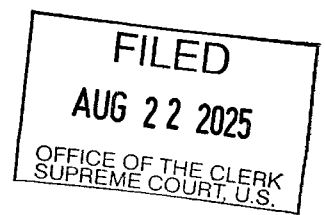


Doc No. **25 - 5505**



In the Supreme Court of the United States

Eliezer Taveras and Valeria Taveras
Petitioners,

v.

U.S. Bank, National Association As Legal Title Trustee For
Truman 2016 SC6 Title Trust,
Respondent

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

Eliezer Taveras
1445 NE 151 Terr.
North Miami Beach, FL 33162
(305) 515-4840
etaveras2020@gmail.com
Pro se petitioner

Valeria Taveras
1445 NE 151 Terr.
North Miami Beach, FL 33162
(305) 515-4840
valtaveras@yahoo.com
Pro se petitioner

August 21, 2025

QUESTIONS PRESENTED

1) Whether satisfying the second prong of *Georgia v. Rachel*, 384 U.S. 780 (1966), for removal under 28 U.S.C. § 1443(1) requires a **formal state statute**, or whether **systemic judicial practices and procedural barriers** may constitute an equivalent basis for a firm prediction that federal civil rights cannot be enforced in state court.

2) Whether the application of state doctrines such as litigation privilege and ratification constitutes an “equivalent basis” for removal under the second prong of *Georgia v. Rachel*, 384 U.S. 780 (1966), where their combined effect precludes the enforcement of federal rights to sue, to challenge fraudulent instruments, and to enforce contract terms.

3) Whether imposing monetary sanctions under 28 U.S.C. § 1447(c) on pro se litigants for invoking § 1443(1) in good faith chills the First Amendment right to petition and violates the Supremacy Clause.

PARTIES TO THE PROCEEDINGS AND RELATED CASES

Petitioners: Eliezer Taveras and Valeria Taveras, pro se.

Respondent: U.S. Bank National Association, as Trustee for ARLP Trust 4, by and through its servicer Rushmore Loan Management Services LLC.

Other Parties Below: Braulio Grullon and Orquidea Grullon, tenants in possession of the subject property during the foreclosure proceedings, who were evicted during the pendency of the federal appeal.

RELATED CASES:

1. *U.S. Bank, National Association As Legal Title Trustee For Truman 2016 SC6 Title Trust v. Valeria Taveras et al.* No. 2016CA000916MF. In The Circuit Court of The Ninth Judicial Circuit in And for Osceola County, Florida. Case removed pursuant to Section 1443(1) to federal court on August 21, 2023.

2. *U.S. Bank, National Association As Legal Title Trustee For Truman 2016 SC6 Title Trust v. Valeria Taveras et al.* No. 6:23-cv-1493-WWB-EJK. United States District Court Middle District of Florida Orlando Division. Remand entered on October 11, 2023. Order appealed to Eleventh Circuit Court of Appeals, Case No. 23-13384.

CONTENTS

QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDINGS AND RELATED CASES	ii
TABLE OF AUTHORITIES.....	iv
I. OPINIONS BELOW	1
II. STATEMENT OF JURISDICTION.....	1
III. STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED	1
IV. STATEMENT OF THE CASE	4
V. REASONS FOR GRANTING THE PETITION.....	14
1) THE ELEVENTH CIRCUIT'S NARROW INTERPRETATION OF § 1443(1) CONFLICTS WITH THIS COURT'S PRECEDENT AND DEEPENS A CIRCUIT SPLIT	16
a) The Eleventh Circuit Misapplied <i>Georgia v. Rachel</i> by Treating Judicial Barriers as Mere Adverse Rulings	16
b) The Decision Contravenes <i>Conrad</i> by Refusing to Recognize Judicial Barriers as a Basis for Removal.....	18
c) The Decision Contravenes <i>BP p.l.c. v. Mayor of Baltimore</i> by Allowing Both the District Court and the Eleventh Circuit to Ignore the § 1443(1) Grounds for Removal.....	19
2) THE STATE COURT'S RELIANCE ON RATIFICATION AND LITIGATION PRIVILEGE CREATES A STRUCTURAL BAR TO FEDERAL CIVIL RIGHTS ENFORCEMENT	21
a) The State's Ratification-Through-Litigation Framework Operates as an "Equivalent Basis" for § 1443(1) Removal	22
b) Traditional Ratification Doctrine – Narrow and Safeguarded	23
3) THE PANEL'S SANCTIONS RULING WAS INFECTED BY FRAUD UPON THE COURT	27
4) THE SANCTIONS IMPOSED FOR INVOKING § 1443(1) VIOLATE THE SUPREMACY CLAUSE AND CHILL FIRST AMENDMENT RIGHTS	29
a) Sanctioning Civil Rights Removal Undermines Federal Supremacy	29
b) Sanctions for Protected Petitioning Violate the First Amendment and Disproportionately Burden Pro Se Civil Rights Litigants	29
c) The Decision Makes § 1443(1) Functionally Inaccessible	30
5) THIS CASE PRESENTS URGENT AND RECURRING QUESTIONS ABOUT ACCESS TO FEDERAL FORUMS FOR CIVIL RIGHTS ENFORCEMENT	30
VI. CONCLUSION	32

TABLE OF AUTHORITIES

Cases

<i>BE & K Constr. Co. v. NLRB</i> , 536 U.S. 516 (2002).....	29
<i>BP p.l.c. v. Mayor of Baltimore</i> , 141 S. Ct. 1532 (2021).....	19, 20
<i>Conrad v. Robinson</i> , 871 F.2d 612 (6th Cir. 1989).....	18
<i>Georgia v. Rachel</i> , 384 U.S. 780 (1966)	passim
<i>Hazel Atlas Glass Co. v. Hartford-Empire Co.</i> , 322 U.S. 238 (1944).....	26, 28, 33
<i>Huls v. Llabona</i> , 437 F. App'x 830 (11th Cir. 2011).....	25
<i>In re Snyder</i> , 472 U.S. 634 (1985).....	28
<i>Martin v. Franklin Capital Corp.</i> , 546 U.S. 132 (2005).....	29
<i>McLean v. JP Morgan Chase Bank Nat'l Ass'n</i> , 79 So. 3d 170 (Fla. 4th DCA 2012) ..	21
<i>Metropolitan Casualty Ins. Co. v. Stevens</i> , 312 U.S. 263 (1941)	12
<i>Steamship Co. v. Tugman</i> , 106 U.S. 118, 122–23 (1882).....	12
<i>United States v. Throckmorton</i> , 98 U.S. 61 (1878).....	28
<i>Whitney v. United States</i> , 167 U.S. 529 (1897)	26, 33

Statutes

28 U.S.C. § 1254(1)	1, 2
28 U.S.C. § 1443(1).....	passim
28 U.S.C. § 1446(d).....	2, 9, 12, 21
28 U.S.C. § 1447(c)	passim
42 U.S.C. § 1981(a)	passim
42 U.S.C. § 1982	passim
The Civil Rights Act of 1964	9
The Fair Housing Act.....	9

