

19-8311

No.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

John Dalen,

Petitioner,

v.

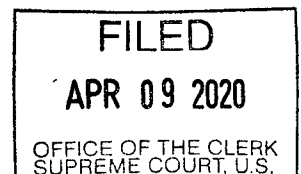
Federal National Mortgage Association et. al,

Respondents.

On Petition for Writ of Certiorari
to the South Carolina Court of Appeals

PETITION FOR WRIT OF CERTIORARI

John D. Dalen
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Westminster, SC 29693
Phone #: 864.647.4705
APPEARING PRO PER



A. QUESTIONS PRESENTED FOR REVIEW

1. Was Petitioner denied his Constitutionally-protected Common Law Right to a trial by jury, and his right to due process of law as a result of the court's failure to perform its core function, i.e. the protection of every citizen's Constitutional Rights?
2. Whether the Court should resolve the following question, for which state courts are divided and/or silent on the issues of Standing and Subject Matter Jurisdiction in foreclosure cases: Did the South Carolina Court of Appeals err in its ruling that the bank had standing to foreclose and therefore the court lost subject matter jurisdiction due to the banks' lack of standing?

B. LIST OF PARTIES INVOLVED

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:

Federal National Mortgage Association (FNMA)

Bank of America, N.A., Successor by merger to BAC Home Loans Servicing,

L.P. f/k/a Countrywide Home Loans Servicing, L.P.

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Law Review Articles

Standing in the Wake of the Foreclosure Crisis

Froehle, Timothy, Standing in the Wake of the Foreclosure Crisis: Why Procedural Requirements are Necessary to

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Why Mortgage Formalities Matter

Dana, David A., Why Mortgage 'Formalities' Matter (June 8, 2012).

Loyola Consumer Law Review, Vol. 24, p. 101, 2012 ; Northwestern

Public Law Research Paper No. 12-14; Northwestern Law & Econ

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The Petitioner, John Dalen, requests that the Court issue its writ of certiorari review of the judgment of the South Carolina Court of Appeals entered in this case on July 3, 2019.¹ The Opinion Denying Rehearing was entered on August 22, 2019. The Petition for Writ of Certiorari to the South Carolina Supreme Court was denied on January 16, 2020.

D. CITATION TO OPINION BELOW

The opinion of the highest court to review the merits appears at Appendix A to the petition and is unpublished, entitled Federal National Mortgage v. John D. Dalen, Appellate Case No. 2017- 000886, Unpublished Opinion No. 2019-UP-238, filed July 3, 2019.

E. BASIS FOR JURISDICTION

The date on which the highest state court decided my case was July 3, 2019. A copy of that decision appears at Appendix A, pgs. 1-3.

A timely petition for rehearing was thereafter denied on the following date: August 22, 2019, and a copy of the order denying rehearing appears at Appendix C, pgs. 1-2.

The South Carolina Supreme Court denied the Dalens' petition for writ of certiorari on January 16, 2020; the order appears at Appendix D, pgs. 1-2.

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

¹ References to the appendix to this petition will be made by the designation "A – " followed by the appropriate letter and page number(s).

F. CONSTITUTIONAL PROVISIONS AND LEGAL PRINCIPLES INVOLVED

The Fifth Amendment guarantees the citizen will not be deprived of life, liberty, or property, without due process of law. The Seventh Amendment provides that the right of trial by jury shall be preserved according to the rules of the Common Law. The Fourteenth Amendment, Section 1 states that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;.... Due process of law, when referred to by to by the U. S. Constitution, is referring to the Common Law.

G. STATEMENT OF THE CASE

1. Factual Background

a) Proceedings in the Trial Court

On October 31, 2011, Bank of America, N.A. filed its foreclosure action against John Dalen (A – F pg. 1). I, John Dalen, acting Pro Per, filed a motion to dismiss based on lack of standing on November 22, 2011 (A – F pg. 6), and the motion was denied (A – E pg 1). A motion to reconsider was filed on February 14, 2012, which was also denied (A – F pg 10). I then filed an answer with

affirmative defenses and counterclaims and a demand for a jury trial according to the Common Law on February 21, 2012 (A – F pg. 16).

