

January 23, 2023

Prepared by and for:

Applicant/Petitioner Manns, DaBeth (Pro Se)

2211 31st Place, SE Washington, DC 20020 dmanns@tlcllc.org

In Regards to Case No.: 21-CV-0675

In the District of Columbia Court of Appeals as DaBeth Manns v. U.S. Bank National Association
As Trustee for Banc of America Funding Corporation for Mortgage Pass-Through Certificates 2007-03

On Appeal from Civil Action Case No.: 2018 CA 006062 R(RP)

In the District of Columbia Superior Court

TO: The Honorable Scott S. Harris, Clerk of Court

Supreme Court of the United States of America

1 First Street, NE

Washington, DC 20543-0001

(202) 479-3011

sharris@supremecourt.gov

RE: Application/Request for Leave of Court to File Out of Time and/or Extension of Time for Filing the
Petition for Writ of Certiorari to February 20, 2023 or a Calendar Date Decided by the Court


Dear Mr. Harris:

Per the correspondence dated and post marked January 10, 2023 and received on January 17, 2023, and per Rule 13.5, a corrected application is submitted. Specifically, the lower court opinions are appended to the application and the updated certificate of service on opposing counsel is included. I apologize to the Court and opposing counsel for the inconvenience my being a pro se litigant causes. Simultaneously, I remain cooperative in working toward a peaceful resolution that does not severely prejudice either party (e.g., Mediation) as the recent US Department of Justice sanctions verified abuses in the foreclosure and loan modification process which directly impacted the outcome of this case.

Humbled and prayerful am I that the Supreme Court of the United States of America will grant an extension to file a petition for a Writ of Certiorari to February 20, 2023 *or another calendar date* decided by this honorable Court. Please see in the **Attachment Enclosed** the following: Jurisdiction (pg. 3 of 27), Justification (pg. 3 of 27), Rationale (pg. 8 of 27), and the Conclusion (pg. 9 of 27).

This application was submitted timely on November 29, 2022 by electronic mail per the internet service provider and electronic mail database. Upon no electronic mail or postal mail response or reply, this application was resubmitted via postal mail with tracking number on December 26, 2022 which arrived to the Court on December 29, 2022 and marked received by the Court on December 30, 2022.

Sincerely,



DaBeth Manns, Pro Se

Enclosures

November 29, 2022

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Page | 2 of 27

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RE: Application/Request for Leave of Court to File Out of Time and/or Extend the Time for Filing the
Petition for Writ of Certiorari for 60 Days or An Earlier Calendar Date Deemed Appropriate by
the Court

Dear Mr. Harris:

Applicant/Petitioner, Appellant DaBeth Manns ("Manns") humbly prays the Supreme
Court of the United States of America will grant 60 days within which to file a petition for a Writ
of Certiorari up to and including Monday, January 30, 2023 or an earlier calendar date deemed
appropriate by the Court.

Manns presents the following substantive explanation in support of her request.
Simultaneously, she remains committed to being cooperative and committed to working toward a
sensible and permanent resolution that does not severely prejudice either party (e.g., Mediation).

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Jurisdiction

1. The United States Supreme Court has jurisdiction over any timely filed petition for writ of certiorari in the District of Columbia Circuit.

Page | 3 of 27

2. A petition for writ of certiorari must be filed within ninety (90) days from the date of the entry of the final judgment in the District of Columbia Court of Appeals (i.e., September 30, 2022) or ninety (90) days from the denial of a timely filed petition for rehearing.

Justification

Since 2011, Manns has served as durable Power of Attorney to an elderly loved one-godmother of 40 years, Anne H. Motz (i.e., see Attachment III, verification of registered POA). This has involved travel to and from North Carolina for approximately five business days each month the past eleven years. On September 24, 2022 Mrs. Motz was admitted to the hospital (i.e., see Attachment IV, verification of admittance). Manns was at the hospital each day including when her godmother passed away on October 01, 2022. Manns was assigned Executor of Mrs. Motz's estate and became indisposed with the fiduciary duties and estate matters for the proper filing and settlement of probate (i.e., see Attachment V, verification of death certificate and letters testamentary).

