No. _____

In the

SUPREME COURT of the UNITED STATES

Mario R. Lozano,

Petitioner

v.

Suffolk Superior Court, Office of Transcription Services,
Wells Fargo Bank, N.A., Freddie Mac

Respondents

On Petition For Writ of Certiorari
To The United States Court of Appeals (1st Circuit)

PETITION FOR WRIT OF CERTIORARI

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Questions Presented for Review

1. Suffolk Superior Court and Transcription Services are claiming 11th Amendment Sovereign State Immunity as though it is an absolute bar from a civil action. Does Congress have the authority to override the States Sovereign Immunity under the 11th Amendment to the US Constitution?
2. Can Congress use the Section 5/Enforcement Clause of the 14th Amendment of the United States Constitution to allow private suits against non-consenting States that claim Sovereign Immunity under the 11th Amendment?
3. Are Sovereign States bound by the federal statutes that Congress enacts, such as the "Deprivation of Rights Under Color of Law, 18 USCA 242,?
4. Can the Sovereign States deny the 7th Amendment Right to a Jury Trial to conceal evidence of Conspiracy to Interfere with Civil Rights, 42 USCA 1985?

5. The US Court of Appeals based its decision on the Rooker-Feldman Doctrine. Does the Rooker-Feldman Doctrine apply when the state case and the federal case have different parties, facts, and claims?
6. The Respondents' Conspiracy and their various acts are hidden and woven into the court's procedure, for the appearance of normality, where only testimony at trial can reveal the truth of conspiracy. Will the Court deny a Right to Trial as guaranteed by the 7th Amendment and thereby allow crimes and unlawful acts to determine the case outcome?
7. Petitioner contends that Respondents perpetrated fraud in the arrangement of a secret agreement without Petitioner's knowledge and consent that was used as a final resolution/court order of the civil case thereby barring Petitioner's Right to Due Process of Law. Does Fraud and the Conspiracy to commit fraud, layered over by Rules of Civil Procedure, override the Right to Due Process of Law?
8. Does Fraud in obtaining a judgment void the decision in favor of the parties conspiring to commit the fraud?

9. Can the United States Court of Appeals rely, for its decision, on the District Court's Memorandum of Law that does not consider Petitioner's statement of appeal?
10. Does the United States Court of Appeals have the authority to accept Pleadings of a civil case in its first appeal review then revert back to the Pleadings as a basis of denial (under Rule Civ. Pro.12/ Failure to State a Claim) in a second appeal review after the first denial did not withstand scrutiny?

List of Parties

1. Mario R. Lozano.....Petitioner

2. Suffolk Superior Court/ Commonwealth of Massachusetts.....Respondent

3. Wells Fargo Bank, N.A.....Respondent

4. Office of Transcription Services.....Respondent

5. Freddie Mac.....Respondent

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TABLE OF AUTHORITIES CITED

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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

[X] For cases from **federal courts:**

The opinion of the United States Court of Appeals appears at Appendix__A___ 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 United States District Court appears at Appendix__A___ to the petition and is
[ ] reported at_____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[ ] For cases from **state courts:**

The opinion of the highest state court to review merits 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 _____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

[x] For cases from **federal courts**

The date on which the United States Court of Appeals decided my case was August 16, 2018.

[x] 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. _____ _____.

The jurisdiction of this Court is invoked under 28 U.S.C. S 1254(1).

[ ] For cases from state courts:
The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix __.
[ ] 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. _____ _____.

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

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

1. Right to Due Process of Law / 14th Amendment to the United States Constitution

2. Right to Due Process of Law / Declaration of Rights/ Article XII of the Commonwealth of Massachusetts Constitution.

3. Right to a Jury Trial / 7th Amendment to the United States Constitution

4. Right to a Jury Trial /Declaration of Rights/ Article XV of the Commonwealth of Massachusetts Constitution

5. Conspiracy to Violate Right to Due Process of Law / 14th Amendment of United States Constitution

6. Conspiracy to Violate Right to Due Process of Law/ Declaration of Rights/ Article XII of the Commonwealth of Massachusetts Constitution.

7. Conspiracy to Violate Right to a Jury Trial/ 7th Amendment of United States Constitution

8. Conspiracy to Violate Right to a Jury Trial/Declaration of Rights/ Article XV of Commonwealth of Massachusetts Constitution

9. Tampering/Altering Court Evidence 18 USCA 1512(c)(1)

10. Tampering or Altering Court Evidence
    M.G.L. Ch 268 s.13E

11. Equal Protection of the Law/ 14th Amendment of United States Constitution.

12. Equal Protection of Law/ Declaration of Rights/ Article XXIX of Commonwealth of Massachusetts Constitution.

13. Conspiracy to Interfere with Civil Rights
    42 USCA 1985

14. Conspiracy to Violate Civil Rights, 18 USCA 242

15. Conspiracy to Violate Rights, 18 USCA 241

16. Enforcement Clause, 14th Amendment s.5 US Constitution

STATEMENT OF THE CASE

1. Petitioner presents this petition for a Writ of Certiorari to review the United States Court of Appeals case (No.15-2196) against Respondents/Wells Fargo Bank, Freddie Mac, Suffolk Superior Court and Transcription Services for Fraud and Conspiracy to deprive Petitioner of constitutional rights to Due Process of Law (14th Amendment), Right to a Jury Trial (7th Amendment), and Equal Protection of the Law (14th Amendment) under the Constitution of the United States. Petitioner also complains that Respondents/Wells Fargo Bank, Suffolk Superior Court et al also conspired to deprive Petitioner of these same constitutional rights under the Constitution of the Commonwealth of Massachusetts; Due Process of Law (Article 1 section 2); Right to Judicial Review/Trial (Article1 section 19); Right to Individual Dignity/Equal Protection (Article 1 section 3).
2. Respondents/Wells Fargo Bank, Freddie Mac surreptitiously formed a conspiracy with Suffolk Superior Court and Petitioner's former attorney (Ken Phillips) to preclude the judicial review or trial of the issue that Respondents/Wells Fargo Bank, Freddie Mac waived their right to foreclose on Petitioner's property for five years because the property value had dropped to a small fraction of the

original mortgage loan during the Great Recession of the United States economy (2008-2012). Respondents/Wells Fargo Bank, Freddie Mac did not want the responsibility, costs, or labor of property ownership, rehabilitation, or management. Respondents/Wells Fargo Bank, Freddie Mac perpetrated an illicit and fraudulent scheme to leave the property in Petitioner's ownership until the fair market value of the property returned to level of the mortgage loan. The purpose of the scheme was to deprive Petitioner of equity and value-added in the subject property (54 Bicknell Street Boston, Ma. 02121).

