

73001418900220200012200-SOLICITUD DE NULIDAD DE TODO LO ACTUADO A PARTIR DE LA NOTIFICACIÓN POR INDEBIDA NOTIFICACIÓN NUMERAL 3 ARTÍCULO 133 DE LA LEY 1564 DE 2012

Erika Largo Gutierrez <erikal179@hotmail.com>

Mié 14/04/2021 10:05 AM

Para: Juzgado 02 Pequeñas Causas Competencia Multiple - Tolima - Ibagué <j02pqccmiba@cendoj.ramajudicial.gov.co>

📎 1 archivos adjuntos (1 MB)

solicitud de nulidad con anexos.pdf;

Buenos días, adjunto envío solicitud de nulidad de la referencia.

Muchas gracias por la atención prestada a la presente.

ERIKA DAYANNI LARGO GUTIÉRREZ

ABOGADA

ESPECIALISTA EN DERECHO LABORAL Y SEGURIDAD SOCIAL

TEL. 3004349337

Señores
JUZGADO 2 MUNICIPAL DE PEQUEÑAS CAUSAS Y COMPETENCIA MÚLTIPLE
Ibagué

Ref. 73001418900220200012200-SOLICITUD DE NULIDAD DE TODO LO ACTUADO A PARTIR DE LA NOTIFICACIÓN POR INDEBIDA NOTIFICACIÓN NUMERAL 3 ARTÍCULO 133 DE LA LEY 1564 DE 2012

ERIKA DAYANNI LARGO GUTIÉRREZ, identificada como aparece al pie de mi correspondiente firma, actuando en mi condición de AGENTE OFICIOSO, conforme lo establece el Código Civil, solicito de manera respetuosa se ordene la NULIDAD DE TODO LO ACTUADO a partir de la notificación del mandamiento ejecutivo en el proceso de referencia, sobre la base de los siguientes:

1. HECHOS

1. A partir del 19 de septiembre de 2017, la señora BLANCA CECILIA PENAGOS DE ÑUSTES, residió y tuvo su domicilio en la ciudad de Perth (Australia). Como consta en la copia del Pasaporte e itinerario de viaje que adjunto a la presente. Personalmente puedo dar fe que la persona citada, no ingresó desde esa fecha a Colombia y mantuvo tanto su residencia como domicilio en suelo australiano.
2. La notificación del auto que libra mandamiento ejecutivo se realizó de manera errada en su antiguo domicilio ubicado en la ciudad de Ibagué, el cual permanece deshabitado desde el 19 de septiembre de 2017. Según refiere el vigilante del edificio Torres del Líbano, dicha circunstancia fue manifestada al notificador quien sin realizar la anotación correspondiente procedió a dejar el aviso de notificación.
3. La señora Blanca Cecilia Penagos de Ñustes, falleció el día 10 de febrero de 2021 en Perth (Australia), conforme el registro de defunción anexo al presente escrito.
4. En el proceso de entrega del inmueble me fue aportado por parte de la Portería del edificio la notificación por aviso del proceso de referencia, de esta manera me enteré de la iniciación del proceso judicial. En razón al fallecimiento de la causante y a que no cuenta con vínculos familiares cercanos en Colombia, es necesario ejercer la presente agencia oficiosa con el fin de proteger los derechos de los sucesores legales señores GERMÁN ALBERTO ÑUSTES PENAGOS y NANCY ROCÍO ÑUSTES PEGADOS, ciudadanos australianos que residen en Perth (Australia).
5. Evidentemente la notificación debió realizarse mediante el emplazamiento, conforme el artículo 108 del Código General del Proceso, con el fin de garantizar los derechos de la ejecutada en ese momento y de sus sucesores en la actualidad.

2. FUNDAMENTOS DE DERECHO

Numeral 8 del artículo 133 de la Ley 1564 de 2012, Artículo 108 de la Ley 1564 de 2012.

3. PRUEBAS Y ANEXOS

1. Copia pasaporte señora BLANCA CECILIA PENAGOS DE ÑUSTES.
2. Copia itinerario de viaje hacia Australia y documentación de viaje.
3. Registro civil de defunción.

