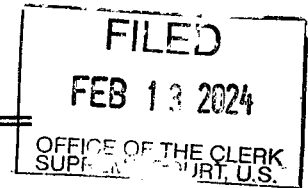


ORIGINAL

NO. 23-994



In The

Supreme Court of the United States

Marcus Marchman, Petitioner

v.

AMERIHOM MORTGAGE CO.,

Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of the United States

PETITION FOR WRIT OF CERTIORARI

Brief of Petitioner Marcus Marchman

Marcus Marchman, **Pro Per**

On the county at Large, Cobb

C/o 110 Mayes Farm Road

Marietta, Georgia [30064]

Telephone: 813-580-6599

QUESTIONS PRESENTED FOR REVIEW

The Cobb County Superior Court, State of Georgia
erred in dismissing Petitioner's discharge tender to
settle and close the mortgage liability at issue in
cause no: 22104715 for the reasons below:

1. Can the identified "Holder" of the Securitized
mortgage debt avoid discharge of said debt when
bonds are issued in accord with Title 48 C.F.R. Ch. 1,
Part 53.228?
2. Can the court dishonor discharge when bonds are
issued in accordance with Title 48 C.F.R. Ch. 1, Part
53.228 by Petitioner (Marcus Marchman) to
discharge the alleged mortgage debt?
3. Can the court ignore the nature of the Bills of
Exchange Act as it applies to discharging securitized
mortgage debt in accord with Title 48 C.F.R. Ch.1,
§53.228?

4. Is it possible to accomplish a quiet title action without court due process?

5. Can Respondent, who sold the mortgage debt to third parties, maintain standing to foreclose when the mortgage debt was discharged in accord with Title 48 C.F.R. Ch. 1, §53.228?

6. Can a party who is not the securitized mortgage debt "Holder" perform a foreclosure action, i.e.

"AMERIHOM MORTGAGE CO., Respondent?

7. There exists a question as to whether the conduct of respondent and the lower court have violated the U.S. Constitution, Art 1, S8, Cl. 17, Commerce Clause when blocking the ability to tender bonds (U.C.C. §2-511) to discharge commercial paper liabilities in addition to the U.S. Constitution, Art 3, S2, Cl. 1, Judicial Clause by and through Title 28 U.S.C. §3002 (4) and U.C.C. §1-201(2).

8. Can a “fiscal agent of the United States [Treasury],” pursuant to Title 12 USC §266, evade fiduciary banking duty to discharge and block petitioner’s access to banking in addition to violating the commerce clause?
9. There exists a question for the court to determine whether the use of bonds in accord with Title 48 CFR Ch. 1 §53.228 being dishonored in accord with U.C.C. §3-503(1)(c) by both respondent and the lower courts is a proper activity in light of the fact that said parties operate within and use bonds in their everyday business relations through the United States Treasury, Tax and Loan (TT&L) banking computer portal system.
10. Can the UNITED STATES and its “fiscal agents of the United States [Treasury],” (12 USC §266) violate International Treaty agreement provisions for

The United Nations Convention on Contracts for the
International Sale of Goods (CISG)?

LIST OF PARTIES

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

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

1.) Marcus Marchman,

Petitioner

2) AMERIHOM MORTGAGE COMPANY, LLC

Keith Steven Anderson, Attorney for

AmeriHome

Bradley Arant Boult Cummings, LLP-AL

One Federal Place 1819 Fifth Avenue

North Birmingham, Alabama [35203-2119]

Respondent

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DeLovio v. Boit, 7 F.Cas. 418, 1997 AMC 550

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Folkstone Maritime, Ltd. V. CSX Corp., 866 F.2d.

