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SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

MARK MAZZA AND LISA MAZZA,

Petitioner,

vs.

BANK OF NEW YORK MELLON, FKA THE BANK OF NEW YORK, AS
TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWALT, INC.,
ALTERNATIVE LOAN TRUST 2006-0A10 MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2006-0A10,

Respondent.

On Petition for a Writ of Certiorari to
the United States Court of Appeals
For the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

Submitted By:

Mark Mazza and Lisa Mazza
1271 Farm Road
Berwyn, PA 19312
Email: mdmjob@verizon.net
Petitioners - Pro Se

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QUESTION PRESENTED

1. Whether the Third Circuit's affirmance of the District Court's denial of a Rule 4(a)(5) motion to extend the time to file a notice of appeal constitutes an abuse of discretion where Petitioners filed their notice of appeal two days late due to reasonable reliance on professional advice and a preplanned absence, where no prejudice resulted to the opposing party, and where the courts failed to meaningfully analyze all required equitable factors, including "good cause."

(Suggested Answer: Yes)

2. Whether a court abuses its discretion when it denies relief under Federal Rule of Appellate Procedure 4(a)(5) without properly applying and balancing the governing equitable standards, including both "excusable neglect" and "good cause," as required by precedent.

(Suggested Answer: Yes)

3. Whether there is a circuit split regarding the application of the Rule 4(a)(5) standards governing extensions of time to appeal—particularly concerning the weight given to reason for delay, prejudice, good faith, and litigant control—and whether this Court should resolve that inconsistency.

(Suggested Answer: Yes)

4. Whether the courts below erred in treating Petitioners' appeal as untimely where Federal Rule of Civil Procedure 58 requires that judgment be entered on a separate

document, and where the failure to comply with that requirement delays entry of judgment—and thus the time to appeal—by 150 days.

(Suggested Answer: Yes)

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PETITION FOR WRIT OF CERTIORARI

Petitioners Mark Mazza and Lisa Mazza respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit. This case presents a recurring and significant question about the proper application of Federal Rule of Appellate Procedure 4(a)(5) and the standard for excusable neglect. Petitioners' notice of appeal from a District Court judgment was filed two days late, due to reasonable reliance on professional advice and a

preplanned vacation. The District Court denied a motion to extend the time to appeal, finding that the late filing was not excusable, and the Third Circuit affirmed.

The denial disregarded controlling Supreme Court precedent, particularly *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993), which instructs courts to consider equitable factors—including control over the delay, length and impact of the delay, danger of prejudice, and good-faith conduct. Petitioners’ brief, two-day delay involved no prejudice to the bank, good faith, and circumstances largely beyond Petitioners’ control, yet the courts below refused relief.

Moreover, this case highlights a circuit split regarding the application of the excusable neglect standard in post-judgment Rule 4(a)(5) motions. Some circuits emphasize the reason for delay, allowing inadvertence or mistakes to qualify as excusable neglect where no prejudice exists; other circuits require a higher showing of good faith and impose stricter limits on counsel or party mistakes. Resolution by this Court is warranted to ensure uniform application of federal rules and safeguard meaningful access to appellate review.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Third Circuit (App. 1a–9a) is unpublished but is reported at *Bank of N.Y. Mellon v. Mazza*, No. 24-2794 (3d Cir. May 16, 2025). The District Court’s orders denying Petitioners’ motion to

extend the time to file a notice of appeal and the motion for reconsideration (App. 10a–25a) are reproduced in the Appendix.

JURISDICTION

The United States Court of Appeals for the Third Circuit entered judgment affirming the District Court on May 16, 2025. Petitioners file this petition within the time permitted by Supreme Court Rule 13.1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the Due Process Clause of the Fifth Amendment of the United States Constitution, which provides that no person shall “be deprived of life, liberty, or property, without due process of law.” Petitioners’ appeal concerns the denial of an extension to file a timely notice of appeal, following a Rule 60(b), (c), and (d) motion challenging an ejectment judgment, and raises questions about whether procedural rules were applied in a manner consistent with fundamental due process protections.

This case also implicates the Due Process Clause of the Fourteenth Amendment, which provides that no State shall “deprive any person of life, liberty, or property, without due process of law.” Petitioners’ claims arise in part from a state-court foreclosure judgment and subsequent state-law property enforcement proceedings that resulted in the deprivation of their property interests. Petitioners contend that procedural irregularities and nondisclosure of material judgments in those proceedings violated constitutional due process guarantees.

STATEMENT OF THE CASE

Petitioners Mark Mazza and Lisa Mazza are pro se litigants who have been engaged in litigation concerning their residential property for over a decade. The dispute originated in 2012, when BNYM filed a foreclosure action against Petitioners in Pennsylvania state court. The case was deferred for several years and ultimately proceeded to trial in January 2015, at which time a foreclosure judgment was entered against Petitioners. Following the foreclosure, Petitioners have been involved in continuous litigation challenging the bank's attempts to exercise control over the property and remove them from the premises.

