

No. _____

In The
Supreme Court of the United States

IN THE MATTER OF

MARIAN SUSIE ANN TIPP,
Petitioner,

v
JPMC SPECIALTY MORTGAGE, LLC,
Respondent,

To the Clerk of the United States Supreme Court

APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI
pursuant to Supreme Court Rule 13.5

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Monday, September 23, 2019

COMES NOW THE APPLICANT, Marian Susie Ann Tipp, proceeding *pro se* to request an extension of time to file a PETITION FOR WRIT OF CERTIORARI pursuant to Supreme Court Rule 13.5 that provides that “An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed, include a copy of the opinion and any order respecting rehearing, and set out specific reasons why an extension of time is justified.” My petition is due to be filed 90 days from August 9, 2019, with a filing deadline of Thursday November 7, 2019. For good cause set forth herein, I'm asking that this deadline be extended by sixty days so that the new deadline would be Monday, January 6, 2020.

This application for an extension is based on three factors: I did not file a timely Petition for Rehearing En Banc within 14 days of the courts decision entered on August 9, 2019 and only learned a decision of the court was entered on August 27, 2019 – 18 days later, as set-out in the attached Affidavit filed with APPELLANT'S MOTION FOR LEAVE TO FILE PETITION FOR REHEARING EN BANC. (Exhibit A”) At that time, I was instructed to file a “motion for leave to file” an untimely petition. I was going to prepare a petition to be filed with the motion, but then after all that work it might not be accepted. I filed a motion and Affidavit with 'Notice of Intent to Appeal' so all parties would know that I did not quit. It would have been very stressful for me and I needed to try to get my stress level down to prepare for having an outpatient surgical procedure on September 9, 2019 and with other debilitating health issues that causes sudden drops in blood pressure, heart rate and temperature and anesthesia was a concern for me and I was scared.

The Clerk of the Alabama Supreme Court was mailing me a copy of the decision that was entered which I needed to include to evidence I did get notice of that order mailed August 27, 2019 through Informed Delivery Daily Digest from the USPS and was filing the motion on Monday September 2, 2019, but that was Labor Day so it was filed on September 3, 2019. I've called the court a several times and as of September 20, 2019, the Alabama Supreme Court has not denied my motion, nor granted me 14 days, 7 days which would have changed the filing deadline of my PETITION FOR WRIT OF CERTIORARI. I cannot wait any longer to see if that motion will be granted where I would be preparing a petition for rehearing instead of a petition for a writ of certiorari and I can't waste what energy I have preparing something that can never be filed.

I needed to get this take care of this week because I have appointments with both of my doctors for my post-surgery follow-up, and my primary doctor will have to sign off on another surgery which hasn't been scheduled yet. I have an appointment with a doctor at the USA Mitchel Cancer Institute the end of the week to schedule surgery. This is major surgery, but it will be more so for me going through

anesthesia and then trying to recover with other medical issues that could result in it being very difficult or worse. I was able to walk in and walk out after the outpatient surgery and had doctors orders to stay with my niece overnight, but I will be staying in the hospital after this surgery and then at my nieces. I don't know how long my recovery will be, but it will put it between October thru November 7, 2019 when my petition is due and with the stress of having to file by then, I might not recover from surgery and with all these other medical issues and not knowing how long it will take, I don't know if I'll be able to complete the petition by the due date. I need help but I've got to do this on my own so I need time.

And lastly, the property at issue in this case was lost in foreclosure by my sister, Carolyn E. Sims. The property was the home of my parents, both deceased, that my mother conveyed to her by Warranty Deed on June 7, 2000 retaining a life interest in the house and 1 acre. My mother passed away on February 7, 2002 and she mortgaged the property in November 2002 and it was allegedly sold at a foreclosure sale on July 13, 2009 and an ejectment action was filed against her on July 24, 2009.

On August 22, 2009, I paid her \$250.00 for a quit claim deed so I could try to recover the right of redemption so I would have one year to redeem the property if I could when a property I had an undivided interest in sold. By quit claim deed, she conveyed all her "right, title, interest, claim and demand" to me and executed a *Special Power of Attorney* where I proceeded *pro se* and filed a timely answer and affirmative defenses on her behalf on August 24, 2009 that was due to be filed August 25, 2009. On August 31, 2009, 7 days after an answer had been filed, Respondent filed an affidavit for a request for default that "more than 30 days have elapsed ... the defendant has failed to answer." That request was denied by the court on September 1, 2009 because an answer had been filed by me on August 24, 2009.

I recorded the quit claim deed on September 15, 2009 and filed a motion to substitute as *successor in interest* and filed an amended answer and affirmative defenses as *successor in interest* on September 16, 2009 that was granted by the court on September 18, 2009. On December 4, 2009, all documents, motions, counterclaims, crossclaims, etc. filed as attorney in fact and as *successor in interest* were stricken with the court granting me 30 days to obtain legal counsel and for an answer filed on behalf of defendant.

On December 4, 2009, the court also rendered "moot" all documents filed by Respondent other than the complaint as filed with exhibits on July 24, 2009 – he wiped the slate clean. Respondent's foreclosure deed attached as Exhibit A to the ejectment complaint was **UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED** – there was no

evidence of a mortgage, no evidence of an assignment of the mortgage, no evidence of a note and no evidence of legal title. A one paragraph answer was filed on her behalf of the original defendant by her attorney on January 4, 2010.

This case has a long history spanning more than 10 years and multiple lawsuits to recover possession of the property **subsequent to the dismissal of Respondent's ejection action against the original defendant**, on August 30, 2010. Respondent did not acquire the property through the Alabama court system – Respondent's foreclosure deed was **UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED** – Respondent did not have legal title to or legal possession of the property.

