



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-15-00209-CV

U.S. BANK NATIONAL
ASSOCIATION AS TRUSTEE FOR
SROF-2013-M4 REMIC TRUST I

APPELLANT

V.

TFHSP LLC SERIES 6481

APPELLEE

FROM THE 141ST DISTRICT COURT OF TARRANT COUNTY
TRIAL COURT NO. 141-275530-14

CONCURRING OPINION

I concur in the outcome but would not go so far as to hold that the statute and case law would require the plaintiff (1) to include an allegation as to the manner in which the defendant became a fiduciary under the estates code or (2) to include an additional allegation that the suit relates to the fiduciary's action in its fiduciary capacity if the petition also includes the statement "Defendant is

sued in its fiduciary capacity” and contains a reference to the pertinent provision of the estates code.¹ *Cf. Harvestons Sec., Inc. v. Narnia Invs., Ltd.*, 218 S.W.3d 126, 132–33 (Tex. App.—Houston [14th Dist.] 2007, pet. denied) (op. on reh’g) (stating that the strict-compliance requirements in the default judgment context preclude courts from making even the most obvious and rational inferences).

/s/ Bonnie Sudderth
BONNIE SUDDERTH
JUSTICE

DELIVERED: March 17, 2016

¹In this case, the petition did not correctly refer to the pertinent provision of the estates code due to what appears to be a typographical error.