No. 20-505

In The

Supreme Court of the United States

SHLOMIT RUTTKAMP,

Petitioner,

vs.

THE BANK OF NEW YORK MELLON, ET AL.,

Respondents.

On Petition For A Writ Of Certiorari From The Supreme Court Of Connecticut

PETITION FOR A WRIT OF CERTIORARI

Petitioner

Pro se: SHLOMIT RUTTKAMP
P.O. Box 611
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Phone: (860) 853-8859
Email: rshlomit@yahoo.com

Executed on October 7, 2020

QUESTIONS PRESENTED

Questions presented as follows:

I. Whether subject matter jurisdiction should be waived when the book of law and the rules of law claim to the contrary. Whether, on the face of the record and based on the new evidence presented in the motion to dismiss filed January 29, 2020, the trial court is without jurisdiction." (Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008).

II. Whether the Connecticut courts of appeals correctly applied the law and could have reasonably reached the conclusion that they did granting the Plaintiff-Appellee's motion to dismiss appeal and denying petition for certification for review from the Connecticut Supreme Court, even though in the light of the new evidence (docket entry no. 247.00) presented in the motion to dismiss filed January 29, 2020, the trial court is without jurisdiction." (Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008).

II. A judicial officer cannot constitutionally take a real property of a homeowner based upon foreclosure mortgage to which the homeowner was not an obligor/mortgagor, and the note ruled unenforceable as a matter of law, without a violation of the due process clause of the 14th Amendment to the United States Constitution and Article First, Section 10 of the Connecticut Constitution. (See: Shelley v. Kraemer, 334 U.S. 1, 14 (1948).

LIST OF PARTIES

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

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

2. The Respondent is The Bank of New York Mellon Corporation, d/b/a The Bank of New York Mellon ("BNY Mellon"), a multitrillion dollar company, a public stockholder corporation doing business under the trade name The Bank of New York Mellon, a Delaware Corporation, with its principal place of business located in the city of New York with the address of 240 Greenwich Street, New York, NY 10286. Therefore, The Bank of New York Mellon is a citizen of Delaware with its headquarters in New York City. BNY Mellon is an

LIST OF PARTIES – Continued

investments company. They provide investment management, investment services and wealth management that help institutions and individuals succeed in markets all over the world. BNY Mellon was formed in July 2007 through the merger of The Bank of New York Company, Inc. and Mellon Financial Corporation and became The Bank of New York Mellon Corporation.

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

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

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

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

LIST OF PARTIES – Continued

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

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

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

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in

LIST OF PARTIES – Continued

the court whose judgment is the subject of this petition is as follows:

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

2. The Respondent, Vericrest Financial, Inc., successor to The CIT Group/Consumer Finance, Inc., whose address is 715 S. Metropolitan Ave., Oklahoma City, OK 73108-2090 acting herein by and through a duly authorized officer, the owner and holder of one certain Promissory Note executed by William J. Ruttkamp ("Borrower"). The true transfer and assigner to The Bank of New York Mellon which was never mentioned in the first complaint filed February 19, 2010, and was also not mentioned in the first amended complaint that was filed on September 26, 2012 (docket # 137.00 and #138.00), two years after the filing of the first complaint (statute of limitations of amendment complaint is only one year), nor in the caption of the case, nor anywhere else. Vericrest Financial, Inc., successor to The CIT Group/Consumer Finance, Inc., was added in the second amended complaint filed on August 22, 2014 (docket # 146.00) without permission or request to add a plaintiff or substitute party as the book of law requires. They did it in a fraudulent act.

LIST OF PARTIES – Continued

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

RELATED CASES

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

A. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190454 filed on May 4, 2020 denied on May 12, 2020

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

C. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. MMX-CV10-6001915-S filed on March 9, 2010, set the new law date on November 25, 2019 to January 6,

RELATED CASES – Continued

2020 after the Defendant-Appellant received the extension of time upon which she will file petition for writ of certiorari to and including March 20, 2020. Additional order to vest the property on February 11, 2020, once again violating the Defendant-Appellant's Fourteenth Amendment to due process of law.

