Application No: 23A710

# In The
# Supreme Court Of The United States

**Appeal From The Illinois Supreme Court**

**PUSHPA SHEKAR,**

*Petitioner/ Applicant/Appellant*

v.

**OCWEN LOAN SERVICING ,**

*Respondents /Defendants/Appellees.*

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## APPLICATION PURSUANT TO SUPREME COURT RULE 23 (3 ) TO STAY MANDATE IN LOWER COURT PENDING FILING and FINAL ORDER ON PETITION UNDER RULE 13 TO FILE A PETITION FOR A WRIT OF CERTIORARI

Before Associate Justice Jackson

## QUESTIONS PRESENTED

The questions presented are:

I. Whether Illinois Supreme court could endorse a Cook county state lower court abuses and could abridge/Infringe/encroach the Federal Jurisdiction of an UNOPPOSED, REMOVED case, by *suasponte* 'planting the case' in state court calendar after more than a year , and without any certified remand order, in exchange for bribes paid by a ruthless, white collar criminal mortgage loan servicing company respondent Ocwen Loan servicing. [Refer to **Group Exhibit 1** of numerous law suits; Fifty State Attorney General law suits; Law suit by Consumer Financial Protection Bureau; a second law suit by Florida attorney General for breach of Settlement Agreement with Fifty State Attorney Generals; Cease and Desist order by Illinois Department of Professional Regulations; numerous law suits by Homeowners, Class action law suits.

II. Whether Illinois Supreme Court could endorse a Cook county state lower court abuses and could abridge/Infringe/encroach the Federal Jurisdiction of an UNOPPOSED, REMOVED case by *suasponte* 'planting the case' in state court calendar after more than a year when no motion to remand filed

III. Whether Illinois Supreme court could endorse a cook county state lower court abuses and could abridge/Infringe/encroach the Federal Jurisdiction of an UNOPPOSED, REMOVED case by *suasponte* 'planting the case' in state court calendar after the state court itself entered orders that the case in "Federal jurisdiction; Acknowledged UNOPPOSED REMOVAL to Federal Court.

## A. PREAMBLE

Petitioner /Applicant for the purpose of this Court to be appraised of complete SUMMARY OF FACTS, EVIDENCE SUPPORTING FACTS, ARGUMENT , LEGAL PRECEDENTS AND AUTHORITIES attaché as **Group Exhibit Z ,** the Petition for Leave To Appeal filed in Illinois Supreme court. Due to the voluminous filings of over 120 pages including Appendix and Exhibits thereon, only the main body of the Petition For Leave to Appeal and especially important record is attached. Petitioner will include entire filings at the time of filing the Petition for Writ of Certiorari in a booklet form.

## B. RELIEF SOUGHT

1. Petitioner respectfully submit this Application requesting to stay the Illinois Supreme court mandate and /or recall mandate from lower Appellate court until a filing of and ruling on the Petition for a Writ of Certiorari in this case for good cause shown as detailed in the forthcoming paragraphs.
2. On October 31, 2023, the state court of last resort , Illinois Supreme court denied discretionary consideration of Petition for Leave to Appeal ("PLA") . Order attached as **Exhibit 1**
3. In doing so, the Illinois Supreme court abused the discretion and violated the Due process clause of the Fourteenth Amendment to the United States Constitution; violated First Amendment Rights ; Violated and acted against the Illinois Constitution under 725 ILCS 5/122–1(c); Violated Equal protection of the law; made Federal Removal statutes invalid.
4. Subsequently, on November 15, 2023, a Petition for rehearing was also denied by the Illinois Supreme court. Order attached as **Exhibit 2**

5. On December 12, 2023 2024 , Petitioner filed a motion as required under United States Supreme court Rule 23 (3) which requires the relief for a stay to be *first sought* in the court below, (in this case the Supreme court of Illinois whose judgement is being appealed) , before seeking the relief before the United States Supreme court.
6. More than two months later with a deliberate, malicious attempt to place the Petitioner in a disadvantageous position, and to *run the clock out* for petitioner to file a stay in this Supreme court and to pre-empt time to file a Petition for writ of Certiorari , the Illinois court denied stay/recall of mandate on February 28, 2024 , noticed the order on March 11, 2024 attached as **Exhibit 3** is the February 28 order . This Application followed pursuant to Rule 23 (3)
7. Several Federal statutes and laws under the United States Constitution; Illinois constitution is made invalid by the Illinois court decision , including abuse of Illinois statute 725 ILCS 5/122–1(c) ; violated due process clause of the Fourteenth amendment rights of the Petitioner; violation of the Petitioner's Constitutional rights under Title 18 U.S.C. §241,242- by *disenfranchising, denying, invalidating* the Petitioner's Constitutional rights.
8. Pursuant to Rule 13 of the United States Supreme court , the denial of 'discretionary review' of PLA is appealable to the United States Supreme court .

   " A petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order **denying "discretionary review**."
9. There is NO *distinction or discrimination* in Rule 13 to appeal to the United States Supreme court of such "discretionally denial" by the lower court should be after an opinion or by a one liner denial, and the Rule 13 language is clear irrespective of the manner of denial - "**denying "discretionary review**".

10. Petitioner will be seeking review by the United States Supreme Court through filing of a Petition for a Writ of Certiorari Pursuant to Rule 13 of the United States Supreme Court.
11. In regards to denial of petition for leave to appeal to the Supreme Court of Indiana the United States Supreme Court found that Indiana Supreme court violated the Equal Protection laws *Cook v. State,* 219 Ind. 234, 37 N.E.2d 63.
12. In *Cook,* The United States Supreme Court affirmed the Seventh circuit decision in favor of the Petitioner *Cook*, granted the Writ of Certiorari with opinion that the State Supreme court violated equal protection of the law by denying late Petition for leave to appeal, for which the State provided no remedy . Also See, *Dowd v. United States ex rel. Cook* 340 U.S. 206; 71 S. Ct. 262 . [ Before the case appealed to U.S.Supreme court by the State , the Court of Appeals for the Seventh Circuit affirmed the District court order that the State Supreme court violated the Equal Protection Law by denying the Petition for leave to appeal as late. 180 F.2d 212 ; See also *Cook v. State*, 219 Ind. 234, 37 N.E.2d 63; *State ex rel. Cook v. Wickens,* 222 Ind. 383, 53 N.E.2d 630 ; *State ex rel. Cook v. Howard,* 223 Ind. 694, 64 N.E.2d 25 , 327 U.S. 808.]
13. United States Supreme court in relation to Indiana State Supreme court abuses , and subsequent admission by the Supreme court of Indiana of violation of Equal Protection Clause of the Fourteenth Amendment, wrote " The State Court's discriminatory denial of the statutory right of appeal is a violation of the Equal Protection Clause of the Fourteenth Amendment" *Dowd v. United States ex rel. Cook* 340 U.S. 206 .
14. As will be shown in the filing of the Petition for a Writ of Certiorari, the Illinois Supreme Court *discriminated* against this Petitioner in denying the appeal. " a discriminatory denial of

the right of appeal is a violation of the Equal Protection Clause of the Fourteenth Amendment." *Cochran v. Kansas*, 316 , U.S. 255

15. The discriminatory abuses by denying discretionary review of PLA by the politically driven and corrupt Illinois Supreme Court in relation to denial of Petition for leave to appeal, is *admonished* by a prior opinion by this United States Supreme court in a decision where the United States Supreme court took notice of the abusive 'pick and choose' jurisprudence of the Illinois high court in *Griffin v. Illinois,* 351 U.S. 12; 76 S. Ct. 585 and wrote :

> " The question presented here is whether Illinois may, inconsistent with the Due Process and Equal Protection Clauses of the Fourteenth Amendment, administer this statute so as to deny adequate appellate review to the poor while granting such review to all others."
> *Griffin v. Illinois*, 351 U.S. 12; 76 S. Ct. 585

16. For instance as to violation of Equal Access to Justice and Equal protection under the law, and discriminative jurisprudence, the Illinois Supreme court granted *Segal* to file PLA 63 days late and likewise granted late filing of PLA *instanter* to so many other multiple Petitioners, including like in *Segal*, *Morris B. Chapman Associates v. Kitzman* 193 Ill. 2d 560 ; 739 N.E.2d 1263; *ABN AMRO Mortgage Group Inc. v. McGahan* , 237 Ill. 2d 526 (Ill. 2010); *Wauconda Fire v. Stonewall Orchards* , 214 Ill. 2d 417 (Ill. 2005) *People v. Ford,* 198 Ill. 2d 68 (Ill. 2001)
17. The appeal in the instant case to the Illinois Supreme Court is *triggered* by judicial abuses of a corrupt lower court judge in Cook county who 'planted' a REMOVED state court case to Federal court which was NEVER remanded, and after a year of REMOVAL.
18. The corrupt lower court cook county "associate judge" inappropriately, illegally, unconstitutionally conducted proceedings on the non-existent, non-jurisdictional State case,

which was appealed. No remand to state court exist, nor filed by the defendant/respondent Ocwen.

19. In *Modrowski v. Pigatto*, 712 F.3d 1166,1167 (7th Cir.2013) "Once a case has removed to federal court, party desiring to petition for remand (even assuming based on any procedural defect) must file within thirty days, stating that "[a] motion to remand the case on the basis of any defect must be made within 30 days after the filing of the notice of removal." In the instant appeal defendant Ocwen never opposed, no defect in the removal and on the contrary repeatedly accepted the removal both in Federal court proceeding and in State court on the initial status date where "Federal Jurisdiction" acknowledged by the Ocwen and the court. See **Exhibit 4** , appeal record C.348-349; C.1505

20. Despite no defect in removal, United States Supreme court held," there exists no 'timely raised defect' in removal procedure." *Things Remembered, Inc. v. Petrarca,* 516 U.S.124 (1995) . Even on any procedural defect (which is none in the instant case as the record will reflect), Federal statute under section 1446(a) mandates that once a case removed to federal court any petition for remand ( even on any alleged procedural defect) must file within thirty days after the filing of the notice of removal.)

21. The cook county state court despite entered orders that the case removed form calendar as "Federal Jurisdiction," "no further case management necessary ", nevertheless allowed the defendant Ocwen to *sneak* through the 'back door' AFTER a YEAR, and placed the REMOVED , NON-EXISTENT, NON-JURISDICTIONAL case in state court calendar which *triggered* the appeal to First District Appellate court. See Exhibit 4 , Gr. Ex. Z – PLA Appellate record at **C.348-349; C.1505** attached for ready reference .

22. The First District Appellate court in Illinois tacitly acknowledging the lower acted inappropriately without jurisdiction, advised and recommended in its order that a Petition for Writ of Mandamus in Illinois Supreme Court as "appropriate remedy when a lower court *erroneously assumed jurisdiction it did not possess* is a writ of mandamus" ( citing *Bremen Community High School District No 228* v. *Cook County Comm'n om Human* Rights, 2012 IL App (1st) 112177, ¶ 15) "and a matter squarely falls within Supreme court original jurisdiction", citing *People et rel. Glasgow v .Carlson*, 2016 IL 120544 ¶ 15)

23. However , under Illinois law, a Petition For Writ of Mandamus which is besides *discretionary* , require leave of Illinois Supreme court to file a Rule 381 Petition for Writ of Mandamus. This is the same rule for Petition For Leave to Appeal except no motion need to be attached seeking leave like in Mandamus Petition as the PLA language itself is self-defining – Petition For Leave to appeal.

