

22-5886

NO: _____

IN THE

supreme court for the united States of America

Fareed-Sepehry-Fard
PETITIONER and CROSS CLAIMANT

v.

U.S. BANK NATIONAL ASSOCIATION,
As Trustee for Greenpoint Mortgage Trust
Mortgage Pass-Through Certificates, Series 2007-AR2,
Plaintiff-Appellee-Cross Defendant-----RESPONDENT (s)

MARY KATE SULLIVAN, a citizen of the
State of California, acting as a Trustee de son
tort; et al.,
Counter-defendants - RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI TO

United States Court of Appeals for the Ninth Circuit, Case
No. 22-15308; district court for the united States of America
for the northern district of California located at San Jose
No. 5:22-cv-00628.

After an Unpublished Decision by the Court of Appeal

PETITION FOR WRIT OF CERTIORARI

Fareed-Sepehry-Fard, *Sui Juris*
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STATE OF CALIFORNIA)

) AFFIDAVIT OF TRUTH in Support of Petition

COUNTY OF SANTA CLARA)

Notice to Agent is Notice to Principal and Notice to Principal is Notice to Agent.

QUESTION PRESENTED

United States Supreme Court in two cases: *Balzac v. Porto Rico*, 258 U.S. 298 (1921) and *Mookini v. United States*, 303 U.S. 201 (1938) made it clear that a “ district court of the United States” described a court created under Article III and a “United States district court” described a territorial court.

The issue presented is:

Should this court end the conflict in lower courts by applying *Balzac, Id.* and *Mookini, Id.* rules nationwide that the enacted law at Sections 81-131 of Title 28 U.S.C Chapter 5— DISTRICT COURTS, where in the rest of Chapter 5, Congress explains that only one district court in all of the 50 states, Hawaii, has been established as an Article III judicial court and explains why that court cannot function as a court exercising judicial power as an operation of law which is the pre-cursor to the secondary questions thus disapproving lower courts' interpretation of Sections 81-131 of Title 28 U.S.C Chapter 5— DISTRICT COURTS as adopted in *Balzac, Id.* and *Mookini, Id.*?

LIST OF PARTIES

All parties appear in the caption page of the case on the cover page.

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IN THE
supreme court for the united States of America
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below issued by the Ninth Circuit Court of Appeal.

OPINIONS BELOW

The Decision of the Ninth Circuit Court of Appeals refusing to answer Petitioner's question while it dismissed Petitioner's action-whether or not Ninth Circuit Court of Appeals equates USDC which is a territorial court with no judicial power with the district court for the united States of America for the northern district of California located at San Jose which is an Article III court with judicial power , prior to Petitioner's payment of court fees or request a fee waiver, appears at Exhibit A [CT Vol. 1 pages 10-11, order denying for reconsideration (ECF 19) and motion for clarification (ECF 17); (CT Vol. 1 pages 42-43, order dismissing appeal)]¹ and is unpublished.

¹ CT stands for Petitioner's Transcripts concurrently filed, [1 PT 10-11] means volume 1 of Petitioner's Transcripts pages 11 to 12 inclusive, etc. etc

The Decision of the UNITED STATES DISTRICT COURT, SAN JOSE DIVISION tress passing on the case filed and paid to the district court for the united States of America for the northern district of California located at San Jose appears at [(CT Vol. 1 pages 46-54, order granting motion to remand and for a prefilng order as modified by the Court); (CT Vol. 1 pages 66-67, order denying Ex Parte Application); (CT Vol. 1 pages 68, order denying Ex Parte Application of Defendant's motion to strike); (CT Vol. 1 pages 68, order denying Defendant's motion to for proof of authority of Severson & Werson APC attorneys to represent the alleged Plaintiff)] and is unpublished.

Petitioner's Claim filed in district court for the united states of America for the northern district of California located at San Jose for Libel in Review and Claim in Admiralty Invoking Original Jurisdiction and the Circuit Rider for the Article III Court re Commercial Injury Civil Action appears at [CT Vol. 1 pages 82-230].

