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No. _____

21-7507

IN THE

SUPREME COURT OF THE UNITED STATES

Valedia Gross — Pro se, PETITIONER
vs.

First NLC Financial Services, LLP in C/O State — RESPONDENT(S)

Department of Assessment and Taxation

ON PETITION FOR A WRIT OF CERTIORARI TO

Maryland Court of Special Appeals

PETITION FOR WRIT OF CERTIORARI

Valedia Gross

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Baltimore, MD 21216

410-542-1045

ORIGINALValedia Gross
Valedia Gross

(10)

QUESTION(S) PRESENTED

1. Did the Court of Special Appeals (COSPA) err, as a matter of law, in holding that Ms. Gross waived her right to appeal the circuit court's order vacating a default judgment, where she waited until the final outcome of the case to note an appeal, as opposed to immediately noting an appeal within 30 days of the order?
2. Did the lower court err, as a matter of law, on 3/16/2020 when the lower court granted Deutsche Bank's motions to intervene, re-open the case and vacate the default judgment and scheduled an expedited hearing for 7/10/2020, to deny Ms. Gross' Amended Complaint (Complaint)?
3. Did the COSPA erroneously suggest, in dicta, that Ms. Gross, "successfully concealed Deutsche Bank's interest in the property *from the court*"?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Maryland Circuit Court for Baltimore City: *Gross v. First NLC Fin. Servs., LLC*,

No. 24-C-18-005408 (filed Sept. 28, 2018). Case closed: July 10, 2020

Maryland Court of Special Appeals: *Gross v. First NLC Fin. Servs., LLC*, No. CSA-REG-0581-2020 (filed Aug. 10, 2020). affirmed the decision of the circuit court in an unpublished decision dated August 18, 2021, and issued its mandate on September 15, 2021.

Maryland Court of Appeals: *Gross v. First NLC Fin. Servs., LLC*, Petition Docket No. 275, September Term 2021, Denied December 20, 2021

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

I. OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[] reported at _____ ; or,
[] has been designated for publication but is not yet reported; or, [] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at _____ ; or,
[] has been designated for publication but is not yet reported; or, [] is unpublished.

[X] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

[] reported at _____ ; or,

[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the circuit court appears at Appendix B
[] reported at
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

II. JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case
was _____.

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of
Appeals on the following date: _____ and a copy of the order
denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted
to and including (date) on _____ (date) in Application
No. _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was July10, 2020 . A
copy of that decision appears at Appendix A .

[X] A timely petition for rehearing was thereafter denied on the following date:
9/15/2021, and a copy of the order denying rehearing
appears at Appendix D _____.

[] An extension of time to file the petition for a writ of certiorari was granted to
and including (date) on _____ (date) in
Application No.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment XIV to the United States Constitution, section 1 provides, in pertinent part: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State whereto they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Constitution of Maryland, Declaration of Rights, Article 5(b) provides, in pertinent part: The parties to any civil proceeding in which the right to a jury trial is preserved are entitled to a trial by jury of at least 6 jurors. H16 - Constitution of Maryland, Declaration of Rights, Article 19 provides: That every man, for any injury done him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land.

Constitution of Maryland, Declaration of Rights, Article 20 provides: That the trial of facts, where they arise, is one of the greatest securities of the lives, liberties and estate of the People.

This case involves the fourth Amendment to the Constitution of the United States of America, which provides as follows: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things seized.

The Fourth Amendment to the Constitution of the United States of America is applicable to the State of Maryland through the so-called "incorporation clause" of Section 1 of the Fourteenth Amendment of the Constitution of the United States of America which provides:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection under the laws."

IV. STATEMENT OF THE CASE

A. INTRODUCTION

This case is before this Court as a result of Judge Ausby, not vacating Ms. Gross's enrolled judgment, as a matter of law, pursuant to Md. Rule 2-535(b) and

expedited a hearing from the outset on 3/16/2020, to deny Ms Gross' Amended Complaint on 7/10/2020. (APPENDIX C)

Ms. Gross noted her appeal on Monday, 8/10/2020¹, "...as a result of the lower court permitting Intervenor Deutsche Bank National Trust Company, as trustee for Morgan Stanley Ixis Real Estate Capital Trust 2006-2 Mortgage Pass Through Certificates, Series 2006-2's (the "Appellee") to intervene in bad faith and untimely, with a case that had no merits."² (COSPA, App.Brief ¶1)

Unfortunately, the COSPA incorrectly decided:

"Ms. Gross's first appellate contention is not properly before us. The court did not err in denying her request for a declaratory judgment because the issues between the parties were conclusively resolved in a prior action between Ms. Gross and the holder of the note. We will affirm the judgment of the circuit court.' (COA,Pet.,Page-7)

To no avail, Ms. Gross petitioned the Court of Appeals to protect her constitutional rights, including U.S. Citizens right to open and equal access to be heard, is a matter of public and government interest:

"...the intermediate appellate court has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power... "Freedom of access to the courts is a cherished value in our

¹ Although the docket entries suggest the Notice of Appeal was filed on August 13, 2020, the date stamp on the filing shows that it was in fact filed timely on August 10, 2020.

