

ORIGINAL

No. 23-1294

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SUPREME COURT, U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

DEBRA A. CHARLES, Pro Se

*Petitioner,*

v.

A-J NATIONAL BANK, Anna-Jonesboro, IL  
et. al.

*Respondents.*

*On Petition for Writ of Certiorari to the  
United States Court of Appeals  
for the Seventh Federal Circuit*

**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

The questions are presented in the order stated in the Federal Seventh Circuit Appeals Court Order affirming the Federal District Court for the Southern District of Illinois Order of Dismissal with Prejudice as follows:

1. Whether Charles fails to state a cause of action upon which relief can be granted? (pg. 1 par. 1)
2. Whether the Court erroneously concludes Charles case or any portion of it lacks subject matter jurisdiction and is thus barred under the Rooker-Feldman Doctrine? (pg. 1 and 2, par. 1)
3. Whether the Court erroneously concludes that Charles is not the real party of interest and therefore lacks standing in this civil matter? (pg. 2 par. 2)
4. Whether the ongoing claims in Charles' Complaint are filed within the proper statute of limitations time frame under F.R.C.P. 8(a) and 9(b) (pg. 2 par. 2)
5. Whether any Federal (State if applicable) Law allows Charles a private right of action awarded thru a Federal Court due to lack of existing law. F.R.C.P.12(b)(6)?(pg. 2 par. 3)
6. Whether as stated by the U.S. Seventh Circuit Appeal court the pursuit of justice is "futile" in this matter and Charles Complaint being dismissed with prejudice by the Federal District Court and confirmed is a violation of her constitutionally guaranteed civil right to due process and trial by jury? (pg. 2 par. 3)

**PARTIES TO THE PROCEEDING**

Petitioner is Debra A. Charles, who was  
Petitioner, Pro Se.

Respondents are,

Anna-Jonesboro National Bank,  
Anna-Jonesboro, IL  
David Gould, former AJNB President  
Scott Wilson, AJNB President  
Scott Wilkins, AJNB former AJNB Vice  
President and President FNBJ,  
Jonesboro, IL  
Dan Graham, former FNBJ, Vice President  
Amanda Barnhart, former AJNB Assistant  
Vice President  
First State Bank of Olmsted, Olmsted, IL  
Bruce Mosby, FSBO President  
Steve Waters, FSBO Vice President  
Lee Essex, FSBO Vice President  
First State Bank of Dongola, Dongola, IL  
Neal Needham, FSBD President  
John R. Schneider, attorney  
Johnson, Schneider & Ferrell, LLC  
who were Respondents

**RULE 29.6 STATEMENT**

Petitioner is not a corporate entity.

## **STATEMENT OF RELATED PROCEEDINGS**

*Charles v. A-J National Bank, et al.*, No. 22-3261, U.S. Court of Appeals for the Seventh Circuit. Appeal filed December 12, 2022, affirming District Court Order and Final Judgment Dismissed with Prejudice October 17, 2023

*Charles v. A-J National Bank, et al.*, No. 22-3261, U.S. Court of Appeals for the Seventh Circuit. Order Denying Rehearing entered November 9, 2023

*Charles v. A-J National Bank, et al.*, No. 22-cv-201-SMY, U.S. District Court for the Southern District of Illinois. Order of Dismissal with Prejudice entered November 28, 2022 (Doc. 96) on the Second Amended Complaint.

*Charles v. A-J National Bank, et al.*, No. 22-cv-201-SMY, U.S. District Court for the Southern District of Illinois. Order of Dismissal of the First Amended Complaint entered July 19, 2022

*Charles v. A-J National Bank, et al.*, No. 14-40421-wva U.S. Bankruptcy Court for the Southern District of Illinois Order denying Motion to File Adversary Proceeding Entered January 12, 2024.

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## PETITION FOR WRIT OF CERTIORARI

Petitioner, Debra A. Charles (“Charles”), respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Federal Circuit that upholds the District Court for the Southern District of Illinois Order Dismissed with Prejudice.

### OPINIONS BELOW

FRANK H. EASTERBROOK *Circ. Judge* AMY J. ST.

