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**STATE OF WISCONSIN
COURT OF APPEALS
DISTRICT 2**

U.S. Bank Trust National Association,
Plaintiff-Respondent,

v.

Karen A. Felt, Richard K. Felt, Curtis Ambulance Service,
The United States of America c/o US Attorney and The
United States of America c/o US Attorney General,
Defendants,
Christopher Stoller,
Appellant.

Appeal No2020AP556

Walworth County Case

Case No: 2019-CV-000164

**ON APPEAL FROM THE CIRCUIT COURT FOR WALWORTH COUNTY
THE HONORABLE DANIEL S. JOHNSON**

BRIEF¹ OF CHRISTOPHER STOLLER ASSIGNEE/APPELLANT

ORAL ARGUMENT REQUESTED

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¹ When Appellant refer to documents in this case the numbers are from Walworth County Clerk of Circuit Court 2019-CV-000164 Record filed 08-28-2020 marked as Appendix A. In the event that for any reason the Appellant's brief procedurally does not conform, the Appellant, the Executive Director of Americans for the Enforcement of Attorney Ethics (AEAE) since 1974 (located in Chicago), has filed over 500 State and Federal Appeals, over a 45-year Appellate career, but this is his first Wisconsin Appellate Court Appeal, and would request leave to amend his opening brief.

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STATEMENT OF ISSUES

Whether the Court properly denied Christopher Stoller/Assignee of the right of the original Defendants to intervene in this case.

Whether the Court committed clear and reversible error by failing to vacate a Default Ex Parte Foreclosure Judgment that was procured by fraud on the Court.

Whether the Plaintiff/ Appellee Bank had standing, when it filed the foreclosure action on March 14, 2019.

Whether opposing counsel William Foshan's ex parte communication with Judge Daniel Johnson ("Extrinsic Fraud") is a basis for setting aside the judgments that are the subject of the appeal.

Whether the Judge Daniel Johnson erred by denying Christopher Stoller's the right to intervene in a foreclosure action in which Christopher Stoller was an owner of the subject property that was being foreclosed upon under Wis Stat. §803.09.

Whether a *non jural* entity has the right to maintain a civil action in the state of Wisconsin.

Whether the Court committed clear and reversible error by denying Christopher Stoller's Motion to vacate the ex parte default judgment entered by the Court on July 23, 2019, under Wis State §806.07.

Whether the Court committed clear and reversible error by denying Christopher Stoller Motion to Stay the Sheriff's sale pending appeal Under Wis. Stat §808.075.

Whether the Court Committed Clear Error and Reversible Error when Judge Daniel Johnson "Ordered that the sale of the mortgaged premises to the plaintiff for the sum of \$335,750.00 is confirmed on April 16, 2020.

Whether the court erred by denying Christopher Stoller's Motion for Substitution of Judge.

STATEMENT OF THE CASE

In this foreclosure Action on the subject property described below.

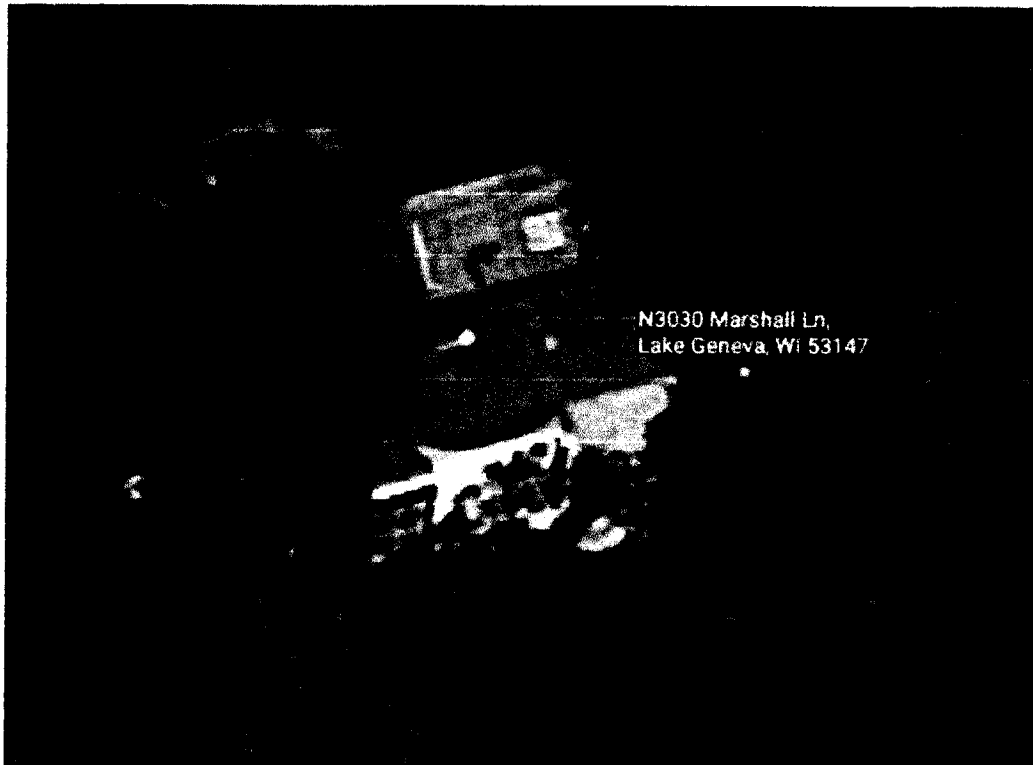
PROPERTY DESCRIPTION

DESCRIPTION

THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, IN TOWNSHIP 2 NORTH, RANGE 17 EAST, RESERVING FOR THE USE OF THE PUBLIC AS A HIGHWAY A STRIP OFF THE WEST SIDE 25 FEET IN WIDTH, SAID LAND LYING IN THE TOWN OF GENEVA, WALWORTH COUNTY, WISCONSIN.

PROPERTY ADDRESS

N3030 Marshall Ln Lake Geneva, WI 53147-3553



The court granted an erroneous *ex parte* default foreclosure judgment (Doc 19). The court also erroneously denied a Motion to Reopen the *ex parte* default judgment (**Appendix 1**). The court erroneously entered a final judgment on April 16, 2020, (**Appendix 2**), which is the subject of this appeal, confirming the sale and erroneously entered a final and appealable order transmitting an invalid deed to the Register of Deeds (**Appendix 2**) attached Order April 16, 2020 Final Judgment, which is the subject of this appeal.

STATEMENT OF FACTS

Plaintiff U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for a *non-jural* entity, Legacy Mortgage Asset **2018-GSI**, which is not licensed or regulated within the State of Wisconsin and is not authorized to conduct business or maintain a lawsuit within the State of Wisconsin filed a foreclosure suit against the original Defendants Karen Felt and Richard Felt. The Defendants sold their property to Michael Stoller on date_____ Michael Stoller filed a lis pendens with the Walworth County Recorder's Office.

On July 23, 2019, the court granted the Plaintiff Motion for Default Judgment, no defense being sought, *ex parte* default Judgment for Foreclosure against.

On February 28, 2020, Christopher Stoller filed an Appearance (Doc 28)(Appendix 15) with an Assignment of Claims (Appendix 3) from the original defendants, Motion to Vacate the Sheriff Sale(Doc 23) Motion for Relief from Judgment and Motion to Stay pending Appeal (Doc 21) for hearing on March 3, 2020, before Judge Daniel Johnson. See official summary of the March 3, 2020 hearing, recorded by the court reporter reproduced below:

03-03-2020 Hearing

Johnson, Daniel Boss, Rhonda
S.**Additional text:**

Attorney William Nicholas Foshag appeared by phone means for Plaintiff U.S. Bank Trust National Association. Christopher Stoller present in court. Court in session @ 10:00 a.m. Appearances amde. Matter before the Court for hearing on documents filed by Mr. Stoller regarding sale of property scheduled for March 5th and motion to reopen.

10:05 a.m. - Record by Atty. Foshag as to the Plaintiff's position and objection to the documents filed by Mr. Stoller.

10:07 a.m. - Response by the Court who addresss Atty. Stoller who makes a record as to his position and documents filed. Response by the Court. Further record by Mr. Stoller in responds to Court's record/questions.

10:14 a.m. - Response by Atty. Foshag to Mr. Stoller's record.

10:15 a.m. - Record by the Court as to history of case, proper service, lack of joinder, lack of answer, default judgment, redemption period, lack of defendants to redeem the property, Sheriff's sale set for March 5th. Further record as to documents filed by Mr. Stoller. Based upon Court's record, motion to reopen and motion to stay pending appeal are denied. Atty. Foshag to submit order as prevailing party.

10:24 a.m. - Response by Mr. Stoller to Court's record.

Court in recess @ 10:24

Judge Daniel Johnson made the following statement relating to his allowing Christopher Stoller to intervene in the case based upon his Assignment of Claims and Causes of Action from the original Defendants' Karen Felts and Richard Felts on Page 5, of the Official March 3, 2020, Transcript (Appendix 6). See Lines 10-19, reproduced below:

10	month ago, I believe, definitely a month ago. There is
11	a foreclosure sale scheduled in this matter. To the
12	extent you have an assignment of claims, I assume what
13	you're saying is you're stepping into the shoes of the
14	Felts and the fact of the matter is, the Felts have
15	done nothing to pursue their claim in this matter since
16	its inception. So I'm not going to delay things
17	another three weeks. As I said, I'm giving you an
18	opportunity to tell me now why you should prevail. So
19	go ahead.

