**Case No: ___________**

**SUPREME COURT OF THE UNITED STATES**

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In re
ELIEZER TAVERAS and VALERIA TAVERAS,
Applicants,

---

# APPENDIX

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EMERGENCY APPLICATION FOR STAY OF MANDATE
DIRECTED TO THE HONORABLE CLARENCE THOMAS,
ASSOCIATE JUSTICE OF THE SUPREME COURT AND CIRCUIT JUSTICE FOR THE ELEVENTH CIRCUIT

/s/ Eliezer Taveras
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*/s/ Valeria Taveras*
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**Case No: ____________**

**SUPREME COURT OF THE UNITED STATES**

---

In re
ELIEZER TAVERAS and VALERIA TAVERAS,
Applicants,

---

**ON APPLICATION FOR STAY OF THE MANDATE OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT PENDING THE FILING AND DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI**

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**APPENDIX TO**
EMERGENCY APPLICATION FOR STAY OF MANDATE

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Pursuant to Supreme Court Rule 22 and 28 U.S.C. § 2101(f), Applicants Eliezer and Valeria Taveras respectfully submit this Appendix in support of their Emergency Application to Stay the Mandate Pending Disposition of a Petition for Writ of Certiorari. The documents included herein are necessary to establish the procedural posture, the substantive legal issues raised below, and the irreparable harm Applicants face in the absence of a stay. These materials were either part of the record before the United States Court of Appeals for the Eleventh Circuit or are directly referenced in the filings and orders at issue.

# APPENDIX INDEX

| TAB | DOCUMENT | DATE |
|---|---|---|
| A | District Court Order Remanding Case and Imposing Sanctions | 10/11/2023 |
| B | Appellants' Opening Brief (Eleventh Circuit Case No. 23-13238) | 4/15/2024 |
| C | Appellants' Reply Brief (Eleventh Circuit Case No. 23-13238) | 8/3/2024 |
| D | Eleventh Circuit Panel Opinion Affirming Remand and Sanctions | 5/9/2025 |
| E | Eleventh Circuit Order Denying Motion to Stay the Mandate | 7/16/2025 |
| F | State Court's ruling on Summary Judgment | |

## CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of July, 2025, the foregoing Appendix to Emergency Application for Stay of Mandate Pending Disposition of Petition for Writ of Certiorari was filed electronically using the CM/ECF system of the United States Court of Appeals for the Eleventh Circuit. Pursuant to Federal Rule of Appellate Procedure 25(c) and Eleventh Circuit Rule 25-3(a), service upon all counsel of record, including counsel for Appellees, is deemed completed upon electronic filing through the Court's CM/ECF portal. Additionally, a copy of the foregoing has been email to counsel for Appellee, Adam Diaz to: ADiaz@dallegal.com. I further certify that pursuant to Rule 22 and Rule 29.3, an original and two copies of the Application will be filed with the Clerk of the United States Supreme Court via [overnight delivery], addressed to:

**Clerk of the Supreme Court of the United States**
**1 First Street, NE**
**Washington, DC 20543**

Respectfully submitted,

Eliezer Taveras

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# Tab "A"

**UNITED STATES DISTRICT COURT**
**MIDDLE DISTRICT OF FLORIDA**
**ORLANDO DIVISION**

U.S. BANK, NATIONAL ASSOCIATION AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST,

Plaintiff,

v. Case No.: 6:23-cv-1493-WWB-EJK

VALERIA TAVERAS, ELIEZER TAVERAS, REUNION RESORT & CLUB OF ORLANDO MASTER ASSOCIATION, INC., BANK OF AMERICA, N.A, UNKNOWN TENANT NO. 1 and UNKNOWN TENANT NO. 2,

Defendants.
_________________________________/

**ORDER**

THIS CAUSE is before the Court on Plaintiff's Motion to Remand and for Sanctions (Doc. 7) and Defendants' Response (Doc. 20). For the reasons set forth below, Plaintiffs' Motion will be granted.

## I. BACKGROUND

Plaintiff U.S. Bank's predecessor-in-interest initiated this foreclosure action against Defendants Valeria and Eliezer Taveras in April 2016 in state court. (Doc. 15, ¶ 13). In November 2018, Defendants moved to Madrid, Spain. (*Id.* ¶ 20; Doc. 23 at 6). Defendants attempted to remove the action to this court in 2019, but the case was remanded on Plaintiff's motion. *U.S. Bank, Nat'l Ass'n v. Taveras*, No. 6:19-cv-1307-Orl, 2019 WL 11505056, at *3 (M.D. Fla. Sept. 11, 2019). Plaintiff filed an amended complaint on August 23, 2022. (Doc. 15, ¶ 27). Defendants were served a copy of the amended complaint via e-mail the same day, (*id.* ¶ 28), and removed the case to this Court on August 21, 2023, (Doc. 1). Plaintiff now seeks to remand, arguing the removal is untimely and there is no basis for diversity or federal question jurisdiction. (*See generally* Doc. 7). Plaintiff also seeks sanctions against Defendants in the form of an award of fees and costs related to defending the removal. (*Id.* at 8).

## II. LEGAL STANDARDS

"[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed . . . to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a). Pursuant to 28 U.S.C. § 1332(a), a district court may have original jurisdiction where both "the matter in controversy exceeds the sum or value of $75,000" and the parties are "citizens of different States." Absent diversity jurisdiction, a district court may have original jurisdiction where the complaint alleges claims "arising under the Constitution, law, or treaties of the United States." 28 U.S.C § 1331. "Because removal jurisdiction raises significant federalism concerns, federal courts are directed to construe removal statutes strictly." *Univ. of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 411 (11th Cir. 1999). Any doubt as to "jurisdiction should be resolved in favor of remand to state court." *Id.* A defendant seeking to remove a case bears the burden of proving that the federal district court has original jurisdiction. *Williams v. Best Buy Co.*, 269 F.3d 1316, 1319 (11th Cir. 2001).

"The substantive jurisdictional requirements, however, are not the only hurdles that a removing defendant must clear. There are also procedural requirements regarding the timeliness of removal." *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 756 (11th Cir.

2010). A defendant may not remove a case "on the basis of jurisdiction conferred by [§ 1332] more than [one] year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action." 28 U.S.C. § 1446(c)(1).

## III. DISCUSSION

Plaintiff first argues this action should be remanded because there is no diversity of citizenship between the parties. Although Defendants are United States citizens, they are domiciled in Spain. (Doc. 15, ¶ 20; Doc. 23 at 6). "Citizenship is equivalent to 'domicile' for the purposes of diversity jurisdiction." *McCormick v. Aderholt*, 293 F.3d 1254, 1257 (11th Cir. 2002). "U.S. citizens domiciled abroad are neither 'citizens of a State' under § 1332(a) nor 'citizens or subjects of a foreign state' and therefore are not proper parties to a diversity action in federal court." *Molinos Valle Del Cibao, C. por A. v. Lama*, 633 F.3d 1330, 1341 (11th Cir. 2011) (quoting *Newman–Green, Inc. v. Alfonzo–Larrain*, 490 U.S. 826, 828–29 (1989)). "In order to be a citizen of a State within the meaning of the diversity statute, a natural person must both be a citizen of the United States *and* be domiciled within the State." *Newman–Green*, 490 U.S. at 828. The Court may not exercise diversity jurisdiction over this action.

Plaintiff next argues the Notice of Removal was untimely filed nearly eight years after this action commenced. Section 1446(c)(1) bars removal on the basis of diversity jurisdiction more than one year after an action commences, "unless the district court finds that the plaintiff has acted in bad faith to prevent a defendant from removing the action." Defendants respond by alleging that one of the foreclosure plaintiffs misled them about the nature of the case and thus acted in bad faith to prevent removal. (Doc. 1, ¶¶ 40–46;

Doc. 20 at 6). Defendants fail to elaborate as to the nature of this alleged deception or to support their argument with citation to the record or relevant authorities. Defendants' argument as to bad faith is thus waived. *See W. Sur. Co. v. Steuerwald*, No. 16-61815-CV, 2017 WL 5248499, at *2 (S.D. Fla. Jan. 17, 2017) ("It is axiomatic that arguments not supported and properly developed are deemed waived."); *see also U.S. Steel Corp. v. Astrue*, 495 F.3d 1272, 1287 n.13 (11th Cir. 2007) (noting that the court need not consider "perfunctory and underdeveloped" arguments and that such arguments are waived); *Resolution Tr. Corp. v. Dunmar Corp.*, 43 F.3d 587, 599 (11th Cir. 1995). Because the Notice of Removal was filed more than one year after the commencement of this action, removal is not available on the basis of diversity jurisdiction.

Plaintiff finally argues there is no federal claim in the Complaint to support federal question jurisdiction under 28 U.S.C. § 1331. Defendants allege in the Notice of Removal and their Response that Plaintiff's foreclosure claims are "completely pre-empted" by federal law, specifically the Fair Debt Collection Practices Act ("**FDCPA**"), 15 U.S.C. §1692 *et seq.*, and thus arise under federal law. *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392–94 (1987). Again, Defendants do not expand this argument beyond one conclusory sentence, so the argument is waived. *Steuerwald*, 2017 WL 5248499, at *2; *Resolution Tr.*, 43 F.3d at 599. Regardless, such a conclusory argument is insufficient to establish the FDCPA has "completely pre-empted" Plaintiff's state law claim. There is thus no basis for this Court to exercise jurisdiction under 28 U.S.C. § 1331. Because Defendants have failed to establish any basis for this Court's subject matter jurisdiction over this case, remand to state court is appropriate. *Williams*, 269 F.3d at 1319.

The only issue remaining is Plaintiff's request for sanctions against Defendants. "An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." 28 U.S.C. § 1447(c). A court may award attorney's fees under § 1447(c) "only where the removing party lacked an objectively reasonable basis for seeking removal. Conversely, when an objectively reasonable basis exists, fees should be denied." *Martin v. Franklin Cap. Corp.*, 546 U.S. 132, 141 (2005). Where there is a "complete absence of any argument to support either federal question jurisdiction or diversity jurisdiction," a court may award fees and expenses. *Bank of N.Y. Mellon Tr. Co. v. Johnson*, No. 1:10-cv-00221, 2010 WL 5426783, at *4 (N.D. Fla. Nov. 24, 2010).