JURISDICTION

The date on which the Ninth Circuit Court of Appeals decided Petitioner's case was on August 31st, 2022. A copy of that decision appears at [CT Vol. 1 page 10-11].

The jurisdiction of this court is invoked under 28 U.S.C §1257(a) and 5th amendment right to due process.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner was unable to obtain an answer to a simple question petitioner asked the United States Ninth Circuit Court

of Appeals prior to either advancing court fees or ask for a fee waiver, pursuant to the 4th, 5th, 6th, 7th, and 14th Amendment guaranteed rights of the federal Constitution of 1787, as purviewed by the states for Cross Claimant, Petitioner and Appellant Fareed -Sepehry-Fard. Petitioner has been wronged by court below by refusing to answer Petitioner's simple question, and as an American, is due remedy.

Accordingly, the lower court order is void on its face, in fact and in law due to inter alia, due process violation at 5th Amendment.

STATEMENT OF THE CASE

Petitioner, Cross Claimant and Appellant Fareed-Sepehry-Fard, *Sui Juris*, ("Petitioner") appealed a decision by the trial court from United States District Court ("USDC"), San Jose Division remanding removal of Petitioner's Cross Claim and the complaint to Santa Clara Superior Court, [Court Transcript ("CT") Volume (Vol.) 1 pages 46-54, order granting motion to remand and for a prefilng order as modified by the Court].

However, Petitioner never removed Case Number 17cv314286 (Santa Clara Superior Court) with a Cross Claim to

USDC which is a territorial court with no judicial power, instead, Petitioner removed Case Number 17cv314286 with a Cross Claim, which has not even been answered to and default must be entered, to the district court for the united States of America for the northern district of California located at San Jose which is an Article III Court with judicial power and paid \$402 as filing fees, [CT Vol. 1 pages 82-230].

Following Ninth Circuit Court of Appeals filing instruments in court, for the Petitioner to either pay the fees or ask for a fee waiver [CT Vol. 1 pages 42-43], since Petitioner was uncertain as to the order issued by the Ninth Circuit Court of Appeals, and therefore, asked the Ninth Circuit Court of Appeals to clarify whether or not the Ninth Circuit Court of Appeals equates USDC with no judicial power with the district court for the united States of America for the northern district of California located at San Jose which is an Article III Court with judicial power, [CT Vol. 1 pages 12-22].

Petitioner corroborated to the Ninth Circuit Court of Appeals that according to this court, under well established controlling case laws and the enacted laws [CT Vol. 1 pages 18-

19], USDC is not the same as the district court for the united States of America for the northern district of California located at San Jose, the Court that the Petitioner paid the filing fees of \$402, and district court for the united States of America for the northern district of California located at San Jose acquiesced, there was a meetings of the minds by the Article III Court accepting Petitioner's filing fees.

Accordingly, Petitioner asked Ninth Circuit Court of Appeals, and that prior to Petitioner's either paying for the court fees or asking for a fee waiver from the Ninth Circuit Court of Appeals, at 5th amendment right to due process, to clarify, *Id.* and Petitioner is and was entitled to know the answer to this simple question so that Petitioner could decide whether or not to pay the court fees, ask for a fee waiver or seek remedy in another venue. Afterall, Petitioner once before was cheated of his court fees of \$402 payment that he made to the district court for the united States of America for the northern district of California located at San Jose, but was denied due process when USDC trespassed on the case, Petitioner has been harmed economically, emotionally and physically. Petitioner never requested a relief from a

territorial court that can not and could not even furnish any relief to Petitioner, as a matter of enacted law, even if USDC would want to furnish the requested relief to Petitioner, USDC has no judicial power, Petitioner has been wronged and is due remedy, Petitioner humbly requests remedy from this Court of Records for the tress pass by the USDC, and in spite of \$402, as filing fees that Petitioner paid for court fees to an Article III court, Petitioner paid \$402 to the district court for the united States of America for the northern district of California located at San Jose as court fees for relief, but instead USDC violated Petitioner's right, it tress passed on the case without lawful authorities and in the process, severely further damaged Petitioner economically, emotionally and physically, *Id.*

