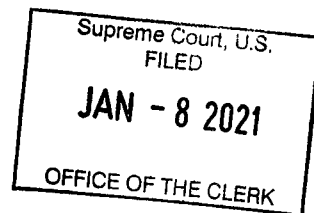


No. 20-943



**In The
Supreme Court of the United States**

JEAN MARIE BARTON, BYRON LEE BARTON,
INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED,

Petitioners,

vs.

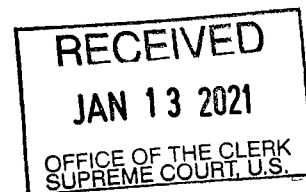
JP MORGAN CHASE BANK NA, QUALITY LOAN
SERVICE CORP. OF WASHINGTON
AND TRIANGLE OF WASHINGTON,

Respondents.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

PETITION FOR WRIT OF CERTIORARI

JEAN BARTON AND BYRON BARTON
PRO SE'S
3119 18th Street
Renton, WA 98058
(206) 355-8300
Email:Byronandjean@comcast.net



QUESTIONS PRESENTED

1. When the lower federal courts abandon 28 U.S.C. Section 1738- State and Territorial statutes and judicial proceedings; full faith and credit and imperatives of the fifth amendment to provide equal protection for an sixty nine year old senior by denying that it is a manifest injustice and expressing disbelief of fraud upon the court, does it set a dangerous precedent for all landowners whose land has been taken unconstitutionally?
2. Should the Court grant certiorari to resolve the significant division among the circuits concerning the jurisdictional prerequisites for appealing a 28 U.S.C. § 1738 and No.14-17498 of the Ninth Appeals publish opinion; Claim Splitting while an Objection was filed with the 9th Circuit a timely appeal was submitted to the U.S. Supreme Court and did the Ninth Circuit improperly applied a defective Res Judicata that voided a 28 U.S.C. § 1738 and No. 14-17498 by law that protected against the 9th Claim Splitting which allowed Chase Bank, ownership of a Bifurcated Mortgage that lacked Due Process when taking property?
3. Should this be a Direct Appeal to the Supreme Court for a violation of Constitutional law “Due Process”, 28 U.S.C. § 1738 and should the court grant certiorari to resolve the significant division among the circuits concerning the jurisdictional prerequisites?

INTERESTED PARTIES

There are no parties to the proceeding other than those named in the caption of the case.

RELATED CASES

BYRON BARTON, et al. v. JP MORGAN CHASE BANK, et al. THE SUPREME COURT OF WASHINGTON ORDER Court of Appeals No. 73336-2-1

JEAN MARIE BARTON, BYRON LEE BARTON, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED V. JP MORGAN CHASE BANK, N.A., QUALITY LOAN SERVICE CORP. OF WASHINGTON AND TRIANGLE PROPERTY OF WASHINGTON UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON No. 2:17-cv-01100 RAJ ORDER May 11, 2018

JEAN MARIE BARTON; BYRON LEE BARTON, individually and on behalf of all others similarly situated, v. QUALITY LOAN SERVICE CORP. OF WASHINGTON; TRIANGLE PROPERTY OF WASHINGTON, UNITED STATES COURT OF APPEALS No. 18-35798 D.C. No. 2:17-cv-01100-RA MEMORANDUM **AFFIRMED** SEPTEMBER 17, 2020. As a disabled Pro Se I PASS MY 20 DAYS FOR re-consideration of Defective Res Judicata was **AFFIRMED** by the Ninth Appeals Court MEMORANDUM

RELATED CASES – Continued

FOR PUBLICATION UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT No. 14-17498
D.C. No 3:13-cv-01247-VC OPINION Filed November
27, 2017 Claim Preclusion dismissal See, Appen-
dix 6a

**WAIVER OF ORAL ARGUMENT/THERE ARE NO
TRANSCRIPTS**

THE FACTS AND LEGAL ARGUMENTS ARE ADE-
QUATELY PRESENTED IN THE BRIEFS AND
RECORD, AND THE DECISIONAL PROCESS
WOULD NOT BE SIGNIFICANTLY AIDED BY ORAL
ARGUMENT. THE PLAINTIFF, BYRON BARTON,
SUFFERED A HEART ATTACK AND STROKE THAT
LEFT HIM UNABLE TO SPEAK WHICH WOULD
PREJUDICE THE PLAINTIFF.