In my answer to the complaint which had been filed by Bank of America, I again challenged the standing of the bank and the subject matter jurisdiction of the trial court. Bank of America filed a motion for summary judgment on December 4, 2013. At that time, Trial Court Judge Alexander MacCauley gave me, John Dalen ten days to hire an attorney or he was going to grant the bank's motion.

I did in fact hire an attorney, and the judge denied the bank's motion for summary judgment. Subsequently, on November 17, 2014, the bank filed a motion to strike jury trial demand and refer to Master-in-Equity. The court granted Bank of America's motion on May 15, 2015 (A – E pg. 9). I did not appeal this ruling because neither my attorney nor the court informed me that this was an immediately appealable ruling.

Bank of America substituted plaintiff on September 23, 2015, naming FNMA as the new plaintiff (A – E pg. 13). Then Bank of America filed a renewed motion for summary judgment on March 9, 2016 (A – E pg. 17). At around this time, I, John Dalen dismissed my attorney and reverted back to Pro Per and filed several motions including a motion to dismiss for lack of subject matter jurisdiction on May 5, 2016 (A – F pg. 97) and a motion to reconsider the bank's summary judgment, which I filed on August 8, 2016, and

then I filed another motion filed February 22, 2017 (A – F pg. 105), a motion to dismiss for lack of subject matter jurisdiction and denial of due process of law (A – F pg. 119). I also filed a declaration of claims for fraud upon the court, lack of subject matter jurisdiction, fraud/misrepresentation and denial of due process of law on February 27, 2017 (A – F pg. 133).

A trial was held on March 2, 2017, during which I repeatedly objected to the court's lack of subject matter jurisdiction due to the banks' lack of standing. Judgment was rendered in favor of the banks at this trial (A – E pg. 37). Then, on March 15, 2017, I filed an objection and motion for a new trial and/or amended judgment which included a judicial notice of adjudicated facts (A – F pg. 155). All of my motions were denied.

b) Proceedings in the Appellate Court

I, John Dalen filed an appeal with the South Carolina Court of Appeals on April 11, 2017 (Decision A – A pg. 1). I presented several cases to the South Carolina Court of Appeals dealing with the issues of standing and subject matter jurisdiction. Two of these cases – a Hawaii Supreme Court decision and a Florida Court of Appeals decision – strongly parallel my case. See: *Bank of America v. Grisel Reyes-Toledo*, Sup. Ct. of Hawaii, SCWC-15-0000005, dated Feb. 28, 2017) and *Certo v. Bank of N.Y. Mellon*, Court of Appeal of Florida, First District, April 3, 2019, Decided, No. 1D17-4421, *Reporter*, 2019 Fla. App. LEXIS 5128.

In the Hawaii case, the court ruled that there are genuine issues of material fact that were not resolved in the trial court, which have to do with securitization of the note and the bank's lack of standing due to the assignment of the note being undated, and therefore no proof of when the bank acquired the note, and/or whether the bank had standing to foreclose. The Hawaii court discussed these issues in detail.

The Florida court discussed in detail the requirements for proof of standing – none of which Bank of America or FNMA met in the Dalen case. On the issue of the jury trial denial, the South Carolina Court of Appeals ruled that I lost the right to a trial by jury because the trial court decision was not appealed immediately. As to the other issues of standing and subject matter jurisdiction, the Appeals Court ruled that the trial court is in the best position to rule on these issues, leaving me to wonder as to what could be the purpose of an appeals court when petitioners are asking them to review a trial court's decision. There was no discussion in the Appeals Court ruling, and my request for rehearing was denied (A – C pg. 1). An appeal to the Supreme Court of South Carolina for a Writ of Certiorari was also denied (A – D pg. 1).

