

No. 241166

In the Supreme Court of the United States

IN RE: RAY LEONERDERT DIAZ SANTIAGO
Petitioner

v.

JOSE R. CARRION, Chapter 13 Trustee, and PLANET HOME
LENDING, LLC, as Servicer
for Luna Residential III, LLC,
Respondents.

May 27, 2025

On Application for Emergency Stay Pending Disposition of Petition for
a Writ of Certiorari to the United States Court of Appeals for the First
Circuit (No. 25-9001)

**EMERGENCY APPLICATION FOR STAY OF MANDATE
PENDING DISPOSITION OF PETITION FOR WRIT OF
CERTIORARI**

Pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f)

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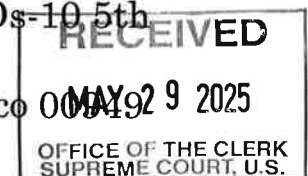


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**EMERGENCY APPLICATION FOR STAY OF MANDATE
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CERTIORARI**

Pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f)

**To the Honorable Ketanji Brown Jackson, Associate Justice of
the Supreme Court of the United States and Circuit Justice for
the First Circuit:**

Pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f), Applicant Ray Leonerdirt Díaz Santiago respectfully submits this Emergency Application to stay the issuance and effect of the ¹mandate entered by the United States Court of Appeals for the First Circuit on May 16, 2025, in Case No. 25-9001, pending the timely filing and disposition of a petition for writ of certiorari.

This case presents urgent and exceptional circumstances involving the unlawful deprivation of Applicant's primary residence and workshop studio through a judicial sale conducted in violation of the automatic stay under 11 U.S.C. § 362(a), without notice, and during the pendency of federal appellate proceedings. The First Circuit's refusal to stay the mandate—despite unrebutted evidence of constitutional violations—threatens to moot certiorari review entirely, extinguishing fundamental

¹ Appendix Page. 3-5

rights protected by the Due Process Clause of the Fifth and Fourteenth Amendments.

On May 14, 2025, the United States Court of Appeals for the First Circuit entered an ²Order of Court denying Debtor-Appellant Ray Leonerdirt Díaz Santiago's timely ³Emergency Motion to Stay the Mandate and ⁴MOTION FOR PANEL REHEARING AND REHEARING EN BANC, PURSUANT TO FED. R. APP. P. 40, AND FOR VACATUR OF VOID DISMISSAL ORDER DUE TO STRUCTURAL DUE PROCESS VIOLATIONS. The First Circuit denied these motions without analysis of the dispositive constitutional and jurisdictional defects. The foreclosure and eviction proceeded in the absence of notice through the federally mandated DeBN system, and without meaningful access to appellate review. These errors constitute structural due process violations under *Armstrong v. Manzo*, 380 U.S. 545 (1965), and *Bounds v. Smith*, 430 U.S. 817 (1977).

Standard of Review:

² Appendix Page. 1-2

³ Appendix Page. 152-169

⁴ Appendix Page. 7-37

Under *Packwood v. Senate Select Comm. on Ethics*, 510 U.S. 1319 (1994) (*Rehnquist, C.J., in chambers*), and *Mitchum v. Foster*, 407 U.S. 225 (1972), a stay is warranted where (1) there is a reasonable probability that certiorari will be granted, (2) there is a significant possibility that the Court will reverse the judgment below, and (3) irreparable harm will result absent a stay. All three criteria are met here.

Introductory Paragraph

This petition arises from a foreclosure and eviction that proceeded despite an active Chapter 13 plan and without adequate notice to the debtor, due in part to a systemic failure by the Bankruptcy Court for the District of Puerto Rico to properly transmit filings through the Debtor Electronic Bankruptcy Noticing (DeBN) system in the original case. As a result, the debtor was deprived of meaningful opportunity to object, to be heard, and to preserve appellate rights—all in violation of due process and statutory protections under 11 U.S.C. § 362.