4. NOTIFICACIONES

Autorizo notificarme en la Carrera 3 No. 41-30 Barrio Santa Helena de la ciudad de Ibagué, así mismo autorizo de manera expresa la notificación al correo erikal179@hotmail.com.

Del señor juez, atentamente,



ERIKA DAYANNI LARGO GUTIÉRREZ

C.C. 1.018.495.666 de Bogotá

T.P. 187.194 del Consejo Superior de la J.

43



REPUBLICA DE COLOMBIA

PASAPORTE
PASSPORT



Typo / Type: P Cat. / Code / Country code: COL Pasaporte No / Passport No: AT027443
Apellidos / Surname: PENAGOS DE NUSTES
Nombres / Given names: BLANCA CECILIA
Nacionalidad / Nationality: COLOMBIANA
Fecha de nacimiento / Date of birth: 17 JUN/JUN 1938 Num. personal / Personal ID: CC28517181
Sexo / Sex: F Lugar de nacimiento / Place of birth: IBAGUE COL
Fecha de expedición / Date of issue: 19 AGO/AUG 2016 Autoridad / Authority: G. TOLIMA
Fecha de vencimiento / Date of expiry: 19 AGO/AUG 2026 Firma del titular / Holder's signature: [Signature]

P<COLPENAGOS<DE<NUSTES<<BLANCA<CECILIA<<<<<<<
AT027443<3COL3806177F2608190CC28517181<<<<18

I certify that this is a copy of a document
presented this date and appears to be identical
19th day of August 2018

ANGELINA COCKRAM
Justice of the Peace - WA 8977

NOT PROOF READ

[Signature]



Australian Government
Department of Home Affairs

28 August 2018

Blanca Cecilia PENAGOS DE NUSTES
6 TYRONE STREET
NORTH FREMANTLE WA 6159

In reply please quote:

Client name	Blanca Cecilia PENAGOS DE NUSTES
Date of birth	17 June 1938
Date of visa application	27 August 2018
Application ID	950615761
File number	CLF2018/192977
Visa application charge receipt number	9009941993

Transmission method Email sent to nancyrocio@icloud.com

Dear Blanca Cecilia PENAGOS DE NUSTES

**Acknowledgement of a valid application for an Aged Parent (Residence) (class BP)
Aged Parent (subclass 804) visa**

The following applicant(s) included on this application has been assessed as valid.

Name	Date of birth
Blanca Cecilia PENAGOS DE NUSTES	17 June 1938

Check the attached Visa Application Summary and contact us if any of the details are incorrect or change at any time during the processing of your application.

Visa Application charge

The visa application charge which has already been paid is for the processing of the application and it must be paid regardless of the application outcome. There are only limited circumstances in which refunds can be given.

Processing standards

We assess applications on a case-by-case basis, and actual processing times can vary due to individual circumstances.

More information about our processing times is available on our website
www.homeaffairs.gov.au/processing-times

Providing documents

We may make a decision on your application without requesting additional information. You should provide us with all the information you feel is relevant.

Do not send us original documents unless we ask for them. If you send copies of your documents, ensure that they are certified copies.

If you provide us with fraudulent documents or claims, this may result in processing delays and your application being refused.

Translating your documents

If your documents are not in English, also provide certified English translations of the documents, completed by a translator accredited by the National Accreditation Authority for Translators and Interpreters (NAATI). Translations provided by non-accredited translators outside Australia should be endorsed by the translator with their full name, address, telephone number, and details of their qualifications and experience in the language being translated.

Certified copies

For the purposes of the migration legislation, a document is to be certified in writing as a true copy of the original document by:

if the copy is certified in Australia:

- a Justice of the Peace; or
- a Commissioner for Declarations; or
- a person before whom a statutory declaration may be made under the *Statutory Declarations Act 1959* (for example a nurse, legal practitioner, medical practitioner, pharmacist or dentist); or
- a registered migration agent (whose registration is not suspended or subject to a caution).

if the copy is certified outside Australia:

- a person who is the equivalent of a Justice of the Peace or Commissioner for Declarations in that place (for example a public notary); or
- a registered migration agent (whose registration is not suspended or subject to a caution).

