No. 20-5567

IN THE

Supreme Court of the United States

LINDA AMES

Petitioner

v.

HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-AR16

Respondents

On Petition for a Writ of Certiorari
To the Supreme Court of the State of Washington

MOTION FOR RECONSIDERATION, REHEARING, AND / OR REHEARING EN BANC OF THE COURT'S DENIAL OF THE PETITION FOR WRIT OF CERTIORARI

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Petitioner

MOTION FOR RECONSIDERATION OR REHEARING OR REHEARING EN BANC

Appellant respectfully requests a reconsideration, rehearing or rehearing en banc of the decision of this Court to decline issuance of a writ of certiorari in the above-entitled cause.

III. FACTS RELEVANT TO MOTION

Petitioner has no desire to waste the time of this Court and therefore has set forth below every ruling of this court which has been contradicted by the refusal of the court to issue the writ in this case. Because a pro se litigant will never be allowed to argue a matter before the court, and she is hoping that the court will not discriminate against a pro se appellant who is bringing such an important issue before this court, the Appellant will retain local counsel if this court accepts review of this case so the Appellant is not discriminated against by this court for not having an attorney.

That said, there is a plethora of cases and which, by refusal to accept review, this court is, in essence ignoring or overturning, and that is a horrific prospect.

ARGUMENT

THE HSBC "TRUST" HAS NO LEGAL CAPACITY TO FORECLOSE SINCE HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE PASS THROUGH CERTIFICATES SERIES 2006-AR16 IS NOT A TRUST, AND IT SECURITIZED THE MORTGAGE INTO A CLOSED, NON-EXISTENT TRUST AFTER THE CLOSING DATE; (1) WHERE THE REGISTRATION

WAS CANCELLED BEFORE THE FORECLOSURE WAS INSTITUTED; (2) THE TRUST NO LONGER EXISTED WHO WAS NOT REGISTERED AS A TRUST EVEN IN THE STATE OF WASHINGTON AND WAS DOING BUSINESS IN THE STATE UNLAWFULLY, WITHOUT LEGAL CAPACITY TO FORECLOSE; SECURITIZING A MORTGAGE INTO A CLOSED TRUST VOIDS THE MORTGAGE AND SEPARATES IT FROM THE NOTE. THERE IS NO TRUST; AND (3) SWORE IT WAS NOT A TRUST AND EVADED TAXES WHEN IT WAS TIME TO PAY TAXES ON THE RESALE OF THE APPELLANTS HOME FOR A HUGE PROFIT.

THERE IS NO TRUST. The court requires parties for there to be a case or controversy. The Defendant does not exist, and foreclosed without legal capacity to do so. As a result, the court's refusal to consider this matter runs contrary to the following Supreme Court Cases, including, but not limited to, *Baker v. Carr,* 369 US 186, 82 S. Ct. 691, 7 L. Ed. 2d 663 - Supreme Court, 1962, which requires a "personal stake in the outcome". The non-existent trust foreclosed without a personal stake. There must be a real party in interest. This court is overturning Kentucky v. Graham, 473 US 159, 105 S. Ct. 3099, 87 L. Ed. 2d 114 - Supreme Court, 1985; *Pennhurst State School and Hospital v. Halderman,* 465 US 89, 104 S. Ct. 900, 79 L. Ed. 2d 67 - Supreme Court, 1984; *Whitmore v. Arkansas*, 495 US 149 - Supreme Court 1990 which requires a "Real Party in interest". This Court is overturning *Osborn v. Bank of United States*, 22 US 738 - Supreme Court 1824 which requires a real entity which can sue and be sued. Here, the Trust is non-existent.

A search of Maryland's trust records shows other trusts recorded by the Appellee, but NOT this trust.

Furthermore, a search of the Public Records, the SEC Edgar Filings conclusively proves there is no trust entitled "HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-AR16

A search of the Maryland Secretary of State records shows that there is no trust called WELLS FARGO ASSET SECURITIES CORPORATION, MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-AR16

Search by:

(•) Business Name

( ) Department ID

The business name you entered was not found. Try your search again.

A search of the State of Washington shows there is no trust.

Business Search

BUSINESS SEARCH RESULTS

Business Name	UBI#	Business Type	Principal
No Value Found.			

Page 0 of 0, records 0 to 0 of 0

A search of the public records shows no other cases filed with the name of that trust as Plaintiff.

