25A1353
Case No.

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL D. DALTON, JR.; LEAH M. DALTON; MICHAEL A. DEEM,

Applicants,

v.

CHOICEONE BANK,

Respondent.

TO THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SIXTH CIRCUIT

EMERGENCY APPLICATION FOR REVIEW OF TWO SCHEDULING ORDERS FROM THE U.S. DISTRICT COURT, WESTERN DISTRICT OF MICHIGAN, THAT EFFECTIVELY DENIED APPLICANTS' EMERGENCY MOTIONS FOR TEMPORARY RESTRAINING ORDERS / PRELIMINARY INJUNCTIONS SEEKING TO MAINTAIN THE STATUS QUO AND KEEP APPLICANTS IN POSSESSION OF TWO UNIQUE PROPERTIES PENDING FINAL RESOLUTION OF THIS MATTER

Michael D. Dalton, Jr.
Leah M. Dalton
Michael A. Deem
Applicants
3360 Dexter Trail
Stockbridge, MI 49285

Winegarden, Haley, Lindholm,
Tucker & Himelhoch, PLC
Attorneys for Respondent
John R. Tucker, Esq.
9460 S. Saginaw Rd., Suite A
Grand Blanc, MI 48439

TABLE OF CONTENTS

INDEX TO APPENDICES

PARTIES TO THE PROCEEDING AND RELATED PROCEEDING

Applicants are citizens of Michigan litigating in their individual capacities. Mr. and Mrs. Dalton hold legal title by way of two Quit Claim Deeds to two unique properties that trace back to two federal land patents with "forever" possessory rights. Mr. Deem is a tenant in one of the properties and an occupant in the second. He claims pendent yet personal possessory rights to each property through his relationship with Mr. and Mrs. Dalton.

Respondent ChoiceOne Bank is incorporated under the laws of the State of Michigan, with its principal place of business in the State of Michigan, Ingham County. It claims equitable title to the subject properties by way of non-judicial foreclosures that ignored Applicants' Quit Claim Deeds and possessory rights under two federal land patents, all of which were on file with the local Register of Deeds.

Applicants also filed a complaint in the related case of *Dalton, et al. v. State of Michigan, et al.*, No. 1:26-cv-449-HYJ-RSK (W.D.Mich. 2026), challenging Michigan's statutory scheme, as applied. Michigan has effectively closed the courthouse doors to Applicants, including the denial of a pre or post deprivation hearing for either property. Applicants seek various declaratory and prospective injunctive relief, including incorporation of the Seventh Amendment against Michigan in cases where the validity of, or possessory rights under, federal land patents are in issue, to stop the ongoing violations of Applicants' federal constitutional and statutory rights. All defendants have moved to dismiss the

operative complaint. Those two motions (ECF Nos. 22, 26) are fully briefed (ECF Nos. 30, 32, 35, 38) and undecided.

OPINIONS BELOW

Neither the district court in *Dalton, et al. v. ChoiceOne Bank,* Case No. 26-cv-163-HYJ-RSK (W.D.Mich. 2026), nor the appellate court in *Dalton, et al. v. ChoiceOne Bank,* Case No. 26-1238 (6th Cir. 2026), have rendered any opinions in this matter. After filing suit, Applicants filed two emergency motions seeking to maintain the status quo and remain in possession of their two unique properties pending final resolution of this matter, including exhaustion of all appeals. Applicants also filed an emergency motion, arguing in the alternative, to restore them to possession of one of the properties based on a state court summary judgment of possession. The district court effectively denied all three emergency motions by entering full scheduling orders (Appx. A & B).

On March 11, 2026, Applicants filed an interlocutory appeal with the Sixth Circuit (Appx. C & D) seeking review of the district court's effective denials of the preliminary injunctions. That appeal is fully briefed (Appx. E & F). The Sixth Circuit has effectively denied Applicants' interlocutory appeal by not rendering an opinion as of the time of this application.

JURISDICTION

Pursuant to Rule 22 of the Rules of this Court, 28 U.S.C. § 1292(a)(1), and this Court's decision in *A.A.R.P. v. Trump,* 605 U.S. 91, 94 (2025) ("Appellate courts have jurisdiction to review interlocutory orders that have the practical effect of

refusing an injunction."). Applicants respectfully file this emergency application for review of the two above-referenced scheduling orders. Applicants were subsequently evicted from both unique properties in violation of their federal constitutional and statutory rights, specifically: Seventh Amendment; Due Process Clause, Fourteenth Amendment; 5 Stat. 49(4), 59(5) and 144; and the possessory rights under two federal land patents.

Applicants seek emergency relief from this Court, *nunc pro tunc*, to stop the irreparable harm they continue to suffer, and have suffered since February 16, 2026 (Appx. D @ 12) and March 4, 2026 (Appx. D @ 12), when they were wrongfully evicted from their properties.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1) Seventh Amendment, Right to Trial by Jury in Civil Cases:

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

2) Fourteenth Amendment, Due Process Clause:

> [N]or shall any State deprive any person of life, liberty, or property, without due process of law[.]