3. In furtherance of this illicit and fraudulent scheme, Respondents/Wells Fargo Bank, Freddie Mac pretended to consider Petitioner's Loan Modification applications under the Home Affordable Modification Program (HAMP) for Five Years while Respondents collected federal fees for each application processed. Even when Respondents' affiliate (America Service Company/Maria Espinosa) granted a Loan Modification to Petitioner, Respondents/Wells Fargo Bank, Freddie Mac pretended and denied that the Loan Modification had been granted.
4. In 2012, the fair market value of the property returned to the original mortgage loan level and Respondents/Wells Fargo Bank, Freddie Mac began foreclosure proceedings. Petitioner filed a civil action in Suffolk Superior Court

regarding the many legal and equity issues in Respondents/Wells Fargo Bank, Freddie Mac's illicit and fraudulent scheme, perpetrated on Petitioner for five years.

5. Respondents/Wells Fargo Bank, Freddie Mac did not want to confront these issues and others during the first hearing before kind, elder Judge Raymond Brassard who was conciliatory towards Petitioner's plight, stayed the scheduled Foreclosure of Petitioner's property, and advised both parties to work towards a mutual resolution of the legal controversy such as a Loan Modification.
6. After this first hearing, Respondents/Wells Fargo Bank, Freddie Mac concocted the conspiracy with Petitioner's former attorney (Ken Phillips) and Suffolk Superior Court wherein attorney Ken Phillips participated with Respondents Wells Fargo Bank, Freddie Mac in the formation of an agreement without Petitioner's knowledge or consent that required Petitioner to pay Twelve Thousand Dollars ($12,000) in six weeks. Suffolk Superior Court administrators/court clerk then submitted the illicit and fraudulent agreement to Judge R. Brassard for a court order against Petitioner. Attorney Ken Phillips announced the details of the court order to Petitioner minutes before the second hearing in Suffolk Superior Court. The Suffolk Superior Court clerk then marked the court docket that the court order had been issued "after two hearings" when in fact the illicit agreement/court order had been

arranged without any hearing. (Please see Statement of Background Facts for a more detailed description of events.)

7. Office of Transcription Services tampered (or allowed others to tamper) with the transcripts of the Suffolk Superior Court hearings to alter, edit, and sanitize the statements and testimony in violation of Mass. Gen. Laws Ch. 268 Section 13 E, and U.S.C.A. 1519. In furtherance of this conspiracy against Petitioner, Office of Transcription Services tampered (or allowed others to tamper) with the first hearing transcripts to falsely reflect a discussion of a court order for escrow money to be paid by Petitioner, and thereby conceal evidence of the conspiracy between Wells Fargo Bank, Freddie Mac and Suffolk Superior Court.
8. Petitioner hereby complains that this conspiracy by Respondents was used to deny Petitioner's constitutional rights in violation of USCA Constitution 14th Amendment section 1(Due Process of Law, Equal Protection), USCA Constitution 7th Amendment (Right to Jury Trial), 18 U.S.C.A. 241(Conspiracy Against Rights), 18 U.S.C.A. 242 (Deprivation of Rights Under Color of Law), and 42 U.S.C.A. 1985 (Conspiracy to Interfere with Civil Rights).
9. Petitioner is seeking a Jury Trial, as provided by the 7th Amendment of the US Constitution and Declaration of Rights in the Constitution of the Commonwealth of Massachusetts to

uncover and reveal evidence of the Conspiracy that is hidden in the testimony and documents of persons involved in this civil case.

11th Amendment State Immunity

10. In defense, Respondents/Suffolk Superior Court and Transcription Services are claiming Sovereign State Immunity under the 11th Amendment to the US Constitution that states "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State or by Citizens or Subjects of any Foreign State". In Seminole Tribe of Florida V. Florida, 517 U.S. 44, 116 S.Ct. 1114, the US Supreme Court upheld the State Sovereign Immunity in federal courts by determining that Congress lacked power under Article 1 of the US Constitution to abrogate the States' sovereign immunity from suits commenced or prosecuted in the federal courts.
11. In Alden v. Maine, 527 U.S. 706, 119 S.Ct 2240, the United States Supreme Court also upheld the States sovereign immunity from suits commenced or prosecuted in state court without its consent by declaring in its decision that:
    1) "the sovereign immunity of the States neither derives from, nor is limited by, the terms of the Eleventh Amendment",

2) "Rather, as the Constitution's structure, its history, and the authoritative interpretations by this Court make clear, the States' immunity from suit is a fundamental aspect of the sovereignty that the States enjoyed before the ratification of the Constitution, and which they retain today (either literally or by virtue of their admission into the Union upon an equal footing with the other States) except as altered by the plan of the Convention or certain constitutional Amendments".

Nonetheless, in Alden v. Maine, the Court also stated that "the States thus retain a residuary and inviolable sovereignty.....though not the full authority, of sovereignty".

In these cases, the US Supreme Court has reviewed whether Congress has the authority, under Articles 1 and 111 of the Constitution, to abrogate the States' 11th Amendment sovereign immunity. The Court has determined that, in general, Congress does not have the legislative authority to abrogate the States' 11th Amendment sovereign immunity and allow private suits to be commenced and prosecuted in federal or state court without the consent of the State.

