

22-666A

CASE NUMBER:

ORIGINAL

Supreme Court, U.S.
FILED

JAN 26 2023

OFFICE OF THE CLERK

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IN THE UNITED STATES SUPREME COURT

SHEIK TEHUTI

PETITIONER,

Vs.

TRANS-ATLAS FINANCIAL, CYRUS RAOFPUR,
AND CHRISTOPHER C. COLLIE, ETAL.

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

-- SHEIK TEHUTI --

Sheik Tehuti

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Dallas, Texas 75227

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QUESTIONS PRESENTED

1. Is non-judicial foreclosure pursuant to Texas's extensive statutory procedure subject to 14th Amendment Due Process protection?
2. Can a court deny a Motion to Reinstate a Complaint that violates 14th Amendment Due Process protection?
3. Can court deny a Motton to Reinstate a Complaint oh an order issued outside Jurisdiction in a manner that violates 14th Amendment Due Process protection?
4. Can a court Reinstate a Complaint to Grant **FRAP 2**, on its own or a party's motion, a court of appeals may-to expedite its decision or for other good cause-Suspend any provision of these rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b), prior to a case being closed that was post-stamped timely filed with receipts on or before due date ?
5. Can a court Reinstate a Complaint to Grant on its own or by a party's motion post-stamped with receipts timely filed on or before due date ask for an additional extension of time, to request, clarify or apply FRAP 30. (l)(B) - (C)(l) - (2) (A) - **FRAP 30(f)** ?
6. Is procedure described in FRAP 30(f) for a hearing appeals on the original record without requiring an appendix is authorized in the following classes of cases: (A) proceedings conducted in forma pauperis ?
7. Can a court deny a Motion To Reinstate a Complaint to set aside and vacate non-frivolous complaint on a void judgment under FRAP 60(b)(4)?
8. Can a court deny a Motion To Reinstate a Complaint to set aside and vacate non-frivolous complaint in violation of the 14th Amendment Due Process protection ?
9. Can a court deny a Motion To Reinstate a Complaint to set aside and vacate non-frivolous complaint in violation of the 14th Amendment Due Process protection on a void judgment under FRAP 60(b)(4) that has no statute of limitations on filings a complaint based upon fraud or fraud upon the court ?
10. Can an Appeal Support a **VOID JUDGMENT** ?
11. Is FRAP 25(a)(2)(B) (i) (ii) Post-Dated Receipts on or before Timely Filed

LIST OF PARTIES

Cyrus Raoufpur dba Trans-Atlas Financial Inc. P.O.
Box 2051 Del Mar, CA 92014

Christopher C. Collie – The Collie Law Firm, 2514 Boll
Street, Dallas, TX 75204

ARMANI Family Trust – 6430 South Point Dr. Dallas,
TX 75248-2110

DFW Waste Management and Recycling – Mauricio
Sanchez – 2931 Obanno St., Dallas, TX 75224

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix 4 to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix 5, 6 to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
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☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was DECEMBER 2, 2022.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: DECEMBER 2, 2022, and a copy of the order denying rehearing appears at Appendix 4.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was AUGUST 31, 2021.
A copy of that decision appears at Appendix 5, 6.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

OPINIONS BELOW

CYRUS RAOUPUR DBA TRANS-ATLAS FINANCIAL INC DIDN'T OWN THE PROPERTY WHEN THEY CREATED THEIR NEW MORTGAGE TAF-917 JANUARY 5, 2004, OR PRIOR TO THEIR ILLEGAL FORECLOSURE OCTOBER 1, 2013

THERE WAS NEVER A RECORDED DEED OR MORTGAGE CONTRACT AGREEMENT BETWEEN SHEIK TEHUTI AND CYRUS RAOUPUR DBA TRANS-ATLAS FINANCIAL PRIOR TO THE ILLEGAL FORECLOSURE ACTIONS THAT STARTED OCTOBER 1, 2013, WITHOUT LACK OF STANDING. FEDERAL RULES AND SERVICING LAWS WERE VIOLATED AND MORE. THIS CANNOT BE IGNORED OR DENIED THIS WAS A ROBBERY.

12 U.S. Code § 2605: Servicing of mortgage loans and administration of escrow accounts: Federal Rule of Civil Procedure 17(a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash. 2009); In re Hwang, 396 B.R. 757, 766-67 (Bankr. C.D. Cal. 2008).

Federal Rule of Civil Procedure 17(a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash. 2009); In re Hwang, 396 B.R. 757, 766-67 (Bankr. C.D. Cal. 2008). Mortgage Electronic Registration Systems, Inc. v. Chong, 824 N.Y.S.2d 764 (2006). MERS did not have standing as a real party in interest under the Rules to file the motion. The declaration also failed to assert that MERS, FMC Capital LLC or Homecomings Financial, LLC held the Note.

The 14th amendment of the United States Constitution gives everyone a right to due process of law, which includes judgments that comply with the rules and case law. Most due process exceptions deal with the issue of notification. If, for example, someone gets a judgement against you in another state without your having been notified, you can attack the judgement for lack of due process of law. In Griffen v. Griffen, 327 U.S. 220, 66 S. Ct. 556, 90 L. Ed. 635 a pro se litigant won his case in the Supreme Court who stated.

A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel, 39 S.W.3d 221, 225 (Tex. Crim. App. 2001), Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring).

The law is well-settled that a void order or judgement is void even before reversal". VALLEY v. NORTHERN FIRE & MARINE INS. CO., 254 U.S. 348, 41 S. Ct. 116 (1920) "Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgements and orders are regarded as nullities; they are not voidable, but simply void, and this even prior to reversal." WILLIAMSON v. BERRY, 8 HOW. 945, 540 12 L. Ed. 1170, 1189 (1850). It has also been held that "It is not necessary to take any steps to have a void judgment reversed, vacated, or set aside, It may be impeached in any action direct or, collateral.' Holder v. Scott, 396 S.W.2d 906, (Tex.Civ.App., Texarkana, 1965, writ ref., n.r.e.). A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a void order can be challenged in any court", OLD WAYNE MUT. L. ASSOC. v. McDONOUGH, 204 U. S. 8, 27 S. Ct. 236 (1907). Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const.