3) 5 Stat. 49(4), *An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union on certain conditions*, June 15, 1836:

> That nothing in this act contained, or in the admission of the said State into the Union as one of the United States of America upon an equal footing with the original States in all respects whatever, shall be so construed or understood as to confer upon the people, Legislature, or other authorities of the said State of Michigan, any authority or right to interfere with the sale by the United States, and under their authority, of the vacant and unsold lands within the limits of the said State[].

4) 5 Stat. 59(5), *An Act supplementary to the act entitled "An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union on certain conditions,"* June 23, 1836:

> That the five foregoing propositions herein offered, are on the condition that the Legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide, by an ordinance irrevocable without the consent of the United States, that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers thereof.

5) 5 Stat. 144, *An Act to admit the State of Michigan into the Union, upon an equal footing with the original States*, January 26, 1837:

> Whereas, in pursuance of the act of Congress of June fifteenth, eighteenth hundred and thirty-six, entitled "An act to establish the northern boundary of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed," a convention of delegates, elected by the people of the said State of Michigan, for the sole purpose of giving their assent to the boundaries of the said State of Michigan as described, declared, and established, in and by the said act, did, on the fifteenth of December, eighteen hundred and thirty-six, assent to the provisions of said act[.]

6) Federal Land Patents No. 19603, May 5, 1837, and No. 23937, August 15, 1837:

> [A]ccording to the provisions of the Act of Congress of the 24th of April 1820, "An Act making further provision for the sale of the Public Lands," [ ] the United States of America [ ] DO GIVE AND GRANT, unto the said [Patentee], the said tract above described: TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said [Patentee] and to his heirs and assigns forever.

STATEMENT OF THE CASE

Synopsis

The operative complaint seeks to quiet "legal" title for two unique properties, or in the alternative an action in ejectment for one of the properties due to the facts at the time of filing. If necessary, Applicants will seek to amend the complaint at the appropriate time to reflect the current facts. Federal law protects Applicants' current ownership and possessory rights in both properties. Federal court is the only forum available to Applicants because the State of Michigan has effectively closed the courthouse doors to them.

The issues in this matter are governed by this Court's decision in *Fenn v. Holme*, 62 U.S. 481, 483-88 (1858) (federal land patent holders have a Seventh Amendment right to common law trial by jury when the validity of or possessory rights under their land patent are at issue); the Michigan Supreme Court's decision in *Klais v. Danowski,* 373 Mich. 262, 277 (1964) ("[Applicants] continue to own, through chain of title, what was granted to the patentees in the first place."); and the "forever" possessory right in each of the two subject land patents.

State Non-Judicial Foreclosures and Summary Court Proceedings Which Promulgated the Federal Complaint Below

L & M Family Investments, LLC, a Michigan limited liability company, acquired full ownership interest in one of the properties (School)[1] by way of Warranty Deed (Appx. D @ 171). Mr. and Mrs. Dalton acquired full ownership

[1] The School is the only former middle and high school in the Applicants' local community. By its nature it is unique.

interest in the second property (Home),[2] also by way of Warranty Deed (Appx. D @ 174). L&M, and Mr. and Mrs. Dalton subsequently gave ChoiceOne's alleged predecessor a mortgage for each property (equitable title) (Appx. D @ 171, 174). Mr. and Mrs. Dalton later obtained copies of the original federal land patents for each of the properties (Appx. D @ 172, 174). L&M then quitclaimed the School to Mr. and Mrs. Dalton (Appx. D @ 172), and Mr. and Mrs. Dalton quitclaimed their Home to Mr. Dalton (Appx. D @ 175). Mr. and Mrs. Dalton filed both Quit Claim Deeds, and other documents that further evidenced their ownership and possessory rights to the properties, with the local Register of Deeds from October 31, 2024, through November 20, 2024 (Appx. D @ 172-73, 175-76).

In October 2025, ChoiceOne obtained Sheriff's Deeds for both properties through non-judicial foreclosures (Appx. D @ 173, 176). ChoiceOne then filed summary proceedings in state court as the purported owner of the two properties due to the Sheriff's Deeds, seeking eviction of L&M from the School (Appx. D @ 173), and of Mr. and Mrs. Dalton and all other occupants, from the Home (Appx. D @ 176). However, the Sheriff's Deeds were based exclusively on the mortgages (Appx. D @ 173, 176). Absolutely no consideration was given to Mr. and Mrs. Dalton's Quit Claim Deeds (legal title) (Appx. D @ 174, 176), which preceded ChoiceOne's non-judicial foreclosures and Sheriff's Deeds (equitable titles) in time (*compare* Appx. D @ 172, *with* 173; and 175, *with* 176), and superseded ChoiceOne's

[2] The Home is Mr. and Mrs. Dalton's marital home, which they built themselves. They lived in that home for nearly twenty years with their four children, until their referenced eviction.

mortgages and Sheriff's Deeds (equitable titles) in law and legal right (Appx. D @ 163-69).