In Fitzpatrick v. Bitzer, 427 U.S. 445, 98 S.Ct. 2666, the Court held that "the Eleventh Amendment and the principle of state sovereignty which it embodies,....are necessarily limited by the enforcement provisions of Section 5 of the Fourteenth Amendment." The Court also held "that

Congress may, in determining what is 'appropriate legislation' for the purpose of enforcing the provisions of the Fourteenth Amendment, provide for private suits against States or state officials which are constitutionally impermissible in other contexts."

This is Petitioner's present case before the Court. Respondents/Suffolk Superior Court and Office of Transcription Services conspired with Respondents Wells Fargo Bank, Freddie Mac against Petitioner to prevent Petitioner from the free exercise of his constitutional rights to Due Process of Law, Equal Protection of Law, Right to a Jury Trial in violation of the federal statute, "Deprivation of Rights Under Color of Law"; 18 U.S.C.A 242, and "Conspiracy to Interfere with Civil Rights", 18 U.S.C.A. 1985. Const. Amend. 7th, 14th s.1.

In accordance with Fitzpatrick v. Bitzer, Congress has the constitutional authority in the Enforcement Clause of Section 5 of the 14th Amendment to allow private suits against non-consenting States. Therefore Petitioner is not barred, by the Eleventh Amendment Sovereign Immunity Clause, from commencing and prosecuting a suit against Office of Transcription Services and Suffolk Superior Court/Commonwealth of Massachusetts.

Conspiracy to Interfere with Civil Rights, 42 USCA 1985

Deprivation of Rights under Color of Law, 18 USCA 242

Conspiracy Against Rights, 18 USCA 241

As stated before, Respondents conspired together to form, without Petitioner's knowledge or consent, a fraudulent and illicit agreement that was passed onto the court as an agreed resolution of the civil case. The Suffolk Superior Court then converted this fraudulent and illicit agreement into a court order against Petitioner thereby precluding any necessity for a trial (jury or otherwise) where issues of law and equity, evidence, testimony, and documents could be presented to establish facts and merits of each parties' claims to the court. This pattern followed in every Suffolk Superior Court hearing thereafter; the focus was directed, by Respondents Wells Fargo Bank, Freddie Mac and their defense counsel, to the court order/fraudulent agreement. The Suffolk Superior Court case (No. 2012-3230) was passed from Judge R. Brassard to Judge Bonnie McCleod to Judge R. Johnson and ultimately to Judge Edward Leibensperger. But the same clerk of the court remained with the civil case as the only continuity to update and brief the various judges on the case as it passed from judge to judge.

Conspiracy, by its very nature, is a clandestine, surreptitious, secretive activity. The evidence of conspiracy is often hidden in the small overt and circumstantial acts by the co-conspirators. Without a trial, these small overt and circumstantial acts cannot and will not be assemble to expose the larger and overall conspiracy and its objectives.

In this manner, Petitioner was denied any fair opportunity to be heard on the facts, evidence, or testimony on the merits of his case and claim before the court. As a result, Respondents' conspiracy succeeded in preventing and denying Petitioner's constitutional Right to Due Process of Law.

Tampering of Court Evidence
18 USCA 1512(c)(1), M.G.L. 268 s.13E

Petitioner first discovered that the Suffolk Superior Court hearing recordings had been edited, altered, and sanitized when he sought out a pejorative statement by Judge Edward Leibensperger in the transcript of a 2013 Suffolk Superior Court hearing. In the hearing, Judge E. Leibensperger had just allowed a Motion to Withdraw by Petitioner's second attorney (Mary K. Y. Lee). Petitioner stood to notify the court that he would then be representing himself in the civil case. Immediately, Judge E. Leibensperger yelled at Petitioner "Sit down and keep your mouth shut". Petitioner was stunned by the anger, tone, and bias of the judge's statement,

given the fact that this was the first meeting between the judge and Petitioner.

Months later, Petitioner requested a transcript to retrieve the judge's pejorative statement as evidence that Petitioner had been denied Due Process of Law. However, Petitioner discovered that the judge's pejorative statement had been replaced by a kinder, gentler statement" Have a seat and I will get back to you". Apparently, someone decided that the judge's original statement could cause a problem so it was removed and replaced. The problem is that the transcript of the hearing doesn't show the judge returning to Petitioner for a meaningful opportunity to present his case as required by the 14th Amendment Right to Due Process of Law.

Petitioner then began searching for other significant statements that demonstrated the biased nature of the hearings against Petitioner. Petitioner found several instances where the court hearing recordings were edited, altered, and sanitized.

The court recording of the first hearing before Judge R. Brassard was an egregious alteration of the transcription to give the false impression that there was discussion of an unconscionable court order against Petitioner. It was this unconscionable and financially over-burdensome court order that was used to block and deny Petitioner's 14th Amendment and 7th Amendment rights.

As stated before, the evidence of these egregious violations of law is hidden in the testimony and documents of persons involved in this civil case at that time. Petitioner, therefore, request a Jury Trial as the proper adjudication of this civil case. USCA Const. Amend. 7th. Thus far, Respondents Wells Fargo Bank, Freddie Mac and their co-conspirators have succeeded in depriving Petitioner of his Right to a Jury Trial albeit through violations of laws that are fundamental to the Judicial System of the United States.

Failure to State a Claim

In August 2016, the United States Court of Appeals first reviewed Petitioner's appeal case No. 15-2196. In that review, the US Court of Appeals accepted Petitioner's complaint and appeal as valid in its pleadings to state a cause of action. The US Court of Appeals relied on the Rooker-Feldman Doctrine, the Eleventh Amendment State Sovereignty Immunity, and Federacion v. Board of Regents as its basis to decide and deny Petitioner's appeal case (No. 15-2196).

