NO. ______________________________

____

IN THE

SUPREME COURT OF THE UNITED STATES

____

LINDA J. PELLUM,

PETITIONER,

vs.

JEFFREY B. FISHER. ET AL.,

RESPONDENT(S).

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF APPEALS OF MARYLAND

PETITION FOR WRIT OF CERTIORARI

LINDA J. PELLUM
5001 Temple Hill Road
Temple Hill Maryland 20748
301-523-3759

QUESTIONS PRESENTED

Whether the Respondents engaged in "dual tracking" in violation of the Consumer Financial Protection Bureau (CFPB) established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, when Respondents foreclosed on Petitioner's residential real property.

LIST OF PARTIES

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

[X] 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:

The parties not included in the caption on the cover page are Substitute Trustees Doreen A. Strothman, Esquire, Virginia S. Inzer, Esquire, William K. Smart, Esquire, all of the Fisher Law Group. An additional party is GreenTree Servicing.

TABLE OF CONTENTS

	PAGE
OPINIONS BELOW	-i-
JURISDICTION	-ii-
TABLE Of AUTHORITIES	-iii-
STATEMENT OF THE CASE	-1-
REASONS FOR GRANTING THE WRIT	-4-
CONCLUSION	-8-

INDEX TO APPENDICES

APPENDIX A	DECISION OF MARYLAND COURT OF SPECIAL APPEALS
APPENDIX B	COURT OF SPECIAL APPEALS ORDER DENYING MOTION FOR ECONSIDERATION
APPENDIX C	ORDER AFFIRMING RATIFICATION OF SALE FROM CIRCUITE COURT FOR PRINCE GEORGE'S MARYLAND
APPENDIX D	ORDER DENYING PETITION FOR WRIT CERTIORARI FROM THE COURT OF APPEALS OF MARYLAND

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.

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[ ] is unpublished.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[ ] is unpublished.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 D 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 ______________________________ 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.

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. ___A______.

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 November 17, 2017. A copy of that decision appears at Appendix D.

[ ] A timely petition for rehearing was thereafter denied 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. ___A______.

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

TABLE OF AUTHORITIES CITED

CASES

PAGE

North v. North 102 Md. App.1, 13 (1994 .... -7-

Singh v. Bank of America, 2013 WL, 1858436 .... -5-

Svreck v. Rosenberg, 203 Md. App 705, (2012) .... -7-

STATUTES

U.S.C. § 1139 (c) (2012) 4

12 C.F.R. 1026.9 (2013) 4

12 C.F.R. § 1024.41 (c) (2013) 6

15 U.S.C. § 1639 (c) (2013) 7

CONSTITUTIONAL PROVISION

FOURTEENTH ADMENDMENT TO THE US CONSTITUTION 3

STATEMENT OF THE CASE

The instant Petition for Writ of Certiorari is taken from the Order of the Court of Appeals of Maryland denying review by certiorari the Orders of the Court of Special Appeals of Maryland and the Circuit Court for Prince George's County to confirm and ratify the sale of Appellant, Linda J. Pellum's ("Petitioner" or "Pellum") real property located at 5001 Temple Hill Road, Temple Hills, MD 20748 ("the property").

Capital One Home Loans, LLC loaned Pellum $315,000.00 to purchase the property on September 28, 2007. Pellum executed a Note and Deed of Trust in favor of Capital One secured by the property on the same date. The loan was assigned over a period of time to several lenders and servicers including Country Wide, Bank of America, Fannie Mae and GreenTree.

Pellum defaulted on her loan and GreenTree directed its Substitute Trustees to initiate foreclosure proceedings on the property. On July 23, 2014 Respondents Jeffrey B. Fisher et.al. ("Respondents" or "Substitute Trustees") filed an Order to Docket suit regarding the property, seeking foreclosure on the property with several attachments. The Substitute Trustees filed an Affidavit indicating that they had served Pellum with a copy of a Notice of Intent to Foreclose (NOI), prior to bringing the Order to Docket. Pellum did not receive the NOI prior to the order to docket suit. The Substitute Trustees filed a statement regarding Pre File Mediation which indicated that the Mortgage Servicer, GreenTree Financial Services, LLC ("GreenTree" or "lender") did not elect to participate in pre-file mitigation.

