No. 23-1083

IN THE SUPREME COURT OF THE UNITED STATES

SHULA WAXWOMAN
Petitioner,

VS.

THE BANK OF NEW YORK MELLON, ET AL.
Respondent(s),

ON PETITION FOR A WRIT OF CERTIORARI
FROM THE SUPREME COURT OF CONNECTICUT

PETITION FOR REHEARING

PETITIONER

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Executed on July 2, 2024

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PETITION FOR REHEARING

Pursuant to Supreme Court **Rule 44**, Petitioner Shula Waxwoman respectfully petitions this Court to reconsider its June 10, 2024 order and petition for rehearing of this court decision denying petitioner Petition for a Writ of Certiorari. This petition is filed within the 25 days of the denial.

GROUNDS FOR REHEARING

This Court's Rule 44.2 authorizes a petition for rehearing based on "intervening circumstances of a substantial . . . effect." A court with jurisdiction has a 'virtually unflagging obligation" to hear and resolve questions properly before it. (Quoting Colorado River Water Conservation Dist. v. United States, 424 U. S. 800, 817 (1976). Plaintiff had taken possession over Petitioner's property and evicted her while appeal was pending in the Connecticut Appellate Court, and then sold the property on April 27, 2024 while the Petition for a Writ of Certiorari was pending at the United States Supreme Court. The judicial power shall extend to all cases, in law and equity, arising under the Constitution. This is also an accepted principle of established law, beyond intervening circumstances of a substantial of controlling effect and other substantial grounds.

It is an acknowledged principle of ... every court in the world, that not only the decisions, but everything done under the judicial process of courts, not having jurisdiction, are, "**ipso facto, void.**" "When ... the court saw that it had no jurisdiction, (See Dismissal of February 27, 2012, Order Entry No. 119.10 **App-1**), then,

without reference to its other rulings, it was its duty to go no farther in the consideration of the case, and to dismiss it. Wheeler v. New York, N.H. & H.R. Co., 71 Conn. 270, 282, 41 A. 808, (1900); cited with approval in, Chzrislonik v. New York, N.H. & H.R. Co., 101 Conn. 356, 358, 125 A. 874. (1924). This is an accepted principle of established law. Beyond the rules of practice, jurisdiction is the power in a court to hear and determine the cause of action presented to it. LaReau v. Reincke, 158 Conn. 486, 492, 264 A.2d 576 (1969); Brown v. Cato, 147 Conn. 418, 422, 162 A.2d 175 (1960); Samson v. Bergin, 138 Conn. 306, 309, 84 A.2d 273 (1951), gives courts only the "leeway' to dismiss actions based on non-jurisdictional, non-merits grounds" before addressing subject-matter jurisdiction. Citing Steel Co. and Sinochem Int'l Co. v. Malay. Int'l Shipping Corp., 549 U.S. 422 (2007). These inconsistent opinions highlight the problems that self-representative parties face grappling with the Appellate and Supreme courts' decision to dismiss actions based on non-jurisdictional increasingly tenuous distinction between the "constitutional" and so called "statutory" elements of subject-matter jurisdiction, and why it calls out for clarification and determination from this Court.

The Connecticut Appellate and Supreme Courts' decision warrants there is an intra-circuit conflict of subject-matter jurisdiction, and the case involves a question of importance where the Connecticut Appellate and Supreme Courts have overlooked or misapprehended points of law and face (See America's Wholesale Lender v. Pagano, 87 Conn. App. 474, 866 A.2d 698 (2005), America's Wholesale Lender v. Silberstein, 87 Conn. App. 485, 866 A.2d 695 (2005), and Isaac v. Mount Sinai Hospital, 3 Conn. App. 598, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985)), and everything that

is done under the judicial process of courts, not having jurisdiction, are, "**ipso facto, void**." "When ... the court saw that it had no jurisdiction, (See Dismissal of February 27, 2012, Order Entry No. 119.10 **App-1**). Tamenut v. Mukasey, 521 F.3d 1000 (8th Cir. 2008), (Court's Jurisdiction), See also Wheeler v. New York, N.H. & H.R. Co., 71 Conn. 270, 282, 41 A. 808, (1900); cited with approval in, Chzrislonik v. New York, N.H. & H.R. Co., 101 Conn. 356, 358, 125 A. 874. (1924). This is an accepted principle of established law beyond the rules of practice. Given the difficult nature of the situation and under the circumstances of this case, the Petitioner has every right to challenge subject matter jurisdiction. See, Bank of New York Mellon v. Tope, SC 20592, 2022 WL 17825337 (2022). This court should grant rehearing and grant of Petitioner Shula Waxwoman's Petition for Writ of Certiorari.