In 2018, the US Court of Appeals re-opened Petitioner's appeal case No. 15-2196 due to a conflict of interest by a US Court of Appeals justice's (Barron) personal and financial investments in Wells Fargo Bank, N.A.

This is a violation of 28 U.S.C. sec 455(b)(4)/ Disqualification of Justice, Judge, or Magistrate Judge and Canon 3C(1)(c) of the Code of Conduct for United States Judges. The US Court of Appeals offered a variety of options to Petitioner to redress the conflict of interest and its impact on the Court's decision.

Petitioner requested a review and a remand of his federal civil case to the District Court for a Jury Trial. Petitioner submitted a short brief on the Rooker-Feldman Doctrine and the Eleventh Amendment State Sovereignty Immunity to the US Court of Appeals in support of Petitioner's request for the remand of the appeal case (No. 15-2196) back to the District Court for a Jury Trial.

In response, the US Court of Appeals ignored many of Petitioner's requests to resolve the appeals case. Instead, the US Court of Appeals regressed pass its first basis for the original decision of the appeals case (No. 15-2196). The US Court of Appeals invoked Rule 12: Failure to State a Claim after accepting the complaint and appeal as valid in their pleadings to state a cause of action in the first review. The US Court of Appeals gave no other explanation, discussion, or reasons for this default basis to yet again deny Petitioner's appeal case (No. 15-2196).

The US Court of Appeals is apparently determined to deny Petitioner's appeal case on any basis in favor of Wells Fargo Bank and Suffolk Superior Court, et al. The US Court of

Appeals reliance on the Rooker-Feldman Doctrine in denying Petitioner's appeal in the first review was so off-the-mark that it magnified the error of conflict of interest by the Court's justice (Barron). On its face, Petitioner's federal civil action did not meet the Rooker-Feldman Doctrine requirement that the parties and causes of action in the federal case must be different from the state case. In its attempted recovery, the US Court of Appeals is now relying on Rule of Civil Procedure 12(b)(6) Motion to Dismiss for Failure to State a Claim as an expeditious resolution to the controversial civil action against a state court and a bank corporation.

Petitioner has stated a claim that relief may be granted in his Amended Complaint to the District Court (cv-14) and in his Appeal to the US Court of Appeals (No. 15-2196). In Ashcroft v IQBAL et al, (2009) 556 U.S. 662, 129 S. Ct. 1937, and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 556, 127 S. Ct. 1955, the United States Supreme Court established a new "Plausibility" standard for the review of motions to dismiss for Failure to State a Claim under Rule 12(b)(6). The US Supreme Court stated "When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." The US Supreme Court also stated that "While legal conclusions can provide the framework of a complaint, they must supported by factual allegations."

In Garcia-Catalan v. U.S., (2013) 734 F. 3d 100, the US Supreme Court's "two-step plausibility" standard was recited as

"First the court must distinguish the complaint's factual allegations (which must be taken as true) from its conclusory legal allegations (which need not be credited)."

Second, the court must determine whether the factual allegations are sufficient to support the reasonable inference that the defendant is liable for the misconduct alleged."

Petitioner has stated facts in both pleadings to the District Court (No. 1:14-cv-13123) and to the US Court of Appeals (No. 15-2196) in support of the causes of action and claims against Respondents/ Wells Fargo Bank, Suffolk Superior Court, et al. A review of the Petitioner's record of pleadings will reveal undisputed facts that:

a) Wells Fargo did not foreclose for five years (2008-2012) although it should have.

b) The subject property value had plummeted due to the Great Recession of the US Economy.

c) Wells Fargo accepted Loan Modification applications and federal fees during those years.

d) Wells Fargo did not grant a loan modification throughout those years.

e) Wells Fargo did deny that a loan modification had been granted by an employee (Maria Espinosa) in April-May 2011.

f) Wells Fargo moved for Foreclosure in 2012 when the property value returned to normal levels.

g) Wells Fargo did allow and caused the mortgage interest to accrue over the five years (2008-2012).

h) The subject property had been rehabbed by Petitioner during 2008 to 2012.

i) Wells Fargo did avoid the cost of property management and rehab for those years.

j) Petitioner's attorney (Ken Phillips) announced the agreement/court order before the second hearing but not after the first hearing.

k) Petitioner's attorney (Ken Phillips) proved he was co-opted by concealing Wells Fargo's Motion to Dismiss without answering it.

l) Attorney Mary K.Y. Lee is a witness to this conspiracy because she informed Petitioner about the Wells Fargo Bank's Motion to Dismiss that co-opted attorney (Ken Phillips) concealed from Petitioner.

m) Attorney Mary K.Y. Lee did complain to Petitioner that she was intimated and threatened by Wells Fargo and its defense counsel once she became Petitioner's attorney.

n) Suffolk Superior Court did allow the withdrawal by Petitioner's two attorneys without any statement (about why) on the record during the hearings.

o) Petitioner has been forced to be a Pro Se Litigant by the actions of Wells Fargo Bank and its defense counsel against Petitioner's attorneys.

p) Court Clerk/Nancy Goldrick did follow Petitioner's civil case from judge to judge.

q) Court Clerk/Nancy Goldrick did arrange a same day hearing for Wells Fargo's defense counsel before Judge B. McCleod based on a phone call to the court about the $12,000 placed into escrow.

r) Court Clerk/Nancy Goldrick did require that Petitioner and his attorney file a motion to hire a special constable to serve a special summons before arranging a hearing before the same Judge B. McCleod on the same issue.

s) Judge Edward Leibensperger did yell at Petitioner "Sit Down and Keep Your Mouth Shut" when Petitioner attempted to tell the court that he was now representing himself at the hearing to withdraw Attorney Mary K.Y. Lee.

t) Judge Edward Leibensperger's pejorative statement was missing from the court transcript as well as other statements when Petitioner looked for them as evidence against the court.

u) Suffolk Superior Court never adjudicated the claims and causes of action in Petitioner's original complaint to begin the civil action.