24. Nevertheless , after the PLA denied, Petitioner/Applicant/Appellant filed a Rule 381 Petition for Writ of Mandamus as suggested by the Appellate court and was denied 'right off the bat' by the Illinois Supreme court with no consideration whatsoever. However the same corrupt Illinois Supreme court had no issue granting a petition for J.B. Pritzker because "J.B." contributed ONE MILLION dollars for a judicial seat to fellow corrupt cronies of Mary Jane Theis - Elizabeth Rochford, Mary O'Brien and thus Theis expanded her highly partisan, extreme far left wing zealous agenda and biased, partisan liberal judiciary.

25. The denial of the PLA is also due to Petitioner inability to contribute ONE million dollars for a judicial election to a corrupt jurists sitting in Illinois Supreme court named Elizabeth Rochford , Mary K. O'Brien to buy justice. ( See a Certiorari petition currently pending in this U.S. Supreme court where J.B. Pritzker bought "justice" from "yes" votes by writing

ONE million dollars check to each Rochford and O'Brien to advance his agenda to *null* second amendment rights . The case is currently pending in this court. *Dan Caulkins et al., Appellees, v. Jay Robert Pritzker,* Illinois Sup.Ct. case 129453)

26. Additonally, when corrupt Rochford was associate judge in Lake county , and in order to get appointed to Appellate court by the then Chief Justice Anne Burke, paid monies to Anne Burke husband Alderman Ed Burke and developed financial ties with Burke . Ed Burke is a convicted felon where a Federal Grand Jury indicted Burke in 2020, Federal Jury convicted Ed Burke on all counts as recently in December 2023 .

**https://news.wttw.com/2023/12/21/verdict-reached-corruption-trial-former-chicago-ald-ed-burke**

27. The corrupt , power hungry , greedy jurist Elizabeth Rochford *cronies and buddies* who are all **convicted Federal felons,** serving time in Federal prison, also had close financial ties with "Madigan Machine" . Rochford made her *crony* – Michael Madigan, a property tax lawyer *very rich* by numerous, frivolous appeals of property taxes and to make her politically connected *crony* Michael Madigan who 'drives the agenda on judicial vacancies' *happy* with 'frivolous appeals' , when corrupt Madigan was Illinois House Speaker for decades. Madigan is indicted by Federal Grand Jury:

**https://www.justice.gov/usao-ndil/pr/former-illinois-speaker-house-indicted-federal%20racketeering-and-bribery%20charges#:~:text=CHICAGO%20%E2%80%94%20A%20federal%20grand%20jury,for%20h%20imself%20and%20his%20associates**

**https://www.justice.gov/usao-ndil/pr/superseding-federal-indictment-against-former-illinois-speaker-house-adds-charge**

**https://illinois.gop/judge-elizabeth-rochford-and-her-ties-to-the-madigan-machine**

28. As stated before , unlike J.B. Pritzker who wrote a check for ONE million dollars to Rochford and O'Brien election to advance "J.B." agenda and "buy justice," Petitioner could not contribute ONE million dollars to the corrput, politically connected and cunning , and power hungry, power greedy , far left liberal jurists in Illinois Supreme court to 'buy' "Yes" votes to consider PLA.

29. Petitioner has an excellent probability of her Petition for Writ of Certiorari be taken for review and consideration by this highest court on the land from the history of numerous cases of similar abuses by Illinois Supreme court, where Certiorari is granted repeatedly by the United States Supreme Court.

"Illinois Supreme Court denied leave to appeal, and we granted the petition for certiorari." 479 U.S. 1063 (1987) ; "Illinois Supreme Court denied the State's Petition for Leave to Appeal, 125 Ill.2d 572, 537 N.E.2d 816 (1989), and we granted certiorari", 493 U.S. 932 (1989); *Cohen v. Beneficial Loan Corp.*, 337 U.S. 541, 546 (1949); *Abney v. United States*, 431 U.S. 651 (1977); cf. *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 476-487 (1975), *People v. Johnson* , 2017 IL 120310 (Ill. 2017); "The Supreme Court of Illinois denied leave to appeal, and we granted certiorari." 440 U.S. 956 (1979). "The Illinois Supreme Court denied discretionary review. App. to Pet. for Cert. 1b. We granted certiorari ", 459 U.S. 986 (1982) ; "Illinois Supreme Court denied petition for leave to appeal. There followed an appeal to this Court, and we noted probable jurisdiction" 440 U.S. 790 ; "The Illinois Supreme Court denied a petition for an appeal. We granted certiorari" 351 U.S. 949 .

30. The petition to file a writ of certiorari is currently due by April 15, 2024

31. Any contemporaneous proceeding in lower state court will <u>seriously prejudice , harm the certiorari</u> *work in progress and work product* .

32. Any *parallel contemporaneous proceedings* in trial court denying due process rights to appeal to this United States Supreme court will seriously prejudice, hamper, hinder, and destroy Petitioner's *case and cause* through a filing a Writ of Certiorari and render Certiorari *moot, redundant.*

33. Petitioner will be appealing the denial of Petition For Leave to Appeal to the United States Supreme Court pursuant to Rule 13 by filing a Petition for Writ of Certiorari.

34. By denying the PLA, the Illinois Supreme court rendered the Constitutional rights and Protection guaranteed to Petitioner/citizen under Fourteenth Amendment Rights invalid; violated the United States Constitution to the extent of committed *treason*; endorsed violations by the lower state court corruption in Judiciary; endorsed *encroachment*, *trespassing* in Federal jurisdiction by the lower state court ; endorsed forgery of *planting* a non-existent, non-jurisdictional removed state case to Federal court, in a state court calendar after more than a year.

35. The denial of the PLA will also be appealed to the United States Supreme court to order the lower court to render any proceeding in lower state court unconstitutional , nullity and void.

36. Petitioner will be appealing to this Supreme court and will be filing a Petition for Writ of Certiorari appealing the historic, unprecedented abuses by the Illinois court.

37. Several statutes and laws under the United States Constitution is held *invalid* by the Illinois court decision, including abuse of violation and denial of protection guaranteed under Due process clause' of the Fourteenth amendment rights of the Petitioner; violation of the Petitioner's Constitutional rights under Title 18 U.S.C. §241,242- by *disenfranchising, denying, invalidating* the Petitioner's constitutional rights .

38. The underlying matter is as to abuses by defendant/respondent of Petitioner's mortgage payments; theft by conversion of mortgage payments; abuses of escrow account; manufacturing, fabricating attempts of foreclosure like respondent Ocwen had done to hundreds homeowners. See Ocwen Loan servicing "RAP SHEET" Group Exhibit 1.

39. Illinois court violated Section 1 of the Fourteenth Amendment bars "depriv[ing] any person of life, liberty, or **property,** without due process of law" or "deny[ing] to any person . . . the equal protection of the laws."

40. Petitioner will be seeking review by this United States Supreme Court of this *significantly unique , historical* case and review of historically unprecedented constitutional abuses through filing of a Petition for a Writ of Certiorari Pursuant to Rule 13 of the United States Supreme Court.

41. United States Supreme court in relation to Indiana State Supreme court abuses of due process rights under Fourteenth Amendment Rights, and subsequent admission by the Supreme court of Indiana of violation of Equal Protection Clause of the Fourteenth Amendment, wrote

42. The discriminatory jurisprudence and disregard to PLA is also due to the Illinois court's *inherent bias, prejudice,* and *conventional disrespect* towards *Pro se* as if *Pro se* petitioner has no right to seek justice, no matter how legally savvy and persuasive arguments made by *Pro se* petitioner ( Gr.Ex.1)

43. The appeal in the instant case to the Illinois Supreme Court is *triggered* by the criminal felony abuses of the judiciary by a rogue , corrupt Chicago Alderman turned "associate judge" , who was under FBI radar when was alderman..

44. The Illinois Supreme court by denying PLA, has endorsed felony abuses , felony forgery of court papers of the lower court in cook county by planting a removed case ; thus the Illinois

Supreme court has *paved an extremely dangerous path* by denying the PLA , and *tacitly* sending signals to a state lower court that the Federal laws, Federal Removal statutes are INVALID; rendered Federal statutes governing *timely* "Removal" of a state case within 30 days to Federal court, are INVALID, and a state lower court can disregard the Federal laws and statutes.

45. In sum, the Illinois court has committed *treason* on the United States Constitution; on Federal Judiciary.

46. Petitioner has an excellent probability of his Petition for Writ of Certiorari be taken for review and consideration by this highest court on the land , for reason this case being incredibly unique and significant from the history of events , facts; flagrant , malicious, vicious abuses of authority; violation of laws; and treason against the United States Constitution and Federal Judiciary as narrated in PLA .(Gr.Ex.Z)

47. This United States Supreme Court has granted certiorari even on lesser significant cases to the instant appeal, where Certiorari is granted repeatedly by the United States Supreme Court:

"Illinois Supreme Court denied leave to appeal, and we granted the petition for certiorari." 479 U.S. 1063 (1987) ; "Illinois Supreme Court denied the State's Petition for Leave to Appeal, 125 Ill.2d 572, 537 N.E.2d 816 (1989), and we granted certiorari", 493 U.S. 932 (1989); *Cohen v. Beneficial Loan Corp.*, 337 U.S. 541, 546 (1949); *Abney v. United States*, 431 U.S. 651 (1977); cf. *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 476-487 (1975), *People v. Johnson* , 2017 IL 120310 (Ill. 2017); "The Supreme Court of Illinois denied leave to appeal, and we granted certiorari." 440 U.S. 956 (1979). "The Illinois Supreme Court denied discretionary review. App. to Pet. for Cert. 1b. We granted certiorari ", 459 U.S. 986

(1982) ; "Illinois Supreme Court denied petition for leave to appeal. There followed an appeal to this Court, and we noted probable jurisdiction" 440 U.S. 790 ; "The Illinois Supreme Court denied a petition for an appeal. We granted certiorari" 351 U.S. 949 .

## C. GRANTING A STAY IS OF PARAMOUNT CONSTITUTIONAL IMPORTANCE ; PARAMOUNT PUBLIC INTEREST AND PUBLIC IMPORTANCE

This is quite a simple case and 'no brainer ' as the *record speaks for itself.*

As detailed elaborately throughout this Application and the supporting Petition For Leave To Appeal, the considerations counseling in favor of a stay are overwhelming. They include preserving this Court's jurisdiction to hear this appeal.

First, the likelihood that this Court will grant certiorari in the future is extremely strong from the sheer 'naked' aggression and insurrection of the Federal Judiciary and Federal Jurisdiction by the Illinois court; abuse, violation of Federal Removal statutes as narrated here and in the attached PLA -Gr.Ex. Z.

Second, there is far more than a "fair prospect" that this Court will order the Illinois court to dismiss any and all proceedings in trial court for lack of jurisdiction; absent even a case.

Third, absent a stay from this Court, irreparable injury to the Petitioner/Applicant will be caused from stalking, harassing threats by respondent Ocwen to the Petitioner ancestral home. See Gr.Ex. Z PLA arguments Page 19, Caption Paragraph VIII - "Mootness Doctrine"

This is a "close case." The balance of equities strongly favor a stay of the mandate.

