ORIGINAL

No. 19-8037

IN THE

SUPREME COURT OF THE UNITED STATES

SHLOMIT RUTTKAMP,

PETITIONER

VS.

THE BANK OF NEW YORK MELLON, ET AL.,

RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES SUPREME COURT OF APPEALS
FOR THE SECOND CIRCUIT

FROM THE UNITED STATES DISTRICT COURTS OF
APPEAL, DISTRICT OF CONNECTICUT

PETITIONER
Pro se: Shlomit Ruttkamp
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March 16, 2020

QUESTION(S) PRESENTED

The Second Circuit Court Justice should reminisce whether in the 21st Century the rules of law and the books of law should be compromised and violated for the sake of foreclosure liability, and whether the courts of Connecticut should turn a blind eye to the use of fraudulent evidence barred by the multi-trillion dollar company that filed foreclosure documents with recklessness and carelessness and neglect to obtain the equitable relief of foreclosure and in the process deprive citizens of their Fourteenth Amendment to due process of law. Also, reminisce if a judge whom an aggrieved party who appeals an order by that particular judge should have the right to terminate appellate stay. Is such a right is in conflict with the Appellate Court's rules of law and in conflict with the individual's First and Fourteenth Amendments to due process of law

Questions presented as follows:

1. Whether the court of Connecticut has acted unreasonably and in clear abuse of its discretion when it violated the Defendant-Appellant's Fourteenth Amendment to due process of law and concluded that the appeal was frivolous.

2. Whether the court of Connecticut acted within its discretion when it granted the Plaintiff the motion to dismiss as the appeal was frivolous when United States Common Law of fraud, civil conspiracy, and racketeering, Activity Act § 53-396 and in violation of Section 42-110a of the Connecticut General Statutes (CUTPA) when evidence has been presented demonstrates clear proof of fraud and

lack of subject matter jurisdiction, presented in 10 years of litigation.

3. Whether, on the face of the record, this foreclosure action is without jurisdiction. (Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008). Is the court of appeal in conflict with their own ruling related to subject matter jurisdiction is subject matter jurisdiction should be waived when the book of law and the rules of law claim to the contrary?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows.

1. **The Petitioner**, pro se Shlomit Ruttkamp, is a divorced woman who is the sole owner of the foreclosure property located at 510 McVeagh Road, Westbrook, CT 06498 in the custody of the court which she was awarded by the court as per the divorce decree agreement transferred from the first Defendant, William J. Ruttkamp, who was the sole borrower of the mortgage on the subject property. A quitclaim deed was filed in the Westbrook Town Hall in Book Volume 302, page 875-877 on June 16, 2010 which was the last transaction filed prior to the first Defendant, William J. Ruttkamp's bankruptcy procedures and the dismissal of February 27, 2012 for lack of subject matter jurisdiction.

2. **The Respondent** is The Bank of New York Mellon Corporation, d/b/a The Bank of New York Mellon ("BNY Mellon"), a multitrillion dollar company, a public stockholder corporation doing business under the trade name The Bank of New York Mellon, a Delaware Corporation, with its principal place of business located in the city of New York with the address of 240 Greenwich Street, New York, NY 10286. Therefore, The Bank of New York Mellon is a citizen of Delaware with its headquarters in New York City. BNY Mellon is an investments company. They provide investment management, investment services and wealth management that help institutions and individuals succeed in markets all over the world. BNY Mellon was formed in July 2007 through the merger of The Bank of New York Company, Inc. and

Mellon Financial Corporation and became The Bank of New York Mellon Corporation.

3. **The Respondent**, The Bank of New York, does not exist as of July 2007 as it was dissolved in the merger with The Mellon Financial Corporation and became The Bank of New York Mellon Corporation.

4. **The Respondent**, CIT Mortgage Loan Trust 2007-1 is not a bank. It is a fraudulent entity created by the Plaintiff's attorneys. Neither the DFS nor the Secretary of the State of Connecticut has such an entity with that name.

5. **The Respondent,** attorney for the Plaintiff, The Bank of New York Mellon, McCalla Raymer Leibert Pierce LLC, Attorney Benjamin T. Staskiewicz (Juris No. 417736), 50 Weston Street, Hartford, CT 06120.

6. **The Respondent**, attorney for the Plaintiff, The Bank of New York Mellon, Attorney Geraldine Ann Cheverko (Juris No. 418503), 10 Bank Street, Suite 700, White Plains, NY 10606.

7. **The Respondent**, William J. Ruttkamp, P.O. Box 661, Chester, CT 06412, the sole borrower of the mortgage loan, had his bankruptcy attorney file an appearance on the foreclosure case but did not file a notice of bankruptcy or any information regarding the bankruptcy procedure.

8. **The Respondent**, attorney for the first Defendant, William J. Ruttkamp, Timothy Lodge (Juris No. 416965), P.O. Box 1204, Glastonbury, CT 06033. He is the bankruptcy attorney for the first Defendant, William J. Ruttkamp. He never disclosed the bankruptcy procedures in the foreclosure case but yet put an appearance as the Defendant's attorney.

9. **The Respondent**, Hope Energy LLC, d/b/a Valley Oil, attorney, Reveley William G. & Associates LLC (Juris No. 423840), P.O. Box 657, Vernon, CT 06066, claims an interest in the property by virtue of Judgment Lien in the original principal amount of $1,663.29, dated July 7, 2009 and recorded on July 23, 2009 in Volume 297 at Page 327 of the Westbrook Land Records which was defaulted and also discarded in the bankruptcy procedures of the first Defendant, William J. Ruttkamp in 2011, and in 2015 in the bankruptcy of the Petitioner, Shlomit Ruttkamp.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. **The Respondent**, Mortgage Electronic Registration, Inc. as Nominee for Accredited Home Lenders, Inc., was mentioned only one time in the complaint filed February 19, 2010 and was not in the caption of the case on the cover page and was never mentioned as a party.

2. **The Respondent**, Vericrest Financial, Inc., successor to The CIT Group/Consumer Finance, Inc., whose address is 715 S. Metropolitan Ave., Oklahoma City, OK 73108-2090 acting herein by and through a duly authorized officer, the owner and holder of one certain Promissory Note executed by William J. Ruttkamp ("Borrower"). The true transfer and assigner to The Bank of New York Mellon which was never mentioned in the first complaint filed February 19, 2010, and was also not mentioned in the first amendment complaint that was filed on September 26, 2012 (docket # 137.00 and #138.00), two years after the filing of the first complaint (statute of limitations of amendment complaint is only one year), nor in the caption of the case, nor anywhere

else. Vericrest Financial, Inc., successor to The CIT Group/Consumer Finance, Inc., was added in the second amendment complaint filed on August 22, 2014 (docket # 146.00) without permission or request to add a plaintiff or substitute party as the book of law requires. They did it in a fraudulent act.

3. **The Respondent,** Select Portfolio Servicing, Inc. ("SPS"), a mortgage servicer that was never mentioned in any of the documents prior to the granting of the extension of time upon which the Petitioner will file the petition for writ of certiorari. In fact, the law group McCalla Raymer Leibert Pierce LLC, and attorney Benjamin T. Staskiewicz (Juris No. 417736), 50 Weston Street, Hartford, CT 06120 is claiming to represent SPS, but was never mentioned before in any of the documents.

RELATED CASES

CASE NAMES AND DOCKET NUMBERS OF ALL PENDING **APPEALS WHICH** ARISE **FROM SUBSTANTIALLY** THE **SAME CONTROVERSY** AS THIS **OR INVOLVE CLOSELY** RELATED **ISSUES**

A. *The Bank of New York Mellon vs. William Ruttkamp, et al.* CaseNo. SC 190196 filed on September 9, 2019, denied on October 22, 2019

B. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. AC 42865 filed on April 29, 2019, dismissed on July 17, 2019 and again July 18, 2019

C. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. MMX-CV10-6001915-S filed on March 9, 2010, set the new law date on November 25, 2019 to January 6, 2020 after the Defendant-Appellant received the extension of time upon which she will file petition for writ of certiorari to and including March 20, 2020. Additional order to vest the property on February 11, 2020, once again violating the Defendant-Appellant's Fourteenth Amendment to due process of law.