This case involves multiple questions of law that relate to an ejection plaintiff's burden of proof in a post-foreclosure ejection action, the capacity and standing of an ejection plaintiff to maintain the ejection action, the effects of a "**voluntary dismissal**" of *ALL* those claims against the "original" defendant, whether the ejection plaintiff was the "prevailing party" and "the owner" of the property by virtue of the "voluntary dismissal" of those claims,¹ whether the dismissal of a non-party complaint to intervene filed with leave of court bars claims to recover property that the ejection plaintiff did not have legal title to or legal possession of pursuant to Rule 25(c) and Rule 17(a) as *successor in title*, and whether the Respondent has "standing" by virtue of a foreclosure deed that is UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED and the "voluntary dismissal" of its 2009 ejection action to bar my challenge to its alleged "title to the Property" that it never had, and whether as the *successor in title* pursuant to Rule 25(c), I have to "show" the foreclosure sale was void to have an interest in the property that the ejection plaintiff never proved was valid, Respondent argues those claims to "show" the foreclosure sale was void are also barred by res judicata, and whether my interest in the property by virtue of an executed and recorded quit claim deed, as *successor in title* is governed as a Rule 25(c) and Rule 17(a) as a matter of law, or by Respondent's arguments that the quit claim deed was executed after alleged foreclosure sale and I "lack standing."

The answers to all those questions seem quite elementary and obvious, but not in this case. Not

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"There was a final ruling on the merits. ... Bewilderingly, Ms. Sims says that her Complaint against JPMC is based on actions of JPMC after the dismissal of the ejection action. This is nonsense for two reasons. First, at the end of the 2009 Case before Judge Graddick, the status of the property was that it was owned by JPMC, and a final order (see above) had been entered by Judge Graddick dismissing the claims of Ms. Tipp ... No appeal of that final order was entered. The net result is that as of 90 days after the dismissal of the ejection action it would not be possible for JPMC to commit property torts on its own property." (emp)

in the State of Alabama. The arguments that were made before the courts of this state to deprive me of my rights pursuant to Rule 25(c) and Rule 17(a) and deprive me of property I had legal title to and legal possession of, were not made by 5th graders in a '*mock trial*' – these "arguments" were made before the judges of the courts in Mobile County, the Alabama Court of Civil Appeals and the Alabama Supreme Court without evidence and legal authority – "arguments" that the court accepted as "fact," "evidence" and "legal authority" – "arguments" that deprived me of my property by decisions with NO OPINION – non-judicial decrees without legal authority.

This case involves multiple acts of trespass onto the property and unlawful entry into the house by unknowing agents of Respondent with no legal authority whatsoever. Respondent's agent went onto the property on September 25, 2009 and "he had been instructed to **go out and change the locks on the doors**. When he got there, there was animals on the property, and **he was instructed to open the door to let the dogs out and open the gate and let the horse out**, and he didn't want to do that because he didn't want them to get killed or hurt somebody, so he called the SPCA ..."² – the horse was on 2 acres not under mortgage.

After I filed a motion for a restraining order that day, agents of Respondent went back onto the property around September 29 – 30, 2009, without an order of the court and with a SWAT team in tow – the County Environmental Agency, Humane Society, SPCA and Animal Control, etc. were all there to remove animals that were not abandoned from the property that the Respondent had no valid legal claim to and had unknowingly entered by forcible entry and trespass.

As *successor in interest*, a non-party complaint to intervene was filed on my behalf with leave of court on February 3, 2010 for 'unlawful foreclosure' and 'trespass.' Those claims were dismissed pursuant to "**Rule 12(b)**" *NOT* Rule 12(b)(6) and *NOT* Rule 12(b)(1) after arguments that I was "not a proper party to this case. Specifically, Ms. Tipp lacks standing ... because **her alleged interest in the real property came over a month after the foreclosure sale conducted by [JPMC]**, Ms. Tipp lacks standing to challenge the foreclosure ..." (emp) – Respondent had no legal title or evidence of a '*foreclosure sale*.'

On June 10, 2010, the "original" defendant's attorney filed a motion to withdraw that was granted on June 11, 2010. On June 16, 2010, my attorney filed an appearance on her behalf and on

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Deposition of Marian Tipp May 24, 2017

on September 24, 2009 Respondent took an action to "Close eviction ... Please order assigned services Rekey will be complete within 48 hours Lockbox code will be PAM ... We will need a boardup done." (emp) Requesting a 'trash out' without an order of the court.

July 21, 2010, a motion was filed adopting my response to Respondent's motion to dismiss my complaint challenging the bank's authority to foreclose on the property and maintain the ejectment action. The court did not determine my claims "lacked merit" because those "same claims" remained before the court when my non-party complaint was dismissed. The court did not grant the Respondent possession of the property.

Respondent's "standing" before the court was based on the argument that my quit claim deed was executed "**over a month *after* the foreclosure sale conducted by [Respondent]**" – an argument that was *inadmissible hearsay*. After the dismissal of the non-party complaint to intervene, Respondent did not have the argument that it held "superior legal title" because "**her alleged interest in the real property came over a month *after* the foreclosure sale conducted by [JPMC]**, Ms. Tipp lacks standing to challenge the foreclosure ..." – the judge of the court eliminated that argument and Respondent had to prevail on its own legal title, or lack thereof.

The judge of that court knew the law and my non-party complaint was dismissed pursuant to "**Rule 12(b)**." He did not determine that I had no valid legal interest in the property by virtue of my quit claim deed because Rule 25(c), Ala. R. Civ. P., provides, in pertinent part: that "***In case of any transfer of interest, the action may be continued ... against the original party***, unless the court upon motion directs the person to whom the interest is transferred to be in the action or joined with the original party..."(emp) The judge of that court granted me leave to intervene in the 2009 ejectment action **by virtue of an executed and recorded quit claim deed executed on August 22, 2009 *after* the alleged foreclosure sale on July 13, 2009 and *after* Respondent commenced the ejectment action on July 24, 2009 against the "original" defendant and *predecessor in title*.**

I was a "non-party" to the ejectment action. I was not substituted for the "original" defendant as *successor in interest* and the court did not direct me to be "joined with the original party." Prevailing law in this state holds that "...[t]he most significant feature of Rule 25(c) is that **it does not require that anything be done after an interest has been transferred ... the judgment will be binding on his successor in interest even though he is not named...**"³ (emI) I am bound by the "judgment" against the *predecessor in title*.