In fact, as mentioned above, under penalty of perjury the Defendant / Appellee said," They are not a trust, estate or individual. UNDER OATH, they swore to you that they do not exist.

The "trust" which we now know does not exist, was part of a settlement which satisfied the mortgage in full prior to the foreclosure.

SECURITIES AND EXCHANGE COMMISSION, FORM 10-K, Annual report pursuant to section 13 and 15(d), Filing Date: 2017-03-31 | Period of Report: 2016-12-31, SEC Accession No. 0001019965-17-000111.

On February 23, 2016, a certificateholder of the J.P. Morgan Chase Commercial Mortgage Securities Trust, Series 2007-CIBC18 (the "2007-CIBC18 Trust"), filed suit (the "Lawsuit") in the Supreme Court of New York, County of New York, against KeyBank National Association, as special servicer, and Berkadia, as master servicer.

Appellant was the victim of those servicing failures. So, the lender was paid damages because the servicer financially harmed the Appellant. In what world does this court permit the Lender to recover money because the servicer financially harmed the borrower by charging for services it did not render and overcharge for services it did render, and putting the borrower into default and telling the borrower not to make payments so the lender can steal the borrowers home? Is this the world this Court is willing to permit to exist?

1. SUPREME COURT CASES WHICH PERMIT A PARTY WHO HAS NO LEGAL CAPACITY TO SUE TO MAINTAIN AN ACTION:

NO SUCH CASE EXISTS

2. SUPREME COURT CASES WHICH DO **NOT** PERMIT A PARTY WHO HAS NO LEGAL CAPACITY TO SUE TO MAINTAIN AN ACTION:

1. *Navarro Savings Assn. v. Lee*, 446 US 458 - Supreme Court 1980 - "At all relevant times, Fidelity operated under a declaration of trust" but here, there is no trust.

2. *Bank of* United States v. Deveaux, 5 Cranch 61, 86-91, 3 L.Ed. 38 (1809). "[O]nly a human could be a citizen for jurisdictional purposes. If a "mere legal entity" like a corporation were sued, the relevant citizens were its "members," or the "real persons who come into court" in the entity's name. *Id.*, at 86, 91.

3. Louisville, C. & C.R. Co. v. Letson, 2 How. 497, 558, 11 L.Ed. 353 (1844). "[A] corporation itself could be considered a citizen of its State of incorporation." Congress never expanded this grant of citizenship to include artificial entities other than corporations, such as joint-stock companies or limited partnerships. For these unincorporated entities, we too have "adhere[d] to our oft-repeated rule that diversity jurisdiction in a suit by or against the entity depends on the citizenship of `all [its] members.'"

4. *Carden*, 494 U.S., at 196, 110 S.Ct. 1015 (quoting *Great Southern Fire Proof Hotel Co. v. Jones*, 177 U.S. 449, 456, 20 S.Ct. 690, 44 L.Ed. 842 (1900)) and *Chapman v. Barney*, 129 U.S. 677, 682, 9 S.Ct. 426, 32 L.Ed. 800 (1889)).

[W]e have identified the members of a joint-stock company as its shareholders, the members of a partnership as its partners, the members of a union as the workers affiliated with it, and so on.

citizenship of Americold Realty Trust, a "real estate investment trust" organized under Maryland law. App. 93. As Americold is not a corporation, it possesses its members' citizenship. Nothing in the record designates who Americold's members are. But Maryland law provides an answer.

In Maryland, a real estate investment trust is an "unincorporated business trust or association" in which property is held and managed "for the benefit and profit of any person who may become a shareholder." Md. Corp. & Assns. Code Ann. §§ 8-101(c), 8-102 (2014). As with joint-stock companies or partnerships, shareholders have "ownership interests" and votes in the trust by virtue of their "shares of beneficial interest." §§ 8-704(b)(5), 8-101(d). These shareholders appear to be in the same position as the shareholders of a joint-stock company or the partners of a limited partnership — both of whom we viewed as members of their relevant entities.