"The standards for granting a stay of mandate pending disposition of a petition for certiorari are well established." *White v. Florida,* 458 U.S. 1301, 1302 (1982) (Powell, J., in chambers). "[1] There must be a reasonable probability that four members of the Court would consider the underlying issue sufficiently meritorious for the grant of certiorari or the notation of probable jurisdiction; [2] there must be a significant possibility of reversal of the

lower court's decision; and [3] there must be a likelihood that irreparable harm will result if that decision is not stayed." Id. (quoting *Times-Picayune Publ'g Corp. v. Schulingkamp*, 419 U.S. 1301, 1305 (1974) (Powell, J., in chambers)); accord *Karcher v. Daggett*, 455 U.S. 1303 (1982) (Brennan, J., in chambers); *Whalen v. Roe*, 423 U.S. 1313, 1316-17 (1975) (Marshall, J., in chambers).

Furthermore, a stay is warranted where, as here, there never has been such a unique case presented to this court in 240 years. "[t]he underlying issue in th[e] case … has not heretofore been passed upon by this Court and is of continuing importance." *McLeod v. Gen. Elec.* Co., 87 S. Ct. 5, 6 (1966) (Harlan, J.). Thus, "the existence of an important question not previously passed on by this Court" is a factor that weighs in favor of a stay. *Shiffman v. Selective Serv. Bd.* No.5, 88 S. Ct. 1831, 1832 n.3 (1968) ; *Certain Named and Unnamed Non-Citizen Children and Their Parents v. Texas*, 448 U.S. 1327, 1332 (1980) (Powell, J., in chambers) (holding that a case that "presents novel and important issues" warrants a stay). This appeal raises a question of constitutional significance and paramount public interest, and a stay is warranted. *Texas*, 448 U.S. at 1331.

This court has granted Application for Stayin numerous cases , and most recently on February 28, 2024 in 23A745 , *Trump v. United States* .

Hence each of these traditional factors counsels in favor of granting the stay.

**D. HIGH PROBABILITY OF SUCCESS**

There is a high probability that this Court will Grant Certiorari.

The appeal addresses very important, novel, unique at the same time *serious and significant* issue as to whether a state lower court could ignore/infringe/encroach/trespass "Federal jurisdiction" on an UNOPPOSED removed case which the state court itself recognized and

acknowledged "Federal Jurisdiction" ( C. 348-349; C.1505) ; whether Illinois state supreme court by denying PLA with no consideration on merits , can indulge, endorse, aid, abet provable *felony forgery* by a lower court of *planting* the REMOVED case after more than a year in state calendar; whether the Illinois supreme court by denying PLA with no consideration on merits, can indulge, endorse, aid, abet provable in *felony forgery* of *planting* the REMOVED case after more than a year in state calendar without a certified order form District court to REMAND ; without any REMAND motion ever filed by the respondent /defendant Ocwen Loan Servicing .

The Court is likely to grant a petition for certiorari to review these questions. Certiorari is warranted when an Illinois court of last resort render the constitution of United States INVALID; render the Illinois constitution INVALID ; Render Federal laws and statutes INVALID by denying PLA without any review on merits; without any consideration ; ENDORSING FELONIES by a corrupt lower court judge, a corrupt alderman who was under FBI radar when was alderman before 'appointed associate judge' by the Supreme court as a 'reward' for criminal conduct.

## CONCLUSION

The Petitioner intended filing of Petition for a Writ of Certiorari is of extreme and paramount importance in that the Laws, Statutes of the United States Constitution are rendered *invalid, null and void* by the *unprecedented* abuses of the Judiciary by the Illinois courts which include, among other things, invalidating, disenfranchising, denying the Petitioner's constitutional rights; planted a removed case without objection to Federal court and never remanded , and after one year 'planted' in state court calendar; abridged Due process clause of the Fourteenth Amendment rights; violation of Equal Protection of the law; violation of Equal

Access to Justice Act ("EAJA") as summarized in this Application, and PLA which will be fully further briefed in a Petition for a Writ of Certiorari.

Petitioner respectfully request this honorable Court to grant this Application and stay/recall mandate to prevent harm to the Petition for a Writ of Certiorari and several thousands of dollars expended in preparation to file a Petition for a Writ of Certiorari.

Respectfully submitted,

By: Pushpa Shekar
Applicant/ Petitioner/Appellant

March 14, 2024

CSE
950 Plum Grove
P.O.Box 681085
Schaumburg, IL 60168-1085

**CERTIFICATE OF SERVICE**

Pursuant to Supreme Court Rule 29 , the undersigned certifies that the foregoing APPLICATION TO STAY MANDATE was filed the with the Clerk of the Supreme court of the United States via U.S. Mail and served upon the following by First class mail with proper postage affixed and mailed on March 14, 2024, to respondent address shown below.

Ocwen Loan servicing
1661 Worthington Road
West Palm beach, FL 33409

/s/ Pushpa Shekar

129368

# SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

CYNTHIA A. GRANT
Clerk of the Court

(217) 782-2035
TDD: (217) 524-8132

October 31, 2023

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

Pushpa Shekar
450 Schaumburg Road
Unit 68-1085
Schaumburg, IL 61068-1085

In re: Shekar v. PHH Mortgage Corp.
129368

Today the following order was entered in the captioned case:

Motion by Petitioner, *pro se*, for leave to file a Petition for Leave to Appeal Instanter. Denied.

Order entered by Justice Neville.

Very truly yours,

Cynthia A. Grant

Clerk of the Supreme Court

EXHIBIT 1

129368

# SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

CYNTHIA A. GRANT
Clerk of the Court

(217) 782-2035
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November 15, 2023

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
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Pushpa Shekar
450 Schaumburg Road
Unit 68-1085
Schaumburg, IL 61068-1085

In re: Shekar v. PHH Mortgage Corp.
129368

Today the following order was entered in the captioned case:

Revised motion by Petitioner, *pro se*, to reconsider denial of motion for leave to file petition for leave to appeal instanter. Denied.

Order entered by Chief Justice Theis.

Very truly yours,

Cynthia A. Grant

Clerk of the Supreme Court

EXHIBIT 2

# SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

CYNTHIA A. GRANT
Clerk of the Court

(217) 782-2035
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February 28, 2024

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Chicago, IL 60601-3103
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TDD: (312) 793-6185

Pushpa Shekar
450 Schaumburg Road
Unit 68-1085
Schaumburg, IL 61068-1085

In re: Shekar v. PHH Mortgage Corp.
129368

Today the following order was entered in the captioned case:

Motion by Petitioner, *pro se*, to recall and stay the mandate pursuant to Rule 23(3) and Rule 13 of the U.S. Supreme Court and Rule 368(c) of the Illinois Supreme Court pending filing/disposition/final order on petition for writ of certiorari to the U.S. Supreme Court. Denied.

Order entered by Chief Justice Theis.

Very truly yours,

Cynthia A. Grant

Clerk of the Supreme Court

EXHIBIT 3

# EXHIBIT "4"

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**
**COUNTY DEPARTMENT, CHANCERY DIVISION**

OCWEN LOAN SERVICING, LLC
Plaintiff

v.

Case No. 18 CH 14593

Raj G. Shekar; Pushpa M. Shekar; Emerald Hills Homeowners Association; Teledyne Technologies Incorporated; Unknown Owners and Non Record Claimants;
Defendants.
Defendant(s)

15 Eagle Court, Streamwood, IL 60107

**MORTGAGE FORECLOSURE CASE MANAGEMENT/STATUS ORDER**
**(Residential and Commercial)**

This matter coming before the Court for a case management conference pursuant to Supreme Court Rule 218; counsel for Plaintiff present before the Court and _____ present on behalf of Defendant(s); and the Court being advised in the premises;

**IT IS HEREBY ORDERED AS FOLLOWS:**

___ 4619 This matter is continued for further case management to _____/_____/_____ at _____ a.m./p.m. in Courtroom _____.

___ By separate Order, the Defendant(s) _____
[Insert name(s) of Defendant(s)]

___ are referred to the Access to Justice Program

___ 4421 Motion for Mediation is granted and this case is referred to mediation.

X 4331 This case is stricken from the case management call, the Court having determined that no further case management conference is necessary.

___ Defendant failing to comply with the Case Management/Status Order dated _____/_____/_____,
Defendant(s) Motion for Mediation is denied and the case is stricken from the case management/status call.

___ Plaintiff failing to comply with the Case Management/Status Order dated _____/_____/_____, this matter is stayed and Plaintiff is prevented from seeking entry of judgment of foreclosure until full compliance with this order.

___ 8099 This case is stricken from the call, the case having been previously disposed of by a Final Order entered on _____/_____/_____. (Attach Final Order.)

___ 8003 Dismissed with leave to reinstate, without costs, upon motion supported by Bankruptcy Court documentation filed within ninety (90) days of resolution of Defendant(s)' pending bankruptcy.

___ 8016 Dismissed, pursuant to Section 2-1009, with leave to reinstate upon Motion supported by Affidavit, filed and presented within one (1) year of this dismissal, if Defendant(s) default on the repayment plan, or other settlement agreement.

___ 8005 This case is dismissed for want of prosecution.

___ Other: _____

___ This case is assigned to the Mortgage Foreclosure Case Manager for Calendar _____.
Case Manager Name: _____
Email: _____@cookcountyil.gov
Telephone: (312) _____-_____. Fax: (312) _____-_____.

**IT IS FURTHER ORDERED AS FOLLOWS:**

1. **DEFENDANT(S)** _____ having appeared in open court and representing that _____;

(a) ___ 4234 Defendant(s) is/are granted leave to file ___ Appearance ___ Answer/Otherwise Plead on or before ____/____/____.

(b) ___ Defendant(s) shall meet with HUD-certified housing counseling agency (1-877-895-2444) or the Illinois Attorney General Office - Consumer Protection Division (1-866-544-7151).

(c) ___ 4215 Defendant(s) shall submit the documents identified below on or before _____/_____/_____ to Plaintiff's counsel at the following address:
Plaintiff Firm Name: _____



C 348

Responsible Attorney: _____
Address: _____
Work Telephone: (____) _____-_____ Ext. _____ Work Fax: (____) _____-_____
Email Address: _____

***The following documents shall be submitted by the Defendant(s):***

___ Application for a loan modification, including a hardship affidavit if necessary.
___ Bank statements for the period covering ____/____/____ through and including ____/____/____.
___ Income tax returns filed for the period covering ____/____/____ through and including ____/____/____.
___ Pay stubs for the period covering ____/____/____ through and including ____/____/____.
___ Other: _____

(d) ___ Defendant(s) shall report the completion of the checked items above in 1(a) through 1(c) to the Case Manager by ____/____/____.

(e) ___ Defendant(s) represent(s) Defendant's current contact information is:
Address: _____
Telephone (1): (____) _____-_____ ___ Home ___ Cell ___ Work ___ Other
Telephone (2): (____) _____-_____ ___ Home ___ Cell ___ Work ___ Other
Email Address: _____

2. **PLAINTIFF'S Counsel** having appeared in open Court and representing that:
___ Plaintiff received Defendant(s)' application for a loan modification, the application was incomplete and additional documents are needed from the Defendant(s).
___ Plaintiff received Defendant's application for a loan modification and the bank/servicer has not reviewed the application.
___ Plaintiff received Defendant's application for a loan modification and the bank/servicer denied the request for a modification on ____/____/____.
___ Plaintiff did not receive Defendant(s)' application for a loan modification.
___ Plaintiff's counsel has insufficient knowledge of any application for a loan modification submitted by Defendant(s) to Plaintiff to confirm receipt or make any other representations.
___ Other: _____.

