No. 20-505

IN THE
SUPREME COURT OF THE UNITED STATES

SHLOMIT RUTTKAMP
Petitioner,

VS.

THE BANK OF NEW YORK MELLON, ET AL.
Respondent(s),

ON PETITION FOR A WRIT OF CERTIORARI FROM THE
SUPREME COURT OF CONNECTICUT

PETITION FOR REHEARING

PETITIONER
Pro se: Shlomit Ruttkamp
P.O. Box 611
Westbrook, CT 06498
Phone: (860) 853-8859
Email: rshlomit@yahoo.com

Executed on January 5, 2021

To the attention of Associate Justice Amy Coney Barrett

RECEIVED
JAN 13 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

TABLE OF CONTENTS

PAGE NUMBER

TABLE OF CONTENTS – Continued

PAGE NUMBER

INDEX TO APPENDICES

TABLE OF AUTHORITIES CITED

CASES **PAGE NUMBER**

TABLE OF AUTHORITIES CITED, Continuance

CASES **PAGE NUMBER**

TABLE OF AUTHORITIES CITED, Continuance

CASES **PAGE NUMBER**

STATUTES AND RULES

OTHERS

No. 20-505

IN THE

SUPREME COURT OF THE UNITED STATES

SHLOMIT RUTTKAMP,
Petitioner

VS.

THE BANK OF NEW YORK MELLON, ET AL.
Respondents

I. PETITION FOR REHEARING

Pursuant to Supreme Court **Rule 44**, Petitioner Shlomit Ruttkamp respectfully petitions this Court and to the attention of Associate Justice Amy Coney Barrett to reconsider its December 14, 2020 decision denying petitioner Petition for a Writ of Certiorari. This petition is filed within the 25 days of the denial.

II. GROUNDS FOR REHEARING

Petitioner seeks rehearing based on new reasons supported by three amendments of the U.S. Constitution that presented reasons that reinforce the review under the U.S. Supreme Court **Rule 10(a), (b)**, and **(c)**, that:

(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.

(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals.

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court. "only for compelling reasons. **[a], [b],** and **[c]**, petition for a writ of certiorari will be granted. sanctioned such a departure by a lower court [that] call for an exercise of this Court's supervisory power." 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).** A Federal Court may disturb the State Court decision error lies by any possibility for fair-minded disagreement. (See **Harrington v. Richter, 562 U.S. 86, 103 (2011).** United States Court of Appeal will review a case pending a petition for a writ of certiorari under **Rule 11** that a petition for a writ of certiorari to review a case pending in a United States court of appeals, before judgment is entered in that court, will be granted only upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court. See 28 U. S. C. § 2101(e).

"This guarantee... is that all citizens shall be forever equal, under the Fifth and Fourteenth Amendments of the U.S. Constitution subject to like penalties for like crimes. It is to

secure to the citizens of each State all the privileges and immunities of citizens of the United States." Nor shall any state 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 law.

Based on a lower court finding on February 27, 2012, the foreclosure action was dismissed for lack of subject matter jurisdiction by Judge Morgan's order (see **Appendix A**). 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." (See **America's Wholesale Lender v. Pagano,** 87 Conn.App. 474, 866 A.2d 698 **(2005) (See Appendix B) and America's Wholesale Lender v. Silberstein,** 87 Conn.App. 485, 866 A.2d 695 **(2005)**. (See **Appendix C**) The Plaintiff did not appeal the judgment within the 20 days grace period upon which a party should appeal a judgment. Regardless of the lower court's finding, the Plaintiff filed a motion to open judgment to open a case that the Superior Court had no jurisdiction or authority to open, and the law contained no four-month grace period for a dismissed case that lacked subject matter jurisdiction. (See: **Levinson v. Lawrence, 162 Conn. App. 548, 565-66, 133 A.3d 468 (2016)**). The filing of the petition demonstrates the exceptional nationwide importance of the question presented here because it was decided entirely on the pleadings. Connecticut courts have expressed their reluctance to decide important constitutional cases without a developed record or evidence. (See, e.g., **Wash. State Grange v. Wash. State Republican Party, 552 U.S. 442, 455 (2008); Gonzales v. Carhart, 550 U.S. 124, 167 (2007)**). But this court could consider the question of importance of Petitioner Shlomit Ruttkamp validity of the petition with a full evidentiary record by granting this Petition. The Connecticut Courts of Appeal have entered a