In support of Petitioner's request to the Ninth Circuit Court of Appeals, Petitioner corroborated that United States Supreme Court in two cases: *Balzac v. Porto Rico*, 258 U.S. 298 (1921) and *Mookini v. United States*, 303 U.S. 201 (1938) made it clear that a "district court of the United States" described a court created under Article III and a "United States district court" described a territorial court, as well as the enacted law at Sections 81-131 of Title 28 U.S.C Chapter 5— DISTRICT COURTS. Petitioner explained to the Ninth Circuit Court of

Appeal, that in the rest of Chapter 5, Congress explains that only one district court in all of the 50 states, Hawaii ², has been established as an Article III judicial court and explains why that court cannot function as a court exercising judicial power, *Id.*

Additionally, Petitioner corroboratively elucidated for the Ninth Circuit Court of Appeals, that, inter alia, the nature of the complete federal government cannot be understood unless one there after understands all that begins with the caption:

CHAPTER 5 DISTRICT COURTS and ends with the paragraph below: HISTORICAL AND REVISION NOTES, read first §91 and then where it states "Court of the United States; District Judges Pub. L. 86-3, §9(a), Mar. 18, 1959, 73 Stat. 8, provided that: "The United States District Court for the District of Hawaii established by and existing under title 28 of the United States Code shall thence forth be a court of the United States *with judicial power derived from article III, section 1, of the Constitution of the United States..*", and then examine every

² Source: <https://www.law.cornell.edu/uscode/text/28/91> look under "Notes"

28 U.S. Code § 91. Hawaii -- " *Court of the United States; District Judges Pub. L. 86-3, § 9(a), Mar. 18, 1959, 73 Stat. 8, provided that:*

*"The United States District Court for the District of Hawaii established by and existing under title 28 of the United States Code shall thence forth be a court of the United States **with judicial power derived from article III, section 1, of the Constitution of the United States:..**" emphasis added.*

other district court to find one ordained and established under Article III, inter alia, [CT Vol. 1 page 36].

Although Petitioner should have heard back from Ninth Circuit Court of Appeals, as to the question posed to the Ninth Circuit Court of Appeals, on or about August 31st, 2022, Ninth Circuit without answering Petitioner's simple question, dismissed Petitioner's appeal and in the process further damaged Petitioner economically, again, Petitioner never removed the case 17cv314286 with a Cross Claim to USDC, which was not and is not the Court that Petitioner requested relief from, and paid \$402 filing fees.

There were a meetings of the mind, that is to say, the district court for the united States of America for the northern district of California located at San Jose accepted Petitioner's court fees of \$402, but USDC, instead, with no judicial power, interfered and tress passed on the case, its order is void and has always been void, any other derivate action and or inaction related to the USDC is also void and of no force and effect, again USDC is a territorial court with no judicial power and even if it had judicial power, and it never did, that is not the court that

Petitioner paid court fees to request economical and other relief against Cross Defendants and their Co Parties Agent(s) Principle(s).

Petitioner accordingly, and humbly request remedy from this Court of Records.

This summary of facts is based on sworn statements of Petitioner made in this Petition for a Writ of Certiorari to this Court of Records.

A. What Did Petitioner's Ask Ninth Circuit Court of Appeals to Do?

Petitioner asked The Ninth Circuit Court of Appeals to clarify its orders at ECF 9-1 AND ECF 49, [1 CT Vol. 1 page 36].

