

COMES NOW Pamela M. Timbes, “Timbes”, Appellant *pro se*, and moves this Court to stay its September 6, 2017 Order, Case No. 17-10556, Exhibit B at Appendix A, pending certiorari by the United States Supreme Court.

On January 2, 2018 Timbes submitted her Application for Stay Pending Certiorari to the United States Supreme Court. The Application is attached and incorporated herein as **Exhibit B**. However, Timbes has just received notification that the Application must first be submitted to this Honorable Court; hence, the reason for this Emergency Motion for Stay.

Because of the September 6, 2017 ruling of this Court, Exhibit B at App.A , Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust 2005-3, has now demanded possession of the subject property at 304 Carnoustie, St. Simons Island, GA 31522, Pamela Timbes’ home. See Letter dated January 19, 2018 demanding possession, attached and incorporated herein as **Exhibit A**.

Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust 2005-3 has no proven ownership of the subject property, proof of which is incumbent upon Deutsche Bank National Trust Company and required under Georgia law to demand possession. See OCGA § 44-7-50; *Metro Atlanta Task Force for the Homeless, Inc. v. Premium Solutions, LLC*,

321 Ga App 100 (2013); *Steed v. Fed. Nat. Mtg. Corp.*, 301 Ga. App. 801, 805 (1) (a) (689 SE2d 843)(2009) (citation omitted); *Roberts v. Roberts*, 205 Ga. App. 371, 372 (2) (422 SE2d253) (1992). Furthermore, "The Georgia Constitution provides for the right of trial by jury in dispossessory actions." *Hill v. Levenson*, 259 Ga. 395 (1) (383 S.E.2d 110); *Thomas v. Wells Fargo Credit Corp.*, 200 Ga.App. 592, 594(3), 409 S.E.2d 71 (1991). By interfering in these important state matters, the federal court has overstepped its jurisdiction. The Orders of the federal court cannot be held to have established ownership or to have any *res judicata* effect; said orders having not been made by courts with jurisdiction over the subject matter. Nonetheless, Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust 2005-3 is demanding possession.

The elements necessary for an injunction exist. See *Winter v. Natural Resources Defense Council, Inc*, 555 U.S. at 20:

**1. Likelihood of Success on the Merits**

As set forth in Application for Stay Pending Certiorari, Exhibit B, there is more than a likelihood that Timbes will prevail on the merits. Pamela Timbes has presented a *prima facie* case satisfying likelihood of success on the merits.

**2. Irreparable Harm**

Irreparable harm will result if Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust 2005-3 is

allowed to wrongfully dispossess Pamela Timbes from her home. The wrongful eviction is imminent. *See* Letter dated January 19, 2018 demanding possession, Exhibit A.

### 3. Balance of Equities

There is no harm to Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust 2005-3 who has no proven ownership interest in the subject property and has foreclosed utilizing a fraudulent and void Assignment of Deed by known robo signers. *See* Exhibit B. A party who violates the law knowingly and willfully, and thereby injures another, cannot demand of the latter party to “do equity” before he can establish his right and place himself in statu quo. *See Metro Atlanta Task Force for the Homeless, Inc*, 298 Ga. 221 (2015):

Long ago, however, this Court indicated that tender is not an absolute rule, especially where it is alleged that the foreclosing party procured the sale of the property through its own improper conduct:

Equity believes in good conscience, honesty, and morality[. ]It will not sanction oppression or extortion demanded by a party because of his own illegal act. If he demands his pound of flesh, he must take it without the letting of blood. A party who violates the law knowingly and willfully, and thereby injures another, cannot demand of the latter party to “do equity” before he can establish his right and place himself in statu quo.

*Benedict v. Gammon Theological Seminary*, 122 Ga. 412(50 SE162)(1905). *See also Coates v. Jones*, 142 Ga. 237 (82 SE 649) (1914) (plaintiff was exempt from tender and was allowed to maintain an equitable petition to have a sheriff’s sale set aside under

circumstances which included fraudulent conduct by the defendant); OCGA § 23-1-3 (“Equity jurisdiction is established and allowed for the protection and relief of parties where, from any peculiar circumstances, the operation of the general rules of law would be deficient in protecting from anticipated wrong or relieving for injuries done.”)

#### 4. Public Interest

The federal court lacked jurisdiction over the subject-matter; therefore, the Orders of this Court and the District Court are void. The wrongful foreclosure case should not have been removed from the state court. The District Court denied Timbes’ motion to remand, assumed jurisdiction, and dismissed the complaint; and the Eleventh Circuit panel affirmed the decision; thereby interfering with the important state issue presented in *Ames* which needs to be resolved by the state court: **Whether § 44-14-162 (b) could ever provide a debtor with standing to challenge a foreclosure based on a facially invalid assignment.**

The issues presented are of great public importance in light of the bank’s arrogant disregard for the protective statute, OCGA § 44-14-162 (b), set in place as a result of the foreclosure debacle caused by the banks in past years, the express purpose of which is to “require a foreclosure to be conducted by the current owner or holder of the mortgage, as reflected by public records,” Ga. L. 2008, p. 624, § 1. With the improved economy, left unchecked the banks will continue their fraudulent tactics which caused the debacle in the first place. Furthermore, deprivation of property without due process is of grave concern and offensive to the Constitution of

Georgia and to the Constitution of the United States.

**WHEREFORE**, Appellant, Pamela Timbes, prays unto this Honorable Court for a stay pending certiorari by the Supreme Court of the United States of this Court's September 6, 2017 Order, Case No. 17-10556, Exhibit B at App. A.

