

Number 22-6243

In the Supreme Court of the United States

**DARRELL BERRY; CONSTANCE
LAFAYETTE**

Petitioners

**WELLS FARGO BANK, N.A.; FEDERAL
HOME LOAN MORTGAGE CORPORATION,
"Freddie Mac" as trustee for securitized trust;
LOANCITY; FREDDIE MAC MULTICLASS
CERTIFICATES SERIES 3113 TRUST;
MORTGAGE ELETRONIC REGISTRATION
SYSTEM, "MERS"; DOES 1 through 100
"inclusive", et al.**

Respondents

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit

**Petitioners' Motion to Reconsider Petition for a
Writ of Certiorari**

Darrell Berry and
Constance Lafayette
Pro Se Petitioners
8338 Greenmoss Drive
Baton Rouge, LA 70806
(Phone): 225.610.8633

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Petitioners' Motion for Rehearing

Introduction

Appellants, Darrell Berry and Constance Lafayette, ("Petitioners"), pursuant to Rule 44-2 of the United States Supreme Court permits a petition for rehearing of an order denying a petition for writ of certiorari to assert grounds limited to "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented." The petition is presented in good faith and not for delay.

Petitioners request clarification regarding: 1) Improper removal from a State Court to USDC under 28 USC §§ 1441(a) and 1332 and 2) whether USDCs are appellate courts, 3) Whether rulings have to be made according to Federal Rules of Evidence, and 4) Whether the newly issued \$3.7 billion settlement ordered by CFPB substantiates Petitioners' claims.

1) Improper removal from a State Court to USDC under 28 USC §§1441(a) and 1332

Removal was Improper

The Notice of Removal to USDC was not compliant with 28 USC § 1441(a). Respondents chose the 19th JDC as the Original Venue where they obtained a foreclosure judgment for case number C-656991 in April 2017 (Appendix A).

Petitioners filed a counter-suit against the Respondents case number *C-672792*. The Respondents removed the Counter-suit from the Original Venue they selected, 19th JDC, to the USDC M.D. La., Case number 3:18-cv-00888. Again, the Respondents were "Defendants" of a "Counterclaim". The Supreme Court established long ago that a State Court Plaintiff who is the subject of a counterclaim cannot remove the case to USDC. The federal removal statute provides that a state civil action may be removed to federal court only by "defendants" according to 28 USC § 1441(a). In 1941 the Supreme Court determined the term "defendant" in the statute did not extend to a Plaintiff against whom a counterclaim was asserted see *Shamrock Oil & Gas Corp., v. Sheets*, 313 U.S. 100 (1941). Therefore, evidence shows M.D. La., lacks jurisdiction because the factors listed below could only be argued in the 19th JDC because of the April 13, 2017 judgment (Appendix A). These are genuine issues of material fact that caused irreparable harm to Petitioners.

Because Respondents wrongly removed the case from the Original Venue, a vacuum was created to withhold/suppress evidence created in the 19th JDC foreclosure proceedings presided by Judge Kelley. This created a ripple effect crossing multiple jurisdictions and courts beginning with the 19th JDC C-656991, M.D. La., 3:18-cv-00888, to the 5th Cir., 20-30670

consolidated with 21-30060 to the Supreme Court.

Evidence shows 1) Judge Kelley's order was signed without *authentic* true evidence (Appendix B, D); 2) the Note submitted in the foreclosure had no *valid* indorsements required by UCC regulations and Louisiana State Law (Appendix B); 3) to cover up these facts they forum shopped and moved the case to M.D. La., and failed to submit the entire record from the 19th JDC, (Appendix C) and 4) they submitted different notes in the different courts (Appendix B). If the case was never improperly removed these genuine issues of material fact could have been addressed by Judge Kelley.

The M.D. La., wrongly Dismissed the Case with prejudice under the FRCP 12(b)(6).

Because the M.D. La., assumed jurisdiction over a "counter-suit" and subsequently stated the counter-suit failed to state a claim the underpinning ruling associated with a well plead claims are in conflict. Again, the Respondents are the Original Plaintiffs.

