

No. \_\_\_\_\_

---

---

In the  
**Supreme Court of the United States**

---

ALVIN B. WHITE, in his individual capacity and as  
Trustee for the White Revocable Living Trust dated  
January 6, 2010,

*Petitioner,*

v.

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

*Respondent.*

---

On Petition for a Writ of Certiorari from  
The Supreme Court of Washington  
Case No. 104624-3

---

---

**PETITION FOR WRIT OF CERTIORARI**

---

Scott E. Stafne, *Counsel of Record*  
STAFNE LAW *Advocacy & Consulting*  
239 N. Olympic Avenue  
Arlington, WA 98223  
360.403.8700  
scott@stafnelaw.com



Church of the Gardens Press  
[www.churchofthegardens.org](http://www.churchofthegardens.org)

## **QUESTIONS PRESENTED**

1. Whether a court may, consistent with the Constitution, resolve disputed issues of fact bearing on private property rights by weighing competing evidence and making factual findings in the course of granting summary judgment, without trial.
2. Whether such a practice is consistent with the Due Process Clause, the original understanding of the judicial power and the Seventh Amendment.

**PARTIES TO THE PROCEEDINGS**

All parties to the proceeding in the court whose judgment is sought to be reviewed are as follows:

Petitioner:

ALVIN B. WHITE, in his individual capacity and as Trustee for the White Revocable Living Trust dated January 6, 2010, the defendant below and appellant below.

Respondent:

U.S. BANK NATIONAL ASSOCIATION, AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST, the substituted plaintiff below and respondent below.

Original Plaintiff Below:

U.S. BANK TRUST, N.A., AS TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST, the original plaintiff below.

Other Defendants Below:

COLUMBIA STATE BANK successor-in-interest to AMERICAN MARINE BANK, a corporation.

NORTHWEST BANK successor-in-interest to REGAL FINANCIAL BANK, a corporation.

EXCELSIOR MORTGAGE EQUITY FUND II,  
LLC, an Oregon limited liability company.

MICHAEL SODERSTROM, an individual.

None of the parties is a publicly traded corporation with a known stock ticker symbol, except that U.S. Bancorp, the parent company of U.S. Bank, National Association, is publicly traded (NYSE: USB).

### **RULE 29.6 DISCLOSURE STATEMENT**

Pursuant to Rule 29.6 of the Rules of this Court, Petitioner Alvin B. White states that he is an individual. He has no parent corporation, and no publicly held company owns 10% or more of any interest in him.

### **RELATED PROCEEDINGS**

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii):

- *U.S. Bank, National Association, as Legal Title Trustee for Truman 2016 SC6 Title Trust v. White*, Kitsap County Superior Court, No. 18-2-02682-18 (judgment entered September 7, 2023).

• *U.S. Bank, National Association, as Legal Title Trustee for Truman 2016 SC6 Title Trust v. White*, Washington Court of Appeals, Division II, No. 58849-8-II (unpublished opinion filed May 20, 2025).

• *White v. U.S. Bank, National Association, as Legal Title Trustee for Truman 2016 SC6 Title Trust*, Washington Supreme Court, No. 104624-3 (petition for review denied).

**TABLE OF CONTENTS**

QUESTIONS PRESENTED ..... i

PARTIES TO THE PROCEEDINGS ..... ii

RULE 29.6 DISCLOSURE STATEMENT ..... iii

RELATED PROCEEDINGS ..... iii

TABLE OF AUTHORITIES ..... vii

PETITION FOR A WRIT OF CERTIORARI ..... 1

DECISIONS BELOW ..... 1

JURISDICTION ..... 1

CONSTITUTIONAL AND STATUTORY  
PROVISIONS INVOLVED ..... 2

STATEMENT ..... 3

REASONS FOR GRANTING THE PETITION ..... 4

CONCLUSION ..... 14

APPENDIX ..... 1a

    1. Supreme Court of Washington,  
        denying review ..... 3a

    2. Court of Appeals Order denying  
        reconsideration ..... 4a

    3. Court of Appeals unpublished opinion ..... 6a

    4. Superior Court for Kitsap County order  
        denying reconsideration ..... 21a

5. Superior Court for Kitsap County amended findings and order granting summary judgment in favor of U.S. Bank N.A. .... 24a
6. Superior Court for Kitsap County amended findings and order denying White’s cross motion for summary judgment ..... 35a
7. Other Materials; Declaration of Scott Stafne in support of White’s objection to Judicial Officer Forbes adjudicating this case ..... 41a
8. Other Materials; Objection to Judicial Officer Forbes adjudicating this case ..... 60a