D. *Shlomit Ruttkamp vs. Bank of New York Mellon*, United States Supreme Court, Application No. 19A566 filed on November 12, 2019; received extension of time upon which to file a writ of certiorari up to and including March 20, 2020

E. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. AC 39264 filed on May 31, 2016, dismissed July 13, 2016 as it was filed prematurely

F. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. AC 40039 filed on January 23, 2017 published *Bank of New York Mellon v. Ruttkamp*, 188 Conn. App. 365 (2019)

G. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190141 filed on July 26, 2019, returned July 26, 2019 for compliance of the rules of the Supreme Court

H. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190174 filed on August 19, 2019, returned on August 20, 2019 for compliance of the rules of the Supreme Court

I. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190175 filed on August 19, 2019, returned on

August 20, 2019 for compliance of the rules of the Supreme Court

J. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190179 filed on August 20, 2019, returned on August 21, 2019 for compliance of the rules of the Supreme Court

K. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190193 filed on September 5, 2019, returned on September 5, 2019 for compliance of the rules of the Supreme Court

L. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190319 filed on December 27, 2019, dismissed on January 8, 2020

M. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190205 filed on January 16, 2020, denied on February 5, 2020

N. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. AC 43974 filed on February 27, 2020 after the vesting of the title order on February 11, 2020

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OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner, Pro Se Shlomit Ruttkamp, respectfully prays that a writ of certiorari issue to review the judgment below be granted.

In 2008, the United States suffered "the greatest economic meltdown since the Great Depression" and "[a]t the core of this crisis was the mortgage meltdown" caused by the securitization of subprime mortgages. Securitization of mortgages was made possible largely through the expansive use of a private financial industry created database system, Mortgage Electronic Registration Systems, Inc. ("MERS"), as a replacement for state recording laws. *See generally, In re MERSCORP, Inc. v. Romaine*, 8 N.Y.3d 90, 96, 861 N.E.2d 81, 828 N.Y.S.2d 266 (2006). As a result, lots of fraudulent documents were filed and in some cases, documents were not even filed properly under their correct party, the holder of the mortgage. Courts of Connecticut began to turn a blind eye to fraudulent documents, misleading statements, and documents that were filed after the fact by attorneys who represent the Plaintiff. Until this day, the Connecticut court system does not know the boundaries between right and wrong and is indulging circumstantial facts and fraudulent activity in the court systems for the sake of liability of mortgage which is both a violation of the rules of court and ethically indefensible. The conduct...displays a serious and alarming lack of respect of the nation's judiciaries, which calls upon the Second Circuit Court of the United States Supreme Court for review. See Jacobson v. Comm'r, 915 F.2d 832, 837 (2d Cir.1990); Newman v. Comm'r, 902 F.2d 159, 162 (2d Cir.1990).

OPINIONS BELOW

For cases from **state courts**:

The opinion of the highest state court of Connecticut Supreme Court to review the merits appears at **Appendix A,** petition for certification to appeal from the Appellate Court (AC 42865). October 22, 2019; **denied** and it is unpublished.

The opinion of the Connecticut Appellate Court to appeal from a decision of a trial court appears at **Appendix B**, Exhibits 1-6, July 17 and 18, 2019.

The opinion of a Connecticut trial court appears at **Appendix C**. Terminate appellate stay, June 14, 2019.

JURISDICTION

For cases from **federal courts**:

An extension of time to file a petition for writ of certiorari was granted by the Honorable Justice Ruth Bader Ginsburg to and including March 20, 2020 (date) on November 20, 2019 (date) in Application No. 19A566.

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

For cases from **state courts**:

The opinion of the highest state court of Connecticut Supreme Court to review the merits appears at **Appendix A** petition for certification to appeal from the Appellate Court (AC 42865). October 22, 2019; **denied** and it is unpublished.

The opinion of the Connecticut Appellate Court to appeal from a decision of a trial court appears at **Appendix B**, Exhibits 1-6, July 17 and 18, 2019.

The opinion of a Connecticut trial court appears at **Appendix C**. Terminate appellate stay, June 14, 2019.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. This appeal will challenge the constitutionality of the statute of state and federal constitution right to due process of law and the 5th and the 14th Amendment's ratification.

   The Fifth Amendment to the United States Constitution provides in relevant part: "No person shall be ...deprived of life, liberty or property without due process of law...."

   The Fourteenth Amendment to the United States Constitution provides in relevant part: "No state shall... deprive any person of... property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

2. The Connecticut General Statutes 42-110b – The Connecticut Unfair Trade Practices Act (CUTPA).

The Cormedkut Unfair Tnufo Prnctke§ Art (CUTPA) prohibits unfair competition and unfair and deceptive acts. Initially adopted in 1973, CUTPA has been modified by the state legislature. The Department of Consumer Protection (DCP) has jurisdiction over CUPTA, but it is most commonly used as a private right of action.

3. United States Common - Law of defamation, fraud, scheme, and intentional infliction of emotional distress, ("IIED"), and the General Statutes § 53-396 Federal and Civil Conspiracy.

STATEMENT OF THE CASE

This action to foreclose a residential mortgage was initiated by a summons and complaint[1] filed on March 9, 2010, and brought in the name of "The Bank of New York Mellon F/K/A The Bank of New York as Trustee on behalf of CIT Mortgage Loan Trust 2007-1." The first attorney that filed this complaint was Attorney Amanda Tiernan. I then hired Attorney Robert T. Rimmer (Juris #413537) on March 22nd 2010 on which date he filed this appearance. On April 26th 2010, Attorney Rimmer filed a motion to dismiss for lack of subject matter jurisdiction (pursuant to Practice book §10-31 et. seq. and Conn. Gen. Stat. § 52-123 docket entry # 103.00) which was presented in court on November 8th 2010. The Honorable Judge Holzberg (Juris #402019) denied the motion to dismiss (order docket entry #103.10). The order stated,

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[1] The name of the defendant-Shlomit Ruttkamp was misspelled in the Complaint and, thus, on the court docket, and in the mortgage documents, lis pendens, the assignment mortgage documents throughout the whole foreclosure procedure and also on the sheriff's return of service. The correct spelling of her first name is "Shlomit". I disclosed that fact to my attorney Rimmer, and the Plaintiff's attorney managed to add a/k/a Shlomit Ruttkamp in the court documents after the fact. The Plaintiff's attorney could have never been able to execute or add the correct spelling of the name unless it was done by the Superior Court clerk office employees. The misspelled name remained the same in the mortgage documents and in the return of service as well as the lis pendens and the assignment of mortgage. That was the first fraudulent racketeering activity; the misspelled name in the mortgage documents is in itself grounds for dismissal, pursuant to Conn. Gen. Stat. § 52-123.

"there is no evidence before the court that Bank of New York Mellon is a trade name for the plaintiff alleges and defendant admits that Bank of New York Mellon Incorporated is incorporated in the state of Delaware. At most this is a failure, if it is required at all, to include the word "incorporated" in the caption of the complaint"

Attorney Rimmer then filed a motion of intention to appeal the judge's decision (docket entry #114.00).

On November 15th 2010. The attorney of the plaintiff filed a motion for summary judgment (docket entry #119.00) and memorandum in support of motion for summary judgment (docket entry #120.00) on May 6th 2011 wherein the legal argument Attorney Tiernan stated that **"The Bank of New York Mellon is the corporate brand of The Bank of New York Mellon Corporation and may also be used as a generic term to reference the corporation as a whole or its various subsidiaries."**[2]

On October 26th 2011 Attorney Rimmer filed "answer and special defense" (docket entry #122.00), "objection to motion for summary judgment" (docket entry #123.00) and the "brief" (docket entry #124.00). In the "answer and special defense" (docket entry #122.00) on page 2, in paragraph 2, 3 and 4, Attorney Rimmer explained that "2. The Plaintiff alleges in paragraph 1 of its complaint that it is a

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[2] The Bank of New York Mellon's famous statement; BNY Mellon uses that statement in all of its documents, websites and advertisement. (see **Appendix D**)

corporation duly authorized and validly existing under the laws of the State of Delaware.