The role of counterclaims in federal subject-matter jurisdiction is widely misunderstood and the Court is requested to clarify. The Supreme Court has entrenched one misunderstanding into law by holding that a counterclaim cannot provide the basis for statutory requirements arising under jurisdiction over a civil

action. In so holding, the Court relied on a literal reading of the well-pleaded complaint rule. Others have invoked the Court's decision to argue that the well-pleaded complaint rule also governs diversity jurisdiction under 28 USC § 1332(a). The Court's holding and efforts to extend it, distorts the law by conflating the well-pleaded complaint rule with the separate procedural principle that the plaintiff is the master of the complaint. The role of counterclaims has been misconceived because of a widespread failure to grasp that 28 USC §§ 1331 and 1332(a) grant jurisdiction over civil actions, not claims. That grant— together with the nature of arising-under jurisdiction—means that arising-under jurisdiction exists over a claim only if the claim itself provides a basis for arising-under jurisdiction over the civil action. And the Court has held that a counterclaim cannot serve that function.

The Court in *Holmes Group* to adopt a literal reading of the well-pleaded complaint rule. The Court offered a number of justifications for that choice. In *Holmes Grp., Inc. v. Vornado Air Circulation Sys., Inc.*, 535 U.S. 826, 831 (2002) the rationale on which it relied rests on the settled understanding that

the availability of a federal trial forum for a civil action asserting claims based on federal law depends on claims in the plaintiff's complaint rather than counterclaims in the defendant's answer. The well-pleaded complaint rule, by contrast, was designed simply to exclude federal defenses from serving as a basis for jurisdiction under 28 USC § 1331.

As such the two sections contradict the purposes of the other which necessitates the Courts intervention in the use of FRCP 12(b)(6) failure to state claim is unjust in its application regarding a Counter-suit removed from State Court. The removal upends the status requirements of the Courts afforded to defendants under Counter-suits.

Removal of the case from State Court to Federal Court created parallel courts based on Respondents being a party to a counter-suit.

Improper Removal 28 USC §§1447, 1441 if the District Court determines that it lacks subject matter jurisdiction at any time before entry of final judgment, the District Court must remand the action to the State Court. A judgment from a court that did not have subject matter jurisdiction is forever nullity. *Rhode Island vs Massachusetts* 37 U.S. 657 (1838), *Joyce v. United States*, 474F.2d215 (3d Cir. 1973)

The Doctrines of Abstention under Pullman, Younger and Rooker-Feldman all apply. The question becomes who should determine jurisdiction in a case?

The Pullman Doctrine states the USDCs should exercise its discretion to stay from a case, where constitutional considerations are at play, when the state court proceedings can resolve the issue. The Supreme Court stated that the Texas Supreme Court held ultimate authority on interpreting state law and as a result, the district court should restrain its authority because of the scrupulous regard for the rightful independence of state government and for the smooth working of the federal judiciary. See *Railroad Commission of Texas v Pullman Co.*, 312 US 496 (1941).

M.D. La., ignored this long-standing precedent and the 5th Cir., affirmed this practice by saying the USDCs can determine their own jurisdiction. Both Courts, erred in their assessment of proper subject matter jurisdiction.

The Younger Doctrine also applies because it holds USDCs should abstain from cases that are pending in state proceedings. The Supreme Court in *Exxon Mobile Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005) expanded Younger and held that when there is parallel litigation in state and federal courts, the federal court may be bound to recognize the preclusive effects of a state-court judgment.