5. *Emerald Investors Trust v. Gaunt Parsippany Partners,* 492 F.3d 192, 201-206 (C.A.3 2007)

Traditionally, a trust was not considered a distinct legal entity, but a "fiduciary relationship" between multiple people. *Klein v. Bryer,* 227 Md. 473, 476-477, 177 A.2d 412, 413 (1962); Restatement (Second) of Trusts § 2 (1957). Such a relationship was not a thing that could be haled into court; legal proceedings involving a trust were brought by or against the trustees in their own name. *Glenn v. Allison,* 58 Md. 527, 529 (1882); *Deveaux,* 5 Cranch, at 91. And when a trustee files a lawsuit or is sued in her own name, her citizenship is all that matters for diversity purposes. *Navarro,* 446 U.S., at 462-466, 100 S.Ct. 1779. For a traditional trust, therefore, there is no need to determine its membership, as would be true if the trust, as an entity, were sued.

Many States, however, have applied the "trust" label to a variety of unincorporated entities that have little in common with this traditional template. Maryland, for example, treats a real estate investment trust as a "separate legal entity" that itself can sue or be sued. Md. Corp. & Assns. Code Ann. §§ 8-102(2), 8-301(2). So long as such an entity is unincorporated, we apply our "oft-repeated rule" that it possesses the citizenship of all its members. *Carden,* 494 U.S., at 195, 110 S.Ct. 1015. But neither this rule nor *Navarro* limits an entity's membership to its trustees just because the entity happens to call itself a trust. We therefore decline to apply the

same rule to an unincorporated entity sued in its organizational name that applies to a human trustee sued in her personal name. We also decline an *amicus*' invitation to apply the same rule to an unincorporated entity that applies to a corporation — namely, to consider it a citizen only of its State of establishment and its principal place of business. See Brief for National Association of Real Estate Investment Trusts 11-21. When we last examined the "doctrinal wall" between corporate and unincorporated entities in 1990, we saw no reason to tear it down. Carden, 494 U.S., at 190, 110 S.Ct. 1015. Then as now we reaffirm that it is up to Congress if it wishes to incorporate other entities into 28 U.S.C. § 1332(c)'s special jurisdictional rule.'"" *Americold Realty Trust v. Conagra Foods*, 136 S. Ct. 1012 - Supreme Court 2016

It is time for this Court to put a stop to the abuse created by allowing non-existing, non-registered trust from stealing borrower homes. The allegations in the complaint establish that there is no trust. There is no registered trust, and they are doing business unlawfully. They are not registering these trusts and the Appellant lost her home to a ghost who does not exist. Now, they are swearing they are not a trust, estate or an individual so they do not even pay taxes on the huge profits they make from flipping homes of the victims like Appellant.

6. *Federal Housing Administration v. Burr*, 309 US 242 - Supreme Court 1940 – "[T]he validity of the contract depends on a law of the United States, and the plaintiff is compelled, in every case, to show its validity..."

A review of the public records shows that HSBC BANK USA terminated their status in this state and became inactive in 08/10/2004. https://ccfs.sos.wa.gov/#/BusinessSearch/BusinessInformation. When HSBC was registered here, they registered as a Foreign Entity whose jurisdiction was New York. Wells Fargo Asset Securities Corporation, Mortgage Pass-Through Certificates Series 2006-AR16 is not a registered trust in this state at all. See https://ccfs.sos.wa.gov/#/BusinessSearch - No Value Found.) As a result of their absence, Defendants / Appellees claims of statute of limitations are improper as the statute was tolled.

7. *Havens Realty Corp. v. Coleman*, 455 US 363 - Supreme Court 1982

8. *Gladstone, Realtors* v. *Village of Bellwood,* 441 U. S. 91 (1979).

9. *Warth* v. *Seldin,* 422 U. S. 490, 501 (1975).

10. *Havens Realty Corp. v. Coleman*, 455 US 363 - Supreme Court 1982.

11. *Robertson v. Wegmann*, 436 U. S. 584 (1978);

12. *Johnson v. Railway Express Agency, Inc.*, 421 U. S. 454 (1975);

13. *Monroe v. Pape*, 365 U. S. 167 (1961).

14. *Board of Regents of Univ. of State of NY v. Tomanio*, 446 US 478 - Supreme Court 1980.

15. "RCW 4.16.180"

16. *Oubre v. Entergy Operations, Inc.*, 522 U.S. 422, 425 (1998).

17. *Bailie Commc'ns*, 61 Wash.App. at 159-60, 810 P.2d 12 – unjust enrichment.

18. *Lynch v. Deaconess Med. Ctr.*, 113 Wash.2d 162, 165, 776 P.2d 681 (1989)

19. *Young v. Young*, 191 P. 3d 1258 - Wash: Supreme Court 2008.