At the commencement of the ejectment action, the "original" defendant was the legal title holder of record and she conveyed that interest to me by quit claim deed vesting me with not only her interest, but her status as the title holder of record even though I was "not named" as a party to the 2009 ejectment action. Those claims of Respondent's alleged '*foreclosure sale*' were dismissed on

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Adler v. BANK OF NEW YORK MELLON, 218 So. 3d 831 Ala: Court of Civ. Appeals 2016

August 30, 2010 on a motion filed by Respondent on August 27, 2010 – a Motion to Dismiss, *or in the alternative*, Request for Permission to Secure the Property. In support of its “Request for Permission to Secure the Property,” Respondent attached an affidavit with a report that this is a “one story ranch style home that is vacant. **There is still personal belongings at this location.**” Specifically, the court did not grant Respondent possession of the property, permission to “secure the property” or permission to be on the property for any purpose.

On **September 9, 2010**, as the prevailing party pursuant to ARCP Rule 25(c) and *successor in title* as a matter of law, I posted signs to “KEEP OUT” on the house and “NO TRESPASSING:PRIVATE PROPERTY” on the property after learning agents of Respondent had been entering the house without authority and waited for Respondent to re-file its ejection complaint but it didn't.

On **December 11, 2010**, I got a call that there were dumpster's at mama's house. When I got out there, there was a crew of boys throwing everything of my parents that was left in their home that I had legal title to and legal possession of, into wheelbarrows and rolling it out the front and back doors and into the dumpster. They had emptied all rooms but the kitchen and pantry and were working on that when I arrived and lastly the attic. The locks were changed, a lockbox was placed on the door, the property was listed for sale and was sold pending closing.

Respondent's records acquired 2016/2017 on remand from the Alabama Court of Civil Appeals in August 2016, evidence that after the dismissal of ejection action, **without permission to secure the property, and after signs were posted, agents went onto the property and**

- “Property inspected on 10/13/2010 and found to be vacant and secure property considered to be vacant but not abandoned due to “No Trespassing” and “Keep Out” signs” which were recently posted at this property ...” (emp)
- November 24, 2010 “... advise if we should send a 134 letter and secure the property. Signs are posted on the property to keep out, no trespassing.” (emp)
- December 1, 2010 “vacant ready for trash out no address at street **found vacant house unsecured and visitor log inside ... rekey scheduled for tomorrow**”(emp) (R-162, R-173)
- December 2, 2010 “...rekeyed 8590 combo installed ... if we go to PP eviction I believe we will be on hold for the affidavit issues ... I don't believe we can talk about utilities until that is cleared up ... Please notify Cyprexx to trash out and perform initial services ... We will move forward as a Vacant property and we will have Cyprexx remove all remaining items left behind ... please make sure that our preservation company Cypress, **has trashed out and cleaned the property** within 5 business days ... **8590 combo installed ... trash out per evictions coordinator ...**” (R-146-147, R-162, R-173, R-468)

The court specifically did not grant Respondent's alternative request for “permission to secure

the property”⁴ and did not grant Respondent permission to do a ‘trash out.’ On **February 9, 2011**, a complaint was filed on my behalf as *successor in title* for wrongful foreclosure, trespass and trespass to chattels to recover possession of the property that was taken in a hostile takeover by forcible entry and trespass without an order of the court, and in violation of ordering dismissing Respondent’s ejectment claims. In that case, the 2011 case, Respondent argued my claims to recover possession of the property and trespass, were the “same claims” in the complaint to intervene that were adjudicated “on the merits.” Those “same claims” were dismissed without prejudice, and there were new claims – different facts and different evidence, but the claims in the non-party complaint were not adjudicated on the merits, because Respondent argued I “lacked standing” and I had no valid legal interest in the property that was deeded to me **“after the foreclosure deed had been executed and recorded in favor of JPMC; thus, she had no standing to assert her claims.”** (emp)

In the record before the court in 2011, there was no evidence Respondent was the “prevailing party” in the 2009 ejectment action – there was an order dismissing it’s claims. There was no evidence the Respondent had authority to foreclose, or had legal title, but the court determined Respondent had “superior legal title” by virtue of a foreclosure deed that was UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED and a right to possession of the property that it acquired through forcible entry and trespass after the “voluntary dismissal” of ALL those claims and not through the Alabama court system in the 2009 ejectment action.

I was deprived of property that I had legal title to and legal possession of by arguments those claims were barred by res judicata, a prior judgment on the merits by a “court of competent jurisdiction” where evidence in the record proved Respondent’s foreclosure deed was UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED and the court lacked subject-matter jurisdiction and “arguments” that I, *successor in title* and the prevailing party **“had no standing to assert her claims.”**

Respondent was an unqualified foreign entity whose claims are barred by the Constitution of the State of Alabama, statutes and prevailing law as a matter of law. That judgment depriving me of

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“Consequently, when the Court granted JPMC’s motion in the 2009 Case, ... it was granting a “motion to dismiss the case without prejudice. . . . Thus, the true facts are that the dismissal of the 2009 Case was without prejudice and not an adjudication on the merits as to JPMC’s ejectment claim. . . . The Order did not deny the request for possession, since that relief was requested in the alternative. And, as demonstrated, the dismissal was without prejudice . . . the 2009 Case was dismissed without prejudice, and even correctly asserted that . . . JPMC could have re-filed the ejectment action in another lawsuit (Id. at pp. 3-4)” (emp) (R-144, R-147-148, R-170, R-183, R-191, R-198, R-471, R-473, R-480)

property that I had legal title to and legal possession of as a matter of law as *successor in title* pursuant to Rule 25(c) and Rule 17(a) was affirmed on appeal to the Alabama Supreme Court – a decision with NO OPINION and without legal authority – a non-judicial decree.