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

E. *Shlomit Ruttkamp vs. The Bank of New York Mellon* Case No. 19-8037 denied on June 22, 2020

F. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. AC 39263 filed on May 31, 2016, dismissed July 13, 2016 as it was filed prematurely

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

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

RELATED CASES – Continued

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

J. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190175 filed on August 19, 2019, returned on August 20, 2019 for compliance of the rules of the Supreme Court

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

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

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

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

O. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. AC 42865 filed on

RELATED CASES – Continued

April 29, 2019, dismissed on July 17, 2019 and again July 18, 2019

P. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No.SC 190451 filed on April 30, 2020, returned on May 1, 2020, for compliance of the rules of the Supreme Court

Q. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 190196 filed on September 9, 2019, denied on October 10, 2019

R. *The Bank of New York Mellon vs. William Ruttkamp, et al.* Case No. SC 200133 filed on July 24, 2020

TABLE OF CONTENTS

TABLE OF CONTENTS – Continued

TABLE OF CONTENTS – Continued

Page

INDEX TO APPENDICES

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES – Continued

Page

TABLE OF AUTHORITIES – Continued

STATUTES AND RULES

TABLE OF AUTHORITIES – Continued

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

On February 27, 2012 the Connecticut Superior Court dismissed the foreclosure action filed by the Plaintiff-Respondent with a three-page memorandum of decision that concluded that because the Plaintiff-Respondent filed the complaint under the trade name, it lacks standards and therefore the Superior Court lacks subject matter jurisdiction. The Plaintiff-Respondent did not appeal the judgment of dismissal within the 20 days permitted by law. Despite the fact that the law contains no four-month grace period on a Dismiss case that lacks subject matter jurisdiction. See ***Levinson v. Lawrence*, 162 Conn. App. 548, 565-66, 133 A.3d 468 (2016)**. The Plaintiff-Respondent managed to file a motion to open judgment of dismissal when a motion to open judgment is not appropriate for a dismiss case that lacks subject matter jurisdiction. According to the Connecticut Appellate Court, it has held that the mislabeling or misnaming of a defendant is a circumstantial error that is curable under **Conn. Gen. Stat. § 52-123** when it does not result in prejudice to either party. The Connecticut Appellate Court has declined, however, to extend the use of **Conn. Gen. Stat. § 52-123** in this manner to a Plaintiff that has used a fictitious name for itself when commencing an

action. See ***America's Wholesale Lender v. Pagano*, 87 Conn. App. 474, 477-78, 866 A.2d 698 (2005).** Documents were not filed properly in this foreclosure action under their correct party or the holder of the mortgage. Courts of Connecticut turned a blind eye to misleading statements in the motion to open judgment by the Plaintiff-Respondent and indulging circumstantial facts and fraudulent activity in the court systems for the sake of liability of mortgage which is both a violation of the rules of court and ethically indefensible, and a violation of a homeowner's right to due process of law and violation of the **14th Amendment** to the United States Constitution and **Article First, Section 10** of the Connecticut Constitution (see: ***Shelley v. Kraemer*, 334 U.S. 1, 14 (1948)** as the Petitioner is the sole owner of the property in the custody of the court. The conduct . . . displays a serious and alarming lack of respect of the nation's judiciaries, which calls upon the Second Circuit Court of the United States Supreme Court for review. See: ***Jacobson v. Comm'r*, 915 F.2d 832, 837 (2d Cir.1990); *Newman v. Comm'r*, 902 F.2d 159, 162 (2d Cir.1990).** Pro Se Petitioner Shlomit Ruttkamp respectfully prays that a writ of certiorari issue to review the judgment below be granted as to subject matter jurisdiction as the book of law states that subject matter jurisdiction should not be waived and can be raised at any stage of the proceedings, including in appeal.

OPINIONS BELOW

For cases from **state courts**:

The opinion of the highest state court of Connecticut Supreme Court to review the merits appears at **Appendix A (docket no. PSC 190454),** petition for certification to appeal from the Appellate Court (AC 43974). May 12, 2020; **denied** and it is unpublished.

The opinion of the Connecticut Appellate Court (**docket no. AC 43974)** to appeal from a decision of a trial court appears at **Appendix B**, April 23, 2020.

The opinion of a Connecticut trial court (**docket no. MMXCV-10-6001915-S)** appears at **Appendix C**. Order entry no. 244.10 February 11, 2020 and order entry no. 247.10 February 11, 2020.