Judge Daniel Johnson acknowledged on the record that Christopher Stoller was “stepping into the shoe of the Felts” to acknowledge Christopher Stoller’s right to intervene in the foreclosure action. See Page 10 of the March 3, 2020 Transcript lines 21-25 (**Appendix 6**) reproduced below:

21	THE COURT: Thursday, the 5th is the date of
22	the sheriff's sale at this point in time. Sometime in
23	the past couple weeks it appears that Mr. Stoller
24	contacted the Felts or had some sort of communication
25	with them. I have a document in my file which he

Page 10

53-10

See Lines 1-13, at Page 11 of the March 3, 2020 Transcript (**Appendix 4**) reproduced below:

1 | claims to be an assignment of their rights to him. In
2 | other words, I assume Mr. Stoller is saying that he's
3 | stepping into the shoes of the Felts at this point in
4 | time as the owner of this property. That's certainly
5 | how the motion was argued this morning as well. If
6 | that's the case, then he steps into the legal position
7 | of the Felts as well and all of those non-actions by
8 | the Felts up until this point, essentially not caring
9 | about this case at all, not pursuing their rights in
10 | this case at all, are now Mr. Stoller's responsibility.
11 | And Mr. Stoller steps into those shoes is how I'm
12 | taking his interest in this property at this point in
13 | time. He's still stepping into the shoes of the Felts

The Record from the Official Transcript and the statements made on the record by Judge Daniel Johnson acknowledge that Christopher Stoller has the right to intervene in the underlying foreclosure Action (Doc 1) as the owner of the subject property.

Plaintiff U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for a *non jural*, entity, Legacy Mortgage Asset alleged in its Complaint; see a true and correct reproduction from the Official Transcript of March 3, 2021 (**Appendix 6**) at Lines 19 & 20, Page 8, Counsel for the Plaintiff Mr. Foshag.

19 MR. FOSHAG: Thank you, your Honor. The
20 plaintiff had alleged in its complaint it was the
21 holder of the note, a copy of the note which is
22 incorporated into the pleadings was attached as Exhibit
23 A and it is endorsed and blank. As the holder of the
24 note, the plaintiff have a right to foreclose under
25 that position alone.

Mr. Foshag makes a misstatement of material fact to Judge Daniel Johnson in direct violation of Wisconsin Rules of Professional Misconduct Rule 3-3(a). Mr. Foshag, an expert on foreclosure law, new or should have known that the subject mortgage was a Fannie May Mortgage. that Plaintiff Note was not a valid Note it did not comply with Fannie May Rule B8-04 (Appendix 8).

No. 2017AP405

¶22 To foreclose on a mortgage that secures an instrument, a party must show that it is entitled to enforce the instrument by proving that it is the “holder” of the instrument or “a nonholder in possession of the instrument who has the rights of a holder.”⁵ WIS. STAT. § 403.301. Generally speaking, a “holder” is the person in possession of the instrument, in this case the note. WIS. STAT. § 401.201(2)(km)1. (a “holder” is “[t]he person in possession of a [note] that is payable either to bearer or to an identified person that is the person in possession”). A note endorsed in blank is payable to the bearer and is negotiated by transfer of possession alone. See WIS. STAT. §§ 403.201(1), 403.205(2).

The Bank of New York Mellon, Plaintiff/Respondent v. Gloria J. Klomsten and Steven Klomsten, Defendants/Appellants; McAdams, Inc., and Orthopaedic Associates of Wisconsin, S.C., Defendants, Appeal No. 2017AP405 Cir. Ct. No. 2016-CV-86, State of Wisconsin, Court of Appeals.

Mr. Foshag, an expert on foreclosure law, new or should have known that the Note he mentioned to Judge Daniel Johnson upon which he asserted gave the Plaintiff authority to foreclose “under that position alone” was false. Foshag knew that that the mortgage on its face was a Wisconsin single family Fanny May/Freddie Mac Mortgage (**Appendix 9**) under, Selling Guide Organization thru Closing Subpart B6 Closing Legal Documents, Chapter B8-3, Notes 1032999891/B8 3 04 Note Endorsement (**Appendix 8**). The originating lender must be the original payee on the Note, even when MERS is named as nominee for the beneficiary in the security instrument.” In Felt’s Mortgage dated September 23, 2004, (**Appendix 9**) in Paragraph (C) which is reproduced below:

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is ASHTON FINANCIAL LLC

MERS is the nominee on the Mortgage and is required to be the payee on the Note (**Appendix 7**) and was not the payee on the Note that Attorney Foshag misinformed the Judge Daniel Johnson that the Plaintiff had a right to foreclosure under that position alone. The note attached to the

Complaint (Doc 1) was invalid it did not have the proper language pursuant to Rule B8 3 04 (Appendix 8).

Fanny Mae requires that the “Note must clearly reference the attached allonge “Fannie Mae’s Status as a “holder in due course’ must not be impaired.” The Note that Attorney Mr. Foshag “had misinformed Judge Daniel Johnson lied and gave the Plaintiff a right to foreclosure under that position alone. This was an invalid Note (**Appendix 7**) which did **not** reference the allonge, Fannie Mae’s Status as a “holder in due course” must not be impaired.” (**Appendix 8**).

Furthermore, the Note that Mr. Foshag misrepresented to Judge Daniel Johnson gave the Plaintiff’s a right to foreclosure under that position alone was invalid on its face because it did not meet Fanny Mae’s “Signature Requirements for Endorsements” (**Appendix 8**) which states, the mortgage seller may not delegate to an attorney-in-fact its authority to execute an endorsement. The endorsement may not be executed by a party using a power of attorney. (**Appendix 8, Page 4 ¶ 2**).

Plaintiff’s Counsel Foshag, a mortgage expert, knows this fact. However, the Note that Foshag misrepresented to Judge Daniel Johnson which Foshag said in open court gave the Plaintiff’s a right to foreclosure under that position alone” did not meet Signature Requirements for Endorsements see a true and correct copy of the incorrect signature on the said Note (**Appendix 7, Page 9**) reproduced bellows:

Without recourse:

**VOLT ASSET HOLDINGS TRUST XVI, BY ITS
TRUSTEE U.S. BANK TRUST, N.A., THROUGH
CALIBER HOME LOANS, INC., AS ATTORNEY IN
FACT FOR THE TRUSTEE**

By:

Title:

Jennifer Martin
Jennifer Martin

Authorized Signatory

EXHIBIT A 

The mortgage seller may not delegate to an attorney-in-fact its authority to execute an endorsement. The endorsement may not be executed by a party using a power of attorney.” (Appendix 8 at page 4 ¶ 2). This note violates Chapter B-8-3-04 (**Appendix 8**) and is non enforceable.

Appellant/Assignee Christopher Stoller file two separate timely appeals which have been consolidated, the first dated March 23, 2020, (**Appendix 1 & 2**) contending that the Trial Court Judge Daniel S. Johnson erred when he entered his March 4, 2020 Final Judgment, denying Christopher Stoller right to intervene in a foreclosure action in which Christopher Stoller had an Assignment of Claims and Causes of Action from the original defendants Karen & Richard Felts who was the owner of the said property that was the subject of the foreclosure (**Appendix 5**), see

a true and correct reproduction of Judge Daniel S. Johnson final erroneous order reproduced below:

ORDER

WHEREAS, the above matter came on for a hearing on March 3, 2020, the plaintiff having appeared through their counsel, Gray & Associates, LLP by William N. Foshag, and an interested party, Christopher Stoller, having appeared pro se, and;

WHEREAS, the interested party, Christopher Stoller, filed several items on February 28, 2020 which would appear to be a motion to intervene in this action under *Wis. Stat. § 803.09*, a motion to reopen the July 23, 2019 default judgment entered in this case under *Wis. Stat. § 806.07*, and a motion to stay the March 5, 2020 sheriff's sale pending appeal under *Wis. Stat. §808.075*,

IT IS HEREBY ORDERED that for those reasons as stated on the record, the entirety of the February 28, 2020 filings and motions of the interested party, Christopher Stoller, are DENIED.

On page 4 of the order:

Case 2020AP000556 Transmittal of Notice of Appeal & Court Record Filed 03-27-2020 Page 5 of 11
Case 2019CV000164 Document 28 Filed 07-23-2019 page 2 of 4

NOW THEREFORE, on motion of Gray & Associates, L.L.P., attorneys for the plaintiff,

IT IS BY THE COURT FOUND, DETERMINED AND ADJUDGED:

1. That all of the material allegations of the plaintiff's complaint are proven and true.
2. That the following amounts are due to the plaintiff under the terms of the note and

mortgage:

On Page 4 of 4:

STATEMENT OF INDEBTEDNESS

Unpaid Principal Balance	\$373,630.60
Interest from 8/1/18 to 6/30/19 @ 2%	6,771.75
Credits / Suspense	(0.20)
BPO /Appraisal	178.00
Property Inspection Fees	60.00
Insurance Advance	915.05
Tax Advance	5,106.36
Deferred Principal Balance	94,249.11
Title	325.00
TOTAL	<u>\$481,235.67</u>

Redemption period granted by this court: **six months.**

This is a final judgment for the purpose of appeal.

On appeal, Plaintiff/Appellant Christopher Stoller contends that the Trial Court erred when Judge Daniel S. Johnson denied (Doc 32) Christopher Stoller right to intervene because Judge Daniel Johnson had previously acknowledged Christopher Stoller's standing in the Official Transcript dated March 3, 2020, at Pages 5-6 (**Appendix 4**) based upon the Assignment of Claims and Cause of Action (**Appendix 3**) that the Original Defendants Karen Felts and Richard Felts gave Christopher Stoller (**Appendix 3**).

Secondly, Christopher Stoller had a Title 3 Standing² and held an equitable interest in the property that was the subject of the said foreclosure (**Appendix 5**).

