

25-172

No. 24A837

IN THE

SUPREME COURT OF THE UNITED STATES

MARK MAZZA,
LISA MAZZA,

Petitioners,

v.

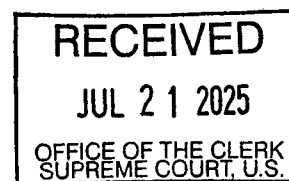
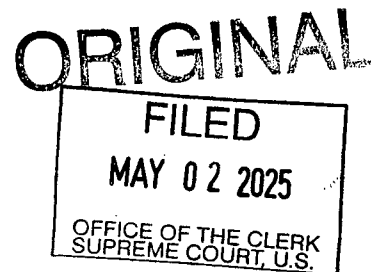
BANK OF NEW YORK MELLON,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS
FOR THE THIRD CIRCUIT

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QUESTIONS PRESENTED FOR REVIEW

- Whether THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT applied the incorrect standard, when affirming the lower tribunal's judgment, which granted a summary judgment to the Respondent?
- Whether THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT applied the incorrect standard, when affirming the lower tribunal's judgment dismissing the Counterclaims of the Petitioners?
- Whether THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT applied the Rooker-Feldman doctrine correctly?
- Whether this should review and find the fraud exception to Rooker Feldman applies to cases including this matter resolving the split among the circuit courts and enter reversal of the September 12, 2024 judgment of ejectment?
- Whether this Court should review and find it is not a Rooker Feldman issue then a party such as respondent fails to comply with state rules regarding entries of judgment and changes the original judgment without motion and court approval. ?
- Whether this court should review and invalidate the judgement of ejectment due to constitutional violations including but not limited to lack of due process , fraud

/concealment and fraud on the courts starting
at the state court level and continuing at the
district court and appellate courts?

LIST OF PARTIES

The caption contains the names of all of the parties to the proceedings and they are also listed below:

- 1) **MARK MAZZA**, Petitioner;
- 2) **LISA MAZZA**, Petitioner;
- 3) **BANK OF NEW YORK MELLON**, Respondent

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**PETITION FOR A WRIT OF CERTIORARI
OPINIONS BELOW**

United States Court of Appeals for the Third Circuit
Order affirming Motion For Summary Judgment and
granting a Motion To Dismiss Counterclaim, dated
September 12, 2024.

JURISDICTION

This Petition is timely as pursuant to a letter from
The Supreme Court of the United States Office of the
Clerk, an application of time within which to file a
Petition For Writ of Certiorari has been extended to
May 2, 2025. The Supreme Court has jurisdiction to
consider and review this matter pursuant to Article
III ,Section 2 ,Clause 2 of the Constitution.

STATUTORY PROVISIONS INVOLVED

FRCP Rule 56, which governs Summary Judgments
in civil litigations. FRCP Rule 12(b)(6), which
governs Motions To Dismiss in civil litigations

STATEMENT OF THE CASE

1. This matter involves an appeal of the District
Court's Order granting the Respondent, The
Bank of New York Mellon (the "Respondent"
or "BONY") a Summary Judgment on its claim
for ejectment.
2. This matter has a long history.
3. On or about June 12, 2012, BONY filed a
foreclosure action in the Pennsylvania Court of
Common Pleas, Chester County (the
"Pennsylvania Court") against the Petitioners,
Mark Mazza ("Mr. Mazza") and Lisa Mazza
("Ms. Mazza") (collectively referred to as the
"Petitioners").