Questions Presented:

1. Whether a federal appellate court may deny a stay of mandate when the underlying foreclosure violated the automatic stay under 11 U.S.C. § 362 and due process protections related to notice and appellate access, especially given the Bankruptcy Court's failure to properly notify the debtor through the DeBN system.
2. Whether a Chapter 13 debtor retains the right to propose a repayment plan when substantial equity exists in the property and no final adjudication has resolved constitutional defects in the underlying sale.
3. Whether systemic procedural breakdowns—including failure to transmit emergency filings and defective service by the court—warrant vacatur of the judgment under *Munsingwear*, *Siciliano*, and *Carafas v. LaVallee*, 391 U.S. 234 (1968).

Summary of Argument

This emergency application seeks provisional relief from an unconstitutional foreclosure and eviction executed in violation of the automatic stay under 11 U.S.C. § 362(a), without proper notice or an opportunity to be heard, and while critical motions and appeals were

pending. The bankruptcy court failed to provide adequate notice through the DeBN system, resulting in structural due process violations that rendered subsequent proceedings jurisdictionally defective. The Bankruptcy Appellate Panel (BAP) then dismissed the appeal without addressing these notice deficiencies or conducting a proper jurisdictional analysis, effectively obstructing access to meaningful appellate review. The First Circuit compounded these errors by dismissing the appeal as moot, despite binding precedent holding that constitutional violations are not rendered moot by state enforcement actions during ongoing federal review. These cumulative due process and jurisdictional violations deprived the Applicant of core constitutional protections. A stay of the mandate is necessary to preserve the status quo and federal jurisdiction pending disposition of a timely petition for certiorari raising substantial and recurring federal questions concerning notice, due process, jurisdiction, and the supremacy of federal bankruptcy protections.

ARGUMENT

Despite the serious procedural and constitutional violations that follow in the chronology below, the United States Court of Appeals for the First Circuit issued an ⁵order on March 26, 2025, acknowledging receipt of the Debtor's SECOND Emergency Motion for Stay Pending Appeal Pursuant to FRAP 8(a)(2) and requesting responses from Appellees regarding the status of the foreclosure and eviction, as well as the court's jurisdiction. However, that same day, the eviction was executed at the local level—despite the pending emergency motion, and without adequate federal notice or jurisdictional clarity. This fundamental breakdown in process is detailed in Part I, Section B of the chronology below (Bankruptcy Appellate Panel for the First Circuit – March 26, 2025 – Eviction Executed While Emergency Motion Remained Pending). A full evidentiary record and timeline is included in the Appendix to the Motion for Panel Rehearing and Rehearing En Banc, Pursuant to Fed. R. App. P. 40, and for Vacatur of Void Dismissal Order Due to Structural Due Process Violations.

This case presents extraordinary circumstances justifying vacatur and rehearing. The timeline of events reveals a structural breakdown in

⁵ Appendix Page. 6

appellate process, jurisdictional control, and constitutional notice, warranting immediate remedial action under precedents such as *Mullane v. Central Hanover Bank*, *Fuentes v. Shevin*, and *In re Siciliano*.

Factual and Legal Background

I. CHRONOLOGY OF PROCEDURAL FAILURES LEADING TO CONSTITUTIONAL HARM (A complete chronology of these procedural failures, with supporting exhibits, is included in the ⁶Appendix to the Motion for Panel Rehearing and Rehearing En Banc, Pursuant to Fed. R. App. P. 40, and for Vacatur of Void Dismissal Order Due to Structural Due Process Violations.)

A. United States Bankruptcy Court for the District of Puerto Rico Num. 24-01333

Case Opened: April 1, 2024

1. April 15, 2024 – ⁷DeBN Registration Ignored by Bankruptcy Court

Appellant properly requested electronic notice via the DeBN (Debtor Electronic Bankruptcy Noticing) system; however, the Bankruptcy Court for the District of Puerto Rico failed to activate it. As a result, Appellant did not receive notice of the motion to lift the automatic stay—an omission later acknowledged on the record by Judge Edward

⁶ Appendix Page. 38-151

⁷ Appendix Page. 43

Godoy. (See ⁸Transcript, Dkt. 58, lines 19–25, Aug. 8, 2024). This failure denied Appellant constitutionally required notice and an opportunity to be heard, in violation of the Due Process Clause of the Fifth Amendment. Critical proceedings—including the motion to lift the stay and the foreclosure—occurred without proper notice. The email registration evidencing Appellant’s DeBN activation is included in the Appendix. Evidence was submitted to this Honorable Court via the undersigned’s “⁹personal emails” to certify that the notices were not properly received in accordance with due process and that the DeBN system was improperly applied.