That is to say, Petitioner ask Ninth Circuit Court of Appeals to corroborate with lawful authorities, prior to Petitioner's payment of court fees or request to waive court fees [since an inferior court with no judicial power-USDC had already abused Petitioner and had trespassed on the case previously and severely damaged Petitioner economically], to clarify:

1. how did the Ninth Circuit Court of Appeals arrive at
“the third time”?, i.e. how did the court get 3
remand for this case?
2. Does the Ninth Circuit Court of Appeals equate
United States District Court ("USDC") which is a
territorial court with no judicial power with district
court for the united States of America for the
northern district of California located at San Jose?,
that is to say, Petitioner, this time, did not remove
Case Number 17cv314286 with another cross claim
to USDC but instead, Petitioner removed the case
Number 17cv314286 with a Cross Claim to an
Article III Court with judicial power, *Id.*

Petitioner further corroborated that the law clearly and
unambiguously differentiates between the two-USDC which is a
territorial court with no judicial power with district court for the
united States of America for the northern district of California
located at San Jose, *Balzac, Id.; Mookini, Id.*; Sections 81-131 of
Title 28 U.S.C Chapter 5— DISTRICT COURTS, *Id.*

Petitioner even wrote to the circuit rider for district court for the united States of America for the northern district of California located at San Jose --re ECF 25, ECF 24, ECF 21 and asked for assistance from Associate Justice Elena Kagan as the circuit rider for district court for the united States of America for the northern district of California located at San Jose, [CT Vol. 1 pages 63-70], this Court wrote back to Petitioner which appeared to be suggesting to Petitioner, to exhaust all other remedies prior to seeking a writ of Certiorari post exhausting all other venues, and that is what Petitioner did and is doing.

B. Trial Court Proceedings

There were no trial proceedings, USDC tress passed on the case, Petitioner filed for an appeal and asked for clarification from the Ninth Circuit Court of Appeals to clarify whether or not, Ninth Circuit Court of Appeals equates USDC which is a territorial court with no judicial power with an Article III Court, to wit: with the district court for the united States of America for the northern district of California located at San Jose prior to Petitioner's being one more time cheated by paying for filing fees, when Ninth Circuit Court of Appeals would repeat USDC

misconduct by falsely claiming and equating a territorial court-USDC with no judicial power with an Article III Court with judicial power, to wit: with the district court for the united States of America for the northern district of California located at San Jose.

However, Ninth Circuit Court of Appeals denied Petitioner's due process by failing to answer this simple question posed, *Id.* while dismissing the case, which was not the court that Petitioner removed the case to, *Id.* and in the process further damaged Petitioner economically, physically and emotionally. Petitioner is due remedy.

C. The Court of Appeal Affirms.

Petitioner appealed. However, the Court of Appeal affirmed the void judgment of USDC which was not the court that the Case Number 17cv314286 with a Cross Claim was removed to, and in the process further damaged Petitioner economically. Petitioner is due remedy.

In the court of appeal memorandum decision entered in court of records on August 31st, 2022, the court appears to have dodged answering Petitioner's simple question, *Id.*, in violation

of 5th Amendment to due process. Petitioner has been additionally harmed economically and is due remedy.

ARGUMENT

- A. This Court should grant review to end confusion in the lower courts over the enacted law at Sections 81-131 of Title 28 U.S.C Chapter 5—DISTRICT COURTS as well as controlling case laws by this highest court decisions in *Balzac, Id. and Mookini, Id.***

This is substantive law ³ and not subject to change by any procedural rules, as the court below erroneously refused to answer Petitioner's simple question, *Id.* Stated differently, the lower court or any other courts CAN NOT use "procedures" to nullify an enacted law and the jurisdictional challenges, *Id.*, Petitioner's contentions, *Id.*, cemented into law by the

