

AUG 30 2019

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19-6140

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

EDWIN P. GANT

— PETITIONER

(Your Name)

vs.

U.S. BANK TRUST, N.A.,  
AS TRUSTEE FOR LSF9 — RESPONDENT(S)  
MASTER PARTICIPATION TRUST

ON PETITION FOR A WRIT OF CERTIORARI TO

THE NEW JERSEY SUPREME COURT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Edwin P. Gant

(Your Name)

P.O. Box 483

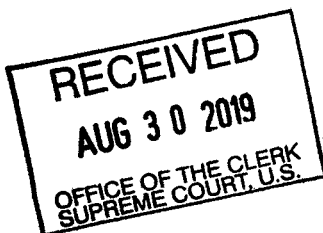
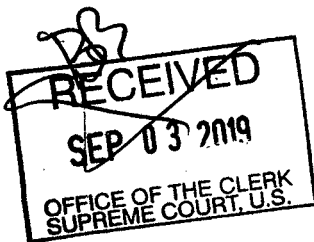
(Address)

Franklinville, NJ 08322

(City, State, Zip Code)

(856) 308-5896

(Phone Number)



ORIGINAL

## QUESTIONS PRESENTED

(I) DID THE NEW JERSEY SUPREME COURT VIOLATE THE DUE PROCESS CLAUSE – BOTH PROCEDURAL AND SUBSTANTIVE – BY FAILING TO RECONSIDER (E.G. ENTERING COURT ORDER FILED JUNE 3, 2019 DENYING RECONSIDERATION TO THE PETITIONER, EDWIN P. GANT, HEREINAFTER THE PETITIONER) ITS ORIGINAL DECISION REFUSING TO VACATE SUMMARY JUDGMENT OF FORECLOSURE TO THE RESPONDENT, U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST (HEREINAFTER THE RESPONDENT OR U.S. BANK) WHERE: (1) THE ORIGINAL PLAINTIFF CITI MORTGAGE, INC. (HEREINAFTER CITI MORTGAGE OR THE ORIGINAL PLAINTIFF) FILED ITS COMPLAINT OF FORECLOSURE WITHOUT THE REQUISITE LEGAL STANDING; (2) THE RESPONDENT U.S. BANK WHICH SUBSTITUTED IN FOR CITI MORTGAGE CONCEALED THE NOTICE OF SALE OF OWNERSHIP OF MORTGAGE LOAN (HEREINAFTER THE ASSIGNMENT) BY NOT PRODUCING SAME DURING DISCOVERY WHICH THE RESPONDENT ADMITS ON PAGE 23 OF ITS APPELLATE DIVISION BRIEF WHICH ASSIGNMENT ALSO WAS NOT PROVIDED BY CITI MORTGAGE DURING PETITIONER LITIGATION WITH CITI MORTGAGE; AND (3) THE ORIGINAL MORTGAGEE MAVERICK FUNDING CORP. (HEREINAFTER MAVERICK) APPROVED THE SAID MORTGAGE, WHICH WAS ASSUMED BY CITI MORTGAGE INITIALLY AND THEN U.S. BANK BASED UPON A FRAUDULENT REAL ESTATE APPRAISAL AND AS SUCH WAS A PREDATORY LOAN WHICH SHOULD NOT BE ENFORCED BY ANY COURT LET ALONE THE NEW JERSEY SUPREME COURT?

(II) WHETHER THE NEW JERSEY SUPREME COURT IN DENYING RECONSIDERATION TO THE PETITIONER FAILED TO FOLLOW NEW JERSEY CASE LAW REGARDING LEGAL STANDING, THE UNCLEAN HANDS DOCTRINE AND FRAUD?

(III) WHETHER THE NEW JERSEY SUPREME COURT HAS PERMITTED AND THEREBY UPHELD THE PERPETRATION OF FRAUD UPON THE TRIBUNAL BY U.S. BANK CONCEALING THE SAID ASSIGNMENT FROM PLAINTIFF DURING THE DISCOVERY PROCESS AND OTHERWISE AS WELL AS IGNORING THE FRAUDULENT REAL ESTATE APPRAISAL OF THE ORIGINAL MORTGAGEE MAVERICK.

ii.