The state summary proceedings were held in mixed courts of law and equity (Appx. D @ 1768-69). It was the only state forum available to Applicants (Appx. D @ 170, 173, 176) and woefully insufficient to protect their federal constitutional and statutory rights.

L&M was the only named respondent in the summary proceeding for the School (Appx. D @ 173), even though ChoiceOne had record notice that Mr. and Mrs. Dalton then held legal title to the School by way of Quit Claim Deed (Appx. D @ 172) and continue to do so. Mr. and Mrs. Dalton appeared (Appx. D @ 173), but they were denied an opportunity to be heard because they were not a named party (Appx. D @ 173), even though they were the legal owners of the School by way of Quit Claim Deed, *see* MCL 211.27a (Conveyance by deed transfers ownership); MCL 565.1 (Conveyance of land made by deed); MCL 565.3 (Quit claim deed conveys all the estate as a bargain and sale deed); MCL 565.8 (Validity and legality of certain acknowledgements and recordations of deeds); MCL 565.24 (Delivery to register of deeds); MCL 565.47 (Recording by register of deeds); and MCL 565.49 (Conveyances; same person among grantors and grantees), and held possessory rights under a federal land patent pursuant to controlling Michigan Supreme Court case law (Appx. D @ 168) and Michigan state statutory law, *see* MCL 565.301 (Land patents; recording; existing records; validation, use as evidence); MCL 565.302 (Record of patent as evidence). Judgment for possession of the School was entered

for ChoiceOne, based exclusively on the Sheriff's Deed (inferior title) (Appx. D @ 173). Applicants were never given a meaningful opportunity to be heard on Mr. and Mrs. Dalton's Quit Claim Deed or possessory rights as successors to the federal land patent (Appx. D @ 173). They were denied their due process rights to present all available defenses, and their Seventh Amendment right to a common law trial by jury.

Mr. and Mrs. Dalton "and all other occupants," which included Mr. Deem, were named as respondents in the summary proceeding for the Home (Appx. D @ 176). Mr. and Mrs. Dalton appeared and invoked their Seventh Amendment right to a common law trial by jury under the federal land patent (Appx. D @ 176), which vested by way of chain of title (i.e.: the Quit Claim Deed) (Appx. D @ 168, 175). Their arguments were ignored (Appx. D @ 176). Judgment for possession of the Home was granted to ChoiceOne, based exclusively on the Sherrif's Deed (inferior title). Applicants were never given a meaningful opportunity to be heard on Mr. Dalton's Quit Claim Deed or possessory rights as successors to the federal land patent. They were denied their due process right to present all available defenses, and their Seventh Amendment right to a common law trial by jury.

Federal Court Proceedings

On January 15, 2026, Applicants filed the underlying complaint in federal court (ECF No. 1) because the State of Michigan has effectively closed the courthouse doors to them through its statutory scheme (Appx. D @ 169-70). Michigan's statutory scheme has abrogated the common law action in ejectment

(Appx. D @ 169-70) and reduced the ancient equitable claim to quiet "legal" title to a mere remedy (Appx. D @ 169-70). Only mixed courts of law and equity are afforded to litigants in Applicants' position (Appx. D @ 168-70). And blackletter federal law, which Michigan consented to as an express condition of being admitted into the Union, is ignored, specifically 5 Stat. 49(4), 59(5) and 144 (Appx. D @ 163-64). Applicants are challenging the Michigan statutory scheme in *Dalton, et al. v. State of Michigan, et al., supra.*

On January 27, 2026, Applicants filed a First Amended Complaint (Appx. D @ 162).

On January 30, 2026, Applicants filed an "Emergency Motion for Partial Summary Judgment – Expedited Consideration Requested," on their Claim to Quiet "Legal" Title for each property (ECF No. 10-14).

On February 2, 2026, Applicants filed an "Emergency Motion for Temporary Restraining Order / Preliminary Injunction – Expedited Consideration Requested," seeking to stay the eviction from the School pending final resolution of this matter (Appx. D @ 180-97). The state court had granted ChoiceOne leave to apply for an order of eviction on that date.

On February 6, 2026, U.S. Magistrate Judge Ray Kent, W.D.Mich., entered a scheduling order for both aforementioned motions (Appx. A). ChoiceOne was given "28 days" from said order to file its brief in opposition. (Appx. A, p. 2). Applicants were then given "14 days" to file their reply. (Appx. A, p. 2). Said scheduling order

effectively denied Applicants' motion for, *inter alia*, a TRO / Preliminary Injunction seeking to maintain the status quo pending final resolution of the matter.

Subsequently, on February 6, 2026, ChoiceOne filed a Motion to Dismiss the operative complaint (ECF Nos. 20-21). Applicants filed a Response (ECF Nos. 41-42). ChoiceOne filed a Reply (ECF No. 57). That motion is undecided.