"Likewise, Doctrine of Abstention *Younger v Harris* 401 U.S. 37, 91 S. Ct. 746, 27 L. Ed.2d669 (1971). When the property at issue is the subject of ongoing foreclosure, proceedings, in state court. 644 — *Cunningham v J.P. Morgan Chase Bank*, 537 Fed. Appx 44, 45 (3d Cir. 2013); Like other Circuits, the Fourth Circuit has stated that the Younger abstention doctrine requires a USDC to abstain from interfering in state proceedings, even if jurisdiction exist, if there is (1) an ongoing state judicial proceeding instituted prior to any substantial progress in the federal proceeding (2) implicates important, substantial or vital state interest (3) provides an adequate opportunity for the plaintiff to raise the federal constitutional claim advanced in federal lawsuit. In *Pennzoil*, the Court held that the federal courts should not interfere with state courts enforcing their own orders and judgements, reasoning that Not only would federal injunctions in such cases interfere with the execution of state judgments, but they would do so on ground that challenge the very process by which those judgements were obtained 481 at 13, 107 S. Ct. 1519."

2) Whether USDCs are appellate courts

USDC cannot issue injunctions for state court actions based on Rule 2752. The evidence shows, October 24-25, 2018 Petitioners requested an emergency hearing from the M.D.

La., because an Injunction hearing was already set in the 19th JDC. M.D. La., never granted the hearing; therefore, on 10/30/2018 the day before the foreclosure Petitioners filed bankruptcy to stop the procedure. M.D. La., offered no protection to the Petitioners. The request to remove case from 19th JDC to M.D. La., was brought in bad faith and created a procedural error related to Subject Matter Jurisdiction under LA RS 2752 *which triggers improper removal under 28 USC §§1447, 1441, 1367*. This action activates the reversal of all orders and rulings or a remand back to 19th JDC, based on Petitioner's request for an injunction hearing from the M.D. La., which was never granted.

The Supreme Court has the ability to serve as an appellate court under 28 USC 1254(1) and under Article III no such statute exists for USDCs. USDCs operate under limited jurisdiction. In *Spires v. Edgar* (2005) the 5th Cir., addressed the jurisdictional issue of a USDC's authority to review a state foreclosure action. The plaintiffs, homeowners facing foreclosure, filed a lawsuit in USDC asserting federal claims related to the foreclosure proceedings initiated by the defendant mortgage lender. The Fifth Circuit held that the federal district court lacked subject matter jurisdiction over the case. The court applied the Rooker-Feldman doctrine, stating that the federal court could not sit in direct review of the state foreclosure judgment.

It emphasized that a federal district court does not have the authority to act as an appellate court over state court decisions or to invalidate or review state foreclosure proceedings. The evidence shows the 5th Cir., applies Doctrine of Abstention differently between benefiting homeowners, verses banks.

Judge Kelley's foreclosure ruling is void because he issued an order on 04/13/2017 without reviewing evidence because the Respondents did not submit evidence until 04/25/2017. M.D. La., assumption of jurisdiction was improper because M.D. La., is not an appellate court.

3) Whether rulings have to be made according to Federal Rules of Evidence.

Rulings were based on Fraud in Dictum and Fraud in Factum

The 5th Cir. Affirmed in error and the M.D. La., ruled in error because the original order signed in the 19th JDC is void. Because the rulings in the 19th JDC, M.D. La., and the 5th Cir. were based upon a promissory note that is not authentic according to La. Civ. Code Art. 1833, and 1839 (Appendix B and D). The Promissory Note the Respondents submitted do not have the signatures of two witnesses thereby, making the note for an immovable property inauthentic and void.

Additionally, the promissory note submitted by Wells Fargo, MERS, Freddie Mac

and the Trust submitted to the M.D. La. had indorsements but the Promissory note submitted in C-656991 did not have indorsements. This is a genuine issue of material fact never adjudicated by any court. The Respondents' actions resulted in material misrepresentations to the Court to hide known facts which painted a false narrative of ownership. (Appendix B). The indorsement is not permanently attached to the Promissory Note, they presented, rather it is an added-on sheet of paper, presented to the M.D. La., but not presented to the 19th JDC foreclosure proceedings prior to obtaining the judgment/order from Judge Kelley (Appendix A), B. According to UCC 3-202(2) this voids the instrument. Also, according to UCC 3-404 Wells Fargo the purported Servicer, hired by Freddie Mac as Trustee for Freddie Mac Multiclass Series 3113 are "Imposter Payees". They are also Imposter Payees because according to the evidence Freddie Mac Multiclass Series 3113 is unregistered in the SEC EDGAR system (Appendix E). Therefore, under 15 USC 77e the Trust is unlawful. Since the Trust is unlawful to whom would the Berrys owe a debt?