4. This was based on a purported mortgage for property location at 1271 Farm Road, Berwyn, PA 19312 (the "Property") owned by the Petitioners,
5. On or about January 23, 2015, the Pennsylvania Court found in favor of BONY and issued a foreclosure judgment on OF about August 12, 2015 in favor of BONY in the amount of \$1,085,500
6. The judgment was docketed as both in *rem* and *in personam* and a writ of execution was issued in November, 2016.
7. Subsequently, on or about June 15, 2017 a sheriff's sale was conducted and BONY acquired title to the Property and a sheriff's deed was delivered to BONY on August 8, 2017 and was recorded on August II, 2017.
8. On or about August 25, 2017, BONY filed an ejectment action with the Pennsylvania Court and to be clear this was a separate and distinct action from the original foreclosure action.
9. On or about December 6, 2017, the Petitioners removed the ejectment action to the U.S. District Court for the Eastern District of Pennsylvania (the "District Court").
10. At no point in time during the pendency of the ejectment action, did BONY take steps to revive the foreclosure judgment, which as set forth in the below legal arguments, is required to take place every five years after the entry of a judgment, pursuant to Pennsylvania law.
11. Five years after the entry of the foreclosure judgment, the judgement expired.
12. However, on or about October 28, 2022, in the District Court, BONY filed a Motion For

Summary Judgment (the "MSJ") on its ejectment claim and misrepresented to the District Court that its "judgment in foreclosure is now final", which was false, as the judgment was actually void, since it had not been renewed five years after its entry.

13. On or about November 20, 2022, the Petitioners filed discovery demands, seeking from BON items including the original note and mortgage, however no relevant discovery was produced. The court denied discovery. By history, respondent filed to dismiss counterclaims on 5/24/21, the decision on the motion granting dismissal was on 3/30/22, Petitioners appealed the decision on April 29, 2022 and was unable to develop through discovery the defenses and counterclaims. The appeal decision dismissing the appeal was on 9/30/22 and less than 30 days later respondents motion for summary judgment was filed. There was no reasonable time to conduct discovery and this prevented potential development to respondents claims of paramount title which is required to proceed with ejectment. Petitioners were denied crucial discovery and ability to contest the motion for summary judgment. Several prejudice resulted as respondent never proved they possessed the original note nor claimed it was lost. It was not solely a chain of possession claim regarding the note. As raised in defenses and counterclaims it was claimed the respondent lacked standing to proceed with ejectment. Petitioners did not file a responsive pleading until 4/29/2021 then an amended answer on 5/20/21 and with the respondents

motion on 5/24/21 and the appeal proceedings there was no reasonable and fair opportunity to conduct discovery before the motion for summary judgment filing.

14. On or about May 24, 2023, the District Court granted a MSJ in favor of BONY.
15. The District Court also struck the Petitioners' Amended Answers and Counterclaims, based on an argument that the Petitioners had not filed the Amended Answer and Counterclaims within the allocated time or sought the District Court's permission for more time/extension of time. Original pleading filed 4/29/21, amended pleading filed within 15 days on May 20, 2021.
16. The Petitioners filed a timely Notice of Appeal and this matter then proceeded to the United States Court of Appeals for the Third Circuit (the "Third Circuit").
17. Shockingly, BONY then filed a Motion To Reinstate the ejectment action in Chester County Court of Common Pleas in October 2023 that was denied in November 2028, also failing to serve a copy of the motion on the Petitioners.
18. On or about November 28, 2023, the Pennsylvania Court rejected the Motion To Reinstate.
19. On or about, September 18, 2024, the Third Circuit denied the Petitioners' Motion To Summarily Reverse the District Court's Judgment, which was filed pursuant to an applicable local rule and also entered an Opinion that affirmed the MSJ of the District Court.

20. Next, in the Opinion, the Third Circuit held that BONY had established the right to exclusive possession of the Property, through the recorded sheriff's deed, which was attached to the MSJ.
21. This Petition will focus on the elements for an MSJ to be granted, as the Petitioners disagree with the statement in the Third Circuit's Opinion that they failed to raise any genuine issues of material facts as to BONY's claim of paramount title. Petitioners believe they did oppose respondent's undisputed facts in a filing.
22. The Opinion also held that Discovery should have been pursued in the District Court sooner than November of 2022,
23. Lastly, the Opinion upheld the grant of the MSJ, based on the Rocker-Felaman doctrine, which prevents federal consideration of cases brought by state court losers complaining of injuries caused by state court judgments.
24. A grant of review by the U.S. Supreme Court is the last option of judicial review available to the Petitioners.
25. Respondent obtained a fraudulent second judgment which was not the judgment legally entered.
26. None of the arguments from the reply brief was addressed by the appeals court and ignored the counterclaims had been previously dismissed in the district court. Important to note the dismissal was on the first pleading filed by petitioners on April 29, 2022 and failed to consider the properly filed amended pleading filed 15 days later.