FRCP RULE 60(b) FRCP Rule 60(b) provides that the court may relieve a party from a final judgment and sets forth the following six categories of reasons for which such relief may be granted: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly-discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59; (3) fraud, misrepresentation, or misconduct by an adverse party; (4) circumstances under which a judgment is void; (5) circumstances under which a judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. F.R.C.P. Rule 60(b)(1)-(b)(6). To be entitled to relief, the moving party must establish facts within one of the reasons enumerated in Rule 60(b).

A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring).

This cannot be ignored its fact recorded! Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 -Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985).

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When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See El-Kareh v. Texas Alcoholic Beverage Comm'n, 874 S.W.2d 192, 194 (Tex. App.-Houston [14th Dist.] 1994, no writ); see also Evans v. C. Woods, Inc., No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.-Tyler Aug. 30, 1999, no pet. h.).

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a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment.

A Void Judgement is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel 39 S.W.3d 221, 225 (Tex. Crim. App. 2001). Since the trial court's dismissal "with prejudice" was void, it may be attacked either by direct appeal or collateral attack Ex parte Williams, No. 73,845 (Tex.Crim.App. 04/11/2001). "Avoid judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J.,concurring). A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See Long v. Shorebank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999).

12 U.S. Code§ 2605: Servicing of mortgage loans and administration of escrow accounts: Federal Rule of Civil Procedure 17(a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr.W.D. ,wash. 2009); In re Hwang, 396B.R. 757, 766-67 (Bankr. C.D. Cal. 2008).

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This is why the RESPONDENTS kept trying to avoided the Real Demand by a real Jury Trial-with real jurors outside the Texas corrupted Judges they knew they would be busted, this is why they always went to and

under Judges that knew and had worked for their firms prior to being judges, that is how they got away with the crime fraud and fraud upon the court with illegal orders, on a void judgement.

Cyrus Raoufpur dba Trans-Atlas Financial Et, Al., Substitute Trustee Christopher Collie., violated all the laws and rules that cannot be ignored. See:

Ballard v. Hunter (1907) 204 U.S. 241
Baltodano v. Wal-Mart Stores, Inc. (2011 Dist. Ct.
Nevada) No. 2:10-cv-2062
Barrionuevo v. Chase Bank, N.A. (N.D. Cal. 2012)
885 F. Supp. 2d 964
Brodie v. Northwest Trustee Services, Inc., No. 12-
CV-0469 (E.D. WA 2012)
Carey v. Piphus (1978) 435 U.S. 247
Connecticut v. Doehr (1991) 501 U.S. 1
Culhane v. Aurora Loan Services of Nebraska (1st
Cir. 2003) 708 F.3d 282
Fremont Indemnity Co. v. Fremont General Corp.
(2007) 148 Cal.App.4th 97
Frontline. Med. Assocs. v. -Coventry Health(C.D; Cal.
2009) 263 F.R.D. 567
Glaski v. Bank of America (2013) 218Cal.App.4th
1079
Gomes v. Countrywide Home Loans, Inc. (2011) 192
Cal.App.4th 1149

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When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See El-Kareh v. Texas Alcoholic Beverage Comm'n, 874 S.W.2d 192, 194 (Tex. App.-Houston [14th Dist.] 1994, no writ); see also Evans v. C. Woods, Inc., No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.-Tyler Aug. 30, 1999, no pet. h.).

JURISDICTION

This court has jurisdiction on a void judgment and constitutional issues. 28 U.S.C. §1254 (1). There is diversity of citizenship between the parties and the amount in controversy exceeds the sum of \$75,000. The district court had jurisdiction under 28 U.S.C. §1332(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV

The 14th amendment of the United States Constitution gives everyone a right to due process of law, which includes judgments that comply with the rules and case law. Most due process exceptions deal with the issue of notification. If, for example, someone gets a judgement against you in another state without your having been notified, you can attack the judgement for lack of due process of law. In Griffen v. Griffen, 327 U.S. 220, 66 S. Ct. 556, 90 L. Ed. 635, a pro se litigant won his case in the Supreme Court who stated

The Fourteenth Amendment states:
No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. U.S. Const. amend. XIV

STATEMENT OF THE CASE

Sheik Tehuti timely filed in the United States Court Of Appeal on a **Void Judgment - and No Due Process**. In addition to this, he presented his receipts to prevent this case-complaint on a void judgment from being illegally dismissed-denied regarding a Fraud Upon The Court and Constitutional Issues on No Due Process.

GROUNDS: **RULE 60(b)** (1) (2) (3) (4) (6) **60(d)** (1) (2) (3) and **FRAP 25(a)(2)(B)** and **RULE 17(a)(1)** and **9(b)**.

When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192, 194 (Tex. App.-Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.-Tyler Aug. 30, 1999, no pet. h.).

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Section 35-10-9: Sales contrary to article null and void. All sales of real estate, made under powers contained in mortgages or deeds of trust contrary to the provisions of this article, shall be null and void, notwithstanding any agreement or stipulation to the contrary. (Code 1907, §4134; Code 1923, §7849; Code 1940, T. 7, §561.).

The Appellate Division, Second Department (*Kluge v Fugazy*, 145 AD2d 537,538 [2d Dept 1988]), held that a "foreclosure of a mortgage may not be brought by one who has no title to it and absent transfer of the debt, the assignment of the mortgage is a nullity." Citing *Kluge v Fugazy*, the Court (*Katz v East-Ville Realty Co.*, 249 AD2d 243 [1st Dept 1998], held that "[p]laintiff's attempt to foreclose upon a mortgage in which he had no legal or equitable interest was without foundation in law or fact.