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UNIFORM COMMERCIAL CODE

Florida UCC-1 master file # 202109426436

Florida UCC-1 Amendment validation

#20210944581X

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U.C.C. §1-201 (14)

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P.L. 73-10

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Special Bond

**IN THE SUPREME COURT OF
THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

Petitioner, Marcus Marchman respectfully presents his Petition for a Writ of Certiorari before judgment to review a decision of the SUPREME COURT OF GEORGIA. Petitioner respectfully prays that a writ of certiorari be issued to review the judgment below:

Statement of Subject Matter and Appellate

Jurisdiction

STATE COURT JURISDICTION OPINIONS

The opinion of the SUPREME COURT OF GEORGIA for which this petition is filed is reported of Cause No. **S23C1215**, which was generated as a result of void judgment in the Superior Court of Cobb County, State of Georgia. [Decision is show in **Appendix C**]

For the case from the **State Courts**:

The original complaint, Superior Court of Cobb County, State of Georgia, for case number **22-1-4715** was dismissed on May 16, 2023, **Appendix A**. The Notice of Appeal on case number 22-1-4715 was returned by the Court of Appeals State of Georgia, case number **A23A1706** was dismissed on July 14, 2023, **Appendix B**. The Notice of Appeal on case number A23A1706 was returned by the SUPREME COURT OF GEORGIA, case number S23C1215, was dismissed on November 16, 2023, **Appendix C**.

1. The opinion of the Superior Court of Cobb

County, State of Georgia, appears at **Appendix A**

to the petition and is

☐ reported at _____; or

☐ has been designated for publication but is not yet reported; or

☒ is unpublished

For the case from the **Appellate Court**:

2. The opinion of the Court of Appeals of the State of

Georgia appears at

Appendixes B to the petition and is

☐ reported at _____; or

☐ has been designated for publication but is not yet

reported; or

☒ is unpublished

3. The opinion of the SUPREME COURT OF

GEORGIA appears at

Appendixes C to the petition and is

☐ reported at _____; or

☐ has been designated for publication but is not yet

reported; or

☒ is unpublished

The case is docketed in the SUPREME
COURT OF GEORGIA as Cause No. **S23C1215** and
was decided on **November 16, 2023**, before Therese S.

“Tee” Barnes, Clerk of Court, Circuit. [See **Appendix C**]

For cases from **State Courts**:

1. The date on which the SUPREME COURT OF
GEORGIA decided the original cause was
November 16th, 2023.

☒ 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 the petition for the writ
of certiorari was granted to and including _____
(date) on _____ (date) in Application

No: N/A

Statement of the Issues Presented for Review

CONSTITUTIONAL AND STATUTORY

PROVISIONS INVOLVED

1. The Equal Protection Clause of Section 1 of the Fourteenth Amendment provides that no State shall “deny to any person within its jurisdiction the equal protection of the Laws.”
2. The SUPREME COURT OF GEORGIA violated the U.S. Constitution Article I, Section 9, Clause 7, as the rights recognized by HJR-192, P.L. 73-10, codified at Title 31 USC §5118, apply for PUBLIC Commercial paper discharge, U.C.C. §9-105.
3. Respondent is a “fiscal agent of the United States [Treasury],” pursuant to Title 12 USC §266. Therein, can a “fiscal agent” evade fiduciary banking duty to discharge and block petitioner’s

access to banking in addition to violating the commerce clause?

4. The law that applies to the discharge is found at Title 48 CFR Ch. 1 §53.228 Bonds and Insurance. Did the United States Congress delete applicability of said code section?
5. The United States Constitution is a permanent injunction against the Public Trustees holding office for the benefit and protection of the Estate Holders, herein Petitioner appearing as an undiminished capacity Secured Party Creditor in relation to his Estate. Therein, how is it possible that Petitioner is NOT a creditor against Respondent (a banker) who is a “fiscal agent of the United States [Treasury],” title 12 USC §266?

STATEMENT OF THE CASE

Petitioner requests this Court exercise its power and discretion under **Rule 14.1(e)** of its rules

to grant a Writ of Certiorari after judgment in the SUPREME COURT OF GEORGIA, which has entered judgment on an appeal of this case. The case presents questions about Discharge Rights associated with the Treasury Direct Account held by the United States Treasury and its International Treaty with the United Kingdom (CISG).