JURISDICTION

For cases from **federal courts**:

An extension of time to file a petition for writ of certiorari was granted, in light of the ongoing public health concerns relating to **COVID-19**, on March 19, 2020 (**order list: 589 U.S.**). Deadline to file any petition for a writ of certiorari due on or after the date of this order is extended to 150 days from the date of the lower court judgment (denial order date May 12, 2020) pursuant to rules 13.1 and 13.3. The petition for writ of certiorari is due up to and including October 9, 2020. The jurisdiction of this Court is invoked under

28 U.S.C. § 1254(1). And the jurisdiction of this Court is also invoked under diversity jurisdiction pursuant to **28 U.S.C. § 1332** because this action is between citizens of different states and the amount in controversy exceeds the sum or value of $75,000.00, exclusive of interest, costs and attorney fees, and the Plaintiff-Respondent, The Bank of New York Mellon, is not registered in the Secretary of State of Connecticut to conduct business or to sue and be sued by law and this foreclosure action is four and a half years past the Connecticut civil statute of limitations which is six and a half years for a foreclosure action.

For cases from **state courts**:

The opinion of the highest state court of Connecticut Supreme Court to review the merits appears at **Appendix A** petition for certification to appeal from the Appellate Court (AC 43974). May 12, 2020; **denied** and it is unpublished.

The opinion of the Connecticut Appellate Court to appeal from a decision of a trial court (**docket no. MMXCV-10-6001915-S)** appears at **Appendix B**, April 23, 2020. The opinion of a Connecticut trial court appears at **Appendix C**. Order entry no. 244.10 February 11, 2020 and order entry no. 247.10 February 11, 2020.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. This appeal will challenge the constitutionality of the statute of state and federal constitution right to due process of law the **14th Amendment's** ratification. The **14th Amendment** to the United States Constitution provides in relevant part: "No state shall . . . deprive any person of . . . property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Article **First, Section 10** of the Connecticut Constitution, (see: ***Shelley v. Kraemer*, 334 U.S. 1, 14 (1948)**

STATEMENT OF THE CASE

This foreclosure procedure commenced on March 23, 2010 when the Plaintiff-Respondent, The Bank of New York Mellon, filed its first complaint under the trade name, The Bank of New York Mellon, and not under the corporation's registered name, The Bank of New York Mellon Corporation. The foreclosure was dismissed for lack of subject matter jurisdiction on February 27, 2012 with a three-page memorandum of decision (see **docket entry no. 119.10 Appendix D**). The Plaintiff-Respondent did not appeal Judge Morgan's decision within the 20 days of court ruling of dismissing the underlying suit in spite of the fact that the law contains no four-month grace period for a dismissed case that lacks subject matter jurisdiction (see

***Levinson v. Lawrence*, 162 Conn. App. 548, 565-66, 133 A.3d 468 (2016)**). The Plaintiff-Respondent filed motion to open judgment claiming they have made a mistake in the motion for summary judgment, and in fact The Bank of New York Mellon is not a Delaware corporation. Throughout ten years of litigation, the Plaintiff-Respondent is committing fraud, providing misleading information to the court, and violating the rules of law and the books of law and the oath upon which they swore to uphold and the trial court abuses its discretion for a favor of the Plaintiff-Respondent, The Bank of New York Mellon, and chooses to turn a blind eye to overwhelming fraudulent exhibits and evidence provided to the court by the Petitioner, Shlomit Ruttkamp. The Petitioner filed numerous appeals and numerous certifications for review to the Connecticut Supreme Court which unjustly, without regard to the fraudulent evidence and exhibits, was denied and dismissed. On the hearings of February 3, 2020 the Defendant filed a motion to dismiss and provided an exhibit that was provided to her by an anonymous member of the law group, McCalla Raymer Leibert Pierce, LLC to prove that this litigation from the beginning was commenced by the Plaintiff based upon a lie and fraudulent litigation (see docket entry nos. **247.00** and **248.00**). The vesting of the title of the property was unjustly granted to the Plaintiff-Respondent as they are not the rightful owners of such a title. And the motion to dismiss should never have been denied considering the evidence provided to support the Plaintiff-Respondent's lack of standards and the court's lack of subject matter jurisdiction. And the

Appellate Court should not have deprived the Petitioner of her Due Process Clause of the Connecticut Constitution Article **First,** § **10** and the **14th Amendment** to the United States Constitution, to aggrieve the judge's rulings and to have the record straight that the law date has passed on January 8, 2020 when the Appellate Court dismissed petition for certification for review to the Connecticut Supreme Court filed by the Petitioner on December 27, 2019 and was dismissed only on January 8, 2020, two days after the January 6, 2020 law date; therefore, the law date was invalid and the appeal filed on February 27, 2020 should not have been dismissed. And the Petitioner's motion notice to appeal and motion to stay pending decision by the United States Supreme Court **(P.B. 71-7),** filed May 18, 2020, should not have been denied two months after filing the motion when the Plaintiff-Respondent never responded nor filed any objection to Petitioner's motion. Under due process of law the Petitioner, Shlomit Ruttkamp, should have the constitutional right to petition the Government for a redress of grievances.