A complaint was then filed on behalf of the “original” defendant and *predecessor in title* on **February 26, 2013**. Those claims too were barred by res judicata after arguments **in that case** that I was “*successor in title*” by the quit claim deed executed on August 22, 2009 “**over a month after the foreclosure sale conducted**” by Respondent on July 13, 2009. The trial court found the “*successor in title*” and the “*predecessor in title*” were “**in privity**” because the “*predecessor in title*” conveyed all her interest in the property to the “*successor in title*” by virtue of the quit claim deed. But in 2009 and 2011 Respondent argued I “lacked standing” because I had no valid legal interest in the property that was deeded to me “**after the foreclosure deed had been executed and recorded in favor of JPMC; thus, she had no standing to assert her claims.**”

During the 2013 case, evidence established that Respondent, a “*wholly owned subsidiary*” of a national bank, presented as the original note, a note that was forged.⁵ The complaint was amended to include a forgery claim and a claim for unlawful collection of a debt – claims of which would not have been possible but for the fact I paid the *predecessor in title* \$250.00 for a quit claim deed and filed a timely answer.

That judgment was appealed and remanded in *Sims v. JPMC SPECIALTY MORTGAGE, LLC*, 218 So. 3d 376 - Ala: Court of Civil Appeals 2016. On remand, Respondent argued “**Sims admittedly has no legal interest in the property and “... even if the foreclosure sale were declared void, Ms. Sims would have no claim to the Property because she has conveyed all of her interest in the Property to her sister, Ms. Tipp nearly eight (8) years ago.”**

On June 13, 2018, **all parties to this action** entered into a “confidential” settlement agreement settling claims to the property that **all parties to this action** knew Ms. Sims had no valid legal interest in – “**Sims admittedly has no legal interest in the property and the *predecessor in title* was not entitled to settle any claims to the property as a matter of law.** I knew there was going to be a settlement meeting between the attorney's and when I called to see what that 'offer' was on the property,

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“At that hearing, counsel for Plaintiff alleged that copies of the note were forgeries. (See also Plaintiff's September 25, 2013 Motion to Strike at Paragraph 4). These accusations were made after Plaintiff's counsel had reviewed the original note. As the Court will see when it examines the original note, the various copies were accurate, and the accusations of plaintiff's counsel had no basis in fact. What is disconcerting is that these accusations were made after Plaintiff's counsel had already examined the original note. Defendant is reluctant to engage in retaliatory histrionics about Rule 11 violations, but it submits that it would be appropriate for the Court to inquire into what basis (subjective or objective) Plaintiff's counsel had for the accusation that fraudulent copies of the note had been filed by Defendant.”

as attorney in fact for the *predecessor in title*, and as *successor in title*, I was not told the “terms” of the “confidential” settlement agreement entered into on **June 13, 2018** – the attorney couldn’t talk to me. I was sent a letter from the attorney on **June 20, 2018** enclosing a letter **formally revoking the power of attorney** she gave you.”(emp) In that letter dated **June 17, 2018**, she stated “I am writing you this letter to formally revoke the Power of Attorney I granted to you in 2009 to handle the litigation with the Bank over the foreclosure. Please do not take any further action on my behalf.”

I was attorney-in-fact in “all matters related to the property … subject to the FORECLOSURE DEED … all legal proceedings or lawsuits in connection with . . .” the property. As attorney in fact on *‘her’ behalf*, I filed a timely answer to the banks ejectment complaint on **August 24, 2009** that was due on **August 25, 2009** and on **September 15, 2009**, I recorded the quit claim she executed on **August 22, 2009** conveying her interest in the property to me. I was *successor in title as a matter of law* by virtue of an executed and recorded quit claim deed – as *predecessor in title*, she had no interest in the property, but she had claims for forgery and unlawful collection of a debt that she would not have had.

Prior to that last settlement meeting, I had refused to relinquish all my “rights, title, interests, claims and demands” in the property that I worked 9 years for so all parties to this action could settle *“those claims”* to the property with the *predecessor in title* who had no claims to settle – those claims accrued *after* she executed the quit claim deed on August 22, 2009 and “… Both Ms. Sims and Ms. Tipp confirmed in their depositions that Ms. Tipp has not deeded the Property back to Ms. Sims, nor has she executed anything transferring any rights to the Property back to Ms. Sims. (Sims depo. at pp. 118; Tipp depo at pp.)” As a matter of law, no one had authority to settle those “claims” to the property – the *predecessor in title* had no claims to settle because I did not execute “anything transferring any rights to the Property back to Ms. Sims.”

But without any legal authority whatsoever, those “claims” to the property were settled on behalf of the *predecessor in title* and Respondent executed a quit claim deed on **June 19, 2018** conveying the property to the *predecessor in title* after arguing to the court that “… Ms. Sims would have no claim to the Property because she has conveyed all of her interest in the Property to her sister, Ms. Tipp nearly eight (8) years ago.” But as the *successor in title* and real party in interest pursuant to Rule 17(a) as a matter of law, I was not a party to the “confidential” settlement agreement.⁶ I was not “treated as the real party in interest under Rule 17(a)” to recover property that I had legal

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In *Ex parte Simpson*, 36 So. 3d 15 - Ala: Supreme Court 2009 held that “… Ala. R. Civ. P. 17(a) … Under present law an assignment passes the title to the assignee so that he is the owner of any claim arising … and should be treated as the real party in interest under Rule 17(a).”

title to and legal possession of when it was taken in a hostile takeover by forcible entry and trespass.