Constitutional Provisions

U.S. Const. amend. I (Petition Clause)	i, 1, 29
U.S. Const. amend. XIV, § 1 (Due Process and Equal Protection Clauses)	passim
U.S. Const. art. VI, cl. 2 (Supremacy Clause).....	i, 16, 29, 32

Florida Statutes

Fla. Stat. § 673.3011.....	3, 21
Fla. Stat. § 673.3021(1)(b)	4, 7, 21, 25

Florida Statute § 817.535	passim
Florida Statute § 831.01	25
Florida Statute § 837.02	25

Florida Cases

<i>Campbell v. Riggs</i> , 310 So. 3d 68 (Fla. 4th DCA 2021)	24
<i>Equibank v. Penland</i> , 344 So. 2d 629 (Fla. 1st DCA 1977)	24
<i>Frankenmuth Mut. Ins. Co. v. Magaha</i> , 769 So. 2d 1012 (Fla. 2000)	23
<i>Kumar Corp. v. Nopal Lines, Ltd.</i> , 462 So. 2d 1178 (Fla. 3d DCA 1985).....	23
<i>Mazzoni Farms, Inc. v. DuPont</i> , 761 So. 2d 306 (Fla. 2000).....	23
<i>Mid-State Homes, Inc. v. Staines</i> , 161 So. 2d 569 (Fla. 2d DCA 1964)	23
<i>Riggs v. Aurora Loan Servs., LLC</i> , 36 So. 3d 932 (Fla. 4th DCA 2010).....	17
<i>Russell v. Aurora Loan Servs., LLC</i> , 163 So. 3d 639 (Fla. 2d DCA 2015).....	21
<i>Veal v. U.S. Bank, N.A.</i> , 20 So. 3d 136 (Fla. 2d DCA 2009)	17
<i>Wells Fargo Bank, N.A. v. Clavero</i> , 201 So. 3d 72 (Fla. 3d DCA 2015).....	25
<i>Zurstrassen v. Stonier</i> , 786 So. 2d 65 (Fla. 4th DCA 2001)	23

Florida Rules of Civ. Procedure

Florida Rule of Civil Procedure 1.150	10
Florida Rule of Civil Procedure 1.510	8, 28

I. OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit, entered on May 9, 2025, is unpublished and is reproduced in the Appendix at App. 1a–18a. The Eleventh Circuit’s order denying rehearing and rehearing en banc, entered on July 7, 2025, is reproduced at App. 19a–20a.

II. STATEMENT OF JURISDICTION

The judgment of the United States Court of Appeals for the Eleventh Circuit was entered on May 9, 2025. A timely petition for panel rehearing and rehearing en banc was denied on July 7, 2025. This Petition is being filed on or before October 12, 2025, within the ninety-day period prescribed by Rule 13.1 of the Rules of this Court.

This Court has jurisdiction under 28 U.S.C. § 1254(1) to review the judgment of a United States court of appeals by writ of certiorari.

III. STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Const. art. VI, cl. 2 (Supremacy Clause).

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary notwithstanding.”

(Ensures federal removal statutes cannot be nullified by state practice.)

U.S. Const. amend. I (Petition Clause).

“Congress shall make no law ... abridging ... the right of the people ... to petition

the Government for a redress of grievances.”

(Protects reasonable use of federal courts, including § 1443 removal, from chilling sanctions.)

U.S. Const. amend. XIV, § 1 (Due Process and Equal Protection Clauses).

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

(Guarantees meaningful opportunity to contest forged instruments and assert compulsory counterclaims.)

28 U.S.C. § 1254(1).

“Cases in the courts of appeals may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.”

28 U.S.C. § 1443(1).

“Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States ...

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof.”

(Civil rights removal statute.)

28 U.S.C. § 1446(d).

“Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.”

(Once removal is effected under § 1446(d), the state court is divested of jurisdiction while federal jurisdiction is pending.)

28 U.S.C. § 1447(c) .

“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. 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.”

(Fee-shifting provision used to sanction Petitioners.)

42 U.S.C. § 1981(a).

“All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws ... as is enjoyed by white citizens.”

42 U.S.C. § 1982.

“All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.”

Fla. Stat. § 673.3011.

“Person entitled to enforce” an instrument means (1) the holder of the instrument, (2) a nonholder in possession of the instrument who has the rights of a holder, or (3) a person not in possession who is entitled to enforce under specific statutory exceptions.”

(Defines who may enforce a negotiable instrument; standing depends on possession of an authentic note, so evidence of forgery directly undermines entitlement to enforce.)

Fla. Stat. § 673.3021(1)(b).

“A holder in due course must take the instrument without notice that it contains an unauthorized signature or has been altered. An instrument bearing signs of forgery or irregularity is not enforceable by a purported holder.”

(Provides that a promissory note showing evidence of forgery or irregularity cannot confer holder-in-due-course status, thereby defeating standing to enforce it in Florida courts.)

IV.STATEMENT OF THE CASE

SYNOPSIS

This petition arises against the backdrop of a systemic foreclosure practice in Florida that, despite legislative and judicial reforms designed to protect the integrity of mortgage enforcement, has evolved into a framework where even admitted forgeries are judicially enforceable. In 2013, the Florida Legislature enacted Florida Statute § 817.535 to create civil remedies against fraudulent instruments, and in 2014 the Florida Supreme Court adopted Rule 1.115, tying foreclosure pleadings to

the statutory requirement of proving ownership and the right to enforce the note. These reforms sought to curb the widespread use of false documentation exposed during the mortgage crisis. Yet, in practice, Florida trial courts now bypass these protections through a combination of the *ratification* doctrine and the *litigation privilege*, which together shield foreclosure plaintiffs from both evidentiary challenge and counterclaims, even when the instrument is shown by sworn expert testimony to be counterfeit.

In this case, rather than adjudicate those claims, the state court applied litigation privilege to bar statutory counterclaims under Florida law, refused to hear motions to strike sham pleadings supported by forensic evidence, and allowed the foreclosure to proceed on an acknowledged counterfeit promissory note.¹ Yet, while federal jurisdiction over the removed case was pending, that same court pressed forward: it convened hearings in Petitioners' absence, granted summary judgment for the substituted plaintiff, conducted the foreclosure sale, issued the certificate of title, and entered a deficiency judgment. It was during the hearing on Respondent's motion for summary judgment that the underlying rationale for this pattern of rulings came to

¹ The characterization of the promissory note as "counterfeit" is not a mere conclusion of Petitioners but reflects facts accepted in the state-court proceedings and confirmed by opposing counsel. The state court's summary judgment order expressly acknowledged Petitioners' forgery allegations and proceeded under a ratification theory, treating Petitioners' prior mortgage payments as adoption of the instrument (See Appx. 54a-56a, sections marked or highlighted). Moreover, during an August 13, 2025, conference call, Respondent's counsel, Adam Diaz, confirmed that the allegations of forgery of the BSI Note "was never disputed" and that the case was decided on the ratification theory, conceding that Petitioners "lost" on that basis in both the trial and appellate courts.

light: the court had adopted an expansive application of the *ratification* theory, treating Petitioners' pre-discovery mortgage payments as a legal adoption of the instrument, even after the state court itself proceeded on the assumption that the instrument was forged.