THERE ARE NO TRANSCRIPTS.

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OPINIONS BELOW

For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix 30a, the opinion and is;

reported at; The Ninth Appeals Court No. 14-17498 D.C. 3:13-cv-01247-CV opinion against claim splitting.

The opinion of the United States district court appears at Appendix 6a, the opinion and is;

Opinion of the Tenth Circuit:

For cases from federal courts:

The opinion of the United States court of appeals appears at pages 7-8 of the brief, the opinion and is;

reported at; The Tenth Appeals Court No. 14-17498 D.C. 3:13-cv-01247-CV opinion against claim splitting.

is unpublished.

The opinion of the United States district court appears at 7-8 of the brief;

is unpublished opinion.

The Tenth Circuit Decision. See, *Katz v. Gerardi*, 655 F.3D 1212 (10th Cir.2011). And Tenth Opinion is reproduced on the brief, pages 7-8.

Miscarriage of justice by Ninth Appeals Court
case:18-35798

The issue here goes beyond a miscarriage of justice. It's lower courts' blatant and outright refusal to administer justice, when law warrants, See, *Mitchurn v. Foster*, 407 U.S. 225 and See, Supreme Court Ruling against claim splitting; *Katz v Gerardi*, 65612.12 (10th Cir. 2012).

The Supreme Court Must Revisited 28 U.S.C.
§ 1738

This case requires the Supreme Court to revisit whether Chase Bank can split potential claim against the Ninth Appeals Court Claim Splitting No. 14-17498; 28 U.S.C. § 1738 – State and Territorial statutes and judicial proceedings; full faith and credit for direct appeal to the Supreme Court. The Ninth Appeals Court knowingly ruled against the Supreme Court legal claims against the Bartons' by bringing them in two different lawsuits. The Supreme Court concluded in “*Katz v Gerardi* that claims must be brought in a single cause of action.”

Objection was made in order to preserve for the Supreme Court Ruling: "Katz v Gerald 655 F.3d 1212 (10th Cir. 2011)." Objection of Triangle use of a brief on merit to defeat of 28 U.S.C. 1738 which is against the Supreme Court Ruling in "Katz v Gerald" Id.

DISCUSSION

Bartons' argues the district court erred in dismissing his complaint based on the rule against claim splitting. First, he contends that the rule only allows dismissal when the challenged state and federal actions are identical and because his state and federal actions weren't identical the district court erred in dismissing his federal action based on claim splitting. Alternatively, he contends the rule requires a plaintiff to bring all claims in one court and that he complied with the rule by bringing all of his claims in federal court after the state court denied his motion to dismiss. The Barton's' urge the Supreme Court to dismiss based on the district court's claim splitting rationale. But neither party addresses whether the rule against claim splitting applies to duplicative complaints filed in state and federal court versus duplicative complaints filed in federal courts. And as the Barton's' discuss below, resolution of this preliminary issue ultimately requires the Supreme Court to reverse the district court's order.

STATEMENT OF JURISDICTION

Jurisdiction is conferred pursuant to 28 U.S.C. § 1738. This court retains jurisdiction under the Supremacy Clause as well as the Fifth and Fourteenth Amendments to the U.S. Constitution. This case arises specifically pursuant to the guarantees of those Amendments to the U.S. Constitution. This court has jurisdiction pursuant to 28 U.S.C. § 1254(1).