The power of attorney was revoked so I was not “*privy to*” the terms of the “confidential” settlement agreement that I was not a party to after the *predecessor in title* “admittedly has no legal interest in … after deeding it to Ms. Tipp nearly eight (8) years ago,” However, as a matter of law, I had the right to know the terms of the “confidential” settlement agreement as *successor in title* because “**Sims conveyed any interest that she had in the property to Tipp via the quitclaim deed, privity existed between Sims and Tipp.**”

As *successor in title* and the real party in interest pursuant to Rule 17(a), I had a right to settle those claims to the property as a matter of law – the *predecessor in title* had no claims to settle and revoking the power of attorney did not transfer any rights to the property back to the *predecessor in title*. And no matter how you look at it, that “confidential” settlement agreement that I was not a party to nor had privy to as the *successor in title*, was procured by fraud and collusion between **all parties to this action** to deprive me of property I had legal title to and is a fraudulent and void document as is the quit claim deed conveying the property to the *predecessor in title* because Respondent had no interest to convey and the *predecessor in title* had no claims to the property.

But I was deprived of property that I had legal title to and legal possession of when it was taken by forcible entry and trespass on **December 11, 2010** ‘*beyond the reach of the court*’ and I was deprived of property that I had legal title to by a “joint stipulation of the parties” on **June 13, 2018** ‘*beyond the reach of the court*.’ I was deprived of property that I had legal title ‘*beyond the reach of the court*’ that neither Respondent nor Ms. Sims, *predecessor in title*, **could recover through a court of law.**

I filed a complaint on **June 27, 2018** to vacate the void judgment against me in the 2011 case and to stop the “unlawful settlement of claims” and “unlawful conveyance of property” – aka FRAUD, and hand delivered it to Respondent's attorney that day asserting my claims as *successor in title* and the real party in interest and willing to settle those claims – those “same claims” that Respondent argued “… Ms. Sims lacks standing to assert.” Respondent did not “reconsider” settling those claims with the *predecessor in title*, and on **Saturday July 7, 2018**, a joint stipulation of the parties was filed and on **Monday July 9, 2018**, a consent order was entered by the court that the case was settled and dismissed with prejudice.

Respondent's argument that “… Ms. Sims lacks standing to assert the claim because well before filing this case, **she quitclaimed all of her interest in the Property to Ms. Tipp, who is not a party to this action** … **Ms. Sims has no standing** to challenge JPMC's title to the Property,” was a

real party in interest argument – **a jurisdictional defect** that deprived the court of jurisdiction that was not cured by the trial court by substituting parties pursuant to Rule 17(a) – **a jurisdictional defect** that renders the “confidential” settlement agreement and the consent order of the court VOID AB INITIO as a matter of law.

Then on **July 31, 2018**, Respondent filed a Rule 12(b)(6) motion to dismiss and my complaint was dismissed on August 7, 2018 pursuant to Rule 12(b)(6) **and** Rule 12(b)(1) and alternatively, Rule 56 – a dismissal with prejudice. Respondent argued I “lacked standing” and those were the “**same claims**” **dismissed in the 2009 ejection action** therefore, my claims were barred by res judicata. As a matter of law, Respondent had no claims to the property to bar my claims pursuant to Rule 25(c) and Rule 17(a) because **those were the “same claims” dismissed in the 2009 ejection action** where Respondent had no legal title and no judgment against the “original” defendant because “*the true facts* are that the dismissal of the 2009 Case was without prejudice and not an adjudication on the merits as to JPMC’s ejection claim.” And “[t]he most significant feature of Rule 25(c) is ... **the judgment will be binding on his successor in interest even though he is not named...**” as a matter of law.

I am the *successor in title* and the real party in interest as a matter of law pursuant to Rules 25(c) and Rule 17(a) and there were “**THRESHOLD ISSUES OF JURISDICTION**” on the face of the complaint evidencing the court lacked subject-matter jurisdiction in the 2009, 2011 and 2013 cases. In 2009 ejection action, the court did not enter a void judgment *in favor of* Respondent – **an order was entered on August 30, 2010 dismissing ALL those claims to the property without granting Respondent’s alternative “request for permission to secure the property.”**

There were “**THRESHOLD ISSUES OF JURISDICTION**” which rendered the judgment against me in 2011 void, the “confidential” settlement agreement in the 2013 case and consent order entered on July 9, 2018, void ab initio, and rendered the judgment entered against me on August 7, 2018, void also. There were “**THRESHOLD ISSUES OF JURISDICTION**” that were not addressed by the court to establish jurisdiction over Respondents “arguments” to bar my claims.

I appealed that judgment to the Alabama Supreme Court and it was transferred to the Alabama Court of Civil Appeals. After submission and review, my appeal was then transferred from the Alabama Court of Civil Appeals to the Alabama Supreme Court because there were issues of “statewide” importance. The judgment of the circuit court where there were “**THRESHOLD ISSUES OF JURISDICTION**” on the face of the complaint evidencing Respondent was not the holder of the promissory note nor assignee of the mortgage, and had no legal title in the 2009 ejection action to establish standing and invoke the subject-matter jurisdiction of the court, was affirmed by the Alabama

Supreme Court pursuant to Rule 53(a)(1) and (a)(2)(F), Ala. R. App. P. because “**an opinion in the case would serve no significant precedential purpose** … after a review of the record and the contentions of the parties, **concludes that *the judgment or order was entered without an error of law.***” (emp)

The justices of the Alabama Supreme Court 'decided' I would be deprived of property by a 'decision' with NO OPINION and without legal authority – a non-judicial decree. The justices of the Alabama Supreme Court 'decided' Respondent had “superior legal title” by virtue of an UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED.