Cyrus Raoufpur dba Trans-Atlas Financial Et, Al., Substitute Trustee Christopher Collie wasn't the holder of the note when they created their illegal mortgage January 5, 2004. Their Assignment was filed March 11, 2013, and they became owners after of the property on a foreclosure deed they purchased from themselves based upon fraud and fraud upon courts with illegal orders.

The Arrears the Relief was based upon is fraud on arrears dated back to March 11, 2013 on a mortgage they illegally created in 2004, they didn't have grounds to file complaints by the rule of law, they didn't own the property when they created their illegally mortgage by attaching their name to Sheik Tehuti insurance policies to process claims under their fabricated mortgage which is a bigger crime, without a recorded deed, trustee's deed of sale and without the release-cancellation of the original note between Sheik Tehuti and Trans-Atlas Financial.

The law firms and corrupted Judges went back with illegal order to cover up no due process and fraud upon the court with a Remand March 29, 2021 with the intent to cover the illegal foreclosure June 1, 2012 TRO dated May 15, 2017 Dallas County Court 101 Judge Staci Williams TRO order accused Cyrus Raoufpur dba Trans-Atlas Financial of non-disclosure of financial records collect more than \$48,500 payment of a \$58,500, financial doesn't comply with applicable mortgage laws or foreclosure and deliberately DEFIES the Department of Justice and CFPB rules and regulations and everyone else. Dallas Police Department and Dallas County Code Enforcement close down on December 18, 2022 the underground dump ground and recycle plant, who the property was title to Armani Family Trust to hide the financial disclosure who executed and stole the equity, interest, property alerted by Home Title Lock on July 14, 2021, simply because millions of dollars of fund has been collect by usurp of TRO order, no dismissal, no application from court order or judgment. Trans-Atlas Financial and Substitute Trustee Christopher C. Collie failed to foreclose in proper jurisdiction only favor so no one would find out the truth on what really occurred here. There was No Due Process prior to the illegal foreclosure October 9, 2013, recorded through the courts filed in case (JE1350970H) and the judges and court knew this. Fraud Upon The Court without lack of standing on a Void Judgment, is illegal. A Remand will not support No Due Process Law after the crime was committed based upon Fraud Upon The Court. Constitutional Laws were violated here, that was covered up illegally with illegal orders based upon fraud and fraud upon the court's.

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers. A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring).

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Omer. V. Shalala, 30 F.3d 1307 (Colo. 1994). This cannot be ignored its fact recorded! Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 -Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985).

CYRUS RAOUFPUR DBA TRANS-ATLAS FINANCIAL INC DIDN'T OWN THE PROPERTY WHEN THEY CREATED THEIR NEW MORTGAGE TAF-917 JANUARY 5, 2004, OR PRIOR TO THEIR ILLEGAL FORECLOSURE OCTOBER 1, 2013. THERE WAS NEVER A RECORDED DEED OR MORTGAGE CONTRACT AGREEMENT BETWEEN SHEIK TEHUTI AND CYRUS RAOUFPUR DBA TRANS-ATLAS FINANCIAL SUBSTITUTE TRUSTEE DEED WRITER CHRISTOPHER COLLIE PRIOR TO THE ILLEGAL FORECLOSURE ACTIONS THAT STARTED OCTOBER 1, 2013, WITHOUT LACK OF STANDING. FEDERAL RULES AND SERVICING LAWS WERE VIOLATED AND MORE. THIS CANNOT BE IGNORED OR DENIED THIS WAS A ROBBERY.

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Section 6-9-180: Jury trial on issues of fact. If the motion or application is to enter satisfaction of a judgment under the Texas Rules of Civil Procedure or to set aside the entry of satisfaction of a judgment, on request of either party, the issue of fact must be tried by a jury. (Code 1886, §2870; Code 1896, §3340; Code 1907, §4146; Code 1923, §7861; Code 1940, T. 7, §573.). **When appeal is taken from a void judgment, the appellate court must declare the judgment void.** Because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192, 194 (Tex. App.--Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.--Tyler Aug. 30, 1999, no pet. h.).

The law is well-settled that a void order or judgement is void even before reversal", *VALLEY v. NORTHERN FIRE & MARINE INS. CO.*, 254 U.S. 348, 41 S. Ct. 116 (1920) "Courts are constituted by authority and they cannot go beyond that power delegated to them. **If they act beyond that authority, and certainly in contravention of it, their judgements and orders are regarded as nullities; they are not voidable, but simply void, and this even prior to reversal.**" *WILLIAMSON v. BERRY*, 8 HOW. 945, 540 12 L. Ed. 1170, 1189 (1850).

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, *Orner. V. Shalala*, 30 F.3d 1307 (Colo. 1994). Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 - *Klugh v. U.S.*, 620 F. Supp. 892 (D.S.C. 1985).

A void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring).

The Court Has A Responsibility To Correct a Void Judgment: The statute of limitations does not apply to a suit in equity to vacate a void judgment. (Cadenasso v. Bank of Italy, p. 569; Estate of Pusey, 180 Cal. 368,374 [181 P. 648].) This rule holds as to all void judgments. In the other two cases cited, People v. Massengale and In re Sandel, the courts confirmed the judicial power and responsibility to correct void judgments.

Section 6-9-180: Jury trial on issues of fact. If the motion or application is to enter satisfaction of a judgment under the Texas Rules of Civil Procedure or to set aside the entry of satisfaction of a judgment, on request of either party, the issue of fact must be tried by a jury. (Code 1886, §2870; Code 1896, §3340; Code 1907, §4146; Code 1923, §7861; Code 1940, T. 7, §573.). When appeal is taken from a void judgment, the appellate court must declare the judgment void. Because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See El-Kareh v. Texas Alcoholic Beverage Comm'n, 874 S.W.2d 192, 194 (Tex. App.--Houston [14th Dist.] 1994, no writ); see also Evans v. C. Woods, Inc., No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.--Tyler Aug. 30, 1999, no pet. h.).

