

IN THE SUPREME COURT OF THE UNITED STATES

LUISA G. MONTOYA

Petitioner

v.

WELLS FARGO

Respondent

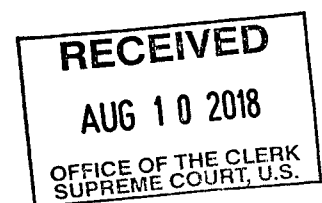
MOTION FOR LEAVE TO FILE PETITION FOR WRIT OF CERTIORARI

COMES NOW, LUISA G. MONTOYA “Montoya” and pursuant to **28 U.S. Code § 2101 (c) Supreme Court**, files her Motion for leave to file Petition for Writ of Certiorari on the following grounds:

1.-On March 27, 2013 Wells Fargo Bank N.A “Wells Fargo” filed a foreclosure complaint against “Montoya” in the Circuit Court of the 17th Judicial Circuit of Florida under the Case Number CACE 13008112.

2.-During the Foreclosure Process “Montoya” sent to “Wells Fargo” several packages for a loan modification trying to save her home from a Public Auction.

But, while she was waiting for the results of her loss mitigation negotiations with



“Wells Fargo”, the Trial Court issued an order scheduling the foreclosure sale for July 5, 2016.

3.-On June 2, 2016 “Wells Fargo” filed a Motion to cancel the foreclosure sale scheduled for July 5, 2016 on the ground that the parties were involved in loss mitigation negotiations and a hearing was scheduled for June 29, 2016.

4.-On June 29, 2016 the Trial Court denied the Motion filed by Wells Fargo.

5.-On July 1, 2016 “Montoya” filed an Emergency Motion requesting to the Trial Court to cancel the sale of July 5, 2016 due to ongoing loss mitigation negotiations, and on a hearing executed on July 5, 2016 the Trial Court denied her Motion too.

6.-On July 5, 2016 Montoya’s home was sold in a Public Auction.

7.-Although “Montoya” filed an Objection to the Sale on January 4, 2017 the Trial Court overruled Montoya’s Objection.

8.-On April 27, 2017 “Montoya “ requested to the Trial Court to vacate the order of June 29, 2016 , the Public Sale of July 5, 2016 and the Certificate of Title , but the Trial Court denied her Motion .

9.- On May 16, 2017 “Montoya” appealed the order of the Trial Court.

10.-On May 18, 2017 the Fourth District Court of Appeal of Florida, opened the case 4D17-1472.

11.-On September 15, 2017 “Montoya “filed her Initial Brief on merits and the Appendix for the Initial Brief.

12.-On January 12, 2018 “Wells Fargo” filed its Answer Brief and the Appendix for its Answer Brief.

13.-On March 15, 2018 the Fourth District Court of Appeal issued a decision affirming the Order of the Trial Court , but for reasons that “Montoya “ ignores , she did not receive the order that the 4th District sent to her domicile by the United States Mail .

14.-On May 25, 2018 the Fourth District Court of Appeal issued a Mandate, but “Montoya “did not receive copy of the Mandate also.

15.-“Montoya” worried for the status of her case went to the Broward County Courthouse in FT. Lauderdale Florida to obtain information about it.

And to her surprise she found out that the 4th District Court of Appeal have been already issued a decision and a Mandate on her case(Please see copies obtained from the Broward County Clerk of the Court of Florida).

Although Montoya found out about the decision of the 4th District Court of Appeal and the Mandate, on the First week of July 2018, she decided to file the Writ of Certiorari to the US Supreme Court as her last resource to save her home.

BASIS FOR JURISDICTION OF THE US SUPREME COURT

16.-The jurisdiction of this Court to review the Order of the Fourth District Court of Appeal is invoked under Rule 10(a) of the Rules of the Supreme Court of the United States.

REASONS WHY THE HONORABLE COURT SHOULD ALLOW THE PETITIONER TO FILE HER WRIT OF CERTIORARI

17.-*Excusable Neglect*: As “Montoya” stated previously for reasons that she ignores she did not receive at her domicile the decision of March 15, 2018 issued by the 4th District Court of Appeal of Florida, and the Mandate issued by the same Court on May 25, 2018, incidents that prevented her to file the Petition for Writ of Certiorari timely [1]

18.-Moreover, this is the last resource that “Montoya” has to save her home.

COPY OF THE OPINION TO BE REVIEWED

19.-“Montoya” is submitting with this Motion, Copy of the opinion to be reviewed and her Petition for Writ of Certiorari.

THEREFORE: “Montoya” respectfully requests to this Honorable Court to allow her to file her Petition for Writ of Certiorari.

[1] In *Pioneer Investment Services Company v. Brunswick Associates LP*, 507 U.S. 380 (1993), the U.S. Supreme Court interpreted “excusable neglect” to be a flexible standard which can include “inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party’s control.”

Respectfully submitted,

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing, has been furnishing
this August 6, 2018 to Kimberly S. Mello, Attorney for Wells Fargo, at Bank of
America Plaza, 101 E. Kennedy Blvd. Suite 1900, Tampa, FL. 33602-5148.



Luisa Montoya

713 Tanglewood Circle

Weston, FL. 33326

M A N D A T E

from

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT

This cause having been brought to the Court by appeal, and after due consideration, the Court having issued its opinion:

YOU ARE HEREBY COMMANDED that such further proceedings be had in said cause as may be in accordance with the opinion of this Court, and with the rules of procedure and laws of the State of Florida.

WITNESS the Honorable Jonathan D. Gerber, Chief Judge of the District Court of Appeal of the State of Florida, Fourth District, and seal of the said Court at West Palm Beach, Florida on this day

DATE:

May 25, 2018

CASE NO.:

17-1472

COUNTY OF ORIGIN:

Broward

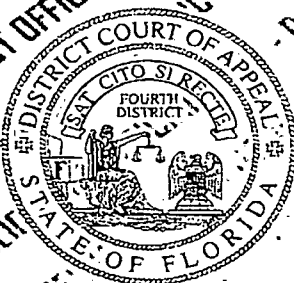
T.C. CASE NO.:

CACE13008112

STYLE:

LUISA G. MONTOYA

WELLS FARGO BANK, N.A.



Lon Weissblum

LONN WEISSBLUM, Clerk
Fourth District Court of Appeal

Served:

cc: Michele L. Stocker
Danielle Marie Diaz
Clerk Broward

Edward B. Pritchard
Vitaliy Kats

Kimberly S. Mello
Luisa G. Montoya

ct

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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

LUISA G. MONTOYA,
Appellant,

v.

WELLS FARGO BANK, N.A.,
Appellee.

No. 4D17-1472

[March 15, 2018]

CORRECTED OPINION

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; Joel T. Lazarus, Judge; L.T. Case No. CACE13008112.

Luisa G. Montoya, Weston, pro se.

Kimberly S. Mello of Greenberg Traurig, P.A., Tampa, for appellee.

PER CURIAM.

Affirmed.

WARNER, CIKLIN and KLINGENSMITH, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

**Additional material
from this filing is
available in the
Clerk's Office.**