Defendants already attempted to remove this case once before in 2019. In granting Plaintiff's 2019 motion to remand, Magistrate Judge Embry J. Kidd plainly stated that because Defendants were domiciled in Spain, they were "not proper parties to a diversity action in federal court." *Taveras*, 2019 WL 11505056, at *2 (quotation omitted). Magistrate Judge Kidd likewise restated the principal that to invoke federal question jurisdiction, the federal claim must appear on the face of a well-pleaded complaint. *Id.* at *3. Thus, not only have Defendants failed to adequately develop their arguments for removal jurisdiction, but they are also aware those arguments are meritless. Considering Defendants' arguments in context of their earlier attempted removal, the Court concludes there is no objectively reasonable basis for removal. Plaintiff's request for fees and expenses will be granted.

## IV. CONCLUSION

For the reasons set forth herein, it is **ORDERED** and **ADJUDGED** as follows:

1. Plaintiff's Motion to Remand and for Sanctions (Doc. 7) is **GRANTED**.
2. This case is **REMANDED** to the Circuit Court of the Ninth Judicial Circuit, in and for Osceola County, Florida.
3. The Court retains jurisdiction solely to resolve the issue of fees and costs and does not retain jurisdiction in any other respect. The parties shall confer in a good-faith effort to resolve the reasonable attorney's fees and costs and shall notify the Court if an agreement has been reached. If the parties cannot agree on the amount, then Plaintiff shall move for assessment of these fees and costs on or before **November 3, 2023**.
4. The Clerk is directed to terminate all other pending motions and close this case.

**DONE AND ORDERED** in Orlando, Florida on October 11, 2023.

WENDY W. BERGER
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties

# TAB B

**Appeal Number 23-13384**

**UNITED STATES DISTRICT COURT OF APPEALS**
**FOR THE ELEVENTH CIRCUIT**

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
No. 6 23-cv-01493-WWB-RMN

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ELIEZER TAVERAS AND VALERIA TAVERAS
Defendants – Appellants,

v.

U.S. BANK, NATIONAL ASSOCIATION AS LEGAL TITLE TRUSTEE FOR
TRUMAN 2016 SC6 TITLE TRUST,
Plaintiff – Appellee

---

**VALERIA TAVERAS AND ELIEZER TAVERAS**
**OPENING BRIEF**

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# TABLE OF CONTENTS

# TABLE OF AUTHORITIES

## Cases



## Statutes



## Rules



## Florida Rules



## Florida Statutes

**Florida Cases**

## CERTIFICATE OF INTERESTED PERSON AND CORPORATE DISCLOSURE STATEMENT

Appellants, Eliezer Taveras and Valeria Taveras ("Appellants"), *pro se*, and pursuant to Federal Rule of Appellate Procedure 26.1 and this Court's Rule 26-1-1 hereby jointly certify for the best of their knowledge and belief, the following is a complete list of interested persons:

**Federal Judge(s)**

1. Berger, Wendy W., District Judge of the United States Court, Middle District of Florida.
2. Kid, Embry, Magistrate Judge of the of the United States Court, Middle District of Florida.

**State Judge(s)**

3. Alvaro, Chad K., circuit judge of the Circuit Court Of The Ninth Judicial Circuit In And For Osceola County, Florida;

**Defendants/Appellants**

4. Taveras, Eliezer is a person, a citizen of the United States and a permanent resident of Madrid, Spain.
5. Taveras, Valeria, is a person, a citizen of the United States and a permanent resident of Madrid, Spain.

**Plaintiff/Appellee**

6. U.S. Bank National Association ("US Bank") is a subsidiary of U.S. Bancorp, with its main office located in Minneapolis, MN.

7. US Bank is the trustee of TRUMAN 2016 SC6 TITLE TRUST, whose beneficiaries are unknown.

**Plaintiff/Appellee's counsel**

8. Diaz, Adam Alexander; Diaz Anselmo & Associates P.A.

9. Rader, Shawn G.; Lowndes, Drosdick, Doster, Kantor & Reed, PA

**Amici and Others:**

10. Bank of America, N.A. Defendant in this case and in related case, Taveras v. Bank of America; 6:21-cv-189.

11. Christiana Trust, A Division Of Wilmington Savings Fund Society, FSB, Not In Its Individual Capacity, But As Trustee Of ARLP Trust 4. Defendant in related case, Taveras v. Bank of America; 6:21-cv-189.

12. Liebler II, James Randolph – Attorney for Defendant Bank of America in related case, Taveras v. Bank of America; 6:21-cv-189.

13. Munyon, Lisa T. – Defendant in related case 6:23-cv-1305-WWB-EJK.

14. Office of the Attorney General Ashley Moody – Law Firm for Defendants in related case 6:23-cv-1305-WWB-EJK.

15. Reunion Resort & Club of Orlando – Defendant in this case.

16. Rushmore Loan Management Services ("Rushmore") is purportedly a loan servicer, whose main office is located in Irvine, CA.

17. Servis One, Inc., DBA BSI Financial Services. Defendant in related case, Taveras v. Bank of America; 6:21-cv-189.

18. Schreiber, Margaret H. – Defendant in related case 6:23-cv-1305-WWB-EJK.

19. Schwieterman, Jessica – Assistant Attorney General and Counsel for Defendants in related case 6:23-cv-1305-WWB-EJK.

20. Silver, Jason David – Attorney for Defendant Christina Trust in related case, Taveras v. Bank of America; 6:21-cv-189.

21. Taub, Roy – Attorney for Defendant Servis One, Inc. in related case, Taveras v. Bank of America; 6:21-cv-189.

22. Young, Tom – Defendant in related case 6:23-cv-1305-WWB-EJK.

Jointly,

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## JURISDICTIONAL STATEMENT

This Court has jurisdiction over this appeal pursuant to 28 U.S.C. § 1443.

On 8/21/2023, the Taveras removed the foreclosure action Case No. 2016CA000916, pending in the Circuit Court of The Ninth Judicial Circuit In And For Osceola County, Florida (the "State Court") under 28 U.S.C. § 1443. On October 11, 2023, the district court entered its order to remand and for sanctions. On October 16, 2023, the Appellants timely filed their Notice of Appeal to this Court.

## STATEMENT OF ISSUES ON APPEAL

Whether the district court erred in its order to remand the case to state court without adequately addressing the Taveras' claims that their federal civil rights were infringed upon in state court proceedings, which they argued provided a federal jurisdictional basis under 28 U.S.C. § 1443.

Whether the district court improperly dismissed the Taveras' concerns regarding the alleged forgery of the promissory note and the subsequent impact on their rights, a central issue in their argument for federal jurisdiction and removal.

Whether the district court's decision to impose sanctions for removal was appropriate, given the Taveras' assertions of substantial and legitimate federal questions affecting their civil rights, as delineated in their removal petition.

Whether the district court failed to consider the Taveras' evidence and arguments related to their deprivation of rights under the state court's handling of the foreclosure action, particularly in the context of their rights to enter and enforce contracts and to sue under 42 U.S.C. § 1981.

Whether the district court erred by not adequately evaluating the Taveras' claims that the state court's actions constituted a denial of their procedural and substantive rights under federal law, thereby necessitating removal to a federal forum to ensure the protection of those rights.

Whether the district court's interpretation and application of the criteria for remand under 28 U.S.C. § 1443 were correct, especially considering the Taveras' detailed allegations of civil rights violations and the purported denial of their federal rights within the state court system.

## STANDARD OF REVIEW

This Court reviews de novo the district court's determination of subject matter jurisdiction. See *Williams v. Best Buy Co., Inc.*, 269 F.3d 1316, 1319 (11th Cir. 2001). The imposition of sanctions is reviewed for an abuse of discretion. See *Morrison v. Amway Corp.,* 323 F.3d 920, 929 (11th Cir. 2003). Factual findings are reviewed for clear error. See *Anderson v. City of Bessemer City, North Carolina*, 470 U.S. 564, 573-74 (1985).

## ORAL ARGUMENT STATEMENT

Given that this appeal principally concerns the application of established legal principles pertaining to court jurisdiction and the criteria for removal under Section

1443, oral argument may not be necessary to facilitate the Court's decision-making process. Should the Court deem oral argument beneficial, Appellant Eliezer Taveras respectfully requests to present the argument on his behalf. Due to significant logistical challenges and financial constraints associated with international travel from Spain, coupled with professional obligations, it would be exceptionally burdensome for Co-appellant Valeria Taveras to attend the oral argument.

## STATEMENT OF THE CASE

This case concerns the foreclosure action initiated against the Taveras by Servis One, Inc., DBA BSI Financial Services ("BSI") on behalf of Christiana Trust, A Division Of Wilmington Savings Fund Society, FSB, Not In Its Individual Capacity, But As Trustee Of ARLP Trust 4 ("Christiana Trust"), challenging the ownership and authenticity of a promissory note and the subsequent legal battles that ensued, leading to a contentious and protracted legal struggle. The Taveras, alleging significant procedural and substantive irregularities including the forgery of a crucial document—the promissory note—sought to defend their property rights and challenge the foreclosure action's legitimacy through various legal avenues.

The foreclosure action, initiated in the State Court in 2016, unfolded against a backdrop of alleged misinformation and purported legal missteps. In 2018, following discrepancies with their legal representation, the Taveras opted to proceed pro se, during which they identified and contested the alleged forgery of the promissory note pivotal to the foreclosure claim. The legal proceedings took a significant turn when the Taveras, asserting violations of their federal civil rights in the state court proceedings, sought to remove the case to federal court under 28 U.S.C. § 1443. Their removal was premised on claims of deprivation of their rights to enter and enforce contracts and to seek redress under 42 U.S.C. § 1981 and other grounds. However, the district court remanded the case back to the state court, leading to the present appeal.

The appellants challenge the district court's remand order, contending it failed to properly consider the substantive federal questions at play and the evidence supporting their claims of civil rights violations. Additionally, the imposition of sanctions for the attempted removal is contested, with the appellants asserting that their removal effort was grounded in legitimate and substantial concerns warranting federal judicial review. This appeal seeks to address these pivotal issues, requesting a thorough appellate review of the district court's decisions on remand and sanctions to ensure the Taveras' rights and claims are appropriately adjudicated in a just and lawful manner.

## PRELIMINARY STATEMENT

At the outset of this appeal, it is imperative to clarify that any references herein to forgery, false documentation, or similar allegations related to the purported promissory at issue (identified herein as the "BSI Note"), are grounded in the personal knowledge of Appellant Valeria Taveras regarding her own signature. Valeria Taveras unequivocally asserts that she did not sign the contested document, and this assertion is supported by the professional conclusions of three independent handwriting forensic experts, as demonstrated in affidavits of Thomas Vastrick (section of Exhibit 01-141, and Exhibit 01-684), affidavits of Charles E. Perrota (section of Exhibit 01-141 and Exhibit 01-487), and Affidavit of Laurie A. Hoeltzel, PhDc (section of Exhibit 01-558) [Appx, Tab 01-141 (all), Tab 01-558, see also Tab 01-662, Affidavit of Valeria Taveras]. These experts have thoroughly examined the relevant document and provided testimony affirming that the signature attributed to Valeria Taveras on the BSI Note is indeed a forgery.

