

19-8408
No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

STANLEY WEST MCPHERSON, — PETITIONER
(Your Name)

vs.
TOMPKINS TRUST COMPANY, ET AL.,
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

STANLEY WEST MCPHERSON,
(Your Name)

POST OFFICE BOX 6784,
(Address)

ITHACA, NY 14851
(City, State, Zip Code)

(607) 280-3572
(Phone Number)

QUESTION(S) PRESENTED

1. Whether the United States Magistrate Judge David E. Peebles, error and violated in failure and refuse to give petitioner a schedule conference that was scheduled by the order of the court and procedure, Federal Rule of Civil Procedure 16(a) and 16(b).
2. Whether the United States Magistrate Judge David E. Peebles, error in Prejudice against petitioner in not making a ruling on two default motions against the Tompkins Trust Company bank, for being in default four months and seven months. Federal Rule of Civil Procedure 55(a).
3. Whether the United States District Judge Thomas J. McAvoy, error in bypassing all of the pretrial procedures and converting a motion to dismiss for the respondents to a summary judgment against petitioner, in violation of Federal Rule of Civil Procedure 56. Petitioner was deprive a just, speedy, inexpensive resolution of disputes, a day in court.
4. Whether the United States Court of Appeals for The Second Circuit error in deprvinig petitioner claim in deciding incorrectly the errors of the lower district court in violating pretrial procedures.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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:

TOMPKINS TRUST COMPANY,
BRIAN A. HOWARD,
MYRIAH A. MARNELL,
JESSE TEDORA,
DEBORAH J. HOOVER,
RESPONDENTS

RELATED CASES

McPherson v. Tompkins Trust Company, No. 18-cv-453, U.S. District Court for the Northern District of New York. Judgment entered

Oct 24, 2018.

McPherson v. Tompkins Trust Company, No. 18-cv-3383, U.S.

Court of Appeals for the Second Circuit. Judgment entered
Feb. 6, 2020.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[x] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was February 6, 2020.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

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

[] For cases from state courts:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment, and Fourteenth Amendment. Bills of Exchange Act, March 30, 1821, P.L. 156, no.94 cl. 12. Negotiable Instrument Act, 55th Congress. Session 3. Chapter 47 1899. United States Constitution Article 1, Section [6]; and Article 6, Section [1], [2]. 12 U.S.C. section 361; 12 U.S.C. section 226 Federal Reserve Act. Uniform Commercial Code Article 3, and 4. U.S. Const. Article VI[1][2] and Article 1. Section 10. Federal Rules of Civil Procedure 8(a), 8(e)(1), 12(b)(6), 16(a)(2), 16(b)(2), 55 and 56(e). Rules Enabling Act of 1934, (chapter 651, Pub. L. 73-415, 48 Statute 1064, enacted June 19, 1934. 15 U.S.C. Section 1693Title VI-Electronic Fund Transfers. 28 U.S.C. Section 1254(1), and 28 U.S.C. Section 1746. Uniform Commercial Code (UCC) Section 9-601(a)(1) and Section 4A-402(b).

STATEMENT OF THE CASE

These two Judges refuse to give me a scheduled conference hearing on the facts of my case, according to Procedure, Federal Rules of Civil Procedures 16. 16(a) and 16(b). District Judge Thomas J McAvoy, and magistrate Judge David E Peebles. This is Procedure.