3. Delaware Division of Corporation has no record of registration for any entity known as The Bank of New York Mellon.

4. Delaware Division of Corporation has a record of registration for an entity known as **The Bank of New York Mellon Corporation**.

Furthermore, my attorney explained in memorandum of law in opposition to the Plaintiff's motion for summary judgment, on page 3:

"B. The Plaintiff has instituted their suit in its trade name or corporate brand rather than its registered name"

Page 5, "In her Disclosure of Defense, Defendant pleaded that the Plaintiff in this matter lacks capacity to enter into contracts and to sue or be sued. **The Bank of New York Mellon is the corporate brand of The Bank of New York Mellon Corporation** and may also be used as a generic term to reference the corporation as a whole or its various subsidiaries."

On February 27th 2012, Judge Morgan dismissed the case for lack of subject matter jurisdiction (order docket entry #119.20). On that same day, a judgment of dismissal was rendered in the foreclosure case[3] (docket entry #127.00). The Defendant Attorney Rimmer filed Disclosure of Defense On April 30, 2010 (docket entry # 108.00). On page 3, paragraph 8, Attorney Rimmer explains that the Plaintiff had not alleged nor provided exhibits to demonstrate the assignment of the note and mortgage from accredited home lenders, Inc. to the plaintiff. It was not even mentioned of Vericrest Financial Inc. because the plaintiff's attorneys had no idea that Vericrest Financial Inc. was the debitor

[3] The Defendant, Shlomit Ruttkamp, prior to the first Defendant, William J. Ruttkamp's bankruptcy (bankruptcy case # 11-31649) and the dismissal of February 27th 2012, (order docket entry #119.20) became the sole owner of the property as part of her divorce settlement agreement, (see deed, **Appendix E**).

and the assigner to The Bank of New York Mellon.(see **Appendix F**) A timely appeal had not been filed by the plaintiff within the 20 days of the court's ruling of dismissing the underlying suit.

Attorney Rimmer without my consent, filed a separate lawsuit, (docket # MMX-CV-12- 6007449-S), "petition to discharge mortgage and lis pendens pursuant to Conn. Gen. Stat. § 49-13" on April 12th 2012; on June 28th 2012 the plaintiff, The Bank of New York Mellon, represented by a new counsel, filed a motion to stay (docket # MMX-CV-12-6007449-S) and on June 28th 2012 filed a motion to open judgment[4] (docket # MMX-CV-10-6001915-S; docket entry # 128.00) and affidavit in support of plaintiff's motion to open judgment (docket entry # 129.00) asserting that its representation that it was suing under a trade name had been a mistake[5] and that in fact the Plaintiff's predecessor, called "Mutual Benefit Life Policy Loan and Trust Company of New York," had been organized by a Special Act of the New York State Legislature, and that subsequently its name had been changed to "The Bank of New York Mellon".

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[4] When an action has concluded with a final judgment of dismissal and no appeal has been taken within the 20 days of the ruling, the lis pendens should be invalid by virtue of the fact. The law contains no four month grace period for case that lack subject matter jurisdiction. (see Levinson v. Lawrence, 162 Conn. App. 548, 565-66, 133 A.3d 468 (2016).

[5] The same mistake upon which the case was dismissed on February 27, 2012 which was the reason the Plaintiff, The Bank of New York Mellon, lacked subject matter jurisdiction.

Attorney Rimmer then filed objection to motion to open judgment on July 3rd 2012 (docket entry #130.00).[6]

Attorney Rimmer filed motion to withdraw from the foreclosure case, on July 5th 2012 (docket entry # 131.00) which was granted by the Honorable Judge. Holzberg on July 9th 2012 (order docket entry# 131.10); the Defendant Shlomit Ruttkamp was left to defend the motion to open judgment. The court, the Honorable Judge Morgan, granted the plaintiff's motion on July 30th 2012, (docket entry # 128.20) without writing a memorandum of decision.

The defendant Shlomit Ruttkamp filed a motion notice of intention to appeal the Honorable Judge Morgan's granting the motion to open judgment on August 2nd 2012 (docket entry #132.00) and on August 21st 2012 the defendant filed motion to reargue/reconsider (docket entry #133.00) when the plaintiff filed objection to motion to reargue on August 29th 2012 (docket entry #134.00) which the Honorable Judge Morgan denied the motion to reargue/reconsider on September 4th 2012 with no oral argument or memorandum of decision (docket entry #133.10). And yet, the defendant Shlomit Ruttkamp,

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[6] Dispute between Attorney Rimmer and the Defendant Shlomit Ruttkamp on refusing to provide the court with documents from the first Defendant William J. Ruttkamp's bankruptcy actions, which was filed in the bankruptcy court on July 28th 2011 (bankruptcy case # 11-31649) (see **Appendix G**) and which was never reported to the court on my foreclosure action. The Defendant, William J. Ruttkamp's bankruptcy attorney Timothy Lodge (Juris # 416965) failed to file a notice of bankruptcy on behalf of the first Defendant, William J. Ruttkamp in my foreclosure action and failed to mention that the assignment was Vericrest Financial, Inc., successor to the CIT Group/Consumer Finance, Inc. which resulted in Attorney Rimmer filing a motion to withdraw from the foreclosure case.

filed an additional motion to reargue/reconsider request for argument on August 30th 2012 (docket entry #135.00 and 136.00) which was also denied on September 4th 2012 (order docket entry #135.10 and 136.10) and again with no memorandum of decision. On September 26th 2012, the Plaintiff filed a request to amend complaint and an Amended Complaint on (docket entry # 137.00 and 138.00) which alleged in its first paragraph: "Plaintiff, The Bank of New York Mellon F/K/A The Bank of New York as Trustee on behalf of CIT Mortgage Loan Trust 2007-1, (hereinafter "Plaintiff"), is corporation [*sic*] organized by Special Act of the New York State Legislature, Chapter 616 of the Laws of 1871, under the name "Mutual Benefit Life Policy Loan and Trust Company of New York" and now known as The Bank of New York Mellon,[7]

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[7] A certificate signed by the Deputy Superintendent of Foreign and Wholesale Banks of the State of New York, set forth a detailed history of corporate mergers and name changes and concluded that The Bank of New York Mellon "is a corporation organized by Special Act of the New York State Legislature..."; this was the only certification exhibit that was provided by the Plaintiff's attorneys from the beginning of the motion to open judgment to the present. This particular history is related to the history of the creation of The Bank of New York before the merger with Mellon Financial Corporation in 2007. It is not even a certification, but rather an amendment history of The Bank of New York. The Bank of New York Mellon could never have been under this special act, Chapter 616 of the Laws of 1871 because the Plaintiff at the time of the motion to open judgment was placed under the supervision of the Banking Department in accordance with Chapter 356 of the Laws of 1904 and then became under the supervision of the Banking Department, now under the Department of Financial Services. The Bank of New York Mellon is and always was incorporated in Delaware and not in New York, as the Plaintiff's attorneys suggested.

