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~~No. 25A1349~~

IN THE SUPREME COURT OF THE UNITED STATES

JOSEF M. LAMELL, *Petitioner*

v.

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CSMC MORTGAGE-BACKED TRUST 2007-3, AND PHH MORTGAGE CORPORATION, *Respondents*.

Application for Stay Pending Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

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To the Honorable Samuel A. Alito Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the Court of Appeals for the Fifth Circuit:

Josef M. Lamell, *pro se*
Petitioner

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Pursuant to Supreme Court Rules 22, 29, and 33.2, and 28 U.S.C. § 2101(f), Petitioner Josef M. Lamell ("Lamell") respectfully applies to this Court to preserve the status quo pending the submission of and ultimate disposition of his upcoming *Petition for Writ of Certiorari* by granting a stay sufficient to prevent enforcement of the underlying judgments, orders and foreclosure proceedings pursuant thereto or such other appropriate relief as the Court deems just and proper.

Petitioner seeks a stay of enforcement in respect of the January 29, 2026 *Memorandum Opinion and Order* and *Final Judgment* of the District Court, the March 16, 2026 *Opinion* of the Court of Appeals, and the foreclosure sale set for August 4, just fourteen days from now.

I. PROCEDURAL BACKGROUND

1. The district court issued its *Memorandum Opinion and Order* and *Final Judgment* on January 29, 2026. (Exhibit B)
2. The Court of Appeals issued its *Opinion* on March 16, 2026. (Exhibit C)
3. Petitioner's application for extension of time to file *a Petition for Writ of Certiorari* was granted by this Court's letter *Order* of June 8, 2026 setting September 20, 2026 as the new deadline. (Exhibit D)
4. A Notice of Foreclosure pursuant to Respondents' Deed of Trust dated September 25, 2006 setting a sale date of August 4 was received by Petitioner on July 6. (Exhibit A)

5. *Petitioner's Motion for Stay Pending Petition for Writ of Certiorari* was filed first as required in the Fifth Circuit Court of Appeals on July 9, 2026. (Exhibit E)
6. The Court of Appeals' *Order* denying *Petitioner's Motion for Stay* issued on July 17, 2026. (Exhibit F)

II. ARGUMENT

An applicant for a stay pending disposition of a *Petition for Writ of Certiorari* must ordinarily demonstrate that the petition presents substantial questions warranting review, that irreparable harm is likely absent interim relief, and that the balance of equities and the public interest favor preservation of the status quo. This application satisfies those requirements.

A. The Condition Precedent for the Filing of this Application Has Been Satisfied.

1. In accordance with Supreme Court Rule 23(3) requiring that relief must first be sought in the court below, Petitioner has done so. Now that his request for stay in the Fifth Circuit has been denied, he directs his application for stay to this Court.

B. The Petition Presents Substantial Questions.

2. The procedural posture of this case is unusual because the district court effectively determined that the limitations period for foreclosure had expired, while nevertheless authorizing Respondents to proceed

with foreclosure under the original 2006 Deed of Trust as if limitations had not expired. The tension this creates is reflected in the Questions Presented in Petitioner's forthcoming *Petition for Writ of Certiorari*. In that context, Respondents' posting of Petitioner's home for foreclosure on August 4 (Exhibit A) under the original Deed of Trust brings to an immediate and practical head the substantial questions being raised in his *Petition for Writ of Certiorari* concerning:

a. whether Respondents possess authority under governing Texas law to enforce the settlement agreement and the Deed of Trust; and
b. whether the Deed of Trust remained legally enforceable after expiration of limitations.

3. These questions further implicate the identification of governing Texas-law predicates, allocation of the burden of proof, principles of federalism and the proper methodology by which federal courts recognize and enforce state-created property and contract rights.[1]

4. Petitioner's upcoming *Petition for Writ of Certiorari* presents substantial questions concerning the interaction between Texas property law, federal adjudication, and the continuing enforceability of

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[1] *See Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938) (establishing that in federal courts, except in matters governed by the Constitution or by acts of Congress, the law to be applied in any civil case is the law of the state.)

the asserted lien. For the reasons developed in the forthcoming petition, there is a reasonable probability that the Questions Presented will warrant review and a fair prospect that the judgment below will be reversed.[2]

C. The Need for the Issuance of a Stay is Urgent.

5. The instrument to be enforced in Respondents' upcoming foreclosure sale is the very same Deed of Trust that, pursuant to the findings of this Court establishing that limitations expired, had become void under Texas law. Whether Respondents may lawfully proceed with foreclosure under that Deed of Trust presents one of the central questions that the forthcoming *Petition for Writ of Certiorari* asks this Court to review. With foreclosure imminent, preserving the status quo pending that review is therefore appropriate and urgent.