REASONS FOR GRANTING THE PETITION

This case presents a nationally important question on which courts are indecisive and were divided in their decision when it comes to subject matter jurisdiction. The Connecticut Appellate Court is in conflict with other rulings on this matter. **(See *America's Wholesale Lender v. Pagano*, 87 Conn. App. 474,**

866 A.2d 698 (2005), ***America's Wholesale Lender v. Silberstein*****, 87 Conn. App. 485, 866 A.2d 695 (2005), and** ***Isaac v. Mount Sinai Hospital*****, 3 Conn. App. 598, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985)).** The determination of whether the court has subject matter jurisdiction raises a question of law. Accordingly, the standard of review is plenary. ***JPMorgan Chase Bank Nat. Ass'n v. Simoulidis*****, 161 Conn. App. 133, 142, 126 A.3d 1098 (2015). See also** ***Ramos v. Vernon*****, 254 Conn.799, 808, 761 A.2d 705 (2000).** The standard of review to grant of an order to vest a title of rightful owners of such a title also involves a question of law subject to plenary review. (See ***AvalonBay Communities, Inc. v. Orange*****, 256 Conn. 557, 565, 775 A.2d 284 (2001)** (recognizing that plenary review applies to questions of law)). And a "controversy" question for the trier of fact." **(Citations omitted; Internal quotation marks omitted.)** ***Zapolsky v. Sacks*****, 191 Conn. 194, 198, 464 A.2d 30 (1983)** Thus, "[w]here the legal conclusions of the court obtained by fraud upon the court vitiates entire proceeding. ***People of the State of Illinois v. Fred E. Sterling*****, 357 Ill. 354; 192 N.E. 229 (1934)** ("Maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); ***Allen F. Moore v. Stanley F. Sievers*****, 336 Ill. 316; 168 N.E. 259 (1929)**, the court must determine whether they are legally and logically correct"; **(Internal quotation marks omitted)** ***In re David W.*****, 254 Conn. 676, 686, 759 A.2d 89 (2000);** and whether they "find support in the facts that appear in the record." **(Internal**

quotation marks omitted.) ***Powers v. Olson*****, 252 Conn. 98, 105, 742 A.2d 799 (2000).** Due process does not tolerate fraudulent evidence and misleading information to the court. "A fair trial in a tribunal is a basic requirement of due process." ***Caperton v. A.T. Massey Coal Co.*****, 556 U.S. 868, 876, 129 S. Ct. 2252, 2259, 173 L. Ed. 2d 1208 (2009).** Because fraud and misleading information on the courts pollutes the process society relies on for dispute-resolution, courts reason that "a decision produced by fraud or misleading information on the court is not in essence a decision at all, and never becomes a final judgment. Judgments . . . obtained by fraud, misleading information or collusion are void and confer no vested title. See ***League v. De Young*****, 52 U.S. 185, 203, 13 L. Ed. 657 (1850)**. Due process does not permit fraud and misleading information on the court to deprive any person of life, liberty, or property. This foreclosure action lacks subject matter jurisdiction, and it's a fact-pleaded case that was dismissed on February 27, 2012 with a three-page memorandum of decision the trial court had no jurisdiction to open a dismissed case that lacks subject matter jurisdiction. "The subject matter jurisdiction requirement may not be waived by any party, and also may be raised by a party, or by the court sua sponte, at any stage of the proceedings, including on appeal." **(Citations omitted.)** ***Peters v. Dept. of Social Services*****, 273 Conn. 434, 441, 870 A.2d 448 (2005).**

I. Whether subject matter jurisdiction should be waived when the book of law and the rules of law claim to the contrary. Whether, on the face of the record and based on the new evidence presented in the motion to dismiss filed January 29, 2020, the trial court is without jurisdiction." (Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008).