“The United Nations Convention on Contracts for the International Sale of Goods (CISG) has been recognized as the most successful attempt to unify a broad area of **commercial law** at the **international level**. It has been ratified by most of the world’s important trading countries and become a template for the manner in which commercial law treaties are drafted. As of this writing, the CISG has been adopted by eighty-three countries. These nations are referred to as “Contracting States.” Every major trading nation except India, South Africa, and the **United Kingdom** has ratified the **CISG**. Cases interpreting it currently number in the low thousands, and more than 135 United States cases have referred to the CISG. With unreported arbitration awards added, this number must be considerably higher. The effect of the CISG within a Contracting State may vary with domestic law. For example, within the United States, which ratified the CISG in 1986 and where it entered into force in 1988,

the CISG is considered a self-executing treaty.
The CISG therefore creates a private right of
action in federal court under federal law. The
 CISG provides the default set of rules that
 govern contracts for the sale of goods between
 parties located in different Contracting States,
 and, in some cases, where only one of the
 parties is located in a Contracting State. Where
 applicable the CISG preempts contrary
 provisions of domestic sales law, such as Article
 2 of the Uniform Commercial Code ("UCC") and
 other state contract law in the United States,
 and conflicting provisions of the German Civil
 Code ("BGB") or the French Civil Code."
 See The CISG: history, methodology, and
 construction, Published online by Cambridge
 University Press: 05 June 2016

Petitioner tendered a bond, registered in the
 United Kingdom and the Depository Trust Clearing
 Company at 55 Waterstreet, New York City, New
 York in accordance with the rules for bonds set forth
 at Title 48 CFR Ch. 1 §53.228 Bonds and Insurance.

This Court, and all public offices, is defined
 under **FRCP Rule 4(j)** as a FOREIGN STATE, and is
 defined under TITLE 28 – JUDICIARY AND

JUDICIAL PROCEDURE in accord with the Foreign Sovereign Immunities Act (FSIA) of 1976, which is a United States law, codified at Title 28 U.S.C. Sections 1330, 1332, 1391(f), 1441(d), and 1602-1611.

SUMMARY OF THE ARGUMENT

Respondent issued an extension of credit to Petitioner from petitioner's LEGACY account in accordance with the MoneyNet Daily Transfer Log Report 120 issued by the United States Treasury in concert with the applicable Federal Reserve Bank Trust account held for petitioner. Petitioner discharged the debt using bonds in accord with Title 48 CFR Ch. 1 §53.228 Bonds and Insurance. Petitioner sought assistance from the trial court to recognize the discharge and quiet the title on the Real Property/Land at issue. The Trial Court denied said support, refused to recognize said discharge, and

said evidence of discharge and petitioner's moving the court for quiet title.

**JURISDICTION FOR THE SUPREME COURT OF
THE UNITED STATES**

This court has jurisdiction as The Parties are operating within the confines of State, Federal, and International Treaty Law (CISG) for its contractual usage in relation to commercial paper discharge through bonding, which said courts utilize daily in their own legal relations. Therein, commercial power is granted by and through U.S. Const. A1, S10, (the Contract Clause), Lex Mercantoria (codified at the Uniform Commercial Code), the Bills of Exchange Act, and the Treaty Power is granted by Article II, Section 2 of the United States Constitution. Therein, both the respondent (AMERIHOME) and the State courts lack authority to restrict discharge by petitioner in using bonds drawn from an open

Treasury Direct Account to block said discharge of the commercial paper at issue – i.e. the securitized mortgage commercial paper generated by and through respondent (AMERIHOMÉ). This is codified at Title 28 U.S.C. §1331, federal question.

Subject Matter Jurisdiction

Respondent is a “fiscal agents of the United States [Treasury]”, Title 12 U.S.C. §266; this is automatically a federal subject matter that is subject to the Federal Deposit Insurance Corporation, which was replaced by the U.S. Congressional Bank Insurance Fund.

