No. 22-449

In the

Supreme Court of the United States

CHRISTOPHER and ANGELA LARSON,

Petitioners,

v.

SNOHOMISH COUNTY, et al.,

Respondents.

On Petition for a Writ of *Certiorari* from
Washington Supreme Court
Case No. 100619-5

PETITION FOR REHEARING

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I. INTRODUCTION

We pride ourselves on being a nation where the "*rule of law*" is preserved for all, even the poor. The reason *rule of law* is so important in these United States is because it is absolutely necessary to establish that Justice which our founders sought to secure for the People by way of our written Constitution. And that is only one of the reasons why this Court should rehear this matter; because Washington State's trial and appellate courts have brazenly demonstrated for all the world to see that Washington State's judicial institutions will not consider the evidence and legal arguments presented by debtors before allowing those who are invested in mortgage-backed securities, with whom Washington's judges have become aligned, to take the Peoples' homes.

II. PETITION FOR REHEARING

Petitioners Christopher and Angela Larson respectfully petition this Court for rehearing of this Court's January 9, 2023, decision denying them a writ of certiorari. The facts upon which the Larsons' certiorari petition was premised included, without limitation, (1) those demonstrating that the political branches of Washington State had vested the retirement investments of Washington's judges and administrative staff in the success of mortgage-backed securities; (2) the failure of the clerk of the trial court

(who was a defendant in the underlying action) to file evidence the Larsons submitted in support of their opposition to the private defendants' motion for a summary judgment of foreclosure; (3) the refusal of the pro tempore trial court judge handling their case to consider even that limited evidence which the clerk allowed into the record; and (4) that same judge's (and the appellate judges') failure to consider the legal arguments the Larsons made in opposition to the summary judgment of foreclosure, which included those related to judicial neutrality and a challenge to MERS' authority to assign their New Century loan to Deutsche Bank, which legal theory other courts around the country have sustained. *See infra.*

This Petition is being filed within the 25-day window following this Court's denial of the writ of certiorari. And as is shown below, its grounds are limited to new matters demonstrating why this Court should rehear the Larsons' petition for a writ of certiorari. *See* Supreme Court Rule 44(2).

III. GROUNDS FOR REHEARING

Following the publication of the Larsons' petition for a writ of certiorari to this Court on the academia.edu website, the Larsons' counsel was contacted by a reader who asserted that Washington courts had been assigned D-U-N-S numbers, which are identifying numbers used by businesses for business purposes. The confidential informant explained

that he thought this information was relevant to the judicial neutrality arguments the Larsons asserted to this Court. *See* Larsons' Petition for a writ of certiorari (hereafter Cert. Petition), i. Those judicial neutrality arguments are grounded in facts demonstrating that shortly before the subprime mortgage crisis exploded nationally in 2008, Washington's political branches enacted legislation which aligned Washington judges' pecuniary interests in their retirement funds with those of other government workers and Washington's government as a whole, in mortgage-backed securities. The informant suggested that courts' and judges' use of D-U-N-S numbers indicated that Washington's judicial institutions, through their current office holders, had also opted to act as a business among other businesses.

Counsel for the Larsons has confirmed that a Dun & Bradstreet "D-U-N-S® Number is "a unique nine-digit identifier *for businesses* that is associated with a business's **Live Business Identity** which may help evaluate potential partners, seek new contracts, apply for loans and so much more." (Emphasis Supplied). Dun & Bradstreet also states on its website "[t]he D-U-N-S Number **identifies a company** as being unique from any other in the Dun & Bradstreet Data Cloud." (Emphasis Supplied)

In order to determine whether Washington courts are actually listed as businesses on Dun & Bradstreet's website, one can go to the D-U-N-S

Number Lookup page.[1] There is a search form on this page which instructs: "Look up a partner's company or find your company's D-U-N-S Number." Under a pull-down menu on the center of the page, the search form requires a person to select one of two options: "My company", or "Other company".