I believe my case represents an opportunity for the United States Supreme Court to review the effects of securitization of mortgage notes on the standing of the banks and the subject matter jurisdiction of the courts as there are many conflicting rulings between the state courts. Current events are precipitating a repeat of the 2008 mortgage crisis, and the courts are likely to

see many more foreclosure actions in the years ahead. Guidance from the United States Supreme Court would be of great value to homeowners and the lower courts which are going to be dealing with issues that have been dealt with thus far in a contradictory and unclear manner.

c) The Fifth, Seventh, and Fourteenth Amendment Claims

The denial of my right to a trial by jury violates not only the Seventh Amendment protection of the right to a trial by jury, but also the requirements of due process of law under the Fifth and Fourteenth Amendments.

It is the duty of the courts to be watchful for the Constitutional Rights of citizens. Indeed it is stated in American Jurisprudence that the protection of Constitutional Rights is the “core function” of the courts. See: *American Jurisprudence*, 2d, § 260. Attorneys as officers of the courts have this same duty. For a citizen to be deprived of his right to a trial by jury due to a procedural rule or error without any notification from the court that such a fundamental right would be lost if not immediately appealed would seem to be anathema to the principles of our constitutional system of government.

The Fifth and Fourteenth Amendments state that no person can be deprived of life, liberty, or property without due process of law. In this case, I demanded my Common Law right to a trial by jury. Thereafter, I was denied due process of law when that right was denied to me on procedural grounds. Again, the courts’ core function is to protect that right and they failed to do so.

H. REASONS FOR GRANTING THE WRIT

1. To determine whether a fundamental Constitutionally-protected right, i.e. trial by jury, can be denied to a citizen on procedural grounds, when the citizen was not informed of the procedures required to retain that right. The case of *Builderama v. Morton*, 307 S.C. 440, 415 S.E.2d 796, 1992, involves a collection action that was referred to the Master where the defendant had demanded a jury trial. The court ruled that the trial judge erred in denying a jury trial.

A "substantial right" should not be lost by a failure of the appellant(s) to follow procedure. For my wife and me to lose a substantial right due to procedural error is antithetical to the American concept of justice. In *Miranda v. Arizona*, 384 U.S. 436 (1966) the Supreme Court, referring to the rights guaranteed by the Constitution of the United States, stated that there shall be no rule making that would abrogate it.

It is the court's duty to protect the right of the citizens. From *Byars v. U.S.*, 273 U.S. 28, 32, (1927), "It is the duty of the courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon." And in *American Jurisprudence*, 2d, § 260, protection of Constitutional Rights is a core function of the judiciary.

The U. S. Constitution guarantees under the Seventh Amendment a Right to a Trial by Jury and under the Fifth Amendment guarantees a Right to

Due Process of Law. The Fifth Amendment “applies alike to criminal and civil proceedings” See *McCarthy v. Arndstein*, 266 US 34. See also *Brady v. U.S.*, 397 U.S. 742, 748 (1970): “Waivers of Constitutional Rights, not only must they be voluntary, they must be knowingly intelligent acts done with sufficient awareness.”

For the courts to hold John Dalen to the same standards as trained, licensed lawyers is a miscarriage of justice. The trial court should have notified me of my right to an immediate appeal of the Order to Strike Jury Trial Demand, and loss of the right to a jury trial. The failure of the court to do so was a violation of John Dalen’s right to due process of law. That I made mistakes in pursuing my defense is without question, but to lose a substantial right, a fundamental right due to a procedural error by a non-lawyer is antithetical to any concept of justice.