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FRCP Rule 60(b) provides that the court may relieve a party from a final judgment and sets forth the following six categories of reasons for which such relief may be granted: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly-discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59; (3) fraud, misrepresentation, or misconduct by an adverse party; (4) circumstances under which a judgment is void; (5) circumstances under which a judgment has been satisfied, released, or

discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. F.R.C.P. Rule 60(b)(1)-(b)(6). To be entitled to relief, the moving party must establish facts within one of the reasons enumerated in Rule 60(b).

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, *Orner. V. Shalala*, 30 F.3d 1307 (Colo. 1994). Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 - *Klugh v. U.S.*, 620 F. Supp. 892 (D.S.C. 1985).

A void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." *Ex parte Spaulding*, 687 S.W.2d at 745 (Teague, J., concurring). The Court Has A Responsibility To Correct a Void Judgment: The statute of limitations does not apply to a suit in equity to vacate a void judgment. (*Cadenasso v. Bank of Italy*, p. 569; *Estate of Pusey*, 180 Cal. 368, 374 [181 P. 648].) This rule holds as to all void judgments. In the other two cases cited, *People v. Massengale* and *In re Sandel*, the courts confirmed the judicial power and responsibility to correct void judgments.

Section 35-10-9: Sales contrary to article null and void. All sales of real estate, made under powers contained in mortgages or deeds of trust contrary to the provisions of this article, shall be null and void, notwithstanding any agreement or stipulation to the contrary. (Code 1907, §4134; Code 1923, §7849; Code 1940, T. 7, §561.).

A void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." *Ex parte Spaulding*, 687 S.W.2d at 745 (Teague, J., concurring). When appeal is taken from a void judgment, the appellate court must declare the judgment void. Because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal.

REASONS FOR GRANTING THE WRIT

Since the trial court's dismissal "with prejudice" was void, it may be attacked either by direct appeal or collateral attack Ex parte Williams, No. 73,845 (Tex. Crim. App. 04/11/2001). "A void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See Long v. Shorebank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999).

A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel, 39 S.W.3d 221, 225 (Tex. Crim. App. 2001), Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring).

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers. A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring).

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Omer. V. Shalala, 30 F.3d 1307 (Colo. 1994).

CYRUS RAOUFPUR DBA TRANS-ATLAS FINANCIAL INC DIDN'T OWN THE PROPERTY WHEN THEY CREATED THEIR NEW MORTGAGE TAF-917 JANUARY 5, 2004, OR PRIOR TO THEIR ILLEGAL FORECLOSURE OCTOBER 1, 2013.

THERE WAS NEVER A RECORDED DEED OR MORTGAGE CONTRACT AGREEMENT BETWEEN SHEIK TEHUTI AND CYRUS RAOUFPUR DBA TRANS-ATLAS FINANCIAL SUBSTITUTE TRUSTEE DEED WRITER CHRISTOPHER COLLIE PRIOR TO THE ILLEGAL FORECLOSURE ACTIONS THAT STARTED OCTOBER 1, 2013, WITHOUT LACK OF STANDING. FEDERAL RULES AND SERVICING LAWS WERE VIOLATED AND MORE. THIS CANNOT BE IGNORED OR DENIED THIS WAS A ROBBERY

12 U.S. Code § 2605: Servicing of mortgage loans and administration of escrow accounts: Federal Rule of Civil Procedure 17(a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash. 2009); In re Hwang, 396B.R. 757, 766-:-67 (Bankr. C.D. Cal. 2008).

Federal Rule of Civil Procedure 17(a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash. 2009); In re Hwang, 396 B.R. 757, 766-67 (Bankr. C.D. Cal. 2008). Mortgage Electronic Registration Systems, Inc. v. Chong, 824 N.Y.S.2d 764 (2006).

MERS did not have standing as a real party in interest under the Rules to file the motion. The declaration also failed to assert that MERS, FMC Capital LLC or Homecomings Financial, LLC held the Note.

When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See El-Kareh v. Texas Alcoholic Beverage Comm'n, 874 S.W.2d 192, 194 (Tex. App.-Houston [14th Dist.] 1994, no writ); see also Evans v. C. Woods, Inc., No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.-Tyler

Aug. 30, 1999, no pet. h.).

CONCLUSION

This cannot be ignored its fact recorded! Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A Const. Amend. 5 -Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985).

12 U.S. Code§ 2605: Servicing of mortgage loans and administration of escrow accounts: Federal Rule of Civil Procedure 17(a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash. 2009); In re Hwang, 396B.R. 757, 766-67 (Bankr. C.D. Cal. 2008).

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A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J., concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment.

A Void Judgement is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel, 39 S.W.3d 221, 225 (Tex. Crim.

App. 2001). See: Wells Fargo, Litton Loan v. Farmer, 867 N.Y.S.2d 21 (2008). "Wells Fargo does not own the mortgage loan therefore, the matter is dismissed with prejudice. See: Sturdivant v. BAC Home Loans, LP, [Ms. 2100245, Dec. 16, 2011]

_ So. 3d (Ala. Civ. App. 2011). In Sturdivant, BAC Home Loans, LP ("BAC"), initiated foreclosure proceedings on the mortgage encumbering Bessie T. Sturdivant's house before the mortgage had been assigned to BAC.

A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See Long v. Shore bank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999).