² The question presented by Ms. Gross was stated in her brief as follows: Did the circuit court err or abuse its discretion in vacating the enrolled judgment 5/15/20 to then, deny the Amended Complaint 7/10/20 that was properly Granted, 1/29/20?

democratic society." *Talamini v. Allstate Ins. Co.*, 470 U.S. 1067, 1070 (1985). "This Court has never held that the States are required to establish avenues of appellate review, but it is now fundamental... must be kept free of unreasoned distinctions that can only impede open and equal access to the courts." *Rinaldi v. Yeager*, 384 U.S. 305, 310 (1966)..." (COA,Pet.,Page-4)

Therefore, Ms. Gross petitioned this Court and Prays for open and equal access to the court *Rinaldi v. Yeager*, 384 U.S. 305, 310 (1966), for not only pro se elderly, Ms. Gross, but also for others, similarly situated.

B. STATEMENT OF THE FACTS

1. On 9/29/2006, Ms. Gross, as a lay person, unknowingly entered into an improper Deed of Trust and Promissory Note with the original lender, namely FNLC. (Complaint ¶ 7-13).
2. On 4/2/2009, FNLC presumably issued an Assignment (assigned by Bethany Hood a non-MERS employee) on Ms. Gross' property, despite their lender's license being revoked by the California Corporations Commissioner on 11/24/2008, for its "unsafe and injurious practices". (Complaint ¶¶ 2-6)
3. On 9/11/2009, Deutsche Bank improperly filed Ms. Gross' Deed of Trust, Promissory Note and the First NLC Assignment, among the land records of Baltimore City.
4. On 9/29/2009, Deutsche Bank appointed Shapiro Burson, LLP, as substitute trustees, as indicated by the Substitution of Trustee recorded, among the land records of Baltimore City, dated 4/2/2006, which predates the Deed of Trust dated 9/29/2006.

5. On 9/29/2009, Shapiro Burson, LLP, filed an improper foreclosure action against Ms. Gross on Deutsche Bank's behalf, in *Shapiro Burson, LLP v. Valedia Gross*, (Md. Circ. Ct. Balt. City) (the "Initial Foreclosure Action"), Ms. Gross opposed, was Granted, a hearing, and Deutsche Bank rescinded that action, in April 2010.
6. On 5/27/2010, in Case No. 24C1000430, Mr. Neil Dubovsky filed a declaratory judgment action, against Ms. Gross and record owner, Miriam Gross, on behalf of Deutsche Bank. Mr. Dubovsky requested summary judgment during the hearing with the limited purpose, "to lift the cloud on title by having this Court apply Maryland law that says the September of 2006 Deed of Trust, by her own admission executed by Ms. Gross, (inaudible) first priority lien on the property, taking precedence over any subsequent recorded instruments."
7. On April 13, 2011, the court Granted, Deutsche Bank summary judgment, because Ms. Gross acknowledged her signature was reflected on the Deed of Trust. And, the court ordered that "said Deed of Trust is effective as of September 29, 2006, and *subject to all of the same terms and remedies set forth in the Deed of Trust...*" This clearly includes, Section J, Applicable Laws.
8. During one of many DLLR investigations, on May 13, 2016, Deutsche Bank notified Ms. Gross through its attorneys, Duane Morris Law Firm, that "... under Maryland law mortgagors lack standing to attack transfers of their mortgages through assignments to which they are not a party...."
9. On 9/28/2018, Ms. Gross filed this tort action, seeking relief pursuant to "terms and remedies" set forth in the Deed of Trust, Section J, Applicable Laws, that

requested the Deed of Trust, Promissory Note and Assignment dated 4/2/2009, be declared null and void due to fraud. (Complaint ¶ 1).

10. On 10/19/2018, Deutsche Bank appointed Carrie M. Ward and 14 others (the "Substitute Trustees") as substitute trustees, as indicated by the Substitution of Trustee recorded among the land records of Baltimore City in Book 20609, Page 366.