6. Unless stayed, the legal consequences of a presumptive foreclosure would become extraordinarily difficult to unwind if this Court were to conclude in later proceedings that Respondents' Deed of Trust was in fact still void and not enforceable under Texas law.

[2] *See Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) summarizing the usual considerations governing an application for a stay pending certiorari.

D. The Balancing of Harms Supports the Relief Requested.

7. The Harm to Petitioner: Foreclosure is generally acknowledged to be a harsh remedy with extreme consequences. Once sold, the property cannot realistically be restored to Petitioner. The resulting financial loss and emotional harm for Petitioner portends to be devastating.

8. The Harm to Respondents: By contrast, the harm to Respondents from granting the relief requested would likely be vastly lower in that:

- maintaining the status quo for a limited period preserves Respondents' position,
- As reflected in the county appraisal district's notice, the property has substantial value (Exhibit G) and continues to exist as security,
- Petitioner's property is in an area of steadily increasing values. Its market value can be reasonably expected to increase in line with the surrounding market,
- Petitioner's property is being maintained and preserved in the interim,
- Interest would continue to accrue under the judgment,
- No comparable irreparable or irrecoverable injury is shown from a temporary delay.

9. As further described in Petitioner's Affidavit (Exhibit H), the property is not merely his residence. It has also long served as a venue for musical performances and creative productions supporting local artists at no cost to them. Foreclosure would permanently disrupt those established uses in ways not readily compensable by monetary relief.

10. Because Petitioner seeks only to preserve the status quo pending review, the balance of harms favors granting the relief requested.

E. The Relief Sought Supports the Public Interest.

11. The public interest favors orderly judicial review. Granting the relief sought would be supportive of that interest. A stay would preserve the status quo while this Court determines whether the opinions below properly identified the governing Texas law authorizing Respondents' continuing lien rights. Absent a stay, foreclosure is likely to force the same unresolved questions into possible further proceedings concerning the continuing enforceability and secured status of the asserted lien where those questions can ultimately receive definitive review.

F. No Prejudice to Respondents.

12. The requested relief will not prejudice Respondents. Indeed, preservation of the status quo would serve Respondents' interests as well as those of Petitioner while it advances the orderly administration of justice.

13. This application is made in good faith, seeks no substantive relief against Respondents, and presents no prejudice to them.

III. RELIEF REQUESTED

14. Petitioner respectfully requests that this Court preserve the status quo pending disposition of his timely-filed *Petition for Writ of Certiorari* by granting a stay, or such other appropriate interim relief as the Court deems just and proper, sufficient to prevent enforcement of the judgment and any foreclosure and collection proceedings undertaken pursuant thereto until the Supreme Court has had a reasonable opportunity to consider Petitioner's forthcoming *Petition for Writ of Certiorari*.

IV. CONCLUSION

15. Respondents' scheduling of a foreclosure sale set for August 4, 2026 creates an urgent and immediate need for the interim relief Petitioner seeks while his *Petition for Writ of Certiorari* is prepared and timely-filed pursuant to the extension granted him by the Circuit Justice. The imminent foreclosure by Respondents is an event that, if not stayed, will substantially impair the practical effectiveness of this Court's review of the Questions Presented and may complicate the availability of meaningful relief.

WHEREFORE, Petitioner Josef M. Lamell respectfully requests that an Order be entered granting stay of enforcement as to the orders of the courts below, as well as to foreclosure and collection, and for such other relief as the Court deems appropriate.

Date: July 20, 2026

Respectfully Submitted,

/s/ *Josef M. Lamell*

Josef M. Lamell, *pro se*
Petitioner
5131 Glenmeadow Drive
Houston, TX 77096

CERTIFICATE OF SERVICE

I hereby certify that on this day, July 20, 2026, a true and correct copy of the foregoing *Petitioner's Application for Stay Pending Petition for Writ of Certiorari* was sent to the Clerk of the Supreme Court of the United States via FedEx delivery and to the below-named recipients via email.

/s/ Josef M. Lamell
Josef M. Lamell, *pro se*

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LIST OF EXHIBITS

- Exhibit A – *Notice of Foreclosure* setting sale for August 4, 2026
- Exhibit B – *Memorandum Opinion and Order* and *Final Judgment* of the District Court issued on January 29, 2025
- Exhibit C – *Opinion* 25-20056 of the Fifth Circuit Court of Appeals issued on March 16, 2026
- Exhibit D – *Order* Granting Extension of Time to file Petition for Writ of Certiorari issued on June 8, 2026
- Exhibit E – *Petitioner's Motion for Stay Pending Petition for Writ of Certiorari* filed July 9, 2026
- Exhibit F – Fifth Circuit Court of Appeals' *Order* denying *Petitioner's Motion for Stay* issued July 17, 2026
- Exhibit G – *Notice of Appraised Value* issued April 17, 2026
- Exhibit H – *Affidavit* of Josef M. Lamell

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