In May 2023, the United States District Court for the Eastern District of Pennsylvania granted summary judgment in favor of BNYM in an ejectment action and entered judgment ordering Petitioners' removal from the property. Petitioners timely appealed, and the Third Circuit affirmed that judgment. See *Bank of N.Y. Mellon v. Mazza*, No. 23-2168, 2024 WL 4164622 (3d Cir. Sept. 12, 2024).

During the appellate proceedings, Petitioners discovered that BNYM had relied on a second judgment concerning the property that had been entered without court approval and in violation of Pennsylvania procedural rules. This second judgment was not disclosed in the District Court or in BNYM's initial appellate filings. It first appeared in April 2024 when BNYM filed a motion seeking leave to file a sur-reply brief in the Third Circuit and attached the second judgment as an exhibit. The document contained language materially different from and contrary to the operative foreclosure judgment previously relied upon. Petitioners allege that

this late disclosure deprived them of due process, prevented them from fully defending against summary judgment, and materially affected the outcome of the ejectment proceedings. The second judgment was nearly nine years old at the time of disclosure and had been used by BNYM to transfer the property deed and support their ejectment claim.

This second judgment had never been presented in the District Court or in any prior appellate filings before that date. Petitioners assert that Appellee withheld it because the document was self-serving and functioned to eliminate valid objections Petitioners could raise, particularly because ejectment could proceed only if the foreclosure judgment were treated as in rem rather than imposing broader personal liability. The concealment materially affected Petitioners' ability to defend themselves, contributed to the entry of summary judgment, and supports their position that Appellee cannot demonstrate prejudice from Petitioners' brief filing delay.

In response to this newly discovered evidence, Petitioners filed a Rule 60(b), (c), and (d) motion in the District Court seeking relief from the May 2023 judgments. Petitioners argued that the summary judgment and ejectment were manifestly unjust in light of the second judgment and other indications of possible misconduct by BNYM, including deliberate concealment of material evidence. The District Court denied the Rule 60(b), (c), and (d) motion by order entered June 4, 2024, which was mailed to Petitioners on June 5, 2024, creating additional confusion regarding the start of the 30-day appeal period under Federal Rule of

Appellate Procedure 4(a)(1)(A). Accounting for the July 4th holiday, the appeal was effectively due July 5, 2024.

The June 4, 2024 disposition did not comply with Federal Rule of Civil Procedure 58's separate-document requirement. Rather than issuing a standalone judgment, the court entered a combined order and memorandum, leaving uncertainty as to when judgment was "entered" for purposes of calculating the appellate deadline. Because Rule 58 is designed to create a clear, bright-line trigger for appeal timing, the absence of a separate judgment delayed the start of the appeal period as a matter of law. This procedural defect independently renders Petitioners' notice of appeal timely and demonstrates that dismissal based on timeliness rested on a legally erroneous premise.

Petitioners further note that the District Court's combined order and judgment issued on June 4, 2024, violates Federal Rule of Civil Procedure 58, which requires that judgments be set forth separately from opinions. Applying Rule 58 here would extend the appeal period by approximately 150 days, making Petitioners' notice of appeal timely. This procedural defect provides an alternative basis supporting relief from the District Court's order and further underscores the propriety of granting review.

Petitioners filed their notice of appeal on July 7, 2024, two days late, due to circumstances beyond their control, including:

- Reliance on advice from an out-of-state paralegal, who incorrectly advised that the three-day mailing extension under Federal Rule of Civil Procedure 6(d) applied to the notice of appeal;
- A preplanned vacation over the July 4th holiday, scheduled before the June 4th order, during which Petitioners had no access to files or legal resources; and
- The absence of any staff or office support to assist with filing.

Upon returning from vacation, Petitioners promptly filed the notice in the courthouse drop box, demonstrating diligence and good faith. Petitioners then filed a motion under Federal Rule of Appellate Procedure 4(a)(5) seeking an extension to perfect the appeal, arguing excusable neglect under the four factors articulated in *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993). Petitioners emphasized that:

- The delay was brief and reasonable;
- Petitioners acted in good faith;
- The delay resulted from circumstances largely beyond their control, including reliance on professional advice, vacation timing, and lack of staff; and
- There was no cognizable prejudice to BNYM, particularly given its prior concealment of the second judgment.

In denying Petitioners' motion for an extension of time, the District Court failed to properly apply the equitable framework required under *Pioneer* and

instead treated inadvertence and reliance on professional advice as categorically insufficient. By disregarding the absence of prejudice, the minimal delay, and Petitioners' demonstrated good faith, the court effectively substituted a rigid rule for the flexible, case-specific inquiry mandated by governing precedent. This misapplication of law constitutes an abuse of discretion.