decision in conflict with the decision of another Courts (see; **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).** The United States court of appeals on the same important matter, has decided an important federal question in a way that conflicts with a decision by the state court of last resort. An order of dismissal was entered on February 27, 2012 by Judge Lisa Kelly Morgan. (see **Appendix A)**, the United States Court of appeals reiterates that a Petitioner need only to demonstrate a substantial showing of the denial of a constitutional right, **28 U.S.C. § 2253(c)(2)**. The Petitioner satisfies this standard, and the United States Court of Appeals are the nation of rule of law and must exercise the constitutional right as the United States Court of appeals are our final arbitrator and final line of defense.

III. BACKGROUND

This foreclosure procedure commenced on March 23, 2010 when the Plaintiff, 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. 119.20 Appendix A**). The Plaintiff did not appeal Judge Morgan's decision within the 20 days of court ruling of dismissing the underlying suit although 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 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 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, 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. The vesting of the title of the property was unjustly granted to the Plaintiff 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's lack of standards and the court's lack of subject matter jurisdiction. And the Appellate Court should not have deprived the Appellant 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 Appellant 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. The United States court of appeals on the same important matter, has decided an important federal question in a way that conflicts with a decision by the state court of last resort. And the petition for writ of certiorari in docket entry number 20-505 should be granted for the purpose of important question of federal law. The United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court. The Plaintiff, using an unincorporated trade name to foreclose a mortgage on the Defendant's real property, does not have the legal capacity to sue.

ARGUMENT

I. A judge's ruling on a defendant's motion to dismiss a complaint "must accept as true all of the factual allegations contained in the complaint."

A judge's ruling on a defendant's motion to dismiss a complaint "must accept as true all of the factual allegations contained in the complaint." 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)**. 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 are challenged, the court must determine whether they are legally and logically correct"; (Internal quotation marks omitted) in re **David W., 254**

Conn.676, 686, 759 A.2d 89 (2000); and whether they "find support in the fact that appear in the record." (Internal quotation marks omitted.) **Powers v. Olson, 252 Conn. 98, 105, 742 A.2d 799 (2000)**. 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 sue 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),** the Petitioner Shlomit Ruttkamp is the title holder of record. And the dispositive issue is whether a corporation that brings an action solely in its trade name, without the corporation being named as a party, has standing to confer jurisdiction on the court. This court concluded in **America's Wholesale Lender v. Pagano** and **America's Wholesale Lender v. Silberstein,** that because a trade name is not an entity with legal capacity to sue, the corporation has no standing to litigate the merits of the case. On February 27, 2012, the foreclosure action was dismissed for lack of subject matter jurisdiction with a three-page memorandum of decision (see **docket entry no. 119.10 Exhibit-A**). The court concluded like in **America's Wholesale Lender v. Pagano** and **America's Wholesale Lender v. Silberstein** that, because the Plaintiff, The Bank of New York Mellon, brought the action under a trade name, which is a fictitious name, the Plaintiff lacked standing to bring the action and the court lacked subject matter jurisdiction to decide the merits of the Plaintiff's, The Bank of New York Mellon, claim. This case is controlled by the

decision in **America's Wholesale Lender v. Pagano, 87 Conn. App. 474, 477-78, 866 A.2d 698 (2005)** and **America's Wholesale Lender v. Silberstein, 87 Conn.App. 485, 866 A.2d 695 (2005) in** which the court held that the court lacked subject matter jurisdiction because the Plaintiff had commenced an action solely in its trade name. The decision in that case rested primarily on the mandate that parties do not use fictitious names. No such person commenced the action in this case, as a trade name is not a recognized legal entity or person, regardless of the entity to which the trade name applies because a trade name is not an entity with a legal capacity to sue. Nor could the Plaintiff, The Bank of New York Mellon, cure the jurisdictional defect by substituting a party with the legal capacity to sue on behalf of the trade name. The named Plaintiff in the original complaint never existed. As a result, there was no legally recognized entity for which there could be a substitute. (See: **Isaac v. Mount Sinai Hospital, 3 Conn. App. 598, 602, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985)** (See **Exhibit-D**). Because the Plaintiff, The Bank of New York Mellon had no standing to bring an action, (see **docket entry no. 119.10 Exhibit-A**), no action in this case ever was commenced, as it was void ab initio. The trial court and the Appellate and Supreme Courts ignored paragraph 1 of the Plaintiff's own foreclosure complaints which it alleges in paragraph 1 of its complaint that Paragraph 1:

"Plaintiff, The Bank of New York Mellon f/k/a The Bank of New York as Trustee on behalf of CIT Mortgage Loan Trust 2007-1. (hereinafter "Plaintiff"), **is a corporation duly authorized and validly existing under the laws of the State of Delaware / New York State** (Emphasis added.)