The Defendant filed a motion to dismiss (docket entry # 141.00) and a memorandum in support of motion to dismiss (docket entry #142.00) and disclosure of defense (docket entry #143.00). The Plaintiff filed reply on October 12th 2012 (docket entry #144.00) objection to motion to dismiss (docket entry #145.00) which the motion to dismiss was denied by the Honorable Judge Morgan with no argument or memorandum of decision, after which the Defendant hired Attorney Williams (Juris #067962) on October 5th 2012.[8] On August 22nd 2014, represented by a third law firm, the Plaintiff filed another Amended Complaint, (docket entry # 146.00) two years after the filing of the motion to open judgment and four years after the filing of the original complaint. The defendant filed objection to motion for request to amend complaint,(docket entry # 147.00) which was overruled on September 29th 2014, (docket order entry# 147.10) The defendant filed motion to dismiss, and Brief in support of motion to dismiss (docket entry # 148.00 and # 149.00) in a Motion to Dismiss dated October 14th 2014,(docket entry # 148.00) the defendant pointed out that, notwithstanding the aforesaid evidence provided, the Plaintiff as recently as December 18th 2013, had represented in filings with the Connecticut Secretary of State that its name was

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[8] From the date of Attorney Williams filing his appearance, no activity occurred for two years after the Plaintiff's attorneys of The Bank of New York Mellon opened their foreclosure action, and four years after the filing of the original complaint. Attorney Williams gave the Plaintiff's attorneys time to recuperate from the lies and from the misleading information that they provided in the motion to open judgment, and to get caught up with filing documents that were not filed in the Westbrook Town Hall prior to the motion to open judgment. The foreclosure action was dormant from October 5, 2012 to August 22, 2014 when the Plaintiff filed amended complaint.

not that alleged in the Amended Complaint, but rather it is still registered under the name "The Bank of New York", the old entity bank that does not exist from the merger of 2007. The Bank of New York Mellon failed to correct the document at the Connecticut Secretary of State until this date. In response to the Plaintiff's insistence that the evidence provided remained correct as a statement of its corporate name, the defendant subsequently submitted documentation from the New York State Department of State establishing that, as recently as July 20th 2012, the Plaintiff's name as registered in the State of New York was not that alleged in the Amended Complaint but, rather, was "**The Bank of New York Mellon Corporation**." (Emphasis supplied.) The Defendant further established that the name "The Bank of New York Mellon Corporation" was the name which the Plaintiff had registered with the Securities and Exchange Commission as recently as June 30th 2012 and that the Plaintiff was the defendant in a civil fraud action brought by the United States in the Southern District of New York under the corporate name "**The Bank of New York Mellon Corporation**" which the Plaintiff filed objection to motion to dismiss on November 19th 2014 (docket entry # 150.00). The court, however, denied the motion to dismiss on December 1, 2014, (docket order entry # 150.10) without a memorandum of decision. The Plaintiff filed a motion for summary judgment as to liability on January 7th 2015 (docket entry # 157.00) and memorandum in support of motion (docket entry # 158). The defendant filed answer and special defense (docket entry # 159.00) on January 21, 2015). The Defendant also filed a counterclaim on January 26, 2015 (docket entry #160.00) and claim for jury of 6 (docket entry #161.00). The Plaintiff then filed motion for extension of time to plead (docket entry #162.00) on March 2, 2015 which was granted on March 16, 2015 (docket entry # 162.10). The Plaintiff then filed motion for summary judgment as to defendant counterclaim, (docket entry # 163.00) and memorandum in support of motion for summary judgment (docket entry # 164.00) and two affidavits in

support (docket entry # 165.00 and 166.00). The Defendant then filed brief in opposition to motion for summary judgment as to the counterclaim (docket entry # 167.00) on April 13, 2015 which the Plaintiff filed memorandum of law in further support of motion for summary judgment (docket entry # 169.00) and the defendant filed brief on April 13, 2015 (docket entry # 170.00). The Defendant's motion was based in part on an answer which the Defendant filed on October 26th 2011 to a previous complaint. On January 20th 2015, the Defendant filed an answer to amended complaint which addressed the most recent amended complaint on file. Among other defenses, the answer asserted that "[t]he Plaintiff does not exist under its stated name and therefore this court lacks subject matter jurisdiction." The Defendant filed a brief in opposition to the summary judgment motion which, among other things, again asserted the court's lack of subject matter jurisdiction based on the fact that the entity named as plaintiff did not exist under that name in the State of New York. The court denied the summary judgment motion with respect to the Defendant Shlomit Ruttkamp on February 8, 2016, without prejudice, on the grounds that the Plaintiff had failed to address the Defendant's claims (docket entry # 163.10). On April 2, 2016, however, the court reconsidered and granted the summary judgment motion in a short memorandum of decision which held:

Court erroneously considered the issues and evidence referred to in the defendant, Schlomit Ruttkamp's Answer and Special Defense dated January 21, 2015, which pleading was not valid. That defendant had already filed and [*sic*] Answer and Special Defenses in October, 2011 and under Practice Book Section 10-61 that defendant had 10 days from the date on which the court overruled the objection to the plaintiff's amended complaint (September 29, 2014) in which to alter the existing Answer and Special Defenses and failed to do so. Furthermore, the entire basis of the opposition to the summary judgment was the contention that the plaintiff is not authorized to sue in the State of Connecticut and therefore the court lacks subject

matter jurisdiction. CGS Section 33-920(b)(7) and (8) exempt the current foreclosure action from constituting the conducting of business in this state.[9] As the defendant's opposition to summary judgment did not present an [*sic*] evidence whatsoever to contradict that presented by the plaintiff (i.e. execution of note, mortgage, etc.) the court was incorrect in denying the summary judgment and summary judgment hereby enters against the defendant Schlomit Ruttkamp. (order docket entry # 177.10) Meanwhile, on January 25, 2015, the defendant filed a Counterclaim which alleged that the Plaintiff had failed to remove the notice of lis pendens from the land records during the several months between February 27, 2012, and July 30, 2012, in which no action was pending in court because of the dismissal of the original complaint. On March 27, 2015, the Plaintiff moved for summary judgment on the counterclaim, asserting that the Plaintiff had no duty to release the lis pendens after the action was dismissed and before the court granted the

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[9] The Bank of New York Mellon does not qualify for exemption under **CGS Section 33-920(b)(7) and (8)** as The Bank of New York Mellon is not a mortgage company. It acts as a trustee on behalf of a mortgage company; therefore, The Bank of New York Mellon is required to register with the Connecticut Secretary of State and have certification as a business entity and thus lacks standards to conduct business and to enter into the courts in the State of Connecticut. The Bank of New York Mellon is barred from maintaining any action, suit or proceeding in any court of the State of Connecticut. (see Coldwell Banker Manning Realty, Inc. v. Cushman & Wakefield of Connecticut, Inc., 2010 WL 4942792 (Sheldon, J.); Coldwell Banker Manning Realty, Inc. v. Computer Sciences Corp., 2010 WL 4942790 (Sheldon, J.).

motion to reopen. The court (The Honorable Judge Domnarski) granted the Plaintiffs motion for summary judgment On the counterclaim on the ground that "[t]he lis pendens remained in effect after dismissal since it was possible to open the dismissal within four months of its entry. The law contains no four-month grace period for a dismiss case that lacked subject matter jurisdiction. See: Levinson v. Lawrence,. On May 31, 2016 the Defendant, Shlomit Ruttkamp Attorney Williams filed the first appeal (Docket #AC- 39264). On December 23, 2016, when the Plaintiff filed motion to dismiss appeal for the reason that the appellate court lacks jurisdiction as there is no final judgment and the defendant prematurely filed the appeal. And the appellate court granted the motion to dismiss on July 13, 2016. (docket entry# 182.00). The plaintiff moved for judgment of strict foreclosure on December 23, 2016. (docket entry# 184.00). The court granted that motion on January 9, 2017 by The Honorable Judge Aurigemma (order docket entry# 184.20). The new law day set for Tuesday, February 14, 2017. Which the Defendant, Shlomit Ruttkamp Attorney Williams filed the Appeal (Docket #AC 40039) on January 23, 2017. Appellate Court Docket No. AC - 40039 *Bank of New Yorkv. Ruttkamp,* 188 Conn. App. 365 (2019).