Respectfully submitted this 25<sup>th</sup> day of January, 2018.

*Pamela M. Timbes*

Pamela M. Timbes

304 Carnoustie  
St. Simons Island, GA 31522  
(912) 222-6773  
ptimbess@gmail.com

PRO SE APPELLANT

**VERIFICATION**

Pamela Timbes, who being duly sworn, states that she is the Appellant in the above styled case and that to the best of her belief the facts set forth in the foregoing EMERGENCY MOTION FOR STAY are true and correct.

*Pamela M. Timbes*

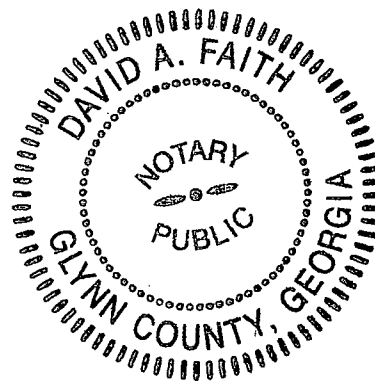
Pamela M. Timbes

Sworn and subscribed before me this 25<sup>th</sup> day of January, 2018.

*[Signature]*

NOTARY PUBLIC

My commission expires: 2/1/2020



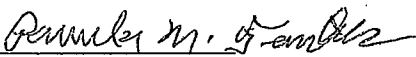


CERTIFICATE OF COMPLIANCE

I certify that **Emergency Motion for Stay** complies with the type-volume and word count limitation set forth in FRAP 35(b)(2). The motion contains 1109 words.

The motion complies with the typeface requirements of FRAP 32(a)(5) and the type-style requirements of FRAP 32(a)(6).

Respectfully submitted this 25<sup>th</sup> day of January, 2018.

  
Pamela M. Timbes

304 Carnoustie  
St. Simons Island, GA 31522  
(912) 222-6773  
ptimbess@gmail.com

PRO SE APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the following parties with the

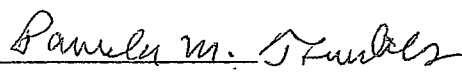
**Emergency Motion for Stay:**

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Aldridge Pite, LLP  
Fifteen Piedmont Center  
3575 Piedmont Rd., NE, Suite 500  
Atlanta, GA 30305  
*Attys for Aldridge Pite, LLP*

By email as indicated.

Respectfully submitted this 25<sup>th</sup> day of January, 2018.

  
Pamela M. Timbes

304 Carnoustie  
St. Simons Island, GA 31522  
(912) 222-6773  
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PRO SE APPELLANT

# EXHIBIT

A

ALDRIDGE PITE, LLP  
Fifteen Piedmont Center  
3575 Piedmont Road, NE  
Suite 500  
Atlanta, GA 30305

January 19, 2018

Pamela M Timbes  
And/or Tenant, Known or Unknown at:  
304 Carnoustie  
Saint Simons Island, GA 31522

Dear Occupant:

The undersigned law firm represents Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust 2005-3. Please be advised that on 1/5/2016 the property located at 304 Carnoustie, Saint Simons Island, GA 31522 ("Property") was sold at foreclosure sale in Glynn County, Georgia pursuant to Georgia law. Possession of the Property is hereby demanded by Deutsche Bank National Trust Company, as Indenture Trustee for American Home Mortgage Investment Trust 2005-3 ("Client"), who was the successful bidder at the sale and now owns the Property.

This letter is a formal demand for possession of the above-referenced premises. Should you fail to vacate the premises immediately, dispossessory proceedings will be commenced to obtain possession of the Property.

### **IMPORTANT NOTICE TO SERVICEMEMBERS AND THEIR DEPENDENTS:**

#### **PROTECTIONS UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT**

Servicemembers on "active duty" or "active service," or a dependent of such a servicemember may be entitled to certain legal protections, including eviction protection, pursuant to the Servicemembers Civil Relief Act (50 USC App. §§ 501-596), as amended, (the "SCRA") and, possibly, certain related state statutes.

#### **Who may be entitled to Legal Protections under the SCRA:**

- Active duty members of the Army, Navy, Air Force, Marine Corps, Coast Guard and active service National Guard;
- Active service members of the commissioned corps of the National Oceanic and Atmospheric Administration;



- Active service members of the commissioned corps of the Public Health Service;
- United States citizens servicing with the armed forces of a nation with which the United States is allied in the prosecution of a war or military action; and
- Their spouses.

Servicemembers and dependents with questions about the SCRA should contact their unit's Judge Advocate, or their installation's Legal Assistance Officer. A military legal assistance office locator for all branches of the Armed Forces is available at <http://legalassistance.law.af.mil/content/locator.php>.

"Military OneSource" is the U.S. Department of Defense's information resource. If you are listed as entitled to legal protections under the SCRA, please go to [www.militaryonesource.com/scra](http://www.militaryonesource.com/scra) or call 1-800-342-9647 (toll free from the United States) for more information. Dialing instructions for areas outside the United States are provided at the website.

If you are a protected servicemember, or a dependent of a protected servicemember, you should contact Janet Kuns immediately at (404) 994-7610 to discuss your status under the SCRA.

If you have any questions regarding this demand, please contact Janet Kuns at (404) 994-7610. Note, however, this firm solely represents the interests of our Client. Therefore, you may wish to consult an attorney to help you determine what rights you may have, if any, in connection with this demand and/or the Property.

PARA ASISTENCIA EN ESPANOL, LLAME AL (561) 392-6391.

Your cooperation is greatly appreciated.

Sincerely,

Gregory A. Wallach  
ALDRIDGE PITE, LLP

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