Based on the Plaintiff's own complaints as pleaded by the Plaintiff, neither the court nor the parties made mistakes

in analyzing the registered name of the corporation. Based on the allegations of the Plaintiff's foreclosure complaints, the parties and the court conclude that the Plaintiff, The Bank of New York Mellon, brought these complaints and this litigation under a trade name and not the corporation's registered name. Contrary to the Plaintiff's assertions, the court's February 27, 2012 order of dismissal. was not premised upon incorrect information that was mistakenly conveyed to the court, and it was accordingly a no-good cause reason to open the judgment.

II. The right under the Fifth, and Fourteenth Amendments to due process of law, and the equal protection of the law, is important question of federal law.

A clause of the Fifth and Fourteenth Amendments to the United States Constitution means a state's laws must treat any person in its jurisdiction the same way it would treat other people in similar circumstances, preventing the passing or enforcement of discriminatory laws. A party has the right under the Fifth and Fourteenth Amendments to due process of law and equal protection of the law to challenge an order by which the Defendant is aggrieved, and the court has the obligation to provide fair and honest procedures that will comply with the book of law and the rules of law when [there] is an actual controversy between or among the parties to the dispute. The Fourteenth Amendment doctrine of procedural due process prevents the government from depriving an individual of liberty or property interests without due process of law. U.S. Const., Amend. XIV, § 1. The Petitioner Shlomit Ruttkamp was deprived of her liberty and property interest. (**Hill v. Borough of Kutztown, 455 F.3d 225, 233-34 (3d Cir. 2006))** As you see in the Petition for Writ of Certiorari filed in case no. 20-

505 Appendix I page 32, a quit-claim deed transfer to the Petitioner Shlomit Ruttkamp as the sole owner of the property. By denying the Petitioner Petition for Writ of Certiorari is denying due process of law and equal protection of law as the Petitioner demonstrated ownership of the property in the custody of the Connecticut Courts of Appeal. And the deprivation of her right failed to comport with the requirements of due process. A protected property exists as the Petitioner has "a legitimate claim of entitlement" to said property. **Bd. of Regents v. Roth, 408 U.S. 564, 577 (1972); Elmore v. Cleary, 399 F.3d 279, 282 (3d Cir. 2005)** The Equal Protection Clause Amendment directs that all individuals similarly situated be treated alike. **City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439 (1985)**. The Petitioner is discriminated against as she is an Israeli woman who tries to litigation subject matter jurisdiction where a party is proceeding pro se, the court must read her supporting papers liberally and interpret them to raise the strongest arguments that as pro se suggest. **Burgos v. Hopkins, 14 F.3d 787, 790 (2d Cir. 1994), See also Accord, Soto v. Walker, 44 F.3d 169, 173 (2d Cir. 1995))**, as the Plaintiff filed the complaints under a fictitious name, trade name of the corporation. The plaintiff lacked standing to bring the action and the court lacked subject matter jurisdiction to decide the merits of the plaintiff's claim. Other similar cited cases were dismissed as the Plaintiff did not have standards and therefore, the court lacked subject matter jurisdiction to hear the case but because the Petitioner Shlomit Ruttkamp is a pro se, the Connecticut courts of appeal did not apply the law when it comes to the motions and exhibits filed by the Petitioner as a pro se and ignoring subject matter jurisdiction. Based on lower court finding on February 27, 2012, the foreclosure action was dismissed for lack of subject matter jurisdiction.