Your information – your privacy

Your personal information is protected by law, including the *Privacy Act 1988*. Important information about the collection, use and disclosure of your personal information, including sensitive information, is contained in our Form 1442i *Privacy Notice*.

Form 1442i is available from our website www.homeaffairs.gov.au/privacy

You should become familiar with this information before providing your personal information to us.

Withdrawing your application

You can withdraw your application at any stage during processing. If any applicant wishes to withdraw their application, they must advise the department in writing. If a combined application was made, this advice can include any number of applicants or applications but must be signed by each person aged 18 years and over.

Changes to your circumstances

You are required to tell us about any changes to your circumstances as soon as possible. These changes may affect answers to a question in your application form including your name, passport, contact details, address or family members. This obligation continues until a decision is made on your visa application, or, if you are currently outside Australia, until you have arrived in Australia and passed immigration clearance.

You are required to do this in writing and can use Form 1022 *Notification of changes in circumstances* (Section 104 of the *Migration Act 1958*) available on our website www.homeaffairs.gov.au/forms/Documents/1022.pdf

Client service information

We value your compliments, complaints and suggestions. Your compliments let us know where we are performing well and your complaints help us improve our services.

Further information on our client service charter and how to make a compliment, complaint or suggestion is available on our website www.homeaffairs.gov.au/about/contact/provide-feedback

Contacting the Department

If you have any queries regarding your application please feel free to contact us via email on parents@homeaffairs.gov.au

Yours sincerely

Jeannie

Position Number: 00000597

Department of Home Affairs

The original of this letter including any attachments was sent to:

Nancy Rocio NUSTES PENAGOS

nancyrocio@icloud.com



VISA APPLICATION SUMMARY

Application details

Visa Class	Aged Parent (Residence) (class BP) Aged Parent (subclass 804)
Date of Visa Application	27 August 2018
Application ID	950615761
File Number	CLF2018/192977
Visa Application Charge Receipt Number	9009941993

Details of Applicant(s)

Applicant Type	Main Applicant
Client Name	Blanca Cecilia PENAGOS DE NUSTES
Date of Birth	17 June 1938
Client ID	91097026230
Residential Address	6 TYRONE STREET NORTH FREMANTLE WA AUSTRALIA 6159
Postal Address	6 TYRONE STREET NORTH FREMANTLE WA AUSTRALIA 6159
Telephone	0400 204 404
Fax	Not Provided
Email	nancyrocio@icloud.com
Citizenship	COLOMBIA
Country of Birth	COLOMBIA
Nationality	COLOMBIA
Travel Document Type	PASSPORT
Travel Document Number	AT027443
Travel Document Country	COLOMBIA
Travel Document Expiry	19 August 2026

Details of Sponsor

Sponsor Name	Nancy Rocio BELL
Date of Birth	19 February 1964
Client ID	36334031041
Residential Address	6 TYRONE STREET NORTH FREMANTLE WA AUSTRALIA 6159
Postal Address	6 TYRONE STREET NORTH FREMANTLE WA AUSTRALIA 6159
Telephone	08 92686539
Fax	Not Provided
Email	nancyrocio@icloud.com

Contact Details of Authorised Recipient

Name	Nancy Rocio NUSTES PENAGOS
Street Address	6 TYRONE STREET NORTH FREMANTLE WA AUSTRALIA 6159
Postal Address	6 TYRONE STREET NORTH FREMANTLE WA AUSTRALIA 6159
Telephone	0400 204 404
Fax	Not Provided
Email	nancyrocio@icloud.com

Contact Details of Processing Office

Office Location	Parent Visa Centre 836 Wellington Street West Perth WA Australia 6005
Postal Address	Locked Bag Number 7 Northbridge WA Australia 6865
Courier Delivery Address	836 Wellington Street West Perth WA Australia 6005
Email	parents@homeaffairs.gov.au



BRIDGING VISA GRANT NOTICE



Application details

Date of Visa Application 27 August 2018
Application ID 950615761
File Number CLF2018/192977
Visa Application Charge 9009941993
Receipt Number

A Bridging visa (class WA) has been granted to the applicant listed in the table below to allow you to remain in Australia during the processing of your application for a Aged Parent (Residence) (class BP) Aged Parent (subclass 804) visa.