The case thus presents not merely a foreclosure dispute, but a question of exceptional national importance: whether § 1443(1) reaches judicially created policies that, as applied, categorically deprive defendants of the ability to enforce federal civil rights in state court.

This is not an isolated failure within a single state court proceeding. The policies at issue have been allowed to migrate into the federal forum through alignment with state foreclosure enforcement methods. In this case, the district court, without addressing the § 1443(1) grounds, adopted state-created procedural shortcuts and imposed sanctions premised on a misrepresentation that originated in the state-court record. The Eleventh Circuit affirmed, effectively erasing the federal forum's role as a safeguard against precisely the kind of structural civil rights deprivation § 1443(1) was designed to prevent. If such alignment is left unchecked, the federal courts in Florida cease to function as an independent check on state policies that contravene federal law and federally protected rights.

BACKGROUND

In April 2016, BSI Financial Services, purportedly acting on behalf of Christiana Trust as trustee for ARLP Trust 4, initiated a foreclosure action in the Circuit Court for Osceola County, Florida. Christiana Trust claimed to be the successor in interest

to the lender, Bank of America, N.A. (“BANA”). The foreclosure complaint was predicated on a purported promissory note (“the BSI Note”) alleged to bear the signature of Petitioner Valeria Taveras.

In 2018, while proceeding pro se, Petitioners discovered that the signature on the BSI Note was not genuine. Valeria Taveras executed a sworn affidavit, based on her personal knowledge, affirming that she had not signed the instrument, nor authorized any one to sign it on her behalf. In addition, Petitioners retained three certified forensic document examiners, each of whom, under oath, concluded that the signature was a forgery. Additionally, in her deposition in 2018, taken by Respondent, Valeria Taveras testified that the signature was not hers and that the instrument was counterfeit. Petitioners also denied the substantive terms set forth in the document, including any encumbrance on the subject property or the stated financial terms. These findings formed the basis for their contention that the BSI Note was not the original mortgage note and that Christiana Trust, and, by substitution, Respondent, lacked standing as a holder in due course under Florida Statutes § 673.3021.

Rather than adjudicate those claims, the state court applied litigation privilege to bar statutory counterclaims under Florida law (like § 817.535) and other compulsory claims, refused to hear motions to strike sham pleadings supported by forensic evidence, and allowed the foreclosure to proceed on this purported note. It was later, at the end of the estate court’s action, that the underlying rationale for this pattern of rulings came to light: the court had adopted an expansive application of the

ratification theory, treating Petitioners' pre-discovery mortgage payments as a legal adoption of the alleged and treated as forged instrument, thereby bypassing statutory safeguards and evidentiary challenges (see Appx. 53a-56a, sections marked or highlighted).

Over the next several years, the court permitted Respondent to amend its complaint twice, first to add an equitable subrogation theory, and later, on August 23, 2022, to add a vendor's lien claim, each designed to secure foreclosure even if the **BSI Note were found forged**. In response to the Second Amended Complaint, Petitioners moved to strike it as a sham, supported with evidence demonstrating perjury and contradictions in Respondent's assertions of "holder" status under Florida law. Despite these showings, Petitioners were barred from setting evidentiary hearings as permitted under the Florida Rules of Civil Procedure. When filing their response, Petitioners also asserted a compulsory counterclaim; however, a newly assigned presiding judge dismissed it, relying on a prior order, entered before the Second Amended Complaint was filed, that precluded Petitioners from raising any counterclaim or cause of action other than a declaratory judgment.

On July 17, 2023, the state court entered an order scheduling for August 23, 2023, hearings on multiple dispositive motions filed by Petitioners (Appx. 38a-39a). Respondent's July 13 "Incorporated Motion for Summary Judgment" was not among the matters set for hearing, likely because the scheduling order complied with the timing requirements of Florida Rule of Civil Procedure 1.510(c).

Petitioners understood that August 22, 2023, one year from the filing of the

verified Second Amended Complaint on August 23, 2022, marked the final day to remove under the Eleventh Circuit's "revival" doctrine. On August 21, 2023, two days before the one-year revival deadline, Petitioners filed a Notice of Removal under 28 U.S.C. § 1443(1) in the United States District Court for the Middle District of Florida. The notice detailed the cumulative state court orders and practices barring enforcement of federally guaranteed rights and invoked the revival doctrine based on the August 23, 2022 Second Amended Complaint. Petitioners promptly filed the notice in the state court on August 22, 2023, as required by § 1446(d).

In their Notice of Removal, Petitioners asserted that cumulative judicial orders, the categorical application of Florida's litigation privilege, and entrenched state court policies had not only denied them rights guaranteed by federal civil rights laws, including 42 U.S.C. §§ 1981 and 1982, the Fair Housing Act, and the Civil Rights Act of 1964, but had rendered it impossible to obtain protection or enforcement of those rights in the state forum. Petitioners contended that the state court operated as a closed system, shielding foreclosure plaintiffs from accountability while depriving defendants of any meaningful remedy.

Petitioners contended that these measures constituted a "structural bar", preventing any realistic opportunity to secure enforcement of their federal rights in the state forum.

The very next day, Respondent moved to remand, disregarding the § 1443(1) basis and the revival doctrine claims, and instead mischaracterizing the removal as an untimely attempt based on diversity jurisdiction (Appx. 21a-23a). In the same filing,

Respondent sought sanctions under 28 U.S.C. § 1447(c), asserting that Petitioners had previously removed the case years earlier on diversity grounds and that such removal had been remanded. The district court granted remand without addressing the § 1443(1) grounds or the revival doctrine and adopted Respondent's position in imposing monetary sanctions (Appx. 24a-29a). Petitioners appealed to the Eleventh Circuit Court of Appeals.

On December 1, 2023, the Eleventh Circuit entered an order confirming that it possessed federal jurisdiction to review the remand order pursuant to 28 U.S.C. § 1447 (c)-(d).

On appeal, Petitioners' briefs reinforced both the substantive violations of their federal rights and the impossibility of obtaining enforcement in the state forum, as well as the applicability of the revival doctrine. Petitioners alleged:

- 1) Categorical bars on statutory counterclaims under Fla. Stat. § 817.535 and on any cause of action other than declaratory judgment, later invoked to dismiss compulsory counterclaims to amended foreclosure pleadings.
- 2) Blanket refusal to set evidentiary hearings under Fla. R. Civ. P. 1.150 on sworn forgery claims, despite multiple expert reports and affidavits.
- 3) Procedural favoritism toward the plaintiff, including expedited hearings for its motions, tolerance of derogatory remarks by counsel, and orders requiring costly monthly travel from Spain under threat of striking defenses.
- 4) Use of the Florida litigation privilege as a de facto policy to shield allegedly

fraudulent foreclosure documents from challenge, disproportionately harming minority foreclosure defendants.

