

No. 21-6066

IN THE
SUPREME COURT OF THE UNITED STATES

**R. Susan Woods,
Petitioner**

vs.

**Alina's Real Estate, LLC and It's Managers Amaya and Branche,
Respondents (First Circuit No. 20-1991);**

**Joseph B. Collins, Chapter 7 Trustee,
Respondent (First Circuit No. 20-1992); and**

**Joseph B. Collins, Chapter 7 Trustee,
In his Official and Individual Capacity,
Respondent (First Circuit No. 20-1993).**

**On Petition for Writ of Certiorari to
The United States Court of Appeals for the First Circuit**

**MOTION FOR REHEARING
and
MOTION TO REMAND
TO THE FIRST CIRCUIT FOR CONSIDERATION OF
ADDITIONAL EVIDENCE UNDER RULE 9(a)**

**R. Susan Woods, *pro se*
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NOW COMES PETITIONER R. SUSAN WOODS, who requests rehearing under Rule 44 for petition denied on 1/10/22 given both the not previously presented grounds as to the significance of the subject matter of a substantial or controlling effect and because it appears notice of request for postponement was not docketed in time for this Court's consideration. The listed respondents lack standing, and therefore the lower courts lacked jurisdiction to enter orders and/or judgments concerning respondents. This Honorable Supreme Court retains original jurisdiction to make such a determination in this controversy.¹

Woods attempted to postpone the conference held on 1/7/22 by timely filing her motion for same while she compiled the necessary evidence demonstrating voidness relative to Goldman's claim to title. Woods included her evidence of Wells Fargo Trusts's lack of legal existence (Rule 9(a) affidavit) with that motion to postpone, received at this Court by Fedex on 1/6/22 at 11 AM, but not docketed in time for consideration. See tracking verification.

Woods includes both compilations of evidence by way of affidavit here to substantiate this motion.

This case presents questions of an indigent barred from pursuing defenses of her property by being forced to pay for justice, consolidated for inclusion of three First Circuit cases: 20-1991, 20-1992, and 20-1993. Woods only became indigent, disabled, *pro se*, and wrongly foreclosed after Goldman Sachs (standing in the shoes of Nation One Mortgage Company, Inc.) and Wells Fargo (standing in the shoes of Fremont Investment & Loan) tricked her into signing alleged predatory

¹ See *Rhode Island v. Massachusetts*, 37 U.S. 12 Pet. 657 657 (1838).

mortgage loans. These loans for both properties had recognized and prohibited characteristics; the 70 Russell property loan prominently indicated Woods' "single woman" status, signaling gender discrimination.

Discrimination in mortgage lending is prohibited at both state and federal levels by statute and regulation². Lenders in Massachusetts were directly on notice.³ Their actions trigger federal equal protection questions under 42 U.S.C. §§1981-1986.

Lenders' actions directly violate the three sectors of equal protection statutes: contracting, origination and performance; property rights, purchase, holding and

² See MGL Ch. 183 §64, MGL Ch. 93 §102, MGL Ch. 151B., MGL Ch. 93A, 209 CMR 18.00, 940 CMR 3.00, 940 CMR 8.00; see also USC 42 §1981, §1982, §1983, §1985, and §1986; Equal Credit Opportunity Act, Fair Housing Act.

42 U.S. Code §1981. Equal rights under the law:

(a) STATEMENT OF EQUAL RIGHTS. All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens...

(b) "MAKE AND ENFORCE CONTRACTS" DEFINED. For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) PROTECTION AGAINST IMPAIRMENT. The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

42 U.S. Code §1982. Property rights of citizens

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property. (R.S. §1978.)

³ See 12/10/1997 Massachusetts Division of Banks *Industry Letter Subprime Lending*.

conveying⁴; and Woods's right to equal access⁵ to the courts and equal protection by our judiciary. None of these has she received at the recognized statutory standard of equal "enjoyment" as that experienced by white male citizens.⁶

Documentation of the discriminatory identification of Woods as a woman and the rest of a number of legal violations are on notice to the world, as recorded in the Registry of Deeds. Under Massachusetts law, the purported purchasers are charged with knowledge of what is in the Registry of Deeds and what is in our laws and any relevant legal proceedings that they would have knowledge of at the time of purchase.⁷

⁴ Massachusetts is a title-theory state; therefore, a mortgage is a deed, a conveyance of legal title to property (See *US Bank as Trustee v. Ibanez*, 458 Mass. 637 (2011)).

⁵ "The right of access to the courts, upon which [*Johnson v. Avery*, [393 U.S. 483 (1969)] was premised, is founded in the Due Process Clause and assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights. **It is futile to contend that the Civil Rights Act of 1871 has less importance in our constitutional scheme than does the Great Writ.**" *Wolff v. McDonnell*, 418 U.S. 539, 579 (1974). [bold supplied]

⁶ Under Massachusetts law, the standard is white male citizens. See M.G.L. Ch. 93 §102 and Massachusetts Constitutional Amendment CVI passed in 1976.