To deprive me of property that I had legal title to and legal possession of when it was taken in violation of the order of dismissal, and conveyed '*beyond the reach of the court,*' to the *predecessor in title*, the justices of the Alabama Supreme Court conferred “standing” upon Respondent and Ms. Sims and conferred “jurisdiction” upon the court in 2009 and 2013 where none existed.

The justices of the Alabama Supreme Court 'decided' that even though “… Ms. Sims … **quitclaimed all of her interest in the Property to Ms. Tipp, who is not a party to this action** … **Ms. Sims has no standing** to challenge JPMC's title to the Property,” that the “confidential” settlement agreement was “valid.” There was a **jurisdictional defect** that was not cured by the trial court by substituting parties pursuant to Rule 17(a) – a **jurisdictional defect** that renders the “confidential” settlement agreement and the consent order of the court VOID AB INITIO **as a matter of law**. The of the justices of the Alabama Supreme Court 'decided' that the judgment in favor of Respondent depriving me of my property that I had legal title to “*was entered without an error of law*” – a non-judicial decree without legal authority.

The Alabama Supreme Court did not explain to me how my claims were barred by res judicata by an order entered by a “court of competent jurisdiction” in the 2009 ejectment action where Respondent's foreclosure deed was UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED and the court failed to acquire subject-matter jurisdiction over those ejectment claims and those claims were dismissed. The Alabama Supreme Court did not explain to me how the circuit court in this case adjudicated the “merits” of those **previously dismissed** and unadjudicated ejectment claims and Respondent had “superior legal title” to the property when Respondents foreclosure deed attached as Exhibit A to the ejectment action was UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED and the court lacked subject-matter jurisdiction over those same claims that were dismissed in the 2009 ejectment

action.⁷

The Alabama Supreme Court did not explain to me how Respondent had a right to acquire the property by forcible entry and trespass on December 11, 2010 outside of the Alabama court system after the dismissal of its ejectment claims against the “original” defendant and *predecessor in title* on August 30, 2010. The Alabama Supreme Court did not explain to me how my claims were barred by res judicata when Ms. Sims was the **legal title holder of record at the commencement of the ejectment action** and conveyed that interest to me by quit claim deed on August 22, 2009 that was recorded on September 15, 2009 where, pursuant to Rule 25(c) and I was the legal title holder of record as a matter of law with “superior legal title.”

The Alabama Supreme Court did not explain to me how Respondent, an unqualified '*wholly owned subsidiary*' of a national bank not licensed by the OCC, whose claims are barred in this state as a matter of law, had the capacity and “standing” to assert any claims to the property and was the real party in interest pursuant to Rule 17(a) where there was no mortgage, no assignment of the mortgage, and no evidence of the note and no evidence of legal title – the Alabama Secretary of State certified Respondent could not avail itself of any court in this state. In its motion to dismiss, Respondent argued that

“As for her claim directed to the settlement entered into between JPMC and Ms. Sims in the 2013 Case, Ms. Tipp has no basis or standing to object to the settlement. Ms. Tipp was not a party to the 2013 Case (although she was clearly well aware of it), and JPMC is free to settle with whomever it pleases, however it pleases. Ms. Tipp may not like it and may think that Ms. Sims has no valid claims to be settled, but her opinions are of no factual or legal consequence and cannot constitute grounds to second-guess, much less set aside, the settlement. (emp)

Furthermore, although this claim relates to the recent settlement between JPMC and Ms. Sims, it too is barred by res judicata because to have any interest in the property, Ms. Tipp would have to show that the July 13, 2009, foreclosure sale was void. Thus, this claim arises out of the same nucleus of operative facts, and relies on the same evidence, as the other claims asserted by Ms. Tipp in this action and the 2009 and 2011 Cases.”

The Alabama Supreme Court did not explain to me how the *predecessor in title*, with no interest or claims to the property whatsoever, could enter into a “confidential” settlement agreement

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Respondent argued in its reply brief that even though it “did not have possession of or legal title to the Property,” that “... the Circuit Court had subject-matter jurisdiction over JPMC’s ejectment claim in the 2009 Case, as well as Ms Tipp’s claims in the 2009 and 2011 Cases, and was a “court of competent jurisdiction” (emp)” because that has “... nothing to do with the Circuit Court’s jurisdiction over the claims she asserted in the 2009 Case in her Complaint in Intervention and she has not argued that the Circuit Court lacked subject matter jurisdiction over her claims.” that “...[i]t is the dismissal of her claims as intervenor in the 2009 Case that triggers the res judicata effect barring her attempt to re-litigate those claims in the 2011 Case” as *successor in title*.

and settle ***all those claims*** to the property that accrued ***after*** she conveyed her interest to me by quit claim deed, and how she could recover possession of the property as ***predecessor in title*** after the Alabama Court of Civil Appeals found in *Sims* Respondent argued “... “successors in title are in privity with their predecessors in title” ... ***she conveyed any interest that she had in the property via the quitclaim deed ...***” to me and my claims as ***successor in title***, established by prevailing law and Rule 25(c) and Rule 17(a) were barred by Respondent's “***two key arguments***” – unsupported by law or fact.

Respondent argues it's foreclosure sale is valid until proven “void” – or innocent until proven guilty, but that's not how the law works. Well that's not true, that's ***exactly*** how the court works in the State of Alabama. The law mandates that in it's post-foreclosure ejectment action that it “voluntarily dismissed,” ***the Respondent had the burden of proof*** to evidence authority to initiate the foreclosure proceedings and a valid legal title to recover possession of the property. In the 2009 ejectment action, Respondent had no standing to eject a church mouse, let alone take somebody's property, and by quit claim deed, I was the legal title holder of record in that case as a matter of law.