**PARTIES TO THE PROCEEDING**

**All parties to the proceeding are named in the caption.**

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A. There is a Split Among the Appellate Division and New Jersey Supreme Court Between the rulings in Wells Fargo Bank, N.A. v. Ford and Deutsche Bank Nat. v. Mitchell cases and the instant case.....7

1. There was no legal standing for Citi Mortgage, Inc., the original plaintiff, to file the foreclosure complaint and it should have been dismissed pursuant to the above cases...7

2. The respondent U.S. Bank has/had unclean hands and under the legal doctrine of the same name should not have been granted relief in the form of a foreclosure judgment and summary judgment.....7

3. The original mortgage approved by the original mortgagee Maverick was approved pursuant to a fraudulent real estate appraisal, and, as such was a predatory loan which legally voids the said mortgage; the successor in interest US Bank assumes this legal defect and as such should not have been able to foreclose upon petitioner or obtain summary judgment against him.....8-9

4. The decisions of the New Jersey Supreme Court are wrong.....9

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## **TABLE OF AUTHORITIES**

### **CASES**

Deutsche Bank Nat. v. Mitchell, 422 N.J. Super. 214, Superior Court of New Jersey, Appellate Division (2011)

Pellitteri v. Pellitteri, 266 N.J. Super. 56, 57 and 65 Superior Court of New Jersey, Appellate Division (1993)

U.S. Small Business Admin. v. Martignetti, 98 F. Supp. 2<sup>nd</sup> 587, District Court of New Jersey (2000)

Wells Fargo Bank, N.A. v. Ford, 418 N.J. Super. 592 and 598, Superior Court of New Jersey, Appellate Division (2011)

### **STATUTES AND REGULATIONS**

None.....

## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner, Edwin P. Gant, respectfully petitions for a Writ of Certiorari to review the opinion of the New Jersey Supreme Court Justice filed December 17, 2018 and Court Order filed June 3, 2019 of the Honorable Stuart Rabner, Chief Justice.

## **OPINIONS BELOW**

The Order of Justice LaVecchia filed December 17, 2018 and the Court Order filed June 3, 2019 of New Jersey Supreme Court, the Honorable Stuart Rabner, Chief Justice.

## **JURISDICTION**

The jurisdiction of the United States Supreme Court is invoked under 28 U.S.C. Section 1257(a).

**STATUTORY AND REGULATORY PROVISIONS INVOLVED**

None.

**APPENDIX**

**Appendix A**

**Court Order Filed June 3, 2019 denying Motion for  
Reconsideration of the Supreme Court of New Jersey  
M-1028/1029 September Term 2018 081477**

**Appendix B**

**Court Order Filed December 17, 2018 denying  
Petition for Certification of the Supreme Court of  
New Jersey C-380 September Term 2018 081477**



### STATEMENT

The recitation following hereinafter is a summary of what has been previously set forth in the briefs submitted by Petitioner to the Appellate Division of the State of New Jersey and the New Jersey Supreme Court (i.e. portions of the lower court record).

I repeat the pertinent portions of same but reserve the legal right to rely upon facts and legal argument set forth in any portion of the lower court records.

1. A decision was rendered by the New Jersey Supreme Court decided on May 28, 2019 but not filed until June 3, 2019, and mailed to Petitioner on June 4, 2019 which is attached hereto as "P-1"; and original Court Order filed December 17, 2018, a copy of which is attached hereto as "P-1A".

2. I am filing my Petition for Certiorar pro se to the United States Supreme Court within the required ninety (90) day limit for filing.

3. This appeal involves the public interest of the State of New Jersey and the United States of America for the respondent, U.S. Bank Trust, N.A., as Trustee for the LSF9 Master Participation Trust (hereinafter the Respondent or U.S. Bank) on page 23 of its Appellate Brief conceded that it concealed the Notice of Sale of Ownership of Mortgage Loan (hereinafter the assignment or Notice of Sale) by not producing same during discovery. See page 23 of Appellate Brief of U.S. Bank and the Notice of Sale, copies of which are attached hereto as "P-2" and "P-3".

4. This admitted concealment of the said Notice of Sale by U.S. Bank in turn convincingly demonstrates that the plaintiff, U.S. Bank, has unclean hands and equitable relief in the form of a mortgage foreclosure, should not have been granted by the trial court and affirmed by the Appellate Division and the Supreme Court of New Jersey under the case of Pellitteri v. Pellitteri, 266 N.J. Super. 56, 57 and 65 (App. Div. 1993).