I. "Ipso Facto, Void" IS THE POWER OF A COURT TO ADJUDICATE A PARTICULAR TYPE OF MATTER AND PROVIDE THE REMEDY DEMANDED

This foreclosure procedure commenced on February 19, 2010, when the Plaintiff-Respondent, The Bank of New York Mellon, filed its first complaint under the trade name, **The Bank of New York Mellon**, and not under the corporation's registered name, **The Bank of New York Mellon Corporation**. The foreclosure was dismissed for lack of subject matter jurisdiction on February 27, 2012, with a three-page memorandum of decision (Docket Entry No. 119.10 **App-1,** Judge Morgan's

order). The Plaintiff-Respondent, The Bank of New York Mellon, did not appeal Judge Morgan's decision within the 20 days of court ruling of dismissing the underlying suit although the law contains no four-month grace period for a dismissed case that lacks subject matter jurisdiction. Regardless to that fact the Plaintiff-Respondent decided to take an additional "**bite at the apple**," and the Superior Court opened a case in which they lacked subject matter jurisdiction, and all action is not judicial and performs as an administrative, or executive act when the court lacks subject matter jurisdiction. Huminski v. Corsones, 396 F.3d 53, 75 (2d Cir. 2005), all acts performed under it and all claims flowing out of it are **"ipso facto, void"**. The parties attempting to enforce it may be responsible as trespassers. 1 A. Freeman, Judgments (5th Ed. 1925) § 322. A void judgment "is without life and will be ignored everywhere". Southern New England Telephone Co. v. Public Utilities Commission, 165 Conn. 114, 123, 328 A.2d 695 (1973); See 46 Am. Jur.2d, Judgments § 31. Also, Koennicke v. Maiorano 43 Conn. App. 1 - Conn: Appellate Court (1996). The Appellate Court must invoke its authority for the interests of justice to review "plain error" not properly preserved in the trial court. The Appellate Court is indecisive and was divided in their decision when it comes to subject matter jurisdiction. (See America's Wholesale Lender v. Pagano, 87 Conn. App. 474, 866 A.2d 698 (2005), America's Wholesale Lender v. Silberstein, 87 Conn. App. 485, 866 A.2d 695 (2005), and Isaac v. Mount Sinai Hospital, 3 Conn. App. 598, 490 A.2d 1024, cert. denied, 196 Conn. 807, 494 A.2d 904 (1985)). A court must have jurisdiction to enter a valid enforceable judgment on a claim where jurisdiction is lacking; litigants, through various procedural mechanisms, may retroactively

challenge the validity of a judgment under the federal rules of civil procedure; in fact, the court may dismiss a case sua sponte on its own for lack of subject matter jurisdiction. See Federal Rules of Civil Procedure 12(b)(1). The federal court have constitutional jurisdiction to hear a claim of congressional of subject matter jurisdiction claim See U.S. Const. Art. III, SEC. 2. As a rule, "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution." regardless of whether or not there is a final judgment as all of the judgment is without life and will be ignored everywhere including and especially at the appellate and supreme level because it is an acknowledged principle of every court in the world, that not only the decisions, but everything done under the judicial process of courts, not having jurisdiction, are, "**ipso facto, void**." This court have the duty to grant petition for rehearing.

II. THIS IS AN APPROPRIATE CASE FOR REHEARING

The petition for rehearing should be granted because this is an appropriate case for rehearing and certiorari.

When there is an accepted principle of established law beyond the rules of practice, that a court that has no subject matter jurisdiction have no authority to rule. If the court saw that it had no jurisdiction, (See Dismissal of February 27, 2012, Order Entry No. 119.10, **App-1**). Everything that was done in a court that established they lacked subject matter jurisdiction are, " **ipso facto, void**." This is an accepted principle of established law, Beyond intervening circumstances of a substantial of

controlling effect and other substantial grounds. It is an acknowledged principle of every court in the world that not only the decisions, but everything done under the judicial process of a courts, not having jurisdiction, are, " **ipso facto, void**." When the court saw that it had no jurisdiction (See Dismissal of February 27, 2012, Order Entry No. 119.10, **App-1**) then, without reference to its other rulings, it was its duty to go no farther in the consideration of the case, and to dismiss it. See Koennicke v. Maiorano 43 Conn. App. 1 - Conn: Appellate Court (1996).

This is an accepted principle of established law. Beyond the rules of practice, jurisdiction is the power in a court to hear and determine the cause of action presented to it. LaReau v. Reincke, 158 Conn. 486, 492, 264 A.2d 576 (1969); Brown v. Cato, 147 Conn. 418, 422, 162 A.2d 175 (1960); Samson v. Bergin, 138 Conn. 306, 309, 84 A.2d 273 (1951). It is well established that a court is without power to render a judgment if it lacks jurisdiction and that everything done under the judicial process of courts not having, jurisdiction, is, "**ipso facto, void**." Martin v. Hunter's Lessee, 14 U.S. (1 Wheat.) 304, 364 (1816); Marshall v. Clark, 170 Conn. 199, 205, 365 A.2d 1202 (1976); Clover v. Urban, 108 Conn. 13, 17, 142 A.2d 389 (1928).