In the final analysis Judge Kelley order/judgement signed on April 13, 2017 that Wells Fargo obtained is a void judgment according to the evidence (Appendix A), B, C, and D. The Note and Mortgage submitted in C-656991 was not submitted until April 25, 2017,

on the Docket of the 19th JDC (Appendix C). This is 12 days after the order was signed. ¹ This also vacates the order and causes the judgment to be deficient because the Respondents withheld/suppressed evidence from Judge Kelley's foreclosure proceedings in C-656991 it created a ripple effect that permeated from the 19th JDC C-656991, M.D. La., 3:18-cv-00888, to the 5th Cir., 20-30670 consolidated with 21-30060; because 1.) Judge Kelley's order was signed without authentic true evidence, 2) the Note that they submitted in the foreclosure had no valid indorsements required by UCC regulations and Louisiana State Law (Appendix B), 3) to cover up these facts they forum shopped and moved the case to M.D. La., from the 19th JDC and failed to submit the entire record from the 19th JDC (Appendix A)-C, and 4) they submitted a different note in M.D. La., from what was submitted in Judge Kelley's foreclosure proceeding in the 19th JDC (Appendix B). ²

¹ The docket for 19th JDC C-656991 that is italicized herein shows that on April 25, 2017, attorney Candance A. Courteau submitted Exhibits after the Judge signed the April 13, 2017 foreclosure order.

² The evidence shows fraud was committed by submitting two different promissory notes. Regardless, neither promissory note was authentic, because there are no witnesses or legal indorsements which violates La. Civ. Code Art 1833 and 1839 (Appendix D). "Fraud is a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for one party or to cause a loss or inconvenience to the

Again, evidence shows that Equifirst is the Original Lender who stated in a Lost Note Affidavit that the note was not sold, transferred, nor assigned.³ Therefore, all arguments about the falsified LoanCity instruments are moot because on December 27, 2005 LoanCity stated there was a mortgage but

other.” *Bradford v. Law Firm of Gauthier Houghtaling & Williams, LLP*, No. 13-2407, 2013 WL 6279687, at *4 (E.D. La. Dec. 4, 2013). The Supreme Court held that if a party has used fraud to obtain a judgement, the party should be deprived of the benefit of the judgment. See *Marshall v. Holmes*, 141 U.S. 589 at 599 (1891), quoting *Johnson v. Waters*, 111 U.S. 640, 667, 28 L. Ed. 547, 4 S. Ct. 619 (1884). see also *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44.

³ The Lost Note Affidavit declares the Berry own the property outright prior to the foreclosure filing. There are major contradiction in the Lower Courts ruling regarding a Lost Note Affidavit. In *Urban Property Company Of Louisiana, L.L.C. v. Pioneer Credit Company*. No. 03-CA-38, the Court of Appeal of Louisiana, Fifth Circuit, acknowledged the validity and utility of the Lost Note Affidavit. Urban sued the creator of the Lost Note Affidavit because they had no legal standing to assert claims against the homeowners. The same applies to this case. In *Morshaeuser v. CitiMortgage, Inc.* Civil Action 12-2210 and *Wells Fargo Financial Louisiana, Inc. vs Zoie Breaux Bordelon et al* Case number 21-CA-80, the Court held Banks must comply with UCC regulations for Lost Note Affidavits otherwise the Banks have no legal recourse against the homeowners. No Respondent followed the UCC regulations for Lost Note Affidavit. Therefore, Equifirst’s legally complainant Lost Note Affidavit has priority over Loan City void note.

on January 18, 2006 Equifirst stated the mortgage and note were cancelled and not sold to LoanCity or anyone. ⁴ These two companies are claiming the note mortgage to the same property at the same time creating a dispute in ownership. Louisiana law has a method to resolve the dispute based upon the Race Statue - what was filed first into the land records.