27. The appeals court failed to find the amended filing was timely and wrongfully concluded the amended filing of May 20, 2022 was untimely.
28. The affirmative defenses and counterclaims were validly asserted and support why this court should review this matter.

REASONS FOR GRANTING THE WRIT

The issue of how summary judgments and grants of dismissal of counterclaims are issued in cases of alleged mortgage fraud on the part of large banks affects large amounts of home owners and there needs to be a U.S. Supreme Court review of if the correct standards are being applied. This court should address when there is compelling fraud and concealment this Court can resolve the split in authority amongst several circuits and find the fraud exception to Rooked Feldman Doctrine applies in certain cases nationwide, and why the exception should be applicable here. Loss of proper, property rights and ejectment from the home warrant review and application of the exception when fraud and concealment exists over time.

An analysis is needed on review regarding the procedures in state court how judgments are entered and the detrimental impact on homeowners regarding sheriff sales . issuance of deeds and deed transfer resulting in improper transfer and loss of property rights. Review to decide if petitioners had standing to dispute and contest on grounds of standing and that standing was not waived. Due to conflicting judgments , one by the court raising in personam implications and the second judgment entered in August 2015 where petitioners were denied due process without notice and lack of due process were unable to contest the judgment that was not granted by motion or other court approval. Request review to address whether the facts of this matter warranted petitioner's request for relief by way of the Motion for Summary Disposition and whether granting the sur reply brief filing was proper when respondent possessed the same arguments and claims before said 7 filing. There was

no new or after discovered evidence and respondent omitted the same in reply to the motion. Additional facts requested the Court find relevant for review purposes.

Petitioners did not receive respondents August 12, 2015 entry of judgment from the court or respondent and was known first in 2024 in respondents reply or sur reply brief in response to the motion for summary disposition. It is clear the August entry of judgment was an attempt to clarify the original order of judgment in that it stated the judgment was in rem only and not in personam. The trial judges judgment on the foreclosure, issued in January 2015, included in 'the appendix packet did not state it was in rem only and then referred to "and against the defendants" resulting in a in personam claim against petitioners.

The August filing was in violation of 2 state rules, one being Pa.R.C.P 227.4 that only allows the filing of a praecipe to enter judgment when a court grants or denies relief but does not itself enter judgment OF order. The second rule permits such filing requiring amendments or corrections to decisions or orders to be made by a judge. No motion nor approval was rendered by the trial judge or any other judge in Chester County Court of Common Pleas, Pennsylvania. The original judgment was implied and or expressed had a in personam claim which respondent clearly in a deceptive and misleading manner sought to clarify in the self serving August praecipe of judgment. With the original judgment being in part in personam, respondent was not able to proceed with the ejectment action, issuance of sheriff deed and transfer of title. This Court is requested to review the second judgment and invalidate it or find it void. Additionally, both