A court is without power to render a judgment if it lacks jurisdiction of the parties or of the subject matter, one or both. In such cases, the judgment is void, has no authority and may be impeached. O'Leary v. Waterbury Title Co., 117 Conn. 39, 43, 166 A. 673 (1933); Krueger v. Krueger, 179 Conn. 488, 493, 427 A.2d 400 (1980).

United States Supreme Court has the authority to require judicial review to determine to what extent its legislative, executive, and judicial powers should be kept distinct and separate as to pro se litigants when a judge is responsible as trespassers. 1A. Freeman, Judgments (5th Ed. 1925) § 322. with the knowledge that the court established that it had lacked jurisdiction, the petition for rehearing should be accepted and a writ of certiorari issued to review the judgment below should be granted.

III. CASE LAW HAS PROVEN THAT JUDICIAL IMMUNITY IS NOT ABSOLUTE.

Judicial immunity is lost when a judge lacks jurisdiction. When a judge know that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost. Rankin v. Howard, 633 F. 2d 844, 850 (9th Cir 1980); cent den, Zeller v. Rankin, 101 S. Ct. 2020, 451 U.S. 939,68 L. Ed 2d 326 (1981).

The second prong necessary to absolute judicial immunity is missing. Stump v. Sparkman, id., 435 U.S. 349 (1978). Where there is no Jurisdiction, there can be no jurisdiction, for discretion is incident to jurisdiction. " Piper v. Pearson, 68 Mass. 120, 123, 2 Gray 120 (1854), cited in Bradley v. Fisher, 13 Wall. 335, 20 L. Ed. 646 (1872). A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts. Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938). "No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to

enforce it beyond these boundaries are nothing less than lawless violence." Ableman v. Booth, 62 U.S. (21 Howard) 506 (1859). No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government from the highest to the lowest, are creatures of the law, and are bound to obey it. United States v. Lee, 106 U.S. 196, 220, 1 S. Ct. 240, 27 L. Ed. 171 (1882). Also Buckles v. King County 191 F.3d 1127, *1133 (C.A.9 (Wash.),1999).

The purpose of the statute that mandated that any person who under color of law subjected another to deprivation of his or her constitutional rights would be liable to the injured party in an action at law was not to abolish immunities available at common law, but to ensure that federal court would have jurisdiction of constitutional claims against state officials. Butz v. Economou 438 U.S. 478, 98 S. Ct. 2894 (U.S.N.Y.,1978) Case law HAS held that judges are accountable. See Commonwealth v. Ellis, 429 Mass. 362, 371 (1999), where the Supreme Judicial Court of Massachusetts recognized that "Article 5 provides that officers of government are at all times accountable to [the people] "The relevant cases demonstrate that the factors determining whether an act by a judge is a "judicial" one relates to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity. (emphasis added). The Eleventh Amendment was not intended to afford them freedom from liability in any case where, under color of the office, they have injured one of the state's citizens. To grant them such immunity would be to create a privileged class free from

liability from wrongs inflicted or injuries threatened. Public agents must be liable to the law unless they are to be put above the law. See OLD COLONY TRUST COMPANY v. CITY SEATTLE ET AL. (06/01/26) 271 U.S. 426, 46 S. Ct. 552, 70 L. Ed (1926) at page 431. No officer of the law may set that law at defiance with impunity. See United States v. Lee, 106 U.S. 196, 220 (1882) and Burton v. United States, 202 U.S. 344 (1906); all pleadings shall be constructed to do sustained justice.

This is supported by Davis v. Wechler, 263 U.S. 22, 24 (1923); Stromberg v. California, 283 U.S. 359 (1931); NAACP v. Alabama, 375 U.S. 449 (1958)). Our whole system of law is predicated on the general fundamental principle of equality of application for the law. All men are equal by and for the law, this is a government of laws and not of men, no man is above the law, are all maxims showing the spirit in which legislatures, executives, and courts are expected to make, execute, and apply laws. But the framers and adopters of the Fourteenth Amendment were not content to depend... upon the spirit of equality which might not be insisted on by local public opinion. They therefore embodied that spirit in a specific guaranty of the law, the Court Rule 8(f) FRCP, holds that all pleadings shall be constructed to do sustained justice. Pro se litigants are entitled to the same guaranty of the law. The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice. Relief in this matter is possible in both declaratory and injunction forms that are founded from and by the court after the preponderance of the evidence shows behind a shadow of a doubt that the court at the time of all pleadings locked subject matter jurisdiction,

(See Dismissal of February 27, 2012, Order Entry No. 119.10, **App-1**).