11. The Substitute Trustees thereby assumed a legal duty to represent Deutsche Bank's interests. On 10/31/2018, the Substitute Trustees knowingly filed an improper foreclosure action, on behalf of Deutsche Bank, with an Order to Docket suit, accompanied by an invalid Affidavit of Mailing of Notice of Intent to Foreclose (NOI), signed by Ocwen Loan Servicing, LLC, (Ocwen), as Servicer, for Deutsche Bank, in *Ward v. Gross*, No. 24-O-18-001996 (Md. Circ. Ct. Balt. City) (the "Foreclosure Action").

12. On 11/16/2018 and 2/5/2019, in the Foreclosure Action, Ms. Gross filed Motions to Stay and Request a Hearing, accompanied by the Complaint in this case. The Substitute Trustees opposed (Doc. 6 & 9) and I.e., Ms. Gross's motions were Denied, without due process afforded by 45-days NOI, and without a hearing or any consideration of the significance of the Complaint in this matter (Doc. 5).

13. On 4/26/2019, Judge Jackson issued an order of default against FNLC.

14. On 5/15/2019, Ms. Gross filed an Emergency Motion to Stay in the Foreclosure Action, accompanied by the Notice of Default Judgment (Doc. 15), to no avail.

15. On 5/16/2019, at the foreclosure sale, the Substitute Trustees sold Ms. Gross' residential property to Deutsche Bank in the Foreclosure Action. (Doc. 17/0)

16. On 9/12/2019, in the Foreclosure Action, the Substitute Trustees, notified the Court that they imposed illegal irregularity when they filed the Order to Docket because, 1) they knew Deutsche Bank failed to properly provide the record owners 45-days Notice of Intent to Foreclose as required by "terms and remedies" of the contract, Section J. Applicable Laws, 2) they knew Ms. Gross and record owner (Miriam Gross) had no prior knowledge because they were never Served, 45-days notice, prior to their filing the Order to Docket, void of Proof of Service, and 3) they knew the Affidavit of Mailing of Notice of Intent to Foreclose, signed by Ocwen, was invalid³. (Doc. 22/3)

17. On 11/26/2019, Ms. Gross notified the court in the Foreclosure Action, that the Deed of Trust, Promissory Note and FNLC Assignment were all declared null and void, and that the Court's Default Declaratory Judgment entered on the record 11/22/2019 (Doc.24). Again, the Substitute Trustees opposed (Doc. 24/1). And, Deutsche Bank continued to pursue the foreclosure, final ratification of the sale, and possession of Ms. Gross' residence, and the filing of the normally required reports of sale thereof, knowing that they were operating under the foundation of documents which had already been ruled null and void, but did not intervene, in this matter.

³ After Ms. Gross filed this tort action, Deutsche Bank took Ms. Gross' Property via the Substitute Trustees improper Foreclosure Action, filed without due process afforded by 45-days NOI, and without the equal protection of the constitutional laws, the Substitute Trustees sold her Residential Property to Deutsche Bank.

18. On 12/12/2019, Ms. Gross filed a Complaint against FNLC's settlement agent, at the Maryland Insurance Administration (MIA) (Case No. TC 1346-2019) (Appellant Brf. Para 7)

19. On 1/29/2020, the Court issued the Default Declaratory Judgment (Default Judgment) declaring, the Deed of Trust, Promissory Note, and the Assignment to the Purchaser as recorded among the land records of Baltimore City at Book 11998 Page 442, were all "NULL AND VOID."

20. Throughout the time that the Court's Default Judgment remained in effect, and before the entry of any Orders vacating the Court's Default Judgment issued 1/29/2020, Deutsche Bank and the Substitute Trustees continued to request the Court proceed in the Foreclosure Action, with the null and void documents and still, did nothing to intervene in this matter, until March 2020.

21. On 2/4/2020, the MIA notified FNLC's Settlement Agent, Silk Abstract Title Company, of Ms. Gross' Complaint (Case No. TC 1346-2019), accompanied by the 1/29/2020 Default Judgement, and therefore requested copies of the 9/29/2006 settlement documents.

22. On 2/24/2020 Silk Abstract Title Company produced the settlement documents, included *inter alia*, a copy of the unrecorded Deed of Trust, dated 9/29/2006. The signature page reflects Ms. Gross' signature and the identical signature for both, the Notary and FNLC Representative (Appellant Brf. Para 10), further confirmed Judge Jackson's decision on 1/29/2020 to grant Ms. Gross' requested relief, as a matter of law, pursuant to Maryland Code Real Property Title 3 – Recordation

Subtitle 1 - General Rules and Exceptions § 3-101. Deeds required to be executed and recorded (1)(2)(3)(4) and (5).