INTRODUCTION

Bartons' respectfully petitions the Supreme Court of the United States for a writ of certiorari to review the judgment of the United States Court of Appeals for the ninth Circuit, rendered and entered in case number 18-35798, in that court on September 17, 2020 Order of the United States ninth circuit Bartons' v. J.P. Morgan Chase Bank NA. Quality, Loan Service of Washington and Triangle of Washington, the Defendants'. (9th Cir. 2019) which the ninth circuit affirmed the judgment and commitment of the United States District Court for the Western District of Washington.

The Supreme Court plays an exclusive and indispensable role in preserving interstate comity through interpretation and enforcement of the Full Faith and Credit Clause 28 U.S.C. § 1738. When a state supreme court misapplies this Court's precedents and misconstrues the laws of a federal judgment in order to avoid giving effect to a judgment with which it disagrees, as the Supreme Court of Washington has done in this

case, no other court has jurisdiction to provide relief. Certiorari is necessary to remedy these constitutional and statutory violations and to reaffirm that the states' obligation to give full faith and credit extends even to federal judgments that address contentious matters of Constitutional Law and social policy.

This case is a particularly appropriate vehicle for the Court to perform its role of safeguarding the Full Faith and Credit Clause because of the significant stakes involved for the petitioner and many other homeowners, Bartons' sought protection under Washington claim splitting of the judicial system to secure Bartons' status as a family owned home of 61 years.

Washington prohibits this type of claim-splitting, which promotes unseemly, expensive, and dangerous conflicts of jurisdiction and process. E.g., *Am. Mobile Homes of Wash., Inc. v. Seattle First Nat'l Bank*, 115 Wn.2d 307, 317, 796 P.2d 1276 (1990); *Bunch v. Nationwide Mut. Ins. Co.*, 180 WN. App. 37, 42, 50, 321 P.3d 266 (2014). But Washington policy is clear: Our courts do not tolerate litigants bringing concurrent or successive suits about the same subject matter against the same defendants. The court should reverse the trial court on this basis alone. The District Federal Court erred in applying a defective *Res Judicata* of claim splitting. See, the Ninth ruling No.14-17498 Order against claim splitting and the Supreme Court Ruling. *Id.*

When the doors of the U.S. Courts are willfully, maliciously, and improperly closed to non-influential, self-represented persons, like the disabled petitioner thereby foreclosing

- (1) a civil forum of justice,
- (2) denies petitioner his “day in court”, simply because the fraudsters want to protect their own kind via abuse of power.

Does this court’s refusal to intervene and foreclose a civil forum send a disturbing message that the 9th allows claim splitting that is against the Supreme Court Ruling. See, “Katz v. Gerardi 656 F.3d 1212 (10 Cir. 2011).”

Plaintiffs’ emphasize three core reasons this Court should grant certiorari.

First, Washington violated settled precedent when it reframed the merits question underlying the Washington judgment as a question of subject matter jurisdiction. This Court squarely rejected that device in *Durfee v. Duke*, 375 U.S. 106 (1963), when it held that states must give effect to the judgments of federal court even when the disputed without Bartons’ day in court which is a violation of “Due Processes” question wholly overlaps with a question of subject matter jurisdiction. This Court should reaffirm that the Full Faith and Credit Clause still forbids this device.

Second, Washington State violated a command of Congress when it misapplied Washington law disregarding claim splitting. See, 28 U.S.C. § 1738.

The ninth Appeals Court settled oral motion without the Barton’s’ present in violation of “Due Processes” in order to evade the requirement of faith and credit. Congress has instructed states to give “the

same” effect to a state judgment as the judgment would have in the rendering state. See, 28 U.S.C. § 1738.

Washington refused to apply Washington law against claim splitting.

Third, this Court is the only forum that is able to correct this type of full faith and credit violation. No other federal court has jurisdiction to remedy one state’s refusal to give effect to another federal judgment, and the domestic relations exception to original federal jurisdiction would prevent parties from removing to federal court in the types of dispute most likely to place the validity on a defective basis *res judicata* issue. This Court’s role in policing the actions of state supreme courts is singular and indispensable. It should grant the petition to ensure that the Washington court’s decision is not permitted to erode the values that the Full Faith and Credit Clause are designed to protect.