The District Court denied the motion, finding that Petitioners' reliance on the paralegal's advice and inadvertence did not constitute excusable neglect and that BNYM was prejudiced by the late filing. The court also applied a heightened "clear error" standard in denying reconsideration, equating the motion with a Rule 59(e) motion, despite the motion being filed under Rule 60(b),(c), and (d).

The court compounded this error when it applied a heightened "clear error" reconsideration standard ordinarily associated with Rule 59(e), despite Petitioners' motion being brought under Rule 60(b), (c), and (d). Applying the wrong legal standard is itself an abuse of discretion and taints the resulting decision, particularly where the ruling foreclosed appellate review based solely on a minor procedural delay.

Petitioners' appeal to the Third Circuit was likewise unsuccessful. The Third Circuit affirmed the District Court, holding that the delay did not constitute excusable neglect or good cause and emphasizing Petitioners' control over the delay and their experience as pro se litigants. The court did not fully consider the equitable factors under *Pioneer* nor the lack of prejudice given the bank's concealment of the second judgment.

The Rule 58 violation is directly relevant to the excusable neglect analysis because uncertainty about when judgment was entered contributed to Petitioners' reasonable confusion regarding the deadline. Where court-created ambiguity affects filing timing, equitable principles strongly favor relief. The lower courts' failure to account for this circumstance further demonstrates that discretion was exercised under an incorrect legal framework.

This case raises issues of national importance, including the proper application of the excusable neglect standard under Rule 4(a)(5), particularly where minor delays arise from reliance on professional advice, brief absences, or other circumstances beyond a litigant's control. The inconsistent application of Pioneer factors among the circuits has created uncertainty, as some circuits excuse inadvertence or reliance on professional guidance when no prejudice exists, while others impose a stricter standard. This case provides an ideal vehicle for Supreme Court review to ensure uniformity, protect litigants' access to appellate review, and safeguard fundamental due process and property rights.

REASONS FOR GRANTING THE PETITION

This Court should grant the writ of certiorari to review the Third Circuit's affirmance of the District Court's denial of Petitioners' motion for an extension of time to file a notice of appeal under Federal Rule of Appellate Procedure 4(a)(5). The decision below involves three compelling reasons for review: (1) abuse of discretion in denying relief despite excusable neglect; (2) misapplication of the equitable factors set forth in *Pioneer Investment Services Co. v. Brunswick*

Associates Ltd. Partnership, 507 U.S. 380 (1993); and (3) an acknowledged circuit split regarding the standard for excusable neglect in post-judgment appeal filings.

I. The Decision Highlights a Circuit Split on Excusable Neglect

This case presents an issue of national importance regarding the proper interpretation and application of the excusable neglect standard under Federal Rule of Appellate Procedure 4(a)(5), as articulated in *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993). The Third Circuit's decision underscores a clear split among the federal circuits in evaluating what constitutes excusable neglect and when courts may extend appellate filing deadlines. This split creates uncertainty for litigants nationwide, particularly in cases involving post-judgment Rule 60(b), (c), and (d) motions, short filing delays, reliance on professional advice, or inadvertent errors.

a. Circuit variations in applying Pioneer factors

The Supreme Court in *Pioneer* enumerated four factors courts must weigh in determining excusable neglect: "In determining whether neglect is 'excusable,' courts may consider all relevant circumstances surrounding the party's omission, including: (1) the danger of prejudice to the other party, (2) the length of the delay and its potential impact on judicial proceedings, (3) the reason for the delay, including whether it was within the reasonable control of the movant, and (4) whether the movant acted in good faith." *Pioneer*, 507 U.S. at 395. These factors are discretionary, and courts have disagreed on how to apply them.

i. The Second, Eighth, Seventh, Ninth, Tenth, and Eleventh Circuit Favoring a Flexible, Petitioner-Friendly Standard

Several circuits permit short delays due to inadvertence, reliance on professional advice, or temporary absences to constitute excusable neglect, particularly where there is no prejudice to the opposing party. The Second Circuit in *American Alliance Insurance Co., Ltd. v. Eagle Insurance Co.*, 92 F.3d 57, 61 (2d Cir. 1996) recognizes that whether neglect is excusable may turn on whether the conduct is “willful or merely negligent.” Negligent delays may be excused, especially absent prejudice. Likewise, the Eighth Circuit in *Deloach v. Standard Insurance Co.*, 224 F. Supp. 3d 823, 835–36 (E.D. Mo. 2016) emphasizes that “The reason for the delay... is the key consideration” and excuses inadvertent mistakes when equitable factors favor the movant. The Seventh, Ninth and Eleventh Circuits operate under the concept that failure to equitably analyze Pioneer factors constitutes abuse of discretion as discussed in *Advanced Estimating Systems v. Timothy Riney*, 1996 WL 469208, at *2 (11th Cir.) which supports the position of granting extensions for minor delays due to reliance on professional advice or preplanned travel.