23. On 3/16/2020 at Doc 14/0, Deutsche Bank filed the Verified Motion to Re-Open Case and Intervene for the Purpose of Moving to Vacate Judgment with Exhibits and Request for Hearing, by authority established in the fraudulent FNLC Assignment (bearing the signature of Bethany Hood, a non-MERS employee assigning, as VP of MERS). And under the guise it had no prior knowledge of this case, until recently. (Appellant Brf., APP003, Para 16-18)

24. And the same day on 3/16/2020 at Doc 15/0, when Judge Ausby Granted, Deutsche Bank's motions, she deprived Ms. Gross of her "substantial right" pursuant to Md. Rule 2-535(b), her property, her right to due process afforded by 15 days to respond, and her right to equal protection under our constitutional laws. The Order was issued 5/15/2020 at Doc. 15/2.

25. And Deutsche Bank was not in good standing, in the State of Maryland.

V. REASONS FOR GRANTING THE WRIT

A. Rule 10(a) of the United States Supreme Court

Rule 10(a) of the United States Supreme Court provides that this court will grant a Petition for Writ of Certiorari when a United States Court of Appeals has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned

such a departure by a lower court, as to call for an exercise of this Courts supervisory power. Constitutional Law § 746 - due process - procedure The United States Supreme Court, in order to determine what process is constitutionally due where there is an allegation of a deprivation of due process, will generally balance three distinct factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the government's interest. Under the Due Process and Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, no State shall deprive any person of life, liberty, or property, without due process of law".

On March 16, 2020 when Judge Ausby Granted, Deutsche Bank's motions on the exact same day that the motions were filed, Ms. Gross' interest pursuant to Md. Rule 2-535(b) was affected by her official action, with no regard to the erroneous deprivation of Ms. Gross' interest through the procedures used by Deutsche Bank, or the procedural safeguards outlined by court rules to afford Ms. Gross 15-days to respond, or the government interest to protect its Citizens under the Due Process and Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

And therefore, the lower courts has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of this Courts supervisory power to protect not only Ms. Gross, but other U.S. Citizens similarly

situated, because "no State shall deprive any person of life, liberty, or property, without due process of law".

B. Legal Standard

"[I]ssues of law are reviewed *de novo*." *Davis v. Martinez*, 211 Md. App. 591, 595 (2013). It is true that an order vacating an enrolled judgment "confers an immediate right of appeal." *Ventresca v. Weaver Bros., Inc.*, 266 Md. 398, 403 (1972). However, the fact that an order is immediately appealable does not require that an aggrieved party file an appeal immediately. *Brewster v. Woodhaven Bldg. & Dev., Inc.*, 360 Md. 602, 617-18 (2000). Rather, the fact that an order is immediately appealable "permits the party who opposed the order either to file an appeal from the order within 30 days of its entry, or to wait until the litigation has been completed." *Id.* at 617... "Nevertheless, in the case *sub judice*, the intermediate appellate court held that Ms. Gross' "challenge to the circuit court's order vacating the default declaratory judgment in her favor is not properly before us," because the order was immediately appealable and Ms. Gross waited until the completion of the case before noting an appeal. (Ex. 3, COSA Decision 10-11.)" (COA, Page 11)

This ignores the clear mandate of well established Maryland case law holding that, when a party has a right to an immediate appeal, they have a choice. They may either note an appeal immediately, or wait until completion of the underlying case. As such, the intermediate appellate court's holding infringed upon Ms. Gross' fundamental right to equal access to our court system.

To no avail, Ms. Gross argued, "This is not simply a case of *misapplying a properly stated* rule of law. Rather, the court did not even properly state the applicable rule. It stated the opposite of what the applicable standard has required since at least 1856. *See Lippy v. Masonheimer*, 9 Md. 310, 315 (1856). 'Freedom of access to the courts is a cherished value in our democratic society.' *Talamini v. Allstate Ins. Co.*, 470 U.S. 1067, 1070 (1985). 'The Court has never held that the States are required to establish avenues of appellate review, but it is now fundamental that, once established, these avenues must be kept free of unreasoned distinctions that can only impede open and equal access to the courts.' *Rinaldi v. Yeager*, 384 U.S. 305, 310 (1966). 'This Court, above all, should uphold the principle of open access.' *Talamini*, 470 U.S. at 1071. (COA Pet., pages 9-11)

When the COSPA refused to hear Ms. Gross on whether the circuit court erred in vacating the judgment, and entered its decision in conflict with the decision of other United States court of appeals on the same important matter, it took away her right to choose between filing an immediate appeal and an appeal after completion of her case, erroneously deprived Ms Gross through the procedures used. By so silencing Ms. Gross, the court unreasonably infringed upon her freedom of access to the courts as a standard practice but, under the Due Process and Equal Protection Clause of the fourteenth Amendment of the United States Constitution, no State shall deprive any person of life liberty, or property, without due process of law.

