No. 22-7705

ORIGINAL

FILED
MAY 30 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Matthew J. Kwong — PETITIONER
(Your Name)

vs.

Cheswold (FL), LLC, BMO Harris Bank, NA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

State of Connecticut Appellate Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Matthew J. Kwong
(Your Name)

9 Bradley Lane
(Address)

Sandy Hook, CT 06482-1614
(City, State, Zip Code)

—
(Phone Number)

QUESTION(S) PRESENTED

1) Did the IRS have standing to participate in the respondent's civil action of Foreclosure against the petitioner?

2) And if it did, did the trial court violate the due process and equal protection clauses of the Fourteenth Amendment to the U.S. Constitution by not allowing the petitioner process for the agency's participation in the proceeding?

LIST OF PARTIES

[X] 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:

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Appendix X: Bankruptcy Court *Claim 11-1, Claim12-1*

Appendix Y: 1867 *Rules of the United States Supreme Court:* General Orders In Bankruptcy

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1867 Rules of the U.S. Supreme Court: General Orders In Bankruptcy

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 _____ 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[ ] is unpublished.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[ ] is unpublished.

[X] For cases from **state courts**:

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

[X] reported at 211 Conn. App. 905 (2022); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the Connecticut Superior Court court appears at Appendix B to the petition and is

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[X] is unpublished.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] 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).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was 3/1/2023. A copy of that decision appears at Appendix C.

[ ] 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).

STATEMENT OF THE CASE

Initially, the petitioner-defendant, Matthew J. Kwong, had only sought to secure proper acknowledgment of unaddressed encumbrances still claimed by the IRS against him in his case following the conclusion of bankruptcy proceedings (*In Re: Matthew John Kwong, Debtor*, United States Bankruptcy Court, District of Connecticut, Case No. 16-50342 JAM) which he'd initiated within the broader context of his defending himself in the municipal tax lien foreclosure action initiated against him by the respondent-plaintiff, Cheswold (TL) LLC / BMO Harris Bank N.A., (*Cheswold (TL), LLC, BMO Harris Bank, NA v. Matthew J. Kwong Et Al,* Connecticut Superior Court, Judicial District of Danbury, Docket No. DBD-CV15-6017197-S) on April 17, 2015 in the Superior Court at Danbury, Connecticut from whose eventual deficiencies in process, brought about as of consequence to that lack of resolution for those IRS claims, would result in the premature auctioning to the public of his home at 9 Bradley Lane in the prominent enclave of Sandy Hook, Newtown, Connecticut on January 14, 2023 wherein all and any definable rights consequently litigated theretofore by the parties involved with respect to the transferring of ownership of the property's title through such sale were rendered inoperative under a subsequent impasse of indeterminacy as to which actual judicial authority retains proper subject matter jurisdiction over the case currently. Thus forewarned by the prescience of his own urgency, complimented by an already inherently high degree of prophylactically minded civic concern, the petitioner, upon discovery of the promising statutory remedy found within Connecticut's well

established jurisprudence in exercised legislative prerogative on the matter, filed a motion late in the case on July 13, 2021 to open and set aside a previously standing judgment which had been arrived at separately and much earlier in the case on September 14, 2018 by the trial court (*Mintz, J.*) (*see* Appendix I for that court's *Memorandum of Decision* to its ruling), and then affirmed on appellate review (***196 CA 279 (AC 42221) certiorari denied (3/1/21))*** to be recorded in the volumes of the *Connecticut Law Journal* on March 3, 2020 (*see* Appendix J for the published *Opinion (Pellegrino, J.)* on the disposition thereof).[1] Specifically, he had hoped to further avail himself in defense of his home (- now, technically speaking, *estate under contested receivership* -) of the civil procedure codified within the text of section 52-107 of the Connecticut General Statutes:

> Sec. 52-107. Additional parties may be summoned in. The court may determine the controversy as between the parties before it, if it can do so without prejudice to the rights of others; but, if a complete determination cannot be had without the presence of other parties, the court may direct that such other parties be brought in. If a person not a party has an interest or title which the judgment will affect, the court, on his application, shall direct him to be made a party.
>
> (1949 Rev., S. 7829; P.A. 82-160, S. 43.)
>
> History: P.A. 82-160 rephrased the section.
>
> See Sec. 52-484 re interpleader.
>
> Cited. 24 C. 384; 33 C. 467. Stranger cannot be cited to secure adjudication of

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[1]The Connecticut Practice Book circumscribes the procedure for initiating such relief:

Sec. 9-18. Addition or Substitution of Parties; Additional Parties Summoned in by Court

The judicial authority may determine the controversy as between the parties before it, if it can do so without prejudice to the rights of others; but, if a complete determination cannot be had without the presence of other parties, the judicial authority may direct that they be brought in. If a person not a party has an interest or title which the judgment will affect, the judicial authority, on its motion, shall direct that person to be made a party. (See General Statutes § 52-107 and annotations.)

(P.B. 1978-1997, Sec. 99.)