judgments were not revived , especially the first judgment in January 2015 because revival was required due to the in personam inclusion, It is requested this Court find the Rooked Feldman Doctrine does not preclude state court procedures regarding entries of judgments and supports a first impression issue allowing the Court to invalidate the judgment in ejectment. The sheriff's deed could not merge the invalid and improper judgment entered in August 2017. With the superceded January judgment and the invalid August judgment there was no basis for the sheriff sale, sheriff deed and transfer of title. The respondent misled the courts by claiming paramount title, concealing and committing fraud by filing the ejectment action. Without a valid in rem judgment, the 5 year revival statute applied precluding the filing for ejectment. The August praecipe became known to petitioners in the Spring 2024 during the summary disposition phase as after discovered or newly discovered evidence. The respondent cannot make that claim because they filed the praecipe in violation of state rules. The appeals court did not even address and consider there were 2 judgments in the state court, much to the severe and great prejudice to petitioners. There was a lack of due process under state and federal constitutions 14th amendments. The respondent even misled and deceived the courts by referring to one judgment in the motion for summary judgment and another judgment date at the court of appeals. This is inclusive in petitioner's response in opposition to the sur reply request which is included in the appendix. Neither judgment could have merged with the title. And with an expired January judgment and a invalid August judgment there was no judgment supporting merger of judgment/title or of sheriff deed

/judgment , transfer and proceeding with ejectment filing. There was no standing from which they could proceed. The respondent blatantly and with fraudulent intent concealed and misled the courts and petitioners resulting' in invalid and fraudulent foreclosure , sheriff sale , deed transfer and filing for ejectment. The August praecipe of judgment was not produced in any prior court filings ,only being raised and wrongfully being permitted by the appeals court in a sur reply brief. Respondent had actual knowledge of the praecipe and did not produce it until the spring of 2024,almost 9 years later.

The invalid August filing , even if valid, was not revived after August 2022 precluding respondent from proceeding with ejectment. There was lack of standing and lack of subject matter jurisdiction, timely raised and included in petitioners April 29, 2021 and May 20,2021 responsive pleadings.

The appeals court opinion wrongfully states petitioner did not rely on changed circumstances in filing for summary disposition. This was an error , as petitioners alleged changed circumstances on page 12 of the motion for summary disposition and said motion was timely filed shortly after receipt of information in support of said filing.

Without receipt and notice to petitioners of the August praecipe for judgment , which was a invalid and violation of court rules, there was lack of authority for delivery of the deed to respondent on August 8,2017 and then recorded August 11,2017 a day before the filing of the August 12 praecipe, The invalid deed nor praecipe supported the filing of ejectment, and sheriff sale was improper since the January judgment was both in rem and in personam despite respondents' non compliant August praecipe. The filings and actions by respondent were misuse of

how judgments are entered and acts of concealment and fraud were ever present from foreclosure through the ejectment phase.

The appeals court found claims preclusion if said claims could have been presented in the first proceeding regarding affirmative defenses and counterclaims. First , there was no reasonable opportunity to raise facts and dispute for claims that were unknown during the foreclosure phase because the respondent concealed material information and documents and failed to ever produce that they were in possession of the original note with the mortgage. It was mandatory that respondent possess the original note and without same they procured a fraudulent foreclosure judgment. The fraud and concealment continued from there as noted above. The state court was deceived with a invalid and improper entry of judgment on August 12,2015 in violation of 2 state rules and this negated issuance of the deed and transfer to the respondent a day before the August judgment. There should be review of the judgment and how it was fraudulently obtained > misleading and deceiving the state court , federal district court and court of appeals . The January judgment clearly from the judgment entered was not in rem only and the invalid August judgment was with intent to fundamentally change the original judgment by stating the judgment was in rem only and not in personam. The filing of the ejectment complaint inferred a valid sheriff deed and paramount title from a invalid judgment and could not stand where there was an original judgment that had in personam ramifications. As petitioners did not know of the August judgment until 2024 and a report issued in 2018 , post foreclosure , indicating several problems in obtaining foreclosure , there is no way

petitioners knew or could have known about these after discovered issues. It is dispute there was issue preclusion and requested this court review the preclusion finding by the appellate court.

I. THE ACTIONS OF THE COURT IN DENYING APPEAL OF THE LOWER TRIBUNAL'S GRANT OF SUMMARY JUDGMENT WAS INCORRECT AND SHOULD BE REVERSED

Kline u. TVA, 128 F 3d 337 (Sth Cir. 1997) sets forth the standard of review in the appeals court for a Motion For Summary Judgment, which is that, "A district's court's conclusions of law are reviewed *de novo*."