In addition to the legal questions presented, there is a moral question here. I am not a lawyer. I am a carpenter. If I asked the banks’ attorneys to build a house, they having no prior experience, it would be expected that they would make mistakes, even “fatal” errors that would undermine the structural integrity of the structure. Expecting the banks’ lawyers to be competent in building a house – even watching as they make mistakes without notifying them of their error, or giving proper instructions, and then punishing them for their error – is not justice. As stated above, the trial court should have notified me of my right to an immediate appeal of the Order to Strike Jury Trial

Demand, and the resulting loss of the right to a jury trial for failure to appeal immediately.

Regardless, I believe that the denial of the defendants' right to a jury trial is a constitutional violation at the point in time that it occurred, whether or not the decision was appealed immediately. Violations of protected constitutional rights nullify the proceedings at the point of the violation. Furthermore, the trial court in proceeding with this case where standing and subject matter jurisdiction had been challenged from the beginning and the plaintiff had not provided any proof of standing amounts to appellant(s) being denied due process of law.

My attorney allowed the court to strike my demand for jury trial without argument. See: Dalens' Answer, Counterclaims, and Demand for Jury Trial (R. p. 87) (A – F pg.16). Neither my attorney nor the judge had informed me that the ruling to strike the jury trial was an immediately appealable ruling. The appellate court cited the fact that I failed to appeal in a timely manner as their reason for ruling against my claim of denial of due process. (A – A pg. 1) After dismissing that attorney, I filed a motion to dismiss for lack of subject matter jurisdiction and denial of due process, demanding my rights under the Common Law (A – F pg. 119), including the right to trial by jury. In that motion I informed the trial court that I did not consent to any further proceedings. (See R. pp. 247 – 260.)

The right to a trial by jury is a fundamental right secured by the United States Constitution in the Bill of Rights, Seventh Amendment. It cannot be taken away on procedural grounds. Denial of this right is a denial of due process of law. Due process of law refers to the Common Law and is also secured by the United States Constitution in the Bill of Rights, Fifth and Fourteenth Amendments. Furthermore it is the court's duty and also its core function to protect the Constitutional Rights of its citizens. The following United States Supreme Court decisions affirm all of the above just-mentioned assertions:

- a) *Marbury v. Madison*, 5 US 137, 174, 176 (1803) "All laws which are repugnant to the Constitution are null and void."
"The Constitution is superior to any act of the legislature; the Constitution and not such ordinary act, must govern the case to which they both apply."
- b) *Miranda v. Arizona*, U.S. Supreme Ct, 380 US 436 (1966)
"Where rights secured by the Constitution are involved, there can be no rulemaking or legislation which would abrogate them."
- c) *Boyd v. U.S.*, 116 US 616, 635 (1885) "It is the duty of the courts to be watchful for the Constitutional Rights of the citizen, against any stealthy encroachments thereon."
- d) *Dimmock v. Scalded*, 293 US 474 (1935) "Courts must indulge every reasonable presumption against waiver of fundamental constitutional rights, and ...not presume acquiescence in the loss of fundamental rights."
- e) *Brady v. U.S.*, 397 U.S. 742, 748 (1970) "Waivers of Constitutional Rights, not only must they be voluntary, they must be knowingly intelligent acts done with sufficient awareness."

There are clearly genuine issues of material fact that I have repeatedly raised and that have not been addressed by the court. I have a fundamental right to have these issues heard and decided by a jury of my peers.

2. To determine whether the Supreme Court should resolve the issues of standing and subject matter jurisdiction in foreclosure cases where notes have been securitized and state courts are divided, and in many cases, the state courts are without understanding or knowledge of securitization of notes and how securitization affects standing and jurisdiction.