The Appellate Court entered that the judgment is affirmed and the case is remanded for the purpose of setting new law days. Attorney Williams went for the first hearing and advised me in an email (see **Appendix H)** that I didn't have to appear because nothing will happen but a hearing about the case; no judgment will be rendered on that day at the, Appellate Case Docket No. AC - 40039. I ended up losing the appeal on that day as my attorney Williams abandoned the claim that the Plaintiff lacked subject matter jurisdiction in this case and sided with the Plaintiffs attorney that there are two different Banks of New York Mellon, and that the first Bank of New York Mellon in the complaint filed March 9, 2010 is not the actual Bank of New York Mellon the Plaintiff referred to in their motion to open judgment. During the oral argument, my attorney acknowledged that he could not refute

the Plaintiff's evidence concerning its standing and effectively abandoned the claim that the Plaintiff lacked subject matter jurisdiction in this case with the Appellate Court specifically finding that the Plaintiff was "a legal entity with legal capacity to sue." (see **Appendix I**). Published opinion of the Appellate Court Docket No. AC – 40039 March 12, 2019. I asked my attorney to correct his mistake by filing a review to the Supreme Court. He refused to admit that he had made a mistake. I provided with 281 documents and emails from the New York FOIL-2019-074234-008927 I filed with the New York State Department of Financial Services (see **Appendix J**) and he refused to correct the mistake that The Bank of New York Mellon lacks subject matter jurisdiction. After years of arguing lack of subject matter jurisdiction in every document filed from the beginning of these procedures, it presents one more act of racketeering.
The Plaintiff filed a motion for judgment in accordance with opinion of Appellate Court on April 3, 2019. (docket entry # 196.00). The Defendant filed brief in Opposition to Motion for Judgment (docket entry #197.00) on April 10, 2019. In the Defendant's brief in opposition, the Defendant provided new and more overwhelming evidence that The Bank of New York Mellon entered this suit under its trade name and not the registered name as it registered in the Secretary of the State of Delaware and the New York State Division of Corporation. Furthermore, she provided the court with exhibits and statement of fraud attorney misconduct withholding important and valuable information of the actual assignor/debtor which was Vericrest Financial, Inc., successor to the CIT Group Consumer Finance, Inc. that was never mentioned on the first complaint filed on March 9th 2010, nor the first amendment complaint filed on September 26th 2012. I also mentioned that my ex-husband filed bankruptcy before the dismissal of the foreclosure case and neither of the attorneys, Plaintiff's or Defendant's, mention or file any document related to the bankruptcy procedures or the bankruptcy discharge. And the Plaintiff received the relief from stay. The Bank of New York Mellon could not reopen the case after the dismissal of February

27th 2012 as the Defendant, Shlomit Ruttkamp, was the sole owner of the property at 510 McVeagh Road, Westbrook, CT. I did not borrow the money I also mentioned to the court that the Plaintiff filed affidavits in bad faith contrary to Practice book Sec. 17-48 and thus, violated the attorney's oath. Regardless of all this overwhelming evidence, the Honorable Judge Domnarski denied my brief. On April 15, 2019 the Honorable Judge Domnarski granted the motion and set the new law date for Monday, May 20, 2019 (order docket # 196.10) and overruled the brief in opposition (order docket # 197.10) upon which the Defendant filed the pro se appeal (AC 42865) on April 29, 2019. The Plaintiff filed its motion to terminate appellate stay on May 7, 2019 (docket # 201.00) and a motion to dismiss appeal when the Defendant filed brief in opposition of motion to terminate appellate stay on May 14, 2019 (docket # 204.00). The Plaintiff filed motion for continuance on May 16, 2019 (docket # 205.00) which was granted on May 16, 2019 (docket # 205.10). The trial court held argument on the Plaintiff's motion to terminate appellate stay on June 6, 2019. The trial court (Judge Domnarski) granted the Plaintiff's motion to terminate appellate stay on June 14, 2019 (order docket # 201.10) and issued a memorandum of decision on June 14, 2019. The Defendant filed a motion for review relating to the termination of the appellate stay on July 1, 2019. The Plaintiff on July 3, 2019 filed its opposition to the motion for review. On July 17, 2019 the Appellate Court granted the motion for review and denied the Plaintiff's motion to dismiss in one order, number AC 192004 (see **Appendix-B, Exhibit 1).** And then on the same day and the same order number AC 192004 (see **Appendix-B, Exhibit 2).** Granted the motion for review but denied the relief requested therein and also one order granted the Plaintiff's motion to dismiss as the appeal being frivolous order number AC 184270 (see **Appendix-B, Exhibit 3).** And again entered an order on July 18th 2019. That the ruling of July 17th 2019 was in error and that the case is remanded for further information, (see order **Appendix-B, Exhibit 4).** On July 18, 2019 the Appellate Court entered two more orders. number AC 192004 (see **Appendix-B, Exhibit 5).** The Appellate

Court granted the motion for review but denied the relief requested therein and then issued one more order number AC 192004 (see **Appendix-B, Exhibit 6)** that the appeal is dismissed as the appeal is frivolous. The majority opinion apparently considered these orders rather confusing and indecisive. Therefore, the Defendant-Appellant filed certification for review to the Supreme Court of Connecticut on July 26, 2019 The same appeal clerk assigner rejected the petition for non-compliance with the rules of practice and returned the petition for correction five different times (docket #s SC190141, SC 190174, SC 190175, SC 190179, SC 190193); it took six times for the Defendant to figure out how to file the petition as her attorney refuse to help her with the process. On September 9, 2019 the sixth petition for certification was accepted (SC 190196) and was denied on October 22, 2019, upon which the Defendant filed a motion to the United States Supreme Court for extension of time upon which the Defendant would file a petition for writ of certiorari on November 12, 2019 (USSC DOCKET # 19A566) which was granted by the Honorable Justice Ruth Bader Ginsburg on November 20, 2019 extending the time to and including March 20, 2020.

The Plaintiff on November 6, 2019 Premature filed a motion to reset law days after in the trial court (Docket Entry # 215.00). The Defendant filed brief in opposition to the motion (Docket Entry # 218.00), On November 14, 2019 The Honorable Judge Domnarski. On November 25, 2019 granted the new law day for January 6, 2020. On December 11, 2019 the defendant filed a motion for stay pursuant to practice book § 71-7. The Plaintiff filed its opposition to the motion for stay on December 17, 2019. On December 19, 2019 the Appellate Court issued an order denying the motion for stay. On December 27, 2019 the Defendant filed the petition for certification court (Docket Entry # SC-190319).which was dismissed on January 8, 2020.

REASONS FOR GRANTING THE PETITION

This case presents a nationally important question on which courts are indecisive and were divided in their decision, when they ruled on July 17th 2019 to July 18th 2019 (see **Appendix-B at Exhibits 1, 2, 3, 4, 5, and 6).** The Appellate Court's ruling is in conflict with other rulings on those dates and the Appellate Court refused to recognize special defense which alleged wrongful conduct as the plaintiff engaged in deceptive and unfair practices of foreclosure procedures by the lender which is not responsible to the mortgage lien or note, and that this foreclosure was dismissed on February 27, 2012 for lack of subject matter jurisdiction, pursuant to practice book § 10-31 and Conn. Gen. Stat. § 52-123 in this foreclosure matter as the plaintiff commenced this action under its trade name and not the incorporated registered name. The Appellate Court are in conflict with their own rules when it comes to subject matter jurisdiction when a party commits action under a fictitious and trade name or file a complaint under a fraudulent entity that does not exist, and when a trial judge continually abuses his power for a favor of plaintiff multitrillion dollar company neglect and recklessness in filing foreclosure procedures and when the courts of Connecticut turned a blind eye to a fraudulent exhibit/evidence filed by the Plaintiff and therefore are violating the citizens of Connecticut of their Fourteenth Amendment to due process of law and the Connecticut General Statutes Section 42-110g as The Bank of New York Mellon is not even registered in the Secretary of the State of Connecticut to conduct business and therefore engaging in unfair and deceptive acts and practices in trade and commerce within the meaning of Section 42-110b of the Connecticut General Statutes. And the Supreme Court of Connecticut are refusing to review an order that was ruled in error and to clarify the basics of the extreme ruling of denial in the

Defendant-Appellant's appeal upon which the book of law and the rules of law integrity are compromised for the sake of foreclosure liability. Review of the courts of appeal is required by the United States Supreme Court to align the State of Connecticut's courts of appeal to be on track with the rules of law and the books of law and with their own ruling. The determination of whether the court has subject matter jurisdiction raises a question of law. Accordingly, the standard of review is plenary. JPMorgan Chase Bank Nat. Ass'n v. Simoulidis, 161 Conn. App. 133, 142, 126 A.3d 1098 (2015). See also Ramos v. Vernon, 254 Conn.799, 808, 761 A.2d 705(2000). This court has statutory and constitutional power to adjudicate the matter of subject matter jurisdiction. *Makarova v. United States*, 201 F.3d 110, 113 (2d Cir. 2000).

