

No. 22-7196

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IN THE  
**Supreme Court of the United States**

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United States of America,  
Prelle, arthur scott,  
*Petitioners*,

Supreme Court, U.S.  
FILED

MAR 30 2023

OFFICE OF THE CLERK

v.

Chief Executive Officer of  
"New Jersey, State Of",  
et al.,  
*Respondents.*

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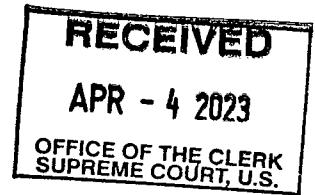
ON PETITION FOR A WRIT OF *CERTIORARI*  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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**PETITION FOR A WRIT OF *CERTIORARI***

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## **QUESTIONS PRESENTED**

- 1) Will the US Federal Courts allow USA certificate of full faith and credit, personal property and equitable interest to be dissipated or destroyed without due process or remedy where property was conveyed with intent and specificity to one party?
- 2) Will the US Federal Courts allow equity to suffer a right without a remedy?
- 3) Will the US Federal Courts deny the right of personal property ownership to a citizen of the United States of America?
- 4) Can “short” and “plain” causes of action be dismissed where a complainant is mistaken in his special relief?
- 5) Can “short and “plain” claim for restitution be denied where a complainant is mistaken in his special relief?
- 6) Will the US Federal Courts allow a defendant or court to modify the joinder of a complaint without the complainant’s consent?
- 7) Will the US Federal Courts ignore a Public Notary’s certificate of dishonor that acts as *res judicata*?
- 8) Will equity not follow the law in this matter?
- 9) Will the US Federal Courts allow a trust to fail for want of a trustee?
- 10) Will the US Federal Courts require the Respondents to answer in a personal capacity?

## **PARTIES TO THE PROCEEDINGS**

United States of America, Prelle, arthur scott, Petitioners,  
Chief Executive Officer of “New Jersey, State Of”, Treasurer of “New Jersey,  
State Of”, Treasurer of the United States, Respondents.

### ***Related Cases***

*Prelle, arthur scott, et al. v. ARTHUR SCOTT PRELLE*, (Cause # 16-03723)  
District Court of the United States for the Eastern District of Pennsylvania. Order  
to dismiss for lack of jurisdiction entered Aug. 11, 2016.

*Prelle, arthur scott, et al. v. Chief Executive Officer of “New Jersey, State Of”,*  
*et al.*, (Cause # 16-05447) U. S. District Court for the District of New Jersey.  
Judgment entered 4 Mar. 2022.

*Prelle, arthur scott, et al. v. Chief Executive Officer of “New Jersey, State Of”,*  
*et al.*, (Cause # 22-1453) U. S. Court of Appeals for the Third Circuit. Judgment  
entered Nov. 16, 2022 (summarily denying request for review on Jan. 27, 2023).

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## **PETITION FOR WRIT OF CERTIORARI**

Petitioner Prelle, arthur scott (“Petitioner” or “Prelle”) respectively petitions for a writ of certiorari to review the decision of the United States Court of Appeals for the Third Circuit, which also denied rehearing.

## **OPINION BELOW**

The United States Court of Appeals for the Third Circuit’s SUR PETITION FOR REHEARING denying the petitioner for rehearing is reproduced in Appendix F at 15a. The United States Court of Appeals for the Third Circuit’s ORDER denying the Petitioner’s appeal is not precedential and is reproduced in Appendix D at 8a. The United States Court of Appeals for the Third Circuit’s OPINION directing a dismissal is not precedential, and is reproduced in Appendix E at 10a. The United States District Court for the District of New Jersey’s ORDER to dismiss is reproduced in Appendix B at 2a. The United States District Court for the District of New Jersey’s memorandum OPINION is unpublished and is reproduced in Appendix C at 4a. The United States District Court for the Eastern District of Pennsylvania’s ORDER to dismiss is reproduced in Appendix A at 1a.

## **JURISDICTION**

This Court has jurisdiction of this petition to review the judgment of the United States Court of Appeals for the Third Circuit pursuant to 28 U.S.C. § 1254(1). The Third Circuit's judgment and opinion were filed on November 16, 2022. The Third Circuit's statement denying rehearing was filed on January 27, 2023.