On February 16, 2026, Applicants were evicted from the School (Appx. D @ 12). As a result, they continue to suffer irreparable harm, including constitutional harm.

On February 17, 2026, Applicants filed an "Emergency Motion for Temporary Restraining Order / Preliminary Injunction – Expedited Consideration Requested," seeking to restore Applicants to possession of the School pending final resolution of this matter (Appx. D @ 198-214).

On February 17, 2026, Applicants also filed an "Emergency Motion for Temporary Restraining Order / Preliminary Injunction – Expedited Consideration Requested," seeking to stay the eviction from the Home pending final resolution of this matter (Appx. D @ 215-30). The state court had granted ChoiceOne leave to apply for an order of eviction on that date.

On February 20, 2026, U.S. Magistrate Judge Ray Kent, W.D.Mich., entered a scheduling order (Appx. B), for Applicants' two additional "Emergency Motion[s] for Temporary Restraining Order / Preliminary Injunction" (Appx. D @ 198-214, 215-30). ChoiceOne was given "28 days" from said order to file its briefs in opposition. (Appx. B, p. 2). Applicants were then given "14 days" to file their replies

(Appx. B, p. 2). Said scheduling order effectively denied Applicants' motion for a TRO / preliminary injunction seeking to stay the eviction from the Home or return Applicants to possession of the School.

On March 3, 2026, Applicants filed a Notice of Interlocutory Appeal (Appx. D @ 8) for the district court's effective denial of their three emergency motions for preliminary injunctions by the issuance of two full scheduling orders (Appx. A & B).

On March 4, 2026, Applicants were evicted from the Home (Appx. D @ 17). As a result, they continue to suffer irreparable harm, including constitutional harm.

On March 11, 2026, Applicants filed with the Sixth Circuit Court of Appeals, their "Emergency Motion for Injunction Pending Appeal and to Expedite Appeal" (Appx. C), with Exhibits (Appx. D). ChoiceOne filed a Response in Opposition (Appx. E). Applicants filed a Reply (Appx. F). The Sixth Circuit has not rendered a decision.

ARGUMENT

Applicants are entitled to a preliminary injunction, *nunc pro tunc*, to maintain the status quo and keep Applicants in, or in the alternative restore Applicants to, possession of both unique properties pending final resolution of this matter, to include exhaustion of all appeals.

I. Applicants Are Entitled To A Preliminary Injunction, *Nunc Pro Tunc*, To Stop The Multiple Forms Of Irreparable Harm They've Been Suffering For Over Three Months

"[Courts] consider four factors in determining whether a preliminary junction should issue: (1) [] likelihood of success on the merits; (2) [] irreparabl[e] injur[y]

absent an injunction; (3) harm [to] other parties to the litigation; and (4) the public interest." *Vitolo v. Guzman*, 999 F.3d 353, 360 (2021) (*citing Nken v. Holder*, 556 U.S. 418, 434 (2009)). "In constitutional cases, the first factor is typically dispositive." *Id.* "That's because when constitutional rights are threatened or impaired, irreparable injury is presumed." *Id.* "And no cognizable harm results from stopping unconstitutional conduct, so it is always in the public interest to prevent violation of a party's constitutional rights." *Id.* "[This Court should] thus focus [its] analysis on the [applicant]s' likelihood of success on the merits." *Id.*

A. Applicants Will Succeed On The Merits

"To show a strong likelihood of success on the merits, [Applicants] must show more than a mere possibility of success. *Churchill Downs Tech. Initiatives Co. v. Michigan Gaming Control Bd.*, 767 F. Supp.3d 556, 579 (W.D.Mich.), *aff'd*, 162 F.4th 631 (6th Cir. 2025). "However, [Applicants are] not required to prove [their] case in full to obtain a preliminary injunction." *Id.* "It is ordinarily sufficient if the plaintiff has raised questions going to the merits so serious, substantial, difficult, and doubtful as to make them a fair ground for litigation and thus for more deliberate investigation." *Id.*

To prove their claim to quiet "legal" title in the subject properties, Applicants must demonstrate they are in possession of the property at the time of filing and have superior legal title. *See, e.g. Frost v. Spitley*, 121 U.S. 552, 556 (1887); *Dick v. Foraker*, 155 U.S. 404, 414 (1894) (same). Applicants had done so in their motions for "TRO / Preliminary Injunctions" (Appx. D @ 12, 17).

Applicants will in fact succeed on the merits because all of this Court's precedence is uniform in the supremacy of federal land patents. For example, in *Wilcox v. Jackson*, the U.S. Supreme Court held, "[N]othing but a patent passes a perfect and consummate title." 38 U.S. 498, 516 (1839).

> We hold the true principle to be this, that whenever the question in any Court, state or federal, is, whether a title to land which had once been the property of the United States has passed, that question must be resolved by the laws of the United States; but that whenever, according to those laws, the title shall have passed, then that property, like all other property in the state, is subject to state legislation; so far as that legislation is consistent with the admission that the title passed and vested according to the laws of the United States.

