10/7/24

No. 24-405

In The

Supreme Court of the United States

Deborah Walton,

Petitioner,

v.

State of Indiana,
Hamilton County Superior Court 6,
and J.P. Morgan Chase,

Respondents.

On Petition for a Writ of Certiorari to the
Indiana States Supreme Court

PETITION FOR WRIT OF CERTIORARI

Deborah Walton
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QUESTION PRESENTED

Whether State Laws are bound by Dodd Frank Regulation X section 1024.41(f)(1), which prohibits servicers from taking the first step to initiate foreclosure proceedings under state law 12 CFR §1024.41(f)2; when pending RESPA complaints show foreclosure is preempted by the Supremacy Clause of the U. S. Constitution, Article VI, Paragraph 2

PARTIES

Petitioner Deborah Walton and Respondents the State of Indiana, Hamilton County Supreme Court and J. P. Morgan Chase.

RULE 29.6 STATEMENT

None of the petitioners is a nongovernmental corporation. None of the petitioners has a parent corporation or shares held by a publicly traded company.

STATEMENT OF RELATED CASES

State of Indiana ex rel. Deborah Walton, Relator, v. Hamilton Superior Court 6, et al., Respondents.

1:2011cv00322, Walton v. Chase Home Finance LLC et al., New York Southern District Court

1:2024cv02078 Walton v. JP Morgan Chase N.A. et al., New York Southern District Court -MF-2244-A151

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JURISDICTION

Petitioners invoke this Court's jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding. U.S. Const. Art. VI, Cl.2.

STATEMENT OF THE CASE

I. INTRODUCTION

It was January of 2000 when the Petitioner purchased her home and financed it with Washington Mutual, however when J P Morgan Chase Home Loans ("Chase"), acquired Washington Mutual, September 25. 2008; Chase over charged the Petitioner on three different occasions. The first was in 2011; under cause number 11-cv-322; *trans.* 11-cv-417, and the second was in 2016 under cause number 16-cv-0447.

On February 29, 2024, J P Morgan Chase, filed for a mortgage foreclosure in the Hamilton County Superior Court 6, in the State of Indiana, under cause number 29D06-2402-MF-002244. However, on March 19, 2024, Deborah Walton filed a third Federal Complaint in the Southern District of New York under cause number 24-cv-02078-JMF, requesting the court enforce RESPA.

On March 25, 2024, Deborah Walton filed a motion to dismiss, because the Hamilton County Superior Court 6 in the State of Indiana, lacked jurisdiction according to the Dodd Frank Act under Real Estate Settlement Procedures Act (RESPA). Deborah Walton let the court know that she had federal protection under RESPA, because she sent a Qualified Written Request Letter (QWR) to Chase and that her dispute was still under investigation. The Petitioner also informed the court, that foreclosure is preempted by the Supremacy Clause of the U.S. Constitution, Article VI, Paragraph 2, and she had also filed a Federal Complaint in the S.D. of New York.

What is most disturbing, is that First Merchants Bank submitted their fraudulent judgments to J.P. Morgan Chase prior to them filing for a mortgage foreclosure. Chase took a step further, by asserting they wanted to intervene in a case that the Petitioner brought against First Merchants Bank; which was closed in the 7th Circuit Court of Appeals almost two years ago; when they have no legal standings. So, now the million dollar question is: *Why would Chase file a motion to intervene in a case that had nothing to do with them, which centers around fraud.* What is more

interesting, is when the Petitioner filed a false claims complaint in the District of Columbia, outlining how First Merchants Bank is stealing from their Customers and Share Holders, Chase reviewed that complaint and still proceeded to file a motion to intervene. Chase not only lacks standing, their motion was also untimely. Now the Petitioner will be submitting a Petition for Writ of Certiorari, that is currently pending under the Application No. 24-A151.

When the Petitioner files her pending Petition for Writ of Certiorari, the record will show that all of the Fraudulent judgments that First Merchants Bank obtained, and monies that First Merchants Bank is alleging the Petitioner owes them; that cannot be substantiated, by any judgments or documents supporting their assertion, made to the 7th Circuit Court of Appeals; which Chase included in their Foreclosure Judgment, the truth will be revealed, that the only reason Chase filed for the Foreclosure was to assist First Merchant Bank in the Fraud.

REASONS FOR GRANTING THE PETITION

I. The Dodd–Frank Wall Street Reform and Consumer Protection Act, commonly referred to as Dodd–Frank, is a United States federal law that was enacted on July 21, 2010.

   A. Consumers are protected under Regulation X section 1024.41(f)(1), which prohibits servicers from taking the first step to initiate foreclosure proceedings under state law 12 CFR §1024.41(f)2.

ARGUMENT

"This Court has long made clear that federal law is as much the law of the several States as are the laws passed by their legislatures." *Haywood v. Drown,* 556 U.S. 729, 734 (2009). Indeed, "it is a familiar and well-established principle that the Supremacy Clause invalidates state laws that interfere with, or are contrary to, federal law." *Hillsborough Cnty. v. Automated Med. Labs., Inc.*, 471 U.S. 707, 712 (1985) (cleaned up). Thus, "state law is nullified to the extent that it actually conflicts with federal law." *Id.* at 713.