EVE *Circ. Judge* THOMAS L. KIRSCH II *Circ. Judge*

- *Charles v. A-J National Bank, et al.*, No. 22-3261, U.S. Court of Appeals for the Seventh Circuit. Appeal filed December 12, 2022, and Dismissed with Prejudice under Fed. R. App. P. 42(b) Order and Final Judgment dated October 17, 2023
- *Charles v. A-J National Bank, et al.*, No. 22-3261 Order Denying Rehearing dated November 9, 2023.

STACI M. YANDLE, *District Judge*

- *Charles v. A-J National Bank, et al.*, No. 22-cv-201-SMY, U.S. District Court for the Southern District of Illinois. Order of Dismissal with Prejudice Granting Defendants Motions to Dismiss entered November 28, 2022 (Doc. 96) on the Second Amended Complaint. Motion for Summary Judgment (Doc. 80) and Recusal (81) Motion for Extension of Time to Serve Defendant (Doc. 84), Motion for Court Ordered Summons and Service on Schneider (86) TRO Restraining Order to Preserve and Protect Documents (87) all stricken as Moot as well as Order of Dismissal of the First Amended Complaint dated July 19, 2022.

WILLIAM V. ALTENBERGER, *Bankruptcy Judge*

- *Charles v. A-J National Bank, et al.*, No. 14-40421-wva U.S. Bankruptcy Court for the Southern District of Illinois Order denying Motion to File Adversary Proceeding January 12, 2024, releasing the case to Charles as the correct party of interest. (Order of Discharge entered June 21 2016) (Final Decree entered September 11, 2017)
- *Charles Order of Discharge* No. 14-40421-wva U.S. Bankruptcy Court for the Southern District of Illinois June 21 2016, and Final Decree September 11, 2017.

### **JURISDICTION**

The Order of the Federal Seventh Circuit Court of Appeals was entered on October 17, 2023. The jurisdiction of this United States Supreme Court is invoked under 28 U.S.C. § 1254 and 1257.

### **FEDERAL RULES OF CIVIL PROCEDURE INVOLVED**

Orders from the U.S. Seventh Circuit Appeals Court, U.S. District Court and U.S. Bankruptcy Court F.R.C.P. are incorporated herein by reference as if more fully set forth herein. App. 1-5.

### **STATEMENT OF THE CASE**

It is obvious that something is amiss or the Supreme Court would never have granted Charles this opportunity to Petition for a Writ of Certiorari. To address the issues as set forth in the previously filed Complaints, Briefs and documents in this matter

Charles, proceeding *pro se*, per instruction of the Comptroller of the Currency, and after denial and without review by the offices of the United States FBI Marion, Illinois, and Southern Illinois Bankruptcy Court Trustee, to investigate this matter further, filed civil suit in the United States District Court for the Southern District of Illinois against various bank entities and individuals who jointly and intentionally orchestrated federal bank fraud, forgery, manipulating, altering then covering up and intentionally blocked any ability of Charles to move away from them for alternative financing directly causing and resulting in the bankruptcy of Charles and her deceased spouse, Ronald. 18 U.S.C. § 1519.

Charles has sustained unrectified damages, properly pleaded, in this multi-million dollar case in which fraud and manipulation between banks and their attorney alleged and set forth in the pleadings and as a matter of record that need compensated for. They did it ... everything I said and if they had not done it and committed FRAUD and defrauded us I would not have filed this lawsuit.

Respondents moved to dismiss on various grounds, including lack of jurisdiction, lack of standing, the statute of limitations, failure to state a cause of action upon which relief can be granted and F.R. Civ. P. 8(d)(1) and Rule 9(b) all of which are denied by Charles on record.

Before the Federal Court Order of Dismissal with Prejudice, Charles filed a Motion for Summary Judgment (Doc. 80) and Recusal (81) Motion for Extension of Time to Serve Defendant Schneider

(Doc. 84), Motion for Court Ordered Summons and Service on Schneider (86) TRO Restraining Order to Preserve and Protect Documents (87) all stricken granting Defendants motions to dismiss with Prejudice and Charles' motions erroneously ruled as Moot.