Id., at 517.

Whether the issue is a claim to quiet "legal" title, where relief is granted *nunc pro tunc* and deemed to relate back to when Applicants were in possession at the time of filing their papers, or an action in ejectment, where relief is granted on the current facts of being out of possession, Applicants will ultimately win because they have "perfect," "consummate," and "unassailable" legal title under the federal land patents, that vested by way of the Quit Claim Deeds. *See* Points I.A.(2)-(5), *infra.*

1. Federal Statutory Law Protects Applicants' Possessory Interests In Each Property

On June 15, 1836, the U.S. Congress passed, *An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union on certain conditions. See* 5 Stat. 49. Section 4 of said act provides in relevant part,

> That nothing in this act contained, or in the administration of the said State into the Union as one of the United States of America upon an equal footing with the original States in all respects whatever, shall be so construed or understood as to confer upon the people, Legislature, or other authorities of the said State of Michigan, any authority to interfere with the sale by the United States, and under their authority, of the vacant and unsold lands within the limits of the said State [].

On June 23, 1836, the U.S. Congress passed *An Act supplementary to the act entitled "An act to establish the northern boundary line of the State of Ohio, and to provide for the admission of the State of Michigan into the Union on certain conditions."* *See* 5 Stat. 59. Section 5 of said act provides in relevant part,

> That the five foregoing propositions herein offered, are on the condition that the Legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide, by an ordinance irrevocable without the consent of the United States, that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers thereof.

On January 26, 1837, the U.S. Congress passed *An Act to admit the State of Michigan into the Union, upon an equal footing with the original States.* *See* 5 Stat. 144. Said act provides in relevant part,

> Whereas, in pursuance of the act of Congress of June fifteenth, eighteenth hundred and thirty-six, entitled *"An act to establish the northern boundary of the State of Ohio, and to provide for the admission of the State of Michigan into the Union upon the conditions therein expressed,"* a convention of delegates, elected by the people of the said State of Michigan, for the sole purpose of giving their assent to the boundaries of the said State of Michigan as described, declared, and established, in and by the said act, did, on the fifteenth of December, eighteen hundred and thirty-six, assent to the provisions of said act[.]

These statutes protect Applicants' possessory rights in their properties against the very statutory scheme ChoiceOne used to take the properties.

2. Applicants Have A Seventh Amendment Right To A Common Law Trial By Jury

In *Fenn v. Holme*, this Court heard an appeal of "an attempt to assert at law and by a legal remedy a right to real property -- an action of ejectment to establish the right of possession in land." 62 U.S. 481, 483 (1858). The *Fenn* court held,

> That the plaintiff in ejectment must in all cases prove a legal title to the premises in himself, at the time of the demise laid in the declaration, and that evidence of an equitable estate will not be sufficient for a recovery, are principles so elementary and so familiar to the profession as to render unnecessary the citation of authority in support of them.

Id., at 483.

> [T]his court, in speaking of the seventh amendment of the Constitution, and of the state of public sentiment which demanded and produced that amendment, say: [] When, therefore, we find that the amendment requires that the right of trial by jury shall be preserved in suits at common law, the natural conclusion is, that the distinction was present in the minds of the framers of the amendment. By *common law*, they meant what the Constitution denominated in the 3d article LAW, not merely *suits* which the common law recognised among its old and settled proceedings, but suits in which *legal* rights were to be ascertained and determined, in contradistinction to those where *equitable rights* alone were recognised and equitable remedies administered. []

Id., at 486 (emphasis in original).

> A practice has prevailed in some of the States [] of permitting the action of ejectment to be maintained upon warrants for land, and upon other titles not complete or legal in their character, but this practice, as we so explicitly ruled in the case of *Bennett v. Butterworth*, [52 U.S. 669 (1850)] can in no wise affect the jurisdiction of the courts of the United States, who, both by the Constitution and by the acts of Congress, are required to observe

> the distinction between legal and equitable rights, and to enforce rules and principles of decision appropriate to each.

Id., at 488

In *Hooper v. Scheimer*, this Court held,

> Where land is purchased in the name of one person, with the funds of another, the legal estate is vested in the former. The latter acquires only an equitable estate, [] and cannot assert it in an action of ejectment.
> []
> It is also the settled doctrine of this Court that no action of ejectment will lie on such an equitable title, notwithstanding a state legislature may have provided otherwise by statute. The law is only binding on the state courts, and has no force in the circuit courts of the Union.

