No-19-703

In the Supreme Court of the United States

BARBARA NINA DAVIS,

Petitioner,

v.

MTGLQ INVESTORS, LP,

Respondent.

On Writ of Certiorari to the District Court of Appeal for the State of Florida, Fourth District

PETITION FOR REHEARING

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PETITION FOR REHEARING

Barbara Nina Davis under Rule 44, petitions this court for rehearing of the denial of the petition for writ of certiorari.

The basis for rehearing is based upon intervening, **unprecedented**, circumstances of a substantial effect, that is a substantial ground not previously presented.

1. With the last week's nationwide lockdown and the resulting economic depression from COVID-19, it is inevitable that millions of the over 30,000,000 Fannie Mae/Freddie Mac Uniform Mortgages, will go into default, despite the

stimulus package passed.

At issue is the interpretation of the notice language in the Fannie Mae/Freddie Mac Uniform Mortgage, used for tens of millions of mortgages in the United States, that is a condition precedent to bring a mortgage foreclosure action.

This case is important and worthy of this court's attention, because it involves the U.S. mail and the interpretation of the notice provisions of millions of Fannie Mae/Freddie Mac Uniform Mortgages. And, how the millions of defaults and resulting millions of lawsuits will be handled.

2. This case revolves around the question: Is there a difference between service of a required mortgage pre-suit default notice, by United States Postal Service category of first-class mail, and United States Postal Service category of certified mail return receipt requested?

3. The undisputed facts are simple. The respondent sent the petitioner a required presuit notice by certified mail, return receipt requested only. No regular first call mail service was used. It is undisputed the petitioner never received notice.

The express purpose of the presuit notice in section 20 of the mortgage is to provide, "a reasonable period after the giving of such notice to

take corrective action."

Section 15 of the mortgage (Record p. 943-944), requires the lender give the homeowner a default notice, prior to filing suit. Under the mortgage, service of the notice is deemed given, either when sent first class mail, or when actually received, if sent by other means.

The Florida Fourth District Court of Appeal ruled that regular first-class mail, and certified mail return receipt requested, were the same, despite no receipt of a notice designed to allow for corrective action.

This ruling cannot stand, given the undisputed massive fraud and consumer abuse that occurred from lenders in the last mortgage foreclosure crisis. The ruling below will invite more fraud and abuse. And, it will frustrate the intent of the notice, which is to provide notice so corrective action can take place before litigation. It will convert the notice provision from a vehicle to allow corrective action and avoid litigation, to a weapon to multiply and accelerate litigation.

4. There is a presumption that regular first-class mail reaches its recipient. This is because it travels from postbox to mailbox uninterrupted.

Certified mail return receipt requested does

not go from postbox to mailbox. It goes from postbox to the mail carrier's hand. The mail carrier either hands it to the recipient, or as here, leaves a slip, not the letter with the presuit notice. In either event, it never gets to the mailbox. That is why under Fannie Mae/Freddie Mac Uniform Mortgage, certified mail return receipt requested is a means other than first class mail, requiring actual receipt. (It should be noted that under the mortgage the respondent lender wrote, notice to the lender is effective only when actually received.)

CONCLUSION

To consider a default notice given by unclaimed certified mail return receipt requested the same as first class mail, is to make the homeowner, "no better off than if the notice had never been sent."

This Court should grant the Petition for rehearing and grant Writ of Certiorari.

Respectfully submitted,
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