- 5) Retaliatory measures, including threats of contempt, sanctions for raising forgery and civil rights claims, and post-removal entry of summary judgment, sale, and eviction while federal appellate review was pending.

Petitioners argued that these cumulative conditions amounted to a “structural bar” within the meaning of *Georgia v. Rachel*, leaving no realistic opportunity to secure protection or enforcement of their federal civil rights in the state forum.

In a striking breach of candor, Respondent’s response brief inserted a false assertion in a footnote, claiming that Petitioners had removed the case on the eve of a scheduled hearing on its motion for summary judgment (the August 23, 2023 hearing), despite knowing that the motion had never been set for hearing (Appx. 30a-31a, footnote).² In fact, the record showed it was added to the state court’s docket only on August 9, 2023 (while federal jurisdiction was pending). This misrepresentation went unnoticed by Petitioners at the time. The Eleventh Circuit nonetheless adopted the false narrative as fact, stating:

“On July 13, 2023, U.S. Bank moved for summary judgment in state court. **This motion was scheduled to be heard on August 23, 2023.** Two days before the hearing, the Taverases again attempted to remove the underlying action to the federal district court... Further, **their decision to attempt a second removal based on § 1443 and on the eve of a dispositive motion hearing** implicates the type of ‘gamesmanship’ for which the Supreme Court explicitly endorsed awarding costs and fees pursuant to § 1447(c).” (Emphasis added) (Appx. 03a-04a, 14a).

² Compare with Appx. 38a-39a (State Court’s Notice of hearing), 40a-41a (motion to amend the order to include Motion for Summary Judgment), and 43a (order denying motion to amend Notice of Hearing).

Relying on this erroneous premise, on May 9, 2025, the Eleventh Circuit affirmed the district court's remand and sanctions order. While acknowledging that Petitioners satisfied the first prong of *Georgia v. Rachel*, the panel held they failed the second prong, reasoning that foreclosure actions do not predictably deny civil rights (Appx. 1a-15a). The panel further affirmed sanctions under 28 U.S.C. § 1447(c), characterizing Petitioners' removal as "gamesmanship on the eve of a dispositive hearing." That conclusion, as seen above, rested on Respondent's false representation that its own motion for summary judgment was scheduled to be heard in state court on August 23, 2023.

Post-Removal State Court Conduct Confirming Structural Inability to Protect Federal Rights

Compounding the Petitioners' civil rights violations, while the federal appeal was pending, and despite receiving formal notice of removal on August 23, 2023, the state court proceeded to hold a hearing at Respondent's request, granting multiple pending and oral motions, some filed after removal. On September 1, 2023, the state court entered an order expressly acknowledging the removal but concluding that jurisdiction had not been lost. In doing so, the state court relied on Florida decisions ultimately grounded in *Metropolitan Casualty Ins. Co. v. Stevens*, 312 U.S. 263 (1941), a pre-statutory case that directly conflicts with both the modern text of 28 U.S.C. § 1446(d) and this Court's binding precedent in *Steamship Co. v. Tugman*, 106 U.S. 118, 122–23 (1882), which holds that a state court is "absolutely without jurisdiction" once a removal petition is filed until the case is remanded (see Appx. 44a-47a).

The state court also set Respondent's summary judgment motion for hearing on

October 19, 2023. Later, Petitioners objected on jurisdictional grounds, noting that appellate review of the remand order was then pending in the Eleventh Circuit. Nevertheless, the state court proceeded to entertain Respondent's motion

The state court granted summary judgment in favor of Respondent. In doing so, the court expressly assumed the truth of Petitioners' sworn forgery allegations, yet ruled that any such forgery had been "ratified" by Petitioners' conduct (payments to BANA) (see ruling's transcript at Appx. 54a-56a). Petitioners presented the transcript of this hearing to the Eleventh Circuit, which acknowledged the submission and stated it would be considered in its final decision. They believed this post-removal judgment confirmed, before the appellate court itself, that their federal rights could not be protected in the state forum and that the conditions for § 1443(1) removal were met.

Respondent now seeks more than \$20,000 in sanctions and appellate attorney's fees. The cumulative effect of these proceedings, the denial of a federal forum, the judicial ratification of a potentially forged instrument, the foreclosure sale during appellate review, and the imposition of sanctions based on misrepresentations, reflects a systemic erosion of Petitioners' constitutional rights. The integrity of the judicial process, the scope of § 1443(1), and the fundamental due process right to challenge the authenticity of legal instruments are now squarely before this Court.

The Theories Before the Eleventh Circuit

Petitioners' notice of removal and initial appellate brief extensively documented how Florida's litigation privilege operates as a categorical bar to fraud-based defenses

and counterclaims in foreclosure proceedings. After Respondent filed its answer brief attaching the state court's summary judgment order, an order entered September 1, 2023, while federal jurisdiction was pending, Petitioners moved for leave to supplement the record with the hearing transcript and related filings. That transcript confirmed the court expressly acknowledged Petitioners' forgery evidence and affidavits but nonetheless granted summary judgment to Respondent under a ratification theory, despite Respondent being neither the original lender nor the original plaintiff.

On July 19, 2024, the Eleventh Circuit ordered that Petitioners' motion to supplement the record was "CARRIED WITH THE CASE." (See Appx. 36a, Court's order on 7/19/2024). Thus, the ratification issue and its interaction with litigation privilege were squarely before the court of appeals. The panel's refusal to address them, despite clear record evidence that a counterfeit note was judicially enforced, underscores the urgent need for this Court's review. Allowing such doctrines to take root leaves § 1443(1) without effect in precisely the circumstances Congress designed it to reach: where state judicial practices themselves create a structural bar to civil rights enforcement.

V. REASONS FOR GRANTING THE PETITION

SUMMARY

1. The Eleventh Circuit's Narrow Interpretation of § 1443(1) Conflicts with this Court's Precedent and Deepens a Circuit Split.

The decision below treats the *Rachel* second-prong requirement as limited to "formal expressions of state law," disregarding systemic judicial practices that

function as categorical barriers to federal rights. Other circuits have recognized equivalent bases, creating a direct and acknowledged conflict that only this Court can resolve.

2. The State Court's Reliance on Ratification and Litigation Privilege Creates a Structural Bar to Federal Civil Rights Enforcement.

Rather than adjudicate forgery allegations, Florida courts have combined the litigation privilege with a novel ratification doctrine to foreclose challenges to counterfeit mortgage instruments. This dual framework immunizes fraud and affirmatively enforces forgeries, depriving defendants of the rights Congress secured in 42 U.S.C. §§ 1981–82 to make and enforce contracts and to hold and convey property. The Eleventh Circuit's refusal to recognize this framework as an "equivalent basis" under *Rachel* misapplies § 1443(1) and sanctions a systemic denial of federal rights.