64 U.S. 235, 244 (1859).

In *Gibson v. Chouteau*, this Court held,

> With respect to the public domain, the Constitution vests in Congress the power of disposition and of making all needful rules and regulations. That power is subject to no limitations. Congress has the absolute right to prescribe the times, the conditions, and the mode of transferring this property, or any part of it, and to designate the persons to whom the transfer shall be made. No State legislation can interfere with this right or embarrass its exercise; and to prevent the possibility of any attempted interference with it, a provision has been usually inserted in the compacts by which new States have been admitted into the Union, that such interference with the primary disposal of the soil of the United States shall never be made. Such provision was inserted in the act admitting Mi[chigan (5 Stat. 49(4), 59(5), 144)].

80 U.S. 92, 99 (1871).

> With the legal title, when transferred, goes the right to possess and enjoy the land, and it would amount to a denial of the power of disposal in Congress if these benefits, which should follow upon the acquisition of that title, could be forfeited [in equity].

Id., at 100.

> The patent is the instrument which, under the laws of Congress, passes the title of the United States. It is the government conveyance. [] But, in the action of ejectment in the Federal courts, the legal title must prevail, and the patent, when regular on its face, is conclusive evidence of that title.
> []
> But neither in a separate suit in a Federal court, nor in an answer to an action of ejectment in a State court, can the mere occupation of the demanded premises by plaintiffs or defendants, for the period prescribed by the statute of limitations of the State, be held to constitute a sufficient equity in their favor to control the legal title subsequently conveyed to others by the patent of the United States, without trenching upon the power of Congress in the disposition of the public lands.

Id., at 102.

In *Joy v. City of St. Louis*, this Court held,

> [T]he Federal court would construe grants of the general government without reference to the rules of construction adopted by the states for grants by them, *yet whatever incidents or rights attached to the ownership of the property conveyed by the United States bordering on a navigable stream* would be determined by the states in which it is situated, subject to the limitation that their rules do not impair the efficacy of the grant, or the use and enjoyment of the property by the grantee.

201 U.S. 332, 342 (1906) (emphasis in original).

In *Oregon ex rel. State Land Bd. v. Corballis Sand & Gravel Co.*, this Court held,

> We hold the true principle to be this, that whenever the question in any Court, state or federal, is, whether a title to land which had once been the property of the United States has passed, that question must be resolved by the laws of the United States; but that whenever, according to those laws, the title shall have passed, then that property, like all other property in the state, is subject to state legislation; so far as that legislation is consistent with the admission that the title passed and vested according to the laws of the United States.

429 U.S. 363, 377 (1977).

> In [*Oneida Indian Nation of N.Y.S. v. Oneida County*], the Supreme Court ruled that the [Plaintiff] Oneida Indians suit to recover certain lands was properly brought in federal court because the assertion of a federal controversy did not rest solely upon a claim that possession derived from a federal grant, but rather, that federal law protects the possessory rights of [federally patented] lands.

Leach v. Bldg. and Safety Eng'g Div. City of Pontiac, 993 F.Supp. 606, 608 (E.D.Mich. 1998) (*citing Oneida Indian Nat. of N.Y.S. v Oneida Cnty. N.Y.*, 414 U.S. 661, 677 (1974)).

These cases illustrate how Michigan may not interfere with Applicants' "forever" possessory rights under the federal land patents.

3. Equity Comes In The Aid Of Applicants To Protect Legal Title

In *Frost v. Spitley*, this Court held,

> Under the jurisdiction and practice in equity, independently of statute, the object of a bill to remove a cloud upon title, and to quiet the possession of real estate, is to protect the owner of the legal title from being disturbed in his possession, or harassed by suits in regard to that title; and the bill cannot be maintained without clear proof of both possession and legal title in the plaintiff.

121 U.S. 552, 556 (1887); *also Dick v. Foraker*, 155 U.S. at 414.

Applicants can prove both possession and superior legal title, or in the alternative being out of possession and superior legal title, to both properties as a matter of law. They will prevail on their claims.

4. Michigan Case Law Mirrors This Court's Precedence Regarding The Rights Of Federal Land Patent Holders

In *Webber v. Pere Marquette Boom Co.*, the Michigan Supreme Court held,

> Patents issued by the United States conveying its lands are in general unassailable in an action at law. They not only operate to pass the title, but they carry with them a conclusive presumption that all requirements to their issue have been complied with.

62 Mich. 626, 636 (1886) (*citing St. Louis Smelting & Refining Co. v. Kemp*, 104 U.S 636, 640-41 (1881)).

In *Gilford v. Watkins*, the Michigan Supreme Court held,

> Plaintiffs' equitable title under the land contract cannot be enforced in this action against defendants who have shown a prior legal title. [] The rule in Michigan excludes in ejectment all defenses that are not legal.

342 Mich. 632, 637-638 (1955) (collecting cases).

In *Moran v. Moran*, the Michigan Supreme Court held,

> The common law rule, which excludes all defenses in ejectment which are not legal, has been abrogated in many parts of the Union. The courts of the United States, however, still adhere to it. [] And it also remains in force in this state. []
> [N]othing is better settled in this state than that in an action of ejectment an equitable title cannot be set up as a defense against a legal title.