The court reviews a grant of summary judgment *de novo*, viewing all facts and inferences drawn therefrom in the light most favorable to the appellant. Reversal is warranted if the appellant can demonstrate the existence of a genuine issue of material fact. *Plots U. General Motors Corp., Packard Elec. Div.*, 71 F 3d 1190 (6th Cir. 1995)

Watson U. Chena Healthcare Mgmt., 2013 U.S. Dist. LEXIS 141872 (ED. Mich. 2013), which set forth the following, "Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R.Civ.P. 56(c). To prevail on a motion for summary judgment, the non-moving party must show sufficient evidence to create a genuine issue of material fact. *Klepper v. First American Bank*, 916 F.2d 337, 341-42 (6th Cir. 1990). Drawing all reasonable inferences in favor of the non-moving party, the Court must determine "whether the

evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law." *Anderson U. Liberty Lobby, Inc.*, 477 U.S. 242, 251-52,

106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). Entry of summary judgment is appropriate "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Celetox Corp. v. Catrett*, 477 U.S. 317, 322, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). When the "record taken as a whole could not lead a rational trier of fact to find for the nonmoving party," there is no genuine issue of material fact, and summary judgment is appropriate. *Simmons-Harris v. Zelman*, 234 F.3d 945, 951 (6th Cir. 2000)."

Based on the facts of this matter , all incorporated herein, warrants review by this Court.

II. THE ACTIONS OF THE COURT IN DENYING APPEAL OF THE LOWER TRIBUNAL'S DISMISSAL OF THE COUNTERCLAIMS WAS INCORRECT

The appeals court failed to acknowledge the earlier dismissal of the counterclaims related to the April 29,2021 filing. The pleading was timely filed per the docket entries attached to the appendix, as was the same regarding the May 20,2021 filing. The appeals court could not dismiss counterclaims twice regarding the original and amended filings and then later in summary judgment readdress those filings. Respondent had notice and receipt of the amended filing and failed to address it in their motion to dismiss.

Instead of the appeals court reviewing the dismissals of the counterclaims on the proper standard , the

court stated the counterclaims were stricken due to not being timely filed See *Bel! As. Corp v Twombly* 550 U.S. 544 (2007) and *Ashcroft v. Iqbal* 556 U.S. 662(2009), as the standards set forth in these cases were not applied, preventing a proper analysis.

III. THE ACTIONS OF THE COURT IN DENYING APPEAL OF THE LOWER TRIBUNAL'S GRANT OF SUMMARY JUDGMENT INCORRECTLY RELIED UPON THE ROOKER-FELDMAN DOCTRINE AND SHOULD BE REVERSED

The Rooker-Feldman doctrine is implicated when, "in order to grant the federal plaintiff the relief sought, the federal court must determine that the state court judgment was erroneously entered or must take action that would render that judgment ineffectual." *FOCUS v. Allegheny County Court of Common Pleas*, 75 F.3d 834, 840 (3d Cir.1996). Accordingly, a claim is barred by *Rooker-Feldman* under two circumstances: (1) "if the federal claim was actually litigated in state court prior to the filing of the federal action" or (2) "if the federal claim is inextricably intertwined with the state adjudication, meaning that federal relief can only be predicated upon a conviction that the state court was wrong." *In re Knapper*; 407 F.3d at 580 (3d Cir. 2005)

Moreover, a federal claim is "inextricably intertwined" with an issue adjudicated by a state court when (1) the federal court must determine that the state court judgment was erroneously entered in order to grant the requested relief, or (2) the federal court must take an action that would negate the state court's judgment. *Id.* at 581 (quoting *Walker U. Horn*, 885 F.3d 321, 330 (3d CiJc.2004))

In this matter, the Petitioners removed a state action for Ejectment to the Federal Courts based on Federal Diversity Jurisdiction and importantly, they filed an Answer and Counterclaims, which set forth valid federal causes of action.