Judge Jackson granted Ms. Gross' Default Declaratory Judgment 1/29/2020.

Judge Ausby took it away with unreasonable decisions made 3/16/2020 when she Granted Deutsche Bank's motion filed the same day on 3/16/2020, and deprived Ms. Gross of her acquired "substantial right", her property, her right to due process afforded by 15 days to respond, and her right to equal protection under Md. Rule 2-535(b).

For the above reasons, Ms. Gross believes these matters are compelling enough reasons for her petition for a writ of certiorari be issued pursuant to Rule 10(a) because it would be not only be in the government's interest, but also in the public interest, it that would further ensure public confidence in equal access to be heard in judicial processes and finality in an enrolled judgment. This is sufficient, as to call for an exercise of this Court's supervisory powers because, Ms. Gross' petition clearly presents issues of importance regarding fair and equal access for her "appeal to be heard" as well as others in her similar situation, and the "finality" in an enrolled judgment, which is beyond the particular facts and parties involved in this case, it is also a matter of public and government interests.

C. Pursuant to Md. Rule 2-535(b), The Honorable Kenya Y. Ausby, Judge, improperly vacated, Ms. Gross' enrolled Default Declaratory Judgment.

Under Md. Rule 2-535(a), a circuit court has "unrestricted discretion" to revise a judgment within 30 days after the entry of judgment. *See, e.g., Platt v. Platt*, 302 Md. 9, 713 (1984) (quoting *Maryland Lumber Co. v. Savoy Constr. Co.*, 286 Md. 98, 102 (1979)).

After 30 days, however, the judgment is said to become “enrolled.”

Thereafter, a circuit court can revise the judgment only upon a showing, by clear and convincing evidence, of “fraud, mistake, or irregularity,” as those terms are “‘narrowly defined and strictly applied’” in the case law. *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (quoting *Thacker v. Hale*, 146 Md. App. 203, 217 (2002)); *accord Early v. Early*, 338 Md. 639, 652 (1995).

While a motion under Md. Rule 2-535(b) may be filed at any time, in considering whether to revise a judgment under Rule 2-535(b), a court must also consider whether the moving party acted with “ordinary diligence” in seeking relief under that Rule. See *Thacker*, 146 Md. App. at 217.

On 3/16/2020 Deutsche Bank filed the Verified Motion to Re-Open Case and Intervene for the Purpose of Moving to Vacate Judgment with Exhibits and Request for Hearing⁴ at Doc 14/0, which Judge Ausby Granted, the same day on 3/16/2020 at Doc 15/0 with no consideration of Ms. Gross's right to equal protection under the laws, or her interest in her Property and acquired substantial right that was affected by her official action and the erroneous deprivation of such interest through the procedures Deutsche Bank used, as permitted by the lowers courts

⁴ Deutsche Bank, “did not have standing, as Judge Jackson properly decided the assignment bearing the signature of Bethany Hood, a non MERS employee was not lawfully authorized to assign FNLC’s interest, as confirmed by MERS and previously decided by Judge Dees, in *Koontz v Everhomes* (Case 09-30024 PROC NO. 10-3005)” (COSPA, Applt. Brf. Pg. 15)

(10/31/2018 without 45-days Notice in the Foreclosure Action, and without ordinary diligence 3/16/2020, in this matter) . The Order was issued 5/15/2020 at Doc. 15/2.

Later, Judge Ausby stated that from the outset, when she granted Deutsche Bank's motions to vacate and expedited the hearing held 7/10/2020, she decided to schedule that hearing to deny the Ms. Gross' Amended Complaint because:

“... it is well settled law that a trial court is not authorized to hear a declaratory judgment action while a similar case involving the same issues and the same parties is pending before another court ...” (APP029-30)

And yet by 7/10/2020, Judge Ausby knew that when she Granted, Deutsche Bank's motions on 3/16/2020, being knowledgeable of the Foreclosure Action, she knew that Ms. Gross filed her motion to stay, accompanied by the Complaint, in this matter, on 11/16/2018 and Deutsche Bank did not move to intervene. And she certainly knew Ms. Gross filed this case on 9/28/2018, pursuant to the “terms and remedies” set forth in the Deed of Trust, Section J, Applicable Laws, prior to the Trustees filing Foreclosure action, without 45-days NOI on 10/31/2018, accompanied by the false Affidavit of Mailing of Notice of Intent to Foreclose.

