ORIGINAL

No. GEN – 13 – 1008

IN THE SUPREME COURT OF OHIO

APPEAL FROM THE COURT OF APPEALS
10th APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO
Case No. 13-AP-376

AKIM M. RAHMAN,
Appellant

V

WELLS FARGO BANK N.A,

Appellee

APPELLANT'S MOTION FOR RECONSIDERATION OF DECISION NOT TO ACCEPT DISCRETIONARY APPEAL

Attn: John Kopf
Thompson Hine LLP
41 S. High Street, Suite # 1700
Columbus, OH 43215

Akim Rahman
4428 Trailane Drive
Hilliard, OH 43026
Phone: 614-777-4333 (H)
Email: akim_rahman@hotmail.com

Attorney(s) on the record for the Appellee

Pro Se, Appellant

FILED
OCT 29 2013
CLERK OF COURT
SUPREME COURT OF OHIO

I, the appellant, pursuant to the S.Ct.Prac.R 18.02 (B) (1), file the motion, MOTION FOR RECONSIDERATION and respectfully ask this Honorable Court for reconsideration of this Court's October 23 of 2013 decision declining jurisdiction of this appeal. This motion is filed within the timeframe in accordance with S.Ct.Prac.R. 18.02.

The basis of this motion for reconsideration is absolutely new in *contrast* to the issues such as perpetrated trespass while the home is under foreclosure, defiance of legal identities, violations of rights to due process of law & constitutional rights, avoidance of Court obligations etc., which were initial bases of the jurisdictional appeal. The basis of the current motion evolves from the issues of violations of state rules, regulations & policies in utilizing public resources, disobedience of the Article IV (B)(3) of Ohio Constitution, utilization of public offices for private gains, abusive actions that caused personality lost & undermined credit worthiness of the Appellant etc. For clarity, in the motion at this stage, the question is not whether the Appellee & team (debt collectors) have rights to harass the borrowers, rather, the question is: whether the debt collectors have rights utilizing its efforts & persuasions for utilizing government resources, public offices for its private gains that causes fears and emotional distress to the borrower.

Therefore, the motion for reconsideration does not constitute a re-argument of the case, rather it is relied on violations of laws & regulations by the Appellee thru its legal counsel(s) where the Counsels on the records represent the Appellee in the captioned case at levels of lowers as well as the superior Courts. Therefore, this motion fulfills the requirements of reconsideration procedures that are set forth in the S.Ct. Prac.R18(B) and in ruling of the *State ex rel. Huebner v. W. Jefferson Village Council* (1995), 75 Ohio St. 3d 381, 383, 662 N.E.2d 339, 341. Therefore, this motion abides by the principles established for reconsideration of the case in

the *State ex rel. Huebner v. W. Jefferson Village Council* (1995), 75 Ohio St. 3d 381, 383, 662 N.E.2d 339, 341.

THE BACKGROUND OF THE CASE

The jurisdictional appeal was filed with the Court in response to the Judgment of the Franklin County Court of Appeals, Tenth Appellate, entered in the Court of Appeals case no. 13-AP-376 on June 17 of 2013, which relied on Common Pleas Court ruling, case no. 11CV001095, May 02 of 2013, which relied on bench trial, March 11 of 2013. Despite having police report on perpetrated trespass & other abusive acts by Appellee and counterclaim by Appellant on Common Plea Court record, the lower Court failed its obligations to address the abusive act in its ruling. The initial filing with the current Court addressed a substantial constitutional question, a question on application of the Civ. R. provisions and one of public or great interest of homeowners in Franklin County and beyond in State of Ohio. The initial filing with the Ohio Supreme Court presented explanations of why this case is a case of public or great general interest and why it involves a substantial constitutional question. It was filed based on <u>five critical issues</u> for current homeowners and for future homeowners in Ohio where homeowners have or will have their homes collateral with any mortgage companies such as the Wells Fargo Bank N.A., the Appellee in the captioned case, where the parties (borrowers & lenders will be required obeying the terms & conditions of contract that is generally used in completion of financial services. The initial issues in the jurisdictional appeal were

(1) Whether abusive acts including perpetrated trespass by any mortgage company while a home under foreclosure are actionable and subjects to liability for damages & exemplary damage

(2) Whether improper application of Civ. R. causes the ruling to be defective, which can undermine public interest and encourage wrongdoers, which can result a higher social costs

(3) Whether a Court can disclaim legal identity between itself and mortgage company in order to evade court obligations - application of exclusionary rule in captioned case is in question

(4) Whether requirement of posting bond in captioned case violates the right to *due process of law* where it creates the appeal impossible or overly burdensome

(5) Whether denial of Constitutional rights and of rights established by the Civ. R. for a jury trial fulfills the requirement set forth for a "jurisdictional appeal" under the S.Ct.Prac.R.5.02

However, the current motion is filed with the Court based on seven critical issues for all Ohioans (Ohio Taxpayers), for government & nongovernment professionals / employees in Franklin Country and in State of Ohio, for future generation of State of Ohio and for future government professionals / employees with the city, county, & State of Ohio. The issues in the motion for reconsideration are

(1) Whether government employees or private individuals or companies etc. are authorized to utilize government resources, properties for its personal gains or interests

(2) Whether government employees, private individuals or companies are authorized producing governmental documentations without approval or rulings thru proper channel or legal system