"A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court . . . A motion to dismiss tests, *inter alia*, whether, on the face of the record, the court is without jurisdiction." **(Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008).** "The subject matter jurisdiction requirement may not be waived by any party, and also may be raised by a party, or by the court sua sponte, at any stage of the proceedings, including on appeal." **(Citations omitted.) *Peters v. Dept. of Social Services*, 273 Conn. 434, 441, 870 A.2d 448 (2005).** In support of its motion, the Petitioner relies principally upon two recent decisions from our Connecticut Appellate Court, ***America's Wholesale Lender v. Pagano*, 87 Conn.App. 474, 866 A.2d 698 (2005) and *America's Wholesale Lender v. Silberstein*, 87 Conn.App. 485, 866 A.2d 695 (2005)**, in which it was held that a suit cannot be brought by or on behalf of a trade name because a trade name "is not an entity with legal capacity to sue. The Appellate Court ruled in both cases that, because

the Plaintiff in any such lawsuit has no actual legal existence, it has no standing to sue, and thus any claim brought by it must be dismissed for lack of subject-matter jurisdiction. The *Pagano* and *Silberstein* decisions were both based expressly upon an earlier Appellate Court decision in which the effect of a plaintiff's status as a non-existent legal entity upon the court's subject-matter jurisdiction was discussed. The earlier case of, ***Isaac v. Mount Sinai Hospital*, 3 Conn.App. 598, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985),** involved the legal capacity of an estate to file a wrongful death action before an administrator was appointed to represent it. In *Isaac*, the court affirmed the decision of the trial court to dismiss the prematurely filed complaint without allowing it to be amended. ***Bar Association v. Connecticut Bank Trust Co.*, 20 Conn.Sup. 248, 262 [131 A.2d 646 (1957)].** *Not having a legal existence, it can neither sue nor be sued.* ***Vonchina v. Estate of Turner*, 154 Cal.App.2d 134 [315 P.2d 723 (1957)]; 2 Locke Kohn, Conn. Probate Practice 375. *Estate of Schoeller v. Becker*, 33 Conn.Sup. 79, 79-80, 360 A.2d 907 (1975). In *Pagano, supra*, 87 Conn.App. at 477,** the Appellate Court applied its *Isaac* holding to trade names in the following, identical language, with the identical result: The defendant argues that because [the plaintiff] initiated suit solely in its trade name, which is a fictitious name and not a legal entity, [the plaintiff] lacked standing and, consequently, the court lacked subject matter jurisdiction to decide the merits of [the plaintiff]'s claim. "It is elemental that in order to confer jurisdiction on the court

the plaintiff must have an actual legal existence." **(Internal quotation marks omitted.)** ***Isaac v. Mount Sinai Hospital*****, 3 Conn.App. 598, 600, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985).** Although a corporation is a legal entity with legal capacity to sue, ("The Bank of New York Mellon Corporation"). a fictitious or assumed business name, ("The Bank of New York Mellon"). a trade name, is not a legal entity; rather, it is merely a description of the person or corporation doing business under that name. ***Bauer v. Pounds*****, 61 Conn.App. 29, 36, 762 A.2d 499 (2000)**. Because the trade name of a legal entity does not have a separate legal existence, a plaintiff bringing an action solely in a trade name cannot confer jurisdiction on the court, the **Bank of New York Mellon** does not have existence without the corporation name next to it. There is now evidence before the court that **The Bank of New York Mellon** is a trade name, Plaintiff-Respondent further alleges and admits that **The Bank of New York Mellon incorporated is incorporated in the state of Delaware.** It is required to include the word "**Corporation**" in the caption of a complaint. The Plaintiff-Respondent commenced suit in its trade name or corporate brand (**The Bank of New York Mellon),** rather than its registered name (**The Bank of New York Mellon Corporation),** a trade name or corporate brand is not a legal entity with capacity to sue. Therefore, the court lacks subject matter jurisdiction to decide the merits of the Plaintiff-Respondent's claim. "A party must have standing to assert a claim in order for the court to have subject matter jurisdiction over the claim." **(Citation**

omitted.) ***Webster Bank v. Zak*****, 259 Conn. 766, 774, 792 A.2d 66 (2002)**. The question of subject matter jurisdiction can be raised by any of the parties, or by the court sua sponte at any time. *Id.* "[W]henever it is found after suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the judicial authority shall dismiss the action." **Practice Book § 10-33;** ***Burton v. Dominion Nuclear Connecticut, Inc.*****, 300 Conn. 542, 550, 23 A.3d 1176 (2011).** In light of the new evidence attached to this document as appendix (**Appendix E**), clearly acknowledged by the plaintiff that the dismissal of February 27, 2012 was justifiable according to the law and the Plaintiff-Respondent opened the dismissal based upon false statements and documents to the court as it is acknowledged by the Plaintiff that The Bank of New York Mellon is a corporation incorporated in Delaware and not New York State as the statement and the motion to open judgment was based upon. Therefore, the Petitioner, Shlomit Ruttkamp, respectfully requests that this foreclosure action will be remanded to the Connecticut Supreme Court with direction to dismiss the action for lack of subject matter jurisdiction as provided by law. That subject matter jurisdiction cannot be waived and can be raised by any of the parties at any time or stage in the procedures including in an appeal.