The Bank of New York Mellon is merely a name to describe the name of the corporation doing business as The Bank of New York Mellon Corporation. (See **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).** CIT Mortgage Loan Trust 2007-1 is a fraudulent entity that does not exist anywhere; it is not a bank. It is not registered in the New York State Department of Services nor in Connecticut Secretary of State or any place in the United States. **(See Isaac v. Mount Sinai Hospital, 3 Conn. App. 598, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985)** (see **Appendix D).** The Plaintiff did not appeal the judgment within the 20 days grace period upon which a party should appeal a judgment. The Plaintiff filed a motion to open judgment to open a case that the Superior Court had no jurisdiction or authority to open, and the law contained no four-month grace period for a dismissed case that lacked subject matter jurisdiction. (See: **Levinson v. Lawrence, 162 Conn. App. 548, 565-66, 133 A.3d 468 (2016))** Petitioner, Shlomit Ruttkamp, should have the right under the Fifth and Fourteenth Amendments to due process of law and the equal protection of the law to appeal and to challenge the order of Judge Morgan to open a judgment that she dismissed for lack of subject matter jurisdiction. The court must evaluate the sufficiency of the claim. **Hayden v. Paterson, 594 F.3d 150, 161 (2d Cir. 2010)** A case with misleading information and fraudulent affidavits in filing foreclosure procedures is not entitled to the assumptions of truth, and Petitioner, Shlomit Ruttkamp is the sole owner of this property. The court habeas claim has been adjudicated by the state courts. This case involved an unreasonable application that clearly established federal law as determined by the Supreme Court of the United States, as the State Court arrived at a decision opposite to the one reached by the

Supreme Court of the United States on a question of law, and the state court decided a case differently than did the Supreme Court on a set of materially indistinguishable facts. **Williams v. Taylor, 529 U.S. 362, 405- 406 (2000).** This petition for rehearing should be granted as the moving party points out that it is an important matter that will decide important federal questions upon which the courts of appeal conflict with other similar decisions and reasonably be expected to alter the conclusion raised by the court. (See **Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995)** This case lacks subject matter jurisdiction and the Plaintiff, The Bank of New York Mellon, had no standing to bring an action, no action in this case ever was commenced from the dismissal of February 27, 2012 for lacks subject matter jurisdiction. (See: **America's Wholesale Lender v. Pagano, 87 Conn. App. 474, 477-78, 866 A.2d 698 (2005)** (see **Appendix B)** and (See: **America's Wholesale Lender v. Silberstein,** 87 Conn.App. 485, 866 A.2d 695 **(2005)** (see **Appendix C).** The Plaintiff, using an unincorporated trade name to foreclose a mortgage on the Defendant's real property do not have the legal capacity to sue. Thereafter, the trial court's rendering of judgment of foreclosure and denial of the motion to dismiss was improper. Furthermore, the claim by the Plaintiff, The Bank of New York Mellon, was unavailing because the Plaintiff, The Bank of New York Mellon's, lack of standing rendered the initial action void ad initio. The Plaintiff, The Bank of New York Mellon, commenced an action in the name of the wrong person and did not requested from the court to file a motion to be substituted as the Plaintiff to reflect an assignment of the note and mortgage pursuant to General Statutes **§ 52-109.** The court ultimately rendered all judgment in favor of the Plaintiff, The Bank of New York Mellon, which lacked subject matter jurisdiction to decide the merits of the Plaintiff's, The Bank of New York Mellon, claim. And the Plaintiff could not cure this

jurisdictional defect as it was void ab initio. (See: **Golden Hill Paugussett Tribe of Indians v. Southbury, 231 Conn. 563, 570-71, 651 A.2d 1246 (1995).**

CONCLUSION

For the reasons set forth above, as well as those contained in the petition for writ of certiorari, Petitioner respectfully requests that this Court grant Petitioner's request for rehearing and vacate the order denying writ of certiorari in this case to determine the constitutional right to petition the government for a redress of grievances.

RESPECTFULLY SUBMITTED PETITIONER

Pro se: _____

Shlomit Ruttkamp
P.O. Box 611
Westbrook, CT 06498
Phone: (860) 853-8859
Email: rshlomit@yahoo.com

Executed on January 5, 2021

To the attention of Associate Justice Amy Coney Barrett

CERTIFICATE OF PETITIONER

SALF-REPRESENTED

I hereby certify that this petition for rehearing is restricted to the grounds specified in Supreme Court **Rule 44. 2**, is presented in good faith, in the interest of justice and not for delay.

Executed on this 5TH day of January 2021.

RESPECTFULLY SUBMITTED PETITIONER

Pro se: Shlomit Ruttkamp
P.O. Box 611
Westbrook, CT 06498
Phone: (860) 853-8859
Email: rshlomit@yahoo.com

Executed on January 5, 2021

Additional material from this filing is available in the Clerk's Office.