³ Substantive law:" Substantive law is the statutory, or written law, that defines rights and duties, such as crimes and punishments (in the criminal law), civil rights and responsibilities in civil law. It is codified in legislated statutes or can be enacted through the initiative process. Substantive law stands in contrast to procedural law, which is the "machinery" for enforcing those rights and duties. Procedural law comprises the rules by which a court hears and determines what happens in civil or criminal proceedings, as well as the method and means by which substantive law is made and administered...." Source: https://en.wikipedia.org/wiki/Substantive_law

government, to wit: the Congress and SCOTUS *Balzac, Id. and Mookini, Id.*

The big mistake of the inferior courts are that they continue to view Petitioner's contentions, *Id.*, as a pending claim --- despite the US Supreme Court stating the USDC is a territorial court with no judicial power at Article III Section I, *Id.*, and the district court for the united States of America for the northern district of California located at San Jose which has judicial power at Article III Section I, SCOTUS *Balzac, Id. and Mookini, Id.* The SCOTUS has spoken and the enacted law is crystal clear, not subject to interpretation by anyone; that courts cannot interpret a statute without finding ambiguity (and being right about that) they don't have power to change, add, amend or modify the express wording of the law, *Id.*

After Petitioner's noticing of the inferior courts clear and unambiguous error, *Id.*, there is no pending issue. After Petitioner's Notice of Error, *Id.*, there is only the fact that the court below-that is USDC, violated the law and tress passed on

the case, Ninth Circuit Court of Appeals also violated the law by refusing to clarify Petitioner's simple question, *Id.*

To rule otherwise would be legislating from bench while annulling the enacted law, *Id.*, and the SCOTUS two decisions, *Balzac, Id. and Mookini, Id.* supporting Petitioner's contentions, *Id.*, by "operation of law", *Id.*

The operation of law triggers the relief, not a court. The relief is non-judicial and is effective just as the law contemplates, *Id.*

The Court below was under lawful duty ⁴ to speak, the Ninth Circuit Court of Appeals can not and could not plead fifth amendment, see *U.S. v. Tweel, 550 F. 2d.297*. "Silence can only be equated with Fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading". Maxims of Law: "*He who doesn't*

⁴ Petitioner respectfully presents to all to differentiate between "lawful" and "legal". Legal pertains to statutes, codes, ordinances et. al. which are Godless and created by men, on the contrary, lawful relate to Petitioner's inalienable rights, given to Petitioner by God, *Id.* and all oath takers have sworn an oath to uphold and defend them, against all enemies, foreign and domestic.

deny, admits.”, severely and additionally damaging Petitioner economically, in the process.

This series of requests, as written by Petitioner, exactly describes the inferior court’s duties under the law, *Id.*

The lower court erred and exceeded its jurisdiction by refusing to answer Petitioner’s simple question, *Id.*

The law, which is unambiguous as determined by the SCOTUS *Balzac, Id. and Mookini, Id.* Court, is to be followed strictly. The lower Court erred and exceeded its jurisdiction by refusing to answer Petitioner’s simple question without even interpreting an unambiguous law.

Black’s Law Dictionary defines estoppel as: “A bar or impediment raised by the law, which precludes a man from alleging or from denying a certain fact or state of facts, in consequence of his previous allegation or denial or conduct or admission, or in consequence of a final adjudication of the matter in a court of law. *Demarest v. Hopper*, 22 N. J. Law, 019; *Martin v. Railroad Co.*, 83 Me. 100, 21 Atl. 740; *Yeeder v. Mudgett*, 95 N. Y. 295.

The effect of Petitioner's noticing all courts below of their clear error created a bar, or estoppel, against any and all interpretation of the law, *Id.* Both the Congress and SCOTUS endorsed Petitioner's contentions, *Id.*

Petitioner attempted to shed light into lower court's continuous and erroneous refusal to answer the simple question posed, *Id.*, when the law is crystal clear on its face, SCOTUS *Balzac, Id. and Mookini, Id.*, enacted law at Sections 81-131 of Title 28 U.S.C Chapter 5—DISTRICT COURTS, but was not able to, further damaging Petitioner economically, physically and emotionally.

