

---

IN THE UNITED STATES DISTRICT COURT OF APPEALS FOR THE ELEVENTH  
CIRCUIT

---

Case No. 21-12160

JOHN BURKE; JOANNA BURKE

Plaintiffs-Intervenors

CONSUMER FINANCIAL PROTECTION BUREAU,

Plaintiff,

versus

OCWEN FINANCIAL CORPORATION,  
a Florida corporation,  
OCWEN LOAN SERVICING LLC,  
a Delaware limited liability company,  
OCWEN MORTGAGE SERVICING INC.,  
a U. S. Virgin Islands corporation,  
PHH MORTGAGE CORPORATION,

Defendants.

---

**On Appeal from the United States District Court for the Southern District  
of Florida; USDC No. 9:17-cv-80495-KAM**

---

Joanna Burke  
46 Kingwood Greens Dr  
Kingwood, Texas 77339  
Telephone: (281) 812-9591  
Fax: (866) 805-0576

John Burke  
46 Kingwood Greens Dr  
Kingwood, Texas 77339  
Telephone: (281) 812-9591  
Fax: (866) 805-0576

**MOTION FOR AN EXTENSION OF TIME TO FILE PETITION FOR  
REHEARING AND REHEARING EN BANC**

Appellants, Joanna Burke and John Burke (“Burkes”), and file this its Motion for Extension of Time to file their Petition for Rehearing and in support thereof would show the Court as follows:

**The Time is Necessary**

Appellants Burkes would civilly ask this court to extend its deadline to file the petition from the deadline date of March 21 up to and including Thursday, August 18, 2022.

**It Involves Medical Emergency and Surgeries**

The reason for the extension of time is due to Joanna Burke’s current mental health and emergency medical requirements as detailed in *Burke v. Ocwen Loan Servicing, LLC* (4:21-cv-02591), District Court, S.D. Texas, Doc. 36, Dec. 1, 2021. Due to unforeseen delays outwith the Burkes control, including medical surgeons lack of availability, the first of two anticipates surgeries has been rescheduled. The first surgery is now scheduled for Tuesday, April 5, 2022 with Dr Takashima (ENT) at Methodist Hospital in Houston, Texas and the next surgery will be arranged after recovery from the first.

Considering Joanna's age (83), and accounting for post-operation visits, home rest and recovery, repeating that process for the second surgery, and then allowing for the permissible 3 weeks to prepare and submit the petition to this court, the revised deadline date would be Thursday, August 18, 2022.

### **The Delay is Harmless**

In support, the delay will not affect the proceedings between the CFPB and Ocwen (Consumer Financial Protection Bureau, Appellant v. Ocwen Financial Corporation, et al., 21-11314), which is currently on appeal at this court. Oral argument was heard on Feb. 10 , 2022 and the opinion is pending.

If this court reverses the lower court, it will result in the case being remanded for further proceedings and the Burkes delay would not interfere with that process. However, if this court were to affirm the lower court's case in favor of Ocwen, this would end the civil lawsuit, barring any objections and petitions by the CFPB, and automatically render the Burkes anticipated Petition for Rehearing moot. Either way, the time requested is harmless to the parties and this court.

### **The Burkes Planned Petition has Meritorious Arguments**

Aware that Petitions for rehearing are disfavored, the Burkes herein wish to assure this court the arguments to be raised in their Petition are soaked in

legal precedent which the Burkes are confident will mandate vacating the 3-panel opinion. Furthermore, due process commands the opportunity to be heard (Powell, 851 F.2d at 431....”) and Joanna Burkes medical condition (*Waldrip v. General Elec. Co.*, 325 F.3d 652, 655 (5th Cir. 2003)) and reasoned delay should not be a legal barrier to filing their petition.

### **Conclusion**

This un/opposed motion is not brought for the purpose of delay and therefore Appellants respectfully requests this court extend the deadline to file its brief to Thursday, August 18, 2022.