On July 31 2017 Plaintiff Stanley West McPherson and his friend Milton Webb, sat down at the desk of Defendant Myriah A. Marnell, Assistant Branch Manager, to open bank accounts, and external account. Plaintiff initiated electronic fund transfers for bank to bank payment. Defendant Myriah A. Marnell, put in the wrong account number for the sending bank , the Federal Reserve Bank, the Federal Reserve forward the money ACH \$3,000. Plaintiff Stanley West McPherson, discovered that Defendant Myriah A. Marnell put in the wrong account number from online banking external transfers. On August 1, 2017 Plaintiff shows up again without Friend Milton Webb, bringing to the attention of Defendant Myriah A. Marnell, that she put in the wrong account number for external funds transfer. Defendant Myriah A. Marnell, correct the error and the (ACH) Automated Clearing House payments was flowing nicely, and one day around about August 11, 2017 around about 1 or 2pm; Defendant Myriah A. Marnell, call telling Plaintiff Stanley West McPherson, to stop the (ACH) Automated Clearing House payments to Plaintiff's account. Plaintiff Stanley West McPherson, reply no, so Defendant took it upon herself to stop (ACH) Automated Clearing House payments from external transfer accounts. Defendant Myriah A. Marnell, said the administration wants me to come in and talk with me about (ACH) Automated Clearing House payments. Defendant Myriah A. Marnell, clear Plaintiff's positive balance of \$15,000 to a negtive balance of \$2,501.33 and put a code on Plaintiff's account. Plaintiff deliver to the Tompkins Trust Company, bank a Promissory Note for payment of \$2,501.33. Defendant Deborah J. Hoover, vice president branch manager, stated she will not accept the Promissory Note, for full payment of \$2,501.33, Defendant Deborah J.Hoover, went on to say that she will not put her stamp on this document, she call upstair for Defendant Jesse Tedora, Assistant vice president, Defendant Jesse Tedora did not have a stamp to receive delivery, but wrote a letter with Tompkins Trust Company letter head, that HE Defendant Jesse Tedora, was not accepting a promissory note for payment of debt from Stanley West McPherson, to Tompkins Trust Company, all of the Defendants protest and refuse to accept the Promissory Note for full payment of \$2,501.33 a Negotiable Instrument Act.

REASONS FOR GRANTING THE PETITION

1. On July 31 2017 Plaintiff Stanley West McPherson and his friend Milton Webb, sat down at the desk of Defendant Myriah A. Marnell, Assistant Branch Manager, to open bank accounts, and external account. Plaintiff initiated electronic fund transfers for bank to bank payment. Defendant Myriah A. Marnell, put in the wrong account number for the sending bank , the Federal Reserve Bank, the Federal Reserve forward the money ACH \$3,000. Plaintiff Stanley West McPherson, discovered that Defendant Myriah A. Marnell put in the wrong account number from online banking external transfers.
2. On August 1, 2017 Plaintiff shows up again without Friend Milton Webb, bringing to the attention of Defendant Myriah A. Marnell, that she put in the wrong account number for external funds transfer. Defendant Myriah A. Marnell, correct the error and the (ACH) Automated Clearing House payments was flowing nicely, and one day around about August 11, 2017 around about 1 or 2pm; Defendant Myriah A. Marnell, call telling Plaintiff Stanley West McPherson, to stop the (ACH) Automated Clearing House payments to Plaintiff's account. Plaintiff Stanley West McPherson, reply no, so Defendant took it upon herself to stop (ACH) Automated Clearing House payments from external transfer accounts.
3. Defendant Myriah A. Marnell, said the administration wants me to come in and

talk with me about (ACH) Automated Clearing House payments. Defendant Myriah A. Marnell, clear Plaintiff's positive balance of \$15,000 to a negtive balance of \$2,501.33 and put a code on Plaintiff's account. Even though the Federal Reserve Bank debit and credit Petitioner's account accordingly to a positive balance of \$500 dollars as according to Federal Reserve Auomated Clearing House system.

4. Plaintiff deliver to the Tompkins Trust Company, bank a Promissory Note for payment of \$2,501.33. Defendant Deborah J. Hoover, vice president branch manager, stated she will not accept the Promissory Note, for full payment of \$2,501.33, Defendant Deborah J.Hoover, went on to say that she will not put her stamp on this document, she call upstair for Defendant Jesse Tedora, Assistant vice president, Defendant Jesse Tedora did not have a stamp to receive delivery, but wrote a letter with Tompkins Trust Company letter head, that HE Defendant Jesse Tedora, was not accepting a promissory note for payment of debt from Stanley West McPherson, to Tompkins Trust Company, all of the Defendants protest and refuse to accept the Promissory Note for full payment of \$2,501.33 a Negotiable Instrument Act.

5. Default and Enforcement of Promissory Notes, (1) may reduce a claim to judgment, or otherwise enforce the claim, by any available judicial procedure. Section 9-601(a)(1), (UCC) Uniform Commercial Code. Pursuant to an execution on Promissory Notes, by judicial procedure. The defendants had no intentions to receive and answer the Promissory Notes. The bank Tompkins Trust Company, receives, sells and trade Promissory Notes, Negotiable Instruments that is the very essences of the bank.