Therefore, the Dodd–Frank Wall Street Reform and Consumer Protection Act, commonly referred to as Dodd–Frank, is a United States federal law that was enacted on July 21, 2010. Hence, when Walton, sent a Qualified Written Request (QWR) Letter under Real Estate Settlement Procedures Act. (RESPA), she was protected against foreclosure, until the Chase rectifies, all the issued raised in Walton's QWR Letter. Hence, in 2013 RESPA Servicing Rule, the CFPB noted in the section-by-section analysis that Regulation X section 1024.41(f)(1), which prohibits servicers from taking the first step to initiate foreclosure proceedings under state law 12 CFR § 1024.41(f)2. Therefore, Walton is protected under RESPA, which Federal Law prohibits foreclosure in every State, when a QWR Letter is still an unresolved issue, just like Federal Law prohibits slavery, in every State.

However, RESPA requires mortgage holders to comply with Regulation X section 1024.41 *et. seq.,* loss mitigation procedures; while Chase was in the process

of complying with RESPA, someone in their mortgage department, failed to communicate with Ted Swiecichowski, concerning the status of Walton's mortgage. *See* §§ 3.2.2.4, 3.2.8.7, NCLC's Foreclosure and Mortgage Servicing. The substantive law that makes the servicer's action unlawful is a federal law. Therefore, the QWR Letters **App. 2; App. 3**, the response letter from Chase **App. 4**, communications with Ted Swiecichowski via phone and emails **App. 5**, all show that Walton was protected under RESPA.

When State law restricts the types of claims or defenses that are deemed to be valid in defending or avoiding a foreclosure, to the extent that state law would prevent a RESPA violation from being treated as a defense to foreclosure, it would be in conflict with RESPA, and therefore preempted. *See* § 3.5, NCLC's Foreclosure and Mortgage Servicing.

In promulgating the 2013 RESPA Servicing Rule, the CFPB noted in the section-by section analysis that Regulation X section 1024.41(f)(1), which prohibits servicers from taking the first step to initiate foreclosure proceedings under state law 12 CFR §1024.41(f)2. Although the CFPB highlighted this provision in the section-by-section analysis, other loss mitigation provisions that operate in a similar manner, such as Regulation X section 1024.41(f)(2), should also preempt state laws to the extent they permit a foreclosure sale to proceed before a complete loss mitigation application has been evaluated. *See* Section-by-Section Analysis, § 1024.41(f), 78 Fed. Reg. 10,833 (Feb. 14, 2013).

However, the motion filed by Chase's legal counsel,

is totally misplaced, since they have failed to establish Walton's assertion, of the issues raised in Walton's QWR Letter were cured, through the loss mitigation application. It is apparent, that Walton did not file a 12(B)6 motion, her motion to dismiss is very clear; Chase lacks standings to being a mortgage foreclosure complaint in State Court, because Walton is protected by a Federal Law. In promulgating the 2013 RESPA Servicing Rule, the CFPB noted in the section-by-section analysis that Regulation X section 1024.41(f)(1), which prohibits servicers from taking the first step to initiate foreclosure proceedings under state law 12 CFR § 1024.41(f)2. Although the CFPB highlighted this provision in the section-by-section analysis, other loss mitigation provisions that operate in a similar manner, such as Regulation X section 1024.41(f)(2), should also preempt state laws to the extent they permit a foreclosure sale to proceed before a complete loss mitigation application has been evaluated. *See* Section-by-Section Analysis, § 1024.41(f), 78 Fed. Reg. 10,833 (Feb. 14, 2013). *See Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992). However, if the application would have been completed, Walton would have paid the total amount due to bring the mortgage current.

The Petitioner, did not respond to J P Morgans complaint, because she did not want to waive the issue; since the Hamilton County Superior Court 6 in the State of Indiana lacks jurisdiction, therefore she filed a motion to dismiss, citing the Supremacy Clause. However, the Court entered an order, and ignored the motion and entered a foreclosure judgment, filed by Brian Berger on behalf of Chase, whom has never entered an appearance in the case. **App. 6**. However,

the Supremacy Clause of the U. S. Constitution, Article VI, Paragraph 2, states that federal law applies and the Constitution take precedence over state laws and constitutions. This doctrine is called preemption, which means that when two authorities conflict, the higher authority will displace the lower authority. Federal law is the highest authority, so it can preempt state laws either expressly or impliedly. Therefore, it is expressly preempted, and when State law restricts the types of claims or defenses that are deemed to be valid in defending or avoiding a foreclosure, to the extent that state law would prevent a RESPA violation from being treated as a defense to foreclosure, it would be in conflict with RESPA, and therefore preempted. *See* § 3.5, NCLC's Foreclosure and Mortgage Servicing.

CONCLUSION

The Indiana Supreme Court's decision conflicts with the precedent of Dodd–Frank Wall Street Reform and Consumer Protection Act, and this Courts failure to address the concerns whether compliance with a state law directly contrary to RESPA foreclosure which is preempts by the Supremacy Clause of the U. S. Constitution, Article VI, Paragraph 2 which explicitly requires the preemption of contrary state laws. This Court should grant the Petition and resolve the conflicts on the question of national importance.

Respectfully submitted,

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