(3) Whether government employees or private individuals or companies or government agencies can violate constitutional provision: the Article IV (B)(3) of Ohio Constitution - *No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the Supreme Court*

(4) Whether government employees or private individuals or companies or government agencies can utilize public offices for its private gains or for facilitating individuals or companies' gains

(5) Whether a breach of contract by the lenders or by the borrowers are punishable in the financial market where no such transaction is done without having any contract signed by parties involved

(6) Whether standard conducts of parties & preservation of properties during the case before Court were violated in the captioned case

(7) Whether perpetrated trespass, abusive acts in commencement of this foreclosure case, utilization of government resources & public offices for private gains are wrongful acts, violations of laws, regulations and policies; whether these acts are punishable in any legal system

In the captioned case, since the current issues arise from the actions of the Appellee where the Appellee is represented by its attorneys including Jennifer Schaeffer, Ohio Supreme Court Reg. #0084893, addressing its acts and consequences of its acts in this motion becomes paramount. Appellee's actions are found to be unfair, unjust, defraud, motivational, violation of laws, regulations, consequential etc. and breached of the contract. Appellee's actions including destroying property, perpetrated trespass the home, misrepresenting or confusing party or Court etc. are violations of contract (between borrower & lender) and Code of Conduct. In the captioned case, the Police reports on trespass issue & the exhibit (filed with Common Plea Court) clearly show that the Appellee & legal team were directly involved in these violations.

This practice will cause higher social cost for the city, county and for the state; will affect every government agency in Ohio, will interrupt the normal flow official works, will inspire for wrongful actions including defrauds, violations of Code of Conduct and will touch the lives of tens and thousands of individuals or homeowners pending various legal issues or foreclosures, if the wrongdoers or violators of law go unpunished. Furthermore, it will undermine the importance of any standard contract of lenders & borrowers, which might collapse the normal flow of financial market if it goes unpunished. And in aim to preventing these consequences, various Courts including the SUPREME COURT OF NEW YORK, SUFFOLK COUNTY, Wells Fargo, Plaintiff v Steven Tyson *et al.* (*2010 NY Slip Op 20079; 2010 N.Y. Misc. LEXIS*

410, March 5, 2010, Decided) has ruled against the Appellee where Appellee was the plaintiff of the foreclosure case where Appellee has strategically breached the contract by entering borrower's home while the home was under foreclosure. The Supreme Court of New York has set forth an example to follow in New York and beyond for years to come. Here the Court decided granting exemplary damages and other cost over $160,000. In this aspect, Appellant's research findings suggests that SUPREME COURT OF NEW YORK, SUFFOLK COUNTY's ruling is absolutely effective, and no such trespass in foreclosure cases has not taken place since the ruling of Wells Fargo, Plaintiff v Steven Tyson *et al.*

In the captioned case, with these pending consequences and effectiveness of the ruling, *Wells Fargo, Plaintiff v Steven Tyson et al.*, addressing the aforementioned new seven critical issues, in this motion, I first proceed laying out the facts and then explaining the reasons where I first address how this case involves a question of public or great general interest pursuant to Article IV Section 2 (B) (2) (e) of Ohio Constitution. And then subsequently, I explain how the current case fits in within the recent jurisdictional rulings by the Ohio Supreme Court on issues of breached contract, class actions etc. evolved from parties' wrongful and motivational actions for its monetary greediness.

SUMMARY OF THE FACTS

1. While the jurisdictional appeal was pending, the Appellee hired another attorney, *Jennifer Schaeffer* and her representation was entered (See: Exhibit-A) thru Franklin County e-filing website as substitution counsel of the case in the early month of August of 2013.

2. Subsequently, after joint efforts & discussions with the Appellee & legal team, the PRAECIPE to issue ORDER OF SALE was filed by the leading Counsel, *Jennifer Schaeffer* (See: Exhibit-B). In this aspect, various documentations including the land appraisement were filed by the leading Counsel, despite the jurisdictional appeal and "motion stay pending appeal" was pending with the Courts including superior Court.

3. The Supreme Court case docketing should show that Appellant various motions "stay pending appeal" were denied by the Supreme Court and the Court record should further show that the Appellant had immediately filed motions "stay pending appeal" with new facts / events as progressed and in response to progress of proceeding in the Common Pleas Court so that no vacuum could be created. (See: Exhibit-C). Therefore, Appellant records clearly show that there was no vacuum and the jurisdictional appeal and "motion for stay pending appeal" were continuously pending with the Supreme Court.

4. The Appellee motivationally filed the motions and other documentations thru the e-filing system and created documentations / rulings from different relevant government offices and legal system while the jurisdictional appeal was continuously pending with the Supreme Court.