The United States Supreme Court ruled that: "Because subject-matter jurisdiction goes to the power of the court to adjudicate the merits of a case, it can never be waived and may be challenged at any time." (*United States v. Cotton* (2002), 535 U.S. 625, 630, 122 S. Ct. 1781, 152 L.Ed.2d 860) See also: "If a party does not have standing to bring a claim, a court has no subject matter jurisdiction to hear the claim." (*Estate of Apple v. Commercial Courier Express, Inc.*, 168 N.C. App. 175, 177, 607 S.E. 2d 14, N.C. Ct. App. 2005)

Getting back to the two recent cases which I mentioned earlier which are *Bank of America v. Grisel Reyes-Toledo*, Sup. Ct. of Hawaii, SCWC-15-0000005, dated Feb. 28, 2017) and *Certo v. Bank of N.Y. Mellon*, Court of Appeal of Florida, First District, April 3, 2019, Decided, No. 1D17-4421, *Reporter*, 2019 Fla. App. LEXIS 5128, there is substantial discussion of the issue of standing that is extremely relevant to my case. I discussed the Hawaii

case in greater detail in my briefs to the South Carolina Appellate Court. I will add to that discussion here, but first I want to address the Certo case.

The Certo case was recently brought to my attention and I believe the issues discussed in that case and the conclusions reached by that court (backed up by numerous Florida court decisions as cited in that case) are the same issues that we have raised from the beginning of my case. The Certo court ruled that:

“...Bank of New York Mellon failed to prove its standing, we must reverse.”

The heart of the matter, quoting again from the case, “...it is insufficient for the plaintiff to rely on its acquisition of the other entity.”

Also: “...(despite testimony of merger, witness gave no testimony as to what assets exactly were acquired)”

“...testimony one entity ‘took over’ another is not sufficient”

“Similarly, listing party status as “successor by merger” or claiming a title is not sufficient; a plaintiff must support its claim by evidence.”

“...words ‘successor by merger’ were insufficient to ‘establish the merger, let alone that the [plaintiff] acquired all of [the successor’s] assets’ ”

“Mellon relies on the Note, three assignments of mortgage, two change in servicer letters, a power of attorney, a Pooling & Servicing Agreement, and payment history. None of these proves standing.”

“...the change in servicer letters reflect only that a new servicing company was servicing the Note. The letters say nothing about the underlying debt and Note being sold to a new bank.”

Both the Hawaii and the Florida courts affirm the Dalens’ contention that the banks must have standing to file their complaints. Because the banks did not prove standing at the time the complaint was filed, nor since in the Dalens’ case, the court was denied subject matter jurisdiction and the case should have been dismissed upon on the Dalens’ original Motion to Dismiss and subsequent motions. Everything that has happened after the trial court’s failure to dismiss this case for lack of proof of standing is irrelevant as without standing there is no case to adjudicate; the “law of this case” has always been Standing (i.e. the banks’ lack of standing).

From our own South Carolina Court of Appeals, in a 2008 case:

“Standing to sue is critical to the proper functioning of the judicial system. It is a threshold issue. If standing is blocked, the pathway to the courthouse is

blocked. If a plaintiff lacks standing to sue, the plaintiff may not proceed in the action.” (*Powell v. Bank of America*, 665 S.E. 2d 237, 379 S.C. 437, South Carolina Court of Appeals 2008)

And also: “Standing to sue is a fundamental requirement in instituting an action.” (*Bodman v. State of S.C.*, Op. No. 27248, S.C. Sup. Ct. filed May 8, 2013, Shearouse Adv. Sh. No. 21 at 27, 31, *Joytime Distribs. & Amusement Co. v. State*, 338 S.C. 634, 639, 528 S.E.2d 647, 649 (1999) Please see also *Standing in the Wake of the Foreclosure Crisis*² (R. p. 456, Exh. F). This Law Review article from The University of Iowa College of Law and written by Timothy A. Froehle discusses in detail the complexities and complications of securitization of notes as related to standing. Also of interest is a Law Review article by David A. Dana entitled *Why Mortgage Formalities Matter*³ arguing that “adherence to mortgage formalities regarding foreclosure is valuable for expressive reasons and also as a potential deterrent to future undesirable underwriting and securitization practices. The Article reviews how some courts have in effect written procedural requirements for foreclosure out of the law....” It also argues for equal respect to the legal rights of homeowners.