Bridging visa grant details

Client Name	Blanca Cecilia PENAGOS DE NUSTES
Date Of Birth	17 June 1938
Client ID	91097026230
Bridging Visa Class	Bridging A (class WA)
Bridging Visa Subclass	Bridging A (subclass 010)
Visa Grant Number	0079510629279
Visa Grant Date	28 August 2018
Passport Number	AT027443
Travel Facility	No Travel
Visa Conditions	NIL

About your bridging visa

This bridging visa is not in effect because your Visitor visa is currently in effect.

If your Visitor visa is cancelled, you should contact the Department immediately. Your bridging visa may not come into effect and will not allow you to remain lawfully in Australia.

If your Aged Parent (subclass 804) visa is refused this bridging visa allows you to remain lawfully in Australia until 35 calendar days after a decision is made on your application.

If your Aged Parent (subclass 804) visa application is refused and you apply for a merits review of that decision within the required timeframe, this bridging visa will allow you to remain in Australia until 35 calendar days after the decision by the merits review tribunal.

If the merits review tribunal remits your application to the Department for reconsideration, this bridging visa will allow you to remain lawfully in Australia until 35 calendar days after a decision is made on your Aged Parent (subclass 804) visa application.

If you withdraw your Aged Parent (subclass 804) visa application or your merits review application, this bridging visa will allow you to remain lawfully in Australia until 35 calendar days after that withdrawal.

If you hold any substantive visa, and that substantive visa is cancelled, you should contact the Department immediately. Your bridging visa may have ceased and no longer allow you to remain lawfully in Australia.

More information about bridging visas is available on our website www.homeaffairs.gov.au

Travel overseas

This bridging visa lets you temporarily stay in Australia. It will end when you leave Australia. If you travel outside Australia, you will need a visa to return to Australia.

You can do one of the following:

- apply for and be granted a bridging visa B before you travel - we recommend you do this if you do not also have a substantive visa that allows you to travel or if your substantive visa will expire before you return to Australia.
- travel on your current substantive visa (if you have one that allows you to travel and return to Australia before it expires).

If your substantive visa expires while you are outside Australia and you do not hold a bridging visa B, you will need to apply for and be granted a substantive visa before you can return to Australia. There is no guarantee that you will be granted another visa to return to Australia.

Checking your visa details

You can check and email your visa details and conditions at any time using the Visa Entitlement Verification Online (VEVO) system. To access VEVO, you can either use the QR Code provided above or visit www.homeaffairs.gov.au/vevo

You will need to enter the following information:

- Your Visa Grant Number or Transaction Reference Number, and
- Your passport or ImmiCard information.

You can also check and email your visa details through the myVEVO mobile app.

Permission to work

When your bridging visa (class WA) is in effect, you will have full permission to work.

- 3 -

Permission to study

When your bridging visa (class WA) is in effect, you will have full permission to study.

Jeannie

Position Number: 00000597

Department of Home Affairs

28 August 2018



Thor Travel

22-32 Frome Street Adelaide SA 5000, Australia
PH (08) 8232 3071 • Fax (08) 8232 3541
Toll Free 1800 801 119
www.thorworldtravel.com