Judge Ausby clearly erred, “believing the unrecorded Deed of Trust received from FNLC’s Agent’s on 2/24/20, was or could have been presented before Judge Jackson, and in the foreclosure action and related appeal. (APP030) It was not before Judge Jackson because the Appellant was unaware and, it was not in the Appellant’s Brief 9/28/20 because it was not before the lower court prior to the appeal.”(COSPA, Appellant Brf. ¶8)

The lower courts refused to acknowledge the fact, Ms. Gross first so notified Deutsche Bank about the Declaratory Judgment Action, on November 16, 2018, by attaching a copy of the Complaint to her motion to stay and dismiss, as if fully stated therein. "And she included an accompanying affidavit with the November 16, 2018 motion to stay and dismiss. (Gross Aff., Nov. 16, 2018.) The affidavit referred to the Declaratory Judgment Action, and even cited its case number. (*Id.* ¶ 16.)" (COA, Pet., Page-6), which was sufficient to apprise Deutsche Bank not only of the existence of the Declaratory Judgment Action, but also its significance and how it related to Deutsche Bank, (Compl. ¶ 1.) The request was repeated conspicuously throughout the Complaint. (*Id.* ¶¶ 1-2, 4, 8-15.)

Ms. Gross would regularly either attach the Declaratory Judgment Action Complaint, docket entries, or pertinent orders as exhibits to filings in the Foreclosure Action, which Deutsche Bank and the Substitute Trustees opposed for over a year, and did not intervene in this case, until March 15, 2020. Rule 2-535(b) reflects a strong policy in favor of putting an end to litigation (*see, e.g., Penn Cent. Co. v. Buffalo Spring & Equip. Co.*, 260 Md. 576, 585 (1971); *Bland v. Hammond*, 177 Md. App. 340, 357 (2007)) and of fostering the certainty and reliability of enrolled judgments. *See Powell v. Breslin*, 430 Md. 52, 70 (2013) ("[t]he overarching aim of Md. Rule 2-535(b) ... is the preservation of the finality of judgments, unless specific conditions are met").

Furthermore, Maryland appellate courts have repeatedly held that parties failed to act in good faith and with ordinary diligence when they were aware of a

basis to vacate a judgment but did not promptly assert it. *See, e.g., J.T. Masonry Co. v. Oxford Constr. Servs., Inc.*, 314 Md. at 507 (holding that party did not act with diligence when it “did not move to challenge the dismissal [of its case] until forty-five days or more after it uncontroversely knew that judgment had been entered”). In the lower courts, Deutsche Bank should not be held as the exception to the court’s rules or set above well-established case law, or above the public interest. And in the public and government’s interests, the Lender or Holder of a Note, in any given state, must abide by the “terms and remedies” of the security agreement, as in this matter, Section J of the Deed of Trust, Applicable Laws.

When Deutsche Bank was aware of a basis to vacate the judgment it did not move to intervene until March 15, 2020. This restricted Judge Ausby, pursuant to Rule 2-535, as those terms are “‘narrowly defined and strictly applied’” in the case law. *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (quoting *Thacker v. Hale*, 146 Md. App. 203, 217 (2002)); *accord Early v. Early*, 338 Md. 639, 652 (1995). And the COSPA unreasonably refusing to even hear Ms. Gross’ timely appeal, are compelling enough reasons for Ms. Gross’ petition for a writ of certiorari to be granted in her favor, and more importantly, as a matter of public interest for the Americans, similarly situated (and as a deterrent). *See Powell v. Breslin*, 430 Md. 52, 70 (2013) (“[t]he overarching aim of Md. Rule 2-535(b) ... is the preservation of the finality of judgments, unless specific conditions are met”)

Clearly, it is imperative that, “once a state establishes an appellate court system, these avenues must be kept free of unreasoned distinctions that can only

impede open and equal access to the courts." *Rinaldi*, 384 U.S. at 310. (COA Pet.