² Froehle, Timothy, *Standing in the Wake of the Foreclosure Crisis: Why Procedural Requirements are Necessary to Prevent Further Loss to Homeowners* (March 1, 2010). Iowa Law Review, Forthcoming. Available at SSRN: <https://ssrn.com/abstract=1695070>

³ Dana, David A., *Why Mortgage ‘Formalities’ Matter* (June 8, 2012). Loyola Consumer Law Review, Vol. 24, p. 101, 2012 ; Northwestern Public Law Research Paper No. 12-14; Northwestern Law & Econ Research Paper No. 12-06. Available at SSRN: <https://ssrn.com/abstract=2082374>

The Dalens, the Appellants in this case, repeatedly from the filing of the bank's complaint, had challenged the bank's standing, raised chain of title and securitization issues that to this date remain genuine issues of material fact that have not been addressed or resolved. The Trial Court, the Master, and recently the Court of Appeals have all acted upon presumptions that the bank has standing and that the assignments as well as chain of title are proper in contradiction to the evidence that the Dalens presented.

Just days before the trial, in the trial court before Master-in-Equity Steven C. Kirven, the case was handed down from the Hawaii Supreme Court which parallels the Dalen case in almost every respect. Prior to the decision of this Hawaii case, the Dalens' arguments were summarily dismissed, not ruled on, and/or ignored. With this Hawaii decision the Dalens were able to reference a State Supreme Court ruling that addressed many of the issues that we had raised from the beginning. We had hoped that the Appellate Court would hand down a ruling that would explain the court's reasoning in their decision as did the Hawaii court. Instead we received a brief, two-paragraph statement that fails to address any of the issues that we raised (A – A pg. 1).

In the Hawaii Supreme Court and the Florida Court of Appeals cases, these courts discussed standing and securitization issues; however, the Hawaii court acknowledged that it had not really studied the securitization issue.

The Dalens filed an answer in this case after our Motion to Dismiss was denied. We demanded a trial by jury on all issues triable by jury (A – F pg. 16). This trial by jury is a fundamental right that cannot be denied on procedural grounds. The Dalens were forced to retain an attorney upon Bank of America's filing of its first motion for summary judgment after the judge in that hearing, Judge Alexander Macauley, told the Dalens that he would grant the bank's motion unless we hired an attorney. Believing him, we hired an attorney.

Subsequently, Bank of America was successful in getting the case referred to the master at which time the bank also prevailed on a motion to strike demand for jury trial (A – E pg. 9). The Dalens, not being attorneys and trusting our attorney, were not informed that this was an immediately appealable decision. It is our contention that a fundamental Constitutional Right cannot be lost in this way. Waivers of Constitutional Rights must be by informed and knowledgeable consent. Otherwise they are not waived. This constitutes a denial of due process. The Dalens subsequently dismissed their attorney and once again proceeded Pro Per.

In order for a court to have subject matter jurisdiction, the plaintiff filing the complaint must have standing to bring the issue before the court. Without standing there is no subject matter jurisdiction. In the Hawaii case, Bank of America, N.A. vs. Grisel Reyes-Toledo, Case No. SCWC – 15 – 0000005 (28 Feb. 2017), (R. pp. 1079 – 1106) the court concluded that the lack of a date on the note (when it was transferred) was a material question of fact as to

when the bank became holder of the note and thus entitled to enforce. (See R. pp. 1091 – 1100.) On R. p. 1095 the court discusses complications posed by securitization. See also the footnotes on R. p. 1095.