The Tenth Circuit also discussed in *United States v. Vickie June Hogg*, 107 F.3d 881, 884 (10th Cir. 1997) that Congress intended courts to accept late filings caused by “inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party’s control”. The court notes the existence of circuit variation in how the factors are applied. See also *Stutson v. United States*, 516 U.S.

193, 196 (1996) (acknowledging multiple circuits have applied Pioneer to Rule 4 filings).

The Second and Eighth Circuits often treat the reason for the delay as the key consideration, allowing late filings where inadvertence or reliance on professional advice occurs, particularly if the opposing party cannot show substantial prejudice. See *American Alliance Insurance Co., Ltd. v. Eagle Insurance Co.*, 92 F.3d 57, 61 (2d Cir. 1996) (acknowledging that whether neglect is excusable may depend on whether the conduct is “willful or merely negligent”); *Deloach v. Standard Insurance Co.*, 224 F. Supp. 3d 823, 835–36 (E.D. Mo. 2016) (“The reason for the delay... is the key consideration” in assessing excusable neglect under *Pioneer*). These circuits would likely have excused Mazza’s two-day delay, reliance on an out-of-state paralegal, and timing around a preplanned vacation with no prejudice to the bank.

ii. The First and Fifth Circuit Are The Only Circuits That Support a Stricter Standard Like The One The Third Circuit Applied Against Petitioners

By contrast, the First and Fifth Circuits apply a more stringent standard, generally requiring a showing of good faith, diligence, and absence of prejudice, and will not count simple attorney or paralegal carelessness as excusable. See *Dimmitt v. Ockenfels*, 407 F.3d 21, 24 (1st Cir. 2005) (“Counsel’s inattention or carelessness... normally does not constitute ‘excusable neglect’”); *Norman L. Birl v. W.J. Estelle, Jr.*, 660 F.2d 592, 594 (5th Cir. 1981) (excusable neglect requires “a clear showing that the circumstances causing the delay were unique”). This is the

type of strict approach utilized by the Third Circuit by refusing to recognize the circumstances of the Petitioners as excusable neglect.

iii. Implications of the Split

The Third Circuit, by denying Mazza's motion, aligned with the stricter approach, emphasizing procedural control, prior pro se experience, and the late filing while disregarding equitable factors, including **good-faith reliance** on an out-of-state paralegal, minimal delay of two days, and no prejudice to the bank, particularly given the bank's concealment of the second judgment affecting the underlying ejectment. This creates **uncertainty and inequitable results** for litigants nationwide. Minor procedural errors, inadvertence, or reliance on professional advice can be penalized in some circuits but excused in others.

The Seventh, Ninth, and Eleventh Circuits have applied a more flexible approach, granting extensions for short, excusable delays resulting from reliance on professional advice or temporary absences due to travel or holidays. See *Advanced Estimating Systems v. Timothy Riney*, 1996 WL 469208, at *2 (11th Cir.) (failure to equitably analyze *Pioneer* factors constitutes abuse of discretion). The Tenth Circuit explicitly recognizes the existence of divergent approaches: "By permitting courts to accept late filings due to excusable neglect, Congress plainly contemplated that the courts would be permitted, where appropriate, to accept late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party's control." *United States v. Vickie June Hogg*, 107 F.3d 881, 884 (10th Cir. 1997) (citing *Pioneer*, 507 U.S. at 388; see also *Stutson v. United States*,

516 U.S. 193, 196 (1996) (noting that six courts of appeals have applied the *Pioneer* standard in Rule 4 cases)).

b. Third Circuit's rigid application creates inequitable results

In affirming the District Court's denial of Petitioners' motion for extension, the Third Circuit adopted a rigid procedural approach that failed to adequately weigh all four *Pioneer* factors. The court discounted:

- Petitioners' reasonable reliance on professional advice from an out-of-state paralegal;
- The short, two-day delay immediately following a preplanned July 4 holiday vacation; and
- The lack of actual prejudice, given that the bank had previously concealed a second judgment affecting the underlying ejectment.

By emphasizing procedural technicalities over equitable analysis, the Third Circuit's approach conflicts with the more flexible approaches of the Second, Eighth, Seventh, Ninth, and Eleventh Circuits, which would likely have excused a similarly minor delay under analogous circumstances.

c. National importance and need for Supreme Court clarification

This circuit split has significant consequences beyond the parties. Petitioners are challenging the deprivation of property rights in an ejectment case and the broader implications of a bank's concealment of critical evidence. A rigid interpretation of excusable neglect threatens to:

- Deny pro se and other litigants access to appellate review when minor delays occur,
- Reward parties who engage in concealment or misconduct by preventing timely review, and
- Create uncertainty regarding when reliance on professional advice or brief absences may justify relief from filing deadlines.