The Defendants Karen Felts and Richard Felts were **not** the owners of the subject property, that was the subject of the foreclosure, see (**Appendix 5**).

² Christopher Stoller has standing which is the "irreducible constitutional minimum" necessary to make a justiciable "case" or "controversy" under Article III, §2. *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 560. Leo Stoller and Michael Stoller meets the three requirements: injury in fact, causation of that injury by the defendant's complained-of conduct, and a likelihood that the requested relief in this appeal will redress that injury. *E.g., ibid.* ² *Steel CO. v. Citizens for Better Environment*, 90 F. 3d 1237, vacated and remanded.

First, Judge Daniel S. Johnson committed clear error when he denied Christopher Stoller's Motion to Reopen the July 23, 2019 ex parte Default Judgment (Doc 19), which was procured by fraud, in so far as the Plaintiff the *non-jural* entity, Legacy Mortgage Asset, Trust 2019-CSI, did **not** have standing to file a foreclosure on March 14, 2019, in so far as the *non-jural* Legacy Mortgage Asset Trust 2018-GSI did not have an interest or own the mortgage and or Note on the date March 14, 2019.

Secondly, the *non-jural* entity, Legacy Mortgage Asset Trust 2018-GSI was **not** registered in Wisconsin to do business on March 14, 2019, the day it filed the foreclosure lawsuit and is a non-existent entity that is incapable of maintaining a lawsuit within the State of Wisconsin. Said default judgment (Doc 19) was procured by fraud on the court and the court had no jurisdiction to enter a default judgment. The Sheriff cannot deliver a deed to an entity that does not exist³. Lastly the court committed clear error by denying the Defendant/Appellant/Assignee Christopher Stoller's Motion to Stay Pending Appeal.

STATEMENT ON PUBLICATION

It is the public policy of this state that "all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them." Wis. Stat. § 19.31. This case involves the unlawful foreclosure (Doc 1) by a Bank that has no standing to foreclose on the date that the foreclosure suit was filed. Only a few published decisions address what constitutes "standing" under the statute and when a Bank sues for foreclosure.

There are three reasons which support the publication of the Court's decision. First, with

³ It is black letter law that deeds cannot be delivered to nonexistent entities, whether the entities are natural or legal. A deed cannot be delivered to a deceased grantee. *Dale M. Stone v. Jetmar Properties, LLC, et al. Selwin Ortega*, Appellant. No. A06-851. 733 N.W.2d 480 (2007) citing. *In re Estate of Savich*, 671 N.W.2d 746, 750 (Minn. App. 2003).

the path of foreclosures taking place in Wisconsin, this court's published decision will clarify this Court's position on whether a bank has standing to sue for foreclosure in the State of Wisconsin. Secondly, publication of the Court's decision will contribute to the legal literature by collecting case law and reciting legislative history for the benefit of all citizens. *See* Wis. Stat. § 809.23(1)(a)4. Finally, a published decision by the Court is appropriate because there is a substantial and continuing public interest in Wisconsin's foreclosure law and cases addressing how it is to be interpreted will assist future litigants. *See* Wis. Stat. § 809.23(1)(a)5.

The court denied Christopher Stoller's Motion to Intervene (**Appendix 1**), Motion to Reopen the July 23, 2019 ex parte Default Judgment (**Appendix 1**) and request to stay the sale of the subject property (**Appendix 2**) the subject appeal follows.

ORAL ARGUMENT

Although the issues on appeal derive from a well-developed record. Oral argument is necessary because the record and the briefs on appeal present the issues and develop the legal theories and authorities, the oral argument would be likely to aid the Court's analysis; see Wis. Stat. § 809.22.

INTRODUCTION

De Novo Review

Because Christopher Stoller's de facto-corporation claim raises an issue of statutory construction, it is subject to *de novo* review; *Weston v. McWilliams & Assocs., Inc.*, 716 N.W.2d 634, 638 (Minn.2006).

Appellant/Assignee Christopher Stoller filed a second timely appeal dated May 28, 2020, (**Appendix 2**), which is also being heard under Appeal Number 2020-AP-000556, contending that Judge Daniel S. Johnson erred when he entered his second appealable order dated April 16,

2020, final judgment erroneously confirming the sale (Doc 50) of the subject property transmit the Sheriff's Deed to the Register of Deeds. See a true and correct reproduction of Judge Daniel S. Johnson's second erroneous final order reproduced below (**Appendix 2**):

Upon the application of the plaintiff through its attorneys, Gray & Associates, L.L.P., and upon reading and filing the report of the sheriff, and upon the records, files and proceedings herein,

IT IS HEREBY ORDERED that the sale of the mortgaged premises to the plaintiff for the sum of \$335,750.00 is confirmed.

IT IS FURTHER ORDERED that upon entry of the Order, the Clerk of Circuit Court shall transmit the Sheriff's Deed to the Register of Deeds or notify the Register of Deeds that the Sheriff's Deed is available in the clerk's office, pursuant to Wis. Stat. § 846.16.

Appellant/Assignee Christopher Stoller opposed the fraudulent sale of the premises to the Plaintiff and opposed the "transfer of the Sheriff's Deed to the Register of Deeds". It is black letter law that deeds cannot be delivered to nonexistent entities, whether the entities are natural or legal. *Id.*, Legacy Mortgage Asset Trust 2018-GSI is a *non jural* entity.

On appeal, Stoller contends that Judge Daniel Johnson erred in denying Christopher Stoller's Motion to Intervene, Motion to Reopen the July 23, 2019 *ex party* default Foreclosure Judgment (Doc 19) (**Appendix 1**), that Judge Daniel Johnson committed clear error and reversible error when he issued an order confirming the sale (Doc 50) of the subject property on April 16, 2020. (**Appendix 2**)

STANDARD OF REVIEW FOR EACH ISSUE RAISED BY THE APPELLANT

Abuse of Discretion De Novo Review

The Trial Court's decision(s) were based on erroneous interpretation of the facts and incorrect application of the law, as it applies to the facts which are subject to *de novo* review before this court.

Whether a foreclosure complaint adequately pleads a cause of action is a question of law, this court review is *de novo*; *Hermann v. Town of Delavan*, 215 Wis. 2d 370, 378, 572 N.W.2d 855 (1998).

The Appellant has raised ten issues for review at Page 6.. The court review of each issue raised by the Appellant is *de novo* for the court's abuse of discretion.

This appeal involves legal Issues, 2018 WI App 25 Court of Appeals, Wisconsin published opinion, Case No.: 2017-AP-405 Complete Title of Case: Petition for Review filed. *The Bank of New York Mellon, Plaintiff/Respondent v. Gloria J. Klomsten and Steven S. Klomsten, Defedants/Appellants*.

Jacquart v. Jacquart, 183 Wis. 2d 372, 380-81, 515 N.W.2d 539 (Ct. App. 1994); WIS. STAT. RULE 809.10(4), to foreclose on a mortgage that secures an instrument, a party must show that it is entitled to enforce the instrument by proving that it is the “holder” of the instrument or “a nonholder in possession of the instrument who has the rights of a holder.”⁵ WIS. STAT. § 403.301. Generally speaking, a “holder” is the person in possession of the instrument, in this case the Note. WIS. STAT. § 401.201(2)(km)1. (a “holder” is “[t]he person in possession of a [Note] that is payable either to bearer or to an identified person that is the person in possession”). Appellee/Plaintiff was not in possession of the mortgage or Note on the date they filed their erroneous foreclosure lawsuit.(Doc 1)

Reviewing the Trial Court's judgment, and its conclusions of law *de novo*; see *Tobias v. Dailey*, 196 Ariz. 418, 420 ¶ 7, 998 P.2d 1091, 1093 (App. 2000) (“In this timely appeal from the Trial Court's findings of fact, conclusions of law, and judgment, this court review the Trial Court's findings of fact but independently review its conclusions of law.”). This is consistent with the standard of review for federal Rule 52(c): “[i]n reviewing the court's judgment.

This court can review its findings of fact for clear error and its conclusions of law de novo; *United Steel Workers Local 12-369 v. United Steel Workers Intern.*, 728 F.3d 1107, 1114 (9th Cir. 2013); see also *Walter v. JP Morgan Chase Bank, N.A.*, 231 Ariz. 484, 488 ¶ 18, 297 P.3d 176, 180 (App. 2013).

ARGUMENT

Christopher Stoller has standing. Judge Daniel S. Johnson committed clear and reversible error by denying Christopher Stoller/Assignee, Motion to Intervene on March 4, 2020 (Doc 31) (**Appendix 1**, see attached Assignment of Claim and Causes of Action (**Appendix 3**), see the official transcript of the March 3, 2020 hearing (**Appendix 5**) the court admitted that Christopher Stoller was stepping into the shoes of the Defendant Felt's on account of their assignment of claims (**Appendix 3**). See Page 5, Lines 12-14 (**Appendix 4**). The Appellant has an equitable interest in the subject property see (**Appendix 5**) and has standing. Appellant is entitled to reversal of Judge Daniel Orders' dated March 4, 2019 (Doc 32) (**Appendix 1**) and April 14, 2019 (Doc 50) (**Appendix 2**).

Secondly, the plaintiff is U.S. Bank Trust National Association, **not** in its individual capacity, but solely as owner trustee for the *non-jural* entity Legacy Mortgage Asset 2018-GSI.