Therefore, any subsequent allegations within this appeal that discuss or refer to forged documents, deceptive practices, misrepresentation, or related misconduct are based on this foundational understanding and the corroborative expert testimonies, establishing a factual basis for these claims rather than mere conjecture or legal conclusions.

## BACKGROUND

On September 7, 2006, the Taveras acquired a property at 7706 Excitement Drive, Kissimmee, FL 34747, with Bank of America, N.A. ("BANA") providing financing. The mortgage contract with BANA included specific clauses on acceleration and reinstatement, delineating the procedures and borrower's rights upon default [see Mortgage, Appx, Tab 1-8]. On July 4, 2008, following the Taveras' financial difficulties, BANA accelerated the mortgage, as demonstrated in the Notice of Acceleration, section of Exhibit 01-281 [Appx, Tab 01-281], a precursor to the foreclosure proceedings initiated later that month, which ultimately was dismissed due to lack of prosecution. The Taveras never exerted their rights, under the contract, to reinstate.

On May 27, 2014, more than five years after the Mortgage's acceleration, a purported assignment of the mortgage to Christiana Trust, a Division of Wilmington Savings Funds Society, FSB, not in its Individual Capacity, but as Trustee of ARLP Trust 3 ("ARLP Trust-3") was recorded in Public Records of Osceola County, Florida, Book 4615, Pg 2078 (the "Indecomm Assignment"), followed by a "corrective" assignment to Christiana Trust, recorded in Osceola County Public Records, Book 4630, Pg 1281 (the "Indecomm Corrective") [Appx, Tab 01-281].

Subsequent legal actions involved the Taveras challenging the mortgage's enforceability. In 2014, the Taveras initiated a declaratory judgment action against Christiana Trust to declare the mortgage null and void, alleging its unenforceability under state laws. The State Court's 2015 default judgment in their favor was a significant milestone, later overturned by the Florida Fifth District Court of Appeals in 2016, influenced by disputable representations by Christiana Trust concerning the mortgage note's ownership and the contested promissory note. This appellate reversal was predicated on the counterfeit promissory note and affidavits asserting its truthfulness. The sequence of events, characterized by the introduction of questionable documents and legal representations, culminated in the voluntary dismissal of the declaratory action by the Taveras. This pivotal decision was significantly shaped by their reliance on the counsel of attorney Keith Arago, representing the Taveras in the declaratory action. Upon receiving and reviewing the documentation provided by Christiana Trust, which included the BSI Note, Mr. Arago, acting on the presented materials, advised the Taveras to file a voluntary dismissal of their action, under the pretenses that they would lose the appeal and the declaratory action. This counsel was based on the presented documents' perceived legitimacy, including the false note, without the Taveras' immediate knowledge of its inauthenticity at that time.

## THE FORECLOSURE ACTION

After the reversal of the Declaratory Judgment, BSI and Christiana Trust continued their legal maneuvers to acquire the property. On March 28, 2016, BSI transmitted vital documents, including the BSI Note, from Texas to Florida, using FedEx [Appx 01-61]. These documents were pivotal in initiating the foreclosure action against the Taveras, which commenced on April 1, 2016. The incorporation of the BSI Note, deemed counterfeit by the Taveras, into the foreclosure proceedings was a critical moment, challenging the integrity of the legal process and setting the stage for the subsequent legal battles.

In response to the foreclosure action, the Taveras enlisted attorney Keith Arago, who stepped in to navigate the ensuing legal complexities. Mr. Arago's involvement during the initial phases of the foreclosure proceedings highlighted the Taveras' commitment to challenging the proceedings.

Significant developments unfolded around June 30, 2017, with an assignment of mortgage (the "Meridian Assignment"), which purportedly transferred mortgage rights from **ARLP Trust-3** to Appellee, U.S. Bank, National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust ("US Trust") [Tab 01-286].[1] However, Christiana Trust continue to prosecute the foreclosure action for almost a year.

By 2018, the Taveras faced challenges with their legal representation, leading them to proceed pro se. While scrutinizing the foreclosure documentation, Mr. Taveras noticed irregularities with the signature on the BSI Note. This prompted a closer examination, and upon presenting the document to Valeria Taveras, she recognized that the signature purported to be hers was, in fact, not. Armed with this newfound insight, the Taveras adjusted their defense strategy to challenge the authenticity of the note. In response to their discovery, the Taveras submitted

[1] Executed by Roberto Reho, Vice President of Meridian Asset Services, and notarized by Gerald E. Murch.

evidence to contest the authenticity of the BSI Note and defend their property rights, engaging in further legal actions to assert the forgery and challenge the foreclosure's basis. Following the discovery of forgery, on April 6, 2018, the Taveras filed a motion for leave to submit an amended answer to the foreclosure complaint. Within their proposed amended answer, they referenced the Indecomm Assignment (with the utilization of **ARLP Trust-3)** and Indecomm Corrective. This emphasis could have served as a prompt for the foreclosure attorneys to scrutinize and subsequently identify the inconsistency within the Meridian Assignment. The discovery of this potential oversight led to the necessary legal adjustments, including the filing of a corrective assignment of mortgage and note (the "Meridian Corrective") that identified Christiana Trust as the assignee.[2] Additionally, on April 27, 2018,

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[2] The Taveras' concerns extend far beyond a forged promissory note, touching on the broader integrity of the legal proceedings and the willingness of US Trust, its attorneys, and associates to engage in questionable, and potentially criminal, conduct. Notably, the repetition of the same "error" from the Indecomm Assignment in the Meridian Assignment, where ARLP Trust-3 was incorrectly used, suggests a pattern rather than a mere oversight. The involvement of notary Gerald E. Murch, who attested that Roberto Reho, acting purportedly as attorney-in-fact for ARLP Trust-3, was who he claimed to be based on "satisfactory evidence," intensifies suspicions regarding notary fraud, perjury, and the subornation of perjury. Additionally, the timing and circumstances surrounding the recordation of the Meridian Corrective raise serious questions regarding its authenticity and the integrity of the process. Notably, the date reflected on the document led the Taveras to suspect that it might have been backdated (it was recorded on April 20, 2019 – after the Taveras had filed their motion for leave, but it was dated by the notary Christopher Stafford as April 5, 2018 (a day before the Taveras' motion for leave).

Christiana Trust moved to substitute the party plaintiff, which was granted by the court on June 7, 2018, resulting in US Trust being officially substituted as the party plaintiff. In addition to the representation of Christiana Trust's legal capacity to transfer the Mortgage and the BSI Note, both, the Meridian Assignment and the Meridian Corrective, represent that the note been assigned to US Trust (the BSI Note), was the mortgage note.[3]

The Taveras' endeavors to challenge the foreclosure's legitimacy continued as they moved to strike the plaintiff's foreclosure pleadings under Fla. R. Civ. P. 1.115. Nevertheless, the Plaintiff's attorneys refused to set an evidentiary hearing in accordance with the rule. In response, on December 21, 2018, US Trust filed an amended complaint, verified under oath by Karin Ziembiec, an employee of Fay Servicing, LLC ("Fay"), making the same allegations of the execution of the BSI Note that the Taveras were seeking to strike as sham [Tab 01-234]. In addition, US Trust filed a motion for leave to amend, leading to a case management conference held on February 7, 2019. The state court granted leave to amend, declaring "the

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Such an action would not only compromise the document's validity but also potentially involve notary perjury and an alarming willingness by involved parties to suborn perjury to facilitate procedural adjustments in their favor. These concerns significantly bolster the Taveras' apprehensions about the lengths to which US Trust and associated entities were prepared to go, underscoring a pattern of questionable legal practices that challenged the legality and fairness of the foreclosure process.

[3] See Fla. Stat. § 817.535(1)(e)(5). The Taveras were barred by the state court from seeking remedy under Fla. Stat. § 817.535(8)(a), see supra.

Amended complaint is deemed filed" [Appx, Tab 252], and denied the motion to strike as moot. In addition, on February 15, 2019, the court entered an order mandating five monthly case management conferences (CMCs), a directive that imposed considerable emotional and financial strain on the Taveras, who were forced to travel monthly from Spain to Kissimmee, exacerbating the hardship and even endangering Valeria Taveras' employment due to the frequent trips necessitated by these conferences; the court's order established guidelines for setting hearings but explicitly restricted the scheduling of evidentiary hearings for motions to strike, stating that such hearings would be court-initiated with a minimum five-day notice [Appx, Tab 01-261].

Of note, BANA never answered the First Amended Complaint. The Taveras were now compelled to respond to this new legal challenge, further complicating their ongoing battle within the foreclosure proceedings.

The sequence of events during the 2019 case management conferences revealed a concerning pattern of procedural handling by the state court. On June 26, 2019, just before a CMC that will be held the next day, Eliezer Taveras filed a motion to strike sham pleadings, asking the court to set an evidentiary hearing at the CMC. However, an attempt was made by the Plaintiff's attorneys to expedite the hearing of this motion at the CMC, contravening the stipulated notice period and evidentiary hearing protocols. Despite the clear stipulation in the court's previous order that evidentiary hearings were to be court-scheduled with appropriate notice, there was a push to hear Mr. Taveras's motion without adherence to the mandated five-day notice or the submission of the accompanying evidence. Mr. Taveras objected to the hearing since proper evidence had not been submitted yet. The precipitate moves by the Plaintiff and the subsequent order entered by the court (the "Schreiber Order"), denying Mr. Taveras's motion without a formal evidentiary hearing—and in apparent disregard for its own procedural directives—significantly eroded the Taveras's trust in the judicial process [Appx, Tab 01-384]. The court's actions, denying the motion to strike without the procedural safeguards outlined in its own order, highlighted a perceived inconsistency in the court's adherence to procedural fairness.[4]

Moreover, on April 18, 2019, the state court issued an order (the "Schreiber Injunction"), which explicitly limited the Taveras to presenting only certain types of counterclaims, specifically those for declaratory relief or quiet title, and specifically barring them from bringing any action under Fla. Stat. § 817.535(8)(a). This limitation not only narrowed their defensive scope but also underscored a critical

[4] These procedural and judicial actions within the state court, particularly the Schreiber Order's restrictions and the handling of the motion to strike, formed a crucial backdrop to the Taveras' decision to seek removal to federal court. The accumulation of these events, coupled with a pivotal motion filed by the Plaintiff in August 2023 (see infra), crystallized the Taveras' concerns regarding the fairness and impartiality of the state court proceedings, prompting their strategic decision to remove the case in pursuit of a more equitable judicial forum.

procedural hindrance, hampering their ability to contest US Trust's foreclosure claims comprehensively and to seek broader judicial remedies for their grievances and the perceived procedural and substantive injustices they encountered.