## TABLE OF AUTHORITIES

### Federal Cases

|   |        |
|---|--------|
| <i>Anderson v. Liberty Lobby, Inc.</i> ,<br>477 U.S. 242, 249 (1986) .....                                    | 10     |
| <i>Beacon Theatres, Inc. v. Westover</i> ,<br>359 U.S. 500, 510–11 (1959) .....                               | 12     |
| <i>Dairy Queen, Inc. v. Wood</i> ,<br>369 U.S. 469, 472–73 (1962) .....                                       | 12     |
| <i>Goldberg v. Kelly</i> ,<br>397 U.S. 254, 269 (1970) .....  | 8      |
| <i>Granfinanciera, S.A. v. Nordberg</i> ,<br>492 U.S. 33, 41–42 (1989) .....                                  | 12     |
| <i>Mullane v. Central Hanover Bank &amp; Trust Co.</i> ,<br>339 U.S. 306, 314 (1950) .....                    | 8      |
| <i>Murray’s Lessee v. Hoboken Land &amp; Improvement<br/>Co.</i> ,<br>59 U.S. (18 How.) 272, 277 (1856) ..... | 9      |
| <i>Parsons v. Bedford</i> ,<br>28 U.S. (3 Pet.) 433, 446–47 (1830) .....                                      | 10, 12 |
| <i>Prentis v. Atlantic Coast Line Co.</i> ,<br>211 U.S. 210, 226 (1908) .....                                 | 9      |
| <i>Tolan v. Cotton</i> ,<br>572 U.S. 650, 656–57 (2014) .....   | 10     |

**Constitutional Provisions**

U.S. Const. Art. III §1..... 2  
U.S. Const., Seventh Amendment ..... i, 2, 8, 11  
U.S. Const., Fourteenth Amendment §1 ..... i, 2, 8

**State Cases**

*Deutsche Bank Nat’l Trust Co. v. Slotke*,  
367 P.3d 600 (Wash. Ct. App. 2016) ..... 6  
*John Davis & Co. v. Cedar Glen No. Four, Inc.*,  
75 Wash. 2d 214, 450 P.2d 166 (1969) ..... 7

**Court Rules**

CR 56 ..... *passim*

**Other**

*Blackstone, W.*  
Commentaries on the Laws of England  
349–50 (1769) ..... 9, 10  
*Thomas, Suja A.*,  
Why Summary Judgment Is Unconstitutional,  
93 Va. L. Rev. 139 (2007) ..... 13

## **PETITION FOR WRIT OF CERTIORARI**

Petitioner Alvin B. White respectfully petitions this Court for a writ of certiorari to review the judgment of the Washington Court of Appeals, Division II, in this case.

### **DECISIONS BELOW**

The unpublished opinion of the Washington Court of Appeals, Division II (No. 58849-8-II), is reproduced in the Appendix to this Petition at App. 3, 6a–20a.

The orders of the Kitsap County Superior Court granting summary judgment, declaratory relief, and reformation of deed of trust, and denying reconsideration, are reproduced in the Appendix to this Petition at Apps. 4–6, 21a–40a.

The order of the Washington Supreme Court denying discretionary review (No. 104624-3) is reproduced in the Appendix to this Petition at App. 1, 3a.

### **JURISDICTION**

The judgment of the Washington Court of Appeals, Division II, was entered on May 20, 2025.

The Washington Supreme Court denied discretionary review on January 7, 2026.