(a) Plaintiff shall:
___ Report back to the Court the status of _____ on or before ____/____/____.
___ Review documents identified in 1(c) above on or before ____/____/____.
___ Review documents previously submitted by Defendant(s) on ____/____/____ on or before ____/____/____.
___ Other: _____.

(b) ___ Plaintiff shall make a decision on the Defendant(s)' application for a loan modification on or before ____/____/____.

(c) ___ Plaintiff's counsel shall report the completion of the checked items above in 2(a) through 2(b) to the Case Manager by ____/____/____.

**Atty No.:** 42463
**Name:** THE WIRBICKI LAW GROUP LLC
**Atty. For:** PLAINTIFF
**Address:** 33 W. MONROE ST., SUITE 1540
**City/State/Zip:** CHICAGO, IL, 60603
**Telephone:** 312-360-9455

**ENTERED:**

**Dated:** _____

_____
**Judge** **Judge's No.**

JAN 25 2019
Circuit Court - 2054

**DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS**

Activity Date: 01/25/2019 Participant: OCWEN LOAN SERVICING, LLC

**STRIKE FROM CASE MANAGEMENT CALL - ALLOWED**

Judge: LYLE, FREDDRENNA M.

Activity Date: 12/07/2018 Participant: OCWEN LOAN SERVICING, LLC

CASE REMOVED TO FEDERAL COURT

Court Room: 2808

Attorney: PRO SE

Activity Date: 12/07/2018

NOTICE OF FILING NOTICE OF REMOVAL

August 28 ,2020

By: **/s/Pushpa Shekar**
Appellant

Justice Clinic
450 Schaumburg Road
P.O,Box 681085
Schaumburg, Il 60168-1085

**Justice Hoffman , First District Appellate court delivered the opinion order**

In **Bank of America v. Bozek,** case No. 1-17-0386, (Ill. App. Ct. 2018)

In his opinion affirming the fact that the State court has **no jurisdiction once the Notice of Removal filed with the clerk of the State court** , Justice Hoffman stated, " The circuit court lacked jurisdiction to **enter any orders after the date the defendants filed a notice of removal to federal court** pursuant to section 1441 of Title 28 of the United States Code (28 U.S.C. § 1441 et seq. (2012)). The State **court loses jurisdiction to proceed further until the case is remanded."** (Emphasis added ) cited cases: **Eastern v. Canty**, 75 Ill. 2d 566, 571 (1979); **Hartlein v. Illinois Power Co**., 151 Ill. 2d 142, 154 (1992).

Justice Hoffman further speaking as "devil's advocate' wrote: " Even if the basis of the district court's remand is that the case was not removable, **no action taken by the State court in the interim can stand."** **Eastern,** 75 Ill. 2d at 571. " As a result, courts have consistently held that once a **notice of removal has been filed, the state court is prohibited from proceeding any further unless there is an order of remand. Proceedings that take place between removal and remand are void. Illinois Licensed Beverage Ass'n, Inc. v. Advanta Leasing Services,** 333 Ill. App. 3d 927, 933 (2002)"

Noting that Bank of America never disputed removal, (just like in the instant appeal ) , Justice Hoffman further stated, "**the circuit court automatically lost jurisdiction**. Moreover, once the instant case was removed from the state court , only the federal court could restore jurisdiction to the circuit court by issuing a 'certified' remand order.' See 28 U.S.C. § 1447(c) (2012)" **Bank of America** , Supra.

# GROUP EXHIBIT "Z"

# In The
# Supreme Court Of The State Of Illinois

**129368**

| | |
|---|---|
| Pushpa Shekar, | ) |
| Petitioner /Appellant , | ) Appeal from the First District Appellate court, |
| | ) Appeal No,1-19-2326 ,1-20-1009 |
| | ) (Consolidated) |
| | ) There heard from Appeal from the Cook County |
| | ) District 1 Trial court No: 18CH14593 |
| | ) Judge Lyle Presiding |
| | ) |
| Ocwen Loan Servicing, | ) |
| | ) |
| Respondent/Appellee. | ) |

# PETITION FOR LEAVE TO APPEAL

**ORAL ARGUMENT REQUESTED**

## PRAYER FOR LEAVE TO APPEAL

The Petition For Leave To Appeal is of Paramount importance to protect the Constitutional rights of the Petitioner. Petitioner/Appellant rights are *disenfranchised, invalidated, and denied* by the Appellate court; unconstitutionally and *creatively shut the doors to the Courthouse* to redress grievances; *tacitly* denied Appeal as of Right. The trial court *illegally thrusted* itself jurisdiction it did not have on a removed case to Federal court , per trial court's own orders which acknowledged Federal Court Jurisdiction. (C.348-349; C.1505)

Petitioner seeks the following relief :

- To dismiss with prejudice the circuit court's *sua sponte* 'planted' a *non-existed* chancery case

*Alternatively*,

- Find that Appellate court has jurisdiction to hear the Appeal

## STATEMENT

- On 11/21/2022 the Appellate Court entered an order declining Appellate jurisdiction.
- On 12/27/22 Petitioner filed Petition For Rehearing.
- On 1/11/2023 the PFR denied
- On 2/1/2023 Petitioner sought Rule 316 certification
- On 2/6/2023 Rule 316 certification denied.

## POINTS RELIED UPON FOR THE SUPREME COURT REVIEW

1. The Appellate Court, without review of the record *de novo*, *erroneously* decided it has no jurisdiction in a *half-page* order, no opinion entered.
2. The Trial court is deprived/denied jurisdiction when the state case was removed *unopposed* to Federal court on 12/7/2018; no remand filed by the Appellee.
3. The trial court and the appellee repeatedly *acknowledged/admitted/accepted* the removal of the state case to Federal court.
4. A year later in October 2019, appellee (defendant in Federal court) fraudulently '*planted*' the removed Federal case in state court calendar, set *exparte* 'status', such *clandestine act* aided, abetted by the trial court.
5. The unconstitional act and abuse of judiciary by trial court forcing *suasponte* jurisdiction of a removed case; never remanded back to state court; never existed in State court calendar, is Appealed to Appellate court.
6. Appellate court wrongfully, erroneously declined jurisdiction; *tacitly* acknowledged in its 1/11/2023 order that the trial court wrongfully assumed jurisdiction, and as "appropriate remedy" to file in Supreme court "Petition For Writ of Mandamus." **(Appendix Exhibit A)**
7. This PLA followed.

## STATEMENT OF FACTS

As grounds for the requested relief, Petitioner state the facts supported with evidentiary record.

The Petitioner (Appellant/Plaintiff) along with her husband bought their home in 2003 for $350,000 with $ 80000 down payment; and mortgage for $270,000 qualified at 5% APR from stellar credit/FICO score of over 850. (the prevailed interest rate in 2003 was 9.5%). The initial mortgage was with GMAC in 2003 until 2014, when the mortgage changed hands to Appellee, Ocwen Loan Servicing.

As said in Bible, "A leopard cannot change its spots," Ocwen resumed their mortgage crimes. See **Appendix Group Exhibit 1.** Ocwen defrauded the Petitioner Mortgage tax escrow funds; defaulted in Cook county taxes; defrauded escrow premiums for home insurance. Due to fraud by Ocwen in *mishandling* the escrow monies, Petitioner and her husband demanded the escrow account be closed; and that Petitioner would remit taxes directly to Cook county; will pay the annual premium directly to the insurance carrier.

In response to Petitioner/Homeowner demand, on or around September 2016, Ocwen counsel sent a written agreement letter (referred as EMA-Escrow Modification Agreement) that the "escrow account closed" that petitioner would be paying the taxes directly to Cook county starting tax year April 2017 and would be paying the annual premium directly to the insurance carrier. As further confirmation of the EMA, the Ocwen monthly statements coming out from October 2016 reflected only **the Principal and interest payment as due and the escrow account line item removed**. The next tax bill was not due until May 2017, and hence nothing was due as to taxes as of the date of

EMA of September 2016. The Petitioner had already paid annual premium on 8/1/2016 directly to the carrier for coverage through 2017. Hence Ocwen had *surplus* insurance escrow dollars as positive escrow balance. Ocwen stole and swindled and never refunded the surplus insurance premium funds. (This is also noted in the District court order attached in **Appendix Exhibit 1,** finding defendant Ocwen **breached the contract.**)

## A. EVENTS IN CIRCUIT COURT

As stated in FACTS, Ocwen signed the legal document "EMA", which closed the escrow account. After sending initial statements in October-December of 2016 for Principal and interest only per EMA, appellee Ocwen defaulted, breached the agreement. (App.Ex.1)

As a starter, starting December 2016 the payments made by the Petitioner for Principal and Interest not credited/applied/reflected towards the Principal in January 2017 statement. Instead, the statement showed in December 2016 Ocwen created on its own a "suspense account" and diverted the monthly payments of Principal and Interest to the illegally created account. It is later discovered that Ocwen '*coloring*' their fraud in creation of 'suspense account' is to *circumvent and camouflage* their illicit, clandestine creation of an *alter ego* 'escrow account' in violation of the EMA.

When petitioner reported the abuses to then Illinois Attorney General Lisa Madigan as to the violations of the "settlement agreement" she *hammered* in 2016 (attached as **Appendix Exhibit 2),** Ocwen stopped sending monthly statements. Despite this abuse, fraud, default and breach of EMA by Ocwen, Petitioner continued to make monthly Principal and intertest payments as per EMA contract. None of those payments

since 12/2016 credited towards the Principal, instead Ocwen continued to divert those monthly Principal and interest payments to the fraudulently created "escrow/suspense account."

It is also discovered that beginning March 2017, Ocwen have also been feeding false reporting to Consumer Credit Reporting Agencies, that Petitioner in *default in payments*; *delinquency in payments*; sent *threatening collection notices, default notices, threats and harassment* of foreclosure - all of these criminal acts when Ocwen continued to receive Principal and interest payments as agreed per EMA. Such abusive, false, derogatory reports by Appellee/defendant Ocwen to credit bureaus, IRREPARABLY DESTROYED the Petitioner and her husband credit score of 850 built over decades of hard work, to a despicable FICO score of 550.

Additionally, when petitioner was still making timely payments like has been since 2003, Petitioner discovered that sometime in March 2017 the ruthless white collar criminal Ocwen had indulged in yet another *clandestine criminal activity* and had listed the petitioner home as "foreclosure sale", "home in default", *slandered the title* in public domain; *depreciated* the value of the property with false 'foreclosure' listing, (with no judicial proceedings; not even a case filed/existed.)

After tolerating the abuses for over a year by Ocwen and per the suggestion by an assistant Illinois Attorney General under Lisa Madigan, Petitioner and her husband sued Ocwen in Law Division Cook County in February 2018 on multiple counts including claims under FACTA, FCRA, and sought FIVE Million dollars in damages and TWENTY Million dollars in punitive damages, Cook county case No: **2018-L-1197**

In order to gain unfairly *forum advantage*, the defendant Ocwen in Law division case as a *deceptive tactic* removed the Law division case untimely after 87 days to Federal Court well after 30 days, despite Ocwen has jurisdiction to be hauled into any State court in Illinois.[1] Also, eleven months after the defendant Ocwen was sued in Law division; six months after defendant Ocwen removed the Law Division case to Federal court in June 2018, Ocwen filed a frivolous, false, perjured foreclosure complaint in November 2018 in Chancery Division, Cook County, with an intent to 'neutralize' and 'washout' the legitimate, facts based law suit against Ocwen.[2] The petitioner *promptly and timely removed* the Chancery case to Federal court, on 12/7/2018 and *consolidated* with the then pending Law division case in Federal court (removed by defendant Ocwen). C. 75-80; C.1505; C.348-349.