On May 2020, the Taveras received a notification from Rushmore Loan Servicing ("Rushmore") regarding the purported transfer of loan servicing responsibilities from Fay. In response, the Taveras submitted a dispute letter under the Fair Debt Collection Practices Act to Rushmore, including a copy of Valeria Taveras' affidavit asserting the forgery of her signature on the BSI Note, alongside affidavits from forensic experts substantiating the claim of forgery. Despite receiving this compelling evidence, Anthony Younger, an employee of Rushmore, executed under oath, the Second Amended Complaint (the "SAC"), that was drafted and presented for verification by Shawn Rader, an attorney for US Trust and cognizant of the forgery allegations and the supporting evidence provided by the Taveras, and filed after leave of court. Notably, despite the purported assignment or sale from Fay to Rushmore and the verification by a Rushmore's employee, paragraph 4 of the SAC stays that it was filed by Fay, purportedly acting as loan servicer of US Trust [Appx, Tab 01-584]. Further, the Second Amended Complaint relies on the BSI Note and Meridian Corrective, a copy of which was attached to the document.[5]

In the course of the foreclosure proceedings, the Taveras, together with their response to the SAC, filed a compulsory counterclaim, exercising their procedural right to contest and articulate their defenses and claims.[6] This legal step was an essential action to assert their interests and challenge the foreclosure's legitimacy based on the facts and circumstances they believed demonstrated wrongful conduct by US Trust. However, on May 24, 2023, Judge Tom Young issued an order dismissing the Taveras' counterclaim (the "Young Order"). Of note, this decision was anchored in the Schreiber Injunction [Appx 1, Tab 01-670]. The dismissal by Judge Young not only curtailed the Taveras' legal recourse within the state court system but also underscored a significant procedural barrier that prevented them from seeking a broader range of remedies or asserting additional claims that could address the entirety of their grievances and the alleged misconduct they faced.

On March 6, 2023, the State Court, presided over by Judge Tom Young, issued an order setting deadlines for expert witness disclosures, requiring initial

[5] The incongruities and legal missteps highlighted here, particularly the inaccurate representation in paragraph 4 of the Second Amended Complaint and the reliance on the contested BSI Note, underscore a persistent pattern of oversight and potential willful misconduct by the parties involved. These actions not only reflect poorly on the integrity of the legal process but also expose the systemic issues within the handling of this case, suggesting a troubling disregard for truthful and transparent legal practice.

[6] See Fla R. Civ. P. 1.170.

disclosures by May 31 and rebuttal experts by June 30, with all expert depositions to be completed by July 31, 2023. Complying fully, the Taveras disclosed their intent to call handwriting forensic expert, Mr. Thomas Vastrick, for the forgery allegations by the May deadline and proposed dates for his deposition. Despite the clear directives, US Trust neither scheduled Mr. Vastrick's deposition nor disclosed any rebuttal experts, failing to follow the court-mandated steps for trial preparation.

In March 2023, Valeria Taveras enlisted attorney Tyron Latour from South Florida. Mr. Latour filed a motion for partial summary judgment on May 12, 2023, to address the alleged forgery of the BSI Note, a pivotal issue in the foreclosure validity [Doc, Exhibit 01-664]. The procedural dynamics shifted unexpectedly when Judge Tom Young ordered an in-person mediation in Kissimmee, Florida, leading to significant logistical and financial challenges. Attorney Tyron Latour faced considerable travel expenses from South Florida, and the Taveras grappled with the prospect of transatlantic travel from Spain. These requirements added to the financial burdens of ongoing litigation. Mr. Latour negotiated for an online mediation to ease these burdens and filed a motion on May 8, 2023, to hold the mediation virtually. However, despite an agreement with opposing counsel, the court denied this motion on May 11, 2023, exacerbating the financial and logistical difficulties for Valeria.

The denial of the motion for online mediation and the consequent financial and logistical burdens were pivotal factors that compelled Valeria to terminate Mr.

Latour's representation. This was a significant decision, driven by the anticipated and actual costs associated with continuing legal representation under such challenging conditions. The need to ensure legal advocacy in the face of escalating costs and the inherent stress of litigation led to this reluctant yet necessary change in her legal representation. Adding to the Taveras' challenges, upon their arrival in Kissimmee for the mediation, they discovered that despite a formal notice filed by counsel Shawn Rader, the session had never been officially scheduled. This oversight resulted in unnecessary financial costs and increased emotional stress, further complicating their pursuit of justice.

On July 13, 2023, US Trust filed a response to Valeria Taveras' motion for partial summary judgment, incorporating its own Motion for Summary Judgment into the response. The motion was substantiated by an affidavit executed by Joshua Nelms of Rushmore in Texas, affirming the authenticity of the disputed BSI Note to support US Trust's claim for summary judgment, ostensibly complying with Fla. R. Civ. P. 1.510(c)(4).

On July 17, the state court scheduled a hearing to consider Valeria Taveras' motion for partial summary judgment, set for August 23, 2023. In a critical development on August 9, 2023, US Trust filed a motion (the "Rush Motion") seeking to amend the July 17 order to include their Motion for Summary Judgment at the upcoming hearing, a procedural action that potentially violated Fla. R. Civ. P.

1.510(c)(5) concerning notice requirements [Appx, Tab 01-713]. This action by US Trust was pivotal in prompting the Taveras to file for removal to federal court.

## THE REMOVAL

In the broader landscape of this protracted legal battle, the Taveras' experiences in state court—marked by a series of procedural and substantive challenges—culminated in a profound mistrust in the state judicial process. This sentiment was not unfounded but based on a succession of legal encounters where they perceived their rights and legal arguments were not fully considered or were undermined by procedural technicalities and perceived biases.

On August 21, 2023, the Taveras initiated the removal of the foreclosure action to federal court, invoking 28 U.S.C. § 1443(1) to address their civil rights concerns. Subsequently, on August 31, 2023, adhering to Fed. R. Civ. P. 15(a)(1), the Taveras filed an amended notice of removal, aiming to clarify and reinforce the grounds for their petition for a federal review of their case. The day following the initial removal notice, US Trust filed a Motion to Remand the case back to state court. In this motion, US Trust contended that the grounds for removal cited by the Taveras mirrored those of a previous removal attempt, without directly countering the specifics of the Taveras' assertions under section 1443 in their amended notice.

On August 31, 2024, Valeria Taveras filed her Motion for Partial Summary Judgment, mirroring the one pending in state court, and Eliezer Taveras filed his

Motion for Judgment on the Pleadings or, alternatively, for Summary Judgment, similarly mirroring a motion pending in state court.

Key points from the Amended Notice of Removal include:

1. **Invocation of Federal and Civil Rights Jurisdictions.** The Taveras argue that their case involves questions of federal law and civil rights, specifically referencing the Civil Rights Acts of 1866 (to 42 U.S.C. § 1981).

2. **Allegations of Discriminatory Practices.** The Taveras contend that they have been subjected to discriminatory practices under the so-called "Florida Policy" in the state court, which they argue has systematically denied or limited their ability to enforce their rights under federal civil rights laws.

3. **Revival Doctrine Exception**. They invoke the "Revival Doctrine Exception," suggesting that new developments in their case have provided fresh grounds for removal, especially following the filing of the second amended complaint which they believe has significantly altered the nature of their case.

4. **Deceptive Practices by the Plaintiff**. The Taveras allege that the plaintiff engaged in deceptive practices to prevent the case's removal to federal court. This includes the plaintiff's strategic filing of the SAC and other related legal maneuvers, which the Taveras argue were intended to obscure the true nature of the claim and hinder their removal efforts.

5. **Specific Grounds Under 28 USC § 1443(1).** They assert that their

removal request is valid under 28 USC § 1443(1) because they are being denied on cannot enforce in the state court their civil rights, specifically the right to enforce contracts and property rights as guaranteed under federal law, and the right to equal protection and due process.

6. **Detailed Background and Grievances**. The notice provides an extensive background of their interactions with the Florida state court system, detailing their grievances and perceived injustices.

7. **Allegations of Discriminatory Practices**: They claim that the state court system, through its procedures and the application of the "Florida Policy" and the "Bartram Policy," has systematically deprived them of their rights. This assertion points to a broader context of alleged discriminatory practices affecting their case and potentially others in similar situations.

By removing the case to federal court, the Taveras sought not only to escape what they perceived as a prejudiced court environment but also to place their claims within a legal system they believed would offer a more balanced and fair assessment of their arguments and evidence. This shift was indicative of their desire for a judicial review that they hoped would be more attuned to the nuances of their case and more respectful of their procedural and substantive rights. The transition from state to federal court was thus emblematic of their quest for justice—a journey they embarked upon with the hope that the federal judiciary would provide the impartiality and fair consideration they felt was lacking in the state court proceedings. This move, while tactical, was deeply rooted in their broader experiences of the legal process, reflecting a strategic response to a series of adverse judicial interactions and decisions that they believed compromised their case's integrity. Ultimately, the Taveras' removal action represents a pivotal moment in their legal odyssey, a step taken in response to what they deemed as systemic procedural and substantive issues in the state court's handling of their foreclosure defense. It signifies their pursuit of a judicial forum where their arguments could be heard and adjudicated with the equity and fairness, they felt was essential for the resolution of their case. Despite the active removal process, a hearing on August 23, 2023, led by Judge Chad Alvaro in State Court and attended only by US Trust's legal team, resulted in several consequential orders, including one that granted a continuance for US Trust's motion for summary judgment.

Of note, while the motion to remand was under deliberation, the Taveras filed a Motion for Summary Judgment, presenting critical evidence of the alleged forgery. This evidence, pivotal to the case's substantive legal questions, was unfortunately not taken into account by the district court before granting the remand. This oversight underscores the necessity for a detailed appellate review to ensure that all pertinent information is considered, safeguarding the procedural integrity and the appellants' right to a fair adjudication.