The Federal Court of Appeals Seventh Circuit erroneously affirmed this improper dismissal with prejudice without additional specific reasoning and citations. The District Courts Judgment errors in finding lack of subject matter jurisdiction which Petitioner states is correct because under 18 U.S. Code §1964 – Civil Remedies in a bankruptcy case releases a case from bankruptcy jurisdiction once final decree is entered.

As written, the Appeal Courts' improper order fails to provide instructions to the federal agency with which it belongs despite repeated requests by Petitioner to all levels. This has in effect resulted in a shell game against Charles.

One governmental agency after another simply sends Charles to another agency despite filing this Complaint with every governmental agency yet not one has stated Charles has failed to file and state a cause of action. If this were so it would be stated and this would be over and is why Charles should be allowed to file and pursue this claim.

#### **REASONS FOR GRANTING THE WRIT**

**THE BANKS COMMITTED FRAUD. THE OTHER NAMED RESPONDENTS WERE COMPLIANT IN THE FRAUDS. THIS WAS PLEADED IN SPECIFIC**

DETAILS IN DATES AND ACTIONS. This alone, including the Civil Torts cited and stated in the record detailing how Respondents defrauded Charles, Prosser & Keeton on the Law of Torts Section 105, at 728 (5<sup>th</sup> ed. 1984), state a cause of action upon which relief can be granted and requires the case to proceed for the wrongful acts against Charles. Fraud establishes liability to bank customers. 18 U.S.C. 1344(1).

With the cause of action being stated the next step is for Respondents to respond by filing an answer either denying or agreeing with defenses, if any, and any Motion to Dismiss for failure to state a cause of action fails on its face. If denying they must plead and then prove their case as must Petitioner. The above is applicable to each Count. If the above is true, this case must go forward and thus this request for an extraordinary writ (e.g., certiorari). be Granted.

The magnitude of this case is unparalleled in that not only did the banks and their attorney inflict intentional harm to Charles by their misdeeds, this case also stands to create a precedent that holds United States banks to the highest degree of responsibility and accountability and prevent them from manipulating clients accounts and documents, as in Charles case preventing and blocking their ability to move away from them, then underhandedly using laws in consumer transactions orchestrated to their sole financial benefit and gain against their customers and all United States citizens; this is a landmark case in the making and that is why it is so difficult to find case law. This case will make case

law available to construe these federal statutes in an area where there is very little case law for guidance.

*Shaw v. USA Case No. 15-5991 March (2016)*

**1. Dismissal With Prejudice**

The Seventh Circuit Court Order clearly erred in affirming the District Court Order unreasonably dismissing this case with prejudice based on lack of subject matter jurisdiction. The fact is the case remains ONGOING and that the cause of action upon which relief can be granted was properly pleaded.

In dismissing, why did the Court not dismiss without prejudice thereby allowing equality to all parties. Charles is the real party of interest in this matter.

If allowed to stand as Ordered and dismissed with prejudice, Charles will be denied due process of the post-petition legal claim for fraud and forgery.

THIS IS THE MOST IMPORTANT ISSUE WITHIN THIS DOCUMENT.

**2. State a Claim Upon Which Relief Can Be Granted**

This is an incorrect ruling because Charles did not fail to state a claim upon which relief can be granted as the Seventh Circuit Court of Appeals and Federal Circuit Courts held (pg. 1 par. 1). This ruling is incorrect because it fails as follows:

- a. Plaintiffs were named
- b. Defendants were named
- c. the cause of action supported under applicable case law and statute, as cited was stated upon which relief can be granted
- d. damages were set forth
- e. venue was stated

- f. jurisdiction was stated
- g. THE PETITION WAS FILED WITHIN THE STATUTE OF LIMITATIONS

Further it is to be noted that Respondents have failed to state either:

1. how the Complaint fails to state a cause of action (in other words what's missing) and/or
2. every case law in support of this allegation has been examined and fails to state Respondents objection due to lack of specificity as to stating beyond a mere allegation. It fails to state why a cause of action was not stated.

