

DISMISS; and Opinion Filed December 5, 2013.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-12-01662-CV

DAVID MONTGOMERY, Appellant

V.

**U. S. BANK NATIONAL ASSOCIATION
AS TRUSTEE FOR BS-ABS 2006-ST1, Appellee**

**On Appeal from the County Court at Law No. 4
Dallas County, Texas
Trial Court Cause No. CC-12-04679-D**

MEMORANDUM OPINION

Before Justices O'Neill, Myers, and Brown
Opinion by Justice O'Neill

Before the Court is appellee's November 6, 2013 motion to dismiss the appeal for failure to prosecute. Appellant did not file a response to the motion to dismiss.

By postcard notice dated August 30, 2013, the Court informed appellant that his brief was past due. The Court instructed appellant to file a brief with an extension motion within ten days and cautioned him that failure to do so would result in dismissal of the appeal. *See* TEX. R. APP. P. 38.8(a)(1). As of today's date, appellant has not filed a brief. Accordingly, we grant appellee's motion and dismiss the appeal. *See* TEX. R. APP. P. 38.8(a)(1) & 42.3(b).

/Michael J. O'Neill/
MICHAEL J. O'NEILL
JUSTICE

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**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

DAVID MONTGOMERY, Appellant

No. 05-12-01662-CV V.

U. S. BANK NATIONAL ASSOCIATION
AS TRUSTEE FOR BS-ABS 2006-ST1,
Appellee

On Appeal from the County Court at Law
No. 4, Dallas County, Texas.

Trial Court Cause No. CC-12-04679-D.
Opinion delivered by Justice O'Neill.

Justices Myers and Brown, participating.

In accordance with this Court's opinion of this date, the appeal is **DISMISSED**.

It is **ORDERED** that appellee, U. S. BANK NATIONAL ASSOCIATION AS TRUSTEE FOR BS-ABS 2006-ST1, recover its costs of this appeal from appellant, DAVID MONTGOMERY.

Judgment entered this 5th day of December, 2013.

/Michael J. O'Neill/

MICHAEL J. O'NEILL

JUSTICE