20. *Glaski v. Bank of America*, 218 Cal. App. 4th 1079 - Cal: Court of Appeal, 5th Appellate Dist. 2013:

"Under New York Trust Law, every sale, conveyance or other act of the trustee in contravention of the trust is void. EPTL § 7-2.4. Therefore, the acceptance of the note and mortgage by the trustee after the date the trust closed, would be void." (*Wells Fargo Bank, N.A. v. Erobobo* (N.Y.Sup.Ct. 2013) 39 Misc.3d 1220(A) [2013 WL 1831799, p. *8]; see *Levitin & Twomey, Mortgage Servicing*, 28 Yale J. on Reg. at p. 14, fn. 35. Foreclosure sale is void if the foreclosing entity lacked the authority to foreclose on the property).

21. *In re Saldivar* (Bankr. S.D.Tex., June 5, 2013, No. 11-10689) 2013 WL 2452699, p. *4.)

The logic is simple. The Trust is closed. It could not acquire the Plaintiff's mortgage and /or note. There are no SEC filings for the Trust after 2006. It no longer exists as a legal entity. As such, the act of claiming Defendant was holding the note and mortgage is a fraud upon the Court, the Plaintiff and this tribunal Court.

22. *Pro Value Props., Inc. v. Quality Loan Serv. Corp.,* 170 Cal. App. 4th 579, 583 (2009)

Failure to comply with CAL. CIV. CODE § 2934a(a)(1) renders subsequent nonjudicial foreclosure sale void);

23. *Miller v. Wells Fargo Bank*, No. C-12-2282 EMC, 2012 WL 1945498, at *2, 4 (N.D. Cal. May 30, 2012) (Chen, J.)

Fraudulent substitution of trustee.

24. *Lester v. J.P. Morgan Chase Bank*, 926 F. Supp. 2d 1081, 1093 (N.D. Cal. 2013)

Where the entity lacked authority to foreclose on the property, the foreclosure sale would be void.")

25. *Engler v. RECONTRUST COMPANY*, Dist. Court, CD California 2013.

It is important to note that the appointment of the trustee is invalid and the appointment of the trustee is fraudulent as alleged in the complaint.

26. *Mullane v. Central Hanover Bank & Trust Co.,* 339 US 306, 70 S. Ct. 652, 94 L. Ed. 865 - Supreme Court, 1950; *Mathews v. Eldridge,* 424 US 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 - Supreme Court, 1976; *Cleveland Bd. of Ed. v. Loudermill,* 470 US 532, 105 S. Ct. 1487, 84 L. Ed. 2d 494; *Morrissey v. Brewer,* 408 US 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 - Supreme Court, 1972; *Fuentes v. Shevin,* 407 US 67, 92 S. Ct. 1983, 32 L. Ed. 2d 556 - Supreme Court, 1972; *Wolff v. McDonnell,* 418 US 539,

94 S. Ct. 2963, 41 L. Ed. 2d 935 - Supreme Court, 1974, and a plethora of more cases. This court is overturning, again, years of stare decisis by depriving the Appellant / Petitioner of her rights to due process, and notice and an opportunity to be heard. You are depriving the appellant and all citizens of their rights to notice and an opportunity to be heard and rubber stamping the ability of lenders to notify the borrowers that a sale is cancelled, then proceed with the sale, in order to prevent them from filing a complaint to stop the sale. It is reprehensible that this court can overlook this most basic violation of Due Process and Equal Protection which is the backbone of this Constitution.

Second, Defendant concealed from the court that the lender already was paid under the class action settlement and the settlement with the attorney general had yet occurred, and is newly discovered evidence. It is admitted that Plaintiff failed to obtain a court order enjoining the sale, but there was no auction, it was cancelled, and the records show the transfer occurred in California, not in Washington.