Black's Law Dictionary, Sixth Edition, p. 1574:

Void judgment. One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally. Reynolds v. Volunteer State Life Ins. Co., Tex. Civ. App., 80 S.W.2d 1087, 1092. One which from its inception is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree. Judgment is a "void judgment" if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner

inconsistent with due process. Klugh v. U.S., D.C.S.C., 610 F. Supp. 892,901. See also Voidable judgment. **Black's Law Dictionary, Sixth Edition, p. 1574.**

Assignment: An assignment of mortgage must be in writing and recorded. **35-4-51:** To effectuate an assignment, the general rule is that the assignment must be in proper written format and recorded to provide notice of the assignment.

Section 35-4-57: Deeds of assignment for benefit of creditors. All deeds of assignment executed by debtors for the benefit of creditors shall, as soon as executed, be filed and recorded in the office of the judge of probate of the county in which the

property is situated, and such deeds are operative in all respects as other deeds from the day of the delivery to the judge. (Code 1896, §1004; Code 1907, §3381; Code 1923, §6872; Code 1940, T. 47, §115.).

Section 35-4-50: Conveyances required to be recorded in office of probate judge. Conveyances of property, required by law to be recorded, must be recorded in the office of the judge of probate. (Code 1852, §1268; Code 1867, §1537; Code 1876, §2147; Code 1886, §1791; Code 1896, §985; Code 1907, §3367; Code 1923, §6853; Code 1940, T. 47, §94.).

The assignment of the Defendant's note and mortgage, having not been assigned from the Depositor to the Trust, is therefore VOID as in being in contravention of the Governed Laws and Security Laws under Sections 17(a)(2) and 17(a)(3) of the Securities. Act of 1933 and Section 21C of the Exchange Act of 1934 and Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, 13a-13-using deceptive practices and more.

There was never a recorded mortgage (0835002124) or an Conveyance to Sheik Tehuti of the mortgage (TAF-917) by CYRUS RAOUFPUR DBA TRANS-ATALS FINANCIAL created to themselves (January 3, 2005) without lack of standing.

The TRO dated May 15, 2017, Dallas County Court 101 Judge Staci Williams TRO order accused Cyrus Raoufpor dba Trans-Atlas Financial of non-disclosure of financial records collect more than \$48,500 payment of a \$58,500, financial doesn't comply with applicable mortgage laws or foreclosure and deliberately DEFIES the Department of Justice and CFPB rules and regulations and everyone else. Dallas Police Department and Dallas County Code Enforcement close down on December 18, 2022 the underground dump ground and recycle plant, who the property was title to Armani Family Trust to hide the financial disclosure who executed and stole the equity, interest, property alerted by Home Title Lock on July 14, 2021, simply because millions of dollars of fund have been collect by usurp of TRO order, no dismissal, no application from court order or judgment. Trans-Atlas Financial and Substitute Trustee Christopher C. Collie failed to foreclose in proper jurisdiction only favor.

Section 35-4-50: Conveyances required to be recorded in office of probate judge: Conveyances of property, required by law to be recorded, must be recorded in the office of the judge of probate. (Code 1852, §1268; Code 1867, §1537; Code 1876, §2147; Code 1886, §1791; Code 1896, §985; Code 1907, §3367; Code 1923, §6853; Code 1940, T. 47, §94.).

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APPENDIX (B): CYRUS RAOUFPUR DBA TRANS-ATLAS FINANCIAL ET, AL., committed Fraud in (2005) without lack of standing.

APPENDIX (C): Trans-Atlas Financial Recorded Illegal Foreclosure Deed by Substitute Trustee writer Christopher Collie to Themselves after Their Illegal Foreclosure October 1, 2013, they filed October 1, 2013.

APPENDIX (D): Fraudulent sale to Armani Family Trust July 14, 2021

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Gomes v. Countrywide Home Loans, Inc. (2011) 192 Cal.App.4th 1149

Wells Fargo, Litton Loan v. Farmer, 867 N.Y.S.2d 21 (2008).

Sturdivant v. BAC Home Loans, LP, [Ms. 2100245, Dec. 16, 2011] _ So. 3d (Ala. Civ. App. 2011). In Sturdivant, BAC Home Loans, LP ("BAG").

12 U.S. Code§ 2605: Servicing of mortgage loans and administration of escrow accounts: Federal Rule of Civil Procedure's 7(a)(1) which requires that, "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash. 2009); In re Hwang, 396B.R. 757, 766-67 (Bankr. C.D. Cal. 2008). **Federal Rule of Civil Procedure 17(a)(1)** which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash: 2009); In re Hwang, 396 B.R. 757, 766-67 (Bankr. C.D. Cal. 2008). Mortgage Electronic Registration Systems, Inc. v. Chong, 824 N.Y.S.2d 764 (2006). MERS did not have standing as a real party in interest under the Rules to file the motion. The declaration also failed to assert that MERS, FMC Capital LLC or Homecomings Financial, LLC held the Note.

STATUTES AND RULES

Cyrus Raoufpur dba Trans-Atlas Financial Inc was a California Corporation, they were the Lender.

Wells Fargo v. Erobo, published held: "The assignment of the Defendant's note and mortgage, having not been assigned from the Depositor to the Trust, is therefore VOID as in being in contravention of the PSA.

See: Governed Laws and Security Laws under Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 and Section 21C of the Exchange Act of 1934 and Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, 13a-13.

Federal Rule of Civil Procedure 17(a)(1)

12 U.S. Code § 2605:

35-4-51

Section 35-4-57:

Code of Texas 1975 Section 35-10-9

Section 35-4-50:

28 U.S.C. §1254(1)

28 U.S.C. §1332(a)

Cal. Civ. Code §2924

Cal. Civ. Code §2924.17

Cal. Civ. Code §2924(a)

OTHER

OTHER PARTIES OF INTEREST LINKED TO THIS CRIME

Substitute Trustee Christopher C, Collie
ARMANI Family Trust
DFW Waste Management

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 - Klugh v. U.S., 620 F. Supp. 892 (D.S.C. 1985). Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed, City of Lufkin v. McVicker, 510 S.W.2d 141 (Tex.Civ.App.-Beaumont 1973). When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Omer. V. Shalala, 30 F.3d 1307 (Colo. 1994).