MGL Chapter 93 Section 102. (a) "All persons within the commonwealth, **regardless of sex**, race, color, creed or national origin, shall have, except as is otherwise provided or permitted by law, **the same rights enjoyed by white male citizens, to make and enforce contracts, to inherit, purchase, to lease, sell, hold and convey real and personal property, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property...**". [bold & underline added]

⁷ See MGL Chap. 183 §4, "Effect of recordation or actual notice of deeds...." And *Bank of America v. Casey*, 474 Mass. 556 (2016).

The attached affidavits demonstrate respondents could not have legal title nor legal possession of the subject properties.

Respondent Alina's *et al.* bases its claim to ownership of the 43 West property on purchase at foreclosure auction from the Wells Fargo Trust which never legally came into existence, and, therefore, could not have ever owned nor transferred title.

Respondent Joseph B. Collins based his actions upon claiming legally acquired title to the 70 Russell property from Goldman Sachs Mortgage Company which claims to have purchased from itself at foreclosure auction in which the mortgage being foreclosed was void *ab initio* due to multiple matters of fact and law. The foreclosure and sale of the subject property are clearly *void as matters of law* given that Goldman lacked capacity to (i) own the mortgage, (ii) unite said mortgage with the purported Note never produced, (iii) file suit to foreclose, and (iv) transfer title to Joseph B. Collins, Chapter 7 Trustee.

The inability to bring suit, when not legally organized under any state authority, exists in both state and federal law, now expressed in Mass Rules of Civil Procedure Rule 9 (a) and Federal Rules of Civil Procedure 9 (a) and were incorporated into Massachusetts rules from statute M.G.L. Chapter 231 §30. Even though Massachusetts is a nonjudicial foreclosure state, the person selling must have the “authority and jurisdiction” (*US Bank as Trustee v. Ibanez* (2011)) to carry

out a “nonjudicial proceeding”, just like it would have to have standing⁸ to commence a judicial proceeding.

The information relative to Goldman was all before the lower courts; it is now assembled in one affidavit. The information relative to Wells Fargo Trust demonstrates the Trust simply does not legally exist.⁹

By all possible available evidence both listed respondents lack capacity as title holders to the subject properties before this and the lower courts, never having legally acquired title, because the relative banks lacked authority and jurisdiction to foreclose. Therefore the lower courts lacked jurisdiction to adjudicate claims by the respondents relative to Woods' properties and matters therefrom.

Additionally, with these and related matters having been pursued by respondents, and previously by the banks, against Woods before not less than seven tribunals, both state and federal, over sixteen years, not only have a tremendous amount of court resources been wasted, respondents have joined the banks in a

⁸ “ ... whenever it becomes apparent to a court ..., the court is obligated to inquire into the plaintiff's standing and, if it determines that the plaintiff lacks standing, it must dismiss the action for lack of subject matter jurisdiction, regardless of whether any party raises an issue of standing. Mass. Gen. Laws Ann. ch. 239, § 1; Mass. R. Civ. P. 12(h) (3).” *Rental Prop. Mgt. Servs. v. Hatcher*, 479 Mass. 542, 547 (2018). [emphasis added]

⁹ See M.G.L. Chapter 182 §6 and *Ibanez*; the Wells Fargo Trust does not legally exist.

"conspiracy" (as defined in 42 U.S. c. §1985-6)¹⁰ against Woods' rights to own and possess property under Massachusetts and federal law. These actions may rise to "serious crimes", including "false statements, fraud, false swearing, false pretenses, misrepresentation, or deceit", and "misappropriation of property".¹¹

Woods requests either the re-docketing of this matter or that this Honorable Court remand this matter to the First Circuit Court of Appeals for consideration of additional jurisdictional evidence under Fed. R. Civ. Pr. Rule 9(a). Certainly, such evidence will abolish any doubt that Woods' arguments are not frivolous nor made in bad faith, wherein she should not be barred from continuing to defend her

¹⁰ See 40 U.S. Code §1985 §2, "Conspiracy to Interfere with Civil Rights", the last clause, which states:

"...or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner the due course of justice in any state..., with intent to deny to any citizen the equal protection of the laws, or to injure... his property for lawfully enforcing or attempting to enforce, the right of any person [here, Woods, herself and presumably those similarly situated]... to the equal protection of the laws";

Further subsection (3) "depriving persons of rights or privileges" also applies.

"If two or more persons in any state... conspire... on the premises of another, for the purpose of depriving, either directly or indirectly, any person [here, Woods, herself] or class of persons of the equal protections of the laws, or of equal privileges and immunities under the laws... in any case of conspiracy set forth in this section, if one or more persons engaged therein do or cause to be done any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators."