The district courts had subject matter jurisdiction pursuant to U.S. Const. art. III, § 2, cl. 1, and pursuant to 1 Stat. 73, ch. 20, § 11 (1789). The district court's memorandum opinion and orders were filed on March 4, 2022 and August 11, 2016.

## **STATEMENT OF THE CASE**

Petitioner files original cause in the United States District Court for the Eastern District of Pennsylvania. The cause is dismissed without prejudice for lack of jurisdiction. Based on hearing, Prelle amends bill in equity and refiles.

Respondent Chief Executive Officer of "New Jersey, State Of" ("CEO of NJ") is the occupant of an office of "New Jersey, State Of" corporation in the City of Trenton, New Jersey. The National Governors Association website (<https://www.nga.org/governors/powers-and-authority/>) states, "Governors, all of whom are popularly elected, serve as the chief executive officers of the fifty-five states, commonwealths, and territories of the United States."

Respondent Treasurer of "New Jersey, State Of ("Treasurer of NJ") is an occupant of the office of said "New Jersey, State Of" corporation.

Respondent Treasurer of the United States ("Treasurer of US") is the occupant of an office of the United States corporation in the City of Washington in the District of Columbia territory. UNITED STATES is a corporation having its principal office in the City of Washington in the state of District of Columbia.

On or about 7/16/2013, 2/4/2015, and 3/2/2015, Petitioner Prelle purchases for value the United States of America Secretary of State John F. Kerry Deed Poll Conveyance (Hereafter "DEED POLL") and its attachments from the STATE OF NEW JERSEY and US DEPARTMENT OF STATE in this matter.

On 5/6/2016, Petitioner delivers and conveys original executed "Deed of Conveyance of Personal Property" ("Deed of Conveyance"), original executed "Declaration Creating RE789806284US-0022 Trust" ("Declaration of Trust"), original executed "Notice of Acknowledgement and Acceptance For Consideration by Grantee and Heir" ("Notice of Acceptance"), original executed DEED POLL, and valuable consideration (collectively as "Property And Title") by notary service and USPS restricted registered mail to CEO of NJ in a personal capacity. This is accepted by Chris Christie or his agent.

On 5/6/2016 Prelle delivers a copy of said Deed of Conveyance, Declaration of Trust, Notice of Acceptance, DEED POLL, and valuable consideration by restricted

registered mail and notary service to Respondent Treasurer of the United States in a personal capacity. This is accepted by Rosa G. Rios or her agent.

Petitioner further delivers to CEO of NJ a Notice of tolling of time, Notice of interest, and Certificate of dishonor by non-response by notary service and USPS restricted registered mail. These are each accepted by Chris Christie or his agent.

CEO of NJ and Treasurer of the United States fail to respond or return said Deed of Conveyance, Declaration of Trust, Notice of Acceptance, DEED POLL, and valuable consideration. Though the Petitioner delivers the property in a personal capacity, the lower courts' ruling rewards the government by granting dismissal to the government as third-party interlopers. Prelle gives exception to the Respondents' use of government representation in a personal cause. Prelle seeks restitution of said Property And Title under the good conscious of equity and a conflict between the laws and constitution of the United States. U.S. Const. amends. V, IV, XIV, § 1. Petitioner never intends to forfeit or abandon his equitable interest in the foregoing Property And Title. Petitioner files his original complaint in due time.

The Constitution protects property rights through the Fifth and Fourteenth Amendments' Due Process Clauses and, more directly, through the Fifth Amendment's Takings Clause: "nor shall private property be taken for public use without just compensation." There are two basic ways government can take

property: (1) outright, by condemning the property and taking title; and (2) through regulations that take uses, leaving the title with the owner — so-called regulatory takings. In the first case, the title is all too often taken not for a public but for a private use; and rarely is the compensation received by the owner just. In the second case, the owner is often not compensated at all for his losses; and when he is, the compensation is again inadequate. Petitioner fears the destruction or dissipation of the foregoing Property And Title. This taking of Property And Title without due compensation creates a controversy for the benefit of equity jurisdiction to remedy.

U. S. District Court for the District of New Jersey enters Judgment on 3/4/2022. U. S. Court of Appeals for the Third Circuit enters Judgment on 11/16/2022. The district and appeals court judges decline to seal private financial instruments in exhibits.

## **REASONS FOR GRANTING THE PETITION**

Petitioner delivers Property And Title and valuable consideration with intent to the CEO of NJ.

Petitioner meets the facial plausibility standard by claiming:

- 1) to be the bona fide purchaser for value of Property And Title.
- 2) to delivering Property And Title to the CEO of NJ.

- 3) to being without response from the CEO of NJ.
- 4) to be deprived of equitable ownership of Property And Title by CEO of NJ.
- 5) the causes of action and elements of the trust in the second Amended Complaint (Hereafter “Complaint”; See Appendix G, pp. 21a-44a).

In his Complaint Prelle shows:

- 1) he has suffered injury by loss of Property that is
  - a. concrete and particularized by third party delivery of Property And Title to the CEO of NJ and
  - b. actual by physical conveyance of USPS restricted registered mail to the CEO of NJ;
- 2) the injury is traceable to the defendant CEO of NJ by USPS restricted registered mail; and
- 3) it is likely that the injury will be redressed by a favorable decision in equity.

These elements are supported by *Newdow v. U.S. Cong.*, 292 F.3d 597, 600 (9th Cir. 2002).

Petitioner pleads three “short” and “plain” causes of action that pray for remedy in equity in his Complaint. “While a complaint attacked by a Fed. R. Civ. P. 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. Factual allegations must be enough to raise a right to relief above

the speculative level." Prelle has met the pleading requirements articulated in Fed. R. Civ. P. 8.<sup>1</sup>

It is apparent that the lower courts abused their discretion in ordering dismissal here. The claims in Petitioner's *pro se* Complaint are sufficiently "short" and "plain." The Complaint adequately puts a number of the defendants on notice of Petitioner's claims and makes a sufficient showing of enough factual matter (when taken as true) to plausibly suggest that Petitioner can satisfy the elements of his 14<sup>th</sup> Amendment claim.<sup>2</sup> Obviously, Petitioner's 24-page Complaint is drastically shorter than the 240-page complaint that was properly dismissed in *Westinghouse Sec. Litig.*, 90 F.3d 696 (3d Cir. 1996). (See Appendix G, pp. 21a-44a)

Further the three causes of action in the Complaint rely solely on the conveyance of Property And Title with intent to one party, the CEO of NJ. (See Appendix G, pp. 30a-31a ¶¶ LV-LVIII, 33a-35a ¶¶ LXXIII-LXXXV) The three causes of action in Petitioner's Complaint comprise less than three pages and do not require opposing party to forever sift through its pages in search of Petitioner's claim. Petitioner's amendments clarify and relate back to the specific personal conveyance of property. Claim of said causes of action and conveyance are "short"

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<sup>1</sup> *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S. Ct. 1955 (2007).

<sup>2</sup> *Garrett v. Wexford Health*, 938 F.3d 69 (3d Cir. 2019).

and “plain.” To dismiss Petitioner’s causes of action is in conflict with the established rules of pleadings and motion practice. *See Fed. R. Civ. P. 8, 12, 12(c), 15.*<sup>3</sup>

Fed. R. Civ. P. 12 provides that a court may strike from a pleading any redundant, immaterial, impertinent, or scandalous matter. Petitioner’s causes of action are “short” and “plain” without redundancy, immaterial, impertinent, or scandalous substance. Special relief prayer is not part of the causes of action. In general, the defendant does not answer the special relief prayer. Regarding relief, Joseph Story states, “if the plaintiff should mistake the relief, to which he is entitled in his special prayer, the Court may yet afford him the relief to which he has a right, under the prayer of general relief.”<sup>4</sup> The lower courts’ judgment on the grounds of mistaken special relief is contrary to the ruling in *Lockhart v. Leeds*, 195 U.S. 427, 25 S. Ct. 76 (1904).

### ***The issue is extremely important***

Destruction or dissolution of the Property makes the issue extremely important. Longstanding jurisprudence protects Prelle’s fundamental right to

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<sup>3</sup> *Moore v. Mitchell*, 17 F. Cas. 692, No. 9,770 (Cir. Ct. Dec. 1, 1874).

<sup>4</sup> Story, J. (1838). *Commentaries on equity pleadings, and the incidents thereto, according to the practice of the courts of equity of England and America*. London: A. Maxwell, Bell Yard. § 40. p. 33.

property ownership in this matter. Laws that disturb such rights are void because they violate the principles limiting all constitutional governments. The Supreme Court states in *Vanhorne's Lessee v. Dorrance*:

“[T]he right of acquiring, and possessing property, and having it protected, is one of the natural, inherent and inalienable rights of man. Men have a sense of property: Property is necessary to their subsistence, and correspondent to their natural wants and desires; its security was one of the objects, that induced them to unite in society. No man would become a member of a community, in which he could not enjoy the fruits of his honest labor and industry. The preservation of property then is a primary object of the social compact, and, by the last Constitution of Pennsylvania, was made a fundamental law. Every Person ought to contribute his proportion for public purposes and public exigencies; but no one can be called upon to surrender or sacrifice his whole property, real and personal, for the good of the community, without receiving a recompense in value. This would be laying a burden upon an individual, which ought to be sustained by the society at large.”<sup>5</sup>

“There are certain vital principles in our free Republican governments, which will determine and overrule an apparent and flagrant abuse of legislative power; as to authorize manifest injustice by positive law; or to take away that security for personal liberty, or private property, for the protection whereof the government was established.”<sup>6</sup> U.S. Const. amend. XIV extends to all acts of the state, whether through its legislative, its executive, or its judicial authorities.<sup>7</sup>

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<sup>5</sup> *Vanhorne's Lessee v. Dorrance*, 2 U.S. (2 Dall.) 304, 310, 1 L. Ed. 391, 394, 1795 U.S. LEXIS 351, at \*14-15, \*28 (Apr. 1, 1795).

<sup>6</sup> *Calder v. Bull*, 3 U.S. (3 Dall.) 386, 388 (1798).

<sup>7</sup> *Chi., Burlington & Quincy R.R. v. Chicago*, 166 U.S. 226, 228, 17 S. Ct. 581, 581 (1897)

This Court should grant this petition and review the judgment of the lower courts because the acts complained of are contrary to Equity, and tend to the injury of the Petitioner, and that Petitioner has no remedy, or not a complete remedy, without the assistance of a court of Equity.

The taking of property without compensation by the CEO of NJ violates the Petitioner's property rights under U.S. Const. amends. V, XIV, § 1. The lower courts' dismissal allows equity to suffer a right without a remedy. Will the US Federal Courts allow equity to suffer a right without a remedy in conflict with U.S. Const. art. III, § 2, cl. 1?

This Court should exercise its power to supervise the lower federal courts and grant review because the Petitioner Prelle's Property And Title is still in controversy.

***The decision below directly conflicts with Supreme Court precedent***

Dismissal of the Complaint causes equity to suffer a right without a remedy. American courts have long recognized the equitable relief of restitution where law provides no relief.<sup>8</sup> A maxim of equity states that equity suffers not a right to be

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<sup>8</sup> *Talbot v. Janson*, 3 U.S. (3 Dall.) 133 (1795).

without a remedy.”<sup>9</sup> <sup>10</sup> The lower courts allow Prelle’s right of property ownership to suffer without a remedy in this matter.

Petitioner’s Declaration of Trust and Deed of Conveyance creates a conveyance in trust for the purpose of securing a debt, subject to a condition of defeasance.<sup>11</sup>

Petitioner’s Declaration of Trust and Deed of Conveyance create a deed of trust in the nature of a mortgage. Petitioner’s Declaration of Trust and Deed of Conveyance creates a conveyance in trust.<sup>12</sup> <sup>13</sup> A trust can be created without notice to or acceptance by any beneficiary or trustee.<sup>14</sup>

That by the foregoing facts Respondent CEO of NJ has acquired title of DEED POLL and valuable consideration with notice that another is entitled to its benefits. That Respondent CEO of NJ has acquired unjust enrichment of DEED POLL, title, and valuable consideration with notice that another is entitled to its benefits. That Petitioner is bona fide purchaser of said DEED POLL. If the

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<sup>9</sup> *CIGNA Corp. v. Amara*, 563 U.S. 421, 131 S. Ct. 1866 (2011).

<sup>10</sup> *Moto Meter Co. v. Nat'l Gauge & Equip. Co.*, 31 F.2d 994 (Dist. Ct. 1929).

<sup>11</sup> *Union Bank of Chi. v. Kan. City Bank*, 136 U.S. 223, 10 S. Ct. 1013 (1890).

<sup>12</sup> *Id.*

<sup>13</sup> *Allen v. Withrow*, 110 U.S. 119, 3 S. Ct. 517 (1884).

<sup>14</sup> *Danberry Co. v. Nadeau (In re Nadeau)*, Nos. 21-31239, 21-03058, 2022 Bankr. LEXIS 2778, at \*5 n.3 (Bankr. N.D. Ohio Sept. 28, 2022).

Petitioner, as owner of DEED POLL, has permitted CEO of NJ to be clothed with the apparent ownership through the possession of warehouse receipts attached to DEED POLL, negotiable in form, there is abundant ground for protecting Petitioner, the bona fide purchaser, for value to whom the receipts have been negotiated.<sup>15</sup>

Petitioner's written instruments, even if ineffectual from a want of compliance with statutory requisitions, operate as a declaration of a trust.<sup>16</sup> The notary certificate of dishonor by non-response to CEO of NJ (¶ LXII of Complaint and which the district court possesses an original) entitles Petitioner to full faith and credit of the subject matter. Further, said certificate of dishonor protects Petitioner by the doctrine of claim preclusion.<sup>17</sup>

The district court order to dismiss dated 3/4/2022 grants non-existent motions to dismiss by third party interlopers that are not real parties of interest for the standard of a district court under Fed. R. Civ. P. 8. State of New Jersey is not party to the claim. United States as a respondent is not party to the claim. No respondent enters any motion in the lower courts.

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<sup>15</sup> *Commercial Nat'l Bank v. Canal-La. Bank & Tr. Co.*, 239 U.S. 520 (1916).

<sup>16</sup> *Byers v. McAuley*, 149 U.S. 608, 13 S. Ct. 906 (1893).

<sup>17</sup> *Cromwell v. Cnty. of Sac*, 94 U.S. 351 (1876).

After being duly served the Complaint, the respondents, with personal responsibility, fail to respond under *Id.* R. 7. The respondents fail to plead or otherwise defend in the matter in due time. Will this Court allow relief to third party interlopers that are not real parties of interest? <sup>18</sup>

The lower courts' refusal to see a trust creates a controversy with foregoing circuits' precedents.

The lower courts' decision directly conflicts with the foregoing Supreme Court precedents.

### ***The lower court erred***

Respondents' actions taken under color of law deprive Prelle of his federal right to recovery and restitution. This conflicts with *Hafer v. Melo*, 502 U.S. 21, 22 (1991). The district court's granting non-existent motions without a hearing violates Fed. R. Civ. P. 7 (b) and the rules of the court. This leaves Prelle without remedy to Property And Title in controversy. The lower courts judgments allow equity to suffer a right without a remedy in conflict with U.S. Const. art. III, § 2, cl. 1 and the maxims of equity.

Every kind of valuable personal property that can be assigned may be the

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<sup>18</sup> Fed. R. App. P. 8, 17, 28 (b).

subject-matter of a trust.<sup>19</sup> <sup>20</sup> Prelle may assign *chooses in action*,<sup>21</sup> <sup>22</sup> expectancies,<sup>23</sup> contingent interests,<sup>24</sup> and even possibilities<sup>25</sup> to the respondents as strangers and create a valid trust. Will this court allow a trust can fail without a trustee for the standard of preservation of property and equity jurisdiction's benefit?

Dismissal of the Complaint creates a dissipation or destruction of the subject matter property for the Petitioner as a bona fide purchaser. Petitioner's purchase for valuable consideration, without notice of a prior equitable right, obtains the legal estate at the time of his purchase. This purchase entitles Petitioner to priority in equity as well as at law, according to the maxim, "That when equities are equal the law shall prevail." The lower courts' judgments err in conflict with *Townsend v. Little*, 109 U.S. 504, 3 S. Ct. 357 (1883).

Prelle's declaration of a mortgage creates a controversy where the form of the instrument becomes immaterial.<sup>26</sup> <sup>27</sup> (See Appendix G, p. 25a ¶¶ XIV, XVI)

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<sup>19</sup> *Burke v. Burke*, 259 Ill. 262, 264 (1913).

<sup>20</sup> *Haulman v. Haulman*, 164 Iowa 471, 472 (1914).

<sup>21</sup> *Morton v. Naylor*, 1 Hill 583 (N.Y. Sup. Ct. 1841).

<sup>22</sup> *Clemson v. Davidson*, 5 Binn. 392 (Pa. 1813).

<sup>23</sup> *Fitzgerald v. Vestal*, 36 Tenn. 258 (1856).

<sup>24</sup> *In re Little River Lumber Co.*, 92 F. 585 (Dist. Ct. 1899).

<sup>25</sup> *In re Little River Lumber Co.*, 92 F. 585.

<sup>26</sup> *Kohler v. Gilbert*, 216 Or. 483, 486 (1959).

<sup>27</sup> *Scanlan v. Scanlan*, 134 Ill. 630, 638 (1890).

Prelle has a clear right to all the Property and Title conveyed to and held by the CEO of NJ and to have the same benefit that the CEO of NJ would have therein.<sup>28</sup>

Will the respondents or third-party interlopers be allowed to acquire rights in said Property And Title antagonistic to Prelle?<sup>29</sup>

Prelle's trust property or property substituted for it may be recovered from the trustee and all persons having notice of the trust.<sup>30</sup> The lower court errs in the lack of express law regarding the conveyed Property And Title to the CEO of NJ for the standard of equitable forfeiture.

The lower court's decision to dismiss a 24-page claim with concise causes of action conflicts with various Federal circuits and *Johnson v. City of Shelby*, 574 U.S. 10, 135 S. Ct. 346 (2014).

In the 8/11/2016 hearing of the district court for the Eastern District of Pennsylvania, honorable chancellor Kearney acknowledges the plausibility of the claim for accounting on the subject matter property and dismisses without prejudice on the lack of jurisdiction. During said hearing, the honorable chancellor Kearney

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<sup>28</sup> *Rice v. Rice*, 108 Ill. 199 (1883).

<sup>29</sup> *Halsell v. Wise Cnty. Coal Co.*, 19 Tex. Civ. App. 564, 564 (1898).

<sup>30</sup> *Bundy v. Monticello*, 84 Ind. 119 (1881).

states he has the authority to order the requested accounting if the complainant were a few miles east of him in the correct jurisdiction.<sup>31</sup>

Petitioner, as *cestui que trust*, has no remedy except by review in this Court of equity jurisdiction.<sup>32</sup> <sup>33</sup> The remedy to Prelle's right to the title and possession of property is by a court of equity.<sup>34</sup> Prelle maintains a real action upon his equitable title against the CEO of NJ who shows no title, or no title under the trustee.<sup>35</sup> <sup>36</sup>

Prelle brings this cause in equity before the courts of the United States to recover the forfeiture annexed to a speciality.<sup>37</sup>

Prelle names beneficiaries (*cestuis que trust*) in the 'Declaration Creating RE789806284US-0022 Trust' and 'Deed of Conveyance of Personal Property' (Hereafter both referenced as "Deed"). Petitioner can only enforce the Deed's execution in this court of chancery.<sup>38</sup> Where the district court finds Prelle's trust or

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<sup>31</sup> *Prelle, et al. v. PRELLE*, No. 16-CV-03723 U.S. Dist. (E.D. Pa. 2016).

<sup>32</sup> *McCartney v. Bostwick*, 32 N.Y. 53 (1865).

<sup>33</sup> *Dorsey's Lessee v. Garey*, 30 Md. 489 (1869).

<sup>34</sup> *Crane v. McCoy*, 6 F. Cas. 753, 1860 U.S. App. LEXIS 553, at \*11, 1 Bond 422 (6<sup>th</sup> Cir. 1860).

<sup>35</sup> *Mayer v. Carothers*, 14 Mont. 274, 36 P. 182 (1894).

<sup>36</sup> *Spencer v. Clarke*, 25 R.I. 163, 55 A. 329 (1903).

<sup>37</sup> 1 Stat. 73, ch. 20, § 26 (1789).

<sup>38</sup> *Trs. of Methodist Episcopal Church v. Trs. of Jackson Square Evangelical Lutheran Church*, 84 Md. 173, 176 (1896).

Deed is void and fails, Prelle takes the beneficial interest.<sup>39</sup>

Petitioner has clean hands regarding the controversy of said Property And Title conveyed to the CEO of NJ.<sup>40</sup>

The lower courts err in allowing a trust to fail without a trustee to the harm of preservation of property and equity jurisdiction's benefit.<sup>41 42 43 44</sup> A court of equity will not allow a trust to fail for want of a trustee.<sup>45 46 47 48 49</sup>

Prelle's trust results from the act of the CEO of NJ receiving and keeping Prelle's Property, and not from the agreements of the appellees.<sup>50</sup> Where Prelle's express trust in the complaint fails, the implied resulting trust must be declared by

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<sup>39</sup> *Id.*

<sup>40</sup> *Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 807 (1945).

<sup>41</sup> *PETER M'CARTEE, One of the Ex'r's of the Will of PHILIP JACOBS v. ORPHAN ASYLUM Soc'y OF N.Y.*, 9 Cow. 437, 504 (N.Y. 1827).

<sup>42</sup> *Fulk & Needham, Inc. v. United States*, 288 F. Supp. 39 (M.D.N.C. 1968).

<sup>43</sup> *Charter W. Nat'l Bank v. Wells Fargo Bank, N.A.*, 19 Neb. App. 150, 802 N.W.2d 146 (2011).

<sup>44</sup> *He Depu v. Yahoo! Inc.*, 950 F.3d 897 (D.C. Cir. 2020).

<sup>45</sup> *Id.*

<sup>46</sup> *Crocheron v. Jaques*, 3 Edw. Ch. 207 (1st Cir. 1839).

<sup>47</sup> *Dean v. N. Tr. Co.*, 259 Ill. 148, 102 N.E. 244 (1913).

<sup>48</sup> *Ogilby v. Hickok*, 202 N.Y. 614, 96 N.E. 1123 (1911).

<sup>49</sup> *Fulk & Needham, Inc.*, 288 F. Supp. 39.

<sup>50</sup> *Kisler*, 2 Watts 323 (Pa. 1834).

this court. Where Prelle's express trust in the complaint fails and Prelle does not indicate how the property should be distributed upon such failure, a resulting trust is created.<sup>51</sup> The trust must result at the instant the Deed and valuable consideration is taken by the CEO of NJ. The legal title vests in the CEO of NJ.<sup>52</sup><sup>53</sup>

<sup>54</sup>

Prelle's creates a valid trust with sufficient words named in his Deed viz: <sup>55</sup> <sup>56</sup>

- 1) Trustees (defendants-appellees) (See Appendix G, p. 32a ¶ LXV)
- 2) Beneficiaries (Prelle and private beneficiaries not party to this case) (See Appendix G, p. 32a ¶ LXV),
- 3) The equitable interest in trust property (Property) (See Appendix G, pp. 30a, 31a-32a. ¶¶ LV, LXIII), and
- 4) Settlor's intention (See Appendix G, p. 32a ¶ LXIV).

Prelle transfers identifiable property required for the creation a trust in his Deed.<sup>57</sup> (See Appendix G, p. 30a, ¶ LV).

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<sup>51</sup> *First Nat'l Bank v. Daggett*, 242 Neb. 734, 497 N.W.2d 358 (1993).

<sup>52</sup> *John v. John*, 322 Ill. 236, 153 N.E. 363 (1926).

<sup>53</sup> *Mercury Club v. Keillen*, 323 Ill. 24, 153 N.E. 753 (1926).

<sup>54</sup> *Justice v. Watkins*, 276 Pa. 138, 119 A. 824 (1923).

<sup>55</sup> *He Depu*, 950 F.3d 897.

<sup>56</sup> *Fulk & Needham, Inc.*, 288 F. Supp. 39.

<sup>57</sup> *Clalit Health Servs. v. Isr. Humanitarian Found.*, 385 F. Supp. 2d 392 (S.D.N.Y. 2005).

Even though the trustees (appellees) for Prelle's Deed did not consent to serve, that consent is not a prerequisite to the validity of Prelle's Deed. Prelle's Deed creates a priority interest from the date said Deed was created. <sup>58</sup>

The lower courts issue their orders and judgements that misjoin the parties in the captions contrary to Fed. R. Civ. P. TITLE IV. This dismissal under misjoinder causes gratuitous harm to the Petitioner. <sup>59</sup>

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<sup>58</sup> *Charter W. Nat'l Bank*, 19 Neb. App. 150, 802 N.W.2d 146.

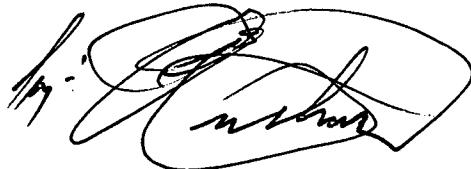
<sup>59</sup> *DirecTV, Inc. v. Leto*, 467 F.3d 842 (3d Cir. 2006).

## CONCLUSION

WHEREFORE, for all the foregoing reasons, petitioner respectfully requests that this Court grant the Writ of *Certiorari*.

Respectfully submitted,

Mar 30, 2023



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