

The Law Offices of
ERIN E. WIETECHA

Phone:
347.305.1766

67 West Street Suite 401
Brooklyn, NY 11222
www.wietechalaw.com

Fax:
347.658.3220

June 30, 2025

Hon. Sonia Sotomayor
Supreme Court of the United States
1 First Street NE
Washington, DC 20543

Re: *U.S. Bank National Association, as Trustee for
the RMAC Trust, Series 2016-CTT, Petitioner
v. Cassandra Fox
Docket No. 24-1178*

Dear Justice Sotomayor:

Pursuant to Supreme Court Rules 13(5) and 15, Cassandra Fox (“Applicant”) hereby moves for an extension of time of thirty (30) days, to and including August 6, 2025, for the filing of a brief in opposition to the petition for a writ of certiorari submitted by U.S. Bank National Association, not in its Individual Capacity but Solely as Trustee for the RMAC Trust, Series 2016-CTT (“Petitioner”). Unless the extension is granted, the deadline for filing the brief in opposition is July 7, 2025, pursuant to the Court’s request docketed on June 5, 2025. This application is filed seven (7) days in advance of that date, and Applicant has made no prior application for an extension.

In support of this request, Applicant states as follows:

1. On May 4, 2023, the Supreme Court of the State of New York, Appellate Division, First Judicial Department, entered its decision and order affirming the trial court’s judgment dismissing Petitioner’s foreclosure complaint as time-barred and granting Applicant’s motion for

summary judgment on her counterclaim to discharge the mortgage lien against the subject property.

2. On June 5, 2023, Petitioner filed a motion to reargue the First Department's May 4, 2023 decision and order and/or for leave to appeal to the New York Court of Appeals, which applicant opposed. On August 10, 2023, the First Department entered an order denying Applicant's motion.

3. On or around September 11, 2023, Petitioner filed a motion for leave to appeal to the Court of Appeals of the State of New York, which applicant opposed. On September 12, 2024, the Court of Appeals entered an order denying Applicant's motion for leave to appeal.

4. On October 15, 2025, Petitioner filed a motion for reargument of its motion for leave to appeal. On January 14, 2025, the Court of Appeals entered an order denying Applicant's motion.

5. On or around April 8, 2025, Petitioner submitted an application to extend its time to file a petition for a writ of certiorari.

6. On April 10, 2025, Petitioner's request was granted.

7. On May 14, 2025, Petitioner filed its petition for certiorari ("Petition").

8. On June 1, 2025, Applicant filed and served a waiver of right to respond to the Petition, in which she reserved her right to submit a response in the event that the Court requested one.

9. On June 5, 2025, a docket entry was entered, which read "Response Requested. (Due July 7, 2025)."

10. Applicant intends to oppose the Petition on numerous bases, including but not limited to Petitioner’s lack of standing to file the residential mortgage foreclosure action at issue – a subsequent and untimely action brought by a different plaintiff seeking to foreclose on the same mortgage pursuant to the same purported payment default. A different entity, OneWest Bank FSB, had filed a prior action in 2010, which was dismissed when plaintiff’s counsel appeared at trial unprepared to proceed. Petitioner, which was admittedly not the “original” plaintiff, filed the subsequent action. However, the “savings statute” upon which Petitioner relied does not permit “any entity seeking to pursue the ‘same rights’ as the prior plaintiff,” as set forth in *ACE Securities Corp. v. DB Structured Products, Inc.*, 38 N.Y.3d 643, 652 (2022), a decision entered by the New York Court of Appeals prior to its decisions in the case below, and Petitioner is neither a representative of a decedent’s estate nor the original plaintiff. Thus, the amendment to CPLR § 205(a) codified by the Foreclosure Abuse Prevention Act (“FAPA”) is irrelevant here, as Petitioner’s subsequent action was untimely even if FAPA had not been enacted. This case simply does not warrant the Court’s attention.

11. Additionally, FAPA survives constitutional scrutiny, as will be set forth in Applicant’s brief in opposition.

12. Applicant’s counsel, a solo practitioner, requires additional time to prepare a brief in opposition that fully addresses the issues set forth in the Petition. The Court’s request for a response was issued on June 5, 2025, a date that fell at the beginning of a two-week period during which Applicant’s counsel was out of the office and out of the country. Moreover, Applicant’s counsel has been notified by two separate law firms – counsel for “America’s Mortgage Banking Attorneys” and “American Legal & Financial Network and the Legal League 100” – that each intends to file an *amicus curiae* brief in support of the Petition. Applicant should be afforded the

opportunity to review those *amicus* briefs and the time to address any arguments raised therein before she files her brief in opposition.

Respectfully submitted,

/s/ Erin E. Wietecha
Erin E. Wietecha, Esq.
Counsel for Appellant

Cc: Jaynee LaVecchia, Esq.
McCarter & English, LLP
Four Gateway Center, 100 Mulberry Street
Newark, NJ 07102
jlavecchia@mccarter.com

Counsel for Petitioner