claim not involved in action. 50 C. 583; 65 C. 76; 67 C. 277; 76 C. 542; 79 C. 694; 81 C. 474; 85 C. 429. Holder of mortgage bonds of street railway company not entitled to be made a codefendant in action against it. 56 C. 398. Complaint against one as administrator may be amended to charge him in his individual capacity. 57 C. 304. **Taxing communities may be admitted as coplaintiffs with tax collector. 60 C. 118.** This and related sections have radically changed the old practice. 63 C. 476. Cited. 65 C. 115. Application to cite in receiver properly refused, if permission to sue him has not been obtained. 66 C. 277. **Court may admit persons vitally interested, although not necessary parties. 68 C. 157.** Discretion of court where motion has been long delayed. 69 C. 440. Cited. 72 C. 92. Process, not complaint, makes parties. Id., 261. If claim assigned during suit, assignee may be substituted as plaintiff; prima facie showing of interest sufficient. 73 C. 377. Street railway company, primarily liable for defect in highway, may come in as defendant in action for injury due to it. 74 C. 163. Court may permit executor to enter in action brought by testator after time fixed by statute. 77 C. 347. Waiver by executor who voluntarily enters to defend. Id., 382. Right of taxpayer to defend action against city. 81 C. 235. Validity of mechanic's lien cannot be determined in action to which landowner is not a party. 90 C. 7. Third party beneficiary may sue on contract made for his benefit; other necessary parties may be cited in. 99 C. 216. Where taxpayer's complaint in appeal from former board of relief is based on failure to list taxable property of other persons, they must be made parties defendant. 109 C. 361. In appeal from zoning board, proper to permit intervention of property owners claiming their property would be damaged in value by erection of gas tank. 113 C. 695. Liquor Control Commission, while it would have been a proper party to action by town against permittee, was not a necessary party. 133 C. 157. Cited. 153 C. 545; 172 C. 572; 182 C. 1; 184 C. 483; 185 C. 445; 186 C. 311; 191 C. 1; 206 C. 374; 212 C. 628; 215 C. 224; 224 C. 263; 239 C. 1; 241 C. 734. Trial court did not err in denying motion to intervene as a matter of right because the movant did not identify an interest of direct and immediate character that would cause it to gain or lose anything as a result of the judgment in the case, and did not err in denying permissive intervention because the movant failed to demonstrate that Attorney General's defense of constitutionality of the marriage laws would be inadequate. 279 C. 447.

Cited. 7 CA 613; 16 CA 124; 21 CA 67; 31 CA 476; 32 CA 340; 41 CA 89; 42 CA 330; judgment reversed, see 241 C. 734. Statutory language clearly and unambiguously conveys the meaning that section is applicable only in cases in which an action is presently pending before the court, and not in cases in which a judgment has been rendered. 196 CA 70.

Cited. 6 CS 281. Purchasers of corporate real estate from the trustee in bankruptcy were entitled to be joined as parties defendant where general manager of corporation was without assets and in parts unknown. 12 CS 199. A party charged with liability may not bring in another party liable to indemnify

him. 13 CS 461. Cited. 18 CS 106; 25 CS 315; 26 CS 418. Section may not be used by Probate Court party to become party to another's appeal; applicant who did not take appeal in time limited lost his right to appeal. 28 CS 392. Cited. 33 CS 606; 36 CS 56; 41 CS 23; Id., 389.

New parties may be cited in upon order of the court at any time in the course of an action, provided they receive due notice and a reasonable time to prepare their particular claims or defenses; where additional parties were cited in as parties defendant; the moving papers served on them did not constitute a new civil action, process in which would be subject to provisions of Sec. 52-48a. 3 Conn. Cir. Ct. 321.

(bold emphasis added) which allows process for a third party of interest such as the IRS, or an appropriate relator on its behalf, into the lawsuit so as to resolve a particular party's federal bankruptcy tax liabilities collaterally in the foreclosure action, from whence they arose as *in rem* encumbrances on that particular party's property, under an established state superior court's defined subject matter jurisdiction thereof. Of notable pertinence to that end, the legal precedents of *Meyer v. Burritt*, 60 Conn. 131 (1891); and *State ex rel. Bulkley et al. v. Williams, Treasurer*, 68 Conn. 131 (1896) cited within the statute's referenced case law annotations bear mentioning as both those cases, like the petitioner's own, involve the powers of a taxing authority's jurisdiction relative to that of the state's judiciary. More notably the relationship detailed therein is not limited contextually to mere academic interpretation of its procedural legalities, but rather offers the unique opportunity to further inform present day jurisprudence from a historical perspective that a greater construction of its substantive precedent would bear true witness to.

From a constitutional perspective, the chronological timing of *Meyer* and *State*

ex rel. Bulkley et al. (decided by the Connecticut Supreme Court in 1891 and 1896 respectively) into the state's lexicon of jurisprudence logically integrates the purview of the statute's subject matter jurisdiction with that of then newly enacted clauses for due process and equal protection established under the first section of the United States Constitution's seminally post-civil war era Fourteenth Amendment, with whose ratification some twenty years earlier were brought about perhaps the most significant changes to governance of the nation's people seen up to that point:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. 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 the law; nor deny any person within its jurisdiction the equal protection of the laws.

From the petitioner's perspective, it also conclusively established, through such construction of the statute's context qualified thereby, the clear relationship of his case to the amendment's superceding purview of jurisdiction that in turn establishes a similarly situated precedent for relationship to other clauses of the United States Constitution which might not have otherwise been established by a state judiciary prior to the amendment's passage. Accordingly, a simple process of word associations made between the petitioner's case and section 52-107 of the Connecticut General Statutes to an antebellum United States Constitution, unamended by its Fourteenth, yield fundamental clauses on the subject of bankruptcies and prohibitions against prejudice to the rights of others found explicitly incorporated within the foremost articles of establishment for the latter:

> Article I ... Section 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States; ... To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States; ... – And
> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

(internal quotation marks omitted);

> Article IV ... Section 3. ... The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

(internal quotation marks omitted).

Where such conducted analysis made thereof, however, fails to adequately explain the relationship of the petitioner's case to the Fourteenth Amendment's supersedure of its process is with respect to the one currently now found between himself and the IRS, and the properly inferred subject matter jurisdiction of a state's judiciary to be ascertained therein. In this regard, the only historical precedent for such authority to be inferred of a uniformly established power of taxation under the federal government over otherwise sovereign municipal communities formed under individually separate state governments is that found within those clauses of the Constitution dealing specifically with the nation's post-revolutionary war era institution of slavery, and the actionable federal claims to be made by parties of interest thereof against which the government, prior to the advent of the Fourteenth Amendment, would countenance no prejudice:

> Article I ... Section 9. The migration or importation of such persons as any of the

states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation , not exceeding ten dollars for each person.

(internal quotation marks omitted)

Article IV ... Section 2. The citizens of each state shall be entitled to all privileges and immunities of citizens of the several states ... No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

(internal quotation marks omitted).