The Bank Insurance Fund (BIF) was a unit of the Federal Deposit Insurance Corporation (FDIC) that provided insurance protection for banks that were not classified as a savings and loan association.

The BIF was created as a result of the savings and loan crisis that occurred in the late 1980s.

LEGAL RELATION

Petitioner appears as an Aggrieved party, Marcus Daniel Marchman (U.C.C. §1-201; (27) (14) (Hereinafter Aggrieved party), Sui Juris, Secured Party (U.C.C. §9-105), NONPERSON (U.C.C. §1-201 (27)), NON-RESIDENT, NON-DEBTOR (28 U.S.C. §3002 (4)), NON-CORPERATED, NON-FICTION, NON-SUBJECT, NON-PARTICIPANT in any Government programs, a Living flesh and blood Man standing on the ground. Non-Diminished capacity Creditor, NON-CITIZEN, under Special Appearance (Rule 8 (e)) not generally, NON-DEFENDANT (U.C.C. §1-201 (14)), Holder-In-Due-Course (U.C.C. §3-302 (A) (2)) **of all documentation** (U.C.C. §5-102 (6)) of the "Entity" Cestui Que Vie trust
CORPORATE FICTION: MARCUS DANIEL MARCHMAN©, representing the Corporate Fiction.

Pursuant to **Title 31 CFR § 103.121** Customer Identification Programs for banks, savings associations, credit unions, and certain non-

Federally regulated banks, this legal relation is governed under banking rules.

Therein, (a) Definitions. For purposes of this section:

(1)(i) Account means a formal banking relationship established to provide or engage in services, dealings, or other financial transactions including a deposit account, a transaction or asset account, a credit account, or other extension of credit. Account also includes a relationship established to provide a safety deposit box or other safekeeping services, or cash management, custodian, and trust services.

(ii) Account does not include:

(3)(i) Customer means:

(A) A person that opens a new account; and

(B) An individual who opens a new account for:

(1) An individual who lacks legal capacity, such as a minor; or

(2) An entity that is not a legal person, such as a civic club.

(ii) Customer does not include:

(A) A financial institution regulated by a Federal functional regulator or a bank regulated by a state bank regulator;

(B) A person described in § 103.22(d)(2)(ii) through (iv); or

(e) A person that has an existing account with the bank, provided that the bank has a reasonable belief that it knows the true identity of the person.

It would appear that UCC Article 8, sections 106 and 107 (i.e. **UCC 8-106 and 8-107**) would apply in this legal relation as Real Party In Interest, HDC (U.C.C. §3-302(A)(2)), SPC, Principal Owner is appearing in proper capacity, i.e. in Propria Persona.

Also, it would appear that UCC 2a-105 would apply herein.

UCC 2A-105. TERRITORIAL APPLICATION OF ARTICLE TO GOODS COVERED BY CERTIFICATE OF TITLE.

Subject to the provisions of Sections 2A-304(3) and 2A-305(3), with respect to goods covered by a certificate of title issued under a statute of this State or of another jurisdiction [i.e. the UCC filing], compliance and the effect of compliance or noncompliance with a certificate of title statute are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until the earlier of (a) surrender of the certificate, or (b) four months after the goods are removed from that jurisdiction and thereafter until a new certificate of title is issued by another jurisdiction.

Statement of the Facts

ANALYSIS

Petitioner (Real Party in Interest (RPII))

defended in the trial court in equity for the purpose

of preserving his marketable title after discharging the debt using bonds.

Said action was for the express purpose of lodging the discharging of the mortgage debt to settle said matter with the "Holder" of said debt.

The mortgage at issue was known as loan number 4254785646, MIN 1004247-1000220775-1, FHA# 106-1524912-703.

Respondent AMERIHOM MORTGAGE COMPANY, LLC issued the mortgage. Respondent is NOT the "Holder" of the securitized mortgage debt. Respondent mortgage company securitized, sold, and transferred the Promissory Note to another "Holder." This was performed more than once, A to B, B to C, C to D, etc.