DATE: 30 JUN 17
CONSULTANT: SANERA
RECORD LOCATOR: GTEM1
ITINERARY

PREPARED FOR: DENAGOSDENUSTES/BLANCA CECILIA MS

COST: \$2170.00; TICKETING REQUIRED WITHIN 3 DAYS OF BOOKING; SUBJECT TO AVAILABILITY

19 SEPTEMBER 17 - TUESDAY

LATAM AIRLINES GROUP

DEPART: BOGOTA

DEPART: TERMINAL 1

ARRIVE: SANTIAGO

SCL

FLIGHT NO: LA577

AT: 2310

AT: 0705

ARRIVAL DATE: 20 SEPTEMBER 17 - WEDNESDAY

NON-STOP

CONFIRMED

ECONOMY

MEAL SERVED: DINNER

05HR 55MIN

AIRCRAFT: 788

REF: GTYAGS

QANTAS AIRWAYS

DEPART: SANTIAGO

SCL

FLIGHT NO: QF28

AT: 1430

ARRIVE: SYDNEY

AT: 1740

ARRIVAL DATE: **21 SEPTEMBER 17 - THURSDAY**

ARRIVE: TERMINAL 1 INTERNATIONAL

NON-STOP

CONFIRMED

ECONOMY

MULTI MEALS

14HR 10MIN

AIRCRAFT: BOEING 747 400

REF: O3AWSJ

04 SEPTEMBER 17 - SUNDAY

QANTAS AIRWAYS

DEPART: SYDNEY

DEPART: TERMINAL 3 DOMESTIC

ARRIVE: PERTH

FLIGHT NO: QF583

AT: 1945

AT: 2250

ARRIVE: TERMINAL 4 -

NON-STOP

CONFIRMED

ECONOMY

MEAL SERVED: DINNER

05HR 05MIN

AIRCRAFT: AIRBUS A330-200

QANTAS

REF: O3AWSJ

PLEASE REMEMBER TO CHECK YOUR FLIGHT SCHEDULES
A MINIMUM OF 72 HOURS PRIOR TO TRAVEL
CHECK-IN TIME FOR ALL INTERNATIONAL FLIGHTS IS 2 HOURS
AND FOR DOMESTIC FLIGHTS 1 HOUR PRIOR TO DEPARTURE.
PLEASE NOTE DEPARTURE TAXES MAY APPLY OVERSEAS
IT IS ADVISABLE TO CHECK LOCALLY
PLEASE ENSURE YOUR PASSPORT IS VALID
FOR AT LEAST 6 MONTHS FROM RETURN DATE
PLEASE NOTE THAT SHOULD YOUR AIRFARE ALLOW DATE
CHANGES THESE CHANGES MUST BE MADE DIRECT WITH
THE AIRLINE OR THEIR AGENT OVERSEAS.
SOME AIRLINES MAY CHARGE A SERVICE FEE FOR
CHANGES MADE OVERSEAS. THESE FEES WILL APPLY
EVEN IF THE AIRFARE RULES ALLOW DATE CHANGES
WITHOUT PENALTY. LOCAL SERVICE CHARGES REMAIN
OUT OF THE CONTROL OF THOR TRAVEL.
FOR SMARTPHONE USERS PLEASE VISIT
WWW.TRIPCASH.COM TO VIEW ITINERARY AND UPDATES
THANK YOU FOR BOOKING WITH THOR TRAVEL
HAVE A GREAT TRIP

DEATH CERTIFICATE

Births, Deaths and Marriages Registration Act

Certificate Number
00052451074

49

DECEASED Surname Given Names Place of death Date of death Occupation & Sex Age & Date of Birth Usual address Place of birth	Penagos de Nustes o/w Penagos Blanca Cecilia o/w Blanca Bethesda Hospital, Queenslea Drive, Claremont, Western Australia 10 February 2021 Payroll Master Female 82 years 17 June 1938 6 Tyrone Street, North Fremantle, Western Australia, Australia Ibague, Tolima, Colombia		
Mother's Surname Maiden Surname Given Names Usual occupation	Penagos Penagos Elvira Home Duties		
Father's Surname Maiden Surname Given Names Usual occupation	Tovar — Eustacio Retail Business Owner		
Marital Status	Widowed		
MARRIAGE PARTICULARS	Place of marriage	Date of marriage	To whom married
	Ibague, Tolima, Colombia	4 March 1961	Luis Alberto Nustes
DE FACTO PARTNER'S NAME (at deceased's time of death)	—		
NAMES OF CHILDREN	Nancy Rocio 19 February 1964, German Alberto 6 November 1971		
CAUSE OF DEATH (Approximate interval between onset of disease or condition and death shown in brackets)	Metastatic breast cancer (Contributory Cause) Dementia (unspecified), Osteoporosis		
Name of Doctor	Dr D White		
Place of burial or cremation Burial or cremation service	Fremantle Crematorium, Palmyra, Western Australia 17 February 2021		
Informant's name Address Description	Kelly-Anne Reinikka Leanne O'Dea Funeral Directors 571 Stirling Highway, Cottesloe, Western Australia, Australia Funeral Director		
Registered on 22 February 2021 by Alison Jackson			