The *Rooker-Felman* doctrine was relied upon by both the District Court and the Appeals Court in affirming the grant of the Motion For Summary Judgment and the Dismissal of the Counterclaims.

To avoid confusion, this Petition first argues why the Rooker-Feldman doctrine was incorrectly applied to the issue of the Motion For Summary Judgment.

In the case of *Turner v. Crawford Square Apartments III, LP.*, 449 E 3d 542, 547 (3d Cir, 2006) it was held that the *Rooker-Feldman* doctrine does not apply when an action in the district court did not complain of injuries caused by the state court's judgment.

In setting forth when the source of injury is the defendant's actions and the federal suit is independent, the following example is useful:

Suppose a plaintiff sues his employer in state court for violating both state anti-discrimination law and Title VII and loses. If the plaintiff then brings the same suit in federal court, he will be seeking a decision from the federal court that denies the state court's conclusion that the employer is not liable, but he will not be alleging injury from the state judgment. Instead, he will be alleging injury based on the employer's discrimination. The fact that the state court chose not to remedy the injury does not transform the subsequent federal suit on the same matter into an appeal, forbidden by *Rooker-Felciznan*, of the state-court judgment.

Great Western Mining & Mineral Co. v. Fox Rothschild LLP, 615 F.3d 159 (3d Cir, 2010)

Applying that same logic to this matter, it should be noted that the Petitioners in this case filed a Counterclaim, which was based on specific actions and violations by the Respondent.

Furthermore, it has been held that, "A useful guidepost is the timing of the injury, that is, whether the injury complained of in federal court existed prior to the state-court proceedings and thus could not have been "caused by" those proceedings. See *McKithen v. Brown*, 481 F.3d 89, 98 (2d Cir. 2007), *Turner*, 449 F.3d at 547.

In this matter, the actions of the Respondent existed well before the state court proceedings and actually go back to the origination of the mortgage in question. Said claims were not known during the state court proceedings and could not be litigated in state court.

Looking at the history of this matter, it should be noted that the Respondent filed its complaint in ejectment on August 25, 2017 and the Petitioner's removed it to federal court on or about December 6, 2017.

The Respondent failed during the pendency of the ejectment proceedings to revive its foreclosure judgment, which had been obtained on August 12, 2015 and as such it became a void and dormant judgment on August 12, 2020 pursuant to Pa.R.C.P. No 2023 and 42 Pa.C.S. § 5526(1). These rules require a judgment in Pennsylvania has to be revived after 5 years and thereafter become void judgments. As the August 2015 was invalid and procedurally improper it was a self serving fraudulent filing that was not ordered through a motion nor approved by

the trial judge. This was a fraud and intent to mislead the courts into facilitating a fundamentally different order when at all time the original judgment was in rem and in personam against defendants. The dual type judgment invoked the 5 year revival statute and even though the sheriff sale and deed transfer were in 2017 the sale was improper as the sale could not validly proceed due to the in personam judgment against petitioners pursuant to the January judgment. Respondent knew the above and proceeded fraudulently in order to expedite the ejectment filing. Significant to note the August 12, 2015 seeking to clarify the judgment of the court was post sheriff sale and issuance of the deed to the respondent. Petitioners did file a motion to set aside the sheriff sale which was denied. Petitioners were in the dark regarding court filings, as respondent nor the court sent copies of court filings other than denial of the motion to set aside.

So, in reality, by the time the Respondent obtained its Motion For Summary Judgment, there was no injury complained of in state court for the Rooked-Feldman doctrine to apply to, because there was instead a void judgment and the only thing pending was a properly removed ejectment action and Counterclaims, which complained of actions by the Respondent, which predated the date of the void state court judgment.

Another case that is instructive is that of a now deceased Texas death row inmate, Hank Skinner.