On or about January 4, 2015, Pellum applied for final loss mitigation before the Prince George's County Office of Administrative Hearings ("OAH") and completed the Final Loss Mitigation Application sent to her by GreenTree. A hearing was held by the OAH on March 6, 2016. The parties accepted Pellum's loan Application and agreed that Pellum should submit additional documentation by March 12, 2016 in order to complete the modification application. Counsel for GreenTree assured Pellum that the matter would not proceed to foreclosure, pending review of Petitioner's Application.

Pellum submitted a complete loan modification Application including the requested documentation within the two week period, although she had submitted these documents, previously to the Lender and the Respondents' counsel. Petitioner was given a contact number to the Representative of GreenTreee who was to process her modification Application within a 30-45 day period. On March 31, 2013, Petitioner received a letter from GreenTree informing Petitioner that her Application was complete and the review would take 30 days. A copy of letter from GreenTree is attached as Appendix 1.

Despite the pending loan modification application with the lender, Respondents sold Petitioner's property to Fannie Mae by Fannie Mae taking repossession of the property on May 19, 2015. Respondents stated that the property sold for $185,300.00 to Fannie Mae as the highest bidder. The Substitute Trustees made several submissions to the Court including Report of Sale, Holder's

Designation of Person to take Title, Affidavit of Purchaser, Memorandum of Sale of Realty and Included Auctioneers Certification.

On March 23, 2015 the Prince George's County Circuit Court entered an Order indicating that no agreement had been reached at Mediation and that the Substitute Trustees could proceed to foreclosure sale subject to Petitioner's right to file a motion to stay the sale and/or to dismiss the case, pursuant to Md. Rule 4-211. Pellum filed a Motion to Stay the Sale and/or to Dismiss the Case on April 23, 2016. On May 13, 2015 the Motion was denied by the trial Court. The Substitute Trustees alleged that it sold the property to Federal National Mortgage Association, Fannie Mae on May 15, 2015; however, the property was actually sold to Fannie Mae on May 19, 2015.

The trial court entered an Order on February 4, 2016 confirming and ratifying the sale. Pellum noted an appeal timely to the Court of Special Appeals of Maryland from the trial Court's Order ratifying the sale.

On February 25, 2016 Pellum filed a Motion for Reconsideration of the Order Ratifying the Sale and Exceptions to the Sale. Petitioner alleged *inter alia* that the failure of Respondents to send her a proper NOI initially and prior to the suit to docket and to continue with the foreclosure proceedings, despite the lender advising her that the foreclosure would stop pending her application violated her due process rights. Fourteenth Amendment to the U.S. Constitution. The trial court overruled Petitioner's Exceptions on April 25, 2016.

Petitioner filed an appeal as of right from the decision of the Prince George's County Circuit Court to the Court of Special Appeals of Maryland. On July 7, 2017 the Court of Special Appeals affirmed the decision of the Prince George's County Circuit Court ratifying the sale. Petitioner sought review timely by Writ of Certiorari to the Maryland Court of Appeals. On November 17, 2017 the Maryland Court of Appeals denied review.

REASONS FOR GRANTING THE WRIT

A. RESPONDENTS ARE GUILTY OF DUAL TRACKING

The Consumer Financial Protection Bureau (CFPB) was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, (went into effect as of January 10, 2014), issued mortgage servicing rules that restrict dual tracking.

Dual tracking occurs when a lender pursues foreclosure against a borrower while simultaneously considering him or her for a loan modification . . . U.S.C. § 1139 (c) (2012); 12. C.F. R. 1026.9 (2013). Dual tracking is prohibited by the Federal Government, under the Dodd-Frank Wall Street Reform and Consumer Protection Act as of January 2014. Under this law, a mortgage servicer cannot initiate foreclosure proceedings until the mortgage is more than 120 days delinquent, also the servicer cannot start a foreclosure process if a borrower submits a complete loss mitigation application, and the application is pending.