6. Defendants knowingly, intelligently and voluntarily protest and refuse to receive the Promissory Notes for full payment of debt \$2,501.33. Defendants is fully aware of the financial institution Negotiable Instruments and Promissory Notes. In Brady v. United States, 397 U.S. 742 (1970). Defendants was fully aware and made intelligent decisions, and voluntary protest and refuse to receive Plaintiff's Promissory Notes.

7. Plaintiff made a quantum leap that was necessary to judicial procedure, as the Federal rules are actual procedures, as the defendants do not like to follow procedures, case in point. Promissory Notes and Negotiable Instruments is the very essences of the banking industry. The Bills of Exchange Act of Mar. 30, 1821, 12 U.S.C. s. 361, and 12 U.S.C. s.226, Federal Reserve Act. Negotiable Instrument Law. January 12, 1899, Fifty- Fifth Congress Sess.3. Chapter 47 1899.

8. Contract of the Negotiable Instrument Act. Promissory Note, Article 3 and 4 of Uniform Commercial Code. U.S. Const. Article VI[1][2] and Article 1. section 10. The bank Tompkins Trust Company claims Plaintiff owed a debt of \$2,501.33, Plaintiff went to pay the debt in full with a

Negotiable Instrument, Promissory Note, under the U.S. Const., all debts contracted and engagements entered into, ... shall be as valid against the United States under this Constitution. Bills of Credit; Tender in payment of debts; Negotiable Instruments and Promissory Notes, are Obligation of Contracts.

9. The United States Supreme Court has absolute jurisdiction pursuant to 28 U.S.C. 1254(1). This Constitution, and Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.U.S. Const. Article VI.[2].

10. Magistrate Judge David E. Peebles deprive and denied Petitioner Stanley West McPherson a Procedure Schedule Conference, in violation of Federal Rules of Civil Procedure 16 (a)(2), and 16(b)(2), and violated the Fifth Amendment and Fourteenth Amendment. Magistrate Judge David E. Peebles for the Northern District of New York, states on the record that no Notice of Default Motion was filed by Petitioner Stanley West McPherson in the Northern District of New York. According to a claim 42 U.S.C section 1983 on April 13, 2018 that was filed and stamped by the Clerk of the District Court for the record 318-cv-00453 -TJM-DEP in a Civil Action. This is prejudice and deprivation of due process and violation of the Constitution of the United States. Fifth and Fourteenth Amendment.

11. Under 28 U.S.C. section 1746 the attorney of record for the defendants and respondents Thomas Patrick Smith, perjured and intentionally lied and misrepresenting the truth to the Federal District Court, and deliberately not accepting proof of service from Plaintiff and Petitioner as required by Federal Rules of Civil Procedure 5. Rule (5), Serving and Filing other papers. Penalty of Perjury, 28 U.S.C. section 1746, this is a crime by Thomas Patrick Smith, for the Respondents deliberate and intentionally lied and misrepresenting the truth to the Federal District Court. Petitioner Stanley West McPherson, object and made objections to the Senior District Judge Thomas J. McAvoy, in a motion for Thomas Patrick Smith, for the Respondents perjured and violated the Federal Statute of 28 U.S.C. section 1746 by saying unknown and refuse to accept service from Petitioner Stanley West McPherson, as required by local rules and Federal rules. this is an insult to the legal system of justice.

12. Respondents Tompkins Trust Company claims Petitioner owes the debt of \$2,501.33. Petitioner issued and delivered a Promissory Note, bill of exchange for full payment of the debt of \$2,501.33 signed and legal under the Negotiable Instrument Act. [Fifty-Fifth Congress Session 3. Chapter 47 1899]. As according to the Act Respondents is absolutely liable and