On September 8, 2023, the Taveras filed their Second Amended Notice of Removal to clarify their allegations and legal grounds. The district court promptly denied the motion on September 12, stating that the "Pro se Defendant's Motion appears to be duplicative of the arguments raised in their response to Plaintiff's Motion to Remand, which is still pending before the Court." On October 11, 2023, the district court swiftly issued an order for remand back to state court, reflecting the arguments posited by US Trust. This order appeared to align closely with the rationale in US Trust's motion, suggesting that the detailed grounds presented in the Taveras' amended notice of removal may not have been fully considered.[7]

**POST REMOVAL, PENDING APPEAL**

On October 18, 2023, Judge Alvaro held a hearing and granted US Trust's motion for summary judgment, finding:

> Okay. This is the ruling of the Court. To be entitled to a judgment of

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[7] In their ongoing interactions with the district court, the Taveras have noted a recurring issue with delays in ruling on motions, including those marked as emergency (as in this case Emergency Motion for TRO filed on 9/18/2024, [Doc 22, 27] and ignored by the court. Similar emergency motions filed in related cases have been let aside by the district court). The Taveras respectfully note concerns regarding the district court's expedited handling of the remand order, which closely mirrored US Trust's motion timeline. This swift decision raises questions about the alignment with procedural fairness, particularly in the context of the pending state court proceedings scheduled to address critical motions. The Taveras' experience suggests a pattern where rapid court decisions may disproportionately favor opposing parties' timelines, potentially impacting the fairness of the adjudicative process. This concern is particularly poignant as it pertains to the appellate review, emphasizing the need for careful scrutiny of the district court's adherence to equitable judicial standards.

> foreclosure, a plaintiff must prove its standing as well as the other elements of mortgage foreclosure, namely an agreement, which is typically represented by the note in mortgage, a default, an acceleration of the amount due, and the amount due. To be entitled to summary judgment, Plaintiff must carry its burden of demonstrating these elements on the undisputed summary judgment evidence and that Plaintiff is entitled to judgment as a matter of law. . . a presumption arises that Plaintiff actually possessed the note when it filed this action. And that is a presumption of standing. **And the question then is whether or not that presumption of standing is rebutted or overcome by Defendant's affidavit wherein they take the position that the note is forged. The allegation that the note is forged does not create a disputed issue for trial, even assuming the truth of that allegation. Even if the defendant's signature was a forgery,** the loan was, as argued by the plaintiff, ratified in any number of ways, which are not in dispute. They ratified the loan by making payments from 2006, 2007, and 2008. Defendant ratified the loan by requesting a loan modification from the Bank of -- Bank of America and not raising any alleged forgery at that time. They did not raise the claim of forgery in this foreclosure action until 2018… I would say all that sworn evidence goes to the issue of the alleged forgery, which the Court has already determined that even if true, Defendants ratified that forgery by virtue of their subsequent conduct over the course of years.[8]

(Emphasis added).

Judge Alvaro, in his ruling, acknowledged the Taveras' claim regarding the forgery of the BSI Note and proceeded under the assumption that this claim was true. However, he determined that this acknowledgment did not create a dispute sufficient to prevent summary judgment.

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[8] A motion to supplement the record on appeal with transcripts from this hearing is being filed concurrently with this brief for corroboration.

## SUMMARY OF ARGUMENT

This appeal challenges the district court's decisions regarding jurisdictional analysis and the imposition of sanctions in the context of the Taveras' removal attempt under 28 U.S.C. § 1443. Central to this appeal is the assertion that the district court erred in its interpretation and application of jurisdictional standards, failing to recognize the substantive federal civil rights claims that justified the removal. Furthermore, the sanctions order is contested on the grounds that the Taveras' removal attempt was based on an objectively reasonable interpretation of their rights and the procedural circumstances, contradicting the court's finding of an absence of any reasonable basis for removal.

**A. Allegations Under 28 U.S.C. § 1443 and Substantive Basis for Removal**: The Taveras assert that their federal civil rights claims, as outlined in their removal notice, provide a substantive basis for federal jurisdiction under § 1443. The argument emphasizes the direct connection between the alleged civil rights violations and the statutory requirements for removal, supported by jurisprudence that defines the scope and intent of § 1443.

**B. Jurisdictional Errors and Implications**: This section critiques the district court's jurisdictional analysis, highlighting misinterpretations and misapplications of legal standards that led to the erroneous remand. It underscores the necessity for appellate correction to rectify these jurisdictional errors, uphold judicial integrity, and ensure adherence to legal precedents.

**C. Systemic Bias and State Court Conduct**: While not directly related to the initial grounds for removal, the post-remand actions of the state court are presented to underscore the systemic issues that the Taveras sought to avoid by seeking federal jurisdiction, reinforcing the argument for the appropriateness of their removal attempt.

**D. Refutation of the District Court's Sanctions Order**: The Taveras challenge the sanctions order by demonstrating that their removal attempt was grounded in a reasonable and legally sound interpretation of their situation and rights, contrasting the district court's characterization of their action as lacking any reasonable basis.

**E. Procedural and Substantive Aspects of Removal:** This section elucidates the Taveras' adherence to procedural requirements for removal and elaborates on the substantive legal concerns that motivated their removal attempt, further challenging the district court's conclusions and justifying the need for appellate review.

**F. Addressing the Bad Faith Argument**: The Taveras refute the district court's dismissal of their bad faith claims against US Trust, presenting evidence and arguments that illustrate a pattern of deceptive and misleading conduct by US Trust intended to obstruct their access to federal court.

The brief seeks to establish that the district court's decisions were flawed due to a misinterpretation of legal standards and an inadequate consideration of the Taveras' rights and the procedural context. The Taveras request appellate relief, including the reversal of the remand and sanctions orders, to rectify these errors and ensure their case is adjudicated in a forum capable of fully addressing their federal civil rights claims.

## ARGUMENT

This appellate brief critically examines the district court's dismissal of the Taveras' removal attempt under 28 U.S.C. § 1443 and its decision to impose sanctions, contending that these actions were based on a misinterpretation of jurisdictional and procedural standards. By dissecting the district court's analysis, this brief aims to elucidate the legal and factual missteps, asserting that a thorough appellate review is essential to rectify these fundamental errors and to vindicate the Taveras' right to seek federal jurisdiction for their substantial federal civil rights claims. The subsequent sections will articulate a detailed argument, highlighting the necessity of appellate intervention to correct the district court's oversight and to ensure justice is rendered in alignment with established federal legal principles.

At the outset of this argument, it is pertinent to let the Court know that the Taveras initiated the removal of their case to federal court under 28 U.S.C. § 1443, driven by a series of state court decisions and actions they believed systematically infringed upon their civil rights.

The Schreiber Order and subsequent Schreiber Injunction played a crucial role in shaping the Taveras' perception of systemic bias within the state court proceedings. The Schreiber Injunction, in particular, imposed significant restrictions on the Taveras' ability to assert their rights and defenses, contributing to their belief that the state court was not a viable forum for the adjudication of their rights. The injunction's limitations on their legal actions within the foreclosure process underscored a substantive legal impetus for seeking a federal forum where such restrictions would not hinder the full exploration and assertion of their rights. Further compounding their concerns was the Young Order, —barring the Taveras from a constitutional right to sue, even after a new amended complaint had been filed—demonstrated a disregard for procedural rules, due process, and civil rights, which the Taveras interpreted as another manifestation of the state court's reluctance to thoroughly consider and protect their rights; this order, viewed in conjunction with the Schreiber-related orders, reinforced the Taveras' belief that the state judiciary was systematically overlooking or undermining their legal protections and claims, thus creating a substantive legal basis for removal grounded in the safeguarding of their federal and constitutional rights. The Taveras also cite the conduct of US Trust and Christiana Trust, which included the filing of successive complaints and supporting documents verified under oath, despite being apprised of compelling evidence challenging the authenticity of the promissory note.

The final straw that **triggered** the Taveras' decision to seek federal intervention was the Rush Motion, which they interpreted as a clear and present risk of further prejudice and a potential denial of their civil and constitutional rights, prompting an urgent need for federal court adjudication as it highlighted immediate concerns over procedural fairness and adherence to legal standards. The Rush Motion underscored a pattern of legal maneuvering that the Taveras felt disadvantaged their ability to contest the foreclosure action on equitable grounds, reinforcing their decision to seek a different judicial avenue. Given the state court's track record of procedural unpredictability and the critical nature of a summary judgment hearing without proper time to respond, the Taveras were concerned that the court might proceed with US Trust's motion prematurely, potentially without their duly prepared response or adequate notice. Thus, the Rush Motion represents the "other paper" as defined under 28 U.S.C. § 1446(b), marking the event that started the 30-day countdown for the Taveras to file for removal. This filing was critical as it underscored ongoing procedural concerns and catalyzed the Taveras' decision to pursue federal jurisdiction, strictly adhering to the removal timelines specified by federal statute.

### A: Allegations Under 28 U.S.C. § 1443 and the Substantive Basis for Removal

The crux of the Taveras' appeal hinges on the substantive civil rights claims underpinning their request for removal pursuant to 28 U.S.C. § 1443. This statute serves as a pivotal avenue for litigants whose enforcement or protection of specific civil rights is impeded or negated within state court systems. This section delineates the foundation and necessity of the Taveras' removal, asserting that the district court overlooked or misinterpreted the substantial federal civil rights issues at play, thereby undervaluing the essential federal jurisdictional intervention mandated by § 1443.

### 1. Federal Civil Rights Violations as Grounds for Removal

The Taveras sought removal based on the alleged systematic denial and inability to enforce their federally protected civil rights within the state court, a situation that § 1443 explicitly addresses. Their allegations detail a pattern of state court actions and omissions that, they argue, substantially encroached upon their rights and justified the invocation of federal jurisdiction. Central to their argument is the assertion that their civil rights—integral to property ownership, fair judicial proceedings, and the fundamental right to due process—were not merely at risk but were actively undermined within the state judicial process. These rights, grounded in federal statutes and case law, were purportedly disregarded in a manner that not only affected the Taveras' immediate legal circumstances but also signaled a broader systemic issue within the state court framework.

### 2. Direct Connection of Allegations to § 1443 Requirements

The jurisprudence surrounding 28 U.S.C. § 1443 underscores the necessity for a clear and direct connection between the alleged civil rights violations and the petitioner's ability to enforce these rights in state court. In the seminal case of *Georgia v. Rachel*, 384 U.S. 780 (1966), the U.S. Supreme Court delineated the scope of § 1443, emphasizing that removal is justified when a party is denied or cannot enforce a specific civil right, particularly one rooted in racial equality, due to state court actions. Similarly, in *Greenwood v. Peacock*, 384 U.S. 808 (1966), the Court clarified that § 1443 removal is pertinent when state courts are **perceived** as obstructive to the enforcement of federally protected civil rights. Further, *Johnson v. Mississippi*, 421 U.S. 213 (1975), reaffirmed the stringent criteria for removal, highlighting that the civil right in question must be an explicit, federally conferred right, emphasizing racial equality, which the state court is failing to uphold. These precedents collectively illustrate the critical legal threshold that the Taveras must meet to substantiate their removal under § 1443 — a threshold they argue is met by the pattern of state court actions they allege systematically deny or undermine their federal civil rights.