Christopher Stoller argues that Plaintiff U.S. Bank Trust National Association, which sued for foreclosure, (Doc 1) **not** in its individual capacity, but solely as owner/trustee, for the *non-jural* entity Legacy Mortgage Asset 2018-GSL, arguing that entity U.S. Bank Trust National Association sued on behalf of, the *non-jural* entity Legacy Mortgage Asset 2018-GSL, lacks the capacity to sue under Wisconsin law⁴. Stoller asserts that the *non jural* entity Legacy Mortgage Asset 2018-GSL has no legal existence and consequently, cannot maintain a lawsuit within the

⁴ The capacity to sue or be sued is determined by the law of the state where the court is located.

state of Wisconsin. Under Fed.R.Civ.P. 17(b), an unincorporated entity's capacity to be sued is determined by the law of the state in which the court sits.

Accordingly, the court looks to Wisconsin law to determine whether the non-jural entity, Legacy Mortgage Asset 2018-GSL, is a legal entity capable of being suing. Under Wisconsin law, absent qualifying statutes otherwise, individuals and corporations are the only legal entities capable of suing or being sued. The non-jural entity, Legacy Mortgage Asset 2018-GSL is neither an individual nor a corporation and U.S. Bank, that was not suing on its behalf, in the said foreclosure lawsuit (Doc 1), but on behalf of a *non-jural* entity, which did **not** have the capacity to maintain a lawsuit within the state of Wisconsin. Judge Daniel Johnson judgments (**Appendix 1 & 2**) entered by the court, which lacked jurisdiction⁵ over the *non-jural* entity Legacy Mortgage Asset 2018-GSL; lacked the inherent power to enter the judgments (**Appendix 1 & 2**) which are the subject of this appeal, and that were procured by fraud on the court⁶

Judge David S. Johnson challenged orders (Appendix 1 & 2) including his erroneous *ex parte* Default Eviction Judgment entered on July 23, 2019 (Doc 19), on behalf of the *non-jural*,

⁵ *Klugh v. U.S.*, D.C.S.C., 610 F.Supp. 892, 901. See also Voidable judgment. Authorities on Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties. See: *Wahl v. Round Valley Bank*, 38 Ariz. 411, 300 P.955 (1931) *Tube City Mining & Milling Co. v. Otterson*, 16 Ariz. 305, 146 P. 203 (1914) *Milliken v. Meyer*, 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 (1940) A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court.

⁶ Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated, "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." The decisions (**Appendix 1 & 2**) rendered by Judge Daniel Johnson are void ab initio and this court is called upon to reverse them.

entity Legacy Mortgage Asset Trust 2018-GS1, that the record shows did **not** own the Mortgage on July 23, 2019 and had **no** standing to file a foreclosure action (Doc 1) within the State of Wisconsin. The Trial Court further erred by granting possession of the Appellants' subject property to the defunct entity Legacy Mortgage Asset Trust 2018-GS1

Awarding a deed to a non jural entity. Legacy Mortgage Asset Trust 2018- GS1 under Black Letter Law, is reversible error, deeds cannot be delivered to non-existent entities, whether the entities are natural or legal. For example, A deed cannot be delivered to a deceased grantee, for example, *Dale M. Stone, v Jetmar Properties, LLC*, at al., 733 N.W.2d 480 (2007) Citing *In re Estate of Savich*, 671 N.W.2d 746, 750 (Minn. App. 2003); *Stone, v Jetmar Properties, LLC*, at al., 733 N.W.2d 480 (2007).

The date March 14, 2019, Appellee U.S. Bank Trust National Association, **not** in its individual capacity but solely as owner trustee of the *non-jural* defunct entity Legacy Mortgage Asset Trust 2018-GS1, filed its foreclosure lawsuit (Doc 1), the record shows that it had no standing to maintain a civil action within the State of Wisconsin on March 14, 2019.

U.S. Bank Trust National Association lack standing to bring a foreclosure suit on behalf of a non jural entity Legacy Mortgage Asset Trust 2018-GS1

The validity of the judgments issued (**Appendix 1 & 2**) by Judge Daniel Johnson rest on the capacity of U.S. Bank Trust National Association, not in its Individual capacity but solely as an owner trustee for the *non-jural* entity Legacy Mortgage Asset Trust 2018-GS1 to maintain a lawsuit, foreclosure action in the State of Wisconsin against the Felts', in the first instance, which U.S. Bank Trust National Association did **not** have the standing, to do.

Secondly, U.S Bank Trust National Association's foreclosure action (Doc 1), is a nullity because U.S. Bank Trust National Association, **not** in its individual capacity but solely as an

owner trustee for the *non-jural* entity Legacy Mortgage Asset Trust 2018-GS1 the record shows, did **not** own the mortgage or the Note the date March 14, 2019, that it filed the foreclosure action (Doc 1). There are no disputes about the relevant facts, and the issue is thus a purely legal one that is appropriate for immediate disposition of this appeal in favor of the Appellant, Christopher Stoller. The Doctrine of Standing is designed to preclude persons who have no interest in a controversy from suing.⁷

A party's standing to sue must be determined as of the time the suit is filed. ⁸ "[A] party either has standing at the time the suit is brought or it does not." *Id.* An action to foreclose upon a mortgage may be filed by a mortgagee, i.e., the holder of an indebtedness secured by a mortgage, or by an agent or successor of a mortgagee. Christopher Stoller argued in the Court Transcript at Page 4, Lines 19-20 Transcript of March 3, 2020 (**Appendix 5**):

CHRISTOPHER STOLLER: "Judge they have no standing at all."

On page 5 Lines 20-25 in the Transcript of March 3, 2020 (**Appendix 5**) reproduced below:

20	MR. STOLLER: Okay. Judge, I'll tell you why
21	I shall prevail. U.S. Bank does not have a proper
22	assignment of the mortgage in this case, Judge. And
23	I'll tell you why. They don't have a proper
24	attestation of an assignment of the mortgage in this
25	property. Nor does the trustee Legacy Mortgage. They

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⁷ *Raintree Homes, Inc. v. Village of Long Grove*, 209 Ill. 2d 248, 262 (2004).

⁸ *Village of Kildeer v. Village of Lake Zurich*, 167 Ill. App. 3d 783, 786 (1988).

See Page 6, Lines 1 thru 9 of the March 3, 2020 Transcript (**Appendix 5**) reproduced below:

1 don't have a proper note. And a proper assignment of
2 the note. So it's not properly collateralized. It's
3 toxic, Judge. And that's under the Deutsch case. So
4 they have no mortgage on this property that's properly
5 collateralized. They have no interest in this
6 property, Judge. And therefore they didn't have it
7 properly foreclosed. And that's why they have no
8 interest in this property foreclosed, Judge. And they
9 engaged in a fraudulent foreclosure -- foreclosure

On Page 8, Lines 19-25 of the March 3, 2020 Court Transcript (**Appendix 4**) Attorney William N. Foshag makes the following misstatement of material fact to Judge Daniel Johnson, which is endorsed and ratified by Appellee's attorney David P. Muth, in direct violation of the Wisconsin Rules of Professional Conduct 3.3(a). See a true and correct reproduction of the official transcript below:

19 MR. FOSHAG: Thank you, your Honor. The
20 plaintiff had alleged in its complaint it was the
21 holder of the note, a copy of the note which is
22 incorporated into the pleadings was attached as Exhibit
23 A and it is endorsed and blank.

Mr. William Foshag statement above was false, a clear violation of the Wisconsin Rules of Professional Conduct 3.3(a) making a misstatement of material fact. The Plaintiff/Appellee was not the bona fide holder of a valid, lawful, Note (**Appendix 7**) which was attached to the Foreclosure Complaint (Doc 1) filed on March 14, 2019, marked as Exhibit A. The holder of the Note is Volt Asset Holdings Trust XVI, by its Trustee U.S. Bank Trust, N.A. Through Caliber Home Loans, Inc., as Attorney in fact for the Trustee the holder of the Note (**Appendix 7**).

The record is clear that here was no legal assignment of the said Note to U.S. Bank Trust National Association, not in its Individual capacity but solely as an owner trustee for Legacy Mortgage Asset Trust 2018-GS1 on the date March 14, 2018 that the Plaintiff/Appellee filed the Foreclosure Complaint (Doc 1) . Mr. William N. Foshag lied to Judge Daniel Johnson. Appellee Counsel David P. Muth, with knowledge of the specific misconduct of Mr. William Foshag, ratifies the conduct involved, as part of their scheme to defraud the Defendants and Judge Daniel Johnson , as well known to William Foshag and David P. Muth.

David P. Muth and knows of the misconduct of Mr. Foshag, at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action by endorsing and redefying the professional misconduct conduct of Mr. Willaim Foshag, before this court.

The record shows that the alleged Note (**Appendix 7**) was not a valid Note and it was not properly endorsed according to the Rules. See (Appendix 8) Rule B 8- 3-04 as well known to Appellee's Attorneys William N. Foshag and David P. Muth mortgage foreclosure experts.