Utilizing FRE 803(14), East Baton Rouge Clerk of Court states Equifirst recorded first. Appellees never challenged this and have waived their rights.

The evidence shows the note is unlawful. Can the Court ignore evidence based on La. Civ. Code Art 1833 and 1839, the Lost Note Affidavit and 15 USC 77e?

4) Whether the newly issued \$3.7 billion dollar settlement ordered by CFPB substantiate Petitioners' claims.

On December 20, 2022 CFPB found additional sanctionable action against Wells Fargo according to the news release:

CFPB Orders Wells Fargo to Pay \$3.7 Billion for Widespread Mismanagement of Auto Loans, Mortgages, and Deposit Accounts.
CFPB found Wells Fargo's rinse-repeat cycle of violating the law

⁴ The Race Recording Act the document recorded first has priority over any later recordings, Louisiana follows the Race Recording Statute.

has harmed millions of American families,"... "The CFPB is ordering Wells Fargo to refund billions of dollars to consumers across the country. This is an important initial step for accountability and long-term reform of this repeat offender."

There have been 16 million people identified thus far. The Berrys provided evidence showing they are also victims of Wells Fargo continued illegal behavior. They maintain this independent action and assert they deserve all available redress.

Conclusion

The Court is requested to address these issues or at minimum remand to the 19th JDC for further deliberations based on the fact 19th JDC Judge Kelley's Order were riddled with errors in which M.D. La., cannot correct based on the inauthentic evidence of the Promissory Notes in all of the Courts. Equifirst is the true original lender that released the property to the Berrys. Therefore, Respondents notice of removal was wrongful and subject matter jurisdiction plays a great role in M.D. La., judgements being vacated.

Wherefore, this Honorable Court should grant this Petition for Rehearing, Grant the Writ of

Certiorari and consider these issues on the merits.

Respectfully Submitted June 28, 2023.

/s/Darrell Berry

Darrell Berry and Constance Lafayette
Pro Se Petitioners
8338 Greenmoss Drive
Baton Rouge, LA 70806
(Phone): 225.610.8633

/s/Constance Lafayette

Darrell Berry and Constance Lafayette
Pro Se Petitioners
8338 Greenmoss Drive
Baton Rouge, LA 70806
(Phone): 225.610.8633

Appendix A

EBR4053363

STATE OF LOUISIANA * PARISH OF EAST
BATON ROUGE
19TH DISTRICT COURT

WELLS FARGO BANK, N.A.

VS

DARRELL KENDRICK BERRY AND
CONSTANCE LAFAYETTE BERRY

ORDER

Considering Plaintiff's Petition and Exhibits and finding that Plaintiff is entitled hereto,

It is ordered that a Writ of Seizure and sale issue commanding the sheriff to seize and sell the property described above in the petition affected by the mortgage and/or privileges prayed for and according to the law and from any proceeds thereof to issue payment to Dean Morris, L.L.C., the agents for plaintiff, in the amount owed to plaintiff, to-wit: (a) principal of \$179,747.56 with interest thereon at 5.000% per annum from May 1, 2016, until paid; (b) the following amounts accrued through the filing date: advances of \$4,606.76 for the payment of taxes and insurance, (c) all expenses incurred in enforcing the note and mortgage including reasonable attorney's fees not to exceed \$2,500, reserving to plaintiff the right to hereafter seek

and prove additional attorney's fees with supporting documentation; (d) if/as applicable, such other or additional amounts and charges advance pursuant to the note and mortgage and applicable law which advances will be itemized and proved according to law by verified supplemental and amending petition or affidavit with supporting documentation filed before distribution by the sheriff of the proceeds of the judicial sale herein; and (e) all law charges, fees and expenses incurred in connection or relating to this proceeding including without limitation sheriff's commission, sheriff's costs, court costs, all as permitted by the note or mortgage being enforced by this proceeding. Plaintiff reserved plaintiff's rights to further enforce the contractual amount attorney fees enforced/as necessary to protect plaintiff secured claim after a hearing in accordance with law.