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D. The Honorable Philip S. Jackson, Judge

Ms. Gross requested a Declaratory Judgment, as a matter of law:

1) Pursuant to Maryland Code Real Property Title 5 - Statute of Frauds § 5-103. Assignment, grant, or surrender of interest in property, "...because the Assignment "purported to assign "all beneficial Interest" under the mortgage from MERS as nominee for First NLC Financial Services, LLC to Deutsche Bank National Trust Company, as Trustee for Morgan Stanley IXIS Real Estate Capital Trust 2006-2 occurred, ... (See Ex. 1) was prepared by wrongful act(s) ...breached the Agreement by its failure(s) to conduct its business ...in "good faith" (See Ex. 2)." (Compl. ¶ 2)

"..., Bethany Hood, who signed the Assignment as VP of MERS (See Ex. 1), is not an employee of MERS and not lawfully authorized by writing to sign the Assignment."(Compl. ¶ 3)

"MERS has since admitted that Bethany Hood, is an individual who was not an employee of MERS, ... the fraudulent Assignment is Mortgage Fraud pursuant to MD Article Real Property §7-402. A person may not commit mortgage fraud. §7-403." (Compl. ¶ 5)

... U.S. Bankruptcy Judge Harry C. Dees, Jr., ..., Case No. 09-30024, Proc. No. 3005, asserted "MERS, in its Answer to the plaintiff's Complaint, admit(ted) that Bethany Hood is not an employee of MERS. (cite omitted).... The same Bethany

Hood that appears in the Koontz case is the same person that appears in the document attached herein (See Ex. 1)" (Compl. 6) and,

(2) " ...a Declaratory Judgment declaring the Deed Plaintiff Signed on September 29, 2006 void, pursuant to Maryland Code Real Property Title 3 – Recordation Subtitle 1 - General Rules and Exceptions § 3-101. Deeds required to be executed and recorded."(Compl. ¶ 9-12)

" ... on, September 29, 2006, ... First NLC violated the implied duty of good faith and fair dealing promised to Plaintiff....First NLC breached this duty."

"First NLC Financial Services LLC failure(s) to execute and record the Deed of Trust pursuant to recited facts in the Deed, Section "(J) "Applicable Law" (See Ex. 8) entitles Plaintiff to a Declaratory Judgment declaring the Deed of Trust the Plaintiff Signed (See Ex. 6) was misrepresented on September 29, 2006 and void, pursuant to Maryland Code Real Property Title 3 – Recordation Subtitle 1 - General Rules and Exceptions § 3-101. Deeds required to be executed and recorded (1)(2)(3)(4) and (5)." (Compl. ¶ 13)

For the above reasons, on 1/29/20, Judge Jackson declared, the Deed of Trust null and void, and that the FNLC Assignment was null and void, due to fraud of FNLC and its Agent. Then, MIA obtained the unrecorded Deed of Trust from FNLC's Agent, Silk Abstract Title Company, further confirmed the recorded Deed of Trust is void, as a matter of law, pursuant to Maryland Code Real Property Title 3 – Recordation Subtitle 1 - General Rules and Exceptions § 3-101. Deeds required to be executed and recorded (1)(2)(3)(4) and (5)." And, "On 2/28/20, MIA sent The

Appellant the Silk Abstract Title Company's Response, conceding fraud occurred, 9/29/06 during closing (APP057-089), supported by two (2) Deeds of Trust that Counsel and the Appellee also have in their possession. Counsel knows one of the Deeds of Trust is unrecorded, the other recorded, both are dated 9/29/06, both relate to the Property, and both reflect The Appellant's signature, as Borrower, but the signatures reflected on the unrecorded Deed of Trust for the Notary and FNLC Representative who makes the acknowledgment are identical (APP071) and the signature on the recorded Deed of Trust for the FNLC representative was clearly altered (pasted over) to reflect Shawna Webb (APP088) with intent to make it look genuine are fraudulent acts, not a meritorious cause of action or defense." (COSPA, Appellant Brf. ¶ 10)

E. In dicta, the COSPA erroneously suggested that Ms. Gross, "successfully concealed Deutsche Bank's interest in the property *from the court*," (*Id.* at 11 n.6 (emphasis added).)

The movant must prove extrinsic fraud by "clear and convincing evidence." *Id.* "Fraud is extrinsic when it actually prevents an adversarial trial." *Id.* at 73 (citations and internal quotation marks omitted). And, Ms. Gross did not conceal Deutsche Bank's interest from the court when clearly, she attached the First NLC Assignment (related to the Property, assigned by Bethany Hood, a non-MERS employee, dated April 2, 2009) to the Complaint. Judge Jackson clearly ruled that Assignment was null and void, due to fraud of FNLC and its Agent. Maryland appellate courts have repeatedly held that parties failed to act in good faith and

- with ordinary diligence when they were aware of a basis to vacate a judgment but did not promptly assert it. *See, e.g., J.T. Masonry Co. v. Oxford Constr. Servs., Inc.*, 314 Md. at 507. And, Deutsche Bank clearly chose to intervene in this matter in bad faith and without ordinary diligence.