27. *United States v. Diebold*, Inc. 369 US 654, 82 S. Ct. 993, 8 L. Ed. 2d 176 - Supreme Court, 1962; *Matsushita Elec. Industrial Co. v. Zenith Radio Corp.* 475 US 574, 106 S. Ct. 1348, 89 L. Ed. 2d 538 - Supreme Court, 1986; *Scott v. Harris,* 550 US 372, 127 S. Ct. 1769, 167 L. Ed. 2d 686 - Supreme Court, 2007; *Adickes v. SH Kress & Co.,* 398 US 144, 90 S. Ct. 1598, 26 L. Ed. 2d 142 - Supreme Court, 1970; *Anderson v. Liberty Lobby, Inc.*, 477 US 242, 106 S. Ct. 2505, 91 L. Ed. 2d 202 -

Supreme Court, 1986; *Celotex Corp. v. Catrett,* 477 US 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 - Supreme Court, 1986; *Reeves v. Sanderson Plumbing Products, Inc.*, 530 US 133, 120 S. Ct. 2097, 147 L. Ed. 2d 105 - Supreme Court, 2000; *Saucier v. Katz,* 533 US 194, 121 S. Ct. 2151, 150 L. Ed. 2d 272 - Supreme Court, 2001; and a plethora of other cases which have been cited in almost every case which appealed summary judgment rulings.

THIS COURT IS OVERTURNING LONG STANDING LAW WHICH REQUIRES THAT THE COURT, IN A MOTION FOR SUMMARY JUDGMENT, CONSIDER THE FACTS IN THE LIGHT MOST FAVORABLE TO THE NON-MOVING PARTY. In making this ruling, the court is rubber stamping the lower court considering the evidence in the light most favorable to the moving party and ignoring the evidence which should have been considered to favor the Plaintiff / Appellant. The cases this court are overruling include:

Recall, contrary to the law, the court granted the motion for summary judgment, and the evidence was construed in the light most favorable to the moving party, not to Linda Ames, the nonmoving party. "A summary judgment motion under CR 56(c) can be granted only if the pleadings, affidavits, depositions, and admissions on file demonstrate there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law. *Barrie v. Hosts of Am., Inc.*, 94 Wn.2d 640, 642, 618 P.2d 96 (1980). The court must consider all facts submitted and all

reasonable inferences from the facts in the light most favorable to the nonmoving party. *Yakima Fruit & Cold Storage Co. v. Central Heating & Plumbing Co.*, 81 Wn.2d 528, 530, 503 P.2d 108 (1972); *Barber v. Bankers Life & Cas. Co.*, 81 Wn.2d 140, 142, 500 P.2d 88 (1972). The motion should be granted only if, from all the evidence, reasonable persons could reach but one conclusion. *Morris v. McNicol*, 83 Wn.2d 491, 494-95, 519 P.2d 7 (1974)." *Wilson v. Steinbach*, 656 P. 2d 1030 - Wash: Supreme Court 1982.

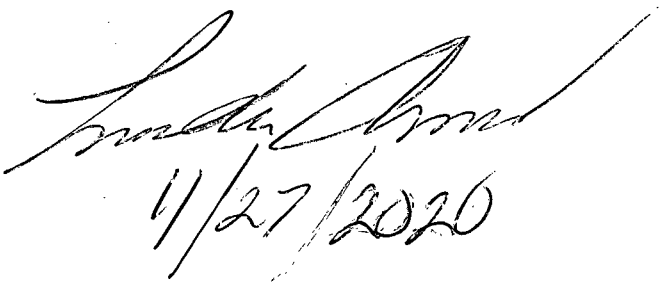
The court overlooked the facts that the sale was cancelled. That the Defendant has been absent from the state at all times. That the Defendant is doing business here unlawfully. That the Defendant securitized the mortgage into a closed trust, thereby voiding it. That the note was separated from the mortgage. The Corporate Assignment of Deed of Trust, Document No. 4813726, says that the Deed of Trust is being assigned, there is no mention of the note. That deed of trust is voided when it was securitized. It was also voided when it was separated from the note by this assignment. That because the assignment only assigns the Deed of Trust, and not the note, and the note and mortgage were separated, and as a result the mortgage is VOID because the mortgage was separated from the note and pursuant to *Carpenter v. Longan*, 83 U.S. 271 (1872) and the long line of cases that followed, the mortgage becomes a nullity. Because the assignments voided the mortgage, the underlying foreclosure action was a fraud upon the court and a nullity.

V. CONCLUSION

The court should have permitted, at a minimum, an opportunity to amend and proceed against Wells and the Defendant for an accounting, equitable relief for unjust enrichment, and for the other relief sought in the complaint. The ruling of this court finds and considers all the facts wholly in favor of the moving party, ignoring all facts which contradict those facts found by the court, and that is just inequitable and contrary to the well settled laws of this land.

Based on the foregoing, Linda Ames respectfully requests the court rehear the matter, reconsider its ruling, or, rehear the matter en banc.

Respectfully Submitted



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