The standard of review to grant of an order to vest a title of rightful owners of such a title also involves a question of law subject to plenary review. (See AvalonBay Communities, Inc. v. Orange, 256 Conn. 557, 565, 775 A.2d 284 (2001) (recognizing that plenary review applies to questions of law)). And a question for the trier of fact." (Citations omitted; Internal quotation marks omitted.) Zapolsky v. Sacks, 191 Conn. 194, 198, 464 A.2d 30 (1983) A court must evaluate a motion to dismiss and accept all the allegations as true in the complaint. *Foad v. Holder*, No. 13-cv-6049, 2015 WL 1540522, at *2 (E.D.N.Y. Apr. 7, 2015) (citing *J.S. ex rel. N.S. v. Attica Cent. Sch.*, 386 F.3d 107, 110 (2d Cir. 2004)) Thus, "[w]here the legal conclusions of the court are challenged, the court must determine whether they are legally and logically correct"; (Internal quotation marks omitted) in re David W., 254 Conn.676, 686, 759 A.2d 89 (2000); and whether they "find support in the facts that appear in the record." (Internal quotation marks omitted.) Powers v. Olson, 252 Conn. 98, 105, 742 A.2d 799 (2000). We may not rely on conclusory or hearsay statements contained in the affidavits. See *Grossi v. City of New* York, No. 08-cv-1083, 2009 WL 4456307, at *3 (E.D.N.Y. Nov. 30, 2009)

I. Whether the court of Connecticut has acted unreasonably and in clear abuse of its discretion when it violated the Defendant-Appellant's Fourteenth Amendment to due process of law and concluded that the appeal was frivolous.

A party has the right under the 14th Amendment to due process of law to challenge an order by which the Defendant is aggrieved, and the court has the obligation to provide fair and honest procedures that will comply with the book of law and the rules of law when [there] is an actual controversy between or among the parties to the dispute. In a previous procedure, the Plaintiff provided a certificate signed by a city official in New York City representing that "The Bank of New York Mellon" was a legal entity as of 2008; in a litigation of ten years the Defendant responded by producing overwhelming evidence that the entity as of the date of March 9, 2010 through the present of this litigation was not that but, rather, "The Bank of New York Mellon *Corporation."* (Emphasis supplied.) The Plaintiff never attempted to challenge that evidence and the court never addressed it. The Defendant filed numerous appeals which were denied, and numerous reviews to the Connecticut Supreme Court which were also denied. The Defendant decided to appeal to the United States Supreme Court which she did in a timely manner and received extension of time upon which she will file petition for writ of certiorari. The Plaintiff through the entire litigation violated the rules of law by misleading the courts with false statements, misleading information, and fraudulent documents. The Honorable Judge Domnarski is completely aware of all the misconduct that occurred in this case and chooses to turn a blind eye to a fraudulent exhibit/evidence filed by the Defendant against the Plaintiff but has failed to address it

and to judge according to the evidence provided to the court. Prior to the 20 days grace period upon which a party can act in motion after a denial by the Connecticut Supreme Court of certification for review, which in this case the denial was on October 22, 2019, the Plaintiff, knowing the Defendant is planning to file an extension of time on November 6, 2019 prematurely, the Plaintiff filed motion for judgment in accordance with the opinion of the Appellate Court. On November 12, 2019 the Defendant filed with the United States Supreme Court motion for extension of time upon which she will file petition for writ of certiorari which was granted by the Honorable Justice Ruth Bader Ginsburg, who on November 20, 2019, extended the time to and including March 20, 2020. Regardless of this fact, the Honorable Judge Domnarski set the law date on November 25, 2019 to January 6, 2020 and violated the Defendant's right to due process of law under the Fourteenth Amendment to appeal the denial of October 22, 2019. This foreclosure procedure has a clear history on favoring the Plaintiff, The Bank of New York Mellon unjustly and ignoring every document and evidence that the Petitioner, Shlomit Ruttkamp, provided to demonstrate a clear misconduct by the Plaintiff's attorneys upon which they opened a dismissal on February 27, 2012 (see order **Appendix K**) based upon a lie and fraudulent documents and misleading the fact of the history of the Plaintiff corporation. The Petitioner filed a motion to dismiss on January 29, 2020 (see **Appendix L**) evidence that is a clear indication that the Plaintiff in this foreclosure procedure lacks subject matter jurisdiction and standards to have any justifiable relief of any kind. (Citations omitted; internal quotation marks omitted.) *Cadle Co. v. D'Addario,* 111 Conn.App. 80, 82 (2008) *Statewide Grievance Committee v. Burton,* 282 Conn. 1. 7, 917 A.2d 1 (2007); *Weiner v. Clinton,* 100 Conn.App. 753, 757, 942 A.2d 469 (2007). The Connecticut Supreme Court explained its fundamental logic as follows: "Because courts are established to resolve actual controversies, before a claimed controversy is entitled to a

resolution on the merits it must be justiciable... [u]nder the law of this state. It is an actual controversy between the parties and the Defendant is the sole owner of the property in the foreclosure custody of the court. (See a deed transferred from the first Defendant, William Ruttkamp, to the Petitioner, Shlomit Ruttkamp, a court order per her divorce decree agreement filed in the Westbrook Town Hall prior to the dismissal of February 27, 2012 and prior to the Petitioner, William J. Ruttkamp's bankruptcy procedure which was not disclosed in the foreclosure procedures. (A quitclaim deed, see **Appendix E**) The trial court, the Honorable Judge Domnarski, had no right to grant the vesting of the title that belongs to the owner, Defendant Shlomit Ruttkamp, on February 11, 2020. In this regard, the evidence filed by the Petitioner clearly indicates that this foreclosure procedure in the trial court lacks subject matter jurisdiction and the Petitioner has the right to appeal to the United States Supreme Court as she received an extension of time upon which to file a petition for writ of certiorari. Contrary to Judge Domnarski, the Petitioner did have an appellate stay in effect throughout the entire litigation from the day the Plaintiff filed the motion in accordance with the opinion of the Connecticut Supreme Court denying her review of the dismissal of the Connecticut appeal. In fact, on February 3, 2020, the Petitioner still had an appeal pending that was filed on January 15, 2020, a motion for reconsideration en banc which was denied only on February 5, 2020. The hearing of February 3, 2020 was conducted prematurely by Judge Domnarski in the trial court and once again violated the Defendant, Shlomit Ruttkamp, of the Fourteenth Amendment of due process of law. The Petitioner, Shlomit Ruttkamp, has overwhelming evidence that The Bank of New York Mellon lacks standards and the trial court lacks subject matter jurisdiction, and the Defendant should have the right by law to raise those standards at any time as the book of law and the rules of law permit when it comes to a lack of subject matter jurisdiction.

This case is a disturbing example of a reprehensible practice. That such fraudulent evidentiary filings are being submitted to courts is both violate of the rules of court and ethically indefensible. The conduct... displays a serious and alarming lack of respect of the nation's judiciaries (see *Fed. Nat'l Mort. Ass'n v. Bradbury*, 32 A.3d 1014, 1016 (Me. 2011). *See also Kemp v. Countrywide Home Loans, Inc.* 440 B.R. 624 (Bankr. D. N.J. 2010) by refusing to recognize as legitimate misconduct of a transfer of a note and mortgage that had not been properly endorsed and the assignment of the mortgage to The Bank of New York Mellon as the trustee for CIT Mortgage Loan Trust 2007-1, of the Plaintiff, The Bank of New York Mellon in all the complaints are fraudulent entities that do not exist. CIT Mortgage Loan Trust 2007-1 is neither a bank nor entity of any kind. The Connecticut Secretary of State and the New York State Division of Corporation do not register such an entity. (See **Appendix M**) Due process does not tolerate fraudulent evidence even if Connecticut courts disagree. "A fair trial in a fair tribunal is a basic requirement of due process." *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876, 129 S. Ct. 2252, 2259, 173 L. Ed. 2d 1208 (2009). Because fraud on the courts pollutes the process society relies on for dispute-resolution, courts reason that "a decision produced by fraud on the court is not in essence a decision at all, and never becomes a final judgment. Judgments... obtained by fraud or collusion are void, and confer no vested title." *League v. DeYoung*, 52 U.S. 185, 203, 13 L. Ed. 657 (1850). Due process does not permit fraud on the court to deprive any person of life, liberty or property. A biased court also violates constitutional due process guarantees by tolerating that fraud.