Respectfully submitted,

DATED: March 17, 2022

JOANNA BURKE

s/ Joanna Burke  
**JOANNA BURKE**

s/ John Burke  
**JOHN BURKE**

46 Kingwood Greens Dr.,  
Kingwood, TX, 77339  
Telephone: (281) 812-9591

*Pro Se for Plaintiffs-Appellants*

### **CERTIFICATE OF CONFERENCE**

We hereby certify we emailed counsel for Ocwen and the CFPB on Thursday, March 17, 2022. The CFPB is UNOPPOSED. Ocwen is OPPOSED to the humanitarian continuance.

s/ Joanna Burke  
**JOANNA BURKE**

s/ John Burke  
**JOHN BURKE**

### **CERTIFICATE OF COMPLIANCE**

The undersigned counsel certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because this motion contains **481** words according to Microsoft Word's word count, excluding the parts of the motion exempted by Fed. R. App. P. 32(f).

s/ Joanna Burke  
**JOANNA BURKE**

s/ John Burke  
**JOHN BURKE**

### **CERTIFICATE OF INTERESTED PERSONS**

The undersigned counsel of record certifies pursuant to Eleventh Circuit Rule 26.1-1 that the following listed persons and entities have an interest in the outcome of this case. It was extracted from the CIP currently listed per the Appeal Docket, *Consumer Financial Protection v. OCN*, et al, No. 21-11314. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

***PRO SE***

***Plaintiffs-Intervenors***

Joanna Burke

John Burke

***CONSUMER FINANCIAL PROTECTION BUREAU***

***Plaintiff***

Lawrence DeMille-Wagman

lawrence.wagman@cfpb.gov

Direct: 202-435-7957

[COR LD NTC U.S. Government]

Consumer Financial Protection Bureau

Office of the General Counsel

1700 G ST NW STE 509-B

WASHINGTON, DC 20552

Tianna Elise Baez

tianna.baez@cfpb.gov

[NTC U.S. Government]

Consumer Financial Protection Bureau

Legal Division

1625 I ST NW  
WASHINGTON, DC 20006

Stephanie C. Brenowitz  
stephanie.brenowitz@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

Shirley T. Chiu  
shirley.chiu@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

Atur Ravi Desai  
atur.desai@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

Jean Marie Healey  
jean.healeydippold@cfpb.gov  
jean.healey@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

Erin Mary Kelly

erin.kelly@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

Gregory Ryan Nodler  
gregory.nodler@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

Michael Posner  
michael.posner@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

Amanda Christine Roberson  
amanda.roberson@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

James Joseph Savage  
james.savage@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Firm: 212-328-7007  
140 E 45TH ST FL 4



NEW YORK, NY 10017

Jack Douglas Wilson  
doug.wilson@cfpb.gov  
[NTC U.S. Government]  
Consumer Financial Protection Bureau  
Office of the General Counsel  
1700 G ST NW STE 509-B  
WASHINGTON, DC 20552

***OCWEN FINANCIAL CORPORATION, a Florida corporation***  
***Defendant***

William M. Jay  
wjay@goodwinlaw.com  
Direct: 202-346-4000  
[COR LD NTC Retained]  
Goodwin Procter, LLP  
Firm: 202-346-4000  
1900 N ST NW  
WASHINGTON, DC 20036

Catalina E. Azuero  
cazuero@goodwinlaw.com  
[NTC Retained]  
Goodwin Procter, LLP  
Firm: 617-570-1000  
100 NORTHERN AVE  
BOSTON, MA 02210

Bridget Ann Berry  
berryb@gtlaw.com  
Direct: 561-650-7912  
[COR NTC Retained]  
Greenberg Traurig, PA  
Firm: 561-650-7900  
777 S FLAGLER DR STE 300E

WEST PALM BEACH, FL 33401

Laura S. Craven  
lcraven@goodwinlaw.com  
[NTC Retained]  
Goodwin Procter, LLP  
Firm: 617-570-1000  
100 NORTHERN AVE  
BOSTON, MA 02210

Thomas Hefferon  
thefferon@goodwinlaw.com  
Direct: 617-570-1000  
[COR NTC Retained]  
Goodwin Procter, LLP  
Firm: 202-346-4000  
1900 N ST NW  
WASHINGTON, DC 20036

Matthew P. Previn  
mprevin@buckleysandler.com  
[NTC Retained]  
Buckley, LLP  
1133 AVENUE OF THE AMERICAS STE 3100  
NEW YORK, NY 10036

Matthew L. Riffie  
mriffie@goodwinlaw.com  
[NTC Retained]  
Goodwin Procter, LLP  
Firm: 202-346-4000  
1900 N ST NW  
WASHINGTON, DC 20036

Sabrina M. Rose-Smith  
srosesmith@goodwinlaw.com  
Direct: 202-346-4000

[COR NTC Retained]  
Goodwin Procter, LLP  
Firm: 202-346-4000  
1900 N ST NW  
WASHINGTON, DC 20036

Matthew S. Sheldon  
msheldon@goodwinlaw.com  
Direct: 202-346-4000  
[NTC Retained]  
Goodwin Procter, LLP  
Firm: 202-346-4000  
1900 N ST NW  
WASHINGTON, DC 20036