This Court has jurisdiction under 28 U.S.C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY  
PROVISIONS INVOLVED**

The following provisions are relevant to this Petition:

**U.S. Const. Article III, § 1 (Judicial Power)**

“The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. ...”

**U.S. Const. amend. VII:**

“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved...”

**U.S. Const. amend. XIV, § 1 (Due Process Clause):**

“...nor shall any State deprive any person of life, liberty, or property, without due process of law...”

## STATEMENT

This case arises from an action filed in the Kitsap County Superior Court seeking declaratory relief and reformation of a deed of trust encumbering residential real property owned by Petitioner Alvin B. White.

The original complaint was filed by U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust, alleging that the legal description contained in the deed of trust was erroneous and seeking to reform the instrument to reflect what it asserted to be the correct description of the encumbered property in which it claimed to have been assigned an interest.

During the course of the proceedings, the trial court entered an order substituting U.S. Bank, National Association, as Legal Title Trustee for Truman 2016 SC6 Title Trust, as plaintiff in place of the original plaintiff, which was then dismissed from the action.

The case proceeded on cross-motions for summary judgment. U.S. Bank moved for summary judgment seeking reformation of the deed of trust. Petitioner opposed that motion and filed his own motion for summary judgment, asserting that material facts were in dispute regarding the authenticity and enforceability of the alleged promissory note and the existence and scope of any lien on the property.

During summary judgment argument, the trial court evaluated the competing evidence and made factual findings regarding the authenticity of the note, stating: “I’m comfortable saying that it appears to be an original document ... For purposes of today’s motion, it appears to me to be an original document. And to that extent, I’m comfortable with that finding.” App. 7 at 56a–57a.

White timely objected to this procedure. App. 7 at 41a–59a; App. 8 at 60a–76a.

The court entered judgment based on oral argument without conducting an evidentiary hearing or trial. App. 5, 24a–34a; App. 6, 35a–40a.

The Washington Court of Appeals, Division II, affirmed in an unpublished opinion. The Washington Supreme Court denied discretionary review on January 7, 2026. App. 3, 6a–20a.

This petition follows.

## **REASONS FOR GRANTING THE PETITION**

### **I. Introduction.**

This case presents a fundamental question concerning the limits of judicial power: whether a court may resolve disputed issues of fact bearing on private property rights through summary judgment, without conducting a trial.

The decision below reflects a broader and increasingly common practice in which courts determine, based solely on written submissions and

their own evaluation of evidence, whether a party is entitled to enforce an alleged obligation and take property. That practice departs from the historical understanding—reflected in the common law and the Constitution—that judicial power operates through the adjudication of facts by trial before the application of law.

The question arises in a context of substantial practical importance. Courts routinely adjudicate claims affecting title to real property through summary judgment proceedings. Where those proceedings are used to resolve disputed factual issues—particularly those concerning the authenticity and enforceability of alleged obligations—the result is the transfer or encumbrance of property without the procedural safeguards historically associated with adjudication of private rights.

The decision below reflects that practice.

The trial court resolved disputed issues concerning the authenticity of the alleged promissory note and the scope of the lien without conducting an evidentiary hearing or trial, instead making factual determinations in the course of ruling on summary judgment. App. 5, 25a–35a; App. 6, 35a–41a.

This Court’s review is warranted to clarify the constitutional limits governing such proceedings.

## **II. The Decision Below Illustrates the Use of Summary Judgment to Make Findings of Fact Traditionally Reserved for Trial.**

The record in this case demonstrates that the trial court did not merely determine whether genuine issues of material fact existed, but instead evaluated competing evidence and made findings concerning those facts.

This is not an isolated occurrence.

Courts in Washington State have affirmed summary judgment in proceedings affecting property rights after evaluating evidence bearing directly on the right to enforce the underlying obligation.

In *Deutsche Bank Nat'l Trust Co. v. Slotke*, 367 P.3d 600 (Wash. Ct. App. 2016), for example, the claimant supported its motion with an affidavit attesting to possession of the note and produced the original instrument “for inspection by the court.” The trial court then granted summary judgment and concluded that Deutsche Bank “is the holder of the Note” and “is entitled to foreclosure.”