The Taveras contend that their experiences in state court resonate with the scenarios envisaged by these landmark decisions, where the state judicial system's actions (or inactions) have directly impeded their ability to vindicate their federally protected rights. By aligning their allegations with the established criteria set forth in these cases, the Taveras aim to demonstrate that their removal to federal court is

**not only justified but necessitated** by the principles of federal civil rights protection enshrined in § 1443.

The Taveras have articulated specific instances within the state court proceedings where their rights, as defined under federal civil rights statutes, were ostensibly curtailed or ignored. These instances are not mere procedural errors or disagreements with the court's decisions but are alleged to be substantive denials of rights that are protected at a federal level. This purported pattern of decisions and actions by the state court demonstrates a clear link to the criteria under § 1443, which mandates removal when a party is denied or cannot enforce a federal right in state court. Moreover, the allegations put forth by the Taveras are not generalized grievances but are directly tied to identifiable federal civil rights and statutes, fulfilling the requirement under § 1443 that the right being denied is a specific, identifiable federal right. The Taveras have pointed to specific rights — such as their right to enforce contracts, the right to property without discriminatory interference, the right to a fair trial, the right to sue, and the right to due process under the law — which they argue have been compromised or outright denied in their state court dealings. The pervasive and systematic denial of these rights suggests a pattern of conduct by the state court that, the Taveras contend, was motivated by discriminatory practices aimed at undermining their legal protections and obstructing their access to justice. This assertion underscores the necessity of federal court intervention to ensure impartial and equitable treatment under the law. The pattern of state court decisions reflects not mere procedural missteps but substantive rights infringements that are precisely the concerns § 1443 aims to address by granting access to a federal forum.

**B. Challenge to the District Court's Jurisdictional Analysis**

The district court's jurisdictional findings pivotal to its decision to remand the case warrant careful appellate scrutiny. These findings, which critically influenced the court's determination to deny the Taveras' removal attempt and to impose sanctions, appear to be based on a misapplication of legal standards and a misinterpretation of the substantive claims presented by the Taveras.

**1. Jurisdictional Errors and Their Implications**

The district court's decision, which misinterpreted the removal statutes' timeliness provisions and overlooked the substantive basis for removal under 28 U.S.C. § 1443, has profound implications for the Taveras' pursuit of justice. Specifically, the court's conclusion that the removal was untimely fails to account for the ongoing nature of the alleged civil rights violations and the emergence of new facts that renewed the Taveras' grounds for seeking federal jurisdiction.

**a. Misinterpretation of Timeliness**

The court's strict adherence to a one-year timeframe for removal under § 1446(b) does not adequately consider the continuous and evolving nature of the civil rights violations alleged by the Taveras.

Firstly, it is pivotal to note that 28 U.S.C. § 1443 does not delineate a strict timeframe for filing a removal notice in the context of ongoing civil rights violations. The Taveras' experience of pervasive and continuous infringements on their federal rights underscores a situation where the conventional interpretation of 'timeliness' should be reconsidered. The ongoing nature of the civil rights violations suffered by the Taveras brings forth a scenario where the urgency for removal persists as long as the violations continue, allowing for a broader interpretation of the removal timeframe.

Secondly, the Taveras' decision to remove the case was significantly influenced by a discrete and pivotal event — the Rush Motion. This motion served as a critical juncture, reigniting the Taveras' imperative to seek federal jurisdiction. This event should be recognized as triggering the removal timeline, underscoring that their subsequent filing was both responsive and timely concerning this development.

Moreover, the application of the revival doctrine in this context is particularly pertinent. The doctrine suggests that new developments or revelations in a case can 'revive' the opportunity for removal, especially when these developments substantially alter the understanding or impact of the claimant's federal rights. The filing of the SAC and the Rush Motion introduced such new circumstances, effectively revitalizing the Taveras' basis for removal under § 1443. This perspective not only aligns with the equitable considerations underlying the revival doctrine but also emphasizes the adaptability of removal statutes to accommodate the evolving nature of a case, particularly when fundamental civil rights are at stake.

The district court's oversight in recognizing these elements — the flexibility of § 1443's timing, the significance of the Rush Motion, and the applicability of the revival doctrine — constitutes a jurisdictional error with profound implications. It suggests a rigid adherence to procedural formalities that may overlook substantive rights issues and the dynamic nature of civil rights litigation. Correcting this error is imperative not only to ensure justice for the Taveras but also to uphold the broader principle that federal courts must remain accessible forums for addressing significant federal rights issues, especially when state courts are perceived as inadequate guardians of those rights.

In the context of removal under 28 U.S.C. § 1443, the district court is required to meticulously evaluate whether the petitioner's rights under specific federal civil rights laws are indeed being denied or cannot be enforced in the state court. The Supreme Court in *Georgia v. Rachel*, emphasized the necessity of a clear nexus between the alleged civil rights violations and the state court's actions. In the Taveras' case, this nuanced analysis was conspicuously absent, leading to a jurisdictional decision that seems to overlook the substantive claims and evidence presented.

The principle of de novo review in jurisdictional matters, as underscored in cases like *Hertz Corp. v. Friend*, 559 U.S. 77 (2010), mandates that appellate courts independently reassess the jurisdictional findings without deference to the district court's conclusions. This principle ensures that jurisdictional errors, particularly in cases with significant civil rights implications, are correctively addressed to uphold the rights of the parties and the legal standards governing jurisdiction.

**b. Overlooked Substantive Basis for Removal**

Moreover, the district court did not fully engage with the substantive federal claims underpinning the Taveras' removal attempt. The court's cursory treatment of these claims undermined its ability to appreciate the depth and severity of the alleged civil rights violations that necessitated federal intervention under § 1443.

**2. Misapplication of Legal Standards by the District Court**

The district court's analysis reveals a concerning misapplication of the legal standards governing removal. This misapplication has not only prejudiced the Taveras but also set a troubling precedent that could impact future litigants seeking redress for their civil rights in federal courts.

Firstly, the district court's interpretation of the timeliness requirement under 28 U.S.C. § 1446(b) appears to disregard the nuances of removal when civil rights are continuously violated. Under 28 U.S.C. § 1446(b)(3), the timeline for initiating a removal to federal court is triggered by the defendant's receipt of an "amended pleading, motion, order or other paper" that makes it clear that the case is removable. In situations where ongoing civil rights violations continually reveal new aspects of the case that bear on its federal nature, these revelations can be construed as "other papers" that reset the removal clock. This interpretation aligns with the broad statutory intent to ensure that federal claims are adjudicated in the proper jurisdiction. By recognizing ongoing violations or emerging evidence as triggers for reassessment of removability, the courts uphold the principle of ensuring that all pertinent facts are considered in determining the appropriate forum for dispute resolution, particularly in cases with significant federal implications.

Moreover, the principle of equitable tolling, typically applied to extend statutes of limitations in the interests of justice, supports a flexible approach to the removal deadline in the context of continuous or newly emerging violations of civil rights. This approach is reinforced by the continuous violation doctrine, commonly applied in discrimination cases but conceptually relevant here, where each instance of a violation or each new piece of evidence related to ongoing violations can renew the opportunity for removal. Such flexibility is crucial in civil rights contexts, where the legal landscape may evolve as the extent of the infringement unfolds over time. Emphasizing this doctrine supports a judicial environment that prioritizes substantive justice over procedural technicality, ensuring that cases with profound civil rights concerns are heard in federal courts, which are often better equipped to handle such nuances. In the context of the Taveras' case, the principles akin to equitable tolling and the revival doctrine warrant a nuanced interpretation of the timeliness requirement under 28 U.S.C. § 1446(b).[9]

The Rush Motion, while not constituting a direct violation of the Taveras' constitutional rights, unmistakably set the stage for potential rights infringements. This motion, coupled with the historical backdrop of the case, particularly as illuminated by the Schreiber Order, the Schriber Injunction, and the Young Order, underscored a pervasive risk of constitutional violations. Such circumstances

[9] While directly applicable case law under § 1443 might be limited, the broader legal principle of equitable tolling allows for the extension of filing deadlines under certain conditions, such as when a plaintiff discovers new facts that could not have been uncovered earlier with reasonable diligence. This principle is seen in various contexts across federal law and can inform the interpretation of timeliness in civil rights removal cases. In the context of civil rights, courts may consider new facts or ongoing violations as triggering events for legal actions. For instance, in the employment discrimination context, the Supreme Court in *National Railroad Passenger Corporation v. Morgan,* 536 U.S. 101 (2002), addressed how the timeliness of claims is affected by ongoing violations, offering a perspective that could be analogous to the civil rights violations in removal cases. Further, while direct precedents under § 1443 that discuss resetting the removal clock based on new facts or ongoing violations might not be plentiful, the principles from cases like *Morgan* can be analogously applied to argue that new developments or continuing violations provide a fresh basis for removal, especially when they substantiate or amplify the original grounds for removal.
Finally, see revival doctrine in removal: The "revival doctrine" in the removal context, though not extensively defined, suggests that certain substantial changes in the underlying case can 'revive' the opportunity for removal. While this doctrine is more developed in other legal areas, its principles can be argued to apply when new significant information comes to light or when ongoing issues persist, justifying a fresh consideration for removal.

necessitated a vigilant and responsive action from the Taveras, prompting their decision to seek removal to a federal forum where their rights could be more securely protected. Such developments are analogous to the 'continuing violations' concept in employment law, as delineated in *National Railroad Passenger Corporation v. Morgan*, 536 U.S. 101 (2002), where the Supreme Court recognized that the clock for filing a legal action may reset with each ongoing violation.

The Taveras' proactive removal was essential to counteract the potential for severe rights violations, significantly influenced by the conduct and procedural actions in previous court proceedings, such as those demonstrated in the Schreiber Order and the Young Order.

It is crucial to acknowledge that 28 U.S.C. § 1443 allows for removal not only upon the actual occurrence of a rights violation but also in situations where there is a substantial and demonstrable risk of such violations. This anticipatory aspect of the statute calls for a more dynamic application, particularly in the context of ongoing legal disputes and evolving factual circumstances, as seen in the Taveras' case.