THE PETITIONER SHEIK TEHUTI HAS GROUNDS: NO DUE PROCESS PRIOR TO THE ILLEGAL FORECLOSURE (OCTOBER 2013) STYLED TRANS-ATLAS FINANCIAL VS. SHEIK TEHUTI IN THEIR EVICTION-EJECTMENT ACTIONS IN CASES (JE1350970H) and (CC-13-06496-C).

THERE WAS NO REMAND OR SUMMARY JUDGMENT OR CONVEYANCE-RECORDED- TO SHEIK TEHUTI BY THE RESPONDENT(S) UNDER THEIR MORTGAGE LOAN NUMBER (TAF-917) PRIOR TO THE ILLEGAL FORECLOSURE OCTOBER 2013, THIS PREVENTED THE ILLEGAL FORECLOSURE, THE CASE WAS PENDING A DEMAND BY TRIAL, (OCTOBER 1, 2013). THE ILLEGAL ORDERS WERE PRECURED BY FRAUD.

Section 6-6-563: Service of process: If any of the parties set out in Section 6-6-562, whose names are known, reside in the State of Alabama, a copy of the complaint must be served upon them, in the same manner that process is served on defendants in civil actions. (Acts 1923, No. 526, p. 699; Code 1923, §9914; Code 1940, T. 7, §1118; Acts 1951, No. 882, p. 1521, §3.)

Wells Fargo, Litton Loan v. Farmer, 867 N.Y.S.2d 21 (2008). "Wells Fargo does not own the mortgage loan... Therefore, the... matter is dismissed with prejudice.

Violation of Judicial Foreclosures: Section 6-9-180: Jury trial on issues of fact. If the motion or application is to enter satisfaction of a judgment under the Texas Rules of Civil Procedure or to set aside the entry of satisfaction of a judgment, on request of either party, the issue of fact must be tried by a jury. (Code 1886, §2870; Code 1896, §3340; Code 1907, §4146; Code 1923, §7861; Code 1940, T. 7, §573.).

18 U.S.A. § 1962(b) which prohibits "any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

TRANS-ATLAS FINANCIAL said they issued (**DUE PROCESS**) on (10/3/2013) and served on the same day which is **Fraud (10/3/2013)**, this is recorded on (10/26/2013) under case (**JE1350970H**). Regardless Due Process was Served after the illegal wrongful foreclosure (June 1, 2012), which is a **VOID JUDGEMENT**.

The **Assignment of Mortgage** in Instrument 201300083136 DD03192013 in the records of the Dallas County Records in Dallas County, Texas., was created on (March 19, 2013) was filed (March 19, 2013). The crime was initiated (January 5, 2004) without lack of standing prior to Assignment of Mortgage prepared January 5, 2004 filed (January 5, 2004).

Assignment of Mortgage (Absolute) includes the following provisions:

- **Effective Date/Parties:** Sets forth the effective date of the mortgage assignment and the names of the assignor and assignee;
- **Mortgage Information:** The date and recording information of the mortgage, name of the borrower, address of mortgaged property, original amount of the mortgage and the amount of indebtedness presently owing;
- **Mortgage Assignment:** Sets forth that assignor transfers their interest in the mortgage to the assignee and the amount of indebtedness presently owed;
- **Security:** Assignor sets out that mortgage is a valid security and that the mortgage has not been discharged;
- **Signatures:** Both parties must sign and date the mortgage assignment in the presence of witnesses.

The Appellate Division, Second Department (Kluge v Fugazy, 145 AD2d 537,538 [2d Dept 1988]), held that a "foreclosure of a mortgage may not be brought by one who has no title to it and absent transfer of the debt, the assignment of the mortgage is a nullity." Citing Kluge v Fugazy, the Court (Katz v East-Ville Realty Co., 249 AD2d 243 [1st Dept 1998], held that "[p]laintiffs attempt to foreclose upon a mortgage in which he had no legal or equitable interest was without foundation in law or fact.

The Court Has A Responsibility To Correct a Void Judgment: The statute of limitations does not apply to a suit in equity to vacate a void judgment. (Cadenasso v. Bank of Italy, p. 569; Estate of Pusey, 180 Cal. 368, 374 (181 P. 648].) This rule holds as to all void judgments. In the other two cases cited, People v. Massengale and In re Sandel, the courts confirmed the judicial power and responsibility to correct void judgments. Void order may be attacked, either directly or collaterally, at any time, In re Estate of Steinfield, 630 N.E.2d 801, certiorari denied, See also Steinfeld v. Roddick, 513 U.S. 809, (Ill. 1994). Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court, People ex rel. Brzica v. Village of Lake Barrington, 644 N.E.2d 66 (Ill. App. 2 Dist. 1994). No Due Process by the RESPONDENT(S) prior to the illegal foreclosure June 1, 2012.

FRAUD UPON THE COURT dated back to (2005) in Bankruptcy Case (05-13142) AND NO DUE PROCESS prior to the illegal foreclosure by the RESPONDENTS on JUNE 1, 2012. A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case. "A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel, 39 S.W.3d 221, 225 (Tex. Crim. App. 2001). Void order may be attacked, either directly or collaterally, at any time, In re Estate of Steinfield, 630 N.E.2d 801, certiorari denied, See also Steinfeld v. Roddick, 513 U.S. 809, (Ill. 1994). Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court, People ex rel. Brzica v. Village of Lake Barrington, 644 N.E.2d 66 (Ill.App. 2 Dist. 1994).