THE SUPREME COURT OF WASHINGTON COLLATERAL ATTACK ON WASHINGTON CLAIM SPLITTING FLOUTS THIS COURT’S PRECEDENT

When a judgment is valid and entitled to enforcement in the courts of the state that issued it, full faith and credit prohibits other states from undertaking any inquiry into “the merits of the [judgment], the logic or consistency of the decision, or the validity of the legal principles on which it is based.” *Milliken v. Meyer*, 311 U.S. 457, 462 (1940). As the Petitioners have

demonstrated, the Supreme Court of Washington was incorrect when it classified the alleged error of Res Judicata. The defective order as a jurisdictional issue rather than a dispute over the merits and flatly wrong when it held that the claim splitting judgment would not be enforced in Washington courts. Id.

The Supreme Court previously held that the full faith and statute, 28 U.S.C. § 1738, bars a federal court from considering federal takings where a state had interpreted the state takings claims congruently with federal taking law. See, *Williamson County Regional Planning Commission v. Hamilton Bank of Johnson City* (1985), the court held that federal takings claims are not ripe until plaintiffs first seek entry of a final judgment denying just compensation in State Court.

SUMMARY OPINIONS BELOW

“10th would reverse-in support of claim splitting
Claim Preclusion, Res Judicata”

“The 10th Appeals Court would of reverse the district/court’s dismissal of almost all of Barton’s claims as barred by a prior judgment of the United States District Court for the District of Washington; and remanded for further proceedings per the 9th Ruling of Inter Jurisdiction No.14-17498. Barton’s brought this action to recover debt from Chase entities affiliated with Quality Loan Service of purchase of Barton’s’ property. Barton’s’ previously filed suit in Washington King County District court seeking to

enforce a void agreement, and the court ruled against the Bartons' The court held that the summary judgment ruling of the federal district court in Washington (Res Judicata) on Barton's' prior breach of contract claim (based on the Res Judicata) against The Barton's' did not preclude Barton's' from bringing the present Motion to Dismiss 60(b) for the 9th Appeals Ruling No.14-17498.

The 10th would hold that because the claims in the present action and in the prior guaranty action did not arise from the same transaction or occurrence, Washington version of traditional res judicata did not apply. The 10th Appeals Court further would held that although Washington entire controversy doctrine" may have prevented Barton's' from bringing the present claims in Washington, this procedural joinder rule did not bar the claims from being heard in the federal district court sitting in California. The 10th would concluded that the district court erred in ruling that the claims in the present action were precluded under Washington law. See, 9th Appeals Court Ruling No.14-17498 and the 10th."

The Supreme Court plays an exclusive and indispensable role in preserving interstate comity through interpretation and enforcement of the Full Faith and Credit Clause 28 U.S.C. § 1738. When a state supreme court misapplies this Court's precedents and misconstrues the laws of a federal judgment in order to avoid giving effect to a judgment with which it disagrees, as the Supreme Court of Washington has done in this case, no other court has jurisdiction to provide relief.

Certiorari is necessary to remedy these constitutional and statutory violations and to reaffirm that the states' obligation to give full faith and credit extends even to federal judgments that address contentious matters of Constitutional Law and social policy.

This case is a particularly appropriate vehicle for the Court to perform its role of safeguarding the Full Faith and Credit Clause because of the significant stakes involved for the petitioner and many other homeowners Bartons' sought protection under Washington claim splitting of the judicial system to secure Bartons' status a home of 61 years.