2. May 1, 2024 – Foreclosure Auction Held Without Notice

Despite the absence of proper notice due to the DeBN registration failure, a foreclosure auction was conducted. Appellant was unaware and unable to contest or attend. The certified translation and auction record were filed on March 27, 2025. This event, carried out in disregard of due process, would later serve as the foundation for the unlawful deprivation of Appellant’s residence.

⁸ Appendix Page.64

⁹ Appendix Page. 80-81

3. May 22, 2024 – ¹⁰Order Granting Motion to Lift Automatic Stay Entered Without Notice

Despite Appellant's lack of notice, Judge Godoy entered an order lifting the automatic stay (Dkt. 26) based on a motion (Dkt. 19) never properly served. This action contravened the requirements of due process as articulated in *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950), and *Fuentes v. Shevin*, 407 U.S. 67 (1972). Although Appellant became informally aware and moved to reinstate the stay, the court denied relief in an order dated June 28, 2024. At all times, Appellant was current on both mortgage and Chapter 13 payments. Under § 362(c)(3)(B), courts evaluate good faith in light of all circumstances. See *In re Charles*, 410 B.R. 411, 416 (Bankr. E.D. Tex. 2009). The record confirms Appellant's diligence despite the court's systemic failures.

4. May–July 2024 – ¹¹Foreclosure Proceedings Continue Without Proper Notice

The foreclosure process advanced even though Appellant lacked proper notice and was actively participating in the bankruptcy proceedings. The hearing transcript (Dkt. 58) confirms that nearly 90% of the discussion concerned the automatic stay—not delinquency or bad faith. The record further confirms the Chapter 13 plan was current. The core

¹⁰ Appendix Page. 82

¹¹ Appendix Page. 83-85

issue was not financial default, but the court's ultra vires act of lifting the stay without adequate notice, depriving Appellant of a protected property interest. Despite timely filings and documented communications, the court dismissed the case without a substantive finding of default. The resulting foreclosure—executed without notice or hearing—was constitutionally defective, violating *Mullane, Fuentes, and Peralta v. Heights Medical Center*, 485 U.S. 80 (1988).

5. August 9, 2024 – ¹²Order of Dismissal with Prejudice
The Bankruptcy Court entered an order dismissing the case (Dkt. 60), imposing a six-month bar on refile and instructing the Clerk to close all adversary proceedings. This compounded the procedural harm and eliminated any opportunity to restructure debt or assert rights under Chapter 13.

B. United States Bankruptcy Appellate Panel for the First Circuit BAP Case Open 08/20/2024. ¹³BAP First ORDER DENYING APPELLANT'S MOTIONS FOR STAY PENDING APPEAL in his court Date: 02/27/2025

6. March 12, 2025 – ¹⁴First Emergency Motion for Stay Filed Under FRAP 8(a)(2)

¹² Appendix Page. 86

¹³ Appendix Page. 87-97

¹⁴ Appendix Page. 98-120

Appellant filed an emergency motion for stay pending appeal, with supporting ¹⁵affidavit, expressly addressed to the First Circuit under FRAP 8(a)(2). However, the BAP misclassified the motion as directed to itself and failed to transmit it as required. BAP Judge Katz entered an order denying the motion the same day, citing lack of jurisdiction. (See ¹⁶Order Denying Motions for Stay Pending Appeal, [24-19], Mar. 12, 2025).

7. March 13, 2025 – Clarification ¹⁷Motion Regarding Transmission of Filings

Appellant submitted a written clarification explaining that the emergency motion was intended for the First Circuit, not the BAP. Despite this, the motion was not transmitted, and no review occurred at the Circuit level prior to eviction.