Baton Rouge, Louisiana this 13th Day of
April, 2017

Timothy R. Kelley
Judge 19th District⁵

⁵ Judge Timothy Kelley signed this this order on April 13, 2017 see Pet. App 162 for document.

Appendix B

NOTE

December 27, 2005 Baton Rouge Louisiana
(Date) (City) (State)

8338 Greenmoss Dr., Baton Rouge, LA 70806
(Property Address)

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$184,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is LOANCITY, A CALIFORNIA CORPORATION. I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.250%

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payment every month. I will make my monthly payment on the 1st day of each month beginning on FEBRUARY 1, 2006. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JANUARY 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 5671 SANTA TERESA BOULEVARD, SUITE 100, SAN JOSE, CA 95123 or at a different place if required by the Note Holder.

B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$1,132.92.

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment."

When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment, unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces

Principal, the reduction will be treated as a partial Prepayment.

6. BORROWERS FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety, or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note

Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent. Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrowers.

WITNESS THE HAND(S) AND SEAL(S) OF
THE UNDERSIGNED

Darrell Kendrick Berry

BORROWER – DARRELL KENDRICK
BERRY – DATE

Constance Lafayette Berry

BORROWER – CONSTANCE LAFAYETTE
BERRY

– DATE

‘NE VARIETUR’ for identification with an Act
of Mortgage passed before me this 27th Day
December, 2005 Notary Public Traci Roy
Adams Louisiana Notary ID #64477 C
commissioned for Life.

Traci Roy Adams, Notary ^{6 7}

⁶ Please note -In the action 19th JDC Case No. C-656991 the Promissory Note was not provided to Judge Kelley until April 25, 2017 AFTER he signed the Order on April 13, 2017. The Promissory Note ended with just the signatures above.

⁷ This Promissory note has no witnesses required under La. Civ. Pro. 1833 and 1839 that requires an authentic act and in order for the act to be authentic is must have the signatures of two witnesses.

Pay to the order of
Wells Fargo Bank, NA
Without Recourse
This 28 day of Dec, 2005
LoanCity
A California Corporation
Dawanna Giliespie
Dawanna Giliespie, Sr. Closer

Without Recourse Pay to the Order of
Wells Fargo Bank, N.A.
By Lori K. Venegonia
Lori K. Venegonia, Vice President Loan
Documenation ⁸

App. Pet. 11

Pay to the order of
Wells Fargo Bank, NA
Without Recourse
This 28 day of Dec, 2005
LoanCity
A California Corporation
Dawanna Giliespie
Dawanna Giliespie, Sr. Closer

⁸ These indorsements were not present in the 19th JDC Case No. C-656991 but even if it were present, it does not list Equifirst, Freddie Mac Multiclass Series 3113, Wells Fargo as a Servicer cannot be listed in the indorsements as it is cannot be an "Owner" of the note. The wording of the indorsement is also incorrect LoanCity would not "Pay without Recourse" it would be reversed.

Appendix C

Docket C-656991
 Wells Fargo Bank NA VS
 Darrell Kendrick Berry ETAL

Date Filed: 04/10/2017 Kind: Civil Division:22
 Date Last Active: 11/30/2018 Cause: EP-
 Executory Process Suit Status: Active
 Judge: Kelley, Timothy E

CHRONOLOGICAL HISTORY (54) PARTIES
 (3) ATTORNEYS (3) MINUTES (8)

Date	Type	Description	Filed By
04/10/2017	Court Event	Doc Minute 09:00am - Judge: Doc Minute - Division: Doc Minute	
04/10/2017	Court Event	Doc Minute 09:00am - Judge: Doc Minute - Division: Doc Minute	
04/10/2017	Document	Property Description - Conversion, Image	