Therefore, we fail to see any merit in the argument of the District Court Order (pg.3 p. 1) VERY CLEARLY, all elements of a cause of action are stated numerous times in the Complaint and it should fail as an unsupported allegation. Thus this argument should be completely dismissed because a mere statement or allegation without support fails as a matter of law. A reading of the cases cited will show they are completely inapplicable to this matter.

Under F.R.C.P. 12(b)(6) the Appeal Court stated they accept Charles Complaint in that "all well pleaded facts as true". Statements of the case are treated as true by the Seventh Circuit Court (pg. 3 par. 1) so therefore Charles stated in detail with particularity a plausible legal cause of action with facts, names, dates, times, damages, upon which relief can be granted without mere possibility of misconduct as the records detail.

The contents of the complaint are regulated by F.R.C.P. 8(a) and 8(a)(2). Charles provided a short and plain statement of the grounds upon which the court's jurisdiction depends and of the claims showing that the Petitioner is entitled to relief, and a demand for judgment for the relief sought. The allegations are shown and proven to be true that the other party caused damages with the applicable burden of proof.

F.R.C.P. 3d at 1405 9(b), creates a heightened pleading standard for fraud claims. This standard has been met and exceeded. Petitioner was an actual participant and has firsthand knowledge of all allegations contained herein in this complaint. Charles has pled circumstances of fraud with particularity and filed documents in this matter that directly point to the fraud and forgery as well as supporting documents that led up to the actual events.

Charles denies the pretext of filing for the purpose of discovery of unknown wrongs. The Rule also states "*Malice, intent, knowledge, and other conditions of a person's mind may be alleged.*" The Court has simply erred in their interpretation.

Due to the reckless and planned intentional fraud, forgery and civil torts of wrongful acts committed by Respondents wherein both real and personal property were wrongfully converted to their benefit and Charles detriment resulting in irreconcilable financial loss in the millions to Charles and infliction of severe emotional distress Respondents should be held accountable.

### **3. Lack of Subject Matter Jurisdiction**

In support of the Federal District Court for the Southern District of Illinois the Seventh Circuit Court of Appeals erroneously concluded and bars Charles claim under the *Rooker-Feldman Doctrine* and states it has lack of subject matter jurisdiction (pg. 1 par. 1). This is an improper finding for the following reasons:

There is an acknowledged split of opinion by the U.S. Appeals Court for the Seventh Circuit and the U.S. Bankruptcy Court as to whom subject matter jurisdiction belongs.

Charles is the real party of interest rather than the bankruptcy court and does not lack standing in this civil matter which resulted from post petition discovery of the source of the initial damage and origin of this lawsuit. (pg. 2 par. 2)

Judicial estoppels is an equitable doctrine invoked at the court's discretion designed to prevent perversion of the judicial process. It exists to protect the integrity of the judicial process by prohibiting parties from deliberately changing positions according to the exigencies of the moment.

The Court's Order is in error and Respondents should not be allowed to prevail against Charles, a former bankruptcy debtor, and use judicial estoppels as its defense.

It is a constitutional perversion of the judicial process to prevent this post-petition cause of action on the undisclosed and unknown pre-petition claim. To do so

would allow Respondents to benefit from their intentional and coordinated fraud.

All of which would result in an unfair and unjust travesty of justice and allow the wrong-doers to escape liability and is a particularly unlawful and illegal damage to Charles.

For the Court to do so would allow the removal of all taint, prejudice and unfairness which has been pleaded and allow the truth, for whichever party that wins, to come to light.

#### **4. Real Party of Interest**

The Seventh Circuit Court of Appeals Order is in error by concluding that Charles failed to list a legal claim as an asset in bankruptcy proceedings and the case lacks merit because (pg. 2 par.1) Charles advanced contradictory arguments (pg. 3 par. 4)

(This is in no way to be used against Charles' because they have no knowledge nor any participation in this.)