106 Mich. 8, 12 (1895) (*citing Hooper v. Scheimer, supra*).

These cases illustrate how ChoiceOne cannot rely on the non-judicial foreclosures and state court summary proceedings because they violate federal law by allowing equitable title to collaterally attack Applicants' rights under the federal land patents, assuming *arguendo* that the state court summary proceedings addressed the same facts that are at issue in this matter, which they did not. The instant claims are grounded on facts and law that the non-judicial foreclosures and state summary proceedings ignored and could not address.

5. Applicants Hold Through Chains Of Title What Was Granted To The Original Patentees In The First Place

In *Klais v. Danowski*, the Michigan Supreme Court held,

> Here[, as in the instant matter,] the United States conveyed a private claim of specific dimensions at a definite location. Determination of th[ose] location[s] is conclusive of the occupant's rights today. [Applicants] continue to own, through chain of title, what was granted to the [original] patentees in the first place.

373 Mich. at 277.

Klais "is binding on [all] federal courts." *See Animal Sci. Prods., Inc. v. Hebei Welcome Pharm. Co.*, 585 U.S. 33, 34 (2018)) (internal quotations omitted).

6. Michigan's Statutory Framework Prevented Applicants From Exercising Their Federal Constitutional and Statutory Rights

In 1961, the State of Michigan passed MCL 600.3201, *et seq.*, *Foreclosure of Mortgages by Advertisement*. Said act allows for non-judicial foreclosure of mortgages. A juridical forum is only afforded to the landowner after the mortgage has been sold, a Sheriff's Deed issues in equity, and the purchaser of the mortgage seeks possession of the property from a mixed court of law and equity. The federal land patent holder is never afforded a common law forum.

In 1963, the State of Michigan passed MCL 600.2932, *Quieting title; interest of plaintiff; action by mortgagee; establishment of title; tenancy in common; actions*, currently provides, "(5) Actions under this section are equitable in nature."

In 1972, the State of Michigan passed MCL 600.5714, *Summary proceedings to recover possession of premises; holding over by tenant or occupant of public*

housing or by tenant of mobile home park, which currently provides in part as amended,

> (1) A person entitled to possession of premises may recover possession by summary proceedings in the following circumstances: []
>
> (g) When a person continues in possession of premises sold by virtue of a mortgage or execution, after the time limited by law for redemption of the premises.

A court presiding over a summary proceeding pursuant to MCL 600.5714 sits in both law and equity. *See* MCL 600.8302(1) ("In addition to the civil jurisdiction [], the district court has equitable jurisdiction and authority [] in the matters and to the extent provided by this section."), and 600.8302(2) ("In an action under chapter 57, the district court may hear and determine an equitable claim relating to [] or involving a right, interest, obligation, or title in land.").

Pursuant to Michigan blackletter law, all proceedings pertaining to title or possession of property are either non-judicial or of mixed law and equity. Applicants were denied their Seventh Amendment, and Fourteenth Amendment due process, rights.

In 2014, the Michigan Court of Appeals examined Michigan's statutory framework regarding the common-law action for ejectment. *New Products Corp. v. Harbor Shores BHBT Land Development, LLC*, 308 Mich.App. 638 (Mich.App. 2014). The *New Products* court held,

> With the enactment of MCL 600.2932, the Legislature did not expressly abrogate the common-law action for ejectment. Although one might conclude that the Legislature implicitly abrogated the common-law action for ejectment.

308 Mich.App. at 659 *fn.* 5.

Applicants cannot find any amendments to MCL 600.2932 since the decision in *New Products Corp., supra.* Also, under MCL 600.2932, "quiet title is not a separate cause of action, but rather, it is a remedy." *See Shaya v. Countrywide Home Loans, Inc.*, 489 Fed.Appx. 815, 819 (6th Cir. 2012).

The Michigan Legislature has effectively abrogated the ancient equitable claim to quiet "legal" title, where equity is employed in the aid of law to prevent equitable titles from collaterally attacking a federal land patent, and the "forever" possessory rights thereunder. *See, e.g. Frost v. Spitley, supra; Dick v. Foraker, supra.* Abrogation of the common law action in ejectment and ancient equitable claim to quiet "legal" title are in direct violation of 5 Stat. 49(4), 59(5) and 144.

Finally, any state court judgment or order obtained by ChoiceOne for the School,

> did not affect [Applicants'] interest in the [School] because the judgment [and order] w[ere] entered in an *in personam* action to which [Applicants] w[ere] not [] part[ies]. An *in personam* action seeks the determination of personal rights and obligations of defendants. It is brought against a person rather than property. A judgment in an *in personam* action binds only the named parties []. Indeed, it is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment *in personam* in a litigation in which he is not designated as a party or to which he has not been made a party by service of process. Any attempt to bind a non-party [] to a judgment entered in an *in personam* action would raise serious due process concerns. *See Richards v. Jefferson Cty., Ala.*, 517 U.S. 793, 797 n.4 (1996) ("A State [or federal court] cannot, without disregarding the requirement of due process, give a conclusive effect to a prior judgment against one who is n[ot] a party therein.").