3. The Panel's Sanctions Ruling Was Infected by Fraud Upon the Court.

Respondent's counsel secured sanctions by falsely asserting that its summary judgment motion had been duly noticed and set for hearing before removal. The state-court record shows otherwise. This misrepresentation was adopted by the Eleventh Circuit and underpinned its sanction ruling, producing a result irreconcilable with this Court's standards for attorney candor and due process.

4. Sanctions Imposed for Invoking § 1443(1) Violate the Supremacy Clause and Chill First Amendment Rights.

Imposing monetary sanctions on pro se litigants for good-faith reliance on § 1443(1) effectively deters individuals from accessing the federal forum Congress created for civil rights enforcement. This chilling effect undermines the Supremacy Clause, suppresses the right to petition, and conflicts with this Court's precedent recognizing the importance of open federal access in civil rights cases.

5. This Case Presents Urgent and Recurring Questions About Access to Federal Forums for Civil Rights Enforcement.

Foreclosure litigation continues to generate systemic abuses involving counterfeit instruments and procedural barriers. The combination of Florida's ratification doctrine, litigation privilege, and the Eleventh Circuit's narrow reading of § 1443(1) threatens to foreclose federal review altogether. The issues are recurring, outcome-determinative, and of national importance.

ARGUMENT

1) THE ELEVENTH CIRCUIT'S NARROW INTERPRETATION OF § 1443(1) CONFLICTS WITH THIS COURT'S PRECEDENT AND DEEPENS A CIRCUIT SPLIT

a) The Eleventh Circuit Misapplied Georgia v. Rachel by Treating Judicial Barriers as Mere Adverse Rulings

In *Georgia v. Rachel*, 384 U.S. 780 (1966), this Court held that removal under § 1443(1) is appropriate where a defendant asserts rights "stated in terms of racial equality" and where there is a "firm prediction" that those rights cannot be enforced in state court. While *Rachel* acknowledged that such a denial could stem from a "formal expression of state law," the Court was equally clear that this standard is satisfied by an "equivalent basis", such as systemic judicial conduct, structural

barriers, or procedural entrenchment that functionally suppresses those rights.

Here, the Eleventh Circuit acknowledged that Petitioners satisfied *Rachel*'s first prong but rejected the second by recasting categorical judicial prohibitions and evidentiary exclusions as mere "adverse rulings" (see *supra*, Statement of the Case). By limiting "equivalent basis" to a facially discriminatory statute or express confession of bias, the court misapplied *Rachel* and created a rule that will produce non-uniform enforcement of § 1443(1).

As set forth *supra* in the Statement of the Case, the state court's orders, including its post-removal judgment entered while assuming the promissory note was forged, operated as a categorical bar to Petitioners' rights under §§ 1981 and 1982.

The Court's intervention is urgently warranted. This case is not an outlier, it is the culmination of a legal trend in Florida that progressively insulates foreclosure plaintiffs from basic legal scrutiny, and now extends that insulation to forged evidence. If tolerated, it invites further abuse and signals to lower courts that procedural efficiency justifies departure from bedrock legal principles.³

³ Florida courts have increasingly insulated foreclosure plaintiffs from meaningful challenge to their standing. The progression began with rulings that barred borrowers from contesting fraudulent assignments of mortgage, reasoning that they were not parties to those contracts. See *Veal v. U.S. Bank, N.A.*, 20 So. 3d 136 (Fla. 2d DCA 2009). Later, courts held that proof of possession of a note sufficed to establish standing, since "the mortgage follows the note," even where the assignment was forged or questionable under Fla. Stat. § 817.535. See *Riggs v. Aurora Loan Servs., LLC*, 36 So. 3d 932 (Fla. 4th DCA 2010). In this case, the trend reached its apex: a substituted plaintiff, with no original role in the transaction, was granted summary judgment despite a judicial acknowledgment that the note bore a forged signature. The ruling rested on a novel theory of "ratification," unsupported by Florida precedent, effectively nullifying the borrower's right to contest enforceability. If

***b) The Decision Contravenes Conrad by Refusing to Recognize
Judicial Barriers as a Basis for Removal***

The Eleventh Circuit's refusal to treat judicial conduct and procedural obstruction as an "equivalent basis" under *Georgia v. Rachel* directly conflicts with the Sixth Circuit's approach in *Conrad v. Robinson*, 871 F.2d 612 (6th Cir. 1989). In *Conrad*, removal under § 1443(1) was permitted where binding state-court precedent precluded the defendant from asserting a federal retaliation defense under Title VII. The Sixth Circuit held that such precedent, even absent a discriminatory statute, created a functional bar to enforcing the federal right and satisfied *Rachel*'s second prong. That recognition, that judicial interpretation or application of state law may operate as a structural bar, is irreconcilable with the Eleventh Circuit's holding here. As detailed supra in the Statement of the Case, Petitioners faced categorical judicial orders barring statutory counterclaims and foreclosing evidentiary hearings on sworn forgery defenses, leaving no forum in which to enforce rights guaranteed by 42 U.S.C. §§ 1981 and 1982.

The conflict is structural, not semantic. *Conrad* allows removal where judicial precedent functionally blocks enforcement of federal rights; the Eleventh Circuit denies it even when court-imposed orders expressly prevent their exercise. That deepening split warrants review to reaffirm that § 1443(1) protects against functional denials of civil rights, whether accomplished by statute, binding precedent, or entrenched courtroom practice, and that such exclusion cannot be recast as mere

courts may now disregard forgery of the note itself, the last legal safeguard in foreclosure litigation has been erased.

“procedural discretion.”

c) The Decision Contravenes BP p.l.c. v. Mayor of Baltimore by Allowing Both the District Court and the Eleventh Circuit to Ignore the § 1443(1) Grounds for Removal

In *BP p.l.c. v. Mayor of Baltimore*, 141 S. Ct. 1532, 1538 (2021), this Court held that when an enumerated removal statute such as § 1443 is invoked, the court of appeals must review all asserted grounds for removal. *BP* makes clear that meaningful review requires actual engagement with those grounds, not mere procedural shortcuts.

Here, Petitioners argued on appeal that the district court never analyzed the § 1443(1) basis in its remand order, which necessarily made the sanctions improper. The Eleventh Circuit acknowledged that “the district court’s order, admittedly, did not address the Taverases’ § 1443 argument in remanding the case and awarding costs and fees,” but excused the omission on the theory that “a district court’s silence on a ground for removal is an implicit denial on that ground.” Op. at 8 (citing *Conley* and *Schleider*).⁴

This reasoning is irreconcilable with *BP*. An “implicit denial” based on silence is not the “full review” *BP* requires. Treating non-analysis as an adequate substitute for actual consideration defeats the purpose of Congress’s decision to single out certain removal statutes for special protection. It also collapses the appellate court’s role into rubber-stamping whatever the district court did not say, rendering *BP*’s guarantee of

⁴ See *Conley v. City of Jacksonville*, 245 F.3d 1291, 1293 n.1 (11th Cir. 2001); *Schleider v. Florida Dep’t of Highway Safety & Motor Vehicles*, 121 F.4th 147, 156 (11th Cir. 2024).

plenary review meaningless.