   For example, on July 24 of 2013, the Court denied Appellant motion, on July 25 of 2013, Appellant filed motion along with the Supreme Court and subsequently with lower Court, however, the Appellee filed "notice of sheriff sale" signed by the sheriff etc. on July 25 of 2013. (See: Exhibit-D)

5. Appellant's motion along with copy of the PRAECIPE filed on July 25 of 2013 with the Court where PRAECIPE was the sole basis of the motion for stay pending appeal. The motion was denied by the Court on September 04 of 2013

6. In this back and forth actions, it shows that the government relevant officials were confused and involved where the Appellee and legal team created the confusion. (See: Exhibit-E) and produced various documentations where one group knew the falsehood actions, *in contrast*, the other group acted as permitted in the procedure

   For example, actions & production of documentations thru (as shows signature & headings of the documentations) by sheriff office in one hand; on the other hand, claims of fees ($ amount) by the County prosecuting Office (See: Exhibit-E)

7. The schedule for sheriff sale was posted online (sheriff's website) (See: Exhibit-F)

8. The latest documentations are "APPRAISER FEE - SHERIFFS RETURN OF ORDER OF SALE SHERIFFS RETURN ORDER OF SALE - SERVICE FEES etc. which was filed by legal team of the Appellee (See: Exhibit-G). In other words, the home was sold on October 18 of 2013 and it was bought by the Appellee (as claims) (See: Exhibit-H)

LEGAL ANALYSIS

The Appellant carries out this legal analysis in two folds based on two probable scenarios: a) for an *arguendo* – let us say all these filings, creation of documentations etc. by the Appellee were motivationally generated or defrauded for creation of fears & emotional distress to the

Appellant so that Appellee's goals and interests in this foreclosure case can be accomplished unfairly & unjustly and b) for an *arguendo* – let us say all these filings, documentations etc. were issued by the officials not for creation of fears & emotional distress to the Appellant but it was an absolute outcome of the legal system and procedures in this foreclosure case. The scenario (a) is more palatable over the scenario (b) in this case because the Appellee has used Judge Bender as the presiding Judge for the case (See: Exhibits). In contrary, the Court record shows that Judge Bender is a retired judge and is no longer on the bench of the Common Pleas Court of Franklin County in State of Ohio.

Underpinning these two scenarios, I proceed my legal analysis showing how the violations of state rules, regulations & policies in utilizing public resources, disobedience of the Article IV (B)(3) of Ohio Constitution, utilization of public offices for private gains, abusive actions and defraud that caused personality lost & undermined credit worthiness of the Appellant etc. took place in the judicial & law enforcement system of the Franklin County.

Since the relevant laws, rules, procedures and policies in all government offices in all levels are mostly similar with unique goals and since specific documentations on these laws, rules etc. of the relevant offices were not immediately available because of the short time period (in accordance with S.Ct.Prac.R. 18.02), I utilize the laws, regulations, rules etc. that are in practice in other government offices as a prototype in this analysis. In this aspect, as the case progresses, if needed, the specific documentation on laws, regulations and policies of the said offices can be produced.

Violations for utilization of public resources etc. for private gains

In this aspect, the US Justice Department policy says

> An employee should recognize her responsibility to protect and conserve government property and resources, and to make an honest effort to use official time and government property only for official business. 5 C.F.R. § 2635.704 through .705 Use of Government property, and Use of official time
>
> An employee may not use the official time of another employee for anything other than official business. The use of any government property, including computers and the Internet, for any partisan political activities is always prohibited.

Department of Administrative Services (DAS), State of Ohio, Policy no. 700-01, effective 04/23/2012, Section 5.1.3 Personal Use of IT Resources, clearly says

> DAS IT resources are provided for business use. However, incidental personal use of IT resources is allowed if the usage does not have an adverse impact on job performance, IT resources, or DAS business. Management may further restrict personal use of IT resources where appropriate. The user is responsible for understanding how his/her personal use may impact IT resources as well as DAS business activities, and for complying with all applicable laws, policies, rules, and license agreements. DAS is under no obligation to provide support for the personal use of DAS'IT resources.

Furthermore, the DAS - ITP-E.8, Section 5.2 says

> Unacceptable Personal Use. Any personal use of IT resources that disrupts or interferes with government business, incurs an undue cost to the state, could potentially embarrass or harm the state, or has the appearance of impropriety is strictly prohibited. Personal use that is strictly prohibited includes, but is not limited to, the following:
>
> 5.2.1 Violation of Law. Violating or supporting and encouraging the violation of local, state or federal law is strictly prohibited.
>
> 5.2.2 Illegal Copying. Downloading, duplicating, disseminating, printing or otherwise using copyrighted materials, such as software, texts, music and graphics, in violation of copyright laws is strictly prohibited.
>
> 5.2.3 Operating a Business. Operating a business, directly or indirectly, for personal gain is strictly prohibited.
>
> 5.2.4 Accessing Personals Services. Accessing or participating in any type of personals ads or services, such as or similar to dating services, matchmaking services, companion finding services, pen pal services, escort services, or personals ads is strictly prohibited.

5.2.6 Harassment. Downloading, displaying, transmitting, duplicating, storing or printing material that is offensive, obscene, threatening or harassing is strictly prohibited.

Based on scenario (a), all the actions that are taken by the Appellee & team were contradictory to the policy, rules & regulations that are laid out above as a prototype of the Franklin County IT Office policies, provisions, laws etc. It has motivationally & strategically violated the rules, regulations and policies for its own gain in this foreclosure case. It has arranged engaging governmental officials producing the documentations; it has wasted government officials' times where they are getting paid by tax-payers money. Its actions have created confusions among the officials (See: Exhibits) (see prosecutor office communications and filings; Judges, Court employees' responses etc.).