Additionally, the district court's swift acceptance of the plaintiff's precipitated motion to remand, without a comprehensive examination of the Taveras' notice of removal and the substantive evidence underpinning it, indicates a significant procedural oversight. This oversight not only led to the misapplication of legal standards but also raises concerns about a potential miscarriage of justice. Respectfully, the Taveras believe that the hastened decision may have been influenced by an incomplete understanding of the critical issues at stake, which warrants a more meticulous and unbiased review to ensure that justice is not only served but is perceived to be served, safeguarding the integrity of the judicial process. Legal standards necessitate a careful and independent analysis of the parties' submissions, particularly in cases involving complex jurisdictional questions. The apparent expedited adoption of the plaintiff's arguments, without sufficient independent scrutiny, undermines the judicial responsibility to apply legal standards judiciously and impartially.

In conclusion, the district court's misapplication of legal standards concerning the removal process under § 1443 has significant implications for the Taveras' pursuit of justice and the broader application of removal laws in civil rights contexts.

### C. Systemic Bias and Prejudicial Rulings: The State Court's Post-Remand Conduct

The post-remand actions of the state court, particularly the rulings of Judge Alvaro, serve not only as a continuation of the legal narrative but also as a poignant illustration of the systemic bias and prejudicial conduct that the Taveras sought to escape through removal. While these events unfolded subsequent to the remand, they offer retrospective substantiation for the Taveras' concerns that were articulated in their removal attempt.

**1. Bias and Prejudice in State Court Decision-Making:**

The Taveras assert that the state court's dismissal of their forgery evidence and the leniency towards US Trust's standing were not isolated misjudgments but part of a broader pattern of bias favoring expedited foreclosure over diligent legal examination. This pattern aligns with the Taveras' contention that their civil rights, particularly the right to a fair trial and due process, and their rights to enter into and enforce contract (the Mortgage) were at risk in the state court system.

**2. Legal Standards and Judicial Disregard:**

Florida's legal framework regarding forgery and the enforcement of mortgage notes is explicit in statutes and reinforced by caselaw. The state court's deviation from these standards, particularly in the context of the Taveras' substantial forgery evidence, illustrates a disregard for legal mandates that safeguard parties' rights and ensure judicial integrity.[10]

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[10] Fla. Stat. § 817.54 criminalizes the fraudulent procurement of mortgages or related instruments through false representations, relevant in cases involving note forgery. The Taveras presented evidence of forgery that, according to Florida law, particularly Fla. Stat. § 673.3081(1), should have prompted thorough judicial scrutiny. However, the state court swiftly dismissed these concerns, contradicting the statute and case law, notably *Rivera v. Wells Fargo, N.A.*, 189 So. 3d 323, 328 (Fla. 4th DCA 2016), which emphasizes the necessity of authentic signatures on promissory notes. Moreover, US Trust's role as neither the original lender nor the initial plaintiff highlights flaws in the state court's handling of standing, a crucial element in foreclosure proceedings. Standing must be substantiated not only at trial but also at the time the foreclosure complaint was filed, as stated in *Russell v. Aurora Loan Services, LLC*, 163 So.3d 639, 642 (Fla. 2d DCA 2015). This principle becomes more complex with a substituted plaintiff like US Trust, which inherits only

**3. Implications of Post-Remand Rulings:**

Judge Alvaro's post-remand decisions, especially when viewed against the backdrop of Florida caselaw and statutory requirements, underscore the Taveras' arguments regarding judicial bias. These rulings provide a concrete example of the state court dynamics that the Taveras argue compromise their civil rights, lending weight to their claims of systemic bias.

**4. Corroborative Evidence of State Court Bias:**

The nature and timing of Judge Alvaro's rulings post-remand corroborate the Taveras' concerns regarding the state court's impartiality and its impact on their civil rights. These decisions should be interpreted not as isolated incidents but as part of the evidentiary basis supporting the Taveras' removal under 28 U.S.C. § 1443, demonstrating a pattern of conduct that substantiates their claims of bias and rights infringements.

**D. Refutation of the District Court's Sanctions Order**

The District Court granted Plaintiff U.S. Bank's Motion to Remand and for Sanctions, citing the lack of diversity jurisdiction due to the Defendants' domicile in Spain and the absence of a federal question in the complaint as bases for remand. The court further criticized the Defendants for a perceived lack of an objectively

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the original plaintiff's standing, further complicating the legal landscape as detailed in Russell and reinforced by *Kiefert v. Nationstar Mortg., LLC*, 153 So.3d 351, 352 (Fla. 1st DCA 2014).

reasonable basis for seeking removal, referencing a prior unsuccessful removal attempt in 2019 as indicative of the Defendants' awareness of the meritless nature of their jurisdictional arguments. The court's decision to impose sanctions hinged on its determination that the removal was not only unwarranted but also lacked any reasonable basis, particularly in light of the Defendants' previous interactions with the federal court system.

Legal precedent mandates that sanctions under 28 U.S.C. § 1447(c) be reserved for scenarios where the removing party exhibits a clear absence of an objectively reasonable basis for removal. The Supreme Court in *Martin v. Franklin Capital Corp.*, 546 U.S. 132 (2005) established that fees and costs should only be awarded when no reasonable basis for removal exists. The court must find more than just a lack of success in the removal effort; it must identify an absence of any legitimate legal argument or an evident misuse of the removal process. Appellants' familiarity with the jurisdictional requirements, underscored by their prior removal attempt, was utilized by the District Court to assert that their subsequent removal action was inherently unreasonable.

**1. Objective Reasonableness of the Taveras' Removal Attempt**

Contrary to the district court's determination, the Taveras' decision to seek removal was underpinned by significant and ongoing violations of their federal civil rights—a scenario that is anything but frivolous or lacking in legal merit. The continuous nature of these violations and the emergence of new pertinent facts, particularly concerning the veracity of the BSI Note and the integrity of US Trust's filings, provided a solid foundation for removal, challenging the basis for the imposition of sanctions.

**a. Legitimate Grounds for Removal**

The Taveras' removal was not a capricious action but a calculated legal strategy motivated by genuine concerns over the protection of their civil rights and the fair adjudication of their case. The procedural and substantive aspects of their removal effort, as detailed earlier, illustrate a thoughtful engagement with the removal process, grounded in significant legal precedents and the specific injustices they faced.

**b. Misunderstanding of Removal Intentions**

The district court's interpretation seemingly disregards the context within which the Taveras sought removal. Their actions were not aimed at delaying the court proceedings or evading state court jurisdiction without cause but were driven by a legitimate desire to seek a federal forum where their rights could be more appropriately addressed.

**2. Inappropriate Application of Sanctions**

The imposition of sanctions, according to the Supreme Court in *Martin v. Franklin Capital Corp.*, requires a finding that there was no objectively reasonable basis for removal. However, the complexity of the Taveras' case, marked by a nuanced interplay of state and federal legal issues, their ongoing rights violations, and the evolving factual backdrop, suggests that their removal attempt was far from objectively unreasonable.

**a. Legal Standards for Sanctions**

The standard for imposing sanctions necessitates a clear absence of any legitimate basis for removal, a threshold that was not met in the Taveras' case. The evolving legal and factual context of their foreclosure dispute, especially the contentious issues surrounding the BSI Note's authenticity and US Trust's litigation conduct, underscores the objective reasonableness of their removal effort.

**b. Impact of Sanctions on Rights Advocacy**

Imposing sanctions in this context could set a chilling precedent, deterring litigants from seeking federal recourse for their civil rights claims out of fear of punitive measures. Such an outcome would be antithetical to the remedial purposes of federal removal statutes, particularly 28 U.S.C. § 1443, which are designed to provide a federal platform for the adjudication of significant rights issues.

In light of the above arguments, the Taveras respectfully request that this Court reverse the district court's order imposing sanctions. Such a reversal would acknowledge the legitimate and substantial basis for their removal attempt and ensure that litigants are not unduly penalized for seeking to protect their federal civil rights in a federal forum.

**E. Procedural and Substantive Aspects of Removal**

The Taveras' removal attempt is supported by both procedural compliance and substantive legal bases, demonstrating their legitimate engagement with the federal removal process and their rightful pursuit of a federal forum for their claims. This section outlines how their actions align with the procedural mandates for removal and are deeply rooted in substantive legal concerns that warrant federal court jurisdiction.

**1. Procedural Compliance**

The Taveras meticulously followed the procedural requirements for filing a notice of removal, showcasing their respect for and adherence to the legal framework governing such actions.

**a. Timely Filing and Notification**

Given the pervasive and ongoing unlawful conduct observed in the state court proceedings, the Taveras' removal was timely and justified by the most recent developments in their case, including the Rush Motion. These developments reinforced their concerns about the state court's unwillingness to address their rights adequately. The Taveras' filing for removal was thus made within the statutory timeframe governing such proceedings, demonstrating their proactive and legally mindful response to emerging challenges. This action aligns with the procedural expectations for removal, emphasizing their commitment to seeking justice within the appropriate legal framework.

**b. Detailed and Compliant Notice of Removal**

Their notice of removal was comprehensive, clearly stating the grounds for their claim to federal jurisdiction and aligning with the statutory requirements. This document was not only a procedural formality but a substantive assertion of their right and need to transfer their case to a federal venue, reflecting their commitment to the legal process and their desire for a just resolution of their disputes.

Additionally, the Taveras engaged with the removal process in good faith, aiming to secure a federal venue for their claims due to genuine concerns about their ability to achieve a fair adjudication of their rights in state court. Their engagement with the process was marked by a conscientious effort to adhere to all procedural mandates, signaling a genuine pursuit of justice rather than a strategic ploy to delay court proceedings.

The Taveras' procedural conduct during the removal process demonstrates a clear compliance with the established legal requirements, reflecting their earnest intention to utilize the federal court system appropriately to address significant concerns about their civil rights. Their adherence to procedural norms in the context of removal substantiates the argument that their attempt was not only legally justified but also executed with the utmost respect for judicial processes.

**2. Substantive Legal Basis**

Beyond procedural adherence, the Taveras' removal is grounded in substantial legal concerns that directly pertain to their civil rights and the protections afforded to them under federal law.

**a. Civil Rights Violations as Basis for Removal**

The core of their removal argument lies in the assertion of ongoing civil rights violations within the state court proceedings. These concerns are not unfounded or trivial; they are rooted in specific incidents and legal interpretations that suggest a systemic failure to protect their rights, justifying the invocation of 28 U.S.C. § 1443.