By affirming sanctions despite the absence of any district court analysis of the § 1443(1) grounds, and by deeming that absence an adequate disposition “as a matter of law,” the Eleventh Circuit effectively authorized federal courts to nullify an enumerated removal statute through omission alone. *BP* forbids that result, and this Court’s intervention is required to restore the principle that when Congress mandates special jurisdictional review, both district and appellate courts must meaningfully address the federal rights invoked.

Allowing lower courts to disregard the express statutory basis for removal and recast cases as defective under other doctrines (e.g., diversity, federal question) has serious systemic consequences. It enables courts to:

- 1) Avoid engaging with uncomfortable civil rights allegations;
- 2) Insulate state judicial behavior from federal scrutiny;
- 3) Justify sanctions by citing a mischaracterized procedural ground.

Such evasion directly contradicts this Court’s guidance in *BP p.l.c. v. Mayor of Baltimore*, which reaffirmed that where civil rights removal is at issue, courts must review the entire remand order, not just its procedural surface. *BP* also reiterated the federal judiciary’s obligation to give heightened scrutiny to civil rights jurisdiction.

By failing to apply that standard, the Eleventh Circuit has weakened the removal protections that Congress established in § 1443(1) and has invited state courts and federal appellate panels alike to neutralize civil rights litigation through procedural mislabeling.

2) THE STATE COURT'S RELIANCE ON RATIFICATION AND LITIGATION PRIVILEGE CREATES A STRUCTURAL BAR TO FEDERAL CIVIL RIGHTS ENFORCEMENT

Florida's foreclosure framework now rests on the combined force of two doctrines, *ratification* and *litigation privilege*, that together eliminate any opportunity for defendants to contest fraudulent instruments. This combination is unprecedented, incompatible with settled principles of ratification, and corrosive of the federal protections Congress mandated to guarantee civil rights in state courts.

While this appeal was pending, the state court and Respondent acted as though the removal had never occurred, further confirming Petitioners' prediction that their federal rights could not be protected in that forum (and before entering the opinion, the Eleventh Circuit had notice of this, see *supra* Statement of the Case). Despite the clear divestiture of state-court jurisdiction under 28 U.S.C. § 1446(d), the trial court proceeded to: (1) Grant summary judgment to U.S. Bank while expressly assuming the truth of Petitioners' forgery allegations, holding instead that the forgery had been "ratified."⁵ (2) Order a foreclosure sale and direct the sale of the subject property. (3)

⁵ That ruling not only defied basic principles of Florida law (Fla. Stat. § 673.3021(1)(b) (a party is not a holder in due course if the instrument shows "evidence of forgery or alteration or is otherwise so irregular or incomplete as to call into question its authenticity"). See also Fla. Stat. § 673.3011 (defining a "person entitled to enforce" a negotiable instrument as one in possession of the instrument, provided it is authentic and valid under Chapter 673)) and caselaw, which require a foreclosure plaintiff to establish standing at inception, including a genuine and enforceable note (see *McLean v. JP Morgan Chase Bank Nat'l Ass'n*, 79 So. 3d 170, 173 (Fla. 4th DCA 2012) ("A party must have standing to foreclose at the time the complaint is filed."); *Russell v. Aurora Loan Servs., LLC*, 163 So. 3d 639, 642 (Fla. 2d DCA 2015) ("A substituted plaintiff must demonstrate that the original plaintiff had standing at the inception of the suit.")), but confirmed Petitioners' contention that the state forum was structurally incapable of enforcing their federal rights. Under settled Florida precedent, a substituted plaintiff acquires no greater standing than its predecessor.

Authorize eviction of the property's tenant pursuant to the foreclosure judgment. (4)
Enter a deficiency judgment against Valeria Taveras.

Each of these actions, taken while the federal appeal was pending, directly contravened the principle that removal suspends state-court authority over the case. More importantly, they illustrate the “equivalent basis” for § 1443(1) removal recognized in *Georgia v. Rachel*, structural denial of federal rights through court practices that render those rights impossible to enforce in the state forum. Petitioners’ inability to prevent the enforcement of a judgment based on an assumed forgery, or to stop post-judgment actions taken in disregard of federal jurisdiction, underscores that this was not a mere disagreement with state-court rulings. It was the functional exclusion from any forum willing to adjudicate their federal rights on the merits.

a) The State’s Ratification-Through-Litigation Framework Operates as an “Equivalent Basis” for § 1443(1) Removal

Although Florida’s ratification doctrine has long been narrowly cabined, requiring full knowledge and a voluntary, intentional adoption of the disputed act, its contemporary deployment in foreclosure cases has expanded into a de facto rule that converts defensive litigation itself into “ratification,” while Florida’s litigation privilege simultaneously blocks fraud-based remedies. Taken together, those judicial practices function as a structural bar to enforcing federal rights in state court, satisfying *Rachel*’s “equivalent basis” standard.

By conceding forgery yet awarding judgment, the court effectively acknowledged that standing never existed.

b) Traditional Ratification Doctrine – Narrow and Safeguarded

Florida law did not always apply ratification as a catch-all tool to validate questionable instruments. The early cases required strict safeguards: full knowledge of all material facts and a voluntary, intentional adoption of the act. In *Mid-State Homes, Inc. v. Staines*, 161 So. 2d 569 (Fla. 2d DCA 1964), the court explained that ratification in the foreclosure context could not occur unless the party alleged to have ratified acted with a clear understanding of the facts and an unmistakable intention to adopt them. This narrow framework mirrored the common-law principle that ratification is valid only where consent is knowing and deliberate.

Over time, however, Florida courts loosened these requirements. In *Kumar Corp. v. Nopal Lines, Ltd.*, 462 So. 2d 1178 (Fla. 3d DCA 1985), the court permitted ratification to be inferred from conduct indicating acceptance of contract benefits, even without an express statement of intent. *Zurstrassen v. Stonier*, 786 So. 2d 65 (Fla. 4th DCA 2001), went further, holding that ratification could be found even when fraud was alleged, so long as the party accepted benefits under the disputed agreement. Together, these cases marked a shift away from ratification as a doctrine of conscious choice, toward ratification by implication.

The Florida Supreme Court reinforced this expansion in *Mazzoni Farms, Inc. v. DuPont*, 761 So. 2d 306 (Fla. 2000), emphasizing that a defrauded party has an “election of remedies.” If the party affirms the contract by suing for damages rather than rescission, it has ratified the contract, even if fraudulently induced. Likewise, in *Frankenmuth Mut. Ins. Co. v. Magaha*, 769 So. 2d 1012 (Fla. 2000), the Court extended ratification and estoppel principles into the insurance context,

demonstrating how the doctrine had escaped its agency-law roots and migrated across substantive fields.