Foreclosure cannot start until, 1.) loss mitigation is denied; 2.) the borrower rejects a workout option; 3.) the borrower fails to comply with the terms of the deal (i.e. failure to make trial payments). If a loss mitigation application is submitted to the servicer after foreclosure has started but more than 37 days before the sale, the servicer **must** stop the foreclosure process until one or all of the above happens. *Sing v Bank of America,* 2013 WL 1852436.

Pellum argues that the Substitute Trustees engaged in dual tracking with respect to the mediation and the loan modification Application that all parties agreed for Pellum to submit. The pertinent facts are that Respondents agreed to participate in loss mitigation mediation with Petitioner and stated at the OAH hearing that Petitioner qualified for the HAMP Waterfall modification program. Pellum submitted the loan modification Application and she was assured in writing by Respondents that no steps to foreclosure would take place if she provided all pertinent documents to complete the Application within two weeks after the OAH hearing. Petitioner complied and she was sent a letter dated March 31, 2015 by GreenTree which indicated that her loan Application was complete and that it would take at least 30 days for GreenTree to review and make a decision on the Application. (Appendix 1).

The Substitute Trustee moved swiftly to take steps to complete foreclosure, while the 30 day period for GreenTree to review the Application ran. While the Application was pending the Substitute Trustees not only advertised the property for sale and alleged that they served Petitioner with a Notice of Foreclosure Sale, they sold the property before GreenTree had entered any written decision on Pellums loan modification Application.

The Lender gave Petitioner the run-around and the Representative handling Petitioner's Application has never available and eventually a new representative took over who was apparently uninformed about Pellum's case. The record is clear that throughout this process, Respondents never ceased their efforts to foreclose on the property. Pellum was effectively lulled into believing, based upon the Substitute Trustees' representations that no foreclosure sale would be carried out while her loan Application was pending. Pellum was never given any written notice of a denial of her modification Application by the lender nor was she advised of her right to appeal prior to the foreclosure sale. 12 C.F.R. § 1024.41(c) (2013).

Respondents effectively strung Petitioner along thinking that she was waiting a decision on a loan modification Application while it foreclosed on the property at the same time. Petitioner received a settlement from GreenTree for its failure to honor in-process loan modifications and tricking consumers into paying convenience fees. Appendix 2. The foreclosure sale process was non-competitive and deceptive (sold on a different date) and the result was that Pellum may be saddled with a huge deficiency judgment. The Substitute Trustees' and GreenTree's actions in light of those facts are clearly consistent with dual tracking and the foreclosure sale should be rendered void.

15 U.S.C. §1639(c); and 12 C.F.R. 1026.9 (2013) under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 prevents the practice of dual tracking which occurs when a Lender pursues foreclosure against a borrower while simultaneously considering him or her for a loan modification.

Pellum will argue below that the trial court committed error and abused its discretion when it denied without a hearing the Motion to Stay and/or Dismiss the Sale on grounds that the Motion was filed untimely and not excused for good cause pursuant to Md. Rule 4-211(a)(2) and (a)(3)(F) and that it did not state a valid defense or present a meritorious argument. The trial court further abused its discretion by ruling that the Motion fails to state factual and legal basis per Md. Rule 14-211 (a)(3)(B) (E.107-108) *Svreck v. Rosenberg,* 203 Md. App 705, 720-21, (2012); In re Adoption/Guardianship No. 3598, 347 Md.. 295, 312 (1997) (quoting *North v. North* 102 Md. App.1, 13 (1994). Petitioner will also argue that the lower court erred and abused its discretion when it overruled Petitioner's exceptions to the sale, given the facts above and in light of certain irregularities with the sale process, including failure to give proper notice of the NOI and notice of the sale, pursuant to Md. Rule 14-209(b) and 105.9 (b)(1) Real Property Article Annotated Code. Further, Respondents' proceeding with the modification process and the foreclosure sale simultaneously is consistent with dual tracking in prohibition of the Dodd-Frank Wall Street Reform and Consumer Protection Act enacted as of January 10, 2014. 151 U.S.C. Property §1639 (c) and 12 C.F.R. 1026.9.

CONCLUSION

Based upon the facts, issues and arguments presented above, Pellum prays that the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

Linda J. Pell

Linda J. Pellum
5001 Temple Hill Road
Temple Hills, MD 20748
(301) 523-3759