However, whereas the direct abolition of the nation's sanctioned practice of slavery was established under the Constitution's Thirteenth Amendment enumerated in its entirety:

Section 1. Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

to be thereby uniformly established over the nation's governance by the individual states of their respective citizenry through the purview of its Fourteenth Amendment's aforementioned first section, the actual enumerated purview for abrogation of any lingering vestiges of that abolished institution's previously vested right to make actionable claims thereupon was reserved to the Fourteenth Amendment's fourth section:

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred

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> in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

with authority vested therein through its fifth:

> Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

In addition, due passage of the United States Constitution's Sixteenth Amendment:

> The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census of enumeration.

requires similar consideration of contextual perspective extended thereof by which the relationship of the IRS to the petitioner's case be also appraised; one, however, with a more contemporaneous focus.

Prior to any of the bankruptcy proceedings begun by him in 2016, and the commencement of the respondent's foreclosure action against him in 2015 - upon which those proceedings were based - the IRS had already begun initiating an income tax lien on the petitioner in 2014, for which he was first served notice in November of that year by his erstwhile, then employer, Lakeview Subway LLC, with a subsequently levied garnishment of his wages imposed thereafter by the agency. (*See* Appendix K for the initial IRS notice sent to the Subway ® franchise on 11/10/2014). Following the petitioner's filing for protection under 'chapter 13' bankruptcy with the United States Bankruptcy Court for the District of Connecticut at Bridgeport, Connecticut on March 9, 2016, his employer was sent notice on March 26, 2016 of the bankruptcy court's order (*Craig, J.*) therein, issued pursuant to section 362 of title 11 to the United States' code of federal law (title 11 U.S. Code

§ 362), to retroactively cease from any further garnishment of his wages earned theretofore subsequent to his filing for bankruptcy protection thereof. (*See* Appendix L for the bankruptcy court's order on 3/26/2016).[2] However, while the automatic stay barring any further collection actions against the petitioner was in place under the bankruptcy court's order thereof, his employer, despite another therein similarly activated federal statute barring otherwise (*see* Appendix M for the full text to title 11 U.S. Code § 525), willfully terminated his employment on June 3, 2016. Shortly thereafter on June 21, 2016 , the IRS filed the first of its two claims against the petitioner with the bankruptcy court, absent of any reference to the action taken against him in direct breach of title 11 U.S. Code § 525 (*See* Appendix N for submitted proof of claim to *Claim 10-1* entered by the IRS on 6/21/2016).[3]

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[2] Senate Report No. 95-989, annotated to the statute, provides concise explanation to the underlying purpose and function of the automatic stay associated with title 11 U.S. Code § 362:

> The automatic stay is one of the fundamental debtor protections provided by the bankruptcy laws. It gives the debtor a breathing spell from his creditors. It stops all collection efforts, all harassment, and all foreclosure actions. It permits the debtor to attempt a repayment or reorganization plan, or simply to be relieved of the financial pressures that drove him into bankruptcy.
>
> The action commenced by the party seeking relief from the stay is referred to as a motion to make it clear that at the expedited hearing under subsection (e), and at hearings on relief from the stay, the only issue will be the lack of adequate protection, **the debtor's equity in the property,** and the necessity of the property to an effective reorganization of the debtor, or the existence of other cause for relief from the stay. This hearing will not be the appropriate time at which to bring in other issues, such as counterclaims against the creditor, which, although relevant to the question of the amount of the debt, concern largely collateral or unrelated matters. This approach is consistent with that taken in cases such as *In re Essex Properties, Ltd.,* 430 F.Supp. 1112 (N.D. Cal. 1977), that an action seeking relief from the stay is not the assertion of a claim which would give rise to the right or obligation to assert counterclaims. Those counterclaims are not to be handled in the summary fashion that the preliminary hearing under this provision will be. Rather, they will be the subject of more complete proceedings by the trustee to recover property of the estate or to object to the allowance of a claim. However, this would not preclude the party seeking continuance of the stay from presenting evidence on the existence of claims which the court may consider in exercising its discretion. What is precluded is a determination of such collateral claims on the merits at the hearing.

(bold emphasis added).

[3] As the sole representative for the United States Treasury's federal taxing authority over the petitioner in his bankruptcy case, the IRS was entitled to file its claims against him pursuant to title 11 U.S. Code §§ 507, 1305, 1322(a)(2) and 1322(a)(4) exclusively, thereby giving any claims of the agency against him priority under bankruptcy law not enjoyed by claims of any other of his creditors in his chapter 13's proceeding..

As of consequence to that termination of his employment by Subway on June 3, 2016 coinciding so exactly with his seeking such income requisite relief from his creditors as reorganization of his debt through chapter 13 bankruptcy, and the subsequent inadequacy of the IRS in its due response to the disruption of such process, the relationship of the petitioner's case with the IRS going forward was somewhat altered from that which it had originally been defined as on March 9, 2016 under the construct of taxation established by the Sixteenth Amendment and the applicable laws of bankruptcy made in pursuance thereof, which notably define such relationship, by necessity, through his employment, and the taxable federal liabilities assessed upon him thereof. Thus when the IRS filed the second of its two claims in the proceeding on September 13, 2016, amending the first to reflect the reassessment of the petitioner's income tax debt liability performed by the agency in the interim (*see* Appendix O for submitted proof of claim to *Claim 10-2* entered by the IRS on 9/13/2016), under the same proprietary statutes of privileged priority in its tax collection as it did the first (i.e. pursuant to title 11 U.S. Code §§ 507, 1305, 1322(a)(2) and 1322(a)(4)), the agency's prior inaction, exhibited during the filing of its first claim in not addressing the challenge to that proprietary power posed by the unlawfully discriminatory termination by Subway of the petitioner's employment, consigned the second filing of the IRS claim to that of a mere academic exercise in the inconsequentiality of its governance. (*See* Appendix P for the IRS notice sent to the petitioner on 3/20/2017). In hindsight, the only creditor to the petitioner who actually capitalized on the situation ultimately was the respondent.