The "Holder" of the mortgage debt was identified. Said "Holder" is identified as "Guaranteed REMIC Pass-Through Securities and MX Securities

Ginnie Mae REMIC Trust 2018-166.” This entity is a matter of record in IRS Publication 938, Rev.

November 2019, page 58, GNMA 2018-166 Issuing Remic, Althea D. Wright, Vice President, U.S. Bank National Association, One Federal Street, 3rd Floor, Boston, MA 02110, Tel: 617-603-6449.

Said debt was discharged through bonds issued through the International Bond Market via Title 48 C.F.R. Ch. 1, Part 53.228.

Petitioner is the Principal Owner, Holder-in-Due-Course, Secured Party Creditor to the MARCUS DANIEL MARCHMAN ESTATE, Florida UCC1 filing number 202109426436 and Florida UCC1 Amendment 20210944581X.

Said bonds (backed by a (U.S.) Treasury Direct Account) were issued from the MARCUS DANIELL MARCHMAN ESTATE as Marcus Daniel Marchman, living man, is the HDC, SPC.

UCC 2-511. Tender of Payment by Buyer; Payment by Check.

UCC 3-603. Tender of Payment.

UCC 5-102(6). Definitions. Document.

UCC 9-105. Control of Electronic Chattel Paper.

Judge D. Victor Reynolds blocked due process, engaged in restraint of trade, and did not allow the quiet title action to proceed after lawful discharge of the mortgage debt.

FACTUAL BACKGROUND

Petitioner obtained an extension of credit from Respondent for housing. Respondent operates pursuant to Title 12 USC §266, as “fiscal agents of the United States [Treasury].” Petitioner sought to discharge (“pay”) and settle said debt. Petitioner had to determine who the “Holder” of the debt is in order to effect discharge. See UCC §3-503(1)(e).

In accordance with Title 12 USC §266, Respondent is operating as “fiscal agents of the United States [Treasury],...” and has a “known legal duty” or “duty of care” (see Ellinger’s Modern Banking Law 5th Ed. By Ellinger, Lomnicka, and Hare) to disclose the identity of said “Holder” of the debt in question for discharge.

Petitioner is a depositor in accord with the Maternity Act of 1921 aka Sheppard-Towner Act, in accord with H.J.R.-192, P.L. 73-10, codified at 31 USC

§5118(d)(2) as described in accord with the Law of Future Interest as it relates to International World Banking Rules of Basell II, future-labor-interest deposit backed currency.

ARGUMENT

Petitioner is not a “minor” as defined at Title 31 C.F.R. §363.6. Petitioner made claim to his securities, UCC1, UCC1 Amendment proving RPII is a Holder-in-Due-Course, Secured Party Creditor, Principal Owner of his estate. Therein, Petitioner is a Holder-in-Due-Course, Secured Party Creditor, Principal Owner to said Estate, MARCUS DANIEL MARCHMAN. Therein, after obtaining an extension of credit from Respondent, Petitioner discharged said “debt” using his securities listed in Florida UCC filing 202109426436.

Therein, Petitioner is the “Holder for value” of a preceding consideration with the U.S. Treasury’s

“fiscal Agent” aka Respondent and issued “valuable consideration for a bill may be constituted by (b) an antecedent debt or liability. Such a debt [in this case by Petitioner against the U.S. Treasury’s “fiscal Agent’s” aka Respondent] or liability is deemed valuable consideration whether the bill is payable on demand or at a future time.”

A “Holder” is a different capacity than a “Holder-in-Due-Course.” Petitioner is a “Holder-in-Due-Course.” ONE of the Respondent(s) (AMERIHOMÉ, et. al.) was a “Holder” of the alleged mortgage debt by extension of credit and transfer therein from the original mortgage company – AMERIHOMÉ MORTGAGE COMPANY, LLC. A securities search was performed, Securities Discovery package as to the identity of the “Holder” of the debt for the mortgage securities for discharge at issue, Notarized Affidavit with Exhibits of Joseph [R.]