Foreclosure law has become a particularly fertile ground for this expansion. In *Equibank v. Penland*, 344 So. 2d 629 (Fla. 1st DCA 1977), the court applied ratification principles in a loan dispute to validate contested transactions. Most recently, in *Campbell v. Riggs*, 310 So. 3d 68 (Fla. 4th DCA 2021), the doctrine was applied even amid disputes over authority, underscoring that modern Florida courts bind parties under equitable ratification despite unresolved factual controversies.

This doctrinal drift, from Staines' strict consent requirement to Campbell's permissive approach, reveals a systemic trend. Florida courts now apply ratification expansively, often against parties who never voluntarily affirmed a contract and who expressly contest its authenticity. When coupled with litigation privilege, which shields fraudulent filings from challenge, ratification has become a judicial mechanism to enforce even counterfeit instruments. This expansion, as applied systemically in foreclosure proceedings, is not a mere misapplication of state law but a structural bar to enforcing federal civil rights in state courts—precisely the circumstance for which § 1443(1) was enacted.

This contemporary deployment of ratification in tandem with litigation privilege makes a mockery of settled law. Florida courts now permit foreclosure plaintiffs, often not the original lender or even the original plaintiff, to proceed on counterfeit promissory notes and derivative assignments, despite undisputed evidence challenging their authenticity. Such rulings contradict the state's own caselaw on

standing (e.g., *Wells Fargo Bank, N.A. v. Clavero*, 201 So. 3d 72 (Fla. 3d DCA 2015)), and disregard the plain text of Florida statutes criminalizing forgery (§ 831.01) and perjury (§ 837.02), prohibiting fraudulent filings (§ 817.535), and restricting enforcement to holders in due course (§ 673.3021(1)(b)). When state courts knowingly enforce counterfeit instruments by invoking ratification and shield their filing through litigation privilege, the system ceases to function as a forum for enforcing federal rights.

Section 1443(1) exists precisely for this scenario. When judicial doctrines are applied not as neutral rules but as structural devices to validate forgery and bar statutory remedies, state courts have erected an “equivalent basis” for predicting the denial of civil rights. Federal removal is the safeguard Congress intended, and this Court’s intervention is required to prevent state doctrine from collapsing the rule of law into a mechanism for enforcing fraud.

The Eleventh Circuit’s Alignment

The Eleventh Circuit’s alignment with Florida’s expanded litigation privilege is already evident. In *Huls v. Llabona*, 437 F. App’x 830 (11th Cir. 2011), the court affirmed dismissal of claims against an attorney based on Florida’s litigation privilege, which it described as providing “absolute immunity for acts occurring during the course of judicial proceedings.” By adopting this expansive state doctrine, the Eleventh Circuit effectively imported into federal practice a rule that shields fraudulent conduct in litigation from any accountability. What began as a state-law defense has thus become a federal barrier, barring litigants from challenging

misrepresentations or counterfeit filings in federal forums.

Despite this Court's precedents making clear that forged instruments are void ab initio, *Whitney v. United States*, 167 U.S. 529 (1897), and that fraud upon the court can never be insulated by doctrines of finality, *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), the Eleventh Circuit has now aligned itself with Florida's parallel expansion of ratification theory. In Petitioners' case, the Panel declared without qualification that "In 2016, the noteholder, now Christiana Trust, renewed the foreclosure action in state court," thereby assuming the enforceability of a note that Petitioners alleged, and supported with record affidavits, to be counterfeit, and that the state court itself acknowledged on the record could be treated as forged. Therefore, the Eleventh Circuit's finding was not neutral; it depended on the state-law rationale that litigation privilege bars fraud-based defenses while ratification validates even a disputed instrument through litigation conduct.

Taken together, these rulings demonstrate that the Eleventh Circuit has fully aligned with Florida's systemic foreclosure doctrines of *litigation privilege* and *ratification*. Once narrow in scope, these doctrines now function as absolute shields: litigation privilege blocks fraud defenses, while ratification transforms defensive litigation itself into consent to enforce even forged instruments. Their federalization means that Petitioners, and others similarly situated, face a structural bar to enforcing federal rights tied to property ownership and due process. That systemic barrier is precisely what satisfies the "equivalent basis" test under the second prong of *Georgia v. Rachel*, warranting this Court's intervention.

Together, these doctrines convert foreclosure proceedings into forums where defendants are categorically denied the ability to vindicate federal rights, including those secured by 42 U.S.C. §§ 1981–82 to make and enforce contracts and to convey property without racial or economic discrimination. Once litigation privilege forecloses fraud-based defenses and ratification supplies a rationale to enforce counterfeit instruments, the state forum ceases to function as a vehicle for civil rights enforcement.

The danger extends far beyond Petitioners' case. If courts may enforce acknowledged forgeries under the guise of ratification, no property right is secure and no federal right tied to property can be reliably enforced. Florida has thus constructed a model where state courts, and now, through alignment, federal courts, systematically deprive litigants of federal rights in foreclosure actions.

Only this Court can restore the principle that no tribunal may lend its authority to the enforcement of a forged instrument, and reaffirm that § 1443(1) provides a federal safeguard when state judicial practices themselves become structural barriers to civil rights enforcement.

3) THE PANEL'S SANCTIONS RULING WAS INFECTED BY FRAUD UPON THE COURT

Appellee and its counsel falsely represented to the Eleventh Circuit that their motion for summary judgment was scheduled for hearing in state court on August 23, 2023. This was false when made, known to be false, and intended to mislead the Court. The state court's July 17, 2023 scheduling order shows that the only dispositive motions set for that date were Petitioners' own (Appx. 44a-

45a). Had Respondent's motion for summary judgment actually been set for hearing, there would have been no need for Respondent to file, on August 9, 2023, fourteen days before the hearing and before Petitioners had filed a response, a motion to amend the order to include it (Appx. 46a-47a). That last-minute filing not only confirms the falsity of the representation but underscores that it was made in bad faith, as granting it would have violated the 20-day response period mandated by Florida Rule of Civil Procedure 1.510 (c)(5).

This was no minor misstatement. The Panel expressly adopted this falsehood as the factual predicate for labeling Petitioners' removal "gamesmanship on the eve of a dispositive hearing" and for affirming sanctions under 28 U.S.C. § 1447(c). That finding, central to the sanctions order, is directly refuted by the record.

Fraud of this nature strikes at the foundation of judicial integrity. In *Hazel Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944), this Court held that fraud on a tribunal "involves far more than an injury to a single litigant" and is "a wrong against the institutions set up to protect and safeguard the public." *United States v. Throckmorton*, 98 U.S. 61, 65–66 (1878), likewise recognized that judgments procured through fraud are "not to be treated as final." And *In re Snyder*, 472 U.S. 634, 643–44 (1985), reaffirmed that attorneys practicing before the courts owe a duty of candor and must avoid conduct "inimical to the administration of justice."