Respondent failed to meet it's burden of proof and its records evidence on November 3, 2009 a “FU ON EVICTION”, on November 14, 2009 a “FU on eviction” and on December 28, 2009, there was a “FC f/u” and instead, chose to “voluntarily dismiss” it's foreclosure claims and take the property in a hostile takeover by forcible entry and trespass – because “***the true facts*** are that the dismissal of the 2009 Case was without prejudice and not an adjudication on the merits as to JPMC's ejectment claim ... The Order did not deny the request for possession, since that relief was requested in the alternative” – I showed the foreclosure sale was void. Respondent could not prevail against me as a matter of law.

Respondent did not have legal title or legal possession of the property and argued on November 17, 2017 that “... [Sims] and her attorneys ***remained silent at that time and allowed the ejectment action to be dismissed***. Because any personal property remaining ***in the Property*** had been abandoned by [Sims], ***Defendants submit that no writ of possession or court order would have been required to remove abandoned property.***” (emp) “Dismissal” of the ejectment action was the was the ultimate goal. But Respondent did not cite authority for that “argument” that the ***predecessor in title*** had to contest the dismissal of the ejectment action. And Respondent didn't explain to the court “why” it was on “the Property” ***after*** the court specifically did not grant it permission to secure the property. But the justices of the Alabama Supreme Court 'decided' I would be deprived of property by a decision with NO OPINION and without legal authority – a non-judicial decree because the “***order***

was entered without an error of law.” (emp)

The judges in the Alabama court system and the Justices of the Alabama Supreme Court, have treated the “voluntary dismissal” of Respondent’s claims as though it were a judgment on “the merits” and conferred “standing” upon Respondent and “jurisdiction” upon the court where none existed – non-judicial decisions and non-judicial decrees without without legal authority.

The Alabama Supreme Court did not explain to me how I was deprived of property I had legal title to and legal possession of when it was taken in a hostile takeover by forcible entry and trespass based on the fact I was “not a party to this action” but was in law and fact the real party in interest in this action by virtue of an executed and recorded quit claim deed and had “**not deeded the Property back to Ms. Sims, nor ... executed anything transferring any rights to the Property back to Ms. Sims**” and Respondent had no legal interest or title to convey – its claims to the property were DISMISSED.

The Alabama Supreme Court did not explain to me how the “confidential” settlement agreement was made “valid” by a consent order entered by a judge and could not be set aside where the *predecessor in title* “lacked standing” and I, as *successor in title* was not substituted as the real party in interest pursuant to Rule 17(a) – a **jurisdictional defect** that renders that “confidential” settlement agreement void ab initio as a matter of law.

The justices of the Alabama Supreme Court affirmed a settlement agreement entered ‘*beyond the reach of the court*,’ between Respondent and the *predecessor in title*, that deprived me of property that I had legal title to. A settlement agreement procured by fraud and collusion by **all parties to the case** where there was a jurisdictional defect rendering the consent order void. But the justices of the Alabama Supreme Court ‘decided’ to keep the lid on Pandora’s box and not open it.

So after I worked for 9 years, 8½ years with attorney’s, suddenly I lose everything I worked for and don’t have legal counsel and have to fend for myself because all parties in the action settled those claims on behalf of the *predecessor in title*. But that “confidential” settlement agreement between all parties in the action did not dispose of any claims I have as *successor in title* and the real party in interest pursuant to Rule 25(c) and Rule 17(a) – I non-party to that “confidential” settlement agreement.

The Fourteenth Amendment’s due process clause declares that “**No state shall ... deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws**” – that is non-discretionary. The Fourteenth Amendment guarantees that no person can be deprived of their life or liberty by a decision of the court

with NO OPINION and without legal authority – a non-judicial decree, and the Fourteenth Amendment guarantees the same for property.

I am a lifelong citizen of the State of Alabama – the Respondent is an undocumented foreign entity whose claims are barred as a matter of law by the the constitution, statutes and prevailing law – a “wholly owned subsidiary” of a national bank not licensed by the OCC. As *successor in title*, I had the right to due process of the law and the right to recover property I had legal title to and legal possession of – Respondent's claims are barred as a matter of law, but the judges of the court barred by claims in favor of an undocumented foreign entity and deprived me of property without due process of the law.

Respondent has no rights in this state and had no title to or legal possession of the property when its agents seized it like they were invading the beaches of Normandy on D-day changing the locks on the doors and removing animals from the property, without any authority whatsoever but 'decided' “We will move forward as a Vacant property and we will have ... remove all remaining items left behind.” But the justices of the Alabama Supreme Court 'decided' Respondent didn't need legal title, a judgment, a writ of possession or a writ of execution entered by the court in its favor, and affirmed the judgment against me in favor of an undocumented foreign entity – a decision with NO OPINION and without legal authority – a non-judicial decree that deprived me of the home of my parents contrary to the rule of law.

No American should lose their “life, liberty or property” without due process of the law – the Fourteenth Amendment declares it – it's a “shall not,” not a suggestion and not discretionary. No American should have to go through what I have for the last 10 years in the courts of the State of Alabama – not in any state – not in America. No one in any state in this country should lose their home and their property by the Gestapo method “served” like 'no knock' warrants where a property owner had legal title to and legal possession of property, but because the property could not be recovered through the court system, it was taken in a hostile takeover by forcible entry and trespass.

No one in any state in this country should lose their home or their property *'beyond the reach of the court'* by non-judicial decrees where it was unlawfully conveyed to the *predecessor in title*. No one in any state in this country should be denied the right to to recover property and denied due process by judges of the court by 'decisions' with NO OPINION and without legal authority – a non-judicial decree.