Federal Rule of Civil Procedure 17(a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re Jacobson, 402 B.R. 359, 365-66 (Bankr. W.D. Wash. 2009); In re Hwang, 396 B.R. 757, 766-67 (Bankr. C.D. Cal. 2008). Mortgage Electronic Registration Systems, Inc. v. Chong, 824 N.Y.S.2d 764 (2006). MERS did not have standing as a real party in interest under the Rules to file the motion. The declaration also failed to assert that MERS, FMC Capital LLC or Homecomings Financial, LLC held the Note.

RESPONDENT(S) IS A SERVICER:

12 U.S. Code § 2605: Servicing of mortgage loans and administration of escrow accounts: Federal Rule of Civil Procedure 17(a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest." See also, In re: Jacobson, 402 B.R. 359, 365-66 (Bankr.W.D. Wash. 2009); In re Hwang, 396B.R. 757, 766-67 (Bankr. C.D. Cal. 2008).

The Appellate Division, Second Department (Kluge v Fugazy, 145 AD2d 537, 538 [2d Dept 1988]), held that a "foreclosure of a mortgage may not be brought by one who has no title to it and absent transfer of the debt, the assignment of the mortgage is a nullity." Citing Kluge v Fugazy, the Court (Katz v East-Ville Realty Co., 249 AD2d 243 [1st Dept 1998], held that "[p]laintiffs attempt to foreclose upon a mortgage in which he had no legal or equitable interest was without foundation in law or fact.

There was No Due Process-Process of Service from Trans-Atlas Financial Inc., styled Trans-Atlas Financial Inc. vs. Sheik Tehuti, prior to the illegal wrongful foreclosure (October 5, 2013) Substitute Trustee Deed Writer Christopher Collie, this is recorded. CYRUS RAOUFPUR DBA TRANS-ATLAS FINANCIAL ET, AL., to proceed with an illegal foreclosure action without Due Process-Service of Process, filed in District Court under case (DC-17-05016) prior to the illegal wrongful foreclosure (October 5, 2013).

The law is well-settled that a void order or judgement is void even before reversal",

VALLEY v. NORTHERN FIRE & MARINE INS. CO., 254 U.S. 348, 41 S. Ct. 116

(1920) "Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgements and orders are regarded as nullities; they are not voidable, but simply void, and this even prior to reversal."

WILLIAMSON v. BERRY, 8 HOW. 945, 540 12 L. Ed. 1170, 1189 (1850).

History

1. December 22, 2003 the Plaintiff-Appellant SHEIK TEHUTI executed a Vendors Lien Deed between the prior owners the Trans-Atlas Financial and Sheik Tehuti. Filed under Instrument Number 200402708474, in Dallas County Records.

The Mortgage Contract Agreement executed (January 5, 2004) is between the Plaintiff- Appellant Sheik Tehuti and Trans-Atlas Financial under loan number (TAF-917).

The Mortgage Contract Agreement is based upon all the following terms and conditions executed in the Mortgage Contract Agreement filed (January 5, 2004) under Instrument 200402708474 in Dallas County Records.

The Appellate Division, Second Department (Kluge v Fugazy, 145 AD2d 537,538 [2d Dept 1988]), held that a "foreclosure of a mortgage may not be brought by one who has no title to it and absent transfer of the debt, the assignment of the mortgage is a nullity." Citing Kluge v Fugazy, the Court (Katz v East-Ville Realty Co., 249 AD2d 243 [1st Dept 1998], held that "[p]laintiffs attempt to foreclose upon a mortgage in which he had no legal or equitable interest was without foundation in law or fact. Trans-Atlas Financial wasn't the owner of the property when they obtain all the illegal orders on arrearages dated back to (2010-2013). They are a Servicer, whom could not file a cause of action and more under their fabricated mortgage (201300083136) they illegally created in (2013) without lack of standing.

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 - Klugh

v. U.S., 620 F.Supp. 892 (D.S.C. 1985). Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed, City of Lufkin v. McVicker, 510 S.X.2d 141 (Twx.Civ.App.-Beaumone 1973). When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Omer. V. Shalala, 30 F.3d 1307 (Colo. 1994).

Wells Fargo v. Erobo, published held: "The assignment of the Defendant's note and mortgage, having not been assigned from the Depositor to the Trust, is therefore VOID as in being in contravention of the PSA.

See: Governed Laws and Security Laws under Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 and Section 21C of the Exchange Act of 1934 and Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-

20, 13a-1, 13a-11, 13a-13-using deceptive practices and more.

Wells Fargo, Litton Loan v. Farmer, 867 N.Y.S.2d 21 (2008). "Wells Fargo does not own the mortgage loan... Therefore, the... matter is dismissed with prejudice.

When appeal is taken from a void judgment, the appellate court must declare the judgment void. Because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192, 194 (Tex. App.--Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.--Tyler Aug. 30, 1999, no pet. h.).

FRAUD UPON THE COURT: In the United States, when an officer of the

court is found to have fraudulently presented facts to court so that the court is impaired in the impartial performance of its legal task, the act, known as "fraud upon the court II, is a crime deemed so severe and fundamentally opposed to the operation of justice that it is not subject to any statute of limitation. Officers of the court include: lawyers, judges, referees, and those appointed; guardian ad litem, parenting time expeditors, mediators, rule 114 neutrals, evaluators, administrators, special appointees, and any others whose influence are part of the judicial mechanism. Fraud upon the court" has been defined by the 5th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication.

Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a

recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers." A "void" judgment, as we all know, grounds no rights, forms no defense to actions taken thereunder, and is vulnerable to any manner of collateral attack (thus here, by). No statute of limitations or repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen old wound and once more probe its depths. And it is then as though trial and adjudication had never been. Fritts v. Krugh, Supreme Court of Michigan, 92 N.W.2d 604, 354 Mich. 97 (10/13/58). Under Federal law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers."