It was solely a misstatement by the bankruptcy Trustee in open bankruptcy court. Evidence on the record shows Charles and her deceased spouse stated they intended to sue the bank and Trustee Frazier simply marked the wrong box and she did not record Charles Yes answer but rather marked No on the court sheet as no prosecutable facts of the fraud and forgery had come to light for prosecution in court as of that date due to the intentional cover-up of all prosecutable evidence by the named Respondents. Charles and the court did not possess and had no knowledge or proof of the facts of the altered and forged documents this completely precluded

the claim being scheduled. This may be verified in the bankruptcy court records.

In accord with the Order and decisions of the Federal District and Seventh Circuit Appeals Courts, stating mere disclosure of intent to sue is insufficient Charles petitioned the U.S. Bankruptcy Court requesting permission be granted to reopen and file the Adversary Complaint.

Per procedure, due Notice of Hearing was sent by the Southern Illinois Bankruptcy Court to all parties of interest which included the Trustee. During the subsequent Bankruptcy hearing held Trustee, Dana Frazier, when asked by Judge Altenberger if she had an interest to pursue this matter, stated NO and the bankruptcy court declined to become involved in Petitioners issue and allow her request to file an Adversary Proceeding in this matter was Denied.

It is a matter of record Judge Altenberger stated Charles was free to pursue other legal means to forward this matter as she saw fit and to file criminal charges if she so chose. The bankruptcy court ruled and formally removed this matter from bankruptcy court supervision; therefore, per judicial procedure the Charles Case is formally no longer under Bankruptcy Estate Jurisdiction. Charles retains the legal right to prosecute this matter as the sole party of interest. (App. 5)

The bankruptcy Court formally declined to handle and pursue this matter and released its jurisdiction. The Federal Bankruptcy Court Judge stated in open

Court and directed Charles to the federal court system and that is exactly what I have done. This appeal is in direct compliance with the Federal Bankruptcy Court Ruling thus remedies and puts to rest who the current party of interest is in this civil proceeding. Any dissent to this Order is without merit.

Therefore, Charles post-petition suit and cause of action not only is it not barred from prosecution in the federal district court but is in exact compliance with instructions from the bankruptcy court; Therefore, the Order should be reversed. Any finding contrary to this would be erroneous as per bankruptcy jurisdictional case law quoted in Charles Appellant Brief dated March 9, 2023 (pg. 26-27).

Bankruptcy law provides as follows:

Under III. Section 541(a)(1) of federal bankruptcy law under Property Included in the Bankruptcy Estate Legal and Equitable Interest of the Debtor in Property includes as of the date the bankruptcy petition is filed debtor's interest in both "tangible and intangible" property.

Under III. Section 541(a)(3.7) of federal bankruptcy law states "While Section 541 is intended to be inclusive of all of debtor's interest in property as of the commencement of the bankruptcy case, the estate is limited to only such legal and equitable interest that the debtor actually possessed as of this date, no more and no less."

Under 11 U.S.C. § 554 - U.S. Code - Unannotated Title 11. Bankruptcy § 554. Abandonment of property of the estate the statute states:

- (a) After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate and
- (c) Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of 11 U.S.C. § 350 in which the Code requires the court to close the case after an estate has been fully administered and the trustee discharged and also authorizes a bankruptcy case to be reopened to administer assets and for other purposes.

If in fact this Honorable Court finds jurisdiction belongs to the bankruptcy court then Petitioner respectfully requests this Court issue an Order for them to accept and handle to completion this matter because to date, on record, the bankruptcy court has ruled it will not prosecute and refused to accept this matter thus is no longer the proper jurisdiction in this matter.

On the other hand, other Courts have stated the same leaving Petitioner without a venue to proceed with her case which, beyond question, clearly states a cause of action. Therefore Charles beseeches respectfully this Court to direct and send this case to the proper Court for adjudication.