II. Whether the Connecticut courts of appeals correctly applied the law and could have reasonably reached the conclusion that they did granting the Plaintiff-Appellee's motion to dismiss appeal and denying petition for certification for review from the Connecticut Supreme Court, even though in the light of the new evidence (docket entry no. 247.00) presented in the motion to dismiss filed January 29, 2020, the trial court is without jurisdiction." (Internal quotation marks omitted.) *Caruso v. Bridgeport*, 285 Conn. 618, 627, 941 A.2d 266 (2008).

An order of dismissal was entered on February 27, 2012 by Judge Lisa Kelly Morgan. (Hereto attached see **docket entry no. 119.10 Appendix D**). Concluded in a three-page memorandum of decision that, because the Plaintiff-Respondent brought this action under its corporate brand name and a brand name has no legal capacity to sue, the Plaintiff-Respondent had no standing and therefore the court lacked subject matter jurisdiction. ***America's Wholesale Lender v. Pagano*, 87 Conn.App. 474, 866 A.2d 698 (2005) and *America's Wholesale Lender v. Silberstein*, 87 Conn.App. 485, 866 A.2d 695 (2005).** Petitioner's Counsel filed a petition to discharge mortgage and lis pendens pursuant to **Conn. Gen. Stat. Sec. 49-13** dated April 20, 2012 and opened a new law suit docket number MMX-CV-12-6007449S.

As a result of the Petitioner Counsel's action, the Plaintiff-Respondent then filed documents (motion to open judgment), claiming that the entity in question was mistakenly conveyed to the court that it is a **Delaware Corporation** and attempted to establish bank history that would suggest that the Bank of New York Mellon F/K/A The Bank of New York as Trustee on Behalf of CIT Mortgage Loan Trust 2007-1, listed as Plaintiff-Respondent in the original Complaint dated of February 19, 2010, and in the Motion for Summary Judgment is not/nor was ever associated with the Bank of New York Mellon Corporation duly authorized and validly existing under the laws of the State of **Delaware.** They also stated that the website www.bnymellon.com is not the Plaintiff-Respondent's website, which the Plaintiff-Respondent mistakenly visited and upon which the mistake was made. A copy of an email from The Bank of New York Mellon's Head of Corporate Communications, Kevin Heine, stated contrary to the Plaintiff-Respondent's. The Plaintiff-Respondent was given the opportunity to open a final judgment of dismissal rendered on February 27, 2012 for lack of subject matter jurisdiction. **With False Statements And Misled The Court To Open The Judgment Based Upon A "Mistake" That In Fact Was Not A Mistake But Was A Deliberate Attempt to Recover From The Error Used In Filing Suit.** The Plaintiff-Respondent provided the Court with false information stated in the motion to open judgment filed on June 26, 2012 (See: **docket entry no. 128.00**) on page 4, "This erroneous assumption was the basis for the Corporate Brand Statement. As shown

above, the website and the Corporate Fact Sheet reviewed by counsel were not the website and fact sheet for the Plaintiff-Respondent, which is a separate entity from The Bank of New York Mellon Corporation." The Petitioner Shlomit Ruttkamp has attached a copy of an email that was received from Kevin Heine (Managing Director of Corporate Communications, The Bank of New York Mellon), stating that The Bank of New York Mellon was indeed the same Bank of New York Mellon Corporation. (Hereto attached as **Appendix F**). Kevin Heine also indicates in this email that the website address of The Bank of New York Mellon is located at www.bnymellon.com which the Plaintiff-Respondent has clearly denied. The Petitioner also has an additional email received by Kevin Heine that states, "Bank of New York Mellon at 1 Wall Street is the same company as the one incorporated in Delaware. We are headquartered at One Wall Street but incorporated in Delaware." This statement clearly contradicts the Plaintiff-Respondent's "mistakenly" statement of the motion to open judgment. Confirmation of accuracy of the emails received from Kevin Heine and the actual website of The Bank of New York Mellon and its relationship to The Bank of New York Mellon Corporation incorporated in Delaware. The Plaintiff-Respondent did not dispute that "The Bank of New York Mellon" is a Delaware corporation nor did it claim that the name is a misnomer or description error used in filing suit at any time. To the contrary, even in its memorandum of law in support of its motion for summary judgment, the Plaintiff-Respondent plainly acknowledged that "The Bank of New York Mellon" is the corporate brand