8. March 26, 2025 – ¹⁸Eviction Executed While Emergency Motion Remained Pending

The eviction was carried out while Appellant's emergency motion remained unresolved due to the BAP's failure to transmit it. This deprived Appellant of access to meaningful appellate review, in

¹⁵ Appendix Page. 121-136

¹⁶ Appendix Page. 137-138

¹⁷ Appendix Page. 139-142

¹⁸ Appendix Page. 143-144

violation of *Carafas v. LaVallee*, 391 U.S. 234 (1968), and *Bounds v. Smith*, 430 U.S. 817 (1977). During the eviction, Appellant lost all professional tools and personal property. Mr. Parisi executed the lockout while Appellant was actively seeking emergency relief before the Puerto Rico Superior Court. These actions occurred despite ongoing federal proceedings concerning violations of the automatic stay. The state court's intervention violated:

- (1) the Supremacy Clause of Article VI of the U.S. Constitution,
- (2) the Younger Abstention Doctrine, and
- (3) the Doctrine of Primary and Exclusive Jurisdiction.

**C. United States Court of Appeals for the First Circuit
Case Opened: March 10, 2025**

9. March 26, 2025 – Second Emergency Motion Filed with First Circuit Due to BAP's Inaction

Appellant submitted a second emergency motion under FRAP 8(a)(2), requesting a stay pending appeal and citing the BAP's failure to transmit the initial motion. This violated BAP Rule 8003(a)(2), which requires immediate transfer of such motions to the Court of Appeals when jurisdiction is lacking.

The First Circuit responded by ¹⁹ordering Appellees to file responses within five days in March 26, 2025, including status updates on foreclosure and eviction proceedings and their positions on jurisdiction. However, by this point, the eviction had already been executed, effectively mooted the relief sought and illustrating the compounded procedural breakdown.

(A). Application of 11 U.S.C. § 362 (Automatic Stay) and Its Due Process Implications

The application of 11 U.S.C. § 362(a) (the “automatic stay”) in this case raises serious constitutional concerns. The automatic stay is a cornerstone protection of the Bankruptcy Code that ensures stability, prevents hasty creditor actions, and preserves the status quo to allow for orderly judicial review and equitable debt adjustment. Its violation in this case occurred in tandem with fundamental due process deficiencies, depriving the Applicant of constitutionally protected property interests without notice or opportunity to be heard.

¹⁹ Appendix Page. 6

Applicant held two secured claims in the subject property, both recognized under 11 U.S.C. §§ 506 and 1325(a)(5):

1. A secured claim based on the current outstanding mortgage balance of approximately \$260,000.00; and

2. An additional secured interest reflected in a professional appraisal valuing the remaining equity in the property at approximately \$320,000.00.

Thus, the property—appraised at approximately \$580,000.00—was not “underwater.” On the contrary, its fair market value significantly exceeded the debt owed. Where such positive equity exists, courts have consistently recognized a debtor’s right to propose a new repayment plan and to seek equitable relief to preserve their ownership interest. *See United States v. Whiting Pools, Inc.*, 462 U.S. 198, 203-04 (1983); *In re Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 379 (1988).

Despite these protections, the property was sold at a judicial auction for only \$410,000.00—far below its appraised value and without compliance with the stay imposed by § 362(a). This resulted in a de facto forfeiture of approximately \$170,000.00 in equity without an

adjudication on the merits and in the absence of meaningful notice or access to the appeals process. Such a disparity, when coupled with procedural breakdowns—including the failure to notify the debtor via the court-mandated DeBN system—renders the foreclosure constitutionally infirm.

This deprivation of property occurred in direct contravention of the principle articulated in *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965): “A fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” The timing of the foreclosure, which proceeded despite the pendency of both bankruptcy proceedings and federal appeals, undermines the integrity of judicial process and offends basic fairness.

A complete evidentiary record, including factual exhibits, sworn statements, and procedural documentation, is provided in Motion for Rehearing and Rehearing En Banc filed before the United States Court of Appeals for the First Circuit and is attached hereto in the Appendix.