¹¹ See Combined Local Rules of the United States District Court for the District of Massachusetts, Effective August 7, 2020, Rule 83.6.8 (b)(1)(B)(C) and (E).

properties with waiver of costs. *Woods is the Defendant in the numerous related and associated cases*, with only a few in which she is the Plaintiff, occupying defensive postures; it is not Woods who has abused judicial process or judicial economy.

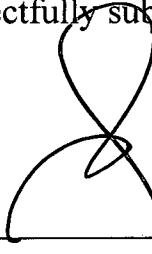
As a disabled, *pro se* litigant made indigent and homeless by respondents, Woods invokes Title II of the Americans with Disabilities Act with this request. Woods alleges discriminatory practices on behalf of the banks; respondents stand in proxy for the banks here as third party buyers who are charged with knowledge under the law and acted regardless of the risk knowingly and willingly. Together, they acted in conspiracy to defraud Woods, "impeding, hindering, obstructing [and] defeating" her equal rights (see above) and right to "due course of justice" in Massachusetts. Strictest Judicial Scrutiny¹² is, therefore, necessary.¹³

¹² The possibility of gender discrimination requires a court to use the highest level of scrutiny, strict judicial scrutiny. See Commonwealth v. Washington W., 457 Mass. 140, (2010): "...the Federal and Massachusetts Constitutions guarantee that the government will not proceed against an individual based on "an unjustifiable standard such as race, religion or other arbitrary classification." Commonwealth v. King, 374 Mass. 5 , 20 (1977) quoting Oyler v. Boles, 368 U.S. 448, 456 (1962). See Parisien at 257, 263, quoting Hayden at 449, 453 n.3 (stating that "the Equal Protection Clause safeguards not merely against invidious classifications such as race, but also against 'any arbitrary classification of persons for unfavorable governmental treatment' "). Therefore, "judicial scrutiny is necessary to protect individuals from prosecution based on arbitrary or otherwise impermissible classification." *Commonwealth v. Bernardo B.*, [453 Mass. 158, (2009)] at 168."

¹³ "suspect class" meaning not explicitly enumerated but recognized as often subject to discrimination; this is clearly inclusive of the substantive classes defined in our Constitution – such as equal access to our courts for the indigent (as Mass. Constitution, Part I, Article XI) and for litigants whether they choose to self-represent instead of having a lawyer (Mass. Constitution, Part I, Article XII).

Wherefore, swift approval of this motion to return this case to this Court's docket or remand for further review by the First Circuit, or any other relief this Court deems just and proper, is requested in the interests of equal access to justice.

Respectfully submitted,



February 4, 2022

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Exhibits*

- I. Rule 9(a) Affidavit re: the Wells Fargo Trust
- II. Rule 9(a) Affidavit re: Goldman Sachs Mortgage Company

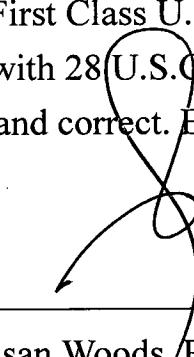
***Rule 9. Pleading Special Matters**

(a) CAPACITY OR AUTHORITY TO SUE; LEGAL EXISTENCE.

- (1) *In General.* Except when required to show that the court has jurisdiction, a pleading need not allege:
 - (A) a party's capacity to sue or be sued;
 - (B) a party's authority to sue or be sued in a representative capacity; or
 - (C) the legal existence of an organized association of persons that is made a party.
- (2) *Raising Those Issues.* To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.

PROOF of SERVICE

NOW COMES R. SUSAN WOODS who hereby certifies she has served the following interested parties to this proceeding by First Class U. S. Mail on this 4th day of February, 2022. This declaration complies with 28 U.S.C. §1746: I declare under penalty of perjury that the foregoing is true and correct. Executed on this 4th day of February, 2022.



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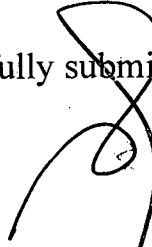
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CERTIFICATE OF INTENTION

I, R. Susan Woods, who hereby certify that this motion for rehearing is restricted to the grounds specified in paragraph 2 of Rule 44 and that it is presented in good faith and not for delay.

Respectfully submitted,



February 4, 2022

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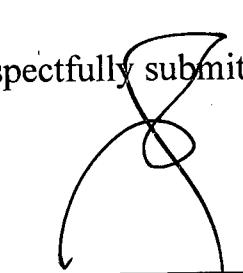
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CERTIFICATE OF PAGE COUNT

I, R. Susan Woods, hereby certify that this motion for rehearing complies with the 15 page limitation, excepting exhibits, which are submitted under extraordinary circumstances and which are necessary to the motion.

Respectfully submitted,

February 4, 2022


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