Section 35-10-9: Sales contrary to article null and void. All sales of real estate, made under powers contained in mortgages or deeds of trust contrary to the provisions of this article, shall be null and void, notwithstanding any agreement or stipulation to the contrary. (Code 1907, §4134; Code 1923, §7849; Code 1940, T. 7, §561.).

Since the trial court's dismissal "with prejudice" was void, it may be attacked either by direct appeal or collateral attack Ex parte Williams, No. 73,845 (Tex.Crim.App. 04/11/2001). "A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Spaulding, 687 S.W.2d at 745 (Teague, J.,concurring). Section 6-9-147: Setting aside of sales by courts.

Courts have full power over their officers making execution or judicial sales, and whenever satisfied that a sale made under any legal process is infected with fraud, oppression, irregularity, or error to the injury of either party, the sale will be set aside. (Code 1907, §4134; Code 1923, §7849; Code 1940, T. 7, §561.).

Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the,

court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury.... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted.

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 - Klugh

v. U.S., 620 F.Supp. 892 (D.S.C. 1985). The Appellate Division, Second Department (Kluge v Fugazy, 145 AD2d 537, 538 [2d Dept 1988]), held that a "foreclosure of a mortgage may not be brought by one who has no title to it and absent transfer of the debt, the assignment of the mortgage is a nullity." Citing Kluge v Fugazy, the Court (Katz v East-Ville Realty Co., 249 AD2d 243 [1st Dept 1998], held that "[p]laintiffs attempt to foreclose upon a mortgage in which he had no legal or equitable interest was without foundation in law or fact.

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A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case. "A void judgment is a nullity from the beginning, and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel, 39 S.W.3d 221, 225 (Tex. Crim. App. 2001). A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. See Long v. Shorebank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999). Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside, Jaffe and Asher v. Van

Brunt, S.D.N.Y.1994, 158

F.R.D. 278. We have both violations for a Void Judgment in this particular case out of Alabama. There was no Summary Judgment, Remand or Due Process Prior To The Illegal Wrongful Foreclosure (June 1, 2012).

GMAC Mortgage Et, AL., aka GMAC Mortgage LLC said they issued (DUE PROCESS) on (10/3/2012) and served on the same day which is Fraud (10/3/2012). Due Process was recorded on (10/26/2012) under case (DV-2012-902844).

Regardless Due Process was Served after the illegal wrongful foreclosure (October 5, 2013), which is a **VOID JUDGEMENT**. The is so strange, Due Process show it was stamped (October 5, 2013) on a Foreclosure they did (June 1, 2012)!

The Assignment of Mortgage in Instrument 200402708474 in Dallas County Records., was created on (December 22, 2003) was filed (January 5, 2004). The crime was initiated (January 2005) without lack of standing prior to Assignment of Mortgage prepared December 22, 2003, filed (January 5, 2004).

It is illegal to knowingly and with intent to defraud, file a bankruptcy petition or other document, or make a false or fraudulent representation, claim.

18 US 157 also applies to involuntary bankruptcies. This statute is based on the wire, mail, and bank fraud statutes. See 18 US 1341, 1343, and 1344, respectively.

- Perjury. 18 US 1621. Perjury is punished by a maximum of 5 years in prison.
- Conspiracy. 18 US 371. Conspiracy has a maximum 5-year prison sentence (or less if the underlying crime has a lesser penalty, such as a misdemeanor).
- Wire fraud. 18 US 1341. This offense has a possible sentence of 20 years in prison, or 30 years with a possible \$1,000,000 fine where the offense impacts a financial institution.
- Mail fraud. 18 US 1343. Mail fraud has the same penalties as wire fraud.
- Bank fraud. 18 US 1344. Bank fraud is a criminal offense with a possible penalty of 30 years imprisonment and \$1,000,000 fine.
- RICO (racketeering). 18 US 1962. The sentence for a RICO charge

can be 20 years incarceration.

- Finally, 18 US 157 prohibits any scheme to defraud another, or attempt, during bankruptcy. The sentence for this charge is a maximum 5 years in federal prison.

It is illegal to knowingly and with intent to defraud, file a bankruptcy petition or other document, or make a false or fraudulent representation, claim. 18 US 157 also applies to involuntary bankruptcies. This statute is based on the wire, mail, and bank fraud statutes. See 18 US 1341, 1343, and 1344, respectively.

In a federal prosecution for conspiracy, the defendant is typically charged with two offenses. First, he is charged with conspiracy. Second, he is charged with the offense that he and his co-conspirators were conspiring to commit. This is known as the object of the conspiracy. **For instance, a person charged in connection with a drug or burglary.**

- Conspiracy against the rights of citizens. See 18 USC 241. This offense has a sentence of 10 years in prison.
- Conspiring in bribery of sporting contests. See 18 USC 224.

Under 18 USC 371, a person can be charged with conspiracy based on two elements

1. An agreement to commit a criminal offense.
2. An overt act that furthers the conspiracy.

The US Attorney does not have to prove that the agreement was in writing. It can be verbal and still subject the parties to criminal liability.

It is not a violation of double jeopardy for the defendant to be prosecuted and sentenced for both the conspiracy and the offense he agreed to commit.

Each is a separate and distinct offense.

A Party Affected by VOID Judicial Action Need Not APPEAL.⁰², State ex rel. Latty, 907 S.W.2d at 486. If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case. "A void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex parte Seidel, 39 S.W.3d 221,

225 (Tex. Crim. App. 2001).

The Code of Texas 1975 Section 35-10-9: Sales contrary to article null and void: All sales of real estate made under powers contained in mortgages or deeds of trust contrary to the provisions of this article, shall be null and void, notwithstanding any agreement or stipulation to the contrary. (Code 1923, § 9018; Code 1940, T. 47, §172.).

Respectfully Submitted, . . . *SHEIK TEHUTI . . .*

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