On 11/16/2018 and 2/5/2019, in the Foreclosure Action, Ms. Gross filed Motions to Stay and Request a Hearing, accompanied by the Complaint in this case. The Substitute Trustees opposed (Doc. 6 & 9) and I.e., Ms. Gross's motions were Denied, without due process afforded by 45-days NOI, and without a hearing or any consideration of the significance of the Complaint in this matter (Doc. 5), up to and including on, 11/26/2019 when Ms. Gross notified the court in the Foreclosure Action, that the Deed of Trust, Promissory Note and FNLC Assignment were all declared null and void, and that the Court's Default Declaratory Judgment entered on the record 11/22/2019 (Doc.24). The Substitute Trustees opposed (Doc. 24/1) and, Deutsche Bank continued to pursue the foreclosure, final ratification of the sale, and possession of Ms. Gross' residence, and the filing of the normally required reports of sale thereof, knowing that they were operating under the foundation of documents which had already been ruled null and void.

And, throughout the time that the Court's Default Judgment remained in effect, and before the entry of any Orders vacating the Court's Default Judgment issued 1/29/2020, Deutsche Bank and the Substitute Trustees continued to request the Court proceed in the Foreclosure Action, with the null and void documents and still, did nothing to intervene in this matter, until March 2020. The Substitute

Trustees were appointed by law to represent Deutsche Bank's interests. *See Marchese v. JPMorgan Chase Bank, N.A.*, 917 F.Supp.2d 452, 464 (2013) ("Here, the Substitute Trustees represented Chase's interests and filed the Foreclosure Action on Chase's behalf. The two are, therefore, effectively one and the same").

Judge Jackson granted Ms. Gross' Default Judgment 1/29/2020. And Judge Ausby took it away with unreasonable decisions made 3/16/2020 when she Granted, Deutsche Bank's motion filed the same exact day, with no consideration of Ms. Gross' right to equal protection under the laws, or her interest in her Property (an acquired substantial right), that was affected by Judge Ausby's official action, and the erroneous deprivation of such interest through the procedures Deutsche Bank used, as permitted by the circuit court (On, 10/31/2018 without 45-days Notice in the Foreclosure Action (with an Order to Docket, void of proof of service), and without good faith and ordinary diligence 3/16/2020, in this matter).

Review is desirable because Deutsche Bank should not be held as the exception to the circuit court's rules or set above well-established case law, or above the public interest. And in the public and government's interests, the Lender or Holder of a Note, in any given state, must abide by the "terms and remedies" of the security agreement, as in this matter, Section J of the Deed of Trust, Applicable Laws. Instead, the intermediate appellate court deprived Ms. Gross of the right for her timely appeal to be heard, refused to even acknowledge "clear and convincing evidence" showed Deutsche Bank had personal and direct knowledge of this case,

beginning over one year before the 1/29/2020 Default Judgment. And, to erroneously suggest Ms. Gross concealed Deutsche Bank's interest from the court when it entered its decision to deny Ms. Gross the right for her timely appeal to be heard, has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power pursuant to Rule 10(a).

Primarily, Ms. Gross' petition is not to correct compelling errors in lower court decisions that have infringed upon Ms. Gross' right to be heard. Ms. Gross Prays for review of this case that clearly present issues of the importance of fair and equal access for an "appeal to be heard" and the "finality" in an acquired enrolled judgment, which are beyond the particular facts and parties involved in this case. And review is desirable under the Fourteenth Amendment because, "Freedom of access to the courts is a cherished value in our democratic society." *Talamini v. Allstate Ins. Co.*, 470 U.S. 1067, 1070 (1985). And, "once a state establishes an appellate court system, these avenues must be kept free of unreasoned distinctions that can only impede open and equal access to the courts." *Rinaldi*, 384 U.S. at 310. (COA Pet. Page 4)

VI. CONCLUSION

Respectfully submitted,

Valencia H. CEO

Date: _____

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Valedia Gross — Pro se, PETITIONER

VS.

First NLC Financial Services, LLC in c/o of State
Department of Assessments and Taxation — RESPONDENT

PROOF OF SERVICE

I, Valedia Gross, do swear or declare that on this date, March 20, 2022, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

(1) First NLC Financial Services, LLC c/o State Department of Assessments and Taxation
301 W. Preston Street

Baltimore, MD 21201

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 20, 2022

Valedia Gross

Valedia Gross