Unlike the IRS, whose taxing authority proceeded directly from the expanded subject matter jurisdiction accorded the United States Treasury as was established per ratification under consensus by the states to the United States Constitution of its Sixteenth Amendment, the respondent's taxing authority derives solely from an incorporated association entered into by the respondent's LLC and N.A. entities with the municipal government of the petitioner's hometown as stipulated per legislated protocol under section 12-195h of the Connecticut General Statutes:

> Sec. 12-195h. Assignment of liens. Notice of assignment. Any municipality, by resolution of its legislative body, as defined in section 1-1, may assign, for consideration, any and all liens filed by the tax collector to secure unpaid taxes on real property as provided under the provisions of this chapter. The consideration received by the municipality shall be negotiated between the municipality and the assignee. **The assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as such municipality and municipality's tax collector would have had if the lien had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection and of preparing and recording the assignment. The assignee shall have the same rights to enforce such liens as any private party holding a lien on real property including, but not limited to, foreclosure and a suit on the debt.** The assignee, or any subsequent assignee, shall provide written notice of an assignment, not later than thirty days after the date of such assignment, to any holder of a mortgage, on the real property that is the subject of the assignment, provided such holder is of record as of the date of such assignment. Such notice shall include information sufficient to identify (1) the property that is subject to the lien and in which the holder has an interest, (2) the name and addresses of the assignee, and (3) the amount of unpaid taxes, interest and fees being assigned relative to the subject property as of the date of the assignment.
>
> (P.A. 93-434, S. 19, 20; P.A. 13-135, S. 16; 13-276, S. 40.)
>
> History: P.A. 93-434 effective June 30, 1993; P.A. 13-135 added provisions re notice of assignment; P.A. 13-276 added provisions re fees and expenses of preparing and recording the assignment and added provision re foreclosure and a suit on the debt.
>
> Change in marital status affecting ownership is not by itself good cause to open foreclosure judgment based on change in circumstances. 52 CA 52.

> Assignee succeeds only to the assignor municipality's enforcement right empowered by Sec. 12-181, and not to the municipality's other authorized collection methods. 45 CS 435.

(bold emphasis added) by which they filed their own succession of proprietary tax lien claims against the petitioner with the bankruptcy court in his chapter 13 proceeding. (*See* Appendix Q for the submitted proofs of claim to *Claim 5-1, Claim 5-2* and *Claim 5-3* entered by the respondent on 4/8/2016, 6/22/2016 and 6/24/2016, respectively). Furthermore, the respondent, unlike the IRS, was not adverse to recognizing the ramifications to the upcoming prospects for confirmation by the bankruptcy court accrued to the petitioner's plan for reorganization of his debt under chapter 13 following the June 3, 2016 termination of his employment by Subway, nor upon acting on it so as to effectively progress and sustain the enforceability of the encumbrance of their tax liens upon his home despite being rivaled by the more highly prioritized claims of their impotent federal counterparts in the case. (*See* Appendix R for: the *Notice of Appearance and Request for Service of Papers*, ECF No. 18 entered by the respondent on 3/25/2016; the *Objection to Confirmation of Plan,* ECF No. 22 entered by the respondent on 8/9/2016; the *Motion to Dismiss Case,* ECF No.31 entered by the chapter 13 trustee on 12/6/2016; and the *Order Granting Trustee's Motion to Dismiss Chapter 13 Case*, ECF No. 51 entered by the bankruptcy court (*Manning, J.*) on 2/21/2017). On February 17, 2017, the appointed chapter 13 standing trustee for the proceeding, Molly T. Whiton, sent notice to the petitioner of "the claims register listing the proofs of claim that [had] been filed in [the] case" against him by his creditors for due

disposition thereof by the bankruptcy court. (*See* Appendix S for the *Claims Register* and the accompanying letter sent to the petitioner by the chapter 13 standing trustee on 2/17/2017). Thereafter on March 10, 2017, the respondent filed notice with the trial court to the foreclosure action that the petitioner's chapter 13 bankruptcy case had been dismissed on February 21, 2017 from the bankruptcy court, and the case proceeded thereby from the jurisdiction of the latter back to the former. (*See* Appendix T for the *Notice of Discharge of Bankruptcy*, Docket Entry: 126.00 entered by the respondent on 3/10/2017).[4]

Thus extricated from its bankruptcy proceedings, process of the respondent's foreclosure action then progressed to the subsequent narrative published within the context of case law precedent established through disposition by the Connecticut Appellate Court on the first of the two appeals taken by the petitioner in the case (*196 CA 279 (2020) cert. denied*):

Opinion

> Pellegrino, J. The self-represented defendant, Matthew J. Kwong,[Ftn. 1] appeals from the trial court's judgment of foreclosure by sale of his property located at 9 Bradley Lane in the village of Sandy Hook in Newtown (property). He claims that the court erred in denying his motion to dismiss for lack of subject matter jurisdiction on the ground that the substituted plaintiff, ATCF REO Holdings, LLC (ATCF),[Ftn. 2] lacked standing to foreclose the property because the assignment of certain municipal tax liens to ATCF was not recorded on the Newtown land records. Accordingly, the principal issue in this appeal is whether

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[4] The Connecticut Practice Book specifies the process for giving such notice:

Sec. 14-1. Claim for Statutory Exemption or Stay by Reason of Bankruptcy

When a claim for a statutory exemption or stay by reason of bankruptcy is filed, it shall be accompanied by an affidavit setting forth the date the bankruptcy petition was filed, the district of the bankruptcy court in which it was filed and the address, the name of the bankruptcy debtor and the number of the bankruptcy case.

When the stay has been relieved or terminated, the plaintiff, the person filing the petition, or any other interested party shall file with the court a copy of the relief or termination of stay issued by the bankruptcy court.