There are many other examples of facts that support Petitioner's civil action against Wells Fargo Bank, Suffolk Superior Court et al. The US Supreme Court has stated in Ashcroft v. IQBAL (2009), 556 U.S. 662, 129 S. Ct 1937, that the Plausibility Standard does not require probability of prevalence in the pleadings. That level of certainty in establishing the facts, truths, and evidence of a case is left for a Jury Trial.

Petitioner has asserted the many facts to demonstrate the existence of a conspiracy by Respondents/ Wells Fargo Bank, Suffolk Superior Court, et al against Petitioner and his civil action. In Twombly, the Court held that "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." at 556, 127 S. Ct. 1955.

Conspiracies are surreptitious in nature by necessity. As a result, Conspiracies are exposed and proven by the overt acts of the co-conspirators. Petitioner is relying on the Courts to review the total pleadings in a manner "that requires the reviewing court to draw on its judicial experience and common sense." IQBAL, quoting Iqbal v. Hasty, 490 F. 3d at 157-158.

Federacion DeMaestros De Puerto Rico

v.

Junta De Relaciones Del Trabajo De Puerto Rico

The US Court of Appeals invokes Federacion DeMaestros De Puerto Rico v. Junta De Relaciones Del Trabajo De Puerto Rico (2005), 410 F.3d 17, 24, in a vague attempt to deny Petitioner's appeal to whatever extent possible under the Rooker-Feldman Doctrine. Petitioner's state court civil action and federal court civil action are two different cases with different claims and causes of action as well as different

parties. The state court case arises from actions by Wells Fargo Bank, Freddie Mac before the state court civil action was brought into state court. The federal court case arises from actions by Wells Fargo Bank, Suffolk Superior Court et al after the state court case began. Rooker-Feldman Doctrine does not apply in any manner to Petitioner's federal appeal. It is perplexing why the US Court of Appeals continues to invoke Federacion De Maestros De Puerto Rico v. Junta De Relaciones Del Trabajo De Puerto Rico when this case centers on the Rooker–Feldman Doctrine. The US Court of Appeals does not seem to know Petitioner's federal case that it is reviewing.

Rooker-Feldman Doctrine

The Rooker-Feldman Doctrine is applied to cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the federal district court proceedings commenced and inviting district court review and rejection of those judgments. This is not Petitioner's case or circumstance between the state and federal cases. So the Rooker-Feldman Doctrine does not apply to the Petitioner's federal cases (District Court No. 1:14-cv-13123 and US Court of Appeals No.15-2196) at all.

In Petitioner's state-court civil case, Petitioner brought a suit against Wells Fargo Bank, N.A. and America Servicing Company for claims and Counts:

1) Breach of the Covenant of Good Faith and Fair Dealing
2) Unjust Enrichment
3) Negligence
4) UCC Claim – Defendants Not Entitled To Foreclosure
5) Wrongful Foreclosure
6) Unfair and Deceptive Business Practices
7) Intentional Infliction of Emotional Distress
8) Intentional Interference with Contractual Relations.

Whereas, in Petitioner's federal court cases, Petitioner brought a suit against Suffolk Superior Court, Office of Transcription Services, Wells Fargo Bank, and Freddie Mac for claims and counts:

1) Tampering of Court Evidence
2) Violation of Due Process of Law
3) Conspiracy to Violate Plaintiff's Civil Rights
4) Violation of Right to Equal Protection of Law
5) Violation of Civil Rights/ 42 USCA 1983.

Petitioner's federal and state cases are two very different causes of civil action although there are three similar parties in both cases (Petitioner and Respondents/ Wells Fargo Bank, Freddie Mac). The cause of action in the state court arose from events prior to the commencement of the civil suit in Suffolk Superior Court. The cause of action in the federal court arose from events after the commencement of the civil suit in Suffolk Superior Court.

In the state court case, the litigation involved issues of law and equity in property and foreclosure. In the federal cases, the litigation between a different set of parties involved issues of violation of Petitioner's constitutional rights and Conspiracy to violate Petitioner's civil rights.

The Rooker-Feldman Doctrine applies to the same cases between the same parties that are brought into federal court after the same case between the same parties was already adjudicated in state court. Demonstrably, this is not the circumstance with Petitioner's state and federal cases therefore the Rooker-Feldman Doctrine does not apply in Petitioner's present case before this honorable Court. Respectfully, The US Court of Appeals misapplied this basis for denial. Petitioner seeks a Jury Trial on the crimes and wrongful acts committed by Respondents against him.

In Conclusion

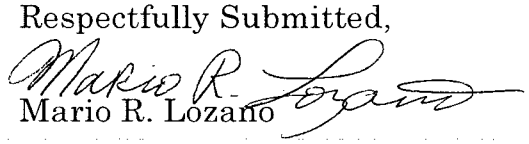
Racial Animus played a covert role in this conspiracy by Respondents against Petitioner because fear or concern for accountability and retribution was lessened by the conventional belief that Petitioner, as a person of color, did not have the political representation, connections, or clout to get an investigation on the clandestine activities of this conspiracy in Suffolk Superior Court. To a large extent, this belief appeared to be right because Petitioner notified the Chief Justice of Suffolk Superior Court, of Suffolk Appellate Court, and the Supreme Judicial Court on a timely basis about the Tampering of Court Evidence. Petitioner believed that such transgressions of the law were sufficiently egregious and corrupt that Petitioner also notified the Massachusetts Attorney General/Martha Coakley and the US Attorney's Office/Boston. However, none responded except the State Attorney General's office which declined to investigate the case.

Nonetheless, Respondents ironically overlooked that the Judicial System provides, even the most average citizen, an opportunity for recourse and redress of wrongful acts. Traditionally, banks have been viewed as conservative institution of honesty and integrity. However the Subprime scandal and disaster (circa 2008) has revealed a new Bank Industry business approach of profit at all cost. Recently, Wells Fargo Bank CEO John Strumpf was forced to resign due to the bank's acts of Fraud and the

culture of fraud within the bank corporation. As a result, the notion of Wells Fargo Bank, Freddie Mac perpetrating fraud and conspiracy against Petitioner is not so far-fetched as some may have believed before.