required to pay the same. All defendants are primarily liable and other parties are secondarily liable. General Provisions. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this act shall be known as the "Negotiable Instruments law". (1899) The Tompkins Trust Company violated the law and denied acceptance of the Petitioner promissory note is deprivation of the Negotiable Instrument Law. (January 12, 1899). Also under the umbrella of Bills of Exchange Act of March 30, 1821 Public Law 156, no.94 cl.12. This Bills of Exchange Act was enacted in the commonwealth of Pennsylvania in General Assembly, but the bills of exchange is for any other State, territory or place in the United States. Respondents is liable, without legal protest of the promissory note, so, Petitioner is entitled to recover damages and interest and principal sum on protest by the Respondents Tompkins Trust Company. The United States Court of Appeals for the Second Circuit panel Dennis Jacobs, Denny Chin, and Joseph F. Bianco, disagrees and have a conflict with the enacted laws, and with decisions of United States Supreme Court. Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), Conley v. Gibson, 355 U.S. 41, 47 (1957), and Twombly v. Bell Atlantic Corp. 425 F.3d 99, (1993) reversed. The United States Court of Appeals panel was well aware of the High Court ruling but disagreed and rejected the United States Supreme Court opinions. Petitioner ask the Court grant writ certiorari to address the proper standard for the lower courts to hereto the Federal Rules of Civil Procedure. Ashcroft v. Iqbal, 556 U.S. 662, (2009), and Neitzke v. Williams, 490 U.S. 319 (1989). The United States Supreme Court derives the authority to create and prescribe federal rules of procedure to be followed by lower courts of the United States. See Rules Enabling Act of 1934, which authorized the United States Supreme Court to adopt Rules of Civil Procedure for the Federal district courts to follow as the Federal Rules of Civil Procedure. Although some matters, such as subject matter jurisdiction, remained governed by acts of Congress. (ch.651, Pub. L. 73-415, 48 Stat. 1064, enacted June 19, 1934).

13. Respondent Myriah A. Marnell, assistant branch manager process the bank to bank transfer for Petitioner with the proper identification for the Federal Reserve in Richmond, Virginia and Kansas City, Missouri. Plaintiff is requesting payment for the Promissory Note, for protest, and damages, and interest as a matter of law. Bank of Augusta v. Earle, and the Bank of United States v. Primrose, also the case of New Orleans & Carrollton Railroad Company, 38 U.S. 519 (1839). See Bills of Exchange Act. The Act of March 30, 1821, P.L. 156, No. 94. Cl.12.

14. Petitioner can attest to and demonstrated that Respondent Myriah A. Marnell, process the external account transfer transactions and she is liable under the (FDIC) Federal Deposit Insurance Corporation, and under Title VI-Electronic Funds Transfer Act 15 U.S.C. Section 1963; and the Automated Clearing House System (ACH) report to by Congress on the use of the Automated Clearinghouse System that was set up by the Federal Reserve Bank.

15. Respondents Deborah, Jesse, and Brian and Tompkins Trust Company claims the promissory note is not accepted with protest and refuse and denied full payment of the promissory note of a debt the bank claims Stanley West McPherson owes \$2,501.33. Petitioner's debt of \$2,501.33 was paid with (ACH) Automated Clearinghouse services, that was credit and debit accordingly by the Federal Reserve Bank that cannot be stopped or irreversible. The funds of \$3,000 a day from bank to bank, the Federal Reserve Banks provide funds transfers that are immediate, final, and irrevocable once initiated and processed. This is the procedures of all the Federal Reserve Banks.

16. Petitioner, Stanley West McPherson, for the record made objections of being deprived of due process of pretrial conferences; Pleadings, and many more pretrial procedures, to deny these kind of procedures, this is prejudice, and this is a violation of Federal law and Federal Rules of Civil Procedure 16(a)(2), and 16(b)(2).

(a.) It's Procedure that the district Court have a scheduled conference to communicate and engage in direct simultaneous dialogue.

(b.) Amendment deletes language that allowed this conference to occur via telephone , mail,or other means. The Committee Note states that a "scheduling conference is more effective if the court and parties engage in directed simultaneous communication."

(c.) The time limit for a judge to issue a scheduling order has been decreased. He or she must issue the order, absent good cause for an extension, within the earlier of 90 days (instead of 120 days) after any defendant has been served with the complaint or 60 days (instead of 90 days) after any defendant has appeared. Fed R Civ P 16(b)(2).

Again, the Committee Note states that this change is intended to reduced delay at the beginning of a case.

(d.) Rule 16(a)(2), establishing early and continuing control so that the case will not be protracted because of lack of management. The District Judge or a Magistrate Judge must issue the scheduling order as soon as practicable, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared. Fed R

Civ P 16.

(e.) This New amendments to Federal Rules of Civil Procedure became effected in 2015 through 2017, the local rules of practice for the United States District Court for the Northern District of New York 2018 do not have this new amendment of the Fed R Civ P 16(a)(2), and 16(b)(2).