Clarification from this Court is therefore essential to harmonize the application of *Pioneer* across the circuits, particularly in cases where:

- The delay is minimal,
- There is reasonable reliance on counsel or professional guidance, and
- The opposing party suffers no substantive prejudice.

Petitioners' case provides an ideal vehicle for addressing this issue because it involves a short, excusable delay; good-faith reliance on professional guidance; a post-judgment Rule 60(b), (c), and (d) motion alleging misconduct; and an appellate ruling that conflicts with decisions in multiple other circuits. Petitioner's were effectively prevented from addressing and contesting concealed evidence before and at the time of the motion for summary judgment filing which was a denial of due process and a deprivation of appellants due process rights. Resolution by this Court will ensure uniform application of excusable neglect principles and protect litigants' substantive rights to appeal.

II. The District Court and Third Circuit Abused Their Discretion By Failing To Fully Apply The Pioneer Factors

The District Court and the Third Circuit abused their discretion in denying Petitioners' motion to extend the time to file a notice of appeal under Federal Rule of Appellate Procedure 4(a)(5). Petitioners' notice of appeal was filed only two days late, on July 7, 2024, immediately upon their return from a preplanned vacation. The delay was caused by circumstances largely beyond their control, including reliance on the advice of an out-of-state paralegal who mistakenly represented that the three-day mailing rule under Federal Rule of Civil Procedure 6(d) applied to their notice of appeal. Petitioners acted in good faith, had no access to legal resources while on vacation, and promptly filed the notice upon returning.

Despite these mitigating circumstances, the District Court denied the motion, accepting the bank's argument that the late filing caused prejudice. This finding was factually and legally unsupportable. The alleged prejudice arose solely from Petitioners raising evidence of possible fraud and concealment by the bank, including the disclosure of a second judgment used to transfer the property deed and support the ejectment. BNYM had actively withheld this second judgment from the District Court and from the appellate record, thereby preventing Petitioners from fully contesting the original summary judgment. Any claimed prejudice to the bank is therefore minimal, if not entirely illusory, since the bank's own conduct created the circumstances necessitating the appeal.

The Third Circuit compounded this abuse by applying an improper "clear error" standard, suggesting that denial of Petitioners' motion for reconsideration under Rule 60(b), (c), and (d) should be evaluated like a Rule 59(e) motion. This was

legally erroneous. Rule 60(b), (c), and (d) motions involve equitable relief for post-judgment errors, including newly discovered evidence or fraud, and must be evaluated under equitable principles. By imposing a heightened standard and emphasizing procedural strictness over equitable considerations, the courts effectively denied Petitioners' access to appellate review and elevated minor procedural delay over the substantive right to challenge a judgment obtained in part through concealment of critical evidence.

Moreover, Petitioners' reliance on professional advice was reasonable. Courts have recognized that reasonable reliance on counsel or professional advice can constitute excusable neglect under *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380, 397 (1993). The District Court and Third Circuit improperly discounted this factor, asserting that ignorance of the rules or mistakes in their interpretation are insufficient without considering the broader equities, including Petitioners' pro se status, reliance on professional guidance, and good-faith conduct.

Finally, the denial of an extension was especially prejudicial to Petitioners because the late notice sought to appeal a Rule 60(b), (c), and (d) motion challenging post-judgment misconduct by the bank, including deliberate concealment of a second judgment. The equitable principles underlying Rule 4(a)(5) and Rule 60(b), (c), and (d) exist precisely to allow minor, excusable delays to be excused in circumstances like these, where strict adherence to procedural deadlines would deny justice and perpetuate an unjust result. The lower courts' rigid application of

procedural rules, without a full assessment of the equities and all *Pioneer* factors, constitutes a clear abuse of discretion warranting review by this Court and even the third circuit itself. The Third Circuit itself has held that failure to properly apply the Pioneer factors constitutes an abuse of discretion. In *Ragguette v. Premier Wines & Spirits*, 691 F.3d 315 (3d Cir. 2012), the court concluded that a district court abuses its discretion when it disposes of a Rule 4(a)(5) motion “without an opinion, without a reason, and more importantly, without reference to the Pioneer four-factor balancing standard.” *Id.* at 157 (quoting *In re Diet Drugs Prods. Liab. Litig.*, 401 F.3d 143, 154 (3d Cir. 2012)). That rule aligns with Supreme Court precedent requiring courts to actually perform the equitable balancing Pioneer mandates, not merely recite conclusions. Here, as in *Ragguette*, the lower court failed to meaningfully analyze the Pioneer factors and instead relied on conclusory reasoning, which independently establishes an abuse of discretion warranting reversal. But instead of reversing the Third Circuit has effectively adopted a whimsical standard where it picks and chooses which cases it is lenient with and which cases it is strict with; this is unacceptable in the context of due process. .