Upon selecting "Other company", a new search form appears titled, "Business Name". Directly below that is a text field titled, "Legal Business Name". When the names and addresses of specific courts in Washington are inputted into this field, each is identified as a business having a D-U-N-S number, but acting in its business capacity under a different name other than the official name of that court. Such business names of individual Washington courts include "Judiciary Courts of the State of Washington," but also sometimes reference the names of judges as also being the actual business having that court's D-U-N-S number.

In *Todd v. United States*, 158 U.S. 278 (1895), this Court observed the obvious: "A court is not a judge, nor a judge a court. A judge is a public officer, who, by virtue of his office, is clothed with judicial authorities. A court is defined to be a place in which justice is judicially administered." *Id.* at 158 U.S. 284. The Larsons assert that businesses are not courts under this Nation's organic law. Further, the Larsons assert that state governments cannot, consistent with

[1] Accessible at https://www.dnb.com/duns-number/lookup.html

humanity's long-held norms regarding the administration of justice, provide judges with an economic advantage for deciding cases between adverse parties in a way which benefits judges.

Washington courts' apparent cooperation with businesses like the private defendants in this case is a new matter which relates to the Larsons' claim that the political branches of the State of Washington have so closely aligned the pecuniary interests of judicial officers with those of Washington's government office holders and Washington's government generally, with regard to the viability of mortgage-backed securities, as to offend those Due Process mandates which require judges be -- and appear to be -- neutral in those cases they are called to adjudicate. *See* e.g., *Caliste v. Cantrell*, 937 F.3d 525 (5th Cir. 2019); *Cain v. White*, 937 F.3d 446 (5th Cir. 2019) *cert. denied* in both cases sub nom *White v. Cain*, 140 S. Ct. 1120, 206 L.Ed.2d 187 (2020). *See also* Larsons' Cert. Petition describing the appearance of bias related to the political branches of Washington's government giving its judges a pecuniary interest in the enforcement of mortgages by way of foreclosures of the Peoples' property, at 21-22, 24-26.

This new matter, *i.e.,* treating courts and judges as separate businesses, is significant because it tends to further demonstrate Washington State's propensity to align its courts and judges with the interests of others having a stake in the outcome of

litigation in order to achieve a favored adjudicative result. And this alignment of judges' interests with business interests' to achieve a particular adjudicative result is just as sinister as incorporating judges' pecuniary interests into those of other government workers and programs generally because its impact is and appears to be uniting government and business interests against homeowners/debtors like the Larsons, whose purported loans have been transformed into those types of mortgage-backed securities which government and businesses are so heavily invested. Indeed, this is why Washington judges' failure to follow this Court's objective Due Process precedents as they are referred to in the Larson's Statement of Issues is so constitutionally intolerable in this case; Because judges are allowed to avoid confronting those claims which are made against them in a manner the People (and objective appellate courts) can appropriately evaluate. Cert. Petition, p. i. *See also* Alexander Hamilton, Federalist Paper No. 78 (1788) ("It [the Judicial department] may truly be said to have neither FORCE nor WILL, but merely judgment; …")

Additional new matter which the Larsons have recently uncovered in defending against Deutsche Bank's attempt to evict their family from their home onto the streets of Snohomish County, Washington, includes evidence that their original Lender, New Century Mortgage Corporation, destroyed the original promissory note which Christopher Larson

signed in 2006. That evidence demonstrates that New Century's destruction of the Larsons' original note was likely pursuant to that company's practice of destroying the original instrument in favor of keeping an electronic copy of such notes. *See e.g., In Re: New Century TRS Holdings, Inc,* US Bankruptcy Court for District of Delaware, Document 11067, "Motion of the New Century Liquidating Trust for an order authorizing the immediate abandonment and destruction of certain mortgage loan files and non-mortgage loan business files,"[2] at ¶¶ 19-33. *See also,* Statement by Florida Bankers Association submitted to the Florida Supreme Court Task Force on Residential Mortgage Foreclosure Cases[3], pp. 2-4, claiming, among other things, "[t]he reason 'many firms file the lost note counts as a standard alternative pleading in the complaint' is because the physical document was deliberately eliminated to avoid confusion immediately upon its conversion to an electronic file", citing *State Street Bank and Trust Company v. Lord*, 851 So. 2d 790 (Fla. 4th DCA 2003).