of The Bank of New York Mellon Corporation and may also be used as a generic term to reference the corporation as a whole or its various subsidiaries. The Petitioner adduced evidence in her motion to dismiss and the memorandum in support filed January 29, 2020 (see docket entry # 247.00 and # 248.00 **Appendix E),** evidence filed by the Plaintiff-Respondent attorney of "The Bank of New York Mellon Corporation" that contradicts the entire Plaintiff-Respondent's attorney's litigation of 10 years and Plaintiff-Respondent plainly acknowledged that "The Bank of New York Mellon" is the corporate brand of The Bank of New York Mellon Corporation and that it is a validly registered Delaware corporation.

The name the Plaintiff-Respondent is using to represent its action is not the name of a validly registered corporation. The actual name of the Plaintiff-Respondent is The Bank of New York Mellon Corporation and the only name registered in Delaware under the Division of Corporations. (See certificate from the Delaware State, Division of Corporations, Entity Information, clearly indicating that The Bank of New York Mellon Corporation is a Delaware jurisdiction with their headquarters at One Wall Street, New York, New York, 10286, (see **Appendix G**), and the certificate shows that at the NYS Department of State Division of Corporations there is only one entity found as the Bank of New York Mellon Corporation. (Hereto attached as, **Appendix H**)). Based on the Plaintiff-Respondent's own complaint, as pleaded by the Plaintiff-Respondent, neither the parties nor the Court made

any mistake in analyzing the registered name of the Delaware corporation. Based on the allegations of the Plaintiff-Respondent's foreclosure complaint, the parties and the Court engaged in the only analysis that they could, i.e., that The Bank of New York Mellon **is a corporation duly authorized and validly existing under the laws of the State of Delaware.** There was no mistake in the litigation culminating in the Court's February 27, 2012 judgment of dismissal. A party must have standing to assert a claim in order for the court to have subject matter jurisdiction over the claim, **(Citation omitted.)** ***Webster Bank v. Zak*****, 259 Conn. 766, 774, 792 A. 2d 66 (2002).** "[W]henever it is found after suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the judicial authority shall dismiss the action. **Practice book § 10-33;** ***Burton v. Dominion Nuclear Connecticut, Inc.*****, 300 Conn. 542, 550, 23 A.3d 1176 (2011).** The Plaintiff-Respondent bringing an action solely in a trade name cannot confer jurisdiction on the court. **(citations omitted; internal Quotations Marks Omitted.)** ***America's Wholesale Lender v. Pagano*****, 87 Conn.App. 474, 866 A.2d 698 (2005).** In the absence of standing on the part of the Plaintiff-Respondent, the court has no jurisdiction. ***Accord Coldwell Banker Manning Realty, Inc. v. Computer Sciences Corp.*****, Superior Court, Judicial district of Hartford, Docket No. HHDCV030825180S (November 12, 2010, Sheldon, J.) (51 Conn.L.Rptr. 10);** ***Century 21 Access America v. McGregor McLean*****, Superior Court, judicial district of Fairfield, Docket No. CV044000764 (July 20, 2005, Doherty,**

J.) (39 Conn.L.Rptr. 639). The new evidence provided to the court on February 3, 2020 hearings was not available at the time of any judgment rendered and any dismissal or denial of appeal. Based upon the new evidence, the litigations of the motion to open judgment was based upon a lie and misleading information to the court. Any decision obtained by misleading information to the court becomes moot and any judgment is to be vacated with directions to dismiss the case. See, e.g. ***Deakins v. Monaghan*, 484 U.S. 193 (1988); *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39-40 (1950)** For these reasons, the court has no jurisdiction, and this action should be dismissed for lack of subject matter jurisdiction.