In addition, what is significant and most revealing, for this court's clear understanding that Judge Danial Johnson committed clear error and reversible error knowingly or unknowing, by granting the Plaintiff/Appellee an ex parte Default Foreclosure Judgment (Doc 19) on March

23, 2019, is revealed in the Official Transcript (**Appendix 4**) of the hearing on March 3, 2020 at Page 13, Lines 17-21 which is reproduced below:

Judge Daniel Johnson stated on the record:

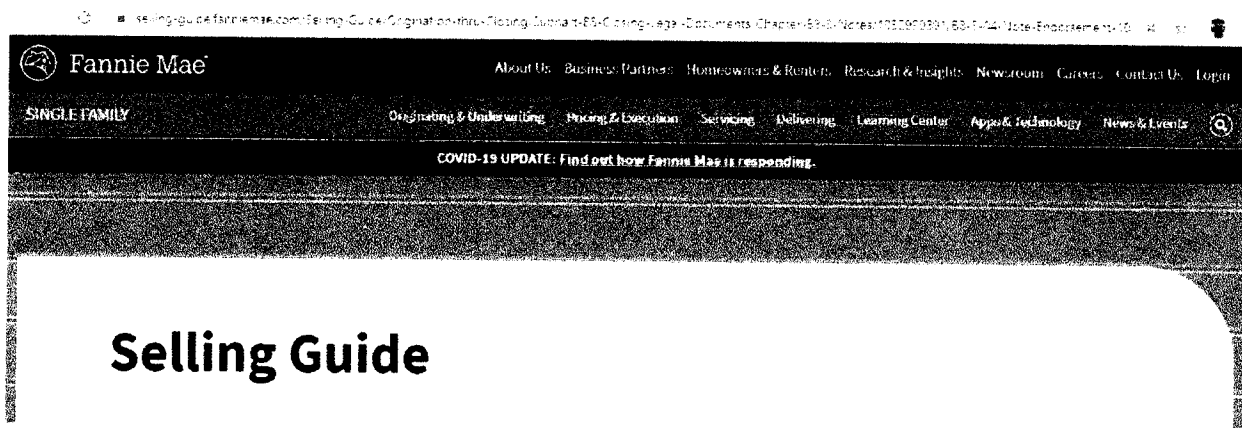
17	This court has established a procedure in
18	foreclosure actions by local rule and this court
19	followed that procedure to a T. The plaintiff followed
20	that procedure as well. And no Wisconsin laws were
21	violated.

Part of Judge Daniel Johnson established procedure in foreclosure actions is to exam the foreclosure lawsuits.(Doc 1) The Judge court did not have to go beyond his examination of the foreclosure lawsuit (Doc 1) document to see that it was deficient on its face. A Plain reading of the Note attached to the complaint (Doc 1) for example, shows that it was incorrectly signed, by Jennifer Martin, as an attorney in fact for the trustee. When the Fanny May Rules B 8 3-04 Rules (Appendix 8) provide⁹ a true an accurate reproduction below:

The mortgage seller may not delegate to an attorney-in-fact its authority to execute an endorsement. The endorsement may not be executed by a party using a power of attorney.
--

The Note attached to the Plaintiff's complaint (Doc 1) violated the above Rule(s) (Appendix 8) which the Judge Daniel Johnson knew or should have known when he personally examined the Foreclosure Lawsuit (Doc 1). See a true and accurate copy of the Rules reproduced below: (**Appendix 8**):

⁹ <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B8-Closing-Legal-Documents/Chapter-B8-3-Notes/1032999891/B8-3-04-Note-Endorsement-10-02-2019.htm>



Signature Requirements for Endorsements

The endorsement should be signed only by those persons specifically authorized to execute documents in the lender's behalf. Signatures must be original, except that Fannie Mae accepts a lender's facsimile endorsement of notes for those jurisdictions in which the lender has determined that such endorsements are valid and enforceable.

A lender that chooses to use facsimile signatures to endorse notes must warrant that the endorsement is valid and enforceable in the jurisdictions in which the security properties are located and must retain in its corporate records the following specific documentation authorizing the use of facsimile signatures:

- legal opinions related to the legality and enforceability of facsimile signatures for each jurisdiction in which the lender uses them;
- a resolution from the lender's board of directors authorizing specific officers by name or title to use facsimile signatures, stating that facsimile signatures are a valid and binding act on the lender's part, and authorizing the lender's corporate secretary to certify the validity of the resolution, and the names or titles of the officers authorized to execute documents by using facsimile signatures, and the authenticity of specimen forms of facsimile signatures;
- the corporate secretary's certification of the authenticity and validity of the board of director's resolution;
- a notarized certification of facsimile signature, which includes both the facsimile and the original signatures of the signing officer(s) and each officer's certification that the facsimile is a true and correct copy of his or her original signature.

The mortgage seller may not delegate to an attorney-in-fact its authority to execute an endorsement. The endorsement may not be executed by a party using a power of attorney.

See a true and correct copy of the incorrectly executed Note (Appendix 7) which Judge David Johnson also saw and ignored, reproduced below (Appendix 7) stating contrary to the Fanny May's Rule (Appendix 8) that the Note was incorrectly signed by **Jennifer Martin**, as **attorney in fact** for the Trustee rendering the Note, invalid, and it does **not** identify Fanny

May L

Without recourse:

**VOLT ASSET HOLDINGS TRUST XVI, BY ITS
TRUSTEE U.S. BANK TRUST, N.A., THROUGH
CALIBER HOME LOANS, INC., AS ATTORNEY IN
FACT FOR THE TRUSTEE**

By:

Jennifer Martin
Jennifer Martin

Title:

Authorized Signatory

EXHIBIT A 

Plaintiff/Appellee's foreclosure lawsuit (Doc 1) the record clearly shows, is a nullity and should be dismissed on its face, with prejudice because the said Plaintiffs/Appellees have unclean hands and are not entitled to equity¹⁰;

The Note (**Appendix 7**) endorsement provision was wrong. The Plaintiff did not comply with the Note Enforcement requirements (**Appendix 8**) listed below:

Note Endorsement

The originating lender must be the original payee on the Note, even when MERS is named as nominee for the beneficiary in the security instrument. The Note must be endorsed to each subsequent owner of the mortgage unless one or more of the owners endorsed the Note in blank. The last endorsement on the Note should be that of the mortgage seller. The mortgage

¹⁰ Long, 196 Ill. App. 3d at 219, 142 Ill. Dec. 925, 553 N. E. 2d 439.

seller must endorse the Note in blank and without recourse. For example: PAY TO THE ORDER OF WITHOUT RECOURSE LENDER'S NAME (Authorized Signature); NAME OF AUTHORIZED SIGNER TITLE OF AUTHORIZED SIGNER"¹¹. (Exhibit A attached to the Complaint (Doc 1) (**Appendix 7**)).

The Note (**Appendix 7**) endorsement provision was wrong. The Plaintiff did not comply with "Using an Allonge for the Endorsement" ^

Using an Allonge for the Endorsement

The endorsement must appear on the Note. An allonge may be used for the endorsement as long as the following requirements are met:

- The form and content of the allonge used must comply with all applicable state, local, or federal law governing the use of allonges and result in an enforceable and proper endorsement to the Note.
- The allonge must be permanently affixed to the related Note and must clearly identify the Note by referencing at least the name of the borrower(s), the date of the Note, the amount of the Note, and the address of the security property.
- The Note must clearly reference the attached allonge.
- Fannie Mae's status as a "holder in due course" must not be impaired¹² and was not listed on the Note (Plaintiff's Exhibit A to their Complaint).

The Plaintiff's Note (Exhibit A) to their Complaint (**Appendix 7**) did **not** comply with indemnifying Fannie Mae (as described in A2-1-03, Indemnification for Losses (**Appendix 8**) for any losses incurred by Fannie Mae as a result of the use of an allonge for the Note endorsement(s).

¹¹ <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B8-Closing-Legal-Documents/Chapter-B8-3-Notes/1032999891/B8-3-04-Note-Endorsement-10-02-2019.htm#Signature.20Requirements.20for.20Endorsements>

¹² <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B8-Closing-Legal-Documents/Chapter-B8-3-Notes/1032999891/B8-3-04-Note-Endorsement-10-02-2019.htm#Signature.20Requirements.20for.20Endorsements>

Thus, the Note (**Appendix 7**) attached to the foreclosure complaint (Doc 1) was fraudulent. Notwithstanding the fact that counsel for the Plaintiff, Mr. William Foshag made the following misstatement of fact to Judge Daniel Johnson, in direct violation of the Wisconsin Rules of Professional Responsibility 3.3(a), when Mr. William Foshag falsely stated, on the March 3, 2020 record (**Appendix 4**), a statement that was endorsed and ratified by Appellate Counsel David P. Muth, at Page 8, Line 19-25. A true and accurate reproduction of the court transcript (**Appendix 4**) is below:

19	MR. FOSHAG: Thank you, your Honor. The
20	plaintiff had alleged in its complaint it was the
21	holder of the note, a copy of the note which is
22	incorporated into the pleadings was attached as Exhibit
23	A and it is endorsed and blank. As the holder of the
24	note, the plaintiff have a right to foreclose under
25	<u>that position alone.</u>

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As the holder of “the (fraudulent Note) Mr. Foshag knew or should have known that the Plaintiff had **no right to foreclose** under that position alone, as well known to Appellee’s counsel David P. Muth, a mortgage foreclosure expert, but the court should take note that Mr. Muth, will falsely argue before this court, in his Response Brief, that the Plaintiff had a right to foreclose (Doc 1) with the fraudulent Note (Appendix 7) in direct violation of the Wisconsin Rules of Professional Conduct Rule(s) 3.3(a). 8.4 (c) & (d).

The Plaintiff/Appellee and their attorneys, Mr. David P. Muth. and Mr. Foshag. knowingly acted with malice, fraud gross negligence, oppressiveness, abuse of process, which

was **not** a result of mistake of fact, or law, honest error, judgment, overzealousness, mere negligence, or other human failing, but that the Plaintiff/Appellee and their attorneys David P. Muth and Mr. William Foshag have acted and through a continuing course of conduct, acted with willful and wanton misconduct in the course and scope of their employment with their respective law firms. The Plaintiff/Appellee and their attorneys David P. Muth, Mr. Foshag are liable the record shows, for the tort of abuse of process, they have “unclean hands” with the filing of the Foreclosure lawsuit (Doc 1), and all the pleadings in this case, knowing that the Plaintiff/Appellee has no standing on the date, March 14, 2019 to have filed the foreclosure lawsuit (Doc 1). The record establishes that the Appellee, their attorneys David P. Muth, Mr. Foshag, engaged in foreclosure fraud in that they are relying fraudulent documents ie the note, to perfect their foreclosure.