***No Objections To Removal Ever Made By The Defendants Ocwen In Federal Court And/or In State Court; No Remand Filed***

On the first status date of 1/25/2019 in Chancery case, with no objection from defendant/Appellee, the trial court acknowledged that the Chancery case removed to Federal court; told the defendant/appellee as to "Federal Court Jurisdiction"; struck the case from State court calendar; and further found "*no further status date necessary*". C.348-349; C.1505; C.75-80.

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[1] A foreign corporation that does business in Illinois under section 2 is considered to have consented to being sued here" *Cook Associates*, 87 Ill.2d at 196, 199, 429 N.E.2d at 849, 851

[2] "Abuse and bad faith foreclosure complaint" is a Class 4 felony to unlawfully "cloud a title" 720 ILCS 5/32–13 (West 2010)See Pub. Act. 98–98;Sanctions, fees, costs and punitive damages.

Additionally, on another status date before on 1/3/2019 in Federal court, Appellee/Ocwen acknowledged and informed the Federal judge that defendant Ocwen aware of the Chancery case removed to Federal court and consolidated with the pending Ocwen removed Law Division case; made no objection to removal verbally or through any filing. (C.75-80)

Despite the case had been pending in Federal Court, ten months later in October 2019, Appellee/defendant Ocwen *crawled through the backdoor of Daley center*, 'planted' the removed chancery case in State court calendar and set a *covert, exparte* status date; held *exparte clandestine meetings* with the trial court Lyle. Upon discovered the foul play and fraud on Judiciary by trial court Lyle in collusion with Ocwen, Petitioner filed a timely Notice of Appeal challenging Circuit court *clandestine, backdoor activities* and "planting' a *non-jurisdictional, non-existent and removed* chancery case in State court at Lyle's '*will and pleasure*' and '*whims and fancies*'

## B. EVENTS IN APPELLATE COURT

Petitioner/Appellant was unable to access the appellate record as *Pro se* to file brief (for which Appellant paid over $700 ) through **re:SearchIL** as it *outputted* an error asking for ARDC number. The record will evidence that Appellant /Petitioner sent several E mails to a clerk notifying him of the difficulty to access the record, thus impeding filing of opening brief. The E mails were all ignored for over seven months with an intent to impede, create default, block Appellant from filing the brief. See **Appendix Group Exhibit 2**

Some three years later of the Notice of Appeal, in September 2022, Appellee Ocwen filed an appearance in the Appeal, after a failed 'coup' in August 2022 of a Felony extortion and Felony Home invasion (**Appendix Exhibit 3**), to intimidate the petitioner to 'walkway' and abandon the property like Ocwen had done to numerous homeowners for which Ocwen was sued by every State Attorney General (App.Gr.Exhibit 1); filed a frivolous, baseless, bad faith Motion To Dismiss and *cunningly avoided citing certain docket entries* from the record which are *not favorable* to the Appellee *sham bogus* MTD contesting the Appellate court jurisdiction.

Petitioner/Appellant still had no access to record as of November 2022 and hence was unable to respond to MTD thoroughly with citations and references to the record. It took a motion to compel and an order of the court for the clerk to send the .pdf record via E mail which took ten seconds, but was viciously, willfully, maliciously held as 'hostage' for seven months.

In the interim while awaiting the ruling on motion to compel the clerk to produce the record, Appellant as due diligence in an effort to respond to the MTD, filed a "Preliminary response" without the advantage of referring the record "Bates numbers" but still cited relevant orders in Circuit court from personal notes and screen shots taken from Clerk website since December 2018, which included entry of January 25, 2019 order .(C.1505) The order 11/21/2022 by the Appellate court *misrepresented facts* that "no such orders or entries cited in Appellant preliminary response available in record and in clerk website". **Appendix Exhibit B**

Appellant was forced to file a *discretionary* Petition For Rehearing, and cited relevant Record with 'Bates numbers' which for 'mysterious unknown ulterior

motive' Appellate court could not see the record on C.348-349,C.1505 " available and etched in record" and placed Appellate court abuses/judicial malpractice in *lime light*. PFR attached as **Appendix Group Exhibit 3.**

Upon realizing that 11/21/2023 order is a mistake from the record evidence in PFR, the Appellate court *flip-flopped, twisted, manipulated, defrauded* the Appellant once again; *tactically and tacitly* shifted the jurisdiction to this Supreme court in its 1/11/23 order, **(Appendix Exhibit A),** and **denied the PFR, thus denied Appeal as of right; converted to discretionary appeal** suggesting a "Writ of Mandamus as appropriate remedy" and passed on to this Supreme Court *discretionary* consideration; *skirted* Appellate jurisdiction.

Appellant/Petitioner subsequently asked for Rule 316 certification and used the Petition for 316 certification to make legal arguments as well, that the cases cited in denying PFR is out of context, inapplicable. See **Appendix Group Exhibit 4.** Despite the Appellate court had granted certification on far less legal issues and for insignificant, trivial cases, as a pattern of *continued discriminatory jurisprudence, bias, prejudice, unprecedented judicial arrogance*, continued to harass the Petitioner and denied Rule 316 certification.

## PRELIMINARY BRIEF IN SUPPORT OF THIS PETITION

*Argument*

### I. *PLA Challenges The Circuit Court Jurisdiction; Seeks To Order Appellate Court Has Jurisdiction On The Appeal*

The law, statutes, record evidence will prove that the Appellate Court willfully overlooked, ignored the record; *skirted* jurisdiction; ignored the record; misapprehended, misrepresented facts; misapplied case laws; ignored the Law; ignored *precedent authorities* from this Supreme Court and United States Supreme court; disenfranchised Appellant/Petitioner rights to clear their path of travesty of justice to 'fix" the Appeal in favor of Appellee; 'Rushed to Judgment' in its 1/11/2023 Order denying PFR within FIVE business days with no consideration whatsoever; *erroneously concluded* that the Appellate Court has no Jurisdiction.

Ironically, and on the *contrary*, there is no Jurisdiction in Circuit Court as there is NO case and hence the Appeal cannot be even remanded to circuit court of a non-existent case in *vacuum*. In other words the case stuck in Appeal and cannot go anywhere. However, this Supreme court can remand the appeal to the Appellate court ordering that Appellate court has jurisdiction **and /or dismiss the trial court case altogether** ***in view of Judicial economy, in addition to other well pleaded grounds*** argued here in this Petition.

The underlying Appeal is filed under Rule 303 on a final appealable order, and not required to have 304 (a) language as there existed no case in trial court; there never a case existed in circuit court since 12/7/2018 Notice of removal (C.75-80). The circuit court case was Removed UNOPPOSED to Federal court (C.74-75).

The appeal for all practical, statutory purpose filed under Rule 303. There cannot be a 'final judgment on a non-existing, non-jurisdictional case' in trial court as already argued in preceding paragraphs.(C.348-349;C.75-80;C.518-519). Furthermore, on 1/25/2019 the circuit court *verbally* told the Appellee counsel the case in "Federal Jurisdiction". The docket entry in clerk's website reflected the verbal statement by court, consistent with 1/25/2019 order and available in record (C.1505; C.348-349).

However, mysteriously for unknown reasons, and whatever the *ulterior motive/intent* might be, the 'blindsided' Division 6 panel is 'blindfolded' and pretended *oblivious* of the record and "unable" to see any record- C.348-349; C.1505; C-75-80 as claimed in 11/21/2022 order. (App.Ex.B). As proved here with material evidence, the record does not support 11/21/2022 order.

Even on a multicount action, Appellate courts have held that that "it is appealable under Rule 303" **even if a single count is dismissed**, (tacitly implied Rule 304 language not required). "An order is considered final if it disposes of the rights of the parties either with respect to the entire controversy or some definite and separate portion thereof." *Arachnid, Inc. v. Beall,210 Ill. App.3d 1096, 1103,569 N.E.2d 1273,1277 (1991).* "It is well established that the statement of a single claim in several ways, even by multiple counts, does not warrant a separate appeal." "[W]here the bases for recovery under the counts that are dismissed are different than those under the counts left standing, the dismissal is appealable because it **disposes of a distinct cause of action**." *Heinrich v. Peabody International Corporation, 99 Ill.2d 344, 348,459 N.E.2d 935,938 (1984).*

Here, as the record will show, the trial court **disposed "a distinct issue as to jurisdiction and accepted "Federal Jurisdiction"** on 1/25/2019 with no objections by the

defendant/Appellee. *Arachnid, Inc. v. Beall* , Supra. The 1/25/2019 order is final .(C.348-349; C.1505) .There is nothing from 1/25/2019 order *detrimental* to Appellant/Petitioner requiring appeal. However, the inappropriate, *clandestine, exparte* status date of 10/8/2019 by the Appellee on a non-jurisdictional, non-existed, non-existent lower court case triggered the appeal filed on 10/9/2019, docketed under 19-2326 challenging the lower court Jurisdiction, (C.518-519)

## II. *Issues Not Raised In The Lower Court Are Waived And May Not Be Raised In Appellate Court*

"**Issues raised for the first time on appeal are waived.**" *Employers Insurance of Wausau v. Ehlco Liquidating Trust.*186 Ill. 2d 127, 161, 237 Ill.Dec.82,708 N.E.2d 1122 (1999).

Appellate court ignored the facts from record; allowed *rubbish* in Appellee MTD to raise issue never raised before as to Federal Jurisdiction– either in State court or in Federal Court; never contested the termination of the case in lower court on 1/25/2019 and never contested/opposed the removal on status on Federal court on 1/3//2019. (C.348-349; C.75-80). In fact the 1/25/2019 order (C.348-349) was drafted, and box checked by the Appellee counsel inside the court room and Judge Lyle signed the order, **clearly establishing "meeting of mind" as to uncontested/unopposed removal.** In the same manner, on 1/3/2019 status date on District case, the defendant Ocwen acknowledged the removal and consolidation and told the court as "aware of it" **clearly establishing "meeting of mind" as to** as to uncontested/unopposed removal. (defendant still had five more days on 1/3/2019 to file any petition to remand.)

"Issues not raised in the lower court are waived and may not be raised for the first time on appeal." First District, Second division, *Ikpoh v. Zollar,*321 Ill. App.3d 41, 746 N.E.2d 776 (2001); "Illinois courts have frequently held that issues not presented to or considered by the trial court may not be first raised on review and that theories raised in the lower court may not be changed on review". *Malatesta v. Leichter* 186 Ill. App. 3d 602 (Ill. App. Ct.1989), Appellate Court of Illinois, First District, citing *Kravis v. Smith Marine, Inc.*(1975), 60 Ill.2d 141,324 N.E.2d 417; *Tomaso v. Plum Grove Bank* (1985), 130 Ill. App.3d 18, 473 N.E.