The judgments sought to be reviewed were rendered September 15, 2022 and on September 30, 2022 respectively by the District of Columbia Court of Appeals. The first order denied the motion for hearing/rehearing en banc and the second order denied the motion to recall the Mandate.

Unfortunately, these ruling were ordered bereft of a hearing, examination of evidence, oral argument,

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or further proceedings which would have occurred had the Court granted Manns' motion for hearing/rehearing en banc.

Page | 4 of 27

Greatly warranted is the application of relevant District of Columbia codes and federal government statutes of recurring national legal significance regarding TARP* era mortgage-backed securities, specifically the faulty constructive possession of title claims and resulting wrongful foreclosure judgments thereof. *In this litigation, the Court erroneously affirmed dismissal of the foreclosure case without prejudice due to stare decisis and case doctrine instead of thorough review.*

When Manns attempted to file a timely motion to reinstate the appeal on September 30, 2022, the judiciary ordered the Clerk not to allow any further filings from Manns. This action yielded two major consequences:

1. Lack of candor in the legal proceeding yielded errors of fact and subsequently erroneous conclusions which skewed judgment prejudicial to Manns.

Incorrectly, the Court averred in its August 25, 2022 ruling to dismiss that "...this court had previously affirmed the judgment permitting appellee to proceed with foreclosure and appellee elected to permit appellant an additional chance to modify the mortgage and to stay in her home..." because this Court forewent the opportunity and/or duty to review the record in its entirety.

* = Emergency Economic Stabilization Act of 2008 Division A, Pub. L. 110-343, 122 Statute 3765 / Troubled Assets Relief Program ("TARP") along with the accompanying Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 Pub. L. 111-203

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As per the documented Court record, Appellee (i.e., by and through legal counsel) posted a notice of auction sale in a major printed publication, The Washington Post, and via major online real estate auction entities. It was Manns who communicated directly with the auctioneer and the trustee sales division to decry the sale was suspect due to pending litigation, a second lien, and multiple issues involving the disputed debt including, but not limited to, the United States Bankruptcy Code and extreme laches among others. See Attachment VI (Verification of Correspondence).

Page | 5 of 27

Contrary to the inference by the Court, the Appellee did not suddenly and altruistically become willing to negotiate in good faith. As of today's calendar date and time of filing this motion/petition for filing out of time the writ of certiorari or extension, the "Overview / Price and Tax History" section of the online Zillow Listing No. 68082151 still notates 'listed for sale' and then 'listing removed'. Essentially, the Appellee failed in its attempt to sell Manns' real property in 2019 upon propagating and advertising the 2020 auction. See Attachment VII (Verification of Listing).

Notwithstanding the failed attempt to sell Manns' real property, Appellee benefited from its superior bargaining power and the accrual of time during the months of the various foreclosure moratoria (early-2020 to late-2021) as a result of the national Coronavirus pandemic. It was Appellee's wholly owned subsidiary (Computershare doing business as Specialized Loan Servicing, LLC) which presented the 2021 offer of loan modification.

In said offer, Appellee added unknown fees and unsubstantiated charges to the alleged debt account *bilking Manns for nearly \$300,000.00 above the initial \$263,000.00*

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debt contract established by her original creditor (American Brokers Conduit) with whom Appellee engaged in adversarial Bankruptcy litigation germane to Manns' account. The additional fees and charges are retaliation against Manns for defending herself from Appellee's abuse of the foreclosure process.

Page | 6 of 27

To wit, the loan modification offer was executed unbeknownst to Appellee's counsel and without Manns requesting or completing any documented process. Manns accepted it "in-protest" under the vitiating circumstances. See Attachment III (Verification of Correspondence).

2. Judicial error of fact in the legal proceeding yielded omissions which skewed judgment prejudicial to Manns, a disenfranchised pro se litigant.

Incorrectly, the Court averred in its August 25, 2022 ruling that "...appellant seeks to relitigate the earlier judgment permitting the foreclosure sale..." because the Court forewent the opportunity and/or duty to review the record in its entirety.

As per the documented Court record, the Appeals Court does have the authority to change a dismissal status from "without" to "with" prejudice. Manns raised the prior issues for the purpose of illuminating the lower Court's categorical denial of Manns' request for proper review of the material evidence (i.e., throughout the entire course of litigation) which demonstrated the impact of the Court's rulings.