All of this to deprive a working-class person of the fair equity and value-added that Petitioner developed in the Subject Property so a multi-billion dollar corporation can prosper a little more by Fraud, Conspiracy, and other illegal acts. Petitioner is seeking a Jury Trial so the truth and evidence that is in the testimony and documents of persons involved may be revealed and used as the basis of true and just adjudication of the civil case against Respondents Wells Fargo Bank, Suffolk Superior Court et al.

Respectfully Submitted,



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REASONS FOR GRANTING THE PETITION

1. Wells Fargo Bank caused this civil controversy by concocting and perpetrating a scheme against Petitioner wherein Wells Fargo avoided foreclosure, and thereby, the costs and responsibility of ownership by pretending to consider Petitioner's applications for a loan modification over a five year period.

2. In retrospect, Wells Fargo Bank never intended to grant a loan modification.

3. In 2008 and years thereafter, Wells Fargo did not want ownership of the mortgaged property at 54 Bicknell Street in Dorchester, Ma because its fair market value had plummeted to 1/4 of the original mortgage loan after the collapse of the Financial and Banking Systems that declined the US economy and the real estate industry into the Great Recession.

4. Wells Fargo waived its right to foreclose on the subject property under the mortgage loan contract for five years. Wells Fargo refused to accept any monthly payment once Petitioner fell behind two months in scheduled mortgage payments. Instead, Wells Fargo demanded the increasing outstanding amount in full each month. Nor did Wells Fargo attempt to mitigate its losses by accepting "an amount less than owed" under the terms of the original mortgage loan contract. See SLM Corp.

Mortgage (page 3) Suffolk County Registry of Deeds (Book 36217 Page 056).

5. Thereby Wells Fargo caused and created the large amount of mortgage interest that accrued while Wells Fargo perpetrated its illicit scheme to avoid the costs and responsibility of property ownership until the fair market value of the subject property returned to its pre-recession property value (circa 2012).

6. Wells Fargo intentionally left the costs and responsibility of property ownership with Petitioner for those five years (2008-2012).

7. To be clear, the subject property at 54 Bicknell Street Dorchester, Ma was an old building with antiquated fundamental systems of Electricity, Plumbing, Heating, Floors, Walls, Ceilings, Water (hot & cold), Windows, Doors/Locks, Fixtures, Kitchens, Baths, etc. In short, the subject property/building was not competitive in the real estate rental or sales market; especially during a Great Recession.

8. Petitioner was left with the arduous task of the complete de-construction and re-build of the old antiquated building in an attempt to make it competitive in the rental and sales real estate market with the hope that the US economy would recover.

9. Petitioner did not make "a few improvements" as minimally described in the U.S. District Court's decision. See Appendix A. With all due respect, "A few improvements" is cutting the lawn and painting the fence.

10. Petitioner completed a far more extensive and complete renovation and rehabilitation that cost tens of thousands of dollars per unit. It is now a modern building that meets the requirements of 2018 habitation.

11. About 2012, The U.S. economy and the real estate market were in recovery. The subject property was competitive in the rental and sales real estate market because of the renovation and rehabilitation of the property by Petitioner, to that point in time.

12. Then, and only then, did Wells Fargo Bank and Freddie Mac take an interest in the subject property. Their illicit scheme had worked perfectly; Petitioner spent years applying for a Loan Modification and rehabbing the property at his own expense. Wells Fargo and Freddie Mac did nothing but collect federal government fees for pretending to process Petitioner's Loan Modifications applications under the Home Affordable Mortgage Program (HAMP).

13. The U.S. District Court's decision is partially based that Petitioner's complaint contains pleadings and allegations that are 'conclusory' and implausible. Yet the empirical facts and dates are there for anyone to examine.

14. Through its illicit scheme, Wells Fargo Bank and Freddie Mac attempted to profit and benefit through their own wrongdoing. The American Judiciary (state and federal courts) have a long tradition against allowing parties to benefit or profit from their own wrongdoing; "the principle that a wrongdoer shall not be permitted to profit through its own wrongdoing is fundamental in our jurisprudence." *Perma Life Mufflers, Inc. v. International Parts Corp.*, 392 U.S. 134, 88 S.Ct. 1981 (1968), *Zap v. U.S.*, 328 U.S. 624 (1946), 66 S.Ct. 1277, *U.S. v. Houlihan*, 92 F.3d 1271 (1996), *Radford Trust v. First Unum Life Ins. Co. of America*, 321 F.Supp.2d 226, *Com. v. Edwards*, 444 Mass. 526 (2005).

15. In mid-summer of 2012, Wells Fargo and Freddie Mac finally began foreclosure proceedings against Petitioner and the subject property. Petitioner and his attorney (Ken Phillips) filed a civil action against Wells Fargo Bank, N.A. in Suffolk Superior Court (SUCV2012-03230).

16. Had Wells Fargo Bank simply presented its case to the Suffolk Superior Court, the court may have ultimately decided in Wells Fargo favor. However, Wells Fargo Bank chose to double-down on its illicit behavior and began a conspiracy to expedite its case, involving Petitioner's attorney (Ken Phillips) and Suffolk Superior Court. As the target of the conspiracy, Petitioner was left unaware of the surreptitious actions by his attorney (Ken Phillips) and Suffolk Superior Court.

17. In the first hearing, Petitioner (through his attorney) made kind, elder Judge Raymond Brassard aware of Wells Fargo five year illicit scheme that was a matter of objective record. Petitioner also stated that Wells Fargo Bank (through its affiliate America's Servicing Company/"ASC") had granted a Loan Modification in April-May 2011; specifically by ASC employee/Maria Espinosa. Then Wells Fargo Bank/ASC pretended that the grant of a Loan Modification to Petitioner had never occurred.