Esquivel [Jr., Private Investigator, Texas] for Marchman Marcus – 05-02-2022, Offering Circular Supplement GNMA 2018-166, Trust Information – GSE Guaranteed REMIC Pass-Through Securities and MX Securities Ginnie Mae REMIC Trust 2018-166, MERS Procedures Rel19 final 09-10-2012, Notes for Marcus Marchman.

The mortgage was securitized and listed with the Securities and Exchange Commission.

Therein, as there are a number of potential “Holders” of the debt a search was performed to locate and identify the “Holder” (i.e. “Bearer” as defined by The Bill of Exchange Act) of the registered securities for said securitized debt.

The “holder” of the debt is Guaranteed REMIC Pass-Through Securities and MX Securities Ginnie Mae REMIC Trust 2018-166, Notarized Affidavit of

Joseph R. Esquivel, Jr., page 2, paragraphs "13.," "14.," "15.," "16.," "17." And "18."

Pursuant to the Bills of Exchange Act of 1968 a "Holder" is defined as "payee...of a bill or note who is in possession of it" aka "Bearer" means "the person in possession of a bill or note which is payable to bearer." In other words, the trustee of Guaranteed REMIC Pass-Through Securities and MX Securities Ginnie Mae REMIC Trust 2018-166, is registered with the Securities and Exchange Commission is the "Holder"/ "Bearer."

Therein, Petitioner served said "Holder" via its Trustee with registered Bonds for discharge in accordance with Title 48 C.F.R. Ch. 1, §53.228.

The address for said discharge is Corporate Trust Office at U.S. Bank National Association, One Federal Street, 3rd Floor, Boston, Massachusetts, 02110, Attention: Ginnie Mae REMIC Trust 2018-166.

During this process Petitioner filed a Quiet Title Action to enforce the discharge.

Therein, the term “Drawer” is defined (Black’s Law Dictionary, 6th Ed., page 495) as “The person who draws a bill or draft” or in this case “bonds” is the Petitioner.

Therein, the term “Drawee” is defined (Black’s Law Dictionary, 6th Ed., page 495) as “The drawee of a check [bonds] is the bank [U.S. Treasury] on which it is drawn.” Therein, the Trustee (Ginnie Mae REMIC Trust 2018-166) is a “fiscal agent of the United States [Treasury]”, see Title 12 U.S.C. §266.

Therein, the term “Discharge” is defined (Black’s Law Dictionary, 6th Ed., page 463) as it applies to “contract” as “To cancel the obligation of a contract; to make an agreement or contract null and inoperative.”

Therein, upon the issuing of bonds drawn on Petitioner's Treasury Direct Account and tendered to said Trustee (Ginnie Mae REMIC Trust 2018-166), the legal liability known as the "mortgage" is "discharged."

Therein, the trial court has a "known legal duty" to carry out the discharge of Petitioner.

As stated on page 13 of the 1968 "Bill of Exchange Act," "but if the bill in the hands of a holder in due course, a valid delivery of the bill by all parties prior to him so as to make them liable to him is conclusively presumed."

Pursuant to *Perry v. United States*, 294 U. S. 349 (1935) "2. The Joint Resolution of June 5, 1933, insofar as it undertakes to nullify such gold clauses in obligations of the United States and provides that such obligations shall be discharged by payment, dollar for dollar, in any coin or currency which at the

time of payment is legal tender for public and private debts, is unconstitutional. P. 294 U. S. 349.”

Therein, the bonds tendered discharged the mortgage commercial paper liability, U.C.C. §9-105.

“The Joint Resolution of June 5, 1933, had enacted that such bonds should be discharged by payment, dollar for dollar, in any coin or currency which, at time of payment, was legal tender for public and private debts.” Perry, *supra*.

In 1953, the Georgia legislature created the ability to discharge a lien by filing a bond. The Official Code of Georgia Annotated (O.C.G.A.) 44-14-364(a) allows either the owner or the contractor employed to improve the property to file a bond before or after foreclosure proceedings are instituted and thereby discharging the realty from the lien.