(P.B. 1978-1997, Sec. 250A.) (Amended June 21, 2004, to take effect Jan. 1, 2005.)

the assignment of a municipal tax lien is required to be recorded on the land records in order for the assignee to have standing to foreclose the property, which is an issue of first impression for this court. For the following reasons, we conclude that such recording is not required and affirm the judgment of the trial court.

The following undisputed facts are relevant to our disposition of this appeal. From 2009 to 2014, the defendant failed to pay municipal taxes to the town of Newtown (town). As a result, the town imposed tax liens on the defendant's property and recorded them on the town's land records. The town then assigned the tax liens to American Tax Funding, LLC, and recorded the assignment on the land records. The tax lien were then assigned to Cheswold (TL), LLC, BMO Harris Bank, N.A. (Cheswold), which recorded the assignment.

On April 6, 2015, Cheswold commenced this foreclosure action. On May 8, 2015, Cheswold filed a motion for default against the defendant for his failure to appear, which the court granted. At that point, the defendant had not yet filed an appearance in the case. Cheswold subsequently filed a motion for a judgment of strict foreclosure. The trial court rendered a judgment of foreclosure by sale and set a sale date. The defendant filed an appearance on August 24, 2015, and, thereafter, filed a motion to open and vacate the judgment, which the trial court granted.

While the case was pending, Cheswold assigned the tax liens to ATCF. The assignment was not recorded on the town records. Cheswold then filed a motion to substitute ATCF as a party plaintiff in this case. The trial court granted the motion and substituted ATCF as the party plaintiff. Thereafter, ATCF filed a motion for default as to the defendant for failure to plead, which the trial court denied.

Following the denial of the motion for default, ATCF filed a motion for a judgment of strict foreclosure. At the April 26, 2018 hearing on the foreclosure motion, the defendant, by oral motion, sought to dismiss the action for lack of standing because ATCF failed to record the assignment of the tax liens. The trial court, *Mintz, J.*, faced with a question of subject matter jurisdiction, suspended the hearing and gave both parties an opportunity to file briefs on the issue of whether the assignment of the tax liens to ATCF must be recorded on the town land records in order for the substituted plaintiff to have standing to foreclose the liens, as argued by the defendant. In response, the parties stipulated that if the motion to dismiss was denied, then the action would be disposed of by a foreclosure by sale in accordance with the findings that the parties had agreed on.[Ftn. 3] On September 14, 2018, the trial court denied the defendant's motion to dismiss, finding that there was no requirement that the assignment be recorded on the town records. Consequently, the court rendered a judgment of foreclosure

by sale and set a sale date of March 9, 2019. This appeal followed.

On appeal, the defendant claims that the trial court improperly found that ATCF had standing to pursue the foreclosure action because the assignment of the tax liens on the defendant's property had not been recorded on the town land records.

We begin by setting forth the well established standard of review. "Standing is the legal right to set judicial machinery in motion. One cannot rightfully invoke the jurisdiction of the court unless he [or she] has, in an individual or representative capacity, some real interest in the cause of action, or a legal or equitable right, title or interest in the subject matter of the controversy. . . . Where a party is found to lack standing, the court is consequently without subject matter jurisdiction to determine the cause. . . . Our review of this question of law is plenary." (Citations omitted; internal quotation marks omitted.) ***J.E. Robert Co.*** **v.** ***Signature Properties, LLC,*** **309 Conn. 307, 318, 71 A.3d 492 (2013). "In ruling [on] whether a complaint survives a motion to dismiss, a court must take the facts to be those alleged in the complaint, including those facts necessarily implied from the allegations, construing them in a manner most favorable to the pleader. . . . If . . . the plaintiff's standing does not adequately appear from all materials of record, the complaint must be dismissed." (Citation omitted; internal quotation marks omitted.)** ***Burton*** **v.** ***Dominion Nuclear Connecticut, Inc.,*** **300 Conn. 542, 550, 23 A.3d 1176 (2011).**

This is a case of first impression. The sole issue before this court is whether the trial court erred in denying the defendant's motion to dismiss for ATCF's alleged lack of standing. The defendant maintains that ATCF lacks standing to foreclose the property because the assignment of the tax lien was not recorded. The defendant contends that General Statutes § 47-10,[Ftn. 4] the land transfer recordation statute, requires that all "conveyances" be recorded in order to be effective and that tax liens are "conveyances" for the purposes of that statute. ATCF disagrees, arguing that Practice Book § 10-70, which governs the foreclosure of municipal tax liens, and General Statutes § 12-195h, detailing the rights and obligations of assignees of municipal tax liens, are the "prevailing and controlling authority, neither of which impose the requirement that an assignment of the tax lien must be recorded in order to maintain a foreclosure action of the lien."

In its memorandum of decision, the trial court cited this court's decision in *Astoria Federal Mortgage Corp.* v. *Genesis Ltd. Partnership,* 167 Conn. App. 183, 143 A.3d 1121 (2016), which addressed a similar issue in the context of a mechanic's lien. In that case, the defendant appealed, claiming that the trial

court improperly concluded that the defendant lacked standing to foreclose a mechanic's lien, which was otherwise validly assigned, because the assignment of the lien was not recorded. Id., 185. This court reversed the judgment, concluding that the trial court incorrectly had applied the recordation requirements of § 47-10. Id., 202. This court, applying principles of statutory interpretation, determined that the more specific statutes governing mechanic's liens, which did not require recordation, should apply over more general statutes governing transfer of title, which required recordation, namely, § 47-10.[Ftn. 5] Id., 199.

The court in *Astoria Federal Mortgage Corp.* further determined that the assignment of a mechanic's lien was more akin to a transfer of debt than to a transfer of title. Id., 201. It relied on General Statutes § 49-33(i), which provides that "[a]ny mechanic's lien may be foreclosed in the same manner as a mortgage." See *Astoria Federal Mortgage Corp.* v. *Genesis Ltd. Partnership*, supra, 167 Conn. App. 200. This court explained that mortgage foreclosures are governed by General Statutes § 49-17, which provides that "a valid assignee of a mortgage note has standing to foreclose irrespective of whether that assignee records the assignment prior to instituting the action." Id., 202. In addition, this court concluded that "the failure of an assignee of a mechanic's lien to record an otherwise valid assignment of the lien does not deprive the assignee of the lien of standing to commence a foreclosure action." Id., 204.