18. Kind, elder Judge R. Brassard asked Wells Fargo defense attorney/Julianne Balliro whether they had a written affidavit from ASC employee Maria Espinosa on the issue of the Loan Modification. Wells Fargo Bank's Attorney Julianne Balliro answered "no".

19. Judge R.Brassard cancelled the scheduled foreclosure of the subject property and advised the two parties to work towards a Loan Modification as a resolution of the case. Petitioner and his attorney (Ken Phillips) left the court relieved and satisfied by the judge's ruling.

20. Petitioner's attorney (Ken Phillips) arrived a few minutes late to the second hearing and hurriedly informed Petitioner that the court was going to issue a court order against Petitioner that required payments of five thousand dollars, four thousand dollars and three thousand dollars within weeks of each payment. Petitioner was stunned and surprised but attorney Ken Phillips refused to answer questions about the stunning turnabout. Attorney Ken Phillips wouldn't even request a reverse order of payments so Petitioner would have more time to gather the funds. Petitioner did not know that he was being ambushed by his attorney.

21. Suffolk Superior Court did issue the unconscionable court order. The court administration (presumably, the clerk of the court) marked the docket "after two hearings' the court order was issued. This was the first overt act of the conspiracy that Petitioner observed.

22. In fact, the unconscionable court order was issued after "no hearings" on the matter because it was decided ex parte after the first hearing but before the second hearing.

23. Months later, Petitioner learned and realized that the two opposing parties of a civil case can form an agreement that they can present to the court for approval as a court order.

24. It was this fraudulent and unconscionable court order that was used to block and prevent Petitioner's attempt for a fair trial on all the issues, facts, evidence, and merits of his civil case against Wells Fargo Bank in Suffolk Superior Court.

25. The U.S. Court of Appeals (1st Circuit) invoked the Rooker-Feldman Doctrine its decision in this federal case although it does not apply because there are different parties and different claims between Petitioner's state and federal civil cases. Ironically, the U.S. Court of Appeals does not mention the Fraud Exception to the Rooker-Feldman Doctrine. If the doctrine did apply then the Fraud Exception would have to apply also because judgments obtained through fraud are generally considered invalid. See Rooker-Feldman Doctrine.

26. Apparently, attorney Ken Phillips agreed to this surreptitious arrangement with Wells Fargo and Attorney Julianne Balliro without Petitioner's knowledge and consent. This would explain the state court's sudden turnabout in issuing a sudden and unconscionable order. It would also explain the sudden turnabout in the attitude, lack of effort, and demeanor of attorney/Ken Phillips.

27. In its decision, the U.S. District Court seems to characterize Petitioner's pleadings and claims in the original complaint and the amended complaint as "conclusory", vague, empty, implausible allegations. As a Pro Se Litigant, Petitioner did not know that he had to plead and prove his case in the complaint alone. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 127 S. Ct 1955. Petitioner sought a trial in the lower court to substantiate all claims through testimony, documents, evidence (circumstantial and direct), and basic facts.

28. Attorney Ken Phillips changed sides to participate in this conspiracy against Petitioner although he did not completely reveal his betrayal at first. Attorney Ken Phillips hid a Motion to Dismiss by Wells Fargo and Attorney Julianne Balliro from Petitioner thus fully exposing the betrayal.

29. Attorney Mary K. Lee can testify to this egregious conduct by Attorney Ken Phillips because she alerted Petitioner that a Motion to Dismiss by Wells Fargo Bank and Attorney Julianne Balliro had been filed.

30. Petitioner responded that there was no Motion to Dismiss in the court file that he reviewed the day before. Of course, Attorney Mary K. Lee explained to Petitioner that the Motion to Dismiss is sent directly to the opposing attorney, not the court file. Petitioner contacted Attorney Ken Phillips who had not answered the Motion to Dismiss and gave no indication that he intended to answer.

31. In fact, Attorney Ken Phillips refused to give the Motion to Dismiss to Petitioner so Petitioner could answer before the default deadline.

32. Suffolk Superior Court allowed Attorney Ken Phillips' withdrawal without a hearing on the matter. Again, Attorney Mary K. Lee can testify to the unusual nature of such a proceeding.

33. Nonetheless, Attorney Mary K. Lee became the Petitioner's second attorney. Attorney Mary K. Lee can testify that this civil case had one clerk of the court as the case was transferred from Judge R. Brassard to Judge Bonnie McLeod to Judge Lawrence Pierce to Judge Edward Leibensperger. Suffolk Superior

Court judges have their own clerks who handle cases as they are assigned to the judges. This case had its own clerk of the court throughout.

34. Attorney Mary K. Lee can also testify that Attorney Julianne Balliro scheduled her own hearing by making a phone call and walking over to the courthouse because she did not like the court order issued by the court.

35. The judge, the clerk of court, and Attorney Julianne Balliro were all present. Of course, Petitioner's attorney/Mary K. Lee attended to see what was going on. The court changed the court order to suit Attorney J. Balliro. The Clerk of Court called it a meeting to correct a "Typo". In contrast, Petitioner had to request permission to hire a "special constable" to serve notice on Attorney J. Balliro when Petitioner wanted to schedule a hearing with Suffolk Superior Court.

36. On its face, this is only an example of a little unfair treatment. However, in the totality of the circumstances, these are overt acts, by the court, of collusion and conspiracy between the court clerk and Wells Fargo Bank's defense attorney.

37. Attorney Mary K. Lee can also testify that she complained to Petitioner on four separate occasions that she was made to feel threatened and intimidated by the opposing parties.

Accordingly Attorney Mary K. Lee's representation waned from diligent and zealous to contrary and adversarial against Petitioner.

38. Again, Suffolk Superior Court granted the required withdrawal of Petitioner's second attorney without a hearing or any statement on the court's record as to why.