The Hawaii court ruled that summary judgment was inappropriate. Referring to the indorsement on the note, the court said “...there is a genuine issue as to whether Bank of America was entitled to foreclose when it commenced the proceeding. Thus, viewing the facts and inferences most favorable to the Homeowner, there is a genuine issue of material fact as to whether Bank of America held the Note at the time it filed the complaint. Accordingly, Bank of America failed to meet its burden of demonstrating that it was entitled to judgment as a matter of law.” (R. p. 1099)

In our case as in the Hawaii case, “...there is no evidence in the record, either through the Note itself, ... or other documents attached to the motion for summary judgment, showing that the blank indorsement on the Note occurred prior to the initiation of the suit.” (R. p.1099) “A foreclosing plaintiff’s burden to entitlement to enforce the note overlaps with the requirements of standing in foreclosure actions as ‘[s]tanding is concerned with whether the parties have the right to bring suit.’ Mottl v. Miyahira, 95 Hawai’i 381, 388, 23 P.3d 716, 723 (2001). The Hawaii court vacated Bank of America’s judgment and the case was remanded to the Appeals Court to determine if the Circuit Court erred in dismissing the homeowner’s counterclaims. (R. p. 1106)

The Hawaii court also discusses the issue of securitization of mortgages. (See R. pp. 1094-1095.) “ ‘...the general requirement that a holder be in possession of the instrument is meant ‘to protect the maker or drawer from multiple liability on the same instrument.’ The Supreme Court of New Mexico recently observed that ‘[t]his procedural safeguard is vital because the securitization of mortgages has given rise to a pervasive failure among mortgage holders to comply with the technical requirements underlying the transfer of promissory notes and, more generally the recording of interests in property.’ ” Bank of America, N.A. vs. Grisel Reyes-Toledo, Case No. SCWC – 15 – 0000005 (28 Feb. 2017) (R. p. 1094)

The Dalens repeatedly raised the issues of lack of standing and subject matter jurisdiction as well as securitization of the note and the fraudulent assignment of the mortgage. Please see Dalen’s ...Motion for Reconsideration of Order Granting Plaintiffs/Counterclaim Defendant’s Motion for Summary Judgment (R. pp. 233 – 246) and ...Defendant’s Motion to Dismiss for Lack of Subject Matter Jurisdiction and for Denial of Due Process of Law (A – F pg. 119) (R. pp. 247 – 260). See also Exhibits A through G, R. pp. 420 – 482, and Exhibits A through K, R. pp. 487 – 545. These exhibits show that Bank of America and their attorneys manufactured a chain of title to facilitate an unlawful foreclosure. They also show that Bank of America’s chain of title as presented to the court is in fact fraudulent.

The banks' lack of standing involves several issues of genuine material fact that were never adequately -- if at all -- addressed by the trial or appellate courts. The petitioner believes the issues that deny the court subject matter jurisdiction include:

- a) No date on note showing when bank acquired the note.
- b) Securitization of note/bifurcation of note and mortgage.
- c) Fraud in the chain of title. Securitization of the note:
 - 1) Separates the note from the mortgage,
 - 2) Divides the interest in the note among a group of investors,
 - 3) Requires compliance with New York trust law, IRS tax rules and SEC rules that are not reflected in the bank's chain of title used in this case to unlawfully foreclose on Petitioner's property.

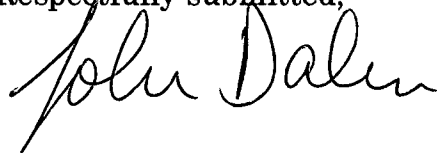
Questions one and two reference violations of the Petitioner's Fifth and Fourteenth Amendment Rights to Due Process of Law, and the Seventh Amendment Right to Trial by Jury according to the Common Law.

There are numerous Supreme Court rulings that state it is the main function of the court to protect the Constitutional Rights of the citizens, and to be ever watchful for encroachments thereon. The attorney is an officer of the court, and therefore he has the same duty. The courts along with my attorney failed to perform their core function -- the protection of my rights.

I. CONCLUSION

The Petitioner requests that the Court grant the petition for writ of certiorari.

Respectfully submitted,

A handwritten signature in cursive script that reads "John Dalen".

April 6, 2020

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John Dalen Pro Per