Relying on *Astoria Federal Mortgage Corp.*, the trial court in the present case determined that ATCF did not lack standing to foreclose for failure to record the assignment of the municipal tax liens. The trial court stated that the specific procedures governing the foreclosure of tax liens, found in General Statutes § 195h[Ftn. 6] and Practice Book § 10-70,[Ftn. 7] do not contain any requirement that the assignment of a tax lien be recorded in order for the owner of the lien to have standing to foreclose. Further, the trial court concluded that the assignment of a tax lien, similar to that of a mechanic's lien, is more closely akin to the assignment of a mortgage rather than a conveyance of title and that, as such, the failure to record the assignment is not fatal to standing.

On the basis of our review, we agree with the trial court's analysis and conclusion that the assignee's failure to record the assignment of a tax lien does not deprive it of standing to bring a foreclosure action. As in *Astoria Federal Mortgage Corp.*, we conclude that the more specific statutes governing tax liens, which do not require recordation, should take precedence over the more general land transfer statutes, which do require it. Here, § 12-195h and Practice Book § 10-70 control both the assignment and foreclosure of municipal tax liens. They do not require that the assignments of liens be recorded to confer standing. Further, we agree with the trial court that a tax lien, similar to a mechanic's lien, is more analogous to a transfer of debt than to a transfer of title and, as

such, is not considered a "conveyance" under § 47-10. Therefore, we conclude that the trial court properly denied the defendant's motion to dismiss and rendered judgment of foreclosure by sale in accordance with the findings as stipulated by the parties.

The judgment is affirmed and the case is remanded for the purpose of setting a new sale date.

In this opinion the other judges concurred.

[Ftn. 1] **Capitol One Bank (USA), N.A., AND Portfolio Recovery Associates, LLC, were named as defendants in this case as subsequent encumbrancers in interest. Neither of these defendants is a party to this appeal. We therefore refer in this opinion to Kwong as the defendant.**

[Ftn. 2] The original plaintiff in this case, Cheswold (TL), LLC, BMO Harris Bank, N.A., filed a motion to substitute ATCF as the party plaintiff, which was granted by the trial court.

[Ftn. 3] The trial court rendered the judgment of foreclosure by sale with the following agreed *on findings*: "Debt: $61,264.03 as of [September 13, 2018]"; "Attorney's Fees: $5850"; "Total: $67,114.03"; "Appraisal Fee: $700"; "Title Search Fee: $225"; "Fair Market Value: $160,000"; "Land: $75,000"; and "Improvements: $85,000."

[Ftn. 4] General Statutes § 47-10(a) provides: "No conveyance shall be effectual to hold any land against any other person but the grantor and his heirs, unless recorded on the records of the town in which the land lies. When a conveyance is executed by a power of attorney, the attorney shall be recorded with the deed, unless it has already been recorded in the records of the town in which the land lies and reference to the power of attorney is made in the deed."

[Ftn. 5] **This court explained: "In conducting this inquiry, we are guided by the statutory interpretation principle that specific terms covering the given subject matter will prevail over general language of the same or another statute which might prove otherwise controlling. . . . The provisions of one statute which specifically focus on a particular problem will always, in the absence of express contrary legislative intent, be held to prevail over provisions of a different statute more general in its coverage." (Internal quotation marks omitted.)** ***Astoria Federal Mortgage Corp.* v. *Genesis Ltd. Partnership*, supra, 167 Conn. App. 199.**

[Ftn. 6] **General Statutes § 12-195h provides in relevant part: "Any municipality . . . may assign . . . any and all liens filed by the tax collector . . . . [and] the assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as such municipality . . . would have had if the lien had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection and of preparing and recording the assignment. The assignee shall have the same rights to enforce such liens as any private party holding a lien on real property including, but not limited to, foreclosure and a suit on the debt. . . ."**

[Ftn. 7] **Practice Book § 10-70 (a) provides in relevant part: "In any action to foreclose a municipal tax or assessment lien the plaintiff need only allege and prove: (1) the ownership of the liened premises on the date when the same went into the tax list, or when said assessment was made; (2) that thereafter a tax in the amount specified in the list, or such assessment in the amount made, was duly and properly assessed upon the property and became due and payable . . . (4) that no part of the same has been paid; and (5) other encumbrances as required by the preceding section."**

(bold emphasis added) wherein the legal principle held foremost by that court throughout its opinion's dissertation on its disposition was that which specifically considered the trial court's subject matter jurisdiction with respect to a party's questioned standing, and the due process required thereof. (*See* Appendix J for the full text to the opinion as published in the *Connecticut Law Journal*). Considering that the particular legal significance to the established precedence therein was its having been made on "first impression", the petitioner had hoped better in soliciting through his motion on July 13, 2021 to open and set aside the standing judgment of foreclosure rendered by the trial court on September 18, 2018, despite the means by which it was rendered having been affirmed against him on appeal, secondary consideration of the intersecting circumstance of the IRS in the case whose relevance was thereby redefined with the establishment of further jurisprudence created under that "first impression" of "subject matter""controversy" of a similar nature reflected upon so meticulously on appeal, and published thereafter within the annals of Connecticut case law. He merely sought the same quality, and quantity, of equity in his case for collateral introduction of the IRS as a recognized third party creditor of his with equal standing under the same subject matter jurisdiction in the foreclosure action on his home as that determined by the trial court for the introduced substitution of the respondent's plaintiff, ATCF REO Holdings LLC, made post-bankruptcy in the case, and affirmed on appeal. Indeed the basic mechanism for making such ad hoc alterations to a lawsuit in progress is provided for in common by the Connecticut Practice Book:

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Sec. 9-18. Addition or Substitution of Parties; Additional Parties Summoned in by Court

The judicial authority may determine the controversy as between the parties before it, if it can do so without prejudice to the rights of others; but, if a complete determination cannot be had without the presence of other parties, the judicial authority may direct that they be brought in. If a person not a party has an interest or title which the judgment will affect, the judicial authority, on its motion, shall direct that person to be made a party. (See General Statutes § 52-107 and annotations.)