The aforesaid judicial actions led to a favorable foreclosure judgement for Appellee in 2019 and a dismissal status 'without' prejudice in 2021. These judicial actions hence established the grounds for Manns to seek dismissal status 'with' prejudice and it is in accordance with District of Columbia Superior Court Rule No. 59 (New Trial;

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Altering or Amending a Judgment) and Rule No. 60 (Relief from a Judgment or Order).

Specifically, Manns refuted Appellee's prima facie documentation as a matter of law and according to the rules of evidence. Irrespectively, the lower Court and the Appeals Court prematurely and summarily determined said Appellee's prima facie documentation was legitimate and infallible. This occurred sua sponte and without assuring candor in the process (i.e., there was no hearing, examination of evidence, oral argument, or further proceedings such as a required joinder of parties).

Page | 7 of 27

This was counterintuitive juxtaposed with the irrefutable record provided by Manns, which cited Appellee's vast public legal record of being assessed hundreds of millions of dollars in fines for its pattern of deception and impropriety (i.e., by the Federal Reserve, the United States Department of Justice, the United States Treasury Department Office of the Comptroller of the Currency and other financial regulatory organizations).

At present, the Appellee deems itself entitled to "without" prejudice dismissal status. Yet there is no material evidence or documented attempt by Appellee to correct its accounting errors or to negotiate in good faith the suspect disputed debt (e.g., adjust down) and then bring the case before the lower Court again. Documented on-time monthly payments 'in-protest' for well over a year (i.e., nearly \$35,000.00) proves Manns is not a risk for nonstrategic default.

At present, the Appellee deems itself entitled to collect more than double the originally documented debt amount (i.e., a suspect windfall profit of nearly \$300,000.00) at Manns' expense. Yet, the Appellee vociferously opposes "with" prejudice dismissal status which would officially end the case and avoid the time as well as expense Appellee would incur to re-open or re-file the initial case in the lower Court.

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Wherefore, Manns humbly prays the existing motion/petition for filing out of time or extension for the Writ of Certiorari will be granted by this honorable Court. In lieu of over reliance on stare decisis and the *antiquated as well as debilitating rhetoric* that there can be no error in the doctrine of case law (i.e., per the Appellee's demand of legal counsel in its argument) this Court does have the authority and ability to grant the relief being requested in this motion.

Page | 8 of 27

Rationale for Extension of Time

1. Manns is a conscientious pro se litigant that will benefit from additional time to study and do research as well as obtain responses from industry experts and advocates, since *under five percent* of Writ of Certiorari requests are granted by the United States Supreme Court Justices and their staff.

2. The additional time will ensure that Manns includes and presents cohesively the *requisite components* in the petition for writ of certiorari. At present she is insufficient counsel and woefully inadequate in presenting legal discourse, lacking quality legal representation. As a matter of due diligence throughout the course of the litigation, she has vigorously sought legal representation from private attorneys, Legal Aid, the DC Pro Bono Clinic, as well as private nonprofit organizations (e.g., Bread for the City and Catholic Charities). Regrettably, each entity cited either the cost of litigation or the complexity of litigation as prohibitive.

3. The current global health pandemic continues to impact individuals and businesses compounding financial hardships. Manns shall use the time extension to continue studying any relevant legislation, as well as any forthcoming rules promulgated

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by the existing Executive and newly elected Congressional bodies. Present therein may be information gleaned that affects her rights as a distressed homeowner (e.g., protection against wrongful foreclosure, foreclosure abuse and/or abuse of payment forbearance process along with theft of equity by large banks). Entities such as the National Housing Law Project, the National Consumer Law Center and the National Fair Housing Alliance will be consulted. Page | 9 of 27

Conclusion

Applicant/Petitioner, Appellant Manns prays the Supreme Court of the United States of America will grant 60 days within which to file a petition for Writ of Certiorari up to and including Monday, January 30, 2023. In the interim, Manns remains committed to being cooperative and committed to working toward a sensible and permanent resolution that does not severely prejudice either party (e.g., Mediation).

Respectfully submitted,

_____/s/ DaBeth Manns _____

DaBeth Manns, Pro Se

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