(B). ²⁰Trustee's Objection and Market Comparables

Compounding this constitutional violation is the fact that the Chapter 13 Trustee previously objected to a lowball valuation of the same property. See *In re Díaz Santiago*, No. 24-01333 (Bankr. D.P.R.), Docket No. 55. The Trustee's own objection supported an equity valuation more closely aligned with the \$580,000.00 appraisal obtained by the debtor. Moreover, ²¹comparables from licensed broker Luis Abreu confirm that units in the same building—*Condominio Atlantis, San Juan*—sold for between \$475,000.00 and \$580,000.00 in 2024. These market indicators reinforce the accuracy of the debtor's valuation and expose the gross undervaluation at auction.

There exists no legal or equitable justification to disregard these valuations or to permit a judicial sale that deprives the debtor of hundreds of thousands of dollars in equity without procedural safeguards. The sale price was materially deficient and constituted a transfer of wealth from a protected debtor to a third party without

²⁰ Appendix Page. 146

²¹ Appendix Page. 148

adjudication or due process. See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950); *Fuentes v. Shevin*, 407 U.S. 67 (1972).

(C). Right to Propose a Viable Payment Plan

Finally, Applicant had both the right and the intent to propose a viable repayment plan under Chapter 13. The Supreme Court in *Bullard v. Blue Hills Bank*, 575 U.S. 496 (2015), emphasized the significance of a debtor's right to reorganize and the dangers of prematurely foreclosing appellate review. While the Court held that the denial of a proposed plan is not a final order, **Chief Justice Roberts** noted that “[i]f the debtor is right about the law... he may propose another plan and appeal again.” *Id.* at 504.

Here, no final resolution has occurred on the merits of Applicant's proposed plan, nor was Applicant given an opportunity to revise or submit a new plan reflecting the secured equity in the property. The foreclosure and eviction actions deprived Applicant of the very forum in which that right could be exercised. The equities of this case—substantial property value, viable restructuring efforts, and

documented procedural defects—support a stay of mandate and a full review on certiorari.

Given the exceptional nature of the constitutional deprivations and the imminent threat of mootness, Applicant respectfully urges the Circuit Justice to grant a stay of the First Circuit's mandate pending disposition of his forthcoming petition for writ of certiorari.

(D). Structural Breakdowns Rendering the Appeal Process Constitutionally Infirm

The constitutional harms in this case were compounded by systemic failures that obstructed access to appellate review and emergency relief.

These included:

1. Failure to Transmit Timely Filings: The Bankruptcy

Appellate Panel failed to transmit a properly filed notice of appeal and emergency stay motion to the First Circuit in March 2024, resulting in jurisdictional confusion and delay.

2. Denial of Electronic Access: The applicant was improperly denied electronic access to CM/ECF despite filing an updated ECF registration and notification request, contrary to this Court's guidance

in *Bounds v. Smith*, 430 U.S. 817 (1977), and *Carafas v. LaVallee*, 391 U.S. 234 (1968), which guarantee meaningful appellate access.

3. DeBN Notification Failure: The judicial foreclosure and eviction proceeded without proper notice through the DeBN system, in violation of due process and the statutory framework requiring adequate notice under Fed. R. Bankr. P. 9036 and 11 U.S.C. § 342(e).

4. Appellate Obstruction by Trustee: The Chapter 13 Trustee opposed appellate review and filed motions to dismiss without addressing the merits of the constitutional violations, undermining the adversarial fairness of the process.

5. Structural Denial of Forum: The cumulative effect of these failures was a structural denial of access to any meaningful forum to contest the unlawful deprivation of property. This implicates the procedural safeguards mandated in *Mullane, Fuentes, and Armstrong*, and constitutes a breakdown of judicial machinery warranting vacatur under *U.S. Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U.S. 18 (1994), and *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950).

CONCLUSION

REQUEST FOR PROVISIONAL RESTITUTION PENDING CERTIORARI REVIEW

Applicant respectfully requests that this Court, as part of its equitable authority under 28 U.S.C. §§ 2101(f), 1651(a), and Supreme Court Rule 23, grant provisional restitution of the subject property pending final disposition of the forthcoming petition for writ of certiorari. This relief is necessary to preserve the status quo ante and mitigate irreparable harm resulting from a constitutionally defective foreclosure and eviction.