The questions are: Does this produce social cost for Ohioans? Is this a pattern of Appellee's actions in this foreclosure case and beyond? Is this a repetitious practice by the Appellee & team in the captioned case? The answers of the all questions are "Yes". It is a pattern of wrongful actions and violations of laws by the appellee in the captioned case. It is a repetitious action because its previous action "perpetrated trespass" is being unpunished because of the ruling "jurisdictional declined". Therefore, the Appellee's actions of wrongful and of violations of laws, regulations and policies will never stop unless the senior Court sets an example. In this aspect, the fact clearly shows that lower Court's resources were utilized, documentations were produced by the name of the sheriff office where relevant officials were confused, fooled by the Appellee and it has wasted officials times and tax-payers money for Appellee's private gains. These practices will continue as months and years to come unless the senior Court takes a measure.

Based on scenario (b), the Appellee & team's actions have violated the constitutional provision: the Article IV (B) (3) of Ohio Constitution - *No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the Supreme Court.* Because the Court record should show that Appellant's "motion for stay pending appeal" was continuously pending with the Supreme Court. A bright example of this is the filing on July 25 of 2013. The Supreme Court case docketing should justify my claim. It is obvious that if the jurisdictional appeal were granted by the Supreme Court, then the defiance by the Appellee & team would have not been happened. It can further be said that, if it goes unpunished, it will continue as months and years to come and it will undermine the constitutional provision: the Article IV (B)(3) of Ohio Constitution.

Violations for utilization of public positions etc. for private gains

In this aspect, the US Justice Department says

> An employee may not use his public office for his own private gain or for that of persons or organizations with which he is associated personally. An employee's position or title should not be used to coerce; to endorse any product, service or enterprise; or to give the appearance of governmental sanction. An employee may use his official title and stationery only in response to a request for a reference or recommendation for someone he has dealt with in Federal employment or someone he is recommending for Federal employment. 5 C.F.R. § 2635.702 (see Subpart G - Misuse of Position; Use of Public Office for Private Gain)

On the issue of official title, it further says

> Generally, an employee engaging in teaching, speaking or writing in his personal capacity may not use his official title or position to identify himself in connection with the activity or to promote any book, seminar, course, program, etc. The two exceptions to this rule are as follows:
>
> 1. An employee may allow the use of his title if it is included as part of several other biographical details and the title is given no more prominence than other information; and
>
> 2. An employee may allow the use of his title in connection with an article published in a scientific or professional journal provided there is an appropriate

> disclaimer. 5 C.F.R. § 2635.807(b) (see Subpart H - Outside Activities; Teaching, Speaking and Writing)
>
> An employee engaging in fundraising in his personal capacity is also prohibited from using his official title, position or authority. In addition, he cannot solicit funds or other support from a subordinate or from any person that has business with his component. 5 C.F.R. § 2635.808(c) (see Subpart H - Outside Activities; Fundraising activities)

Based on scenario (a), Appellee's actions & persuasions have inspired the relevant government officials engaged in producing documentations (defraud) so that it can be used as tools by the Appellee to cause fears and emotional distress to the Appellant in the captioned foreclosure case. Therefore, these actions & persuasions have influenced the relevant government officials to utilize its official positions for the gains of the Appellee and it has violated laws, regulations and policies laid out aforementioned as a prototype of laws, regulations and provisions in Franklin County judicial & law enforcement system. It had undermined the moral values of the organization in general. It has wasted government officials' times where they are getting paid by tax-payers money where the Appellant is one of the Ohio taxpayers for over fifteen year period.

The questions are: Does this wrongful action produce social cost for Ohioans? Is this a pattern of Appellee's actions in this foreclosure case and beyond? Is this a repetitious practice by the Appellee & team in the captioned case? The answers of the all questions are "Yes". It is a pattern of wrongful actions and violations of laws by the Appellee in the captioned case. It is a repetitious action because its previous action "perpetrated trespass" is being unpunished as of today because of the ruling "jurisdictional declined". Therefore, the Appellee's actions of wrongful and of violations of laws, regulations and policies will never stop unless the senior Court sets an example. In this aspect, the fact clearly shows that lower Court's resources were

utilized, documentations were produced by the name of the sheriff office where relevant officials were confused, fooled by the Appellee and it has wasted officials times and tax-payers money for Appellee's private gains. These practices will continue as months and years to come unless the senior Court takes a measure. Furthermore, it will undermine the constitutional provision: the Article IV (B)(3) of Ohio Constitution - *No law shall be passed or rule made whereby any person shall be prevented from invoking the original jurisdiction of the Supreme Court.*

Based on scenario (b), the Appellee & team's actions have violated the constitutional provision: the Article IV (B) (3) of Ohio Constitution. Because the senior Court record should show that Appellant's "motion for stay pending appeal" was continuously pending with the Supreme Court, and because the senior Court had issued notifications to lower Courts on pending appeal its every ruling in the case, the motivational actions of these relevant officials are defiance to the jurisdictions established by the Article IV (B) (3) of Ohio Constitution. It can be said that if this issue goes unpunished, the severity of this defiance will continue and grow geometrically and undermine values of the senior Court in legal system in State of Ohio.

Position of captioned case reference to recent rulings by the Ohio Supreme Court

The Ohio Supreme Court recently considered four jurisdictional memoranda raising fundamental challenges to class action law in Ohio. The Court has now made its jurisdictional decisions in each case.