Tierney E. Smith  
Direct: 202-346-4000  
[COR NTC Retained]  
Goodwin Procter, LLP  
Firm: 202-346-4000  
1900 N ST NW  
WASHINGTON, DC 20036

Laura A. Stoll  
lstoll@goodwinlaw.com  
Direct: 213-426-2500  
[NTC Retained]  
Goodwin Procter, LLP  
601 S FIGUEROA ST 41ST FL  
LOS ANGELES, CA 90017

W. Kyle Tayman  
ktayman@goodwinlaw.com  
[NTC Retained]  
Goodwin Procter, LLP  
Firm: 202-346-4000  
1900 N ST NW

WASHINGTON, DC 20036

Andrew Wein  
weina@gtlaw.com  
Direct: 561-650-7977  
[COR NTC Retained]  
Greenberg Traurig, PA  
Firm: 561-650-7900  
777 S FLAGLER DR STE 300E  
WEST PALM BEACH, FL 33401

***OCWEN LOAN SERVICING LLC, a Delaware limited liability company***  
***Defendant***

William M. Jay  
Direct: 202-346-4000  
[COR LD NTC Retained]  
(see above)

Catalina E. Azuero  
cazuero@goodwinlaw.com  
[NTC Retained]  
(see above)

Bridget Ann Berry  
berryb@gtlaw.com  
Direct: 561-650-7912  
[COR NTC Retained]  
(see above)

Laura S. Craven  
[NTC Retained]  
(see above)

Thomas Hefferon  
Direct: 617-570-1000

[COR NTC Retained]  
(see above)

Matthew P. Previn  
[NTC Retained]  
(see above)

Matthew L. Riffie  
[NTC Retained]  
(see above)

Sabrina M. Rose-Smith  
srosesmith@goodwinlaw.com  
Direct: 202-346-4000  
[COR NTC Retained]  
(see above)

Matthew S. Sheldon  
msheldon@goodwinlaw.com  
Direct: 202-346-4000  
[NTC Retained]  
(see above)

Tierney E. Smith  
tierneysmith@goodwinlaw.com  
Direct: 202-346-4000  
[COR NTC Retained]  
(see above)

Laura A. Stoll  
Direct: 213-426-2500  
[NTC Retained]  
(see above)

W. Kyle Tayman  
[NTC Retained]  
(see above)

Andrew Wein  
weina@gtlaw.com  
Direct: 561-650-7977  
[COR NTC Retained]  
(see above)

***OCWEN MORTGAGE SERVICING INC., a U. S. Virgin Islands corporation***  
***Defendant***

William M. Jay  
Direct: 202-346-4000  
[COR LD NTC Retained]  
(see above)

Catalina E. Azuero  
[NTC Retained]  
(see above)

Bridget Ann Berry  
Direct: 561-650-7912  
[COR NTC Retained]  
(see above)

Laura S. Craven  
[NTC Retained]  
(see above)

Thomas Hefferon  
Direct: 617-570-1000  
[COR NTC Retained]  
(see above)

Matthew P. Previn  
[NTC Retained]  
(see above)

Matthew L. Riffie  
[NTC Retained]  
(see above)

Sabrina M. Rose-Smith  
Direct: 202-346-4000  
[COR NTC Retained]  
(see above)

Matthew S. Sheldon  
Direct: 202-346-4000  
[NTC Retained]  
(see above)

Tierney E. Smith  
Direct: 202-346-4000  
[COR NTC Retained]  
(see above)

Laura A. Stoll  
Direct: 213-426-2500  
[NTC Retained]  
(see above)

W. Kyle Tayman  
[NTC Retained]  
(see above)

Andrew Wein  
Direct: 561-650-7977  
[COR NTC Retained]  
(see above)

***PHH Mortgage Corporation***

William M. Jay  
Direct: 202-346-4000  
[COR LD NTC Retained]  
(see above)

Catalina E. Azuerro  
[NTC Retained]  
(see above)

Bridget Ann Berry  
Direct: 561-650-7912  
[COR NTC Retained]  
(see above)

Thomas Hefferon  
Direct: 617-570-1000  
[COR NTC Retained]  
(see above)

Sabrina M. Rose-Smith  
Direct: 202-346-4000  
[COR NTC Retained]  
(see above)

Andrew Wein  
Direct: 561-650-7977  
[COR NTC Retained]  
(see above)

s/ Joanna Burke  
**JOANNA BURKE**

s/ John Burke  
**JOHN BURKE**