##### **5. Statute of Limitations**

All claims pertinent in Charles' Complaint are filed within the proper statute of limitations time frame under F.R.C.P. 8(a) and 9(b) (pg. 2 par. 2). Charles filings are correct because federal fraud, forgery and civil torts are

are pleaded and said acts were committed by the Respondents. No ability to file a complaint was available until Petitioner was made aware and upon discovery of accountant forensic audit. A statute of limitations for fraud does not commence, but is held in abeyance, until such discovery and is an integral part of this fraud. Petitioner requests this honorable court take judicial notice of the ten year date of the statute of limitations from the date of occurrence. Thus all documentation filed herein is filed within the correct statute of limitations so the argument of Respondents should be completely dismissed.

Upon forensic audit of Anna-Jonesboro National Bank on February 20, 2020, (Exhibit 1) and First State Bank of Olmsted and First State Bank of Dongola on March 23, 2020, (Exhibit 2) by Certified Public Forensic Accountant William Schott, CPA, of Schott & Associates and upon discovery Charles' were made aware of the fraud and forgery by the banks which at that point legally commences the statute of limitations in this matter.

The Court of Appeals erroneously states this matter (735 ILCS 5/13-205) (from Ch. 110, par. 13-205) Sec. 13-205. Five (5) year limitation. Except as provided in Section 2-725 of the "Uniform Commercial Code", approved July 31, 1961, as amended, and Section 11-13 of "The Illinois Public Aid Code", approved April 11, 1967, as amended, actions on unwritten contracts, expressed or implied, or on awards of arbitration, or to recover damages for an injury done to property, real or personal, or to recover the possession of personal property or damages for the detention or conversion thereof, and all civil actions not otherwise provided for, shall be commenced

within 5 years next after the cause of action accrued.  
(Source: P.A. 82-280.)

The Court of Appeal's use of this statute is in error and inapplicable in this matter because the statute of limitations for fraud is 10 years from the date of occurrence and the forged note signed thus there is no error and no time barred Statute of Limitations for issues presented and there is NO statute of limitations in the State of Illinois for forgery. (Pg 2) Thus Charles Complaint completely complies with FRCP 8(a)& 9(b).

#### **6. Private Rights of Action**

The first reason to pursue a private right of action is that:

1. the statute allows the recovery of damages may be had, i.e., recovery of compensatory damages, attorneys' fees, and punitive damages, whereas none would be had otherwise; and
2. A cause of action is only recognized when the right incorporated in the constitution has been violated and affirmative action is brought under the purview of federal court; Charles is entitled to a private right of action awarded by the Federal Judicial System due to confusing and lack of existing Federal civil laws exactly relevant to the facts presented in this matter. Supreme Court clarification will absolutely be a benefit to the people of this nation.(pg. 2 par. 3)

Charles case proceedings are presented and case and statutory law allows the case be treated as a dual and or quasi-criminal (proceeding) that simply refers to treating an act in a civil case to criminal statutes and treats this civil case as if it were occurring in a criminal proceeding

and yet is a civil proceeding that may result in a penalty akin to a criminal penalty. In other words, what occurred contains acts of both criminal and civil law violations. Thus quoting criminal statutes is applicable in a civil case and provides a basis of understanding for what took place.

Quoting the Seventh Circuit Appeals court Order it stipulates the word ("RARELY") which means a private right of action does exist through the Court thus Respondents argument fails on its face and the Court of Appeals erroneously ignores this.

#### **7. The Federal Circuit's Decision Is Incorrect**

The Federal Seventh Circuit's Order affirming the District Court's Order with Prejudice is in error for the following reasons:

Despite Charles' undisputed compliance with the federal Rules of Civil Procedure, this ruling is in error. As the Courts have recognized, the Federal Rules are "as binding as any statute duly enacted by Congress, and federal courts have no more discretion to disregard [a] Rule's mandate than they do to disregard constitutional or statutory provisions." Bank of Nova Scotia v. United States, 487 U.S. 250, 255 (1988). The unambiguous language of this Rule requires notice of and applies in this matter.

In sum, the Seventh Circuit's adoption of the District Circuit's dismissal with prejudice "undermines the policy goals of Rule 11 and ignores the plain language of the rule." Vikzman, 59 B.C. L. Rev. E-Supplement at 426. This Court should grant certiorari to review the Federal Seventh Circuit's a textual interpretation of said Rule and remand for trial.