Leeal v. Ditech Financial LLC, 2020 WL 1066100, *5 (E.D.Mich. 2020) (citations, quotations and brackets omitted).

Applicants need only establish a likelihood that they will succeed on the merits for the purposes of this application. They have met their burden.

B. Irreparable Harm

If Applicants' Seventh and Fourteenth Amendment due process "constitutional rights [we]re [merely] threatened or impaired, irreparable injury [would be] presumed." *Vitolo v. Guzman*, 999 F.3d 353, 360 (6th Cir. 2021). However, Applicants' constitutional rights are not merely threatened, they have been and continue to be trampled. Applicants have been physically evicted from two unique pieces of property, to which they hold "perfect," "consummate," "unassailable," legal title pursuant to two Quit Claim Deeds and two federal land patents. Applicants were not even named as parties in one of the summary eviction proceedings, nor were they ever afforded a meaningful pre or post deprivation hearings for either property in which to present all of their defenses, in a court of law. Clearly, their due process and Seventh Amendment rights have been and continue to be violated. Put another way, Applicants are suffering irreparable constitutional harm every day they continue to be displaced from their properties.

Moreover, Applicants' properties are unique. The School is the former middle school for Stockbridge School District. By its nature it is unique as there is only one such former school in the entire district. In addition, Applicants have spent years customizing the property (Appx. D @ 10). The Home is also unique. It is a custom-

built home, which Mr. and Mrs. Dalton built themselves (Appx. D @ 14). They have lived in that home with their four children for nearly twenty years. It is truly one of a kind. Because the properties are unique, Applicants continue to suffer irreparable harm due to the deprivation of those unique properties. *See Wonderland Shopping Ctr. Venture Ltd. P'ship v. CDC Mortg. Cap., Inc.*, 274 F.3d 1085, 1097 (6th Cir. 2001) ("As to eviction, [] loss of a unique property interest is considered irreparable harm.").

C. Harm to Third Parties

"[N]o cognizable harm results from stopping unconstitutional conduct." *Vitolo v. Guzman*, 999 F.3d at 360. ChoiceOne cannot demonstrate it has superior legal title once Applicants are afforded their constitutional rights to trial by jury and due process. No cognizable harm results from stopping ChoiceOne's unlawful and unconstitutional appropriation of Applicants' properties. *See Id.*

D. Public Interest

"[I]t is always in the public interest to prevent violation of a party's constitutional rights." *See Id.*

CONCLUSION

For the above reasons, Applicants respectfully request that this Court enter a preliminary injunction, *nunc pro tunc*, maintaining the status quo and keep Applicants in, or alternatively restore Applicants to, possession of both properties pending final resolution of this matter, including exhaustion of all appeals.

Respectfully submitted,

Michael D. Dalton, Jr.

Leah M. Dalton

Michael A. Deem
Applicants
3360 Dexter Trail
Stockbridge, MI 49285
LeahDalton9@gmail.com
810-355-1066

Dated: May 29, 2026

Case No.

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL D. DALTON, JR.; LEAH M. DALTON; MICHAEL A. DEEM,

Applicants,

v.

CHOICEONE BANK,

Respondent.

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.2(b), I certify that the Emergency Application For Review Of Two Scheduling Orders From The U.S. District Court, Western District Of Michigan, That Effectively Denied Applicants' Emergency Motions For Temporary Restraining Orders / Preliminary Injunctions Seeking To Maintain The Status Quo And Keep Applicants In Possession Of Two Unique Properties Pending Final Resolution Of This Matter, is 24 pages, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 29, 2026

Leah M. Dalton

Leah M. Dalton
Applicant

Case No.

IN THE
SUPREME COURT OF THE UNITED STATES

MICHAEL D. DALTON, JR.; LEAH M. DALTON; MICHAEL A. DEEM,
Applicants,

v.

CHOICEONE BANK,
Respondent.

CERTIFICATE OF SERVICE

I certify that on May 29, 2026, a true and correct copy of the Emergency Application For Review Of Two Scheduling Orders From The U.S. District Court, Western District Of Michigan, That Effectively Denied Applicants' Emergency Motions For Temporary Restraining Orders / Preliminary Injunctions Seeking To Maintain The Status Quo And Keep Applicants In Possession Of Two Unique Properties Pending Final Resolution Of This Matter, was served by Federal Express Overnight Delivery, postage pre-paid, with a PDF/A courtesy copy on an external thumb drive, on counsel for Respondent ChoiceOne Bank: John R. Tucker, Esq., Winegarden, Haley, Lindholm, Tucker & Himelhoch, PLC, 9460 S. Saginaw Road, Suite A, Grand Blanc, MI 48439.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 29, 2026

Leah M. Dalton

Leah M. Dalton
Applicant

Additional material from this filing is available in the Clerk's Office.