I certify that this is a true copy of particulars kept in the Western Australian Register of Births, Deaths and Marriages.



REPUBLICA DE COLOMBIA
JUZGADO SEGUNDO DE PEQUEÑAS CAUSAS Y COMPETENCIA MULTIPLE.

Ibagué, 30 DE ABRIL DE 2021

Ej. S. De D... RAD. No. 2020-122

Revisada la solicitud presentada por del agente oficioso ERIKA DAYANNI LARGO GUTIERREZ de la parte demandada BLANCA CECILIA PENAGOS DE ÑUSTES (Q.E.P.D) y del análisis del escrito donde solicita la nulidad por indebida notificación. (folio 42 y ss del C.1) aduciendo que la parte ejecutada fue indebidamente notificada en razón a su residencia en AUSTRALIA y no en el denunciado por la parte ejecutante, además informando de su fallecimiento.

1.- El artículo 135 del C.G del P, dispone los requisitos para alegar una nulidad dentro de un proceso, estableciendo como requisitos 1) legitimación, 2) la causal que invoca y 3) hechos y pruebas con que la fundamenta, dentro del caso de marras se evidencia que quien propone es la parte ejecutada como ya se ha individualizado, bajo la causal de indebida notificación por las razones aludidas arriba , expresando cada una de las razones, aportando pruebas de los hechos manifestados, cumpliendo los requisitos aludidos.

2.- El artículo 134 del C.G del P, establece la oportunidad y tramite, para la proposición de incidentes de nulidad o hechos constitutivos, en su inciso 1 establece *"las nulidades podrán alegarse en cualquiera de las instancias antes de que se dicte sentencia o con posterioridad a esta, si ocurrieran en ella"*; dentro del asunto, se observa que ya se siguió adelante la ejecución.

3.- De igual manera, analizado lo anterior y lo solicitado por el agente oficios a pesar de que no exista relación sustancia con la parte demandada se dará aplicación al art. 57 del C.G del P, y alega la nulidad establecida en el artículo 133 numeral 8 del C.G del P, de igual manera, al poner de presente el hecho del fallecimiento de la aquí ejecutada, por lo que se podría alegar la nulidad dispuesta en el numeral 3 del art. 133 del C.G del P.

Así las cosas, de conformidad con el art. 129 del Código General del Proceso, del escrito donde se propuso el incidente de nulidad se le corre traslado a la parte demandante por el termino de tres (3) días para que se pronuncie sobre ellas y adjunte o pida pruebas que pretenda hacer valer.

NOTIFÍQUESE y CUMPLASE

ORLANDO ROZA DUARTE
JUEZ

**providencia firmada electrónicamente.*



REPUBLICA DE COLOMBIA
RAMA JUDICIAL DEL PODER PÚBLICO.
JUZGADO SEGUNDO DE PEQUEÑAS CAUSAS Y COMPETENCIAS MÚLTIPLES DE
IBAGUE

FIJACION POR ESTADO

Numero 066, de hoy 04/05/21

Secretario _____



REPUBLICA DE COLOMBIA
RAMA JUDICIAL DEL PODER PÚBLICO.
JUZGADO SEGUNDO DE PEQUEÑAS CAUSAS Y COMPETENCIAS
MÚLTIPLES DE IBAGUE

EJECUTORIA

Inicia hoy _____, la ejecutoria de la providencia anterior

Secretario _____