The Larsons assert that the original wet-ink signed promissory note could not be enforced by way of a copy of the original in the foreclosure case below because the Revised Code of Washington 62A-3-309 required Deutsche Bank to prove that it was:

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[2] Accessible at: https://ecf.deb.uscourts.gov/doc1/042113258455

[3] Accessible at: https://supremecourt.flcourts.gov/content/download/328731/file/09-1460_093009_Comments%20(FBA).pdf

> (i) … in possession of the note and entitled to enforce it when loss of possession occurred, (ii) the loss of possession was not the result of a transfer by the person or a lawful seizure, and (iii) the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

See also JP Morgan Chase Bank, N.A. v. Morton, No. 49846-4-II, 2018 Wash. App. LEXIS 700 (Ct. App. Mar. 27, 2018); *JPMorgan Chase Bank, NA v. Stehrenberger*, No. 70295-5-I, 2014 Wash. App. LEXIS 1057 (Ct. App. Apr. 28, 2014) (unpublished cases interpreting the language of 62A.3-309). *See also,* Revised Code of Washington 62A.3-301 which states in pertinent part: "'Person entitled to enforce' an instrument means … (iii) *a person not in possession of the instrument who is entitled to enforce the instrument pursuant to RCW 62A.3-309…*".

This new merits matter is significant because it further demonstrates that if the *rule of law* had been applied to the facts of the Larsons' case that were found to exist by a neutral fact finder, the Larsons likely would have won their merits claims and may still win them now because private defendants' fraud

vitiates the private trustee sale, which is being used as the present basis for evicting them.[4]

But unfortunately, it appears to the Larsons that no matter what they prove and argue, the judges of Washington State will not fairly consider their assertions because of those judges' pecuniary bias in the outcome of this case and others like it. These judges' bias (or appearance of bias to a degree which is not constitutionally tolerable) is apparent from those judicial officers' failure to even consider the Larsons' argument that MERS did not have the legal authority to assign their loan to Deutsche Bank. *See* Cert. Petition, at 28-30. This was not a novel legal theory which the judges of Washington State could simply fail to consider. *See also, DiLibero v. Mortg. Elec. Registration Sys.*, 108 A.3d 1013 (R.I. 2015)(specifically holding MERS could not foreclose after its agency

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[4] Under Washington law this fraud vitiates everything it touches. *See e.g. Coson v. Roehl*, 63 Wn.2d 384, 387 P.2d 541, 544-45 (1963)("[F]raud vitiates everything which it touches, and destroys the very thing which it was devised to support; the law does not temporize with trickery or duplicity. …") *Id.* at 63 Wn.2d at 388. *Cf. Stoddard v. Chambers*, 43 U.S. (2 How.) 284, 318, 11 L.Ed. 269, 283 (1844) where this Court held that "[n]o title can be held valid which has been acquired against the law" and by way of a fraud regarding that illegality. *Id.* at 318. This is because if the title to land is fraudulently obtained and/or obtained in violation of law by way of a judgment, that judgment is void because "[f]raud vitiates all transactions. It makes void a judgment, which is a much more solemn act than the issuing of a patent [i.e., or in this case, a trustee conducting a non-judicial foreclosure of the Larsons' home without considering the fraud upon which the nonjudicial sale is based.]" *Id.*