This Court has made clear that the excusable-neglect inquiry is an equitable one requiring consideration of all relevant circumstances. As the Supreme Court explained in *Pioneer Inv. Servs. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380, 123 L. Ed. 2d 74, 113 S. Ct. 1489 (1993), the Supreme Court held that the rule authorizing courts to accept late filings where the failure of a party to act is the result of ‘excusable neglect’ contemplates that courts are permitted, where

appropriate, to accept late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond a party's control. At the outset, the Supreme Court pronounced that the inquiry is essentially equitable, and necessitates considering a situation's totality.

Consistent with that directive, the Third Circuit has held that courts must actually analyze all Pioneer factors and explain their reasoning. In *In re Cendant Corp. PRIDES Litigation*, 234 F.3d 166 (3d Cir. 2000), the court found an abuse of discretion where the district court's opinion denying relief fails to address three of the four required Pioneer factors. The court further held without the District Court's resolution of unsettled factual disputes, we are unable to determine whether the District Court properly exercised its discretion. It was therefore remanded for fact-finding and a thorough, systematic, application of the law to the facts, emphasizing that district courts must provide sufficient explanation to permit appellate review for abuse of discretion.

The Third Circuit reiterated this principle in *In re Orthopedic Bone Screw Products Liability Litigation*, 246 F.3d 315 (3d Cir. 2001), holding that a court commits legal error when it treats a single factor as dispositive. There, the court ruled that by making the medical status of the claimants in May of 1997 dispositive of their excusable neglect claims, the Court misapplied the holding of Pioneer that excusable neglect is an 'elastic concept' and is 'not limited strictly to omissions caused by circumstances beyond the control of the movant.' Pioneer, 507 U.S. at

392. Failing to inquire beyond the health status of the claimant in determining the reason for the delay was error.

These decisions establish a settled rule: **a court must evaluate all Pioneer factors and conduct a holistic equitable analysis.** Failure to do so is not merely a discretionary judgment call—it is legal error. This Court has confirmed the consequence of such an error. In *Koon v. United States*, 518 U.S. 81 (1996), the Court held a district court by definition abuses its discretion when it makes an error of law. Accordingly, where a court fails to analyze all Pioneer factors, treats a single factor as dispositive, or omits relevant circumstances from its equitable analysis, it commits legal error and therefore abuses its discretion as a matter of law. Because both lower courts failed to conduct the required full Pioneer analysis, their rulings cannot stand under this Court's precedents. Review is warranted to correct that legal error and to reaffirm that excusable-neglect determinations must follow the equitable framework mandated by Pioneer.

III. Misapplication of the Pioneer Factors

The Third Circuit's decision below reflects a misapplication of the equitable factors set forth in *Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership*, 507 U.S. 380 (1993), which this Court has established as the controlling standard for determining whether excusable neglect justifies relief from procedural deadlines. The lower courts failed to properly evaluate all four factors and ignored Petitioners' unique circumstances, resulting in an abuse of discretion.

a. Control over the delay

The first Pioneer factor considers whether the delay was within the party's reasonable control. Petitioners' late filing was caused by a combination of circumstances beyond their control. They relied in good faith on an out-of-state paralegal who advised that Rule 6(d)'s three-day mailing extension applied to the filing of a notice of appeal. Petitioners, pro se litigants, reasonably relied on professional guidance for procedural interpretation in a complex post-judgment context. Further, the notice deadline coincided with a preplanned vacation, which prevented timely access to files and legal resources. The lower courts treated these circumstances as within Petitioners' control, disregarding the fact that reliance on professional advice and absence from the office due to a pre-scheduled vacation are precisely the type of reasonable circumstances contemplated under *Pioneer*.

b. Length of the delay and impact on the proceedings

The second factor evaluates the duration of the delay and its effect on judicial proceedings. Petitioners' notice of appeal was filed only two days late, immediately upon returning from vacation. This minimal delay had no substantive effect on the proceedings, as the underlying issue involved relief from a judgment obtained through the bank's concealment of a second state-court judgment. Any claimed impact on the proceedings was entirely speculative, and the courts below failed to weigh this factor equitably, instead focusing rigidly on the procedural lapse. Such a narrow interpretation contradicts *Pioneer*, which emphasizes equitable discretion and context, particularly when the delay is short and promptly remedied.