Even in situations where a particular dispute entangles questions of subject matter jurisdiction with merits issues, this Supreme Court's precedent makes clear that a fully litigated decision on the merits is entitled to full faith and credit. This principle of finality is particularly important in the family law context, where states have a vital interest in protecting established home owners. Allowing the decision below to stand will encourage opportunistic behavior, impelling litigants and courts to resist the enforcement of 28 § 1738 full faith and credit in judgments. That embodies domestic relations policies different from their own. This Court should grant certiorari to prevent such attempts to cloak merits disagreements as jurisdictional infirmities.

A. This Court's Decision In *Durfee v. Duke* Forbids State Courts From Disregarding A Judgment Because Of Disagreement Over A Fully Litigated Merits

Issue, Even When The Merits Substantially Overlap The Question Of Subject Matter Jurisdiction

When a state court issues a final judgment that resolves a fully litigated issue, the courts of a federal court may not disregard that judgment based on a disagreement over the merits. This rule applies even when merits issues substantially overlap the question of the rendering court's subject matter jurisdiction. In *Durfee v. Duke* a case where the merits question and the subject matter jurisdiction question were essentially identical this Court held that "Public policy dictates that there be an end of litigation; that those who have contested an issue shall be bound by the result of the contest; and that matters once tried shall be considered forever settled as between the parties." 375 U.S. 106, 111 (1963) (quoting *Baldwin v. Iowa State Traveling Men's Ass'n*, 283 U.S. 522, 525-526 (1931)). Here, the Supreme Court of Washington State has attempted to transform a disagreement over the merits into a jurisdictional basis for disregarding a Washington judgment. *Durfee* forecloses this device.

A line of cases involving stockholder liability in Washington illustrates the principle. In the late nineteenth and early twentieth centuries, Washington have enacted provisions in its constitution and laws that permitted creditors to recover directly against a corporation's stockholders for liabilities and debts that could not be satisfied fully from corporate assets.

"The Ninth uses a defective *Res Judicata* of Claim Splitting then their Judgment lacks the 1933 effect of

dismissal with prejudice” using a defective Res Judicata that uses Claim Splitting for a Judgment then they knowingly Rule against the Supreme Court. See, *Katz v. Geradi*, 655 F.3d 1212 (10th Cir. 2011) and 28 U.S.C. § 1738 – State and Territorial statutes and judicial proceedings; See, 28 U.S.C. Section 1738 full faith and credit.

PRECEDENT

When a judgment is valid and entitled to enforcement in the courts of the state that issued it, full faith and credit prohibits other states from undertaking any inquiry into “the merits of the judgment, The logic or consistency of the decision, or the validity of the legal principles on which [it] is based.” *Milliken v. Meyer*, 311 U.S. 457, 462 (1940). As the Petitioners have demonstrated, the Supreme Court of Washington was incorrect when it classified the alleged error of Res Judicata. The defective order as a jurisdictional issue rather than a dispute over the merits and flatly wrong when it held that the claim splitting judgment would not be enforced in Washington courts. *Id.*

INVOLVED Sections 5 and 14 of the Fourteenth Amendment; Section 14 of the Constitution, “In reenacting § 5 in 2006, Congress clearly stated its purpose was “to ensure that the right of all citizens to have Due Process. The amendment contains several clauses that provide protection against governmental abuse of law. Another clause says that no one “shall be deprived

of life, liberty, or *property* without due process of law.” The amendment protects individuals by limiting government’s power of eminent domain under which it can confiscate private property.

The federal government seizes property from a man who owes it money. He argues that the lack of a hearing violates his Fifth Amendment right to due process. The U.S. Supreme Court rules in *Murray’s Lessee v. Hoboken Land and Improvement Co.* that different processes may be legitimate in different circumstances. To determine the constitutionality of a procedure, the Court looks at whether it violates specific safeguards in the Constitution. 14th Amendment and Government cannot take property without “Due Process.”