Appellate court abused Appellant's rights; indulged in miscarriage of justice; sheer injustice; ignored the law; ignored precedent authorities; illegally and unlawfully allowed appellee to *raise issue for the first time* in MTD when Appellate court knew from the record that no objection made to removal on 1/25/2019 (and in Federal court on 1/3/2019 status)

These indisputable facts are available in record which the Division 6 panel is /was fully knowledgeable and aware contrary to untruthful statements *dished out* in its11/21/2022 order. (App.Ex.B)

### III. *When A Case Removed, Only Upon A Certified Order of Federal Court As To Remand, State Court Could Contemplate, Jurisdiction, If At All Any*

"The State court **loses jurisdiction to proceed further until the case is remanded**." (Emphasis added) *Eastern v. Canty,*75 Ill. 2d 566, 571 (1979); *Hartlein v. Illinois Power Co.,* 151 Ill. 2d 142, 154 (1992); "courts have consistently held that once a notice of removal has been filed, the state court is **prohibited from proceeding any further unless there is a certified order of remand** ; the State **court loses jurisdiction to proceed**

**further until the case is remanded** " *Musa v. Wells Fargo of Delaware Trust Co.*, 181 So.3d 1275,1283-84 (2015); *State ex rel. Morrison v. Price*, 285 Kan. 389, 394-96 (2007).

Illinois Supreme court has recognized that filing the Notice a removal with the State court "the State court loses jurisdiction to proceed further until the case is remanded." *Hartlein v. Illinois Power Co.*,151 Ill. 2d 142, 154 (1992); *Lawrence M.*,172 Ill.2d 523, 526, 219 Ill.Dec.32, 670 N.E.2d 710 (1996). *Eastern v. Canty*, 75 Ill.2d 566, 571, 27 Ill.Dec. 752, 389 N.E.2d 1160 (1979); *Sentry Ins.,Co. v. Cont'l Cas. Co citing Fuqua v. Svox AG* 13 N.E.3d 68 (Ill. App. Ct. 2014)

The 'unopposed' 1/25/2019 order 'sealed the removal', C.348.349; C.1505 Defendant Ocwen failure to oppose the removal is deemed accepted, *Modrowski v. Pigatto*, 712 F.3d 1166,1167 (7th Cir.2013). Even assuming (as devil's advocate) any defect in removal, United States Supreme court held," there exists no 'timely raised defect' in removal procedure." *Things Remembered, Inc. v. Petrarca*, 516 U.S.124 (1995)

## IV. *Appellate Court Has Jurisdiction Circuit Court Does Not; And Divested of Jurisdiction*

Affirming the fact that the State court has no jurisdiction once the Notice of Removal filed with the clerk of the State court, Justice Hoffman of the very same First District Appellate court stated, Appendix **Exhibit 4 -**

" The circuit court lacked jurisdiction to enter any orders after the date the defendants filed a notice of removal to federal court. The State court **loses jurisdiction to proceed further until the case is remanded**." *Eastern v. Canty*, 75 Ill. 2d 566, 571 (1979); *Hartlein v. Illinois Power Co.*, 151 Ill. 2d 142, 154 (1992); "courts have consistently held that once a notice of removal has been filed, the state court is prohibited from proceeding

any further unless there is an order of remand".(C. 348-349; C.1505 ); *Modrowski v. Pigatto.* Supra.

" **Proceedings that take place in State court after removal and without remand are void**," *Illinois Licensed Beverage Ass'n, Inc. v. Advanta Leasing Services*, 333 Ill. App. 3d 927, 933 (2002)". Noting that Bank of America never disputed removal, (just like in the instant appeal), Justice Hoffman further stated, "**the circuit court automatically lost jurisdiction.** Moreover, once the instant case was removed from the state court **only the federal court could restore jurisdiction to the circuit court by issuing a 'certified' remand order.** *Bank of America* , Supra. (Exhibit 4)

For a proceeding should be valid Circuit court must have jurisdiction. *BAC Home Loan Service LP v. Mitchell* 2014 IL 11311; *Stopka v. Kalousek* 2015 Il App (2015) 142236. *Stopka v. Kalousek* 2015 Il App (2015) 142236.

Appellate court is fully aware that the Appeal is about challenging the lower court *exparte* assumed delusional jurisdiction as argued here. The matters raised in the Notice of Appeal challenge the *impropriety, and abusive flip-flopping jurisprudence* of the lower court assuming unconstitional jurisdiction which triggered the appeal. . (C.348-349; c.1505). "An appellate court has jurisdiction of all those matters raised in the notice of appeal," *Wells v. Kern (*1975), 25 Ill. App.3d 93, 322 N.E.2d 496.) *People v. Gallinger* (1989),191 Ill. App.3d 488, 490; *People v. Harvey* (1972), 5 Ill. App.3d 499, 502. Additionally, "Filing of a Notice of Appeal" (on 10/9/2019 ) caused jurisdiction of the reviewing court to attach immediately, and it further deprived the trial court of any jurisdiction of the cause of action". *People v. Baker*, 85 Ill.App.3d 661,662(1980); *People v. Carter*, 91 Ill.App.3d 635, 638 (1980); *People v. Brigham*, 477 Ill.App.2d

444,452 (1964).] "Any orders entered without jurisdiction are nullity and void and has no effect," in addition to Notice of Removal already deprived trial court jurisdiction.

### V. *Appellate Court Abused its Discretion; Failed to Review the Appeal Under De Novo Standards*

"Appellate court has jurisdiction to consider an appeal presents a question of law which we review *de novo" Gardner v. Mullins,* 234 Ill.2d 503, 508, 334 Ill.Dec. 617, 917 N.E.2d 443 (2009); *In re A.H.*, 207 Ill.2d 590, 593, 280 Ill.Dec. 290, 802 N.E.2d 215 (2003)". "Appellate court was asked to review the record before any order entered." *Lake Envtl., Inc. v. Arnold* No.118110, at 6 (Ill. 2015). The appeal is from illegal *circumstance* caused by the lower court *clandestine jurisdictional assumption*, on a terminated case without objection per lower Court's own order on 1/25/2019 (C.348-349).

Appellate court denied Appellant's Rights for a *de novo* review; ignored review of the record; ignored review of lower court violations of law, judicial abuses and facts that lower court acted without authority or jurisdiction. Appellate court instead, 'cunningly shifted jurisdiction' to this Supreme Court, that "Writ of Mandamus as appropriate remedy" knowing filly well such remedy is *discretionary, and not as of right* whereas Appellate review is mandatory as of right. *Reliable Fire Equipment Co. v. Arredondo*, 2011 IL 111,871; *Khan v. BDO Seidman, LLP*, 408 Ill. App. 3d 564, 595 (2011); *In re Detention of Hardin*, 238 Ill.2d 33, 39 (2010); *In re Luis R.*, 239 Ill. 2d 295, 299, 941 N.E.2d 136,139 (2010).

Petitioner/Appellant proved in PFR that statements made in 11/21/2022 and 1/11/2023 orders are patently wrong, erroneous; argued that the case laws cited in those orders are inapplicable, out of context; supported, argued with rebuttal authorities and

evidence as to Appellate court manipulation, concealment of record in its 11/21/2022 order to *defraud* this Appellant/Petitioner.

The miscited *EMC Mortg. Corp. v. Kemp* 367 Ill. Dec. 474 (Ill. 2012) in its 1/21/2022 order is not applicable and irrelevant to the instant appeal. In *EMC Mortg. Corp.*, Kemp's appeal challenge an order "during **pendency** of a foreclosure action." In the instant *distinct* appeal, there exist "**no pendency of lower court case.**" The lower court case **terminated as of 1/25/2019** (C. 348-349) *There Exists No Foreclosure Case. The Case Law is Misquoted.*

## VI. *Circuit Court Divested /Denied/ Deprived of Jurisdiction ; Appellate Court Jurisdiction Attaches Once NOA Filed; January 25,2019 order Of Trial court Is Deemed Final*

A notice of appeal is necessary to invoke the jurisdiction of the Appellate court. *Burtell v. First Charter Service Corp.*, 76 Ill. 2d 427, 433-34, 394 N.E.2d 380,382 83 (1979); *Nussbaum v. Kennedy*, 267 Ill. App. 3d 325, 329, 642 N.E.2d 151, 155 (1994). The cited cases in their opinion stated: "**This does not mean that strict compliance with every requirement of Rule 303** is needed to confer jurisdiction", *Burtell,* 76 Ill. 2d at 433, 394 N.E.2d at 382,383; *Nussbaum,* 267 Ill. App. 3d at 328, 642 N.E.2d at 154. "As long as a notice of appeal is sufficient to serve this purpose, it is **sufficient to invoke our jurisdiction.** If the notice of appeal fairly and accurately sets out the order appealed and relief sought, **it is sufficient to confer jurisdiction**" . *Burtell*, Supra; *Nussbaum,* Supra.

" **This Supreme Court intervention is necessary to keep an inferior tribunal from acting beyond the scope of its authority**," *Bakalis,*196 Ill. 2d at 513, 256 Ill.Dec. 865, 752 N.E.2d 1107.

## VII. *Appellate Court Willfully Ignored Case Laws; Abused Its Discretion In Denying Rule 316 Certification To This Supreme Court; Acted Against its Own Prior Certifications*

As argued here with evidence of record and Appendix Exhibits attached, the Appellate court indulged in *discriminatory jurisprudence; partiality in justice*; denied the Rule 316 certification by overruling the precedents set by this Supreme court; overruling its own prior certifications in far less important cases with far less compelling causes for certification. *State Security Insur. Co. v. Burgos* 145 Ill. 2d 423, 426 (Ill. 1991); *Drews v. Gobel Freight Lines. Inc.*, 144 Ill. 2d 84, 88 (Ill. 1991) (among other things certified, whether a jury award was excessive). Appellate court certified the question even on *trivial issue* to this Supreme court in *Mulvey v. Illinois Bell Telephone Co.*, 53 Ill. 2d 591, 600 (Ill. 1973), where *Mulvey* sole contention for sought Rule 316 certification was, in *voir dire* the jury was told *Mulvey's* "remarriage was improper"; Also See *Forest Preserve District v. West Suburban Bank*, 161 Ill. 2d 448, 449 (Ill. 1994). (See **Appendix Group Exhibit 4**)

Same manner, In *VC & M. Ltd.*, this Supreme court accepted two certified questions which included appeal jurisdiction where this Supreme Court **reversed the judgment of the appellate court dismissing the appeal for lack of jurisdiction** and remanded to the appellate court for further proceedings. This court accepted in another *VC & M* Certification from the Second District Appellate court on a dismissed appeal due to a paper filing that made Appeal time barred. Even on a non-constitutional, non-jurisdictional question, Rule 316 certification accepted by the Supreme court. *Rozsavolgyi v. City of Aurora*, 2016 IL App (2d) 150493); Certification accepted related to Tort Immunity Act , *Rozsavolgyi v. City of Aurora* , 2017

## VIII. Exception To Mootness Doctrine To Invoke Appellate Court Jurisdiction

The Appellate court meets *one or more of the standards and requirements* to invoke jurisdiction under '*exception to mootness doctrine* including Public interest exception; Circumstances likely to reoccur and capable of repetition. (**Refer Appendix Group Exhibit 3 PFR-Caption Paragraphs VII -pages 11-16**)

"Exception to mootness doctrine applied." *In re Nancy A.* 344 Ill. App. 3d 540, 549 (Ill. App. Ct. 2003), First District Appellate court . Also see, *In re Joseph M* 405 Ill. App. 3d 1167 (Ill. App. Ct. 2010) (Published opinion). The collateral consequences exception applied, see *In re Alfred H.H.*, 233 Ill. 2d 345 (2009). "Therefore, "[s]ubsistence of the suit requires that continuing collateral consequences be presumed." *Spencer*, 523 U.S. at 8, 140 L. Ed. 2d at 50, 118 S. Ct. at 983.