I was discouraged, after losing the home of my parents *'beyond the reach of the court'* for the second time by non-judicial decrees without legal authority, but then, after realizing it was all for a

Respondent is unconstrained by the rule of law and the justices of the Alabama Supreme Court, duly elected by the people, have affirmed and validated multiple acts of fraud on the court with indisputable evidence in the record that Respondent, it's parent company and it's affiliate conspired together to engage in fraud on the court.

The justices of the Alabama Supreme Court affirmed an order depriving me of the property that I had legal title to by virtue of an executed and recorded quit claim deed – the justices of the Alabama Supreme Court 'decided' that Respondent had "superior legal title" by virtue of a foreclosure deed that is UNEXECUTED AND UNRECORDED AND HAS NEVER BEEN EXECUTED AND RECORDED.

Not only did the Respondent not have evidence of legal title, an assignment of the mortgage or the note in the 2009 ejectment action, there is indisputable evidence in the record that on November 22, 2002, Ameriquest Mortgage executed an assignment of the mortgage in blank and endorsed the original promissory note in blank and transmitted both to Bankers Trust by virtue of the LETTER OF TRANSMITTAL, B Collateral. (R517-519) The record before the Alabama Supreme Court evidenced Respondent's affiliate sent a notice of "ARM Payment Change" to the bankruptcy trustee that "Chase Home Finance LLC holds a Deed of Trust on the Property" – **3 months prior** to the alleged the foreclosure sale.

Evidence in the record prove Respondent had no valid legal interest in the property to convey to the *predecessor in title*, and had no standing to bar my claims, but the justices of the Alabama Supreme Court 'decided' I was not entitled to due process of the law and not entitled to recover possession of the property I had legal title to and legal possession of after a duly elected circuit court judge dismissed Respondent's claims, did not grant it possession of the property and failed to grant permission to secure the property – it was taken in a hostile takeover by forcible entry and trespass contrary to prevailing law – the Justices of the Supreme Court of Alabama affirmed it.

The issues in this case affects not only my property and my rights, but the rights of any one to proceed in a court of law pursuant to Rule 25(c) and Rule 17(a). This is about every person in every state that is deprived of property by judges that issue a 'decision' with NO OPINION and without legal authority – a non-judicial decree – that's not what this country was founded on and it was what they fought against. I am a seventh generation American and blood was shed by my forefathers who were instrumental to the victory of the war of independence against "the crown" and "non-judicial decrees" to guarantee that I would not be deprived of "life, liberty, or property" by any court without due process of the law – to guarantee that I would not be deprived of the home of my parents by "non-

judicial decrees" – they died for and I will fight for it if given the chance.

We either have laws to protect the people and their property that can be relied upon in a court of law, or we have no justice system at all. No one in any state in this country should be deprived of property by a non-judicial decree entered by judges with no legal authority whatsoever. Judges can't pick and choose who is entitled to due process of the law and who they 'decide' to deprive of property unsupported by the facts, evidence and prevailing law.

The Fourteenth Amendment guarantees that "No state shall ... deny to any person within its jurisdiction the equal protection of the laws" – the courts in the State of Alabama 'protected' an unqualified foreign entity who lacks capacity and cannot avail itself of the courts in this state and is not licensed by the OCC that took property by forcible entry and trespass in violation of a court order.

This case is about the right to proceed as *successor in interest* in a court of law pursuant to Rule 25(c) to challenge a foreclosure or foreclosure ejectment action, and Rule 17(a) as *successor in title*, real party in interest and prevailing party to recover possession of property that the ejectment plaintiff did not acquire through the court system – claims that a *successor in interest* are entitled to assert as a matter of law and rights that I was denied by judges in this state. This case is based on questions of law and the misapplication of those laws.

As *successor in title*, I spent tens of thousands of hours over the years that were debilitating to me and paid thousands of dollars for all the legal costs of court for nine years to have the home of my parents that I had legal title to and legal possession of conveyed to the *predecessor in title* where I, as *successor in title*, had to start it all over again – more time, more money and more 'decisions' with NO OPINION and without legal authority – a non-judicial decree.

I did not mortgage the property and I did not default on the mortgage. I'm just a daughter who promised her mother that the property of my parents would stay in the family – it was her dying wish. When my sister walked away from the home my mother gave her, I paid her for a quit claim deed and I fought years to save what she lost in foreclosure only for it to be given back to her, forgiving her debt and paying her to take it.

I spent the last 10 years of my life fighting for the home of my parents that I did not lose to foreclosure only to end up with nothing and losing it again. Not because I was entitled to nothing, but because **all parties in the action** entered into a "confidential" settlement agreement with the *predecessor in title* and I was denied rights as *successor in interest*, I was denied due process of the law and for the **seventh time** – deprived of property that I have legal title to by the duly elected justices of the Alabama Supreme Court.

This application is lengthy, but necessary so you can understand the gravity of the situation and what is at stake here, not just for me, but for every homeowner or property owner and the importance of an extension. This is a costly and arduous task for a non-attorney but one I'm willing to take because the issues and questions of law in this case are too far reaching and too important, not just for me, but for the people of every state, for this case not be before this court at all for consideration.

I was denied recovery of my property seven times and I didn't make it this far for nothing and I didn't make it this far to quit. And God willing, I will live to fight another day, *I will be back* and I will not retreat, but unfortunately, I don't have a well organized militia or attorney's to help me fight, so I need time to recover.

The Alabama Supreme Court has yet to rule on my motion for leave to file a Petition for Rehearing En Banc and I don't expect they will or it will be denied when my writ becomes due. My petition is due to be filed 90 days from August 9, 2019, with a filing deadline of Thursday November 7, 2019. For the foregoing reasons and good cause shown, I respectfully request that an application for an extension of time to file a Petition for Writ of Certiorari be granted and this deadline be extended by sixty days so that the new deadline would be Monday, January 6, 2020.

Respectfully submitted,

/s/ Marian S.A. Tipp
Marian S.A. Tipp