### **8. Private Right of Action**

To stress the seriousness of said Order of Dismissal with Prejudice this ruling blocks the ability of Petitioner and lays the ground work to constitutionally block any citizen the right to recover damages from the person or organization violating their rights under the law known as a private right of action.

As a private person, Charles rights are violated thus a solid foundation for a claim to take legal action prevails. A private right of action is the means a private person's ability to legally enforce their rights is allowed and ensures that the "little guy" always gets a chance to make sure that their rights are protected, even when facing a large entity that otherwise may not be responsive to legal action as in this matter.

There are two types of private right of action:

1. If damages have occurred as a direct result of the Respondent's violation of a law or the Constitution, you may have a private right of action. An express private right of action exists when, within the law or statute, the legislature (Congress) has explicitly stated that a private person can bring forth a lawsuit if they are a victim of the breach of the statute (criminal enterprise – collusion of the banks).
2. The other type of private right of action is an *implied* private right of action. If a person has an implied private right of action, this means that Congress has not explicitly expressed that a person has the right to a civil action against a Respondent who violates the law, but that the legislature *intended* for a private person to be

empowered to do so. Implied rights of actions *are created by courts*, even when Congress makes no specific action to a private right of action.

The pursuit of justice in this matter must not be “futile” and with Charles Complaint dismissed with prejudice by the Federal District Court and confirmed and agreed to by the US Court of Appeals it is a violation of her constitutionally guaranteed civil right of private action, due process and right to a jury trial. (pg. 2 par. 3) Charles cause of action upon which relief can be granted was filed within the correct statute of limitation time frames thus Respondents argument fails and the Order should be reversed with appropriate instructions. The Seventh Federal Circuit holds that even though private rights of action are rare the law does allow and it does exist. Charles may be granted by the Federal Court a private right of action despite and even with Petitioner's quoting of both criminal and civil (quasi-criminal statutes) in this civil proceeding which complies under these legal provisions.

Certiorari is warranted to clarify and resolve the federal questions on these important issues and in the interest of justice is a reversible error.

This would be an appropriate case to administer a writ of certiorari should there not be a law specifically designed to apply in this matter. In this matter, should the court not find a case or statute directly on point this would be perfect utilization of a writ of certiorari.

### **9. Attorney Conflict of Interest**

The Circuit Court erred because attorney Schneider, who is named and listed on the docket as a self representing defendant, should have already been removed without question due to unethical glaringly blatant conflict of interest not only to his dual representation of Respondent banks and Petitioner but the fact that he used attorney client privilege against his client Charles. He admittedly is self-representing as well as representing the banks. It is inconceivable that he be allowed to represent in this case. Since Schneider prepared, thus knew of Charles' Right of First Refusal Document, it is legally correct that Dongola Bank be kept a part of this complaint because the actions pleaded in the complaint in which Dongola Bank was heavily complicit with all other Respondents requires a motion to produce documents and thus can be utilized. Dismissal was wrong as collusion between the banks is pleaded and it was sufficient to state a cause of action upon which relief can be granted and thus is a repeated blatant conflict of interest. Schneider, in his representation of Charles utilized knowledge and acted in detriment to Charles to the benefit of Respondent Banks.

Charles requests an Order removing attorney Schneider, ex facie, due to blatant alleged conflict of interest as he is a named co-defendant while undertaking actual representation of co-defendants in the same litigation matter.

### **CONCLUSION**

Petitioner, pro se, with no law degree or schooling, has simply been shuffled from one court to another despite a clearly stated cause of action falling within the correct

statute of limitations and being the correct party of interest.

All allegations have been made by or supported by and/or supported first hand by certified public accountant William Schott, CPA. This is evidence in written reports which have been presented as Exhibits for these Honorable Courts.

Petitioner respectfully requests this highest Honorable Court in our country intercede in the interest of justice and allow oral and/or written argument upon which a final Judgment can be rendered. Alternatively, remand to the appropriate court(s) with specific instructions on how to proceed.

The petition for a writ of certiorari should be GRANTED.

Respectfully submitted,

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