APPLICABLE LAW

All legal matters dealing with underwriting and securities fall under Admiralty, Maritime jurisdiction. See Benedict on Admiralty, Vol. 1, Jurisdiction, any edition. This writer reminds the court that the Constitution for the united States of America, Circa 1787, holds that pursuant to Art III, Sect. 2, Cl. 1, Cases or Controversies, there are four law forms (juris-dictions); [common] law, equity, admiralty, and maritime. In order to enter admiralty [contract] jurisdiction on land, rules of equity (trust) law must apply and in order to enter equity jurisdiction, contract principles of [common] law must apply. The fact that the "Holder" of the debt has filed its "Prospectus" with the Securities and Exchange Commission, it would appear that the securitized "mortgage" would fall under admiralty law; underwriting and securities.

In the United States, Bonds and Insurance fall under Special Rules of Admiralty and Maritime Jurisdiction.

Therein, Title 48 CFR Ch.1, §53.228 is applicable for discharge in addition to the nature of California Civil Code §8424, Mechanics Lien Release Bond, or the applicable Georgia State Code on using bonds to settle commercial liabilities.

In 1953, the Georgia legislature created the ability to discharge a lien by filing a bond. The Official Code of Georgia Annotated (O.C.G.A.) 44-14-364(a) allows either the owner or the contractor employed to improve the property to file a bond before or after foreclosure proceedings are instituted and thereby discharging the realty from the lien.

In accord with FRCP XIII. SUPPLEMENTAL RULES FOR ADMIRALTY OR MARITIME CLAIMS AND ASSET FORFEITURE ACTIONS, Rule E.

Actions in Rem and Quasi in Rem: General

Provisions, Rule 5(e)(a) Special Bond, “The various forms of security for the release of a vessel – a ‘club’ letter of undertaking, letter of credit payable against a sight draft drawn by the plaintiff, or a bond – are interchangeable in admiralty.” *Overstreet v. Water Vessel Norkong*, 706 F.2d. 641, 1987 AMC 818 (5th Cir. 1983). Once security is posted and the vessel released, the lien is extinguished. *Folkstone Maritime, Ltd. V. CSX Corp.*, 866 F.2d. 955, 1989 AMC 867 (7th Cir. 1989).

It is a principal of law that “A payment tendered is a payment paid.”

UCC § 3-603. TENDER OF PAYMENT.

- (a) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.
- (b) If tender of payment of an obligation to pay an instrument is made to a person entitled to

enforce the instrument and the tender is refused, there is discharge, to the extent of the amount of the tender, of the obligation of an indorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.

(e) If tender of payment of an amount due on an instrument is made to a person entitled to enforce the instrument, the obligation of the obligor to pay interest after the due date on the amount tendered is discharged. If presentment is required with respect to an instrument and the obligor is able and ready to pay on the due date at every place of payment stated in the instrument, the obligor is deemed to have made tender of payment on the due date to the person entitled to enforce the instrument.

With admiralty jurisdiction comes the application of substantive admiralty law. Insurance Co. v. Dunham, 78 U.S. (11 Wall.) 1, 25, 20 L.Ed. 90 (1870) states: "Admiralty jurisdiction defines also the place or territory where the law maritime prevails."

"And plainly, we think, [no state's] legislation is valid if it contravenes the essential purpose expressed by an act of Congress or works material prejudice to the characteristic features of the general maritime law or interferes with the proper harmony and uniformity of that law in its

international and Interstate relations.” [244 U.S. at 215-16, 37 S.Ct. at 528-29] *Southern Pacific Company v. Jensen*, 244 U.S. 205, 37 S.Ct. 524 (1917).