39. This is how Petitioner became a Pro Se Litigant; not by choice but by necessity. If Wells Fargo's case was so strong then why resort to co-opting/coercing or intimidating/threatening Petitioner's attorneys.?

40. As Public Policy, Petitioner is requesting that the courts do not grant the large wealthy corporations and powerful law firms the benefit of the doubt and great latitude in their illicit and illegal acts. This is the same Wells Fargo Bank, N.A. that went onto create Two Million False bank accounts with their customers private information so they could charge fake fees on these false bank accounts from their customers real accounts.

41. That's two million counts of embezzlement, larceny, fraud and identity theft. To my knowledge, No one has been criminally prosecuted for this corporate-wide scheme. Although Wells Fargo Bank did fire Five thousand and three hundred employees but no

one from upper management as though they did not know that such a corporate-wide conspiracy against their customers was happening. It took a congressional hearing by a US Senator to press the case. Ultimately CEO John Strumpf resigned.

42. Petitioner disagrees with the U.S. District Court that the claims and complaints in his pleadings were "conclusory" claims and mere vague allegations that required more to be plausible. There is evidence and testimony that substantiate all of Petitioner's claims and complaints that the courts have heard or considered in their decisions.

43. Wells Fargo Bank/Freddie Mac solicited Petitioner's attorney (Ken Phillips) and Suffolk Superior Court into a conspiracy to avoid a jury trial thereby violating Petitioner's 7th Amendment Right to a Jury Trial and 14th Amendment Right to Due Process of Law.

44. Wells Fargo Bank/Freddie Mac co-opted/ coerced Petitioner's first attorney (Ken Phillips) into a secret, fraudulent agreement without Petitioner's knowledge and consent. This fraudulent agreement was then given to the Suffolk Superior Court as a false resolution of the case. The Suffolk Superior Court then issued a burdensome court order against Petitioner.

45. Suffolk Superior Court marked the docket that this court order was issued "after two hearings" when, in fact, the secret and fraudulent agreement was formed after the first hearing but before the second hearing. Moments prior to the second hearing, Petitioner's turncoat attorney (Ken Phillips) informed Petitioner that the court would issue the exact court order against Petitioner. There was no hearing. The fraudulent secret agreement/court order was a "Fait Accompli", devised and arranged outside of the court without a hearing.

46. At this point, Suffolk Superior Court began its involvement in the conspiracy with Wells Fargo Bank/Freddie Mac. This overt act in the conspiracy was neither large nor diabolical in scale. But Suffolk Superior Court gave the official appearance by this small overt act that the court order was issued after Due Process of Law had been afforded to both parties. It was not.

47. Wells Fargo Bank/Freddie Mac then used the fraudulent agreement/court order to preclude any jury trial where the truth of their frauds could be exposed through witness testimony and documentary evidence. In this illicit manner, Wells Fargo Bank succeeded in violating Petitioner's Right to a Jury Trial with the assistance of Suffolk Superior Court.

48. Suffolk Superior Court continued the furtherance of its conspiracy with Wells Fargo Bank/Freddie Mac by committing more acts against Petitioner and his civil case such as:

    a) Suffolk Superior Court avoided any hearing on the Motion for Withdrawal by attorney Ken Phillips. Suffolk Superior Court merely granted the motion without discussion on the court's record.

    b) Suffolk Superior Court also granted the Motion for Withdrawal by Petitioner's second attorney/ Mary K. Lee without discussion on the court's record when Petitioner was forced to require her withdrawal due to fear and ineptitude from intimidation and threats by Wells Fargo Bank/Freddie Mac and their defense counsel.

    c) Ultimately, Petitioner realized that there is no record of his complaint about his attorneys' improprieties on the Suffolk Superior Court record. Thereby, Suffolk Superior Court maintained a false appearance for Wells Fargo Bank/Freddie Mac that the proceedings were fair, proper and in accordance with the law. It was not.

d) Suffolk Superior Court allowed Wells Fargo Bank/Freddie Mac/defense attorney/Julianne Baliro to demand and arrange a same day hearing about a court order that she didn't like.

e) At this same-day hearing, Wells Fargo Bank/Freddie Mac/Attorney J. Baliro made the court change its court order to read the way Attorney J. Baliro preferred. Suffolk Superior Court explained that this was a "meeting to correct a Typo" in the court order.

f) By contrast, Suffolk Superior Court required Petitioner's second attorney (Mary K. Lee) to submit special filings and hire a special constable for service before a hearing would be scheduled for Petitioner.

g) Suffolk Superior Court moved the civil case around to three other judges after the first two hearings with kind, elder Judge Raymond Brassard who may have retired shortly afterward.

h) Suffolk Superior Court/Judge Edward Liebensperger yelled at Petitioner to "Sit down and keep your mouth shut" when Petitioner attempted to tell the court that he was representing himself after Attorney Mary K. Lee was removed from the case.

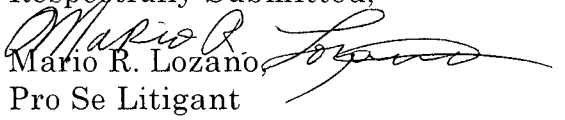
i) Suffolk Superior Court and the Office of Transcription Services tampered, altered, and sanitized the court recordings to remove the judge's pejorative statement. The judge's statement was replaced with a kinder, gentler statement "have a seat and I will get back to you"

j) However, the transcript of the court hearing shows that the judge never got back to Petitioner.

k) Suffolk Superior Court and Transcription Services also removed and replaced other court hearing statements in violation of federal and state laws against the tampering or alteration of court evidence. Please see Petitioner's Statement of Facts and Background.

By this petition for a writ of certiorari, Petitioner is requesting this honorable court to remand this case back to the lower court for a jury trial so the evidence and testimony may be properly presented for a fair adjudication on the truth and the merits of this case

Respectfully Submitted,



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Pro Se Litigant