c. Prejudice to the opposing party

The third factor examines whether the delay prejudiced the opposing party. The District Court and Third Circuit concluded that the bank was prejudiced by the late filing. However, this conclusion ignores the central equities of the case. The bank itself withheld material evidence—specifically, a second judgment used to transfer the deed and effectuate ejectment—preventing Petitioners from fully defending against the original summary judgment. Petitioners’ Rule 60(b), (c), and (d) motion, and the subsequent appeal, sought to remedy this injustice. The delay did not impair the bank’s ability to respond or defend; instead, the bank’s prior concealment created the procedural confusion necessitating the late filing. Denying relief on the basis of alleged prejudice, while ignoring the bank’s own misconduct, constitutes a misapplication of Pioneer’s prejudice factor and undermines equitable review.

d. Good-faith conduct

The fourth factor focuses on the movant’s good faith. Petitioners have been litigating pro se for over 10 years and have diligently pursued their claims in both federal and state courts. They promptly filed the notice of appeal upon returning from vacation, demonstrating diligence and good faith. The reliance on an out-of-state paralegal for procedural guidance was reasonable under the circumstances. The lower courts erred by minimizing this factor, applying a rigid interpretation of excusable neglect that disregarded the Petitioners’ longstanding commitment to good-faith litigation and their prompt remedial action.

e. Failure to consider all factors in an equitable manner

Taken together, the lower courts' analysis failed to consider the Pioneer factors holistically. Instead, they:

- Emphasized procedural rules over equitable circumstances,
- Applied a heightened "clear error" standard inappropriate for a Rule 60(b), (c), and (d) context,
- Treated minimal delay and reliance on professional guidance as per se inexcusable, and
- Accepted the bank's unsubstantiated claim of prejudice without evaluating the equities of the concealed second judgment.

By ignoring these critical considerations, the Third Circuit misapplied the Pioneer framework and elevated minor procedural errors over substantive justice. The equitable principles underlying both Rule 4(a)(5) and Rule 60(b), (c), and (d) exist to prevent precisely this type of rigid, unjust outcome. Petitioners' situation—short, excusable delay, reliance on professional guidance, lack of actual prejudice, and good-faith conduct—fits squarely within the circumstances that *Pioneer* contemplates as excusable neglect.

Finally, the inconsistent application of Pioneer across circuits highlights the broader importance of this case. While the Third Circuit denied relief, other circuits—including the Second, Eighth, Tenth, Seventh, and Eleventh—have allowed excusable neglect for similar delays arising from inadvertence, professional

reliance, or temporary absence due to travel or holidays. This divergence demonstrates the need for this Court's intervention to clarify the proper application of Pioneer, particularly in cases involving post-judgment motions, Rule 60(b), (c), and (d) relief, and minor procedural delays.

IV. The Appeal Was Timely Because Rule 58 Was Not Followed

Federal Rule of Civil Procedure 58 requires that a judgment be set forth on a separate document, and this Court has made clear that this requirement is not discretionary or flexible—it is mandatory and mechanical. In *United States v. Indrelunas*, 411 U.S. 216 (1973), this Court explained that Rule 58's separate-document rule was intended to eliminate uncertainty about appellate deadlines and must be strictly enforced. The Court held that provision is, as Professor Moore states, a 'mechanical change' that must be mechanically applied in order to avoid new uncertainties as to the date on which a judgment is entered.

The Court further emphasized that strict adherence is necessary because the date of entry of judgment has "a most important bearing on—among other things—the time for appeal." *Id.* Rule 58 therefore establishes a bright-line procedural safeguard designed to ensure litigants know precisely when the clock begins to run. Where a district court fails to comply with Rule 58's separate-document requirement, the time to appeal does not begin upon issuance of the opinion or combined order. Instead, the Federal Rules supply a default rule: judgment is deemed entered only after 150 days have elapsed.

As the Seventh Circuit explained in *Brown v. Fifth Third Bank*, 730 F.3d 698 (7th Cir. 2013), Federal Rule of Civil Procedure 58 requires that a judgment by a district court be set forth in a separate document. If it is not, then judgment is deemed to be entered 150 days after the court's final decision, Fed.R.Civ.P. 58(c)(2)(B); see also Fed. R.App. P. 4(a)(7)(A)(ii)—in which event the appeal in this case is timely; otherwise it is not.

Petitioners contend that the district court's June 4, 2024 disposition combined reasoning and judgment in a single document rather than issuing a separate judgment as Rule 58 requires. Under *Indrelunas*, that defect cannot be excused or treated as harmless because Rule 58 must be "mechanically applied." And under *Brown*, the consequence of noncompliance is that judgment is deemed entered only after 150 days, not on the date of the combined order.

If Rule 58 was not satisfied, Petitioners' notice of appeal—filed well before the expiration of that 150-day period—was timely as a matter of law. The lower courts' contrary conclusion rests on an incorrect assumption about when the appeal period began. Because "[a] district court by definition abuses its discretion when it makes an error of law," *Koon v. United States*, 518 U.S. 81, 100 (1996), the failure to apply Rule 58's mandatory timing framework independently establishes reversible error.