The Doctrine of Unclean Hands is an equitable doctrine that bars the Plaintiff/Appellee from relief because the said Plaintiff/Appellees and their attorneys David P. Muth, Mr. Foshag seeking relief the record here clearly establishes that there is probably cause to believe that they are guilty of professional misconduct in connection with the subject matter of this litigation. The Plaintiff/Appellee are precluded from taking advantage of their own wrongdoing¹³ As the following cases relate, the Plaintiff has attempted to take advantage of their own wrong and are guilty of “unclean hands.”

Plaintiff/Appellee’s counsel William N. Foshag made the following damning admission on the record at page 8 of the March 3, 2020 Official Transcript (**Appendix 4**), a copy of which is reproduced below:

¹³ *Gambino v. Boulevard Mortgage Corp.*, 398 Ill. App. 3d 21, 60 (2009).

25 | WILLIAM FOSHAG: In addition to that, there was an |

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Case 2019CV000164

Document 65

Filed 04-21-2020

Page 9 of 17

1 | assignment of the mortgage that was recorded at the
2 | Walworth County Register of Deeds on January the 16th
3 | of 2019.

The court is asked to take judicial notice of the assignment of the mortgage that William Foshag filed with the Wisconsin Recorders Office on January 16, 2020 (**Appendix 10**).

The original mortgage recorded on October 4, 2004, is document loan number 142510 (**Appendix 9**) the lender Ashton Financial, LLC. MERS was a separate corporation acting as a nominee for the lender.

Caliber Home Loan, In Sept 12, 2013, entered into a modification agreement with the Felt's in the amount of \$335,635.80, (Exhibit C) to the Complaint, a modification agreement. (Exhibit A) to the foreclosure Complaint, which is the adjustable-rate Note (**Appendix 7**) the lender is Ashton Financial, LLC and the holder of the Note. That Note (**Appendix 7**) was never properly assigned in the Modification Agreement of Exhibit C & D which are incorporated herein by reference, to Legacy Mortgage Asset Trust 2018-GSI. **There is no document by Mortgage Electronic System their nominee evidencing an assignment to Legacy Mortgage Asset Trust 2018-GSI pursuant to the terms of the mortgage (Appendix 9) the operative document that controls the terms and conditions that Mars must transfer, Docket Loan**

Number 142510, which controls transfers. MERS is solely the nominee for the transfer of all documents. See a true and correct copy of the language of the Mortgage a ¶ (C) reproduced below:

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is ASHTON FINANCIAL LLC

Lender is a LIMITED LIABILITY CORPORATION

organized

and existing under the laws of WISCONSIN

Lender's address is 245 SOUTH EXECUTIVE, SUITE 365, BROOKFIELD, WISCONSIN 53005

(E) "Note" means the promissory note signed by Borrower and dated SEPTEMBER 23, 2004

The Note states that Borrower owes Lender THREE HUNDRED SIXTY THOUSAND AND 00/100

Dollars (U.S. \$360,000.00) plus interest.

Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than OCTOBER 1, 2034

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

The Assignment of Mortgage (**Appendix 12**) that Mr. William Foshag stated on the record was filed on **January 16, 2020** the record shows was a fraudulent assignment, a fraudulent document. See a true and correct reproduction of the Assignment of Mortgage Document 981465 (**Appendix 12**). Mr. William Foshag, mortgage expert, this records shows engaged in document fraud, mortgage fraud, recorders fraud, notary fraud, which was endorsed because Wilmington Savings Fund Society, FSB, D/B/A Christiana Trust, as Indenture trustee, for the CMS 2015-RPL2, Mortgage-Backed Notes, Series 2015-RPL2, do not exist in the mortgage (**Appendix 9**), does not exist in the home modification (**Appendix 11**) and does not exist in the Plaintiff's Foreclosure Complaint (Doc 1) that was filed.

There was no authority in the documents filed with the Complaint that provide the legal grounds for filing a foreclosure (Doc 1) against the Felt's property, which was acquired by the Appellant (**Appendix 5**). Mr. William Foshag prepared the fraudulent Assignment of Mortgage

document (**Appendix 12**) because Foshag did **not** have proper chain of title, starting with MERS Electronic, acting as the nominee for the lender Ashton Financial LLC.

Because in the chain of title Wilmington Savings Fund Society, FSB, 9D/B/A Christiana Trust, Indenture Trustee, for CSMC 2015-RPL2 Trust do **not** exist in the chain of title.

There was nothing the Plaintiff/Appellee Attorney Foshag entire argument¹⁴ in opposition to Christopher Stoller's case, that the Plaintiff/Appellee, had valid grounds for U.S. Bank Trust National Association, **not** in its Individual capacity but solely as an owner trustee for the non jural entity, Legacy Mortgage Asset Trust 2018-GS1 to file a foreclosure action against the Felts' as well known to William Foshag and David P. Muth.

Issue is whether U.S. Bank Trust National Association, not in its Individual capacity but solely as an owner trustee for Legacy Mortgage Asset Trust 2018-GS1 had standing—that is, whether it owned the mortgage—on the date March 14, 2019 that it filed the foreclosure action (Doc 1)?

Mr. Foshag to the Court:

3	The arguments that have been made are very
4	typical, ones that have been floating around the
5	internet for the last ten years in an effort to delay
6	foreclosure.

¹⁴ it is particularly important for the trial attorney to create a record in the court that will preserve all necessary issues and arguments on appeal. The starting point for avoiding costly waiver mistakes is recognizing that the parties on appeal are limited to the record created in the court. *Williams v. Leach*, 938 F.2d 769, 773 (7th Cir. 1991) The court of appeals generally considers only those issues and arguments that were first presented to the district court and were properly preserved for appellate review *Dixon v. Chrans*, 986 F.2d 201, 203 (7th Cir. 1993) It is important to note that trial Attorney William Foshag created and preserved **no record for appeal**.

Christopher Stoller bore the burden of showing that U.S. Bank Trust National Association, not in its Individual capacity but solely as an owner trustee for the *non-jural* defunct entity Legacy Mortgage Asset Trust 2018-GS1 lacked standing, he met that burden. Christopher Stoller raised the affirmative defense of lack of standing both in his argument before the court on March 3, 2020 (**Appendix 5**) and in his Motion to Vacate Sheriff's Sale.

The Record shows that the Plaintiff lacked standing when the suit was filed, because the Note and the mortgage identified the lender as WMC Mortgage and the holder of the mortgage as MERS.

U.S. Bank Trust National Association, not in its Individual capacity but solely as an owner trustee for Legacy Mortgage Asset Trust 2018-GS1's name does not appear on either of these documents. Thus, the documents attached to the Complaint (Doc 1) contradict U.S. Bank Trust National Association, not in its individual capacity but solely as an owner trustee for Legacy Mortgage Asset Trust 2018-GS1, allegation that it was "the mortgagee" and support Christopher Stoller's argument that U.S. Bank Trust National Association, not in its Individual capacity but solely as an owner trustee for the *non-jural* entity Legacy Mortgage Asset Trust 2018-GS1.

The record clearly establishes that Legacy Mortgage Asset Trust 2018-GS1 did not have an interest in the mortgage (**Appendix 9**) that would confer standing. Christopher Stoller made out prima facie showing that the *non-jural* entity Legacy Mortgage Asset Trust 2018-GS1 lacked standing, the burden shifted to the non jural Legacy Mortgage Asset Trust 218-GS1 to refute this evidence or demonstrate a question of fact. *Triple R Development, LLC v. Golfview Apartments I, L.P.*, 2012 IL App (4th) 100956, which the Plaintiff/Appellee failed to do with their Attorney

William Foshag sole argument to refute Stoller's superior claims in the Official Transcript (**Appendix 4**) on Page 9, at Lines which is reproduced below:

3	The arguments that have been made are very
4	typical, ones that have been floating around the
5	internet for the last ten years in an effort to delay
6	foreclosure. There are absolutely no basis in law or
7	in fact based on the record that's in the case.

Attorney William Foshag relies on the well-known **Doctrine of the Internet Defense**, which holds, "if it is stated on the Internet, it must be true." The **Doctrine of the Internet Defense** does **not** rely on any well-known case law, statute or even some law school student's paper. However, Attorney William Foshag felt that "the **Doctrine of the Internet Defense**" was more than sufficient defense to refute Stoller's claims argued before Judge Daniel Johnson, who Mr. Foshag regularly appears before, and Judge Daniel Johnson generally accepts everything Mr. William Foshag says, as law, and that no supporting brief or memorandum of law is ever necessary. Consequently Mr. Foshag did not file any in this case either. Mr. Foshag did not properly preserve any issues for review. The parties on appeal are limited to the record created in the trial court. *Williams v. Leach*, 938 F.2d 769, 773 (7th Cir. 1991). Mr. William Foshag failed to create any record before Judge Daniel Johnson. Mr. William Foshag entire record that he created below before the trial court consists of his "**Doctrine of the Internet Defense**".

Mr. William Foshag has developed a close personal relationship with Judge Danial Johnson which permits Mr. Foshag to engage in *ex parte* communications with Judge Danial Johnson. See (**Appendix 15**) also regularly engages in *ex parte* communications with Judge Daniel Johnson, as he did in the case at bar.

The record shows that the filing of a fraudulent foreclosure action (Doc 1) is a direct violation of 18 U.S. Code § 1341-Frauds and Swindles as well known to the very experienced mortgage foreclosure attorneys David P. Muth and William N. Foshag, who cannot claim ignorance of the foreclosure law¹⁵ or ignorance of the Wisconsin Rules of Professional Conduct.