(P.B. 1978-1997, Sec. 99.)

On July 19, 2021, following an expedited hearing in the matter, the trial court (*Kowalski II, J.*) denied the petitioner's motion to open and set aside its judgment of foreclosure against him. (*See* Appendix B for the *Order Regarding: 07/13/2021 186.00 Motion to Open Judgment*, Docket Entry: 186.02 entered by the trial court on 7/19/2021). On July 21, 2021, the petitioner appealed the trial court's decision to the Connecticut Appellate Court, and the case proceeded thereafter without much more noteworthiness until the respondent, whose foreclosure action had been subsequently stayed by the filing of the petitioner's appeal, filed a motion with the appellate clerk's office on October 5, 2021 to terminate the stay. In accordance with the practice for that office's appellate procedure, the respondent's motion, and the subsequent objection filed thereafter by the petitioner on October 12, 2021, were transferred to the trial court for adjudication where they were then docketed as entries 202.00 and 203.00, respectively, in the foreclosure action to which they were assigned a hearing date of November 26, 2021. However in the pervading interim, the petitioner received notice from the IRS on October 29, 2021 informing him of its commencement of a federal tax collection action against him under the *Fixing America's Surface Transportation (FAST) Act* (2015) by whose statutory authority,

codified therein under title 26 U.S. Code § 7345, the agency was empowered, through "certification by the Commissioner of Internal Revenue" to the "Secretary" of the United States Department of Transportation of the petitioner's "delinquent tax lien debt","to" thereby enjoin "the [United States] Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 32101 of the FAST **Act**" on the agency's behalf in its efforts thereof, which the petitioner then made due use of as an exhibit in the upcoming hearing on November 26, 2021. (*See* Appendix U for the IRS notice sent to the petitioner on 10/29/2021, and the full text to title 26 U.S. Code § 7345). On November 26, 2021, following the hearing on the respondent's motion to terminate the stay, the trial court (*Kowalski II, J.*) ruled in the petitioner's favor by denying the respondent's motion and sustaining the petitioner's objection to that motion. (*See* Appendix D for the *Order Regarding: 10/05/2021 202.00 Motion for Termination of Stay of Proceedings*, Docket Entry: 202.02 entered by the trial court on 11/26/2021). Thereafter, the appeal proceeded fairly uneventfully under the trial court's November 26, 2021 ordered continuance for the appellate stay from the respondent's execution of foreclosure upon the petitioner's home until disposition was rendered in the case by the appellate court on April 19, 2022 affirming the trial court's decision denying the petitioner's motion to open and set aside the trial court's judgment of foreclosure (*see* Appendix A for the slip opinion: *211 CA 905 (2022)*, AC 44847 sent to the petitioner on 4/20/2022 by the Office of the Reporter of Judicial Decisions serving notice of official release on 4/19/2022), whereupon, pursuant to appellate procedures

contained within the Connecticut Practice Book, the appellate court's disposition was automatically stayed for twenty days time pending the filing of a motion for reconsideration within ten days time, or a petition for certification to the Connecticut Supreme Court within twenty. On April 29, 2022, the petitioner filed a motion for reconsideration *en banc* with the appellate clerk's office which extended the automatic stay in the case pending resolution of the motion by the appellate court. On May 25, 2022, the appellate court denied the motion, which then extended the automatic stay therein for another twenty days time pending the filing of a petition for certification within twenty days, or a motion for an extension of time to do so within ten. However, the petitioner never received notice from the appellate clerk's office of the appellate court's resolution of his motion therein, and as of consequence, by the time he became aware of it, the automatic stay in his case had lapsed without his being able to file the requisite petition or motion to continue stay of execution in his case pending appeal to a higher court. On September 14, 2022, the respondent renewed their foreclosure action in the superior court against the defendant and filed a motion to reset the date of sale for the foreclosure (*see* Docket Entry: 209.00), which was thereafter granted by the trial court (*Shaban, J.*) on September 30, 2022 who set a sale date for Saturday, January 14, 2023. (*See* Appendix V for the *9/30/2022 Order Regarding: 209.00 Motion for Order*, Docket Entry: 209.01 entered by the trial court on 9/30/2022). On Friday, January 13, 2023, the petitioner filed a petition for certification to the Connecticut Supreme Court with the appellate clerk's office, wherein, pursuant to appellate procedure

(section 66-3 of the Connecticut Practice Book) as amended in 2016, he included a separately captioned section within his submitted petition explaining the reason for its late filing (i.e. the office's insufficiency in serving any notice to him of the appellate court's May 25, 2022 ruling on his April 29, 2022 motion for its *en banc* reconsideration of his case).