The law of marine insurance has never been codified in the United States. However, the basic substantive law of marine insurance is federal maritime law, [*Insurance Co. v. Dunham*, 78 U.S. (11 Wall.) 1, 20 L.Ed. 90 (1870); *DeLovio v. Boit*, 7 F.Cas. 418, 1997 AMC 550 (C.C.D.Mass.1815) (No.3776)], and the Supreme Court has stated that United States courts should look to English law for the applicable rules because of the “special reasons for keeping in harmony with the marine insurance laws of England, the great field of this business.” [*Queen Ins. Co. of America v. Globe & Rutgers Fire Ins. Co.*, 263 U.S. 487, 493, 44 S.Ct. 175, 176, 68 L.Ed. 402 (1924)] However, in *Wilburn Boat Co. v. Fireman’s Fund Ins. Co.*, 348 U.S. 310, 75 S.Ct. 368, 99 L.Ed. 337 (1955), the Supreme Court ruled that in the

absence of a controlling federal admiralty law principle to guide the resolution of a particular issue, the courts must apply the applicable state law rule.

Wilburn Boat does not change the initial inquiry of the courts in interpreting a policy of marine insurance to determine whether there is an established federal maritime law rule. [Continental Oil Co. v. Bonanza Corp., 677 F.2d 455, 461, 1983 AMC 387 (5th Cir.1982)]

In practice the application of the Wilburn Boat doctrine means that marine insurance in the United States will be dominated by state law rules; most federal courts simply recite the rule and apply state law. Many (probably most) in the admiralty bar would favor the enactment of a federal marine insurance act such as the British Marine Insurance Act of 1906. Therein, whatever the case may be, we are dealing with British Crown Commercial paper

U.C.C. §9-105. Therein, the International Bond Market (IBM) controls. Therein, the bonds tendered to the court were processed in the IBM and applicable to the mortgage (court) charges in question.

Furthermore, the premises of Black Diamond S. S. Corp. v. Robert Stewart & Sons, 336 U.S. 386 (1949), apply;

“Admiralty practice is a unique system of substantive law and procedure with which members of this Court are singularly deficient in experience.”

“The proceeding is conducted in two stages. In the first or preliminary stage the owner petitions for relief from personal liability, is required either to surrender his interest in the ship and her freight or to stipulate, with adequate bond, to pay into court its value. The statute says, ‘Upon compliance with the requirements of this section all claims and proceedings against the owner with respect to **630 the matter in question shall cease.’ At this point an important change in the nature of the proceeding occurs.

The proceeding continues as a proceeding in rem against either the ship or the fund as the res. Our rules provide that when petitioner complies with the court’s order as to surrender or bond, the court shall issue a monition requiring all persons asserting claims to file the *401 same and may

also issue injunction against the further prosecution of suits against either the owner or the vessel. Rule 51. The court then adjudicates the claims and apportions the available fund among them. Rule 52. The owner is at liberty to contest his liability or the liability of the vessel 'provided he shall have complied' with the requirements of surrender or deposit as above set forth. Rule 53."

CONCLUSION

The issues presented would have a great impact on the banking relations of not just The Parties herein but the ability of any similar depositor, SPC, to discharge similar issues. Therein, there is a great disparity of the Creditor/Debtor relations in the United States between the Depositor/Grantor/Beneficiary(ies) and the Public Trustee/Bankers. In accord with **Supreme Court of the United States, Rule 20.4(a)**, and FRCP, Rule 8 (e), Petitioner is seeking relief to order the **SUPERIOR COURT OF COBB COUNTY, STATE OF GEORGIA** to allow petitioner to Lodge the

Discharge evidence and move the court to quiet the
title to the Real Property/Land in question:

ALL THAT TRACT OR PARCEL OF LAND
LYING AND BEING IN LAND LOT 311, 20TH
DISTRICT, 2ND SECTION, COBB COUNTY,
GEORGIA, BEING LOT 61, MADISON
WOODS, UNIT II, PHASE 3, AS PER PLAT
RECORDED IN PLAT BOOK 186, PAGE 94,
COBB COUNTY, GEORGIA RECORDS,
WHICH PLAT IS HEREBY REFERRED TO
AND MADE A PARTY OF THIS
DESCRIPTION.

Respectfully submitted,

: *Marcus-Daniel Marchman*

Marcus Marchman, Pro Per
Petitioner