The record shows that Christopher Stoller (**Appendix 3**) has thus standing to sue, on the grounds, that the Appellant had “irreducible constitutional minimum” necessary to make a justiciable “case” or “controversy” under Article III, §2. *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 560.

Secondly, the Appellant Christopher Stoller, thus met the three requirements: injury in fact to the Appellant, that if the Appellant were not awarded possession of Stoller’s property/home (**Appendix 5**) there was an “injury in fact to the Appellant, that the Plaintiff were the causation of that injury by the Christopher Stoller’s complained of conduct, and a likelihood that the requested relief, the possession of the subject property would redress that injury. *E.g., ibid.*¹⁶

Furthermore, the court acknowledged Christopher Stoller standing and his assignment of claims and causes of action from the Felts (**Appendix 3**) when the court stated on Page 5, at Lines 12-14 of the Official Transcript dated March 3, 2020 (**Appendix 5**):

“I assume what you're saying is you're stepping into the shoes of the Felts”. Judge Daniel Johnson thus committed clear error and reversible error by denying Christopher Stoller’s Motion

¹⁵ *ignorantia juris non excusat*^[1] or *ignorantia legis neminem excusat*^[2] (Latin for “ignorance of the law excuses not”^[1] and “ignorance of law excuses no one”^[2] respectively) is a legal principle holding that a person who is unaware of a law may not escape liability for violating that law merely because one was unaware of its content. Black’s Law Dictionary, 5th Edition, pg. 672, 673

¹⁶ *STEEL CO. v. CITIZENS FOR BETTER ENVIRONMENT*, 90 F. 3d 1237, vacated and remanded.

to Intervene (**Appendix 1**) after conceding that Christopher Stoller had standing by stepping into the shoes of the Felts.

Appellant is the current title holder of said property (**Appendix 5**) that the record shows that the Appellee and its counsel David P. Muth, in the course and scope of his employment with the law firm of Quarles and Brady and Attorney William N. Foshag, in the course and scope of his employment with Gray & Associates, LLP, 16345 West Glendale Drive, New Berlin WI, 53151, 414 224 8494. Committed fraud on the trial court.

The record shows that Appellee's counsel David P. Muth and William N. Foshag aided and abetted¹⁷ their client in committing a mortgage foreclosure fraud, recorders fraud, and fraud on this court¹⁸ and on Christopher Stoller the owner of the subject property (**Appendix 5**), William N. Foshag had a duty to amend their foreclosure action to include Christopher Stoller and Michael Stoller to their foreclosure action after they learned that they were the current owners of the subject property (**Appendix 5**). However, their failure to name the property parties to their foreclosure is evidence how the Appellee's attorney's William N. Foshag and David P. Muth play "fast and loose" with the court to defraud the Appellant. Christopher Stoller who had

¹⁷ *Thornwood, Inc. v. Jenner & Block*, 799 N.E.2d 756 (Ill. App. Ct. 2003)

¹⁸ Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated, "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." Likewise, Judge Daniel Johnson orders (**Appendix 1 & Appendix 2**) were the product of the Appellee and their attorney's fraud on the court and will never become final. This court is called upon to reverse those orders immediately through Christopher Stoller Summary affirmance.

a Les Pendens filed (**Appendix 5**). Appellee's were aware of Christopher Stoller's interest in the subject property as early as February 2020 but did nothing.

THE PLAINTIFF/APPELLEE HAS UNCLEAN HANDS¹⁹

The court should take Judicial Notice that for all the reasons stated and the documentary evidence that is part of the record, that the Plaintiff/Appellee has unclean hands and that the Appellant is clearly entitled to have this court reverse Judge Daniel Johnson Orders (Appendix 1 & 2)..

Notice of Lis Pendens were filed by Christopher Stoller on the subject real estate on February 28, 2020, (**Appendix 5**).

The court should take judicial Notice that the Defendant/Appellant Christopher Stoller do not owe any delinquency payments on the subject property.

Attorney David P. Muth and William Foshag should be disqualified on the grounds that a reasonable person looking at the record would conclude that William Foshag and David P. Muth, violated the Wisconsin Rules of Professional Conduct²⁰. R 3.1, R 3.3(a)²¹, R 8.4(b), (c) & (d)²².

¹⁹ An action to quiet title sounds in equity, and the maxim that he who comes into equity must come with clean hands applies.); This Court laid down the principle in *MacRae v. MacRae*, 37 Ariz. 307, 294 P. 280 (1930), that in determining the applicability of the clean hands doctrine it is the moral intent of the party seeking relief, and not the actual injury done, that is controlling. The Court indicated that it was "intentionally soiled hands" which could not invoke the jurisdiction *43 of a court of equity. The misconduct which will deprive a party of equitable relief must be willful. *Surgical Supply Service, Inc. v. Adler*, 206 F. Supp. 564 (E.D.Pa. 1962); *Barr v. Petzhold*, 77 Ariz. 399, 273 P.2d 161 (1954); *Ferrick v. Barry*, 320 Mass. 217, 68 N.E.2d 690 (1946); *Frazier v. Mansfield*, 305 Pa. 359, 157 A. 798 (1931).

²⁰ Appellant Christopher Stoller 73 is a nationally known expert under Rule 702. Testimony by Expert Witnesses, on attorney ethics since 1974, who is the Executive Director of the Americans for the Enforcement of Attorney Ethics (AEAE) a Chicago based Attorney Ethics watch dog group that advocates the strict enforcement of attorney ethics since 1974 see. www.rentamark.net.

²¹ R 3.1 states that "A lawyer shall not bring or defend a proceeding or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous." The Appellee's eviction lawsuit based upon the evidence is frivolous R 3.3(a) states that a lawyer

The Wisconsin Appeals court has a duty and responsibility to control and supervise the conduct of the attorneys practicing before it; *Erickson v. Newmar Corp.*, 87 F.3d 298, 303 (9th Cir. 1996), as the Ninth Circuit Court of Appeals has Noted:

Whenever an allegation is made that an attorney has violated his moral and ethical responsibility, an important question of professional ethics is raised. It is the duty of the district court to examine the charge, since it is that court which is authorized to supervise the conduct of the members of its bar. The courts, as well as the bar, have a responsibility to maintain public confidence in the legal profession.²³

Attorneys are bound by the local rules of the court in which they appear. The Wisconsin Appellate Court has adopted the Wisconsin Rules of Professional Conduct, which consist of the Model Rules of Professional Conduct of the American Bar Association with some modifications (the "Rules of Professional Conduct"). See LRCiv 83.2(d); *Research Corp. Techs., Inc. v. Hewlett-Packard Co.*, 936 F.Supp. 697, 700 (D. Ariz 1996). When applying the Rules of Professional Conduct in the context of motions to disqualify opposing counsel, the Arizona Supreme Court has counseled that "[o]nly in extreme circumstances should a party to a lawsuit be allowed to interfere with the attorney-client relationship of his opponent" as in the case at bar; *Alexander v. Superior Court in and For Maricopa County*, 685 P.2d 1309, 1313 (Ariz. 1984).

shall not knowingly make a false statement of law or fact to a tribunal. Kim Quam and Joseph Triello violated R 3.3(a) when they filed eviction lawsuit and all subsequent pleadings in this matter.

²² R 8.4(b) states that "It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." William N. Foshag violated R 8.4(b) when he unlawfully filed the foreclosure lawsuit (Doc 1)

²³ *Jamieson v. V. Slater United States District Court*, No. CIV 06-1524-PHX-SMM, No. CIV 06-2261-PHX-SMM (D. Ariz. Aug. 1, 2008) citing *Gas-A-Tron of Ariz. v. Union Oil Co.*, 534 F.2d 1322, 1324 (9th Cir. 1976) (quoting *Richardson v. Hamilton International Corp.*, 469 F.2d 1382 (3d Cir. 1972)).

. The ex-parte Default Judgment (**Appendix 1**) is void *ab initio*. The Court should vacate it on its face, with prejudice because the said Appellee have unclean hands and are not entitled to equity; *Long*, 196 Ill. App. 3d at 219, 142 Ill. Dec. 925, 553 N. E. 2d 439.

The Court is asked to take Judicial Notice that the Plaintiff/Appellee and their attorneys William N. Foshag and David P. Muth, knowingly acted with malice, fraud gross negligence, oppressiveness, abuse of process, which was not a result of mistake of fact, or law, honest error, judgment, overzealousness, mere negligence, or other human failing, but that the Appellee/Plaintiff and their attorneys William N. Foshag and David P. Muth, have acted the record shows through a continuing course of conduct acted with willful and wanton misconduct.

The Appellee/Plaintiff and their attorneys William N. Foshag and David P. Muth, are liable for the tort of abuse of process, they have “unclean hands” with the filing of the fraudulent Foreclosure Complaint and the Plaintiff has no standing to maintain a civil lawsuit in the State of Wisconsin.

The Doctrine of Unclean Hands is an equitable doctrine that bars the Plaintiff from relief because the said Plaintiffs and their attorneys William N. Foshag and David P. Muth, seeking relief are guilty of misconduct in connection with the subject matter of this litigation. The Plaintiffs are precluded from taking advantage of their own wrong; *Gambino v. Boulevard Mortgage Corp.*, 398 Ill. App. 3d 21, 60 (2009). As the following cases relate, the Plaintiff/Appellee has attempted to take advantage of their own wrong and are guilty of “unclean hands” and criminal wrongdoing.