17. The Senior District Judge of the Northern District deprived and violated the Petitioner due process and Federal Rules of Civil Procedures 16(a), and 16(b), and the District Judge disregard the landmark decision of The United States Supreme Court in Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955 1969 (2007). the question examine the roles of two key provisions of the Federal Rules. One key provision is Rule 8(a), which provides simply that the “[g]eneral [r]ules of [p]leading” require “ (2) a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). These rules is intended to set up legal sufficiency of the complaint not factual adequacy. The Court goes on and says; Indeed, it does not even use the word “facts” or mention anything about the specificity of the facts so required. Rule 8(e)(1) adds to the mix by stating that “[e]ach averment of a pleading shall be simple, concise, and direct.” Fed. R. Civ. P. 8(e)(1). Conley v. Gibson, 355 U.S. at 43, (1957), has long been treated as an authoritative statement of the law that has been followed uniformly in the United States Supreme Court and elsewhere, and the plaintiff’s allegations are quite in the spirit of the Federal Rules. Conley v. Gibson, 355 U.S. 45-46 (1957).

18. It is clear the United States Supreme Court has taken a position that is consistent the view of notice pleading that animated the drafting of the Federal Rules. The most important landmark along the way is Conley v. Gibson, supra, a staple among civil

procedure cases. "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. at 41, (1957).

19. The Federal Rules of Civil Procedures were adopted in 1938 and rules of procedures were embodied in the standard codes for most common litigation at the time, such as actions on promissory notes, negligence suits for collisions, actions for money had and received and patent infringement cases.

20. The United Supreme Court decision in Bell Atlantic Corp. v. Twombly, 127 S. Ct.

1955, 1969 (2007), reversing the Second Circuit decision in Twombly v. Bell Atlantic Corp., 425 F.3d 99 (2005). Conley v. Gibson, the plaintiff's allegations has long been treated as an authoritative statement of the law that has been followed uniformly in the Supreme Court and elsewhere, and the plaintiff's allegations are quite in the spirit of the Federal Rules. Conley v. Gibson, 355 U.S. at 41 (1957). More importantly, the motion for summary judgment will be routinely defeated if made before the plaintiff has an opportunity to conduct depositions and serve interrogations upon the defendant, so the pressure is clearly on to see if there is some way to obtain a final judgment before the discovery process begins in at least some cases. In reality, Twombly III was a disguised motion for summary judgment that is error of Federal Rules of Civil Procedure. Bell Atlantic Corp. v. Twombly, 127 S. Ct. 1955, 1969 (2007). This case protects plaintiffs of disguise dismissals under summary judgment, before pleading, discovery, and scheduled conferences, under Federal Rules of Civil Procedures. Appellant's case parallel with the Court's ruling at bar, McPherson v. Tompkins Trust Company et al

the Federal Rules of Civil Procedures also parallel with the landmark case Conley v. Gibson, 355 U.S. 41, 45-46 (1957), this violation of the Federal Rules was a distaste and disdain in cases that use dismissals as disguised with summary judgment before pleading, discovery, and schedule conference, and other procedures before it.

21. The Respondents claims the promissory note is not accepted and protest and refuse full payment with the promissory note of a debt the bank claims Petitioner Stanley West McPherson owes \$2,501.33 Stanley`s debt of \$2,501.33 was paid with (ACH) Automated Clearhouse services, that cannot be “stopped or irreversible”. The funds of \$3,000 a day from bank to bank, the Federal Reserve Banks provide funds transfers that are immediate, final, and irrevocable once initiated and processed. This is the procedures of all the Federal Resevre Banks. According to the Federal Reserve System under in Uniform Commercial Code (UCC) section 4A-402(b). and violate contracts; this could never happen if contracts were not violated and if Petitioner Stanley received equal protection under the law of Contract. The Contract, U.S. Constitution Article vi[1] and Article 1. Section 10. The Contract of Negotiable Instruments Act. Promissory Note, Article 3 and 4 of Uniform Commercial Code. By demanding the bank Tompkins Trust Company to fulfill the contract and not change the terms and conditions, the bank Tompkins Trust Company must deposit Stanley`s promissory note to create check book money to end the debt.

22. Tompkins Trust Company claims they forward the funds \$3,000 a day back to the Federal Reserve Bank, the Federal Reserve Bank is obligated to credit Stanley`s account with the funds that was transferred back to the Federal Reserve Bank, according to Uniform Commercial Code (UCC) section 4A-402(b).

