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Supreme Court, U.S.

FILED

MAY 25 2018

OFFICE OF THE CLERK

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Javier A. Carrillo & Mayra E. Farias: INDIVIDUALS,

Petitioners; versus

U.S. Bank National Association, as Trustee for the
Lehman XS Trust, Mortgage Pass-Through Certificates
Series 2006-16N; Et El. Respondent(s) /

PETITIONERS' APPLICATION TO EXTEND TIME TO FILE A PETITION

FOR A WRIT OF CERTIORARI

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May 25, 2018

To the Honorable John G. Roberts, Jr., as Chief Justice of the Supreme Court of the United States for the Third District Court of Appeal; and, the Florida Supreme Court.

Petitioners: JAVIER A. CARRILLO (hereinafter “**CARRILLO**”) and Mayra Elizabeth Jimenez a/k/a MAYRA E. FARIAS (herein after “**FARIAS**”) (hereinafter collectively “**Farias/Carrillo**”) acting as litigants **PRO SE**, respectfully request that the time to file a Petition for a Writ of Certiorari in this matter should be extended for 60-days from June 05, 2018 to August 06, 2018 (August 05 is a Sunday). Farias/Carrillo are filing this application at least 10-day before of the 90-days to file the Certiorari against Third District Court of Appeal of Florida (hereinafter “**3DCA**”)’s March 07, 2018 Order (Exhibit A) pursuant to the Title 39 of the U.S. Code and the Title 39 Code of Federal Regulation. The Supreme Court of Florida dismissed the case because the 3DCA’s decision was without opinion (Exhibit B). Farias/Carrillo timely filed a Notice of Appeal in which the nature of the order is on Purchaser-co-Plaintiff’s Motion for an order directing Clerk to issue a Writ of Possession properly viewed as an appealable, non-

final order determining the right to immediate possession of property (Writ of Possession); and, order denying Defendants' Motion to Stay Writ of Possession (**Rule 9.130(a)(3)(c)(ii)** of Florida Rules of Appellate Procedure (hereinafter "Fla. R. App. P.")**(Exhibit C)**). Take judicial notice this Court of the related Case #: 16-1073 in this Court; 3D15-2334, 3D12-151, 3D11-3188 in the 3DCA; and, in the Supreme Court of Florida, Case # SC16-1780. Appellants' suggestion pursuant to the **Rule 9.125** of Fla. R. App. P. was filed on June 13, 2017; in which, Farias/Carrillo have alleged that the appeal required immediate resolution by the Florida Supreme Court pursuant to Jesinoski v. Countrywide Home Loans, Inc., 135 S. Ct, 790 (January 13, 2015) because: (a) is of great public importance, and (b) will has a great effect on the administration of justice throughout of the Florida State (**Exhibit D**). The 9.125's suggestion was denied without opinion (**Exhibit E**). The paragraphs 2 and 4 of the Final Judgment of Foreclosure shows that One West Bank, F.S.B., is the holder-owner of the lien in the subject property; and, not U.S. Bank whom has never joined or served to One West Bank, F.S.B. of the Post Judgment

proceedings (**Exhibit F**). The 3DCA affirmed Per Curiam without opinion the Appeal (**Exhibit G**); and, Farias/ Carrillo filed a Motion for Rehearing en Banc and Determination of Cause in the Third District Court of Appeal en Banc pursuant to ONLY the **Rule 9.331** of Fla. R. App. P. (**Exhibit H**). The 3DCA denied the en Banc Motion by **only 3 judges** out of **10 judges** of the panel on **March 07, 2018** (**Exhibit I**). The Florida Supreme Court denied to have jurisdiction because the 3DCA's decisions were without opinion on April 11, 2018 (**Exhibit J**). Farias/Carrillo requested that the Court declare the mortgage transaction rescinded; and Farias/Carrillo are not liable for any finance or other charge, and any security interest given by them, including any such interest arising by operation of law, **became void upon such a rescission** [§1635(b) & Reg Z(d)] ¹. **“Within 20 days** after receipt of a notice of rescission, the creditor shall return to the obligor any money or property given as earnest money, downpayment, or otherwise, and **SHALL TAKE ANY ACTION NECESSARY OR APPROPRIATE TO REFLECT THE TERMINATION OF**

¹ Jesinoski v. Countrywide Home Loans, nc., 135 S. Ct. 790 (2015).

ANY SECURITY INTEREST CREATED UNDER THE TRANSACTION ... If the creditor does **not** take possession of the property **within 20 days** after tender by the obligor, ownership of the property vests in the obligor without obligation on his part to pay for it..." 15 U.S.C. §1635 (b), 12 C.F.R. §1026.15 (d) (2), 1026.23 (d) (2)(Id.). Sherzer v. Homestar Mortg. Servs., 707 F. 3d 255, 264-265 (3d Cir. 2013). [All emphasis added]. The new allegation over the ordered in the paragraphs 2 & 4 of the Final Judgment (Exhibit F) will be based on the **Finalty of Mortgage Foreclosure Judgment** pursuant to the s. **702.036, F. S.**, and the Federal laws of the United States. For examples, "A void judgment is so defective that it is deemed never to have had legal force and effect." Sterling Factors Corp. v. U.S. Bank Nat'l Ass'n, 968 So. 2d 658, 665 (Fla. 2d DCA 2007). Farias/Carrillo also will be requesting to the Court, entry a Declaratory of Unconstitutionality against the amendment to the Article V. Section 3 of the Florida Constitution pertaining to the jurisdiction of the Florida Supreme Court, when the alleged issues are also of Federal Laws issues pursuant to the U.S.'s Supreme Laws.

Additional time is warranted to allow preparation of a petition because the decision whether to file itself warranted substantial time. Seeking this Court's review in any case is a serious decision, and government in particular should think carefully before filing a Petition for Certiorari. Moreover, this case is uniquely important and complex; and, Petitioners are acted as litigants **PRO SE**, individuals. Appellate court routing grants extensions of time for the performance of various steps in the appellate process. Fields v. Zinman, 394 So. 2d 1133, 1134 (Fla. 4th DCA 1981). Such relief is not surprising because Florida's appellate rules allow for extensions of time for most steps in the appellate process and successive extensions of time are permissible. United Auto Ins. Co. v. Total Rehab. & Med. Ctr, 870 So. 2d 866, 869 (Fla. 3d DCA 2004). **Therefore**, we are respectfully requesting an extension of 60-days to file a Petition for a Writ of Certiorari on or before August 06, 2018 pursuant to the Rule 13(5) of this Court; and, any other relief as this Honorable Court consider just and appropriate.

CERTIFICATE OF SERVICE: Petitioners hereby certify that a true and correct copy of the foregoing was provided via U.S.P.S.

Mail First Class, postage prepaid to each one: to the Hon. Noel Francisco, Solicitor General at Room 5616, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001; C. F. P. B. at P.O. Box 4503, Iowa City, IA 52244; Rick Scott, Governor of Florida State at 400 S. Monroe ST, Tallahassee, FL 32399; Pan Bondi Attorney State of Florida at The Capitol PL-01, Tallahassee, FL 32399-1050; and, to U.S. Bank Association, etc, Third Party Purchaser's counsel, Greenberg Trauring, P.A. Kimberly S. Mello and Vitaly Kats, Esq., at 101 E. Kennedy Blvd, Ste 1900, Tampa, FL 33602; and, Original and 1-copy to the Supreme Court of the United States' Clerk at 1 First Street, N.E. Washington, DC 20543: this day of May 25, 2018. Respectfully submitted,



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