This question is certworthy because it concerns a recurring jurisdictional issue governing when appellate rights expire. Where courts fail to enforce Rule 58's mechanical rule, litigants risk forfeiting appeals based on uncertainty the Rule was

specifically designed to eliminate. Supreme Court review is warranted to reaffirm that Rule 58 must be applied exactly as written and that appellate deadlines cannot begin until its requirements are satisfied.

V. National Importance

This case raises questions of national significance regarding the balance between procedural rules and substantive rights, particularly in post-judgment motions involving property rights and Rule 60(b), (c), and (d) relief. The denial of Petitioners' motion for an extension to file a notice of appeal highlights the real-world consequences of rigid procedural application and the inconsistent treatment of excusable neglect across the federal circuits.

At the heart of this case is the deprivation of Petitioners' real property rights. The underlying ejectment judgment was entered against Petitioners, and a second, previously undisclosed judgment was used to transfer the property deed and facilitate the bank's ejectment action. The concealment of this second judgment directly impacted Petitioners' ability to defend against summary judgment and pursue appellate review. By denying a brief extension to file a notice of appeal, the lower courts effectively denied Petitioners access to meaningful review, resulting in a loss of property rights. The principles at stake affect millions of Americans who may face similar issues involving foreclosure, ejectment, or post-judgment relief.

As detailed above, there is a clear circuit split on excusable neglect. Some circuits allow minor delays caused by inadvertence, reliance on professional advice, or brief absences to justify extensions, while others adopt a strict, procedural approach. This inconsistency creates nationwide uncertainty for litigants, particularly pro se parties, small businesses, and those navigating post-judgment relief under Rule 60(b), (c), and (d). Petitioners' case provides a vehicle for clarifying the proper application of Pioneer's four-factor equitable analysis in federal appellate practice.

Petitioners have been litigating pro se for over 10 years and rely substantially on paralegal assistance for procedural guidance. The Third Circuit's rigid denial underscores the disproportionate burden on self-represented litigants who must comply with strict filing deadlines while navigating complex procedural rules. A ruling from this Court would establish clear guidance on when excusable neglect can justify relief, ensuring fairness for litigants nationwide who face circumstances similar to Petitioners'—short, excusable delays with no real prejudice to opposing parties.

Finally, this case implicates broader concerns of judicial equity. Post-judgment Rule 60(b), (c), and (d) motions exist to provide a remedy where justice would otherwise be defeated by newly discovered evidence, fraud, or procedural irregularities. The bank's concealment of a second judgment and the courts' refusal to consider equitable factors in extending the appeal deadline illustrate the consequences of an overly rigid approach. The Court's review is necessary to ensure

that procedural rules do not supersede substantive justice, particularly in cases involving property deprivation, fraud, or misconduct by one of the parties.

The third circuit referenced a lack of good faith, footnote one on page four of the opinion because Mark Mazza is a former attorney dating back to 2000. This conclusion lacks merit for several reasons. Appellant has not practiced law for over 26 years and last worked at a law firm 19 years ago. At the law firm appellant was not involved with nor assisted in any appeals at the federal or state courts. Before the year 2000 appellant does not recall any filings or involvement in federal appellate courts. Due to health issues and memory problems appellants relied substantially on the assistance of paralegals in pro se matters. Other than Google searches of a general nature, appellants have relied on skill and experience of paralegals with knowledge of federal court matters at all levels. At 69 appellant is lacking in interpreting the law and cannot analyze to the extent necessary. This has culminated in failure to understand rules of the Court including for notices of appeal, with even more profound difficulties in interpreting caselaw and whether cases are relevant to the issues at hand.

This case is not merely a dispute between individual parties—it raises questions of national importance about the intersection of equitable relief, excusable neglect, and access to appellate review. A decision from this Court will provide clarity for lower courts, protect litigants' fundamental rights, and harmonize the application of excusable neglect across the federal judiciary, ensuring that minor

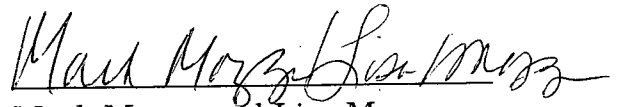
procedural lapses do not result in permanent deprivation and loss of property of rights. Appellant's request reversal and remand for further proceedings

X. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the petition for a writ of certiorari to review the judgment of the Third Circuit.

DATED March 2, 2026

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Mark Mazza and Lisa Mazza", written over a horizontal line.

Mark Mazza and Lisa Mazza
1271 Farm Road
Berwyn, PA 19312
Email: mdmjob@verizon.net
Petitioners - In Pro Se