23. If the Respondents Tompkins Trust Company had accepted deposited (credited) Stanley West McPherson's promissory note to the Tompkins Trust Company account for the reasons of trade, and sell, and produce value and interest. The Tompkins Trust Company bank would not be in violation of the terms and conditions of Stanley West McPherson,

the terms and conditions of Stanley's promissory note which in fact is a legal promissory note. Promissory Note, Number(NY001) Tender in terms of the Bills of Exchange Act of March 30, 1821, P.L. 156, no.94 cl.12, 12 U.S.C. section 361, and 12 U.S.C. section 226, "Federal Reserve Act" and Settlement in terms of High Court Rule 38 U.S. 519 (1839). Unites States, Article 3 and 4 of Uniform Commercial Code (UCC). The full amount specified, on this note for value received. Stanley has not as of yet received value , for value received; nor the original promissory note back as Tompkins trust Company, protest and refuse to accept the promissory note as full payment for the debt, the claims Stanley owes \$2,501.33.

24. Terms and Conditions: The payment will be made in the month of March or April on the 11th (eleventh) day of each month installments or full payment in the year of 2018, (Two thousand, Five hundred and One dollar and thirty three cents.), until the obligation has been fulfilled. The payment can be obtained by the Holder at 509 W. Clinton Street. Ithaca, New York 14850. I hereby give permission to the Holder and /or the Holder in due course of this Promissory Note, to use this note in any way necessary as a negotiable instrument to be financially traded on; whereas such trade shall terminate the obligation herein.

25. In commercial Law, a holder in due course is someone who accepts a negotiable instrument in a value- for -value exchange without reason to doubt its legitimacy. A holder in due course may retain the right to enforce it. Definition of Promissory Note:

26. A promissory note is a negotiable instrument, containing a written unconditional

promise , duly stamped and signed by the drawer, to pay specified sum of money to a particular person. It is made by the debtor to borrow money from the creditor. The features of a promissory note are as follow: The note must be in writing carrying written promise to pay money to the creditor. Signature of the promisor. The date on which the note is payable should be fixed. The sum of money must be definite. The country's legal currency should be used to discharge the debt. Promissory Note does not include anything a currency note or bank note. There are instances when the bill of exchange is juxtaposed with a promissory note. The fundamental difference between Bill of Exchange and Promissory Note is that the former carries an order to pay money, while Petitioner is the latter contains a promise to pay money. Bill of exchange needs to be accepted in order to call it valid or applicable. And the bill of exchange is issued by the creditor.

Promissory Note, on the other hand, is a promise to pay a certain amount of money within a stipulated period of time. And the promissory note is issued by the debtor.

27. The Respondents received the promissory note from Petitioner with the intention of not paying Stanley's debt that the bank Tompkins Trust Company claims he owes \$2,501.33

"Property used in violation of law [is] itself the wrongdoer that must be held to account for harms it [has] caused." United States v. 92 Buena Vista Avenue, 507 U.S. 111, 125 (1993). This is a critical distinction between actions and proceeding under Article 3 and 4 of Uniform Commercial Code (UCC).

28. The United States Court of Appeals for the Second Circuit, panel Dennis Jacobs, Denny Chin, and Joseph F. Bianco, display and showed prejudice in refusing and denying the errors of the lower court judges in depriving Petitioner due process and equal protection of the law. A fundamental right pretrial conferences and Federal Rules of Civil Procedures under Fifth and Fourteenth Amendment.

29. In United States Constitutional law, substantive due process is a principle allowing courts to protect certain fundamental rights, not deprive procedural protections and rights of the constitution to the Petitioner. Due Process clause acts as safeguard from arbitrary denial, procedural and substantive protections of due process in civil and criminal proceedings. Fifth and Fourteenth Amendment.

30. In Neitzke v. Williams, 490 U.S. 319 (1989), the Court made it clear that what Rule 12(b)(6) does not countenance are dismissals based on a judge's disbelief of a complaint's factual allegations. District court judges looking to dismiss claims on such grounds must look elsewhere for legal support. Also Neitzke et al. v. Williams 488 U.S. 816 (1988), granted leave to proceed in forma pauperis, Certiorari granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: May 4, 2020