5. Furthermore, plaintiff's predecessor, Citi Mortgage, Inc. had no legal standing to file the instant complaint with Docket Number F-034705-14 under the cases of Deutsche Bank v. Mitchell, 422 N.J. Super, 214, 222-226 (App. Div. 2011) and Wells Fargo Bank, N.A. v. Ford, 418 N.J. Super. 592, 598 (App. Div. 2011) for Citi Mortgage, Inc. had transferred ownership to U.S. Bank by the Notice of Sale on July 17, 2014 and Citi Mortgage thereafter filed suit in the instant case on August 21, 2014, thirty (35) days later. A copy of the cover page of this Complaint is attached hereto as "P-4".

6. It appears that there may be a split in the case law regarding legal standing that needs to be addressed by the United States Supreme Court.

7. The banks/mortgage companies should not be permitted to perpetrate a fraud upon the tribunal or on me for this mocks the very spirit of the rules of discovery, the court rules in general and the very legal system itself; this humble litigant respectfully requests that once-and-for-all, a court stand up and rule that U.S. Bank is not above the law.

8. It is believed that the great statesman, Thomas Jefferson, uttered the immortal words that the biggest threat to democracy are the banks (I am paraphrasing).

9. The original mortgage was approved by Maverick based upon a fraudulent real estate appraisal by Lighthouse that petitioner's property was valued at \$205,000.00 which was performed in 2008.

10. Petitioner obtained its own appraisal by New Jersey Appraisals in 2016 that petitioner's home was valued at only \$18,000.00 approximately. The appraisals are presently lost due to my eviction.

11. Petitioners land was assessed at \$20,100.00 in 2008; therefore, my land and house were only worth little more than \$38,000.00 in 2008.

12. The subject premises at 193 Railroad Avenue, Franklinville, New Jersey 08322 was in substantially the same condition in 2016 that it was in 2008 except for ordinary wear-and-tear.

13. Both of the above real estate appraisals as well as the said assessment are part of the lower court record and are too voluminous to attach hereto as well as being lost to petitioner due to his eviction.

14. U.S. Bank evicted the Petitioner from the home of his birth on June 18, 2019 notwithstanding that petitioner had made respondent legal counsel aware that he would file for Certiorari with the United States Supreme Court.

As a precursor to petitioner's legal argument, if any of the three (3) questions presented are answered in the affirmative by the Honorable United States Supreme Court then Certiorari should be granted and ultimately the case reversed and remanded to the appropriate court in New Jersey with at the very least instructions to vacate the summary judgment to respondent, vacate the judgment of foreclosure, vacate the Sheriff's sale of his home, reinstate the petitioner in the home of his birth, and award temporary compensatory damages related to the improper and illegal eviction of the petitioner from his home while reserving all other legal rights of petitioner to pursue further legal damages.

#### REASONS TO GRANT PETITION

Due process is dead in all of the Courts of New Jersey from the trial level in the Equity/Chancery Division in the Superior Court of New Jersey, Gloucester County; the Appellate Division and the Supreme Court of New Jersey.

As a general proposition, a party seeking to foreclose a mortgage must own or control the underlying debt; in the absence of a showing of such ownership or control, the plaintiff lacks standing to proceed with the foreclosure action and the complaint must be dismissed. Wells Fargo Bank, N.A. v. Ford, 418 N.J. Super. 592, 598 (App. Div. 2011).

Bank did not have standing when it filed foreclosure action; bank filed its complaint the day before it was assigned the mortgage, bank was not the holder of the note when it filed the complaint, it was not a nonholder in possession of the instrument who had the rights of the holder since it did not possess the note when it filed the complaint and bank could not cure the defect by filing an amended complaint after the mortgage was assigned to it. Deutsche Bank Nat. v. Mitchell, 422 N.J. Super. 214 (App. Div. 2011).