Fraud upon the court is never a harmless error; it is an assault on the legitimacy of judicial proceedings. Here, it infected the central reasoning of the

Panel's decision and sustained a sanctions order that should never have issued.

4) THE SANCTIONS IMPOSED FOR INVOKING § 1443(1) VIOLATE THE SUPREMACY CLAUSE AND CHILL FIRST AMENDMENT RIGHTS

a) Sanctioning Civil Rights Removal Undermines Federal Supremacy

The Eleventh Circuit affirmed sanctions under 28 U.S.C. § 1447(c) for Petitioners' removal under 28 U.S.C. § 1443(1), a statute Congress enacted to guarantee a neutral federal forum when state processes are structurally hostile to federal civil rights. The district court never addressed the § 1443(1) basis at all, yet the Eleventh Circuit affirmed both the omission and the sanctions.

This turns § 1443(1) from a statutory safeguard into a liability trap, contrary to the Supremacy Clause, U.S. Const. art. VI, cl. 2, and *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141 (2005), which limits § 1447(c) fees to objectively unreasonable removals. Petitioners' removal was grounded in explicit statutory protections and substantial record evidence. Treating such filings as sanctionable conduct undermines federal supremacy and nullifies Congress's purpose in enacting § 1443(1).

b) Sanctions for Protected Petitioning Violate the First Amendment and Disproportionately Burden Pro Se Civil Rights Litigants

The First Amendment protects non-frivolous access to the courts, even when unsuccessful. *BE & K Constr. Co. v. NLRB*, 536 U.S. 516, 525–26 (2002). Petitioners supported removal with sworn affidavits, expert reports, and a documented history of judicial orders foreclosing federal rights. That the Eleventh Circuit later rejected the grounds does not retroactively strip the filing of constitutional protection.

Sanctioning pro se civil rights defendants for invoking § 1443(1) deters precisely the class of litigants the statute was designed to protect, those lacking counsel, resources, and a fair state forum. The threat of crushing financial penalties ensures that many will never risk removal, regardless of the merits.

c) The Decision Makes § 1443(1) Functionally Inaccessible

Section 1443(1) was intended as a “federal safety valve” for defendants facing discriminatory or structurally biased state forums. If courts can impose severe sanctions whenever they later disagree with jurisdiction, the statute becomes an empty promise. Future litigants will face an untenable choice: endure a forum they believe is rigged against them or risk financial ruin for invoking a federal right Congress expressly provided.

**5) THIS CASE PRESENTS URGENT AND RECURRING QUESTIONS
ABOUT ACCESS TO FEDERAL FORUMS FOR CIVIL RIGHTS
ENFORCEMENT**

This case raises more than just an individual grievance, it highlights a systemic breakdown in the application of 28 U.S.C. § 1443(1), a statute Congress enacted to ensure that federal civil rights could be vindicated in a neutral forum when state systems prove structurally hostile or incapable.

Across jurisdictions, pro se and minority litigants in foreclosure and property-related disputes increasingly encounter state court environments that functionally deny access to federal protections, whether through blanket enforcement of “litigation privilege,” denial of hearings, procedural barriers to asserting fraud or forgery claims, or court orders that block counterclaims outright. Yet when such litigants invoke § 1443(1), lower courts too often recharacterize those removals, ignore the substance

of the allegations, or punish the effort with sanctions, a pattern exemplified here.

The Taverases' experience is not unique. Their case reflects a growing body of civil litigation in which:

- 1) State courts accelerate foreclosure proceedings while ignoring evidence of misconduct or forged documents;
- 2) Federal removal attempts under § 1443(1) are dismissed without analysis or distorted as frivolous;
- 3) Sanctions are imposed on those who seek protection under federal civil rights law, chilling future litigants from asserting their statutory rights.

Left unaddressed, the Eleventh Circuit's interpretation of § 1443(1) will become the model for other circuits to follow, functionally eliminating a statutory safeguard for vulnerable litigants while insulating abusive or discriminatory practices from federal oversight.

This Court has long held that § 1443(1) serves a critical structural function: it ensures that where state judicial machinery operates to deny equal protection or due process, federal courts remain open. But today, the statute has become so narrowly construed, and so perilous to invoke, that it risks irrelevance.

This case presents a rare opportunity for the Court to:

- 1) Clarify the "equivalent basis" standard under *Georgia v. Rachel*;
- 2) Confirm that judicial policies and procedural rulings can satisfy the second prong of § 1443(1);
- 3) Address whether sanctions may constitutionally be imposed for invoking

federal removal statutes;

- 4) Reaffirm that civil rights statutes must be interpreted in favor of access, not against it.

These are nationally recurring, deeply important legal questions, with wide-reaching implications for civil rights enforcement, federalism, and judicial accountability. They demand resolution by this Court.

VI. CONCLUSION

This case presents questions of exceptional importance at the intersection of federal civil rights, due process, and the scope of 28 U.S.C. § 1443(1). The decision below entrenches a narrow interpretation of *Rachel*, that conflicts with this Court's precedent and the holdings of other circuits, effectively foreclosing federal review where systemic state-court doctrines, litigation privilege and ratification, operate as categorical barriers to enforcing federal rights.

By permitting courts to invoke litigation privilege to block fraud defenses, and ratification to convert defensive litigation itself into "consent" to enforce forged instruments, the Eleventh Circuit has aligned federal law with Florida's foreclosure regime. That alignment undermines the most basic premise of due process: that parties must have an opportunity to contest the authenticity of the instrument forming the core claim against them. It further erodes the Supremacy Clause by nullifying federal rights in practice, and chills the First Amendment right to petition by punishing litigants who invoke § 1443(1) in good faith.

Compounding these systemic barriers, the proceedings below were tainted by

fraud upon the court. Respondent and its counsel advanced a false factual narrative, adopted by the panel as the central basis for sanctions, despite record evidence to the contrary and despite the state court's own acknowledgement that the note at issue was alleged and treated as forged. This Court has long recognized that such fraud "is a wrong against the institutions set up to protect and safeguard the public," *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944), and that no tribunal may lend its authority to the enforcement of a counterfeit instrument, *Whitney v. United States*, 167 U.S. 529 (1897).

These issues are neither isolated nor theoretical. They recur in foreclosure proceedings across the country, where doctrines like litigation privilege and ratification are weaponized to insulate forged instruments and deny defendants the ability to vindicate rights Congress deemed fundamental. This Court's review is urgently needed to restore § 1443(1) to its intended role as a safeguard against state systems structurally incapable of enforcing federal rights, to ensure that defendants invoking it are not punished for seeking the protection Congress provided, and to reaffirm that fraud upon the court and counterfeit instruments can never serve as the foundation for judicial relief.

The petition for a writ of certiorari should be granted.