CONSTITUTIONAL AND STATUTORY PROVISIONS

INVOLVED Sections 5 and 14 of the Fourteenth Amendment; Section 14 of the Constitution, “In reenacting § 5 in 2006, Congress clearly stated its purpose was “to ensure that the right of all citizens to have “Due Process.” The amendment contains several clauses that provide protection against governmental abuse of law. Another clause says that no one “shall be deprived of life, liberty, or property without due process of law.” The amendment protects individuals by limiting government’s power of eminent domain under which it can confiscate private property.

The federal government seizes property from a man who owes it money. He argues that the lack of a hearing violates his Fifth Amendment right to “due process.” The U.S. Supreme Court rules in *Murray’s Lessee v. Hoboken Land and Improvement Co.* that different processes may be legitimate in different circumstances. To determine the constitutionality of a procedure, the Court looks at whether it violates specific safeguards in the Constitution.

This Supreme Court rejected these interpretations of Federal law, with state’s judgment and found that full faith and credit required enforcement of judgments. In *Chandler*, the Court explained its “opinion that neither of these objections” regarding hearing times and payment schedules with the jurisdiction of courts their power to hear and determine but only to prescribe in a general way the relative rights of stockholders and creditors.” Such questions go “to the merits rather than to the jurisdiction” of those courts. *Marin*, 247 U.S. at 147. Once again, this Court gave no deference to the conclusion of the Supreme Court of Washington that the error was “jurisdictional” under Washington and federal law, relying instead on its own assessment that the courts of foreclosure “treat the question whether a particular corporation belongs to one class or another as a matter the decision of which in a suit against the corporation is binding on the stockholders in subsequent litigation on its merit to defeat Constitutional Law article 4 § 1 and 28 U.S.C. § 1738.



STATEMENT OF THE CASE

The issue presented in this case involves a genuine and current conflict between the Courts of Appeals that is significant and substantially important because it will determine the standard of review courts use when reviewing the dismissal of an entire cause of action through 28 U.S.C. § 1738 of Claim splitting. This case also raises issues of exceptional importance under The Ninth Circuit Opinion No. 14-17498 protection provisions of Claim Splitting as the Fifth and fourteen Constitution grants as in all litigation in which Due Processes is omitted by Washington Supreme Court is used as the legal equivalent of a summary judgment motion. Furthermore, the Ninth Circuit opinion affirming the district court's defective Res Judicata ruling created a circuit split regarding the proper standard of appellate review in such cases." Public rights may have taken several forms under the seminal yet enigmatic precedent, *Murray's Lessee v. Hoboken Land & Improvement Co.*; "Holding that abuse of discretion standard controls when a district court's dismissal due to claim splitting is based predominantly on case management grounds. See, August 25, 2011 Gerardi 655 F.3d 1212."



REASONS FOR GRANTING THE WRIT

The Court should grant certiorari to resolve the significant division among the circuits concerning the jurisdictional prerequisites for a 28 U.S.C. § 1738 the

Full Faith and Credit Clause are designed to protect, appealing Claim Splitting No.14-17498, Constitution 5th 14th and Government cannot take property without Due Process.

Even if the district federal court could legally access State documents there's a conflict of jurisdiction that's against the U.S. Constitution and the framers of the Constitution only allowed the Supreme Court access to State records. Chase Bank and Triangle of Washington should not be allowed to block this from public view. Chase Bank, Quality Loans Service and Triangle of Washington should not be able to claim private information of operating business tainted with Fraud Homeowner's can sue in federal court where there is no time limit for FRAUD.

CONCLUSION

Barton's' is an important case. The ruling of the Supreme Court of Washington purports to render an entire class of home owner's decrees categorically unenforceable in Washington state courts. If left unchecked, the decision below will destabilize home owners and erode the comity between states and federal use that the Full Faith and Credit Clause and its implementing legislation were created to preserve. Only this Court has the power to enforce the requirements of the Constitution and the command of Congress. The Barton's' urge this Court to grant the

petition lest other states follow the Ninth Appeals
Court lead.

Respectfully submitted. January 8, 2021

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