**b. The Nexus Between State Court Actions and Federal Rights**

The Taveras have presented a detailed account of how state court actions and decisions have impinged upon their federal rights, creating a compelling case for federal jurisdiction. This nexus between state court conduct and the undermining of federally protected rights underscores the substantive legal basis for their removal attempt, aligning with the intended purpose of federal removal statutes to safeguard litigants' civil rights. By articulating both the procedural diligence and the substantive legal foundations of their removal attempt, the Taveras aim to demonstrate to this Court the legitimacy and necessity of their action. Their engagement with the removal process reflects a calculated and lawful strategy to secure a forum where their rights can be adequately protected and adjudicated, meriting acknowledgment and respect from the federal judicial system.

Central to the Taveras' substantive legal basis for removal was the interplay of the state court orders with their federal civil rights. The perceived pattern of decisions and injunctions, which seemed to the Taveras to disregard or infringe upon their rights, provided a concrete grounding for invoking federal jurisdiction under 28 U.S.C. § 1443. The Taveras contended that only in a federal forum could they adequately protect and assert their rights, free from the prejudicial constraints observed in state court proceedings.

An additional substantive element underpinning the Taveras' decision to seek removal pertains to the conduct of US Trust, particularly its approach to the submission of verified documents in the face of compelling evidence indicating forgery. Despite having received reliable evidence that the BSI Note was forged—a claim that strikes at the heart of the foreclosure action's integrity—US Trust proceeded to file documents verified under oath, attesting to the note's authenticity.

This conduct by US Trust not only demonstrates a disregard for procedural honesty and legal ethics but also exacerbates the Taveras' concerns regarding their ability to obtain a fair hearing and protect their rights within the state court system. The action taken by US Trust, viewed against the backdrop of the state court's previous rulings and injunctions, amplified the perceived bias and adversarial stance against the Taveras, solidifying their belief that the state court was an unsuitable venue for the adjudication of their complex and sensitive legal issues.

The Taveras' decision to remove the case, therefore, was not solely a reaction to the state court orders but was also significantly influenced by US Trust's contentious conduct. This behavior underscores the Taveras' substantive legal basis for removal, as it relates directly to concerns over the enforcement and protection of their rights—issues that are quintessentially federal in nature and underscore the necessity for a federal forum. By presenting their case in federal court, the Taveras sought not only to escape a judicial environment they perceived as biased but also to ensure that their claims and evidence would be evaluated in a setting governed by federal legal standards, where the integrity of the process and the protection of their rights could be more reliably secured.

In summary, the Taveras' removal attempt was not a procedural gambit devoid of substantive justification. The Taveras' removal attempt stands as a strategic and justified legal action, deeply rooted in substantive concerns over their ability to achieve justice and protect their rights. Their decision to seek federal intervention was thus deeply rooted in substantive legal concerns, specifically the preservation and enforcement of their civil rights, which they believed were at significant risk in the continuing state court proceedings. The combination of state court rulings, procedural constraints, and US Trust's disputable conduct presented a compelling case for federal intervention, aligning with the intended purposes of 28 U.S.C. § 1443 to provide a federal venue for parties whose rights may be compromised in state court proceedings.

**F. Addressing the Bad Faith Argument**

The district court's dismissal of the Taveras' allegations of bad faith significantly undermines the nuanced legal considerations integral to their removal attempt. This section aims to refute the district court's finding, illustrating that the actions of US Trust, and by extension, Christiana Trust, indeed constituted bad faith, especially in the context of their efforts to prevent the Taveras from securing a federal forum for their claims.

**1. Bad Faith in Preventing Removal**

The district court's reliance on 28 U.S. Code § 1446(c)(1) to determine bad faith primarily in the context of diversity jurisdiction overlooks the broader implications of the Taveras' claims under § 1443, related to civil rights violations. The Taveras' allegations of bad faith are rooted in a pattern of conduct by US Trust and its predecessors that aimed to obfuscate and mislead, affecting the Taveras' ability to seek timely and appropriate redress in a federal court.

**2. Deceptive Legal Tactics and Misrepresentations**

The sequence of events, from the initial filing of the foreclosure action to subsequent amendments and filings, demonstrates a clear intent by Christiana Trust and US Trust to complicate and confuse the legal proceedings. The inclusion of BANA in the second amended complaint and the submission of disputed documentation, particularly the BSI Note, underscore a strategy designed to muddle the Taveras' defense and impede their removal efforts.

**3. The Impact of Misleading Conduct on Legal Representation**

The reliance of the Taveras' legal counsel on the representations made by US Trust, which were later challenged or proven misleading, speaks volumes about the trust placed in these representations and the subsequent legal decisions influenced by them. The deliberate continuation of these misrepresentations, especially in light of contradicting evidence, strongly supports the Taveras' claims of bad faith.

**4. Engagement with Expert Testimony and Evidence**

US Trust's disregard for engaging with expert testimony concerning the forgery of the BSI Note, and their decision to proceed with filings that assert the note's authenticity, reveals a disregard for factual accuracy and a willingness to mislead the court. This behavior aligns with legal interpretations of bad faith, where intent to deceive and manipulate the judicial process is evident.

**5. Legal and Procedural Consequences of US Trust's Conduct**

The behavior exhibited by US Trust not only demonstrates bad faith in the context of the removal process but also has broader implications for the integrity of judicial proceedings. By misleading the court and the defendants, US Trust compromised the procedural and substantive fairness of the legal process, justifying the Taveras' concerns and their subsequent actions to seek a federal forum.

In conclusion, the evidence and patterns of conduct presented by the Taveras establish a compelling case of bad faith on the part of US Trust and its predecessor, Christiana Trust. These actions were not merely procedural missteps but were deliberate tactics intended to disadvantage the Taveras legally and procedurally. Therefore, this Court should recognize these actions as bad faith and consider them in the context of the Taveras' removal attempt and the broader implications for justice and legal integrity.

**G. Impact of Jurisdictional Errors on Judicial Integrity and Precedent**

The jurisdictional errors committed in this case extend beyond the immediate parties involved, touching the very core of judicial integrity and the creation of precedent. These errors, if left unaddressed, could undermine the trust vested in the judicial system and lead to inconsistent legal standards, which is antithetical to the principles of justice and legal predictability.

**1. Broader Implications of Jurisdictional Mistakes**

Jurisdictional mistakes have far-reaching implications that transcend the immediate case at hand, impacting the broader legal community and the public's trust in the judiciary. When courts misinterpret or misapply jurisdictional rules, they inadvertently set flawed precedents that future litigants may rely upon, propagating the error and potentially leading to a cascade of judicial missteps. Such mistakes challenge the doctrine of legal certainty and undermine the judiciary's role as a bastion of fairness and justice. The integrity of the judicial process is paramount, ensuring not only the correct application of the law but also maintaining the public's confidence in the legal system. When jurisdictional errors occur, particularly in cases involving fundamental rights and substantive legal issues like the present case, they can erode this confidence and introduce a sense of arbitrariness into the adjudicative process.

**2. Necessity for Appellate Correction to Uphold Legal Consistency**

Appellate correction of jurisdictional errors is not merely a procedural formality; it is a vital safeguard for the integrity of the judicial system and the consistency of legal doctrine. When appellate courts address and rectify these errors, they reinforce the principle that jurisdictional rules are not mere technicalities but essential components of legal fairness and due process.

In this case, the appellate court's intervention is crucial to correct the jurisdictional misinterpretations and ensure that the Taveras' case is adjudicated on the correct legal and factual foundations. Such correction will not only remedy the errors at hand but will also reaffirm the appellate court's role in maintaining judicial consistency, thereby preventing the perpetuation of flawed legal standards.

By addressing the jurisdictional errors in this case, the appellate court has the opportunity to uphold the integrity of the judicial process and ensure that the principles of legal consistency and predictability are maintained. This action will serve not only the interests of the parties involved but also the broader interest of the legal system in fostering a jurisprudence that is coherent, reliable, and just.

## REQUEST FOR RELIEF

In light of the foregoing arguments and the errors identified in the jurisdictional analysis and the imposition of sanctions, the Taveras respectfully request that this Honorable Court grant the following relief:

### 1. Primary Relief Sought

Reversal of the Order to Remand: The Taveras request that this Court reverse the district court's order to remand this case to state court. Such reversal should be based on the appellate court's finding that the district court erred in its jurisdictional analysis and that the Taveras had a substantively and procedurally valid basis for removal.

Reversal of the Order Granting Sanctions: Concurrently, the Taveras seek a reversal of the sanctions order. The imposition of sanctions was predicated on the same jurisdictional misunderstandings and misapplications of law that underpin the remand order. Reversing this order is essential to rectify the injustice served upon the Taveras and to acknowledge their legitimate use of the removal process.

Remand to District Court with Instructions: Should this Court find reversal appropriate, the Taveras request that the case be remanded to the district court with clear instructions to apply the correct legal standards in reconsidering the jurisdictional basis for removal. Such instructions are crucial to ensure that the district court's subsequent proceedings align with the appellate court's guidance and legal precedent.

**2. Alternative Relief Sought**

In the alternative, should this Court opt not to reverse the orders directly, the Taveras request a remand to the district court for a more detailed and comprehensive analysis of the jurisdictional and sanction-related issues. Specifically, they urge that the district court be instructed to consider all evidence and arguments anew, especially those critical to jurisdictional determinations and the imposition of sanctions. Conduct a thorough review to ensure that every relevant fact and legal argument has been thoroughly and adequately considered, thereby ensuring a decision grounded in a complete and accurate understanding of the case.

The Taveras emphasize that the appellate court's de novo review of the jurisdictional and sanctions issues presents a pivotal opportunity to correct significant legal errors, uphold the principles of judicial integrity and fairness, and ensure that their case is adjudicated on a sound and just legal foundation.

Respectfully submitted jointly on April 15, 2024,

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## CERTIFICATE OF COMPLIANCE

I hereby certify that this document complies with the type-volume limitation of Rule 32 of the Federal Rule of Appellate Procedure. This document contains 12683 words. The document complies with the typeface requirements of FRAP 32(A)(5) and the type-style requirements of FRAP 32(a)(6), it is been typed in Times New Roman letter style, size 14, double spaced.

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## CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February 2024, I caused a true copy of the foregoing to be filed electronically with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to all registered CM/ECF users in this case. In addition, a copy of the foregoing has been sent to Appellee, c/o its counsel Adam Alexander Diaz via electronic mail to: ADiaz@dallegal.com, and its partner/associate Shawn Rader at shawn.Rader@lowndes-law.com.

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