The collateral consequences *exception to mootness* allows for appellate review, and could be *redressed* by a favorable judicial decision, as Petitioner/Appellant will suffer irreparable injury, such as a threat to her ancestral home despite no foreclosure case exist; despite a court of law in Federal jurisdiction found Ocwen breached the mortgage agreement thus 'foreclosing' any "foreclosure' attempt by any future action, since for any foreclosure there should be a breach, Ocwen found in breach, and Petitioner is found not in breach (Ex.1) " **Breach of a contract provision by one party grounds for releasing the other party from his contractual obligations**." *William Blair Co. v. FI Liquidation Corp.*, 358 Ill. App. 3d 324 (2005).

Even on appeals deemed moot, Appellate courts have applied the *Exceptions to Mootness Doctrine. People v. Ruth K.* (In re Ruth K. 3-12-0669, at 1 (Ill. App. Ct.

2013) "Despite the appeal being moot, an exception to the mootness doctrine applied and allowed review".

Additionally, any second action barred under *Doctrine of Res Judicata. Spencer v. Kemna*, 523 U.S. 1, 7, 140 L. Ed. 2d 43, 49-50, 118 S. Ct. 978, 983 (1998) *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477, 108 L. Ed. 2d 400, 410-11, 110 S. Ct. 1249, 1253 (1990).

**IX . Any and All Proceedings After 10/8/2019 Filing Of Notice of Appeal Are Nullity And Void**

Appeal is challenging, and appealing the core and fundamental issue of abuse of Federal jurisdiction by the trial court below, and attacked the ***jurisdictional root of the case***, the **jurisdiction which was *uprooted*** as of Notice of Removal date of 12/7/2018 (C.75-80)

The appeal was filed 10/9/2019 (C. 518-519). Nevertheless ignoring the Appeal Jurisdiction docketed under 19-2326, the trial court continued its *exparte abuses and clandestine* unjudicial acts setting up yet another sham status of 1/15/20 on the "planted case" after an 'exparte meeting' with defendant Ocwen. Petitioner/Appellant dispatched her attorney Ed Hull who was representing the Plaintiffs in Federal court to Daley center on 1/15/2020, and appeared as "friend of the court" for the sole purpose of **reminding *the lower Court as to the order entered a year before,* on 1/25/2029,** and the state court continue to be denied/deprived of any jurisdiction since 12/7/2018 Notice of removal, (C.75-80; C. 348-349; C.1505)

Nevertheless, the continued harassment, abuses by trial court of *even entertaining* to 'plant a status' by the appellee for 1/15/2020 and continued abuses of due process clause, which also ignored the Appellate jurisdiction since 10/9/2019, *flip-flopping* jurisprudence

triggered, necessitated a second appeal docketed under 20-1009, which is consolidated with appeal 19-2326 which Appellate court designated as the lead appeal.

Nevertheless, on 1/15/2020, trial court entered the below order:

> "*Parties are directed to bring the matter of jurisdiction before the Federal court in case no:18-cv-3019*". Thus lower court acknowledged **once again** the circuit court has no jurisdiction; lower court acknowledged once again the chancery case removed and consolidated with Federal case 18-cv-3019,

## X. Additional Supporting Arguments

### i) *No Jurisdiction in Circuit Court*

In its 1/11/2023 order (App.Ex.B) by suggesting that "*Writ of Mandamus is the appropriate remedy when a trial court wrongfully assume jurisdiction*", Appellate court tacitly admitted that Trial court is *wrong* and has NO jurisdiction .

The issue raised in the Notice of appeal is simple, clear, and straight forward, which is, **the lower court has no jurisdiction- PERIOD** - by trial court's own admission; by its own order (C.348-349. C.1505).There exist NO "foreclosure case" as Ocwen found to be in breach of contract- App.Exhibit 1; further barred under *Doctrine of Res judicata.* " **Breach of a contract provision by one party grounds for releasing the other party from his contractual obligations**." *William Blair Co. v. FI Liquidation Corp*, Supra.

### ii) *This Supreme Court Should Order The Appellate Court To Invoke Judicial Estoppel Doctrine And Remand Matters To Appellate Court For Full Prosecution Of The Appeal As of Right*

The doctrine prevents a party from taking a position that is contrary to a position the party took in an earlier legal proceeding. Appellee attempted to take a position contrary to the position taken in lower court proceeding in that it accepted

Federal jurisdiction in circuit court proceedings, and contesting in Appellate court as fully narrated here in this Petition, in the foregoing Caption Paragraphs I to X arguments. (Please refer to PFR **-Appendix Group Exhibit 3 -Caption Paragraph X ,Pages 19-25** for more detailed arguments and brief on this doctrine)

iii) *The Appellate Court Has Jurisdiction Under Doctrine of Collateral Estoppel*

"[e]stoppel has broad preclusive effect and issues actually raised, as well as **issues that could have been raised** in the first **proceeding** **may not be relitigated in a subsequent proceeding**", *Bagnola* 333 Ill. App. 3d at 717; *Osborne v. Kelly*, 207 Ill. App. 3d 488, 491 (1991). Appellee attempt to *relitigate* in Appellate proceeding through a sham MTD, when failed to raise any issues in lower court as to removal (C.348-349, C.1505) This court further noted that the doctrine of *Collateral Estoppel*, "include promoting judicial economy by disposition of claims based upon a common core of operative facts in a single action." *Bagnola*, 333 Ill. App. 3d at 718; *Kessinger v. Grefco, Inc.*, 173 Ill.2d 447, 460 (1996); *Wausau v. Ehlco Liquidating Trust*, Supra.

Additional case cited in support of Doctrine of Collateral Estoppel, Please refer to PFR **-Appendix Group Exhibit 3 -Caption Paragraph X ,Pages 22-23** for more detailed arguments, brief which include *Du Page Forklift Service, Inc. v. Material Handling Services Inc.*, 195 Ill. 2d 71 (Ill. 2001) "that the *Doctrine of Collateral Estoppel* must be invoked". Supreme court ruled that it sees "no reason to withhold application of Doctrine of Collateral Estoppel." *River Park, Inc.*, 184 Ill. 2d at 311. Also See *Stauffer Chemical Co.*, 464 U.S. at 172, 78 L.Ed.2d at 394, 104 S.Ct. at 579 *Montana v. United States*, 440 U.S. 147, 162-63, 59 L.Ed.2d 210, 222-23, 99 S.Ct. 970, 978 (1979); 28 Ill. App. 3d 605, 606 (1975).

## CONCLUSION

## APPELLATE COURT HAS JURISDICTION

**In Sum,** Appellate court has jurisdiction. There exists no case in Circuit court; circuit court has no jurisdiction and divested of jurisdiction. The RECORD, FACTS, EVIDENCE, and ARGUMENTS made here in this Petition will substantiate the Appellate court has jurisdiction for *de novo* review. There is no case in circuit court for the Appellate court even to remand to lower court.

Appellate court violated Title 18 U.S.C Section 241 of denying the constitutional rights of the Petitioner/Appellant to **disenfranchise, deny, invalidate Petitioner's rights to Appeal as of Right.**

Petitioner will file **Additional Brief on this Petition** consistent with Rule 315(h), 341, 343.

## PRAYER FOR RELIEF

This Petition For Leave To Appeal should be granted for numerous compelling reasons as argued in this "Preliminary Brief ".

The PLA is *one of a kind* which appears '*once in a blue moon*' as a '*twilight zone case.*'

Petitioner respectfully request this Honorable High Court the following relief:

- *Summary Dismissal With prejudice finding* the trial court is deprived, denied, divested of jurisdiction and that there exists no State case from facts and supported arguments made here.

*Alternatively.*

- Find that Appellate Court has jurisdiction over the appeal; order the Appellate court to consider the Appeal on merits for full prosecution of the Appeal. *Eskandani v.Phillips* 61 Ill. 2d 183 (Ill. 1975) 334 N.E.2d 146 (PLA granted when Appellate court wrongfully declined jurisdiction.)

By: **/s/ Pushpa Shekar**
Petitioner/Appellant

10.18.2023

CSE
950 Plum Grove
P.O.Box 681085
Schaumburg, IL 60168-1085

## VERIFICATION BY CERTIFICATION

Under penalties, as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I affirm that the statements set forth in this instrument, " **PETITION FOR LEAVE TO APPEAL** " , are true and correct to the best of my knowledge, information, and belief.

Pushpa Shekar

Certificate of Compliance

Pursuant to Illinois Supreme Court Rule 315 (d), 341(b )(1), Petitioner certifies that this Petition for Rehearing conforms to the requirements of Supreme Court Rules 341(a) and 367(a), and complies with 6000 words limit.

The length of this Petition for Leave To Appeal excluding the pages or words contained per the Rule 341(d) cover, 342 (a), the Rule 341(c) certificate of compliance, and the certificate of service, Signature and address, Verification, complies with Rule 315 (d) and is 6000 words, per Microsoft 2016 Word count, 12 point Garamond

**/s/ Pushpa Shekar**
Petitioner/Appellant

# GROUP EXHIBIT "1"

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

OFFICE OF THE ATTORNEY GENERAL,
THE STATE OF FLORIDA,
Department of Legal Affairs,

and

OFFICE OF FINANCIAL REGULATION,
THE STATE OF FLORIDA,
Division of Consumer Finance,

Plaintiffs,

v. CASE No. _____

OCWEN FINANCIAL CORPORATION,
a Florida corporation, OCWEN MORTGAGE
SERVICING, INC., a U.S. Virgin Islands
corporation, and OCWEN LOAN
SERVICING, LLC, a Delaware limited
liability company,

Defendants.
_____/

**COMPLAINT**

Plaintiffs, the Office of the Attorney General, State of Florida, Department of Legal Affairs (the "Florida Attorney General"), and the Office of Financial Regulation, State of Florida, Division of Consumer Finance (the "Florida Office of Financial Regulation") (collectively, the "Plaintiffs"), by and through their undersigned attorneys, sue defendants, Ocwen Financial Corporation, a Florida corporation ("Ocwen Financial"), Ocwen Mortgage Servicing, Inc., a U.S. Virgin Islands corporation ("Ocwen Mortgage Servicing"), and Ocwen Loan Servicing, LLC, a Delaware limited liability company ("Ocwen Loan Servicing") (Ocwen Financial, Ocwen Mortgage Servicing, and Ocwen Loan Servicing are collectively referred to herein as the "Ocwen Defendants" or "Ocwen"), and respectfully allege as follows:

**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF FLORIDA**
**WEST PALM BEACH DIVISION**

Case No. 9:17-CV-80495

CONSUMER FINANCIAL PROTECTION BUREAU,
Plaintiff,

vs.

OCWEN FINANCIAL CORPORATION,
a Florida corporation,

OCWEN MORTGAGE SERVICING, INC.,
a U. S. Virgin Islands corporation, and

OCWEN LOAN SERVICING, LLC,
a Delaware limited liability company,

Defendants.