This situation is a compelling case for review of a court of appeal decision to "secure uniformity of decision" particularly when the void order was issued directly violating two SCOTUS decisions and enacted law, *Id.*

Without guidance from this court, the enacted law and controlling case laws, *Id.* will continue to be violated by the inferior courts on an ad hoc basis.

Trial judges in and around San Jose (County, USDC and Bankruptcy courts) will reject SCOTUS decisions and enacted law, *Id.*, perhaps because they continue to view the enacted law and the SCOTUS two decisions, *Id.*, as a pending claim and not as unambiguous law which clearly directs all courts, while other courts have followed the law, as they should, as the two SCOTUS decisions, *Id.*, and the enacted law at Sections 81-131 of Title 28 U.S.C Chapter 5— DISTRICT COURTS direct us.

The Courts below are barred from any argument as they lack subject matter jurisdiction to bring about any argument at law, *Id.* The orders of the court below are void, and are barred under the doctrine of lack of subject-matter jurisdiction by operation of Federal Law. There are no exceptions under the statute, *id.* Fed. R. Civ. P. Rule 12 (h) (3), Lack of Subject-Matter Jurisdiction.

Any other action or inaction, a derivative action or inaction is also void and will be void based on enacted law and the two controlling SCOTUS decisions, *Id.*

The Petitioner can then and additionally sue for redress of his grievances when actors violate the law, *Id.* and the two SCOTUS decisions, when on repeated notice.

REASONS FOR GRANTING PETITION

The core question of the law at Sections 81-131 of Title 28 U.S.C Chapter 5 - DISTRICT COURTS, and two SCOTUS decisions- *Balzac, Id. and Mookini, Id.* is crystal clear and answered affirmatively by the law, *Id.*. The secondary consequences of the same operation of law produces the logical and only answer to the questions of jurisdiction in the Lower Court and its refusal to answer Petitioner's simple question before Petitioner's payment of the court fees or request for a fee waiver, at 5th Amendment right to due process or seek remedy in another venue.

Lower courts do not have a "dispute" provision to rely upon under the law.

Petitioner's jurisdictional challenge was founded strictly and specifically upon the operation of the law, *Id.* Note

Petitioner's appellate "Issue Presented" in its chronological order where the issue of the jurisdiction of the inferior court as an operation of law is the pre-cursor to the secondary questions in addition to the void order issued by the inferior court.

Some courts in California, like the lower court, have a different idea, which they have set down in its unpublished opinion in this case at [1 CT page 48, "*On January 31, 2022, Defendant removed the action to the Northern District of California for the third time, commencing the above-captioned action. See ECF No. 1. U.S. Bank provides a declaration from counsel indicating that the state court action proceeded to trial on February 1, 2022. See Sullivan Decl., ECF No. 14-1 ¶ 4. Defendant presented his third notice of removal to the state court, and the court struck the notice of removal. See *id.* 36", emphasis added].*

This idea views Petitioner's simple question posed, endorsed by the law, Congress, and two SCOTUS decisions, *Id.* that USDC is a territorial court with no judicial power, and the district court for the united States of America for the northern district of California located at San Jose which is an Article III

Court is effective upon the Notice of Removal filed in the Article III Court as well as Notice of “Notice of Removal” in the state Court, [1 CT Vol. page 46] by operation of Federal Law, this court should grant review in this case to continue to uphold *Balzac, Id.* and *Mookini, Id.* rules nationwide and the enacted law at Sections 81-131 of Title 28 U.S.C Chapter 5— DISTRICT COURTS. It should eliminate the confusion and confirm that *Balzac, Id.* and *Mookini, Id.* rules nationwide and the enacted law at Sections 81-131 of Title 28 U.S.C Chapter 5— DISTRICT COURTS, apply throughout California and nationwide.

CONCLUSION

For these reasons, the petition for writ of certiorari should be granted.

DATED: 19th day of September, 2022

Respectfully presented,

All rights reserve waive none

By: Fareed Sepehry-Fard
Fareed-Sepehry-Fard®

— please see Notary attachment —