That determination—resolving entitlement to enforce the instrument and authorizing foreclosure—was made without trial. The decision thus reflects the same pattern present here: courts proceeding beyond the limited function of identifying genuine issues of fact and instead resolving dispositive factual predicates to the exercise of judicial power in the course of summary judgment.

The case below here does not turn on state-law doctrines concerning who may enforce a note in a judicial foreclosure action. *See, e.g., John Davis & Co. v. Cedar Glen No. Four, Inc.*, 75 Wash. 2d 214, 450 P.2d 166 (1969). This case does not involve a conventional judicial foreclosure proceeding, but an action for reformation in which the trial court resolved disputed issues concerning the authenticity and enforceability of the alleged obligation as a predicate to granting relief affecting property rights.

In any event, Petitioner disputed the existence and enforceability of the alleged promissory note, including whether any enforceable instrument existed. The question presented is therefore, not who may enforce a concededly valid note, but whether a court may resolve such disputed factual predicates to the exercise of judicial power without trial.

In ruling on the parties' cross-motions for summary judgment, the trial court expressly assessed the evidence regarding the authenticity of the alleged promissory note, stating:

I'm comfortable saying that it appears to be an original document...For purposes of today's motion, it appears to me to be an original document. And to that extent, I'm comfortable with that finding.

App. 7 at 56a–57a.

That determination was made without the benefit of trial, cross-examination, or credibility determinations by a jury. Yet it bore directly on the enforceability of the alleged obligation and the existence and scope of a lien on Petitioner's property.

This case thus presents a concrete example of a court resolving disputed factual issues in a manner traditionally reserved for trial, while exercising dispositive authority over private property rights.

### **III. The Questions Presented Implicate the Founder's Original Understanding of Judicial Power, Due Process and the Right to a Jury Trial Under the Seventh Amendment.**

The issues presented are not limited to the application of procedural rules, but implicate core constitutional protections.

First, the Due Process Clause requires that deprivations of property occur only through procedures that provide a meaningful opportunity to be heard. The Due Process Clause does not merely guarantee notice and an opportunity to be heard; it preserves the fundamental structure of adjudication as it existed at common law, including the requirement that disputed issues of fact bearing on private rights be resolved through trial rather than judicial determination on motion. *See Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *Goldberg v. Kelly*, 397 U.S. 254, 269 (1970);

*Murray's Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272, 277 (1856).

Second, the use of summary judgment to resolve contested factual issues raises broader concerns regarding the scope of the “judicial power” as understood at the time of the Constitution’s ratification. At common law, the determination of disputed facts was not committed to judicial evaluation on motion, but to trial.

“A judicial inquiry investigates, declares and enforces liabilities as they stand on present or past facts and under laws supposed to already exist.” *Prentis v. Atlantic Coast Line Co.*, 211 U.S. 210, 226 (1908).

At the time of the founding, the exercise of judicial power in cases involving private rights required adjudication through established judicial proceedings culminating in a trial at which disputed facts were determined based on credible evidentiary submissions. Courts did not resolve contested factual matters by evaluating the arguments of the parties, but instead proceeded through the structured processes of pleading, issue formation, and trial that defined the common law mode of adjudication.

As Sir William Blackstone explained, the common law required that the truth of contested matters be established through the trial process which involved fact finding based on credible evidence, not by judicial assessment of competing assertions:

“the truth of every accusation... should afterwards be confirmed by the unanimous suffrage of twelve of his equals and neighbours.”

4 W. Blackstone, *Commentaries on the Laws of England* 349–50 (1769)

Consistent with that understanding, this Court has long recognized that the judicial function involves the application of law to facts determined through trial, not the determination of those facts by the court itself in the course of resolving dispositive motions. See *Parsons v. Bedford*, 28 U.S. (3 Pet.) 433, 446–47 (1830); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986) (“the judge’s function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial”); see also *Tolan v. Cotton*, 572 U.S. 650, 656–57 (2014).