First, the Court has accepted jurisdiction in *Cullen v. State Farm* and will consider a wide range of fundamental class action issues in that appeal, including the role of *Daubert* at the class certification stage and the parameters of a proper class definition. Second, after initially declining jurisdiction, the Court granted reconsideration and has accepted jurisdiction on the first

proposition of law in *Stammco v. United Tel. Co. of Ohio*, and will consider a prior decision regarding evaluating the merits of class claims in light of the U.S. Supreme Court's recent decision in *Wal-Mart v. Dukes.* Third, after initially declining jurisdiction, the Court granted Appellant's motion for reconsideration in *Ford Motor Credit Co. v. Agrawal.* However, the Court ordered that the cause be held for the decision in *Cullen v. State Farm*, and that the briefing schedule be stayed.

Finally, after initially declining jurisdiction the Court granted Appellant's motion for reconsideration in *Wolfe v. Grange Indemnity Ins. Co.* However, as in *Agrawal*, the Court ordered that the cause be held for the decision in Cullen and the briefing schedule be stayed.

Since there is a breached of contract, the captioned case squarely falls directly within the *Ford Motor Credit Co. v. Agrawal* and *Wolfe v. Grange Indemnity Ins. Co* rulings. Furthermore, it partially falls within the *Stammco v. United Tel. Co. of Ohio* and *Cullen v. State Farm* cases scenarios.

The documentations related to initial issues in the appeal should show that the Appellee has breached the mortgage-contract between the lender & the borrower and violated the Code of Conduct and violated laws, regulation & policies. When it actions were contested and asked for clarifications by the Appellant, without responding to, it had created a scenario to justify its foreclosure case by returning mortgage payment checks (three checks (three previous months returned at once) were returned) and foreclosure case was filed in January of 2011. Since then it has been delaying the case by filing for reschedule and substituted attorney for at least ten time. Rather returning checks, it could have waited for appellant's failure mailing checks out. For the record, I have never failed paying mortgage and never been charged late fees until filing foreclosure. The appellee had further charged late fees for the said three months and reported to

credit companies while I had an absolute credit scores. My documentations will prove this claim. These actions & practices by the Appellee have never been disclosed in the contract as it had happened in *Ford Motor Credit Co. v. Agrawal* case. In this aspect, the counter claim was filed with the Court within the time frame.

Later while the case was before the Common Pleas Court, the Appellee trespassed home. *Prior* to breaking the door, it had taken pictures of the door, lock systems etc. as a preparatory acts for trespass while I was in home, which was reported to Hilliard Police Department. Police Officers were called on the alleged photographer information was collected. Subsequently, door was broken, lock was changed, puppy dog was tied up etc. These actions and practices were out of the contract between the borrower & mortgage-company in general. The counterclaims were filed with the Court within timeframe as the incident progressed. The counterclaim was for breach of contract, fraud, violation of the federal Consumer Leasing Act (CLA), and other claims. The counterclaim asserted the standard form mortgage contract used by Wells Fargo for completion of home financing "based on standards for normal use," with no clause for perpetrated trespass and creation of motivational fees / charges and undermines customers credit worthiness as it was done by the Appellee has done. The result, Appellant contended, was a systematic overcharge of fees, where payment failure was artificially created by the Appellee.

However, with the persuasion of the Appellee, the parties were moved for settlement (see Court records) while Elizabeth Fuller was the counsel on the record for the Appellee. After significant progress in the settlement, the new Counsel (current counsel) came in and the "perpetrated trespass never happened" then says it happened but irrelevant, then says, there was an entry. The question is here: whether it is a violation of the contract and of the laws? With similar violations, the SUPREME COURT OF NEW YORK, SUFFOLK COUNTY, Wells

Fargo, Plaintiff v Steven Tyson *et al.* (*2010 NY Slip Op 20079*; *2010 N.Y. Misc. LEXIS 410*, March 5, 2010, Decided) has ruled against the Appellee where Appellee was the plaintiff of referred foreclosure case. The Supreme Court of New York has set forth an example to follow in New York and beyond for years to come. Here the Court decided granting exemplary damages and other cost over $160,000. The ruling was:

> The Court finds the appropriate measure of damages for the trespass to Defendant's possessory interest in the property to be in the amount of $ 200.00. The Court further finds that Defendant is entitled to recover $ 4,892.00 representing the value of the personality lost as a direct result of Plaintiff's actions in trespass. Finally, the Court finds that Defendant is entitled to recover exemplary damages from Plaintiff in the amount of $ 150,000.00.

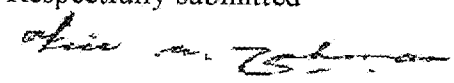
These cases presents the Ohio Supreme Court with the opportunity to decide whether it will affirmatively adopt and apply the referred Courts' rulings and further the United States Supreme Court's decision in *Wal-Mart v. Dukes* as the analytical standard for determining whether a class may be certified under Ohio law, rejecting classes defined in terms of an allegation of a common practice that fails to further common resolution of any of the claims in the case such as currently pending case, Rahman v. Wells Fargo Bank, NA before the Court.

CONCLUSION

The Appellant respectfully requests reconsideration of this Court's October 23 of 2013 decision declining jurisdiction of this appeal and grant this appeal. At a minimum, pursuant to S.Ct.Prac.R.7.08 (B) (2), this Court should hold this case until it decides the pending ORIGINAL ACTION, (Rahman v. Wells Fargo Bank, N A. et. al.) before this Court. Should it accept the case, it would doubtless provide clarity to class jurisprudence in Ohio in the area of foreclosure & breaches of contract and of utilization of government resources for private gains and for

utilization of government official and law enforcement official positions for private gains and in case of issues relate to violations of Codes of Conducts.