The Connecticut Appellate and Supreme Court in violation of both the federal and the state constitutions right of "life, liberty and property" "without due process of law." See U.S. Const., Amend. XIV, § 1; Conn. Const., art. I, § 8, the Fourteenth Amendment prohibits the state from denying any person life, liberty, or property without due process of law, particularly for the rights of one citizen as against another. United States v. Cruikshank, 92 U.S. 542, 554, 23 L. Ed. 588 (1876).

The Petitioner, in this matter, does pray the Court allow this matter to be heard and allow statutory and constitutional Provisionals to be observed.

CONCLUSION

For the reasons set forth above, as well as those contained in the petition for writ of certiorari, Petitioner respectfully requests that this Court grant Petitioner's request for rehearing and vacate the order denying writ of certiorari in this case to determine the constitutional right to petition the government for a redress of grievances.

RESPECTFULLY SUBMITTED PETITIONER

Pro se: _____

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Executed on July 2, 2024

CERTIFICATE OF PETITIONER
SALF-REPRESENTED

I hereby certify that this petition for rehearing is restricted to the grounds specified in Supreme Court Rule 44. 2, and is presented in good faith, in the interest of justice and not for delay.

Executed on this 2nd day of July, 2024.

RESPECTFULLY SUBMITTED PETITIONER

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APPENDICES

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SUPERIOR COURT
J.D. OF MIDDLESEX
AT MIDDLETOWN

DOCKET NO. MMX **CV-10-6001915-S**

THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORY AS TRUSTEE ON BEHALF OF CIT MORTGAGE LOAN TRUST 2007-1

V.

WILLIAM J, RUTTKAMP, ET AL.

FEBRUARY 27, 2012

ORDER

The plaintiff filed a motion for summary judgment (No, 119.00) seeking judgment as to the liability of the defendant Shlomit Ruttkamp. The defendant opposes the summary judgment motion on grounds that the plaintiff commenced suit in its trade name or corporate brand (The Bank of New York Mellon), rather than its registered name (The Bank of New York Mellon Corporation), and that a trade name or corporate brand is not a legal entity with capacity to sue, the defendant claims that the

court therefore lacks subject matter jurisdiction to decide the merits of the plaintiffs claim,

The plaintiff does not dispute that "The Bank of New York Mellon" is a corporate brand name, nor does it claim that the name is a mere misnomer or description error used in filing suit. To the contrary, in its memorandum of law in support of its motion for summary judgment, the plaintiff plainly acknowledges that "The Bank of New York Mellon" is the corporate brand of The Bank of New York Mellon Corporation and may also use as a generic term to reference the corporation as a whole or its various subsidiaries

"[A] party must have standing to assert a claim in order for the court to have subject matter jurisdiction over the clain1." (Citation omitted.) Webster Bank v. Zak, 259 Conn. 766, 774, 792 A.2d 66 (2002). The question of subject matter jurisdiction can be raised by any of the parties, or by the court sua sponte, at any time. Id "[W]henever it is found after suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter. The

judicial authority shall dismiss the action." Practice Book § 10-33; Burton v. Dominion Nuclear Connecticut, Inc., 300 Conn. 542, 550, 23 A.3d 1176 (2011).

"It is elemental that in order to confer jurisdiction on the court the plaintiff must have an actual legal existence, that is be or it must be a person in law or a legal entity with legal capacity to sue. ... Although a corporation is a legal entity with legal capacity to sue, a fictitious or assumed business name. a trade name, is not a legal entity; rather, it is merely a description of the person or corporation doing business under that name. ... Because the trade name of a legal entity does not have a separate legal existence, a plaintiff bringing an action solely in a trade name cannot confer jurisdiction on the court." (Citations omitted; internal quotations marks omitted.). America's Wholesale Lender v. Pagano, 81 Conn. App. 474, 866 A2d 698 (2005).

Subject matter jurisdiction cannot be conferred when an action is instituted under a

corporate brand name because a brand name is not a legal entity with capacity to sue. The plaintiff brought this suit under its brand name and, therefore, it has no standing to sue.

In the absence of standing on the part of the plaintiff, the court has no jurisdiction. Accord Coldwell Banker Manning Realty. Inc. v. Computer Sciences Corp., Superior Court, judicial district of Hartford, Docket No. HHDCVO30825180S (November 12, 2010, Sheldon, J,), (51 Conn. L. Rptr. 10); Century 21 Access America v. McGregor-McLean, Superior Court, judicial district of Fairfield, Docket No. CV044000764 (July 20, 2005, Doherty, J.) (39 Conn, L. Rptr. 639).

For these reasons, the plaintiff's motion for summary judgment is denied and the court hereby dismisses this action for tack of subject matter jurisdiction.

SO, ORDERED.

/S/ Lisa Kelly Morgan
Lisa Kelly Morgan, Judge