The decision below departs from these principles. In ruling on summary judgment, the trial court did not limit itself to determining whether a genuine dispute of material fact existed. Instead, the court evaluated the evidence and made a factual determination concerning the authenticity of the alleged promissory note, based on the court’s evaluation of the signature, indentations, ink, etc.

After looking at the note the court, and without considering any of White’s contrary evidence, decides:

Okay. I have been handed the document, top of which indicates adjustable rate note...It's a four-page document. No, it's five pages because there's an attachment and an addendum to the note. There is a signature on page 4 proceeding the addendum. Appears to be an original signature, looking at it. Appears to be -- I can feel the indentations where a person signed. Does not appear to be a photocopy. There are stamps on the back that also appear to be original stamps and signatures. One actually looks like it's a stamp with a -- the initials and stamp, but one is the original. Signature is actually smeared. There is another signature on the addendum, which putting my finger across it, I can also feel the indentations for where it was signed and appears to be signed by a person by the name of Alvin White on both the addendum and on the four-page document of an adjustable rate note. So that's what I'm going to put on the record for purposes of what I received. I know this is a valuable document, and I'm going to have it handed back to plaintiff's counsel.

App. 7 at 54a-55a.

That statement reflects precisely the type of judicial factfinding that this Court has repeatedly cautioned is impermissible at the summary judgment stage. By assessing the evidence, drawing its own conclusion regarding authenticity, and making a “finding” on that issue, the trial court resolved a disputed question of fact bearing directly on the existence and enforceability of the alleged obligation.

The court thus exercised dispositive authority over Petitioner’s property rights based on its own evaluation of the evidence, without the trial process historically required for the adjudication of such disputes. This case squarely presents whether that exercise of judicial power is consistent with the Constitution.

Third, the Seventh Amendment preserves the right to trial by jury in suits at common law where legal rights are determined. Although this action was styled as one for equitable relief, the trial court resolved disputed issues of fact bearing on the existence and enforceability of the alleged promissory note—issues that are legal in nature and historically determined by a jury. The Constitution does not permit the characterization of a claim as equitable to displace the jury’s role in resolving such factual disputes. *See Beacon Theatres, Inc. v. Westover*, 359 U.S. 500, 510–11 (1959); *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 472–73 (1962); *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 41–42 (1989); *Parsons v. Bedford*, 28 U.S. (3 Pet.) 433, 446–47 (1830).

These protections reflect a common constitutional principle: that disputed issues of fact bearing on private rights must be resolved through the trial process, not by judicial determination on motion.

Modern summary judgment practice, when used to resolve contested factual issues, departs from historical tradition and long established traditional norms. As one scholar has observed, if summary judgment procedures actually permit judges to perform functions that the Constitution assigned to the jury and to the trial process itself that procedure is likely unconstitutional. See Suja A. Thomas, *Why Summary Judgment Is Unconstitutional*, 93 Va. L. Rev. 139 (2007).

#### **IV. This Case Provides a Clean Vehicle for Addressing These Questions.**

This case presents the questions in a straightforward procedural posture.

The trial court granted summary judgment after both parties filed cross-motions and after Petitioner identified disputed issues of material fact concerning the authenticity and enforceability of the alleged promissory note and the scope of any lien. The court nevertheless resolved those issues without trial.

The Washington Court of Appeals affirmed, and the Washington Supreme Court denied review.

No procedural complications obscure the constitutional issues presented.

Because the case squarely presents the use of summary judgment to resolve disputed factual issues affecting private property rights, it provides a suitable vehicle for this Court's review.

### CONCLUSION

White's petition for writ of certiorari should be granted.

DATED this 3rd day of April 2026 at Arlington, Washington.

Respectfully submitted,



Scott E. Stafne, WSBA No. 6964  
STAFNE LAW *Advocacy & Consulting*  
239 North Olympic Avenue  
Arlington, WA 98223  
360.403.8700  
Scott@Stafnelaw.com  
*Counsel of Record*