Respectfully submitted



Akim Rahman, Ph.D.

Pro Se Appellant

4428 Trailane Drive
Hilliard, OH 43026
614-777-4333 (H)
akim_rahman@hotmail.com

Enclosure(s): Exhibits

A. Assigned attorney - *Jennifer Schaeffer*

B. PRAECIPE to issue ORDER OF SALE

C. Supreme Court docketing snapshot printout

D. Notice of sheriff sale issued on July 25 while motion to stay was pending with Supreme Court

E. Created the confusion among government officials.

F. Common Plea Court record snapshot printout

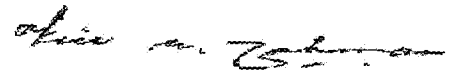
G. Schedule for sheriff sale posted online thru sheriff office

H. SHERIFFS RETURN OF ORDER OF SALE signed by the sheriff

Certificate of Service

I certify that a copy of this MOTION FOR RECONSIDERATION was sent on October 29 of 2013 for the Appellee, Wells Fargo represented by legal team at the

Attn.: John Kopf,
41S. High Street, Suite # 1700,
Columbus, OH 43215



Akim Rahman, Ph.D.
Pro Se Appellant

201102570
(hs)

Exhibit-A

COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

Wells Fargo Bank, N.A. successor by merger to Wells Fargo Home Mortgage, Inc. Plaintiff, -vs- Akim M. Rahman, et al. Defendants.	Case No. 11 CVE 01 01095 Judge John F. Bender NOTICE OF SHERIFF'S SALE

To Whom It May Concern:

The Sheriff's Sale in this foreclosure action has been set for October 18, 2013 at 9:00 am in the County Sheriff's Office, Franklin County Courthouse.

/s/ Jennifer Schaeffer
Jennifer Schaeffer, Trial Counsel
Ohio Supreme Court Reg. #0084893
Attorneys for Plaintiff
P.O. Box 5480
Cincinnati, OH 45201-5480
(513) 241-3100
attyemail@lsrlaw.com

THIS COMMUNICATION IS FROM A DEBT COLLECTOR

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Notice has been served upon all parties or counsel of record as required by O.R.C. Sec. 2329.26 by regular U.S. mail this September 26, 2013.

Adria L. Fields
373 S. High Street, 17th Floor
Columbus, OH 43215

Akim M. Rahman
4428 Trailane Drive
Hilliard, OH 43026

/s/ Jennifer Schaeffer
Jennifer Schaeffer

Exhibit-B

LSR # 201102570

PRAECIPE

Common Pleas Court, of Franklin County:

Date: July 12, 2013

Wells Fargo Bank, N.A. successor by merger to Wells Fargo Home Mortgage, Inc.

Plaintiff

No.11 CVE 01 01095

Judge John F. Bender

Akim M. Rahman, et al

Defendant

To Clerk of Common Pleas Court, Franklin County:

Issue Order of Sale

To the Sheriff of Franklin County returnable according to law serve

TERMS OF SALE: PURCHASER OF THE PROPERTY OTHER THAN PLAINTIFF OR LIEN HOLDER SHALL BE REQUIRED TO DEPOSIT 10% OF THE APPRAISED VALUE AT THE TIME OF THE SALE IN THE FORM OF A CASHIERS CHECK. PLAINTIFF SHALL BE REQUIRED TO MAKE DEPOSIT BASED ON CHART ESTABLISHED BY LOCAL RULE AND DIRECTLY RELATED TO APPRAISED VALUE AT THE TIME OF THE SALE IN THE FORM OF A CASHIERS CHECK. THE BALANCE OF THE PROCEEDS TO BE PAID WITHIN THIRTY (30) DAYS AFTER THE CONFIRMATION IS FILED TO THE SHERIFF. SHOULD THE PURCHASER FAIL TO MAKE TIMELY PAYMENT OF SAID PROCEEDS, IT IS ORDERED SAID DEPOSIT OF 10% OF THE APPRAISED VALUE SHALL BE WITHHELD BY PLAINTIFF AS AND FOR COSTS ASSOCIATED WITH READVERTISMENT AND RESALE OF SAID ESTATE OF INTEREST CHARGES.

X	ORDER OF SALE	Parcel Numbers: 050-009614-00
X	Appraise	Address: 4428 Trailane Drive Hilliard, OH 43026
X	Advertise	
	Reappraise	
	Readvertise	
	Do Not Reappraise	
	Do Not Readvertise	

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

Exhibit - E

WELLS FARGO BANK NA
SUCCESSOR BY MERGER TO
WELLS FARGO HOME MORTGAGE
INC
Plaintiff,

Case No. 11CV1095

V.

Judge BENDER

AKIM M RAHMAN, ET AL
Defendant(s),

APPLICATION FOR PAYMENT OF APPRAISER'S FEES

Now comes ZACH SCOTT, Sheriff of Franklin County, Ohio, through Counsel, and requests that each of the appraisers named herein, to wit: J GREGORY HART, L. CHRISTINE REESE, RALPH F BERGER be each paid the sum of $200.00 for the appraisal of the property located at 4428 TRAILANE DR HILLIARD, OH 43026-0000. The appraisers named herein have appraised the property at a value of $264,000.00.