Date	Type	Description	Filed By
04/11/20 17	Court Event	Doc Minute 09:00am – Judge: Doc Minute – Division: Doc Minute	
04/11/20 17	Docume nt	Sent To Comm. Exe Process – Conversion, Image	
04/11/20 17		Letter From Attorney	Courtea u, Candace A
04/11/20 17		Pet/Executo ry Process	Courtea u, Candace A
<i>04/11/20 17</i>		<i>Petitioner's Order</i>	<i>Courtea u, Candace A⁹</i>
<i>04/13/20 17</i>	<i>Court Event</i>	<i>Doc Minute 09:00am – Judge: Doc</i>	<i>¹⁰</i>

⁹ The signed April 13, 2017 order for Judge Kelley is under this tab April 11, 2017 which is two days prior to the date of the signature.

¹⁰ This is the date the document was allegedly signed but there is no document attached to this entry.

Date	Type	Description	Filed By
		<i>Minute – Division: Doc Minute</i>	
04/25/2017	<i>Docu- ment</i>	<i>Signed-Exe Process – Courteau, Candace A</i>	¹¹
04/25/2017		Letter From Atty/Hold Writ	Courtea u, Candace A
04/25/2017		Note/Out Of Parish	Courtea u, Candace A
04/27/2017		Letter From Atty/Hold Writ	Courtea u, Candace A
04/03/2018	Court Event	<i>Doc. Minute 09:00am – Judge: Doc Minute –</i>	

¹¹ The entry reads, *Signed-Exe Process – Courteau Candace A*. It does not say who filed it and the Signed-Exe Process is nowhere to be found under this "Court Entry". Additionally, on this date the Exhibits can be found but the Exhibits were not present prior to the signing of the order dated April 13, 2017 nor is it included in the April 11, 2017's documents.

Date	Type	Description	Filed By
		<i>Division: Doc Minute</i>	
04/04/20 18	Court Event	<i>Doc Minute 09:00am - Judge: Doc Minute - Division: Doc Minute</i>	
04/04/20 18		<i>Fax Fee</i>	Courtea u, Candace A
04/05/20 18		<i>Fax Fee</i>	Courtea u, Candace A
04/10/20 18		<i>Letter Requesting Writ</i>	Courtea u, Candace A
04/11/20 18	Docume nt	<i>Payment Received</i> Courteau, Candace A	
04/11/20 18		<i>Document Image - Payment Received</i>	
04/12/20 18		<i>Writ Of Seizure And Sale</i>	Courtea u, Candace A

Appendix D

La. Civ. Code Art 1833 A. An authentic act is a writing executed before a notary public or other officer authorized to perform that function, in the presence of two witnesses, and signed by each party who executed it, by each witness, and by each notary public before whom it was executed.

La. Civ. Code Art. 1839 A transfer of immovable property must be made by authentic act or by act of private signature.

Appendix E

PROSPECTUS SUPPLEMENT

\$1,269,772,238

Freddie Mac

Multiclass Certificates, Series 3113

Offered Classes: REMIC Classes shown below
and MACR Classes shown on *Appendix A*

Offering Terms: The underwriter named
below is offering the Classes in negotiated
transaction at

varying prices; we have
agreed to purchase all of PN

Closing Date: February 27, 2006

REMIC

- (1) See Appendix II to the Offering Circular
and Payment
 - (2) See Terms
-

The Certificates may not be suitable
investments for you. You should not purchase
Certificates unless you have carefully
considered and are able to bear the associated
prepayment, interest rate, yield and market
risks of investing in them. *Certain Risk
Considerations* on page S-2 highlights some of
the risks.

You should purchase Certificates only if you read and understood this Supplement, the attached Offering Circular and the documents listed under *Available Information*.

We guarantee principal and interest payments on the Certificates. These payments are not guaranteed by and are not debts or obligations of the United States or any federal agency or instrumentally other than Freddie Mac. The Certificates are not tax-exempt. Because of applicable securities law exemption, we have not registered the Certificates with any federal or state securities commission. Not securities commission has reviewed this Supplement.

MORGAN STANLEY

January 17, 2006