III. A judicial officer cannot constitutionally take a real property of a homeowner based upon foreclosure mortgage to which the homeowner was not an obligor/mortgagor, and the note ruled unenforceable as a matter of law, without a violation of the due process clause of the 14th Amendment to the United States Constitution and Article First, Section 10 of the Connecticut Constitution. (See: *Shelley v. Kraemer*, 334 U.S. 1, 14 (1948).

The relief sought by Petitioner is a statutory right provided by **Gen. Stat. § 52-325a(c)** and **§ 52-325b(a)** born out of the Supreme Court decision of ***Kukankis v. Griffith*, 180 Conn. 501 (1980),** pursuant to the Due Process Clause of the Connecticut Constitution

Article First, § **10** and the **14th Amendment** to United States Constitution. The jurisdictional basis of this appeal is pursuant to § **52-325c(a).** The standard of review is plenary.

The Petitioner filed a motion notice to appeal and motion to stay pending decision by the United States Supreme Court **(P.B. 71-7),** in a time when the world is faced with the **COVID-19** crisis, to appeal an order denied petition for certification for review to appeal from the Appellate Court (AC 43974) on May 12, 2020. The Appellate Court is depriving the Pro Se Petitioner of her right to due process of law and violating her Connecticut Constitution **Article First,** § **10** and the **14th Amendment** to the United States Constitution, to aggrieve as she is the sole owner of the property in the custody of the court (see: **Appendix I**), a claim-deed transfer and signed by the sole borrower of the mortgage, the first Defendant, William J. Ruttkamp, prior to his bankruptcy procedures and the dismissal of February 27, 2012). The property owner has a right to defend any such statutorily and constitutionally required presentation if the owner proves ownership of the note and mortgage, and that all the obligations established by the note and mortgage have been satisfied in a bankruptcy procedure by the first Defendant, William J. Ruttkamp, the sole borrower of the mortgage. Petitioner Shlomit Ruttkamp does not have any obligation of any kind to the Plaintiff-Respondent's, The Bank of New York Mellon, or any other individual. The home rightfully belongs to the Petitioner Shlomit Ruttkamp and is fully owned by her (See: **Appendix I**). Plaintiff's-Appellee filed the complaint under the trade

name, it lacks standards and therefore the Superior Court lacks subject matter jurisdiction. See ***America's Wholesale Lender v. Pagano*, 87 Conn. App. 474, 477-78, 866 A.2d 698 (2005).** This is a fact-pleaded case that was dismissed for lack of subject matter jurisdiction on February 27, 2012 with a three-page memorandum of decision by Judge Morgan. (Hereto attached see **Appendix D).** The Connecticut Supreme Court upheld when a question of jurisdiction is brought to the court's attention, that issue must be resolved before the court can move on to the other matters. ***Baldwin Piano & Organ Co. v. Blake*, 186 Conn. 295, 297-98, 441 A.2d 183 (1982)** and the Plaintiff in this foreclosure action brought his suit under a trade name and not the corporation's registered name regardless to the state of jurisdiction the Plaintiff did not include the corporation's name in the caption of the complaint. The Bank of New York Mellon alone is merely a name to describe the name of the corporation doing business as The Bank of New York Mellon Corporation in order to confer jurisdiction on the court the plaintiff must have an actual legal existence, that is he or it must be a person in law or a legal entity with legal capacity to sue and to provide the court with jurisdiction to hear the cause of action. See ***Karp v. Urban Redevelopment Commission*, 162 Conn. 525, 529, 294 A.2d 633 (1972)." *Wilburn v. Mount Sinai Medical Center*, 3 Conn. App. 284, 288, 487 A.2d 568 (1985); see *Bridgeport Bowl-O-Rama, Inc. v. Zoning Board of Appeals*, 195 Conn. 276, 283, 487 A.2d 559 (1985).**

CONCLUSION

The judgment below should be reversed. This case should be remanded with directions to dismiss it. Alternatively, if the Superior Court concluded that the court lacked subject matter jurisdiction on February 27, 2012 as the Plaintiff-Respondent's use of a trade name, and new evidence filed by the Petitioner Shlomit Ruttkamp concluded that Plaintiff-Respondent's attorneys of "The Bank of New York Mellon Corporation" lied and misled the court in the motion to open judgment on the history of The Bank of New York Mellon. Any judgment or decision that was rendered in this foreclosure action after the motion to open judgment is voided by virtue of the law. Therefore, this case should be remanded with direction to dismiss this action for lack of subject matter jurisdiction.

Respectfully submitted,

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