This is a clear case of black letter law. Citi Mortgage filed the foreclosure complaint on August 23, 2014, thirty-five (35) days after it had transferred ownership to U.S. Bank. Any protest by U.S. Bank that Citi Mortgage still had the note on August 23, 2014 must fall on deaf ears due to its admitted concealment of the assignment. Why else would they conceal the assignment but for the fact that they knew Citi Mortgage did not have legal standing when it filed suit and didn't want the Petitioner to find this out. The Petitioner did find out and has been waiting for an Honorable Court to give him justice. Hence, there is a split in the law!

As an aside, Ms. Jeannette Bochniak lied in her Certification supporting Summary Judgment by omitting to even mention the existence of the assignment. The trial Court judge, the Honorable Anne McDonnell had no explanation for this in her Opinion granting Summary Judgment and denying Reconsideration to Petitioner regarding same.

False as to one, false as to all regarding the concealment of the assignment by U.S. Bank and the false and fraudulent Certification of Ms. Bochniak.

The above should be sufficient for this Honorable Court to grant certiorari. Nonetheless, the Petitioner asserts furthermore that the Appellate Division and the Supreme Court of New Jersey had not bothered to follow additional case law regarding the unclean hands doctrine.

Doctrine of unclean hands embraces principle that court should not grant equitable relief to party who is wrongdoer with respect to subject matter of suit. Pellitteri v. Pellitteri, 266 N.J. Super, 56, 57 and 65 (App. Div. 1993).

When Plaintiff comes to court of equity with unclean hands, that court, as court of conscience, is justified in refusing to listen even if plaintiff's complaint is well-founded.

Pellitteri v. Pellitteri, supra, at 56, 57 and 65.

Respondent's lawyers and respondent concealed the assignment from petitioner enabling it to be granted summary judgment at the trial court, a judgment of foreclosure from the court in Trenton which awarded same and ultimately petitioner's eviction from the home of his birth. Petitioner's property and home were damaged by the movers. Petitioner was rendered homeless. Petitioner incurred costs of moving sixty (60) years worth of possessions to not one (1) but two (2) storage facilities. An additional third storage facility was paid for by respondent for thirty (30) days only. Petitioner's older son returned for Summer vacation only two (2) days before the eviction for Summer break and not only witnessed the eviction but was monitored along with Petitioner by several armed sheriffs. Petitioner has incurred rental costs since the eviction of June 18, 2019. The petitioner requested two (2) months so that he could spend the Summer in the homestead but this request was denied by not only respondent but the trial court, Judge McDonnel once again, who is completely biased against petitioner and should have recused herself from this decision (i.e. denial of emergent stay request/motion of petitioner).

To summarize, this entire case has been a travesty of justice as respondent's representative falsely swore in her certification by omitting any mention of the assignment as did respondent lawyers, Day Pitney LLC, which did not produce the said assignment in discovery or otherwise. Then respondent hires a second law firm, Phelan Hallinan to evict me even though I made them aware that I would be appealing to the United States Supreme Court (i.e. the appeal period had not been exhausted).

Lastly, the original mortgagee, Maverick, procured a fraudulent real estate appraisal for \$205,000.00 back in 2008 to approve this predatory loan so that they could charge me hundreds

of thousands of interest whereas my appraisal in 2016 for the home was only \$18,000.00 approximately with the municipal assessment of the land being worth only slightly more \$20,100.00 so that the total value of the subject property was approximately \$38,000.00. The exact figures can be confirmed by the lower court record as I affixed both appraisals as well as the municipal assessment as exhibits to my appeal to the Appellate Division. I no longer have these documents for they were lost or misplaced when I was evicted.

Any fraud committed by Maverick is assignable to the respondent under New Jersey case law.

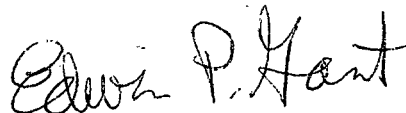
Under New Jersey law, assignee takes the mortgage, subject to all defenses which mortgagor may urge against it, whether assignee has notice of such defenses or not... U.S. Small Business Admin. v. Martignetti, 98 F. Supp. 2<sup>nd</sup> 587 (D.N.J. 2000).

It is noted that both Citi Mortgage and Maverick ultimately settled with the Petitioner paying him damages. The decisions of the New Jersey Supreme Court are wrong.

#### CONCLUSION

For the foregoing reasons, both factual and legal, the petition for a Writ of Certiorari should be granted.

Respectfully submitted,




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Dated: \_\_\_\_\_

8-30-19