The foreclosure occurred:

1. Without actual or constructive notice to Applicant, due to the Bankruptcy Court's failure to activate the DeBN system;
2. In violation of the automatic stay imposed under 11 U.S.C. § 362(a);
3. While a Chapter 13 plan was active and payments were current;
4. During pending appellate proceedings before both the Bankruptcy Appellate Panel and the First Circuit Court of Appeals.

Provisional restitution is warranted under the equities recognized in *Munsingwear*, *Carafas*, *Siciliano*, and *Fuentes*, particularly where:

- No third-party purchaser intervened with protected bona fide status;
- Applicant retained significant equity in the property (estimated at over \$170,000.00);
- State action was undertaken while federal review remained unresolved, in direct contravention of the Supremacy Clause and due process protections.

The property subject to this petition requires no improvements, as it is in perfect condition and was personally designed and developed by the undersigned, who has direct knowledge of its functional and structural value. For this reason, and in light of the other arguments presented in this motion, the immediate restitution of the property is respectfully requested while the merits of the case are adjudicated. This request is further supported by photographic evidence included in the Appendix (²²see photographs in Appendix), clearly demonstrating the property's optimal condition. As established by the United States Supreme Court in *Fuentes v. Shevin*, 407 U.S. 67, 80–81 (1972), the deprivation of property without a prior opportunity to be heard constitutes a

²² Appendix Page. 163

fundamental violation of due process, making provisional restitution essential to prevent irreparable harm during the pendency of judicial review.

Accordingly, Applicant seeks an interim order restoring possession of the property and enjoining further alienation or demolition pending this Court's review, to prevent permanent mootness and preserve the availability of full relief.

WHEREFORE, for the foregoing reasons, Applicant respectfully requests that the Court:

1. Stay the issuance and effect of the mandate issued by the United States Court of Appeals for the First Circuit in Case No. 25-9001, pending the disposition of Applicant's forthcoming Petition for Writ of Certiorari;
2. Restore possession of Applicant's residence at Condominium Atlantis Suite Studio 1706 San Juan PR 00901 to preserve the status quo ante and prevent mootness of the issues presented for Supreme Court review;
4. Grant such other and further relief as may be just and proper.

Notice of Related Disciplinary Proceedings and Inter-Court Due Process Guarantees

Petitioner respectfully notifies this Honorable Court that, on May 20, 2025, the Supreme Court of Puerto Rico formally initiated an investigative proceeding (Núm. AB-2025-0113) concerning attorneys who allegedly incited local lower courts to proceed with a forced eviction and judicial sale during the pendency of active appellate and bankruptcy proceedings, in direct conflict with federal constitutional protections and the automatic stay under 11 U.S.C. § 362(a).

This inter-court development underscores the fundamental guarantees of due process and comity between the courts of Puerto Rico and federal jurisdiction, particularly where coordinated judicial action is essential to protect litigants from irreparable harm. The Puerto Rico Supreme Court granted counsel for the respondent an extension until June 9, 2025 to respond to said complaint, expressly warning that failure to appear may result in severe disciplinary sanctions, including suspension from the practice of law.

Petitioner affirms that certified English translations of all materials from the Puerto Rico Supreme Court will be provided to this Court upon

request or once proceedings in that forum are formally opened for record submission, in full compliance with Rule 21 and Rule 33 of this Court.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2025, a true and correct copy of the foregoing Emergency Application was served via sramirez@sarlaw.com, arodriguez@ch13-pr.com, jcarrion@ch13-pr.com upon the following:

- Jose R. Carrion, Esq., Chapter 13 Trustee PO BOX 9023884, OLD SAN JUAN STATIONSAN JUAN, PR 00902
- Planet Home Lending, LLC EQUITY MORTGAGE 1651 PR 25 SUITE 102 SAN JUAN PR 00909
- Sara Law LLC Sergio A. Ramírez de Arellano, Esq. Banco Popular Center, Suite 1822 209 Muñoz Rivera Ave. San Juan, PR 00918-1009

CERTIFICATE OF COMPLIANCE

Pursuant to Supreme Court Rule 33.1(g), I hereby certify that this document contains " 4,282 " words, excluding the parts of the document that are exempted by Rule 33.1(d).

This document was prepared using CENTURY SCHOOLBOOK and is in 14-point Century Schoolbook font.

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