The Sheriff represents to this Court that the appraisers are disinterested freeholders and residents of Franklin County and therefore qualify to render a fair and impartial appraisal and that the total sum of $600.00, as set by the Court, is not unreasonable for the appraisal services they have provided.

Respectfully submitted,
RON O'BRIEN, PROSECUTING ATTORNEY
FRANKLIN COUNTY, OHIO

/s/ NICK A. SOULAS
NICK A. SOULAS
ASSISTANT PROSECUTING ATTORNEY

SHFN134

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

WELLS FARGO BANK NA SUCCESSOR BY MERGER
TO WELLS FARGO HOME MORTGAGE INC
Plaintiff

vs.

Case No. 11CV1095

AKIM M RAHMAN, ET AL
Defendant

Judge BENDER

LAND APPRAISEMENT

We the undersigned disinterested freeholders and residents of the County of Franklin, State of Ohio, having been duly summoned and sworn by ZACH SCOTT, Sheriff of said County, to impartially appraise, upon actual view (when available), the land and tenements as described in the legal description contained in the Order of Sale filed herein on July 12th, 2013 and commonly known as

4428 TRAILANE DR HILLIARD, OH 43026-0000 Parcel#: 050-009614

to be sold pursuant to an Order of Sale issued from the Court of Common Pleas of said County, in the above entitled action, after actual view (when available) of said premises, estimate and affix the real value of the property in money to be $264,000.00.

Given under oath 07/24/2013.

J GREGORY HART _____

L. CHRISTINE REESE L. Christine Reese

RALPH F BERGER _____

THE STATE OF OHIO, FRANKLIN COUNTY, ss.

I hereby certify that the above named appraisers are freeholders and residents of Franklin County, Ohio and were duly summoned and sworn by me to impartially appraise, upon actual view, the premises as described on the attachment to this document on 07/24/2013.

ZACH SCOTT, FRANKLIN COUNTY SHERIFF

By _____
Deputy

SHFN100

Home eFile Cases My Profile Log Out user: AKIM RAHMAN

Notifications

Notifications

Notifications for AKIM RAHMAN

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	Document(s) submitted by...	Case Title	Case Number	Court
☐	JUDICIAL DECLINE was filed by or on behalf of Pam M Boughner Documents: JUDICIAL DECLINE	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	REPLY MEMO was filed by or on behalf of JOHN BERNARD KOPF, III Documents: RESPONSE TO Memorandum in Response of Plaintiff Wells Fargo Bank, N.A. to Defendant Akim Rahman's Motion for Stay Filed July 25, 2013	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	SHERIFFS MOTION: PAY APPRAISER was filed by or on behalf of NICK A SOULAS Documents: SHERIFFS MOTION: PAY APPRAISER	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	MOTION: STAY was filed by or on behalf of AKIM RAHMAN Documents: EXHIBITS EXHIBITS Copy of brief filed with Appellate Court EXHIBITS Copy of Memorandum in support of jurisdiction appeal with supreme court MOTION: STAY evidence of filing with Supreme Court is included	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	LAND APPRAISEMENT was filed by or on behalf of NANCY G EING Documents: LAND APPRAISEMENT	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	PRAECIPE TO ISSUE ORDER OF SALE was filed by or on behalf of JENNIFER SCHAEF Documents: EXHIBITS Judgment Entry PRAECIPE TO ISSUE ORDER OF SALE Praecipe for Order of Sale	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	NOTICE OF SUBSTITUTION OF COUNSEL was filed by or on behalf of JENNIFER SCHAEF Documents: APPEARANCE Notice of Substitution of counsel	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	BRIEF OF APPELLEE was filed by or on behalf of JOHN BERNARD KOPF, III Documents: BRIEF OF APPELLEE Brief of Appellee Wells Fargo Bank, N.A.	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	DECISION/ENTRY was filed by or on behalf of GREGORY A. WETZEL Documents: DECISION/ENTRY Denying Motion to Stay	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	COURT ENTRY was filed by or on behalf of AMY C OGRADY Documents: JOURNAL ENTRY	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	NOTICE OF APPEAL - OHIO SUPREME COURT was filed by or on behalf of KRISTY C MYERS Documents: NOTICE OF APPEAL - OHIO SUPREME COURT	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐	NOTICE OF APPEAL - OHIO SUPREME COURT was filed by or on behalf of DENNIS A HIGGINS Documents: NOTICE OF APPEAL - OHIO SUPREME COURT	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	MOTION was filed by or on behalf of AKIM RAHMAN Documents: MOTION: STAY Motion for a stay pending Appeal	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	JOURNAL ENTRY was filed by or on behalf of TIFFANY L BARTON Documents: JE - STAY OF EXECUTION OF JUDGMENT	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	COURT ENTRY was filed by or on behalf of WILLIAM A KLATT Documents: JOURNAL ENTRY	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	MOTION: RECONSIDER was filed by or on behalf of AKIM RAHMAN Documents: MOTION: RECONSIDER Motion to reconsider of the recent Court ruling on Appellee motion to extend	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	COURT ENTRY was filed by or on behalf of AMY C OGRADY Documents: JE - EXTENSION OF TIME TO FILE APPELLEE BRIEF	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	MOTION: EXTENSION OF TIME - TO FILE APPELLEE... was filed by or on behalf of JOHN BERNARD KOPF, III Documents: MOTION: EXTENSION OF TIME - TO FILE APPELLEE BRIEF	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐	NOTICE OF CONFERENCE was filed by or on behalf of CHRIS L ADKINS	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP

Documents: NOTICE OF CONFERENCE			
☐ BRIEF OF APPELLANT was filed by or on behalf of KRISTIE A MYERS Documents: BRIEF OF APPELLANT	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐ NOTICE OF FILING RECORD was filed by or on behalf of KELLI A SIMMONS Documents: NOTICE OF FILING RECORD	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐ RECORD TRANSMITTED TO COURT OF APPEALS was filed by or on behalf of KELLI C SIMMONS Documents: RECORD TRANSMITTED TO COURT OF APPEALS	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐ MEMO CONTRA was filed by or on behalf of JOHN BERNARD KOPF, III Documents: MEMO CONTRA to Motion for Stay Filed May 3, 2013	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐ RESPONSE TO was filed by or on behalf of AKIM RAHMAN Documents: RESPONSE TO Appellee Memorandum Contra filed on May 09 of 2013	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐ MEMO CONTRA was filed by or on behalf of JOHN BERNARD KOPF, III Documents: MEMO CONTRA to Motion for Stay	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐ NOTICE OF APPEARANCE was filed by or on behalf of JOHN BERNARD KOPF, III Documents: NOTICE OF APPEARANCE	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐ MOTION: STAY was filed by or on behalf of AKIM RAHMAN Documents: MISCELLANEOUS PAPER Portion of transcript that reflects a violation of defendant rights MOTION: STAY Copy of documentation of filing motion with the Common Pleas Court MOTION: STAY Motion for stay pending appeal	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	13AP000376	TENTH DISTRICT COURT OF AP
☐ NOTICE OF APPEAL - COURT OF APPEALS was filed by or on behalf of DENNIS C HIGGINS Documents: COPY OF JUDGMENT ENTRY FOR APPEALS PURPOSES DOCKETING STATEMENT NOTICE OF APPEAL - COURT OF APPEALS	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF
☐ MOTION: STAY was filed by or on behalf of AKIM RAHMAN Documents: MOTION: STAY Defendant's Motion for stay judgment pending Appeals	WELLS FARGO BANK NA -VS- AKIM M RAHMAN	11CV001095	GENERAL DIVISION, COURT OF

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Exhibit-G

Franklin County Sheriff Foreclosures

- New Foreclosure Search
- New Service Search

Sales Listing (click on the case number for results of a sale)

Print Sale List

11CV1095 4428 TRAILANE DR HILLIARD, OH 43026 050009614

Case Status:s	Plaintiff:	Defendant:	Appraised:	Opening Bid:	Deposit:	Sale Date:
ACTIVE	WELLS FARGO BANK NA SUCCESSOR BY MERGER TO WELLS FARGO HOME MORTGAGE INC// Atty: JENNIFER SCHAEFFER (513)241-3100	RAHMAN/ AKIM/ M	$264,000.00	$176,000.00	$26,400.00	10/18/2013

<< < 1/1 > >>

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SHERIFF'S RETURN OF ORDER OF SALE

Exhibit-H

WELLS FARGO BANK NA SUCCESSOR BY MERGER
TO WELLS FARGO HOME MORTGAGE INC
Plaintiff

vs.

AKIM M RAHMAN, ET AL
Defendant

Case No. 11CV1095

Judge BENDER

THE STATE OF OHIO, FRANKLIN COUNTY, ss}
In obedience to the command of the Order of Sale hereto I did, on 07/24/2013 summon:
1. J GREGORY HART, 2. L. CHRISTINE REESE, 3. RALPH F BERGER three disinterested freeholders, residents of said county who were by me dully sworn to impartially appraise the lands and tenements therein described, upon actual view, and afterwards, on the date, said Appraisers returned to me, under their hands and seals, that they did, upon actual view of the premises, estimate and partially appraise the real value in money of the same at $264,000.00. The original of said appraisal I forthwith deposited in the Office of the Clerk of the Court of Common Pleas. And on 09/17/2013 I caused to be advertised in the DAILY REPORTER the said lands and tenements to be sold at public sale, in the Hall of Justice of said County, on 10/18/2013 and having advertised the said lands and tenements for more than thirty days previous to the day of sale, to wit: five consecutive weeks on the same day of the week each week; and in pursuance of said notice, I did at the time and place above mentioned, proceed to offer said lands and tenements at public sale, in the Hall of Justice, and then and there came PLAINTIFF, who bid the sum of $230,000.00 and said sum being more than two thirds of the appraised value thereof, and being the highest and best bidder therefore, I then and there publicly sold and struck off lands and tenements to him/her for the above mentioned bid.

10/18/2013 SALE COMPLETED

Sheriff's Invoice for Fees	
Service and Return	$50.00
Swearing Appraisers	$9.00
Writing Advertisement	$2.00
Total Sheriff's Fee	$61.00

Appraiser's Fees	
Three each at	$200.00
Total	$600.00

PARCEL NO. 050-009614
ADDRESS 4428 TRAILANE DR
HILLIARD, OH 43026-0000
JENNIFER SCHAEFFER
(513) 241-3100

ZACH SCOTT, SHERIFF

BY _____ DEPUTY

SHFN112