The U.S. Supreme Court set forth that, "If a federal plaintiff `present[s][an} independent claim,'" it is not an impediment to the exercise of federal jurisdiction that the "same or a related question" was earlier aired between the parties in state court, 544

U.S., at 292~298, 125 S.Ct. 1517. A state~court decision is not reviewable by lower federal courts, but a statute or rule governing the decision may be challenged in a federal action.

See, *e.g.*, *Feldman*, 460 U.S., at 487, 103 S.Ct. 1303. Because Skinner's federal case-which challenges not the adverse state-court decisions but the Texas statute they authoritatively construed - falls within the latter category, there was no lack of subject-matter jurisdiction over his federal suit. *Skinner v. Switzer*, 131 S. Ct. 1289 (2011)

In this matter, a close review of the Counterclaims demonstrate that they fall into this same category.

Roker Feldman does not bar a federal claim alleging extrinsic fraud ,which is fraud which prevents a party from presenting his claim in court. *Kougasian V TMSL* 359 F.3d],136(9th Cir.2004)(quoting *Wood V McEwen* 644 F.2d 797 (9th cir. 1981)

Allegations and evidence of fraud by respondent were not known during the course of the state proceedings and were properly raised in counterclaims.

On the fraud exception to Rooker Feldman , the exception exists where fraud goes to the very issues contested in the state court action. In the Sixth Circuit Court of Appeals the court found the doctrine inapplicable , especially where the federal claims are based on misrepresentation. *McCormick V Braverman* 451 F.3d 382(6th Cir. 2006). Key to petitioners counterclaims is that respondent misrepresented its standing as they did not hold the original note and mortgage. Independent claims were put forth by petitioners and said claims were not intertwined with the state court adjudication and

preexisted the state court proceedings and then procedural violations exacerbated the fraud, concealment and misrepresentation.

The Third Circuit does not follow regarding a exception to the doctrine and failed to do a thorough review and analysis on the issue of the exception. The Second ,Fifth Seventh ,Eighth , Tenth and Eleventh Circuit Courts of Appeals have rejected the exception. The Circuits also disagree on whether the court must look to the nature of the requested relief in order how to apply *Rooked Feldman*, *Shallenberger v Allegheny Cnty.* No. 2:20-cv»0073 - NR2020 U.S. Dist. LEXIS 52382(W.D. Pa2020)

The Third Circuit and Sixth Circuits have held the court must look to the requested relief in their analysis. *Ernst v Child and Youth Services of Chester County* 108 F.3d 486(3rd Cir. 1997) and *Holloway V Brush* 220 F.3d 767 (6th Cir. 2000)

Some courts have applied a reasonable opportunity exception. *Wood v Orange County* 715 F. 2d 16543(11th Cir. 1983) *Lynch v LaPorte Superior Court* 789 F.2d 554('7th Cir. 1987) A federal lawsuit is allowed to proceed if the federal plaintiff lacked a reasonable opportunity to litigate its claims in the state court proceeding. *Keley V Med-1-Sols, LLC* 548 F.3d 600 (7th Cir. 2000)

Overall , there is much conflict and confusion on whether the fraud exception applies that petitioner requests review on first impression grounds and/or based on the fraud ! concealment and misrepresentation by respondent over a lengthy period of time culminating in falsehoods warranting reversal of the judgment in ejectment. Petitioners aver the facts of this matter warrant review and consideration to unify the exception nationwide to protect millions of homeowners from fraud in the mortgage, foreclosure, and ejectment phases. Seek review and reversal of the motion for summary judgment entered on May 24, 2023.

The facts of this matter are atypical for application of the Rocker Feldman Doctrine , or in the alternative the exception to the doctrine should be found by review of this court and grant the writ.

CONCLUSION

The petition for writ of certiorari should be granted for the foregoing reasons.

DATED this __14__ day of __July__, 2025.

s/ Mark Mazza

s/ Lisa Mazza

Lisa Mazza, Mark Mazza

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Mark Mazza

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