On January 14, 2023, the petitioner's home was sold through a public auction held at its location on 9 Bradley Lane by the superior court appointed committee, Attorney John Joseph Bowser, to a Mr. Hyacinth Dolor, whom the petitioner would become acquainted with a few weeks later in early February, and inform of his filing for certification of his case to the Connecticut Supreme Court where it was still pending. On March 1, 2023, the Connecticut Supreme Court denied certification. (*See* Appendix C for the *Order on Petition for Certification to Appeal*, SC 220260 entered by the CT Supreme Court on 3/1/2023). On March 23, 2023, Mr. Hyacinth commenced summary process eviction proceedings against the petitioner in the Superior Court at Danbury, Connecticut with a return service date of April 3, 2023. (*Hyacinth Dolor* v. *Matthew J. Kwong*, Connecticut Superior Court, Judicial District of Danbury, Docket No. DBD-CV23-5019320-S). On April 4, 2023, the petitioner filed a *pro se* appearance in the summary process action. On April 6, 2023, Mr. Dolor filed a motion for judgment of default for failing to plead against the petitioner (*see* Docket Entry: 101.00). On April 10, 2023, the petitioner filed a motion to dismiss Mr. Dolor's action against him for lack of subject matter jurisdiction (*see* Docket Entry: 102.00). On April 13, 2023, Mr. Dolor filed an

objection to the petitioner's motion (*see* Docket Entry: 103.00). On April 17, 2023, the petitioner filed a reply to Mr. Dolor's objection (*see* Docket Entry: 104.00). As of May 25, 2023, the petitioner has not been notified or become aware of any more further activity in the case since the filing of that April 17, 2023 reply of his, leaving him to believe that the trial court therein is awaiting guidance from this Court with respect to this petition herein. (*See* Appendix H for the case details to *Hyacinth Dolor* v. *Matthew J. Kwong*. *Also see* Appendix W for the sequence of the aforementioned docket entries placed in the chronological order of their filing).

REASONS FOR GRANTING THE PETITION

The reasons for granting this petition were articulated most concisely by the Court itself:

> In pursuance of the tenth section of the act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, the justices of the Supreme Court of the United States have framed the following General Orders, which shall constitute the rules of practice and procedure in bankruptcy in the district courts of the United States: ...

in the introductory preamble to the newly added chapter of General Orders In Bankruptcy which were enacted within the 1867 edition of the first post-civil war publication of the *Rules of the Supreme Court Of The United States and Rules of Practice in Equity and Admiralty Courts, and General Orders in Bankruptcy.* Similar in tone to the far more familiar opening preamble with which it was inextricably bound:

> We The People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of

America. ...

it spoke to a commitment by the speakers of not just great concern for the present, but for the future as well. As such, the word association of the former to the latter bore witness not only to a sense of great precedence, but also one of great aspiration. With regard to this petition, however, the only correlation of concern is that of the precedence and uniformity of the laws which were established thereof in circumscribing that focus on the subject of bankruptcies throughout the nation, and the consequent nexus to the petitioner's case which proceeded from there. To that end, sections fifteen and seventeen of those 1867 rules made by, and for, the Court provide such nexus:

XV.

PRIORITY OF ACTIONS (INVOLUNTARY BANKRUPTCY.)

> Whenever two or more petitions shall be filed by creditors against a common debtor alleging separate acts of bankruptcy committed by said debtor on different days within six months prior to the filing of said petitions, and the debtor shall appear and show cause against an adjudication of bankruptcy against him on the petitions, that petition shall be first heard and tried which alleges the earliest act of bankruptcy; and in case the several acts of bankruptcy are alleged in the different petitions to have been committed on the same day, **the court before which the same are pending may order them to be consolidated, and proceed to a hearing as upon one petition; and if adjudication of bankruptcy be made upon either petition, or for the commission of a single act of bankruptcy, it shall not be necessary to proceed to a hearing upon the remaining petitions unless proceedings be taken by the debtor for the purpose of causing such adjudication to be annulled or vacated.**

(bold emphasis added)

XVII.

CONCERNING REDEMPTION OF PROPERTY AND COMPOUNDING CLAIMS.

> Whenever it may be deemed for the benefit of the estate of the bankrupt to redeem and discharge any mortgage, or other pledge, or deposit, or lien upon any property, real or personal, or to relieve said property from any conditional contract, and to tender performance of conditions thereof, or to compound any debts or other claims or securities due or belonging to the estate of the bankrupt, the assignee, or the bankrupt, or any other creditor who has proved his debt, may file his petition therefor in the office of the clerk of the district court; and thereupon the court shall appoint a suitable time and place for the hearing thereof, notice of which shall be given in some newspaper, to be designated by the court, at least ten days before the hearing, so that all creditors and other persons interested may appear and show cause, if any they have, why an order should not be passed by the court upon the petition authorizing such act on the part of the assignee.

where the authority of the Court's subject matter jurisdiction over the petitioner's case, as defined by the language found within those two sections of its establishment of bankruptcy procedures for the nation, was affirmed by the language of the state's own appellate court contained within the opinion of the first of two appeals for which they rendered judgment in his case:

> We begin by setting forth the well established standard of review. "Standing is the legal right to set judicial machinery in motion. One cannot rightfully invoke the jurisdiction of the court unless he [or she] has, in an individual or representative capacity, some real interest in the cause of action, or a legal or equitable right, title or interest in the subject matter of the controversy. . . . Where a party is found to lack standing, the court is consequently without subject matter jurisdiction to determine the cause. . . . Our review of this question of law is plenary."

Cheswold (TL), LLC, BMO Harris Bank, NA v. *Matthew J. Kwong, Et Al*, 196 Conn. App. 279, 283. The state's appellate court, moreover, similarly qualified the standing therein of the IRS under such "subject matter jurisdiction" by the virtue of the extrapolated inferred association thereof:

> Capitol One Bank (USA), N.A., and Portfolio Recovery Associates, LLC, were named as defendants in this case as subsequent encumbrancers in interest.

> Neither of these defendants is a party to this appeal. We therefore refer in this opinion to Kwong as the defendant.

id. 280. (*See* Appendix X for submitted proofs of claim to *Claim 11-1* and *Claim 12-1* entered on behalf of Capitol One Bank (USA) N.A. and Portfolio Recovery Associates LLC on 8/8/2016 by the Chapter 13 Standing Trustee, Molly T. Whiton. *Also see* Appendix S for the claims register she sent to the petitioner on 2/17/2017 listing the proofs of those claims as well as those of the respondent and IRS).

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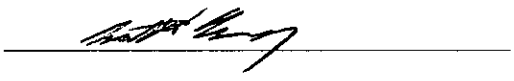
CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: May 30, 2023

REASONS FOR GRANTING THE PETITION