relationship with New Century lending entities was terminated in bankruptcy. *Id.* at 1017); *Ross v. Deutsche Bank Nat'l Tr. Co.*, 933 F. Supp. 2d 225, 230-32 (D. Mass. 2013)(holding plaintiffs have plausible claim that assignment of mortgage by MERS was void which precluded granting a 12(b) motion under the Federal Rules of Civil Procedure); *New Century Mortg. Corp. v. Braxton*, 18 LCR 36 (Mass. Land Ct. 2010)(Delaware Land Court grants summary judgment against New Century and its assignee for not demonstrating the assignment between them was valid.); *Yvanova v. New Century Mortg. Corp.*, 62 Cal. 4th 919, 199 Cal. Rptr. 3d 66, 365 P.3d 845 (2016)(holding homeowner who claimed MERS assignment to Deutsche Bank under the circumstances applicable to the Larsons had standing to assert a claim for wrongful foreclosure.) *See also,* other authorities cited at Cert. Petition, pp. 29-30.

While the above-described new matters and evidence demonstrating those matters may not by themselves establish that the judges of Washington State are actually biased, it is the Larsons' contention that taken together with those facts which have been shown in the Larsons' Cert. Petition, that the likelihood of actual bias by these judges against the Larsons and in favor of themselves (*i.e.,* judges and court staff) and their governmental and business allies is too high to be constitutionally tolerable. Perhaps the best fact of this is Washington's judges' failure to

conduct a judicial inquiry as to the facts and law set forth by the Larsons in the proceedings below, both with regard to the judges' own judicial neutrality and the merits of the Larsons' claims and defenses.

By way of information for those concerned citizens who may be reading this petition for rehearing in the future (for purposes of evaluating the neutrality of judges in this Nation at this time in history with regard to our now long-standing foreclosure and homelessness crises), the Larsons use the term *judicial inquiry* as it was defined by Associate Justice Oliver Wendall Holmes in *Prentis v. Atlantic Coast Line Co.*, 211 U.S. 210, 226 (1908): "A judicial inquiry investigates, declares, and enforces liabilities as they stand on present or past facts and under laws supposed already to exist. *That is its purpose and end.*" (Emphasis Supplied)

When a court clerk refuses to file the evidence that homeowners submit to the court for purposes of opposing the imposition of summary judgment of foreclosure against them; a pro tempore judge refuses to even consider much of the remaining evidence that homeowners have relied upon to resist foreclosure; the pro tempore judge also refuses to consider the homeowners' legal arguments; and the appellate courts affirm such heinous proceedings, something is clearly out of whack with Washington's courts and present time judicial officers. And this Court betrays its purpose as established by Article III by turning a

blind eye to the judicial improprieties occurring below, without even attempting to determine whether such atrocities exist.

This Court should have at least called for a response by adverse counsel to determine whether the opposing parties dispute that the Larsons were not allowed to present the evidence they relied upon in opposing private defendants' motion for summary judgment on judicial neutrality and merits grounds. Further, adverse counsel for the governmental and private business defendants below should also be instructed to demonstrate where in the record below the trial court or the Court of Appeals addressed the Larsons' argument referenced above that MERS had no authority to assign the Larsons' promissory note to Deutsche Bank after New Century's bankruptcy. *See* e.g., *Larson v. Snohomish Cty.*, 20 Wn. App. 2d 243, 278, 499 P.3d 957, 978 (2021)(Court of Appeals wrongly adjudicating below that: "It is undisputed that Deutsche Bank holds the Larsons' note and was entitled to enforce the deed of trust.")

IV. CONCLUSION

The Larsons' petition for rehearing of their petition for a writ of certiorari should be granted. The Larsons' petition for a writ of certiorari should be reinstated and defendants ordered to respond to it.

DATED this 26th day of January 2023.
Respectfully submitted,

/s/ Scott E. Stafne

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V. CERTIFICATION OF COUNSEL

I hereby certify that this petition for rehearing is restricted to the grounds as specified in Sup. Ct. R. 44.2 and has been presented in good faith and not for delay.

DATED this January 26, 2023

/s/ Scott E. Stafne
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VI. CERTIFICATE OF COMPLIANCE WITH WORD COUNT

I hereby certify that this petition for rehearing contains 2,751 words, excluding the parts that are exempted by the Rules.

DATED this January 26, 2023

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