---

**COMPLAINT**

1. The Consumer Financial Protection Bureau ("Bureau") brings this action against Ocwen Financial Corporation, Ocwen Mortgage Servicing, Inc., and Ocwen Loan Servicing, LLC (collectively "Ocwen" or "Defendants") under Sections 1054 and 1055 of the Consumer Financial Protection Act of 2010 ("CFPA"), 12 U.S.C. §§ 5564 and 5565. Ocwen is one of the largest mortgage servicers in the United States. The Company specializes in servicing the loans of distressed borrowers. It committed numerous violations of Federal consumer financial laws that have harmed borrowers. Among other things, Ocwen has improperly calculated loan balances, misapplied borrower payments, failed to correctly process escrow and insurance payments, and failed to properly investigate and make corrections in response to consumer complaints. Ocwen has

**STATE OF ILLINOIS**

**DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

**DIVISION OF BANKING**

| | | |
|---|---|---|
| IN THE MATTER OF: | ) | |
| | ) | No. 2017-MBR-CD-01 |
| **OCWEN LOAN SERVICING, LLC** | ) | |
| NMLS No. 1852 | ) | |
| Illinois Residential Mortgage License No. MB.6759457 | ) | |
| 1661 Worthington Road, Suite 100 | ) | |
| West Palm Beach, FL 33409 | ) | |
| | ) | |
| **HOMEWARD RESIDENTIAL, INC.** | ) | |
| NMLS No. 3984 | ) | |
| Illinois Residential Mortgage License No. MB.6760570 | ) | |
| 16675 Addison Road | ) | |
| Addison, TX 75001 | ) | |
| | ) | |
| **LIBERTY HOME EQUITY SOLUTIONS, INC.** | ) | |
| NMLS No. 3313 | ) | |
| Illinois Residential Mortgage License No. MB.6760159 | ) | |
| 10951 White Rock Road, Suite 200 | ) | |
| Rancho Cordova, CA 95670 | ) | |

## ORDER TO CEASE AND DESIST AND PLACING LICENSES ON PROBATION

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking ("Department"), having reviewed the circumstances and activities of Ocwen Loan Servicing, LLC ("OLS"), Homeward Residential, Inc. ("Homeward Residential"), and Liberty Home Equity Solutions, Inc. ("LHES") and found violations of the Residential Mortgage License Act of 1987 ("Act") [205 ILCS 635], and the rules promulgated under the Act ("Rules") [38 Ill. Adm. Code 1050], hereby issues this ORDER TO CEASE AND DESIST AND PLACING LICENSES ON PROBATION, and states:

## STATUTORY PROVISIONS

1. Section 4-1 (h-1) of the Act provides that the Department, as part of its Supervision of licensees, may issue orders against any person if the Department has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Department, or for the purposes of administering the provisions of this Act and any rule adopted in accordance with this Act.

33 states go after Ocwen/PHH Mortgage over servicing fees - HousingWire

https://upsolve.org/learn/ocwen-lawsuit/

A coalition of 33 state attorneys general filed a motion against **PHH Mortgage** and its predecessor **Ocwen Loan Servicing** for allegedly charging unlawful servicing fees to nearly 1 million borrowers.

The attorneys general, co-led by New York's Letitia James and Minnesota's Keith Ellison, are opposing a proposed class action settlement that would permit PHH to profit from mortgage payment processing fees made by phone or online and would allow PHH to increase the fees for the remaining life of the loan.

The motion states the proposed settlement was carried out too quickly, under the pandemic's extenuating circumstances and estimates PHH charged the 1 million homeowners somewhere between $7.50 to $17.50 in each monthly statement. If allowed, PHH could raise this fee to $19.50 per month.

In a Friday brief, the coalition alleged the charges by PHH are "illegal" and "improper" because the authorization of these fees cannot be found in the mortgage contracts. With that scrutiny, PHH would be violating the Fair Debt Collection Practices Act (FDCPA) were the **CFPB** to conclude that PHH is essentially a "debt collector."

"PHH's sole purpose is to collect and process homeowners' payments, which it already makes millions of dollars from each year. In the 21st century, when most Americans pay their bills online or by phone, to charge fees on top of what they are already being paid is not only unethical, but unlawful," James said in a statement.

Both Ocwen and PHH have come under legal fire in recent years, after a 2017 cease-and-desist order prohibited the acquisition of new mortgage servicing rights and the origination of mortgage loans by

subsidiary **Ocwen Loan Servicing** until the company was "able to prove it can appropriately manage its consumer mortgage escrow accounts."

Then, the CFPB announced that it was suing Ocwen for "failing borrowers at every stage of the mortgage servicing process."

Ocwen then spent the next several months settling lawsuits with the 31 states that took action against it. The cumulation of legal action from the states and the CFPB nearly put Ocwen out of business.

These one-time payment methods are optional and, prior to making a payment, PHH discloses to the borrower the fee amount as well as other payment methods available that do not require a fee or require a lesser fee. We believe that the proposed settlement, which is substantially similar to a prior class action settlement approved by a federal court less than two years ago, resolves the disputed legal claims and is in the best interests of the borrower class," the spokesperson said.

## PHH Mortgage Class Action Lawsuit - Pacific Laws

https://pacificlaws.com/phh-mortgage-class-action-lawsuit

Oct 20, 2021 · A Phh Mortgage Class Action Lawsuit is similar to any other case filed in the court. The difference between the mortgage class action lawsuit and any other case is that the class action lawsuit is taken up by an individual rather than by a company or organization. You must provide details in your complaint about the mispayment of your mortgage.

EXPLORE FURTHER

| | |
|---|---|
| **PHH Mortgage Corp. Agrees to Settle** Pay-to-Pay Class Action fo… | topclassactions.com |
| Mortgage Holder Settles Lawsuit With PHH Mortgage Corp After … | topclassactions.com |
| PHH Mortgage to Pay $45M **In Mortgage Servicing Fraud Lawsuit** | lawyersandsettlements.com |
| OCWEN Slammed With $2 Billion Settlement - Law Office of D.L. … | dianedrain.com |
| **Glen Messina** - President, Chie.. - Ocwen Financial \| ZoomInfo.com | zoominfo.com |

# $45M Settlement to Benefit PHH Mortgage Borrowers

FOLLOW ARTICLE

By Paul Tassin
January 5, 2018

PHH Mortgage Corp. has agreed to pay $45 million to resolve claims that it improperly serviced thousands of single-family residential mortgages.

The PHH Mortgage lawsuit was brought by the attorneys general of 49 states and the District of Columbia over allegations that the New Jersey-based mortgage servicer violated the federal Consumer Financial Protection Act and the consumer protection laws of several states.

Among other allegations, the plaintiffs claim that from 2009 through 2012, PHH Mortgage failed to correctly apply borrowers' payments, charged unauthorized fees, made improper threats of foreclosure, and conveyed mixed messages to borrowers engaged in loss mitigation.

The states further allege PHH Mortgage failed to maintain proper records, failed to properly oversee third-party vendors, and mishandled the preparation, execution and notarization of official documents.

The complaint says PHH Mortgage's alleged misconduct resulted in "premature and unauthorized foreclosures, violation of homeowners' rights and protections, and the use of false and deceptive affidavits and other documents."

Under terms of the settlement, PHH will pay a total amount in excess of $45 million. Of that amount, about $31.5 million will be transferred to a settlement administrator to be distributed among qualifying mortgage debtors who were affected by the mortgage servicing practices at issue.

The rest of the fund will cover the plaintiff states' attorney fees and costs related to the investigation and litigation, plus an administrative penalty.

According to the consent judgment, payments to qualifying mortgage borrowers will be distributed by a settlement administrator in a manner similar to the way class action settlements are distributed. Claimants will need to file a claim with the settlement administrator to receive payment.

Qualifying borrowers will include those whose homes were sold or taken in foreclosure from Jan. 1, 2009 through Dec. 31, 2012 and whose mortgages were serviced at the time by PHH Mortgage. Other criteria for payment may be established later by an executive committee comprised of government signatories to the settlement.

Settlement benefits will also be available for a few hundred borrowers in New Hampshire, the one U.S. state that was not a plaintiff. That state's banking commissioner contributed to a review of PHH Mortgage's servicing practices, according to Law360.

PHH has also agreed to be bound to new mortgage servicing standards that require the company to amend its internal practices. Among the new requirements are compliance testing, internal audits, root cause analyses and corrective action when problems are found, and reports to the executive committee.

The new servicing standards are effective immediately and remain in effect for three years.

PHH Mortgage notes that the settlement does not require the company to admit to any wrongdoing or violations of applicable law.

Top Class Actions will post updates to this class action settlement as they become available. For the latest updates, keep checking **TopClassActions.com** or **sign up for our free newsletter**. You can also receive notifications when this article is updated by using your **free Top Class Actions account** and clicking the "Follow Article" button at the top of the post. The **PHH Mortgage Corp. Unlawful Mortgage Servicing Practices Lawsuit** is *State of Alabama, et al. v. PHH Mortgage Corp.*, Case No. 1:18-cv-00009, in the U.S. District Court for the District of Columbia.

(Photo Credit: fizkes/Shutterstock)

A mortgage holder with a defaulted home loan has settled a potential class action lawsuit with PHH Mortgage Corp. after he alleged that the company inflated property inspection fees.

Kirk Culver sued the company in 2020 and said in a proposed class action lawsuit that PHH improperly charged him markups on its costs for third-party property inspections for defaulted loans. **Law360 reports**.

According to the claim, PHH contracted with a third-party vendor that used a computerized system to generated property inspections every 20 to 30 days, and with each inspection, PHH added between $15 to $19.50 to Culver's mortgage.

However, the actual cost of the inspections were "much less than what was charged to plaintiff," the class action lawsuit said.

Although Culver sought to represent other mortgage borrowers who had allegedly been through the same thing, his counsel told Law360 that after discovery they found "that the claims were not ripe for class certification."

"We, therefore, turned our attention to resolving our individual client's claim and damages, and we are very pleased that we were able to do so." Zachary Ludens of Zebersky Payne Shaw Lewenz LLP said.

Ludens said that deal spelt the end of the Class claims in terms of Culver being the Class Representative.

In June, PHH tried to get the case tossed out, but U.S. District Judge Paul G. Byron ruled in Culver's favor and allowed his claims of breach of contract and violations to the Fair Debt Collection Practices Act, as well as allegations of violations of the Florida Consumer Collection Practices Act, Law360 reports.

PHH said in its motion for dismissal that it did not qualify as a debt collector and shouldn't be subjected to the laws Culver was suing under. However, Judge Byron cited PHH's statements that include an amount due, a $72.22 late fee that "may be charged," and a clear statement saying that the letter is from a "debt collector attempting to collect a debt," as evidence it does act as a debt collector.

"If the instant communication — which includes clear language identifying defendant as a debt collector attempting to collect a debt, a potential late fee of $72.22 and a total amount due — does not qualify as a debt collection communication, it is difficult to comprehend what would."

Last September, **PHH reached a $12.6 million class action settlement** with homeowners who alleged that the company's practice of charging what it referred to as "processing fees" when customers made their home loan payments online or over the telephone — fees ranging from $17.50 to $7.50 — violated the Federal Fair Debt Collection Practices Act and were in breach of their mortgage contracts.

***Have you ever taken out a loan with PHH? Tell us about your experience in the comments section!***

Culver is represented by Jordan A. Shaw and Zachary D. Ludens of Zebersky Payne Shaw Lewenz LLP, J. Matthew Stephens of Methvin Terrell Yancey Stephens & Miller PC and Darren R. Newhart of Newhart Legal PA.

PHH is represented by Dale A. Evans Jr. of Locke Lord LLP.

The **PHH Inspection Fee Class Action Lawsuit** is *Culver v. PHH Mortgage Corp.*, Case No. 6:20-cv-02292, in the U.S. District Court for the Middle District of Florida.

# 74 Million Dollar settlement agreement –

# United Sates v. PHH Mortgage in a Fraud, False claims and *qui tam* action against PHH

***United States ex rel. Mary Bozzelli v. PHH Mortgage Corporation and PHH Corporation* (E.D.N.Y.), 13-cv-3084**