**APPELLANT IS ENTITLED TO REVERSAL OF ALL OF JUDGE DANIEL
JOHNSON’S ORDERS APPENDIX 1 & 2**

This court must conclude that Christopher Stoller arguments of the issues presented appropriate in this case to demonstrate that the court committed clear error and reversible error

on behalf of the Appellants/Assignee. The position of the Appellant/Assignee is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists. Appellant/Assignee requests that the court issue an order setting aside Judge Daniel S. Johnson erroneous Orders, denying Appellant/Assignee (**Appendix 3**) Christopher Stoller's Motion to Intervene, Motion to reopen July 23, 2019, the *ex-party* Default Judgment and Order denial the stay of the Sheriff's Sale pending Appeal. See the Appeal dated March 27, 2020 (**Appendix 1**). See a true and correct copy of docket sheet entrees from 21 -29 reproduced below:

21	1-3	Motion to Stay Pending Appeal	02/28/2020
22	1-1	Notice of Filing 808.075 Motion to Stay Pending Appeal	02/28/2020
23	1-1	Notice of Filing Motion to Vacate Sheriff's Sale and 806.07 Motion for Relief	02/28/2020
CCAP-250, 05/2018 Index			
Page 1 of 2			
Case 2019CV000164 Document 73 Filed 08-28-2020 Page 2 of 2			
		from Judgment	
24	1-2	Motion to Vacate Sheriff's Sale & 806.07 Motion for Relief from Judgment	02/28/2020
25	1-5	Exhibit #1 to Motion to Vacate Sheriff's Sale & 806.07 Motion for Relief from Judgment	02/28/2020
26	1-4	Exhibit #2 to Motion to Vacate Sheriff's Sale & 806.07 Motion for Relief from Judgment	02/28/2020
27	1-2	Exhibit #3 to Motion to Vacate Sheriff's Sale & 806.07 Motion for Relief from Judgment	02/28/2020
28	1-2	Notice of Filing Appearance of Christopher Stoller	02/28/2020
29	1-5	Exhibit #1 to Notice of Filing Appearance of Christopher Stoller	02/28/2020

The Defendant/Appellant has met his heavy burden of establishing that the merits of his case are so clear that expedited action is justified. This court has more than sufficient evidence to conclude that the Defendant/Appellant's position is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists. On Page 5 of the March 3, 2020 Official Transcript (**Appendix 4**) at Lines 17-25 and Page 6, at Lines 1-10 which is reproduced below, Judge Daniel Johnson says to Christopher Stoller:

This appellate court is not bound by a Judge Daniel Johnson's conclusions of law and should decide this matter de novo. Judge Daniel Johnson's decisions (Appendix 1 & 2) should be reversed because the record shows they are clearly erroneous and against the great weight and clear preponderance of the evidence. The "evidence adduced, believed, and rationally considered by Judge Daniel Johnson was sufficient to prove that the Plaintiff filed a fraudulent foreclosure action"

The question for this reviewing court is not whether it agrees with Judge Daniel Johnson's decision (**Appendix 1 & 2**); rather, this reviewing court must analyze whether Judge Daniel Johnson, in the exercise of his discretion, acted arbitrarily, without conscientious judgment or, in view of all the circumstances, exceeded the bounds of reason and ignored recognized principles of foreclosure law so that substantial injustice resulted when Judge Daniel Johnson Denied Christopher Stoller's Motion to Intervene, Denied Christopher Stoller's Motion to set aside the ex parte default judgment dated 7-23-19 (Doc 19),²⁴

In this appeal Christopher Stoller claims the record contained in the official transcript of the hearing on **March 3, 2019 (Appendix 4)** clearly evidences that Judge Daniel Johnson abused its discretion when he issued his erroneous order(s) (**Appendix 1 & 2**) denying Stoller's right to Intervene, (Doc 32) in a foreclosure in which Christopher Stoller has a property interest in subject property (**Appendix 3 & 5** because the record bellows clearly establishes that Judge Daniel Johnson has committed clear error, reversible error, abused his discretion when he acted arbitrarily, without the employment of conscientious judgment when he issued his erroneous decisions (**Appendix 1 & 2**)

A brief summary review of the official transcript (**Appendix 4**) of the hearing on March 3, 2020 record establishes Judge Daniel Johnson in his decisions, that are the subject of this appeal (**Appendix 1 & 2**) exceeded the bounds of reason and

²⁴ 2011 IL App (1st) 092017 No. 1-09-2017 In re MARRIAGE OF) Appeal from the) Circuit Court of KRISTINA A. BANIAK,

ignored principles of law, such that substantial prejudice and injustice has resulted²⁵ to Christopher Stoller.

The following is a brief summary of why the Appellant believes the decisions (**Appendix 1 & 2**) of Judge Daniel Johnson made were wrong and reversible by this court. This court need look any further than at the March 3, 2020 Court hearing (**Appendix 4**) to establish that Judge Daniel Johnson committed clear error and reversible error.

The March 3, 2020 transcript (**Appendix 4**) record does **NOT** reflect that Judge Daniel Johnson considered the relevant facts, properly interpreted and applied the law, and reached a reasoned determination. *Ness*, 227 Wis.2d at 600.

Clearly Judge Daniel Johnson. failed to produce any adequate reason for reaching his erroneous conclusion that Christopher Stoller;s Motion to Intervene was denied, Motion to re open the July 23, 2019 ex party default foreclosure judgment entered in this case and Motion to stay the sheriff;s sale pending appeal (Doc 32) The court., failed to provide the Christopher Stoller with a “fair and impartial forum to resolve his differences”.

The Wisconsin Court of Appeals has strongly criticized judges who failed to produce “any adequate reasons” for reaching their written conclusions. “In the whole of Judge Daniel Johnson, judgment (Doc 32) (Appendix 1) on the facts there is not one sentence in Judge Daniel Johnson.s final written judgment (Doc 32)(Appendix 1) which the court makes any specific findings of fact or gives the reasons for doing so. See a true and correct reproduction of Judge Daniel Johnson March 4, 2020 order reproduced below:

WHEREAS, the interested party, Christopher Stoller, filed several items on February 28, 2020 which would appear to be a motion to intervene in this action under *Wis. Stat. § 803.09*, a motion to reopen the July 23, 2019 default judgment entered in this case under *Wis. Stat. § 806.07*, and a motion to stay the March 5, 2020 sheriff’s sale pending appeal under *Wis. Stat. §808.075*,

IT IS HEREBY ORDERED that for those reasons as stated on the record, the entirety of the February 28, 2020 filings and motions of the interested party, Christopher Stoller, are DENIED.

²⁵ . *Marren Builders, Inc.*, 307 Ill. App. 3d at 941, 719 N.E.2d at 121.

Judge Daniel Johnson did not make any specific findings of fact or gave the reasons for doing so on the record. See attached Transcript of the March 3, 2020 hearing (**Appendix 4**).

Clearly the court, abused his discretion when he acted arbitrarily without the employment of conscientious judgment, and his decisions (**Appendix 1 & 2**) exceeds the bounds of reason and ignores principles of law on its face, such that substantial prejudice has resulted. [Citation.]” (Internal quotation marks omitted.) *Dupree*, 2011 IL App (4th) 100351.

The court did not properly consider and understand Christopher Stoller’s Motion to Intervene (Doc 32). Christopher Stoller was a necessary party in a foreclosure proceeding (Doc 1) in which Christopher Stoller was a property owner of the subject property that was in foreclosure (Appendix 5). Judge David Johnson, did not reached a “balanced and objective” conclusion, based upon any legal authority, which is evidence by an examination of his orders (Appendix 1 & 2) in an attempt to thwart Appellate Court review

Even a cursory examination of Judge Daniel Johnson decision’s (Appendix 1 & 2) reveals that they were **not** properly reasoned judgment, which explains to the parties and to any wider readership, why the the court., has reached the decisions he has made, they are completely devoid of any well-reasoned findings, which is an affront to the Plaintiff and the Wisconsin Appellate Court review. Judge Daniel Johnson’s erroneous decision(s) contain no valid , finding of facts, conclusions of law and citations to any authority, which is sustainable on appeal..

Historically, this has been the purpose of Federal Rule of Civil Procedure 52(a), which requires that in bench trials **judges make findings of fact and draw conclusions of law**. The purpose of requiring findings of fact by the Trial Court, as has been recognized in a significant number of cases, is limited to enabling review by the appellate court by affording it an explicit explanation or at least a record indicating the ground of the Trial Court’s decision. This rule is the closest equivalent to **a reason-giving requirement in the judiciary**.

The purpose of requiring written findings of fact by the court has been recognized in a significant number of cases, is limited to enabling review by the appellate court by affording it an explicit explanation, or at least a record indicating the written ground of the court’s decision, which is absent here (**Appendix 1 & 2**). This rule which the court violated is the **reason-giving requirement** in the judiciary, which the court, absolutely failed to provide in

his Orders (Appendix 1 & 2) erroneously denying the relief that Christopher Stoller was entitled to..

A common ground for the reversal of the court's order is the fact that the court failure to state any adequate written reasons concerning how he reached his decisions (Appendix 1 & 2). Consequently, the Appellate Court, should reverse and remand for further proceedings.²⁶

The court's written Orders (**Appendix 1 & 2**) without providing reasons, will entirely frustrate review. This reviewing court will be unable to discern how Judge Daniel Johnson reached his decisions (Appendix 1 & 2) should remand for further proceedings.

The concern in this case is whether the court showed substantial justice to both parties and the court clearly did not, and the court's erroneous order regarding this case should be all reversed (Appendix 1 & 2) .

It is obvious from a simple reading of Judge Daniel Johnson's Order Appendix 1 & 2 that substantial justice was not done to Christopher Stoller, and in light of Wisconsin's public policy , it is reasonable to require this matter to be resolved on the merits

("Wisconsin public policy prefers to decide cases on their merits instead of dismissing them purely on procedural grounds.").

Deduction

Christopher Stoