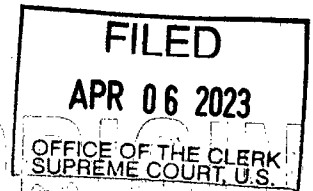


22-7508  
No. 21-15666

(Taken from the United States Court of Appeals in the 9<sup>th</sup> Circuit)



IN THE

SUPREME COURT OF THE UNITED STATES

***Herma Barbara Medina Reyna*** — PETITIONER

VS.

***PNC Bank NA, et al.*** —RESPONDENT(S)

**ON PETITION FOR A WRIT OF CERTIORARI TO**

**The United States Court of Appeals in the 9<sup>th</sup> Circuit, San Francisco CA**

**PETITION FOR WRIT OF CERTIORARI**

**Herma Barbara Medina Reyna -Petitioner Pro Se  
c/o Grant Wolf  
118 Auoli Drive  
Makawao, HI 96768  
(808) 464-8592**

**LIST OF PARTIES**



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

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## QUESTION(S) PRESENTED

1. Can a party who was wronged by a bank or business entity that committed mass fraud, misrepresentation, and racketeering actions that render the Rooker-Feldman Doctrine and Res Judicate useless retain a judgement in a District Court Complaint for punitive damages or other damages with an independent claim? Especially, when those damages are for their most valued assets as their familial home.? When the actions taken against them were a wrongful foreclosure without the bank/corporation and associates ever having had the right to do so due to clear lack of valid ownership and clear lack of any proof therein even when requested formally?
2. If a poor person without employment used the courts to defraud the richest person in America or someone in the highest rank in U.S. politics such as a President or VP by issuing a wrongful foreclosure proceeding in the state courts and deed recording office where their property was and committed title fraud by doing false title claim deeds in their state conveyance bureau of office would they get the same leeway as a false bank or false business entity with no acquired or provable right to the property against the average American citizen as the Respondents in this particular case were able to get away with numerous crimes via State Court, Intermediate Court of Appeals, US District Court, and The US Court of Appeals in the 9<sup>th</sup> Circuit? And, with no remedy or punitive damages being allowed as the courts and panels move to suggest that the moving party in the formal federal complaint was merely trying to reverse earlier court decisions or stop the foreclosure despite repeat concise statements contrary to those allegations?
3. Has the authority of the Federal Home Loan Mortgage Corporation (Freddie Mac) to remove state court actions to federal court, pursuant to *12 U.S.C. § 1452(f)*, been extinguished because Freddie Mac is no longer owned by the federal government?
4. Does an owner of real estate possess a federal due process right to ascertain the validity of a security interest in that real property or real estate, and the identity of the entities that claim said security interest? Why would they get away with foreclosing with no promissory note to back them when asked no proof of even being a server for an original mortgage company and the homeowner's valid proof as evidence that their attempt to own under their partner company's name was rejected and given to another company at the time that, they said they owned it? And then why would a federal district court not allow them to file a complaint for punitive damages that began before State Court proceedings (not barred by Rooker Feldman or other as it was a fraud prior to state court proceeding the state court disallowed any Due Process for, the issues are Title Fraud, collusion, and racketeering as basis of complaint in all federal courts thus far) when they willingly and provably committed acts of Title fraud with Hawaii State Bureau of Conveyances having falsely claimed title to a property that homeowner, Herma Barbara Medina Reyna was already paying on to another company that rejected their interest in plain writing wanting to purchase the title or note and allowing them to know it was being transferred to a bank in Michigan known as Flagstar. Neither the bank nor MERS showed any valid and permissive giving or signing of the property to the mortgage bank under any of the names they claimed they had used or changed their name to?
5. Does the holding of *Carpenter v. Longan, 83 U.S. 271 (1872)* render a transaction purporting to separate a mortgage and a note invalid? Because if it's valid still, the company that wrongfully foreclosed in this issues by title fraud could neither verify they owned the mortgage, title, or any note, in fact they could not in the least verify that they were even qualified or in any way officially involved in being any type of servicer, not even in the case of the 2<sup>nd</sup> mortgage (which is for a much smaller loan amount and generally do not foreclose on home owners) and still were adamant to take over a home with no evidence of the right to do so and with no damages being allowed to be won on behalf of the home owner who rightfully complained on their stated misdeeds. They could not even validate themselves Prior with MERS as a Co-Defendant as MERS never owned our title to the home so how can a recording company transfer a home title or not to a non-owner who still refused to show proof? How come the fraudulent mortgage bank was allowed to have the same lawyers and counsel for separate parties in separate states when that accommodated more deception as the lawyers would simply try to match stories for all parties and yet still refused to show evidence, whereas we, the movant and petitioner did show evidence but many of our causes of action were forced to be thrown out by the Chief Judge themselves who knew some of the Hawaii racketeer folks mentioned in causes of action/counts they forced thrown out nearly a year before evidence was to be presented thus case tampering as well while allowing lawyers to misrepresent or fail to show any facts and still yet denied nearly every form of reparation or relief asked for by Petitioner who did indeed have proof Fraud was in Fact committed?

## **RELATED CASES**

***Sciarrata vs US Bank National Association (2016).***

***Yvanova vs. New Century Mortgage Group (2016).***

## TABLE OF CONTENTS

OPINIONS BELOW.....	14
JURISDICTION.....	15-17
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	16-17
CONFLICT WITH SUPREME COURT RULINGS .....	17-19
STATEMENT OF THE CASE.....	19-28
REASONS FOR GRANTING THE WRIT.....	28-30
CONCLUSION.....	30-31

## INDEX TO APPENDICES

APPENDIX A – Opinion of the US District Court of Hawaii in Reyna vs PNC, MERS, Wilmington Trust (2021).

APPENDIX B – Opinion of the United States Court of Appeals for the 9<sup>th</sup> Circuit in Reyna vs PNC (2023) (Also attached US Court of Appeals Denial of Rehearing for the 9<sup>th</sup> Circuit dated January 18, (2023)).

APPENDIX C – Opinion of Sciarrata vs US Bank National Association (2016).

APPENDIX D – Opinion of Yvanova vs. New Century Mortgage Group (2016).

## TABLE OF AUTHORITIES CITED

### ***APPLICABLE SUPREME COURT STATUTES AND RULINGS***

<i>28 U.S.C. § 1254 (1).....</i>	<i>16</i>
<i>28 U. S. C. § 1257(a). (Jurisdiction in the</i>	
<i>SCOTUS.....</i>	<i>16</i>
<i>28 U.S. Code § 2101 (Timeliness for Certiorari request to the</i>	
<i>SCOTUS.....</i>	<i>16</i>
<i>28 USC 1331 (Federal Question of Jurisdiction and how it was proper and appropriate for Civil</i>	
<i>Complaint to have begun in US District Court of Hawaii to punish the Defendants for their past</i>	
<i>wrongdoings).....</i>	<i>16-17</i>
<i>Crime Victims' Rights Act (CVRA), 18 U.S.C. §</i>	
<i>377.....</i>	<i>17</i>
<i>42 U.S. Code § 1983 (Civil Action for Deprivation of Rights Committed by Rival Party Who acted</i>	
<i>in Fraud to Steal Petitioner's home via an intentionally made Wrongful</i>	
<i>Foreclosure).....</i>	<i>17</i>
<i>18 U.S.C. §§ 1962(c), 1964(c). (Persons injured by reasons of a RICO violation have a civil cause</i>	
<i>of action under the terms of the</i>	
<i>act).....</i>	<i>17</i>

*18 U.S. Code § 1515 (Intentional Misleading Conduct by rival parties, the defendant in this case which effected Court's erroneous or wrongful determinations and interpretations of the issues).....17*

*United States Supreme Court, Lightfoot v. Cendant Mortgage*

*Corp., 580 U.S. \_\_\_, 137 S. Ct. 553, 196 L. Ed. 2d 493 (Whether Fannie Mae or Freddie Mac could be sued in a state court, they linked themselves to Petitioner's home and paid out a class action lawsuit they won against Defendant bank PNC for the Mortgage Fraud Modification schemes).....17*

**GENERAL RELEVANT CASE LAWS:**

*Bank fraud (18 U.S.C. § 1344).....17*

*Money laundering (18 U.S.C. §§ 1956–1957).....18*

*Universal Health Servs., Inc. v. United States ex rel. Escobar, 136 S. Ct. 1989 (2016).....18*

*Davis v. Sun Oil Co., 148 F.3d 606 (6th Cir. 1998).....19*

*Ohio Jur. 3d Judgments § 391.....20*

*.McCormick v. Braverman, 451 F.3d 382, 392 (6th Cir. 2006) (emphasis in original).....20-21*

*VanderKodde, 951 F.3d at 402 (citing McCormick, 451 F.3d at 393).....21*

*Berry, 688 F.3d at 299 (alteration in original).....21*

*Evans v. Cordray, 424 F. App'x 537, 539 (6th Cir. 2011).....21*

*Richardson v. Bank of N.Y. Mellon.....21*

*Evans v. Crowe & Mulvey, LLP.....22*

*Hapgood, 127 F.3d at 493.....22*

*Chapman, 2008 WL 5381353, at \*20 (quoting Porter v. Hu, 116 Haw. 42, 53, 169 P.3d 994, 1005 (Haw. Ct. App. 2007)) (additional citation omitted).....23*

*Lumford v. Yoshio Ota, 144 Haw. 20, 25, 434 P.3d 1215, 1220 (Haw. Ct. App. 2018).....23*

*Durette v. Aloha Plastic Recycling, Inc., 105 Haw. 490, 504, 100 P.3d 60, 74 (2004).....23*

*Yoneji v. Yoneji, 136 Haw. 11, 18, 354 P.3d 1160, 1167 (Haw. Ct. App. 2015)).....23*

*Lumford, 136 Haw. at 26, 354 P.3d at 1221 (citing Restatement (Third) of Restitution)....23*

*Id. at 27, 434 P.3d at 1222 (citing Restatement (Third) of Restitution § 48).....23*

*Porter, 116 Haw. at 55, 169 P.3d at 1007.....24*

*Soule v. Hilton Worldwide, Inc., 1 F. Supp. 3d 1084, 1102 (D. Haw. 2014) (citation omitted...24*

**OTHER**

**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

1. US District Court of Honolulu, Hawaii and May 8, 2020 in **Reyna VS PNC, CIV. NO. 19-00248 LEK-RT**

*In summary, the Court GRANTS IN PART AND DENIES IN PART PNC and MERS's Motion for Judgment on the Pleadings, filed November 4, 2019, as follows: -The following claims are dismissed with prejudice as to both PNC and MERS: Count I, Count III, Count IV, Count V, Count VI, Count VII, Count VIII, Count IX, Count X, Count XI, and Count XIV. -The following claims are dismissed with prejudice as to MERS only: Count XII and Count XIII. -The following claims are dismissed without prejudice and with leave to amend by **June 10, 2020**: Count II as to both PNC and MERS, and Count XII and Count XIII as to PNC only. (Final Decision March 29, 2021).*

2. US Court of Appeals for the 9<sup>th</sup> Circuit San Francisco, CA taken from **Reyna vs, PNC in US District Court of Hawaii CIV NO. 21-15666 take from 19-00248 LEK RT of the United States District Court of Hawaii in March 29, 2021.**

We reject as meritless Reyna's contention that she was entitled to a jury trial. We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

## JURISDICTION



For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and was the primary decision began on September 19, 2022. It was denied rehearing on January 18, 2023, and filed on that date.



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**: **Petitioner States this is N/A**

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ 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 \_\_\_\_\_  
☐ has been designated for publication but is not yet reported; or, ☐ is unpublished.

## 1. JURISDICTION



For cases from **federal courts**:

The date on which the United States Court of Appeals denied hearing further arguments or rehearing of my case was January 18, 2023 (See Appendix B).

☐ 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: \_\_\_\_\_, 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. § 1254(1)**.

☐ For cases from **state courts: Petitioner States this is N/A.**

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

☐ 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)**.

#### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

***28 U. S. C. § 1257(a). (Jurisdiction in the SCOTUS)***

***28 U.S. Code § 2101 (Timeliness for Certiorari request to the SCOTUS)***

***28 USC 1331 (Federal Question of Jurisdiction and how it was proper and appropriate for Civil Complaint to have begun in US District Court of Hawaii to punish the Defendants for their past wrongdoings).***



***Crime Victims' Rights Act (CVRA), 18 U.S.C. § 377***

***42 U.S. Code § 1983 (Civil Action for Deprivation of Rights Committed by Rival Party Who acted in Fraud to steal Petitioner's home via an intentionally made Wrongful Foreclosure)***

***18 U.S.C. §§ 1962(c), 1964(c). (Persons injured by reasons of a RICO violation have a civil cause of action under the terms of the act)***

***18 U.S. Code § 1515 (Intentional Misleading Conduct by rival parties, the defendant in this case which effected Court's erroneous or wrongful determinations and interpretations of the issues)***

***United States Supreme Court, Lightfoot v. Cendant Mortgage Corp., 580 U.S. \_\_\_, 137 S. Ct. 553, 196 L. Ed. 2d 493 (Whether Fannie Mae or Freddie Mac could be sued in a state court, they linked themselves to Petitioner's home and paid out a class action lawsuit they won against Defendant bank PNC for the Mortgage Fraud Modification schemes).***

#### **CONFLICT WITH SUPREME COURT RULINGS**

**1. Bank fraud (18 U.S.C. § 1344)** is legitimate as a crime where the party in this case the Defendant, PNC Bank, N.A, and cohorts was knowingly executing, or attempting, a scheme to defraud a financial institution, or obtain money, funds, credit, assets, securities, or other property by false or fraudulent pretenses, or promises." They committed this act of fraud as shown in the evidence, that I the Plaintiff provided in all court cases before this Appellate case when they claimed ownership from National City their originator who had been rescinded and not allowed acceptance of the note in 2007 and gave it to Flagstar Bank in Detroit, MI. The secondary Notes were taken back over by Capstone and affiliates of Meridian such as Trinity. Not one record shows ownership nor have the bank ever displayed the promissory note that shows their true ownership, any title, anything of proof that they had a right to foreclose in any capacity and they executed these acts of fraud and harassment upon homeowner when homeowner had been dealing with the other banks they are not affiliated to. It's like a random person with no home of their own foreclosing on the home of a member of Congress or other

significant political figure and asking for their mansion and receiving it. It's fraud and it's a crime and reparations and complaints for damages or punitive damages are not barred. The 9<sup>th</sup> Circuit's ruling defies the SCOTUS ruling on similar cases and laws made and general logic when in fact it should have made the US District Court abide rulings between similar District Court and 9<sup>th</sup> Appellate Court rulings as well as the standards of the SCOTUS.

2.     ***Money laundering (18 U.S.C. §§ 1956–1957)*** money laundering. consists of: engaging in a financial transaction involving the proceeds of certain crimes in order to conceal the nature, source, or ownership of proceeds they produced; engaging in a financial transaction involving the proceeds of certain crimes in order to promote further offenses. There were several examples of this. The Appellant pro Se (me) has a right to complain in a federal court for damages from the lawyers they paid to harass us in this theft and others who cooperated in crimes with them to make our living in our home while cooperating to defraud us more than uncomfortable. Reparations and damages are not barred at federal courts for these types of activities that our evidence has shown to the US District Court of Hawaii case that was appealed to this 9<sup>th</sup> Circuit Jurisdiction.

3.     ***Universal Health Servs., Inc. v. United States ex rel. Escobar, 136 S. Ct. 1989 (2016).*** Shows that materiality even subjective materiality is a factor in criminal fraud cases committed and further that Appellant's Civil Complaint might have properly been categorized as a Criminal Complaint with evidence that was turned over to the proper authority's including FTC, CFPB, FBI, DOJ, and others. The District Court forced the hand of Plaintiff Pro Se to remove 90% of the complaints and supporting evidence that was needed to obtain reparation for damages and slander of title and more due to the Fraud shown in Plaintiff's Summary Judgment in said case. For these multiple reasons and which again is not nor has it been an attempt to overturn the state ruling (which Defendant has constantly have mislead the courts to believe) but to punish the Defendants in some for to achieve justice and liberty as

an outcome with punitive and/or other damages has been the main basis of the Federal District Court complaint in Hawaii and is a large portion of numerous factors that this case must be remedied or remanded upon review as the ruling does not coincide with other Federal District Court Case law abroad and the rulings of the SCOTUS itself, thus must be remedied by SCOTUS review and/or remanded to the lower federal court of Hawaii again or properly adjusted by the SCOTUS to protect all homeowners from falling victim to such Acts of Deception and Fraud as justice should prevail without being barred from making complaints that are truly valid and backed by evidence whether the courts would allow the evidence or not.

### **STATEMENT OF THE CASE**

The Defendants, PNC Bank, N.A. et al, Wilmington Trust, and MERS, were issued a complaint against them for numerous acts of fraud. Wilmington Trust did not seem to be aware at all of being part of the case that PNC included them in and there were false and fictitious witnesses PNC claimed were part of that company who had been involved in Bernie Madoff schemes, but they refused to come forward in the case when process served. MERS also did not respond, but PNC's counsel. Nakashima & Ching, LLC decided to step in anyways against the allegations of fraud and allege MERS was their client working for more collusion and deception that continued beyond the State Court that denied the current petitioner, Herma Barbara Medina Reyna and her family any Due Process for many unlawful doings prior to the state ruling that were only to be heard and disregarded for damages in the US District Court of Hawaii. There have been numerous conflicts between other US District Court and Appellate Court rulings regarding these similar issues. Some defenses were aiming towards the fact that Plaintiff is barred from making numerous complaint claims/counts/ or causes of actions. This is false or conflicts with rulings such as in Ohio District Court, See *Davis v. Sun Oil Co.*, 148 F.3d 606 (6th Cir. 1998) .

*From 63 Ohio Jur. 3d Judgments § 391 also* fraud was extrinsic and did deprive our party of being able to display our case against the blatant fraud, misrepresentation and deception that shoots the Rooker Feldman Doctrine down and res judicata because there was a racketeering involving the state court judge and his minions under him in the courthouse that attended his church that had a vested interest in supporting Plaintiff/Appellant/Petitioner, Herma Barbara Medina Reyna's loss and intentionally tossing out our arguments without allowing any to be heard. Shooting down Jury Trial requests very early on as the state judge wanted to railroad the case out hoping that they could acquire the property in auction where they have done unofficial auctions to others who have brought the same judge and cohorts to scrutiny in public for pushing their familial home into auction to be purchased or have a lien put on by other judicial affiliates. They were so well connected that our complaints or "Causes of Action" were forced out nearly a year before we got to the point where we could issue Summary Judgement or move forward to Jury Trial or Trial thus the fact that our allegations and arguments and evidence forcibly thrown which can be seen as tampering as one of the individuals named in the racketeering was a close friend of the Chief Judge who should have recused herself as she voted this individual to be sworn into the State Bar elsewhere. There are facts and numerous allegations from similar people of the racket a law associate had been involved in causing many homeowners to fight harder for their homes. Although, in some cases bankruptcy has been a way to get around their racket temporarily they have benefited from the vulnerable utilizing an eviction and trespass process against homeowners.

The Sixth Circuit has clarified that the *Rooker-Feldman* doctrine does not apply when a plaintiff "asserts *independent claims as was done by Petitioner in this case* that State Court judgments were procured by certain Defendants through fraud, misrepresentation, or other improper means," rather than claiming "an injury caused by the state court judgments" themselves. ***McCormick v. Braverman, 451***

*F.3d 382, 392 (6th Cir. 2006) (emphasis in original)*. Whether *Rooker-Feldman* bars a claim depends on the "source of the injury" alleged in the federal complaint. "If the source of the plaintiff's injury is the State-Court judgment itself, then *Rooker-Feldman* applies." *VanderKodde, 951 F.3d at 402 (citing McCormick, 451 F.3d at 393)*. If the source of the federal plaintiff's injury is the actions of a third party, then the plaintiff asserts an *independent claim* and *Rooker-Feldman* presents no bar. *Id.* (citations omitted). "A court cannot determine the source of the injury 'without reference to [the plaintiff's] request for relief.'" *Id.* (quoting *Berry, 688 F.3d at 299 (alteration in original)* (in turn quoting *Evans v. Cordray, 424 F. App'x 537, 539 (6th Cir. 2011)*). Are valid and work in defense against Rooker Feldman arguments of the Defendants because what the lawyers keep making everyone misconstrue is that Plaintiff's come forward seeking relief of State Court judgements and merely the lack of Due process there when in Fact, Herma Reyna the Petitioner herein has sought "Prospective Relief" all along and Punitive Damages by placing huge fines and penalties against the Defendant and making not of their Bad Faith doings has been the main focus as well as for the Defendant to admit their deceptions and wrongdoings and Unlawful acts in Title Fraud and steps they took to even gain this Unlawful Foreclosure over the Plaintiff's familial home through large acts of Fraud, Deception, Collusion, Corruption, which violates RICO laws and more means to steal from those they were not even lawfully contracted to deal with by the actual note or title holders with in any shape or form and the homeowner and current petitioner. Under *Richardson v. Bank of N.Y. Mellon* Courts have permitted a borrower to challenge an assignment made by an entity that no longer existed and with evidence and parties named to the complaint it would validate and substantiate many counts, many that were tampered with by Chief Justice at US District Court of Hawaii and forced to be thrown out a year before the possibility of Hearing, Trial, Jury Trial, or Summary Judgment was to be looked at and any evidence was to be added.

**The Justice abused her discretion and authority to force arguments and evidence to be removed thus compromising intently the integrity of the "Independent Claims" of Petitioner and Prospective relief in mind along with some other requests for clarity and truth the Defendants and counsel refused to cooperate with. *Evans v. Crowe & Mulvey, LLP*, Finally, "unjust enrichment is an equitable remedy which is available only when legal remedies are not available. Both case laws show that the Plaintiff moving the case had a right to move forward to leave to amend to correct the deficiencies alleged by the court itself, but in the District Court the Amendments were very limited due to what the Chief Justice barred from being shown as evidence. There is an allegation that the legal remedies could have been handled in the State Court despite no Due Process having been allowed there and all motions by Plaintiff being railroaded out of the State Courts with an attempt to amend filings in the State Court already having been made, the Judge there refused to allow requested trials and/or to hear evidence so in the case of *Hapgood, 127 F.3d at 493*, such arguments would have been moot as Plaintiff did everything they could to be heard in the State Court and were not. Since the Damage had been done and no amendment would have protected or changed the outcome on behalf of the Plaintiff who was Defendant when foreclosure was wrongfully issued against them in the State Court, there was no choice but seek damages and try to weigh the scales of justice in the US District Court itself by suing in a formal Civil Complaint, however, the damages in the Civil case involve very Criminal Acts that were detailed and again forced to be removed as evidence very early on by the Chief Justice of the District Court as they forced certain Causes of Actions/Counts and others to be eliminated and refused to even see or hear the evidence within the allegations namely because one of their cohorts was implicated in the matter and for which they should have recused themselves from the bench or the panel as a conflict of interest but did not. *Basis of Unjust Enrichment overlooked by Federal District Court for which was one of the main causes of Action for the Complaint to have been issued (Repeatedly***

*Misconstrued by Us District Court and even the 9<sup>th</sup> Circuit Court of Appeals looking at Opinions of the past Federal Court and not the Evidence and Statements of the Plaintiff/Petitioner moving to bring punishment on the Defendants for wrong doing with penalties and fines and possible balance by being compensated with an equivalent to what the Defendants caused to be lost through Fraud, Deception, Theft, and Racketeering, and for which No Courts Allowed a Legal Remedy for even though it was not barred by any clause, law, or applicable doctrine:* To have an unjust enrichment claim it must be as the Plaintiff has already stated prior when coming forward with a complaint that Defendants (1) received a benefit without adequate legal basis, and (2) unjustly retained that benefit at Plaintiff's expense. *See Chapman*, 2008 WL 5381353, at \*20 (quoting *Porter v. Hu*, 116 Haw. 42, 53, 169 P.3d 994, 1005 (Haw. Ct. App. 2007)) (additional citation omitted). "Typically, a claim for unjust enrichment arises out of an allegation that the plaintiff has bestowed a benefit in money, property, or services upon the defendant, and the plaintiff then seeks some form of relief in equity to prevent the unjust enrichment of the defendant." *Lumford v. Yoshio Ota*, 144 Haw. 20, 25, 434 P.3d 1215, 1220 (Haw. Ct. App. 2018) (citing *Durette v. Aloha Plastic Recycling, Inc.*, 105 Haw. 490, 504, 100 P.3d 60, 74 (2004) and *Yoneji v. Yoneji*, 136 Haw. 11, 18, 354 P.3d 1160, 1167 (Haw. Ct. App. 2015)). Hawaii courts, however, apply unjust enrichment broadly, and also recognize a claim where "a plaintiff claims the defendant has been unjustly enriched at his or her expense from a benefit bestowed upon the defendant by a third party." *Lumford*, 136 Haw. at 26, 354 P.3d at 1221 (citing **Restatement (Third) of Restitution**). *Lumford* held that "in limited circumstances, a claim for unjust enrichment may be stated by allegations that a third party has conferred a benefit upon a defendant to which the plaintiff claims he or she has a superior legal or equitable right." *Id.* at 27, 434 P.3d at 1222 (citing **Restatement (Third) of Restitution § 48**). Alleging only that "the defendant has received a windfall, that the claimant has been ill-treated, and that the third party's payment to the defendant (or

the defendant's retention of payment as against the claimant) violates rules of good faith, basic fairness, or common decency, does not suffice to make out a claim in restitution." *Id.* (quoting Restatement (Third) of Restitution § 48 cmt. i).

Finally, "[u]njust enrichment is an equitable remedy which is available only when legal remedies are inadequate. *Porter, 116 Haw. at 55, 169 P.3d at 1007*. Thus, "[t]he absence of an adequate remedy at law . . . is the necessary prerequisite to maintaining [an] equitable [unjust enrichment] claim[]." *Soule v. Hilton Worldwide, Inc., 1 F. Supp. 3d 1084, 1102 (D. Haw. 2014) (citation omitted)*. The only reason such legal remedies has been inadequate in the case of Herma Barbara Medina Reyna vs PNC Bank, N.A. et al was that the judge forced nearly a year prior for Mrs. Reyna, the Plaintiff/Petitioner in these cases to eliminate numerous allegations/causes of actions/counts and evidence demonstrating the lack of legal remedy, deprivation of past due process or intervention, and revelation of the detailed facts of fraud and deception with collusion in a RICO scheme even having implicated one of the Chief Justice's own cohorts from another federal court in Hawaii who was assisted professionally to attain their position by this Justice, but they are notably mentioned in all acts of fraud even in a prior case in the same region and island in Hawaii. This was unfair and compromised the integrity of the whole case as the main focus has always been an independent claim seeking other remedies against the Defendant and only monetary regards to actual loss of assets by the wrongful foreclosure which never should have took place as PNC has had to backtrack to falsify documents to make it appear as if they ever had any title or rightful servicing appointment to the Plaintiff's home title. They could not even achieve this with the same law counsel representing them and MERS as well as having tried to tie Wilmington Trust and the Bernie Madoff schemers to the Plaintiff, but these individuals refused to appear at all despite being properly served in the matters. The Burden of Proof has been on the Defendants to show they did not act fraudulently, did not commit acts of unjust enrichment, RICO acts, and much more, but most



importantly they need to be punished for Foreclosing wrongfully on a home they never had a chain of title from, did not receive from the lender that homeowner was dealing, no deed, no title, no wet note, no promissory note, and refusal to show any requests of legitimacy and authorization they had as evidence in every single court prior. If they can get away with it, anyone else can do the same and obtain the biggest CEO's mansion in America even if they're just a thug who assembles a small LLC and gets involved in buying up derivatives from anywhere and claiming ownership to them. It did not occur that way as they intently worked their first act of deception by stating that their originating name National City was mysteriously the new owner prior and that in a business name change, they still had ownership. Plaintiff's evidence demonstrated a fraud of title by showing a letter from Meridian that owned their mortgage refusing to sell to National City (the name they claim to have originated and gained title from) and issuing the title to Flagstar Bank in Michigan. The 2<sup>nd</sup> loan on same home that PNC claimed did not get transferred to them and if they were only owner of the 2<sup>nd</sup>, it is very out of tradition for a 2<sup>nd</sup> loan company to foreclose when those debts are generally under \$100,00 for re-financing costs, but the truth is, PNC misrepresented themselves as a loan modifying company and provably accepted \$3000 money from the Petitioner to fix loan issues and get a cheaper rate on the 2<sup>nd</sup> loan, but since they did not, they were implicated by Freddie Mac and Fannie Mae in lawsuits where Petitioner gained a few thousand dollars from the class action lawsuit in 2015. PNC, the Defendants and MERS, nor Wilmington Trust ever owned or proved ownership or a right to foreclose thus far. They need to be punished for their wrongdoings. The complaint has never been to reverse the State Court Foreclosure, but to punish the Defendants for crimes and damages to Plaintiff having begun well before the wrongful foreclosure in the first State Court in 2015. Having laid down the evidence, Defendants, went and issued a name change document for themselves in the Bureau of Conveyances of Hawaii, falsely having claimed ownership to Meridian and Capstone owned mortgage of the homeowner, Mrs

Reyna. This put a cloud on the title to the property and made it unsellable for the true bank and for homeowner as they also had ordered a huge lien against the property in those proceedings as well. In every court thus far, Plaintiff's have not found remedy or penalties against the wrongdoers for Unjust Enrichment which is provable. If one does not have a right to take a home, but takes it. That is a provable Unjust Enrichment. Which is in defiance and protest to the District Court's Oversight on their opinions regarding denial of Count X for Unjust Enrichment as they implied that Plaintiff acknowledged an assigned note to Defendants which was not ever the case. The entire time the Plaintiff/Petitioner has refuted that Defendant in any form had a right to take over the mortgage or have such a note as the originating company they dealt with before Defendants worked in a Racket using MERS as their alibi, but MERS does not transfer or own home notes they record them and involving Wilmington Trust was to confuse the matter to make themselves appear as victims of some Bernie Madoff scheme. Petitioner herein rejects every opinion and summary of the Count 1 (i) , Count 2 (ii), Count 3 (iii), Count 7 (vii), Count 9 (ix), Count 10 (x), Count 11 (xi), Count 12 (xii), Count 13 (xiii), and Count 15 (xv) made within the final Opinion of the US District Court of Hawaii by the Chief Justice as despite the arguments the Petitioner was able to slip a lot of proof and evidence in at the time of Summary Judgment, despite Orders for the Chief Justice to dismiss numerous counts and potential for evidence related to such counts nearly a year prior to deadline for submission of evidence which compromised the integrity of the Petitioner's entire complaint and left Petitioner at the mercy of wrongful oversight or insight into all the facts and allegations being presented that could be major issues if every case in America was ruled upon in such a way as everyone will lose their home to a nobody or group of imposters with such rulings. Never once did the Plaintiff agree that Defendants had a right to foreclose and in fact Demonstrated the Evidence of their Acts of Fraud, Title Fraud, and Collusion. It is for that reason, they were being sued in a formal complaint so that they could be

punished for their wrongdoings at last which never happened as Justice was never brought for Petitioner in the Us District Court of Hawaii nor in the United States Court of Appeals for the 9<sup>th</sup> Circuit who ruled and dismissed case based on similar misconstrued understandings of the reasoning for Petitioner's case and for the Justice to be brought forward at last on the criminal and Fraudulent wrongdoers.

Documents showed that all that was alleged by Petitioner was in fact evidential, detailed, did list names, and stood true. And for this reason the US District Court should have ruled accordingly to favor the movant party who needed Justice, but they only ruled in part on very minor details which for which it is still unclear what legal remedy it has brought if any to the Petitioner who is still under duress of potentially losing their home even after having been mistreated by the Defendants during Covid 19 and sent a blood smeared envelope with harassing documents to issue a fine against Petitioner in the State Court while withholding documents they were to send to show they had valid proof of assignment and to be the debt holder for Plaintiff with a valid note, transfer, chain of title, or much more that they could not because they indeed committed Fraud and that began in the Bureau of Conveyances when Petitioner was living out her life and paying the originating bank Meridian. Any debts owed or that may have been late should have been interpreted as being owed to Meridian and not to some random LLC that knew they were committing Fraud when they did what they did. To this day they have no valid proof of Petitioner's mortgage being assigned to them. It is for that reason they must be brought to Justice and penalized and a remedy given to the Petitioner/Plaintiff in the Federal US District Court complaint. So, far no remedy for Petitioner, and so far no Punishment for wrongdoing Defendants acting in racketeering and Fraud to take one's most prized asset, their familial home without any legal defense to have shielded the Petitioner thus far due to wrongful interpretations of Court Justices, forced removal of evidence by judge who knew the actors in Fraud personal (1 in particular) which compromised the integrity of the case overall thus they should have been recused, and the Burden of Proof should not

have been against Petitioner but the Defendants who have been accused of the crimes as is common for most cases in law. The purpose of the case is Justice for all homeowners against fraudulent companies or entities who have no right to your home from being able to steal it as they did without penalty thus far due to how the courts misconstrued some matters but threw out other matters when it reflected their personal cohorts tied to the racketeering.

### **REASONS FOR GRANTING THE PETITION**

This matter has been repeatedly and with intent misconstrued as to the Plaintiff/Petitioner's intentions for bringing forth the Petitioner's Independent Claim against the bank that did harm by acts of Fraud and Racketeering which had been duly noted and detailed, but that the US District Court of Hawaii Chief Justice Kobayashi threw out and forced to have removed from the list of Plaintiff's Counts and Causes of Action almost a year prior to any chance of Trial, Jury Trial, or Summary Judgement deadline as To intentionally alter and compromise the Integrity of the Plaintiff's Allegations and what they were suing the Defendants for because of the fact some of the perpetrators originally listed in detail, for which the US District Court purged evidence of were in fact part of the Chief Justice's vouched for legal associates which were being implicated in Racketeering Acts with the Defendant in numerous Acts of Fraud and because the Chief Justice instead of doing the lawful and correct thing in recusing themselves because of numerous Conflicts of Interests decided to pursue tampering with Plaintiff/Petitioner's case by forcing Plaintiff to alter and compromise the evidence in the case that did show Factual basis and Detailed fraud instead. The remaining Counts reviewed took away from displaying the actual numerous acts and collusion with Racketeering based upon an independent claim. To be fully detailed the Plaintiff had noted that the State Court erred in allowing such judgments, but the basis of the argument has always been the wrongdoing perpetrated by Defendant and assisting entities in the crimes including the partners to the Chief Justice of the US District Court of Hawaii. The

Complaint was never brought forward to overturn the State foreclosure proceedings or to implicate them but to punish the wrongdoers once it got to US District Court. The case did mention deprivation of Due Process issues by several courts in Hawaii that did not allow an appropriate forum for the arguments to be raised but this also was not the basis of the case being brought forward as a complaint and independent claim as strongly misconstrued by US Court of Appeals in the 9<sup>th</sup> Circuit. Thus, the matter should be Reviewed for being handled appropriately by the SCOTUS because the case ruling conflict with other US District Court rulings, Other US Appellate Court Rulings, and Rulings and Laws already set down by The SCOTUS and compromises homeowners from all walks of life including the rich, celebrities, politicians, military leaders, Senators, middle class, poor, lawyers, judges, and government leaders. Nobody is exempt from losing their homes or properties or other assets when this kind of neglect and error is carried out by Federal District and Appellate Courts for which the SCOTUS has power over! It is for all these reasons and for the fact that if Fraud and Racketeering by perpetrators goes unpunished all will in fact suffer greatly. Our case as Petitioner is against a bank/entity/corporation not a State Court nor is the sole matter Due Process although this has been some of our suffering as well due to the original crimes occurring before the State Court Wrongful Foreclosure began as the entity/Defendant committed clear and malicious title fraud and then claimed themselves as owner to what they were not deeded whilst using the system to carry out a Wrongful Foreclosure. If they can get away with it, any person with no leg to stand on and with no assets or legal job can say that a mansion or home is theirs as long as they collude with a few people and call themselves a corporation of LLC. By oversight and overlooking such matters this opens the Pandora's box for anyone even those with no right to a home or property to foreclose on anything they wish, and this is very detrimental for all homeowners even to the POTUS or his VP could be jeopardized if courts allow these types of wrongdoings and bad rulings to continue to be carried out. It is for all these reasons that the Petitioner

knows that this Petition should be granted as well as the fact that Petitioner cannot afford to pay the regular dues for this case to be reviewed at this time unless her Durable Power of Attorney/Health Care Proxy and/or family can attain one for her in the midst of this process. At 86 years old, Petitioner can no longer work and is receiving SSA and SSI which is not enough with all bills and utilities owed to afford the court fees on her own for these matters.

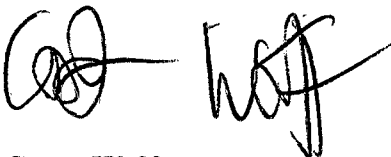
### **CONCLUSION**

Based upon the foregoing, the Petitioner respectfully asserts that this case is an appropriate vehicle for this Court's consideration and resolution of several issues of significant public and private importance relating to the home finance industry, which impacts an immense portion of the United States population. Noted acts of fraud carried out before the state proceeding began that were railroad out by the State Court decisions and lack of Due Process with specific actions and details of Title Fraud have a Right to be Complained upon in a District Court and to have the Punitive and Other Damages caused by an Unlawful Foreclosure to their property and fees associated with having to fight them in court and sue the wrongdoer. The District Court Chief Judge misconstrued the request for Relief as wanting the Wrongful Foreclosure erroneously issued by the State Court as Reversed. This has been a False Assumption and even when put in Plain Writing the Appeals Court neglected to understand that all the Plaintiff, Herma Barbara Medina Reyna has wanted is for the entity that could not prove they had a right to foreclose and that used Fraud to obtain the foreclosure and even Forged the signature of Deceased Individuals in the Process of Defrauding to be punished for their crimes. One has the right to sue a wrongdoer who uses the system to obtain assets through Collusion, Racketeering, and More. Furthermore, the US Court of Appeals misconstrued the argument by stating that the case brought forward for Complaint was about a Lack of Due Process when the Us District Court of Hawaii reneged

on allowing the Jury Trial to go forward and also Forced the hand of the Petitioner/Plaintiff to remove nearly 10 out of 14 Causes of Action and only accepted in part two with acts of collusion as some of those Counts and Causes of Actions would have implicated individuals that the Chief Justice vouched for to be voted in to the State of Hawaii State Bar and similar. The Justice also refused to remove herself from Conflict of Interest in Plaintiff's case for which it was as some of her cohorts were being addressed as cooperators with the Defendants racketeering in detail. Details for which the District Court forced the Petitioner to eliminate many true allegations which compromised the overall integrity of the case and Factual allegations being brought forward in the Case thus making her an accomplice to Collusion and aiding abetting in the Fraudulent Crimes Perpetrated that the Petitioner/Plaintiff Pro Se was actually seeking Damages for, because of the Slander of Property and further. Throughout the years bringing the case the elderly Petitioner was a victim of this racketeering collusion and had her documents altered by Court Officials, Go Missing, or be Rejected with a Judges stamp with different signature or No Signature when the Judge was nowhere around as it was staff and clerks that the Chief Judge in the State Court knew from Church. The Chief Justice and her husband are in a similar Church community and that is where the crime is carried out with cooperation between church members who work in the legal system. The Petitioner asks that this Court grant its Petition for Writ of Certiorari and consider this case on the merits. Respectfully submitted,

The petition for a writ of certiorari should be granted.

*Dated: March 27, 2023, Makawao, Maui, Hawaii.* Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Grant Wolf', with a stylized, cursive script.

**Grant Wolf**

Grant Wolf, Durable Power of Attorney for Petitioner Pro Se, Herma Barbara Medina Reyna