II. Whether the court of Connecticut acted within its discretion when it granted the Plaintiff the motion to dismiss as the appeal was frivolous when United States Common Law of fraud, civil conspiracy, and racketeering, Activity Act § 53-396 and in violation of Section 42-110a of the Connecticut General Statutes (CUTPA) when evidence has been presented demonstrates clear proof of fraud and lack of subject matter jurisdiction, presented in 10 years of litigation.

In Connecticut, which is a fact pleading state, complaints must be pled with particularity to allow evaluation of the legal theory upon which the claim is based. S.M.S. Textile Mills, Inc. v. Brown, Jacobson, Tillinghast, Lehan and King, P.C. 32 Conn. Ap. 786, 797, 631 A.2d 340, *cert.denied*, 228 Conn. 903, 634 A.2d 296 (1993). A complaint is deficient if it "alleges mere conclusions of law that are unsupported by the facts alleged." Novometrix Medical Systems v. BOC Group, Inc., 224 Conn. 210, 215, 618 A.2d 25 (1992). The complaint as presently written states mere legal conclusions and is insufficient as a matter of law. The defendant cannot properly defend against so vague a claim. The Plaintiff instituted this action on or about February 19, 2010, under a fictitious name. On or about February 24, 2010, under the said fictitious name, the Plaintiff recorded a lis pendens in Volume 300 at Page 1011 of the Westbrook Land Records against property solely owned by the defendant, Shlomit Ruttkamp. On February 27, 2012, the trial court of Connecticut (Judge Morgan) dismissed this action on the basis of the fact that the Plaintiff had brought it in a fictitious name. Despite the aforesaid action of this court, the Plaintiff refused to file a release of its aforesaid lis pendens. At all times mentioned herein, the Plaintiff also engaged in trade and commerce in the

State of Connecticut within the meaning of Section 42-110a of the Connecticut General Statutes. In the manner described above, the Plaintiff engaged in unfair and deceptive acts and practices in trade and commerce within the meaning of Section 42-110b of the Connecticut General Statutes. As a result, the defendant Shlomit Ruttkamp suffered ascertainable economic loss and emotional distress. The Plaintiff asserts that it is properly registered in the State of New York under the name being used in this litigation. The Bank of New York Mellon The Plaintiff fails, however, to address the fact, fully supported by the Exhibits attached to the defendant's Motions/Documents filed through the entire 10 years of litigation. That no entity by the name of "The Bank of New York Mellon" is registered with the Delaware Division of Corporations (see **Appendix N**) and the New York Division of Corporations (see **Appendix O**) and with the Connecticut Secretary of State (see **Appendix P**). The only entity with a similar name which is registered with the Connecticut Secretary of State is called **"Bank of New York"** (see **Appendix Q**) and the only entity registered with the Delaware Division of Corporations and New York Division of Corporations is **"The Bank of New York Mellon Corporation."** It is a fundamental law that a corporate entity may not bring suit in this state under a name not registered with the Connecticut Secretary of State. (Coldwell Banker Manning Realty. Inc. v. Cushman & Wakefield of Connecticut, Inc., 2010 WL 4942792 (Sheldon, J.); Coldwell Banker Manning Realty, Inc. v. Computer Sciences Corp., 2010 WL 4942790 (Sheldon, J.)). The plaintiff is not a corporation registered with the Connecticut Secretary of State. It therefore lacks standing and the court has no jurisdiction of the subject matter of this case. The growing minority of courts of Connecticut that refuse to ignore unclean hands and fraud is rare. Almost two centuries ago, the United States Supreme Court pronounced: "Equitable powers can **never** be exerted in behalf of any unfair means, has gained an advantage." Bein v. Heath, 47 U.S. 228, 6 How. 228, 1848 WL 6464 (U.S.La.), 12 L.Ed. 416 (1848) (emphasis added).

Recently, the Chief Judge of the Second DCA, in a concurring opinion, noted, "[i]t appears that many foreclosure judgments are entered based on dubious proof by the banks due to an understandable lack of sympathy for defendants who are years behind on payments..." This is one of the few instances in the history of jurisprudence where the Supreme Court of Connecticut has deemed it necessary to subject an entire industry to special rule due to the industry's documented illegal behavior... a direct result notwithstanding this, some of our courts appear to be conforming to the business practices of this industry rather than requiring the business practices to conform to the law." , The plaintiff moved to open a judgment of dismissal that was rendered on February 27th 2012, for lack of subject matter jurisdiction, when a timely appeal had not been filed by the plaintiff within the 20 days of the ruling of dismissing the underlying suit, and whether motion to open judgment is appropriate for a dismiss case that lacks subject matter jurisdiction. See America's Wholesale Lender v. Pagano, 87 Conn. App. 474, 477-78, 866 A.2d 698 (2005). The law contains no four-month grace period for a Dismiss case that lacked Subject matter jurisdiction;. See: Levinson v. Lawrence, 162 Conn. App. 548, 565-66, 133 A.3d 468 (2016). The state alleges that any property of the defendant is subject to forfeiture under the chapter fraud on the court and racketeering. Activity Act Section § 53-396. Fraud can be clearly and convincingly demonstrated that the plaintiff sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability to impartially adjudicate a matter by improperly influencing the theory of facts. (See order #119.20 and 127.00 February 27th 2012). The facts alleged in the amended complaint some construed in a manner most favorable to the pleader. Sheets v. Teddy's Frosted Foods, Inc., 179 Conn. 471, 427 A.2d 385; Stradmore Development Corporation v. Commissioners, 164 Conn. 548, 550-51, 324 A.2d 919; Senior v. Hope, 156 Conn. 92, 97, 239 A.2d 486; Rossignol v. Danbury School of Aeronautics, Inc., 154 Conn. 549, 557, 227 A.2d 418." Amodio v. Cunningham, 182 Conn. 80, 82-83, 438 A.2d 6 (1980).

and as "clear, precise and unequivocal evidence." Verrastro v. Middlesex Ins. Co., 207 *Conn.* 179, 181, 540 A.2d 693 (1988); Aksomitas v. Aksomitas, 205 *Conn.* 93, 100, 529 A.2d 1314 (1987); J. Frederick Scholes Agency v. Mitchell, 191 *Conn.* 353, 358, 464 A.2d 795 (1983); Alaimo v. Royer, 188 *Conn.* 36, 39, 448 A.2d 207 (1982). It is also settled law that "`[t]he essential elements of an action in *fraud* . . . are: (1) that a false representation was made as a statement of fact; (2) that it was untrue and known to be untrue by the party making it; (3) that it was made to induce the other party to act on it; and (4) that the latter did so act on it to his injury, Everything that the Plaintiff did at the motion to open judgment applies to the above four elements of an action in *fraud.* 'Paiva v. Vanech Heights Construction Co., 159 *Conn.* 512, 515, 271 A.2d 69 (1970); Clark v. Haggard, 141 *Conn.* 668, [673,] 109 A.2d 358 (1954); Helming v. Kashak, 122 *Conn.* 641, 642, 191 A. 525 (1937); Bradley, v. Oviatt, 86 *Conn.* 63, 67, 84 A. 321 (1912); Barnes v. Starr, 64 *Conn.* 136, 150, 28 A. 980 (1894).' Miller v. Appleby, [supra, 54-55]." Maturo v. Gerard, 196 *Conn.* 584, 587, 494 A.2d 1199 (1985); D. Wright J. Fitzgerald, *Connecticut* Law of Torts (2d Ed.) 135. The Plaintiff amended the complaint two different times and made sure to add a party that was not mentioned in the first complaint filed on February 19, 2010 or on the first amended complaint that was filed on September 26, 2012. The only time these two parties came to this case was the amended complaint filed on August 22, 2014 when documents were added after the fact.

III. Whether, on the face of the record, this foreclosure action is without jurisdiction. (Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008). Is the court of appeal in conflict with their own ruling related to subject matter jurisdiction is subject matter jurisdiction should be waived when the book of law and the rules of law claim to the contrary?

The Plaintiff has brought suit in this action under the name The Bank of New York Mellon f/k/a The Bank of New York as Trustee on behalf of CIT Mortgage Loan Trust 2007-1. This foreclosure action was dismissed for lack of subject matter jurisdiction on February 27, 2012. As the judgment of Judge Morgan specified that the Plaintiff has brought this foreclosure action in its trade name (**The Bank of New York Mellon**) rather than by the name by which it has elected to register itself with the Delaware Division of Corporations (**The Bank of New York Mellon Corporation**) (See Affidavit from Delaware Division of Corporations, **Appendix N**) and therefore the named Plaintiff lacks the capacity to enter into contracts and to sue or be sued. "A motion to dismiss properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court . . . A motion to dismiss tests, *inter alia*, whether, on the face of the record, the court is without jurisdiction." (Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008). "Subject matter jurisdiction involves the authority of the court to adjudicate the type of controversy presented by the action before it . . . [A] court lacks discretion to consider the merits of a case over which it is without jurisdiction." (Internal quotation marks omitted.) *Vitale v. Zoning Board of Appeals*, 279 Conn. 672, 678, 904 A.2d 182 (2006). "The subject matter jurisdiction requirement may not be waived by any party, and also may be raised by a party, or by the court sua sponte, at any stage of the proceedings, including on appeal." (Citations omitted.) *Peters v. Dept. of Social Services*, 273 Conn. 434, 441, 870 A.2d 448 (2005). "In ruling upon whether a complaint survives a motion to dismiss, a court must take the facts to be those alleged in the complaint, including those facts necessarily implied from the allegations, construing them in a manner most favorable to the pleader." (Internal quotation marks omitted.) "A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court . . . A motion to dismiss tests, *inter alia*, whether, on

the face of the record, the court is without jurisdiction." (Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008). In support of its motion, the Defendant relies principally upon two recent decisions from our Appellate Court, *America's Wholesale Lender v. Pagano*, 87 Conn.App. 474, 866 A.2d 698 (2005) and *America's Wholesale Lender v. Silberstein*, 87 Conn.App. 485, 866 A.2d 695 (2005), in which it was held that a suit cannot be brought by or on behalf of a trade name because a trade name "is not an entity with legal capacity to sue." *Pagano, supra*, 87 Conn.App. at 475. The Appellate Court ruled in both cases that, because the Plaintiff in any such lawsuit has no actual legal existence, it has no standing to sue, and thus any claim brought by it must be dismissed for lack of subject-matter jurisdiction. The *Pagano* and *Silberstein* decisions were both based expressly upon an earlier Appellate Court decision in which the effect of a plaintiff's status as a non-existent legal entity upon the court's subject-matter jurisdiction was discussed. The earlier case, *Isaac v. Mount Sinai Hospital*, 3 Conn.App. 598, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985), involved the legal capacity of an estate to file a wrongful death action before an administrator was appointed to represent it. In the *Isaac* court affirmed the decision of the trial court to dismiss the prematurely filed complaint without allowing it to be amended on the following legal basis: It is elemental that in order to confer jurisdiction on the court the Plaintiff must have an actual legal existence, that is he or it must be a person in law or a legal entity with legal capacity to sue. 59 Am.Jur.2d, Parties, 20, 21. "An estate is not a legal entity. It is neither a natural nor artificial person, but is merely a name to indicate the sum total of the assets and liabilities of the decedent or incompetent." *Bar Association v. Connecticut Bank Trust Co.*, 20 Conn.Sup. 248, 262 [131 A.2d 646 (1957)]. *Not having a legal existence, it can neither sue nor be sued. Vonchina v. Estate of Turner*, 154 Cal.App.2d 134 [315 P.2d 723 (1957)]; 2 Locke Kohn, Conn. Probate Practice 375. *Estate of Schoeller v. Becker*, 33 Conn.Sup. 79, 79-80, 360 A.2d 907 (1975) Jurisdiction for lack of standing. The Appellate Court applied its

Isaac holding to trade names in the following, identical language, with the identical result: The defendant argues that because [the plaintiff] initiated suit solely in its trade name, which is a fictitious name and not a legal entity, [the plaintiff] lacked standing and, consequently, the court lacked subject matter jurisdiction to decide the merits of [the plaintiff]'s claim. "It is elemental that in order to confer jurisdiction on the court the plaintiff must have an actual legal existence, that is he or it must be a person in law or a legal entity with legal capacity to sue." (Internal quotation marks omitted.) *Isaac v. Mount Sinai Hospital*, 3 Conn.App. 598, 600, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985). Although a corporation is a legal entity with legal capacity to sue, a fictitious or assumed business name, a trade name, is not a legal entity; rather, it is merely a description of the person or corporation doing business under that name. *Bauer v. Pounds*, 61 Conn.App. 29, 36, 762 A.2d 499 (2000). Because the trade name of a legal entity does not have a separate legal existence, a plaintiff bringing an action solely in a trade name cannot confer jurisdiction on the court. And to sue or *be sued;* its identical underlying conclusion — that a trade name, like an estate, is not a recognized legal entity — leads inexorably to the same result. The Defendant, Shlomit Ruttkamp, provided the trial court with overwhelming exhibits and evidence as you see in the petition for writ of certiorari exhibits that I am providing that the attorney for the Plaintiff lied in the documents at the motion to open judgment filed on June 26, 2012. Furthermore, the Defendant in the course of 10 years of litigation is defending this foreclosure action as the court and the Plaintiff lack subject matter jurisdiction with evidence to support this claim. The Plaintiff's attorneys sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability to impartially adjudicate a matter by improperly influencing the theory of facts and unfairly hampering the presentation of the opposing party's claim or defense as the Plaintiff's attorneys claimed that The Bank of New York Mellon in the first complaint filed by the Plaintiff's attorneys referred to in their motion to open judgment; in fact, it is a different Bank of

New York Mellon that is incorporated in the State of New York. The State of New York has no record of an entity registered in the name of **The Bank of New York Mellon**. The State of New York has only one record of an entity registered in the name of **The Bank of New York Mellon Corporation** Incorporated in Delaware with the headquarters in New York City (see **Appendix R,** email from the spokesman, Kevin Heine, giving directions and describing the location of The Bank of New York Mellon).

The Plaintiff denied the email owned by The Bank of New York Mellon in the motion to open judgment and in their affidavit to support the motion to open judgment. Kevin Heine, in his email, confirmed the email address and everything else that the Plaintiff's attorneys denied in their motion to open judgment through the present. The Plaintiff never provided any exhibits or evidence to contradict the Defendant's exhibits and evidence and never addressed it nor denied such accusations and did not provide the equivalent documents to contradict the Defendant's overwhelming exhibits and evidence. Regardless of that fact, the Superior Court Judge Domnarski ignored all the exhibits and evidence that the Defendant provided and ruled on behalf of the Plaintiff and failed to apply the law in this foreclosure action and chooses to turn a blind eye to a fraudulent exhibit/evidence filed by the Defendant against the Plaintiff. And the Connecticut Appellate Court refused to recognize special defense which alleged wrongful conduct as the plaintiff engaged in deceptive and unfair practices of foreclosure procedures by the lender which is not responsible to the mortgage lien or note, and that this foreclosure was dismissed on February 27, 2012 for lack of subject matter jurisdiction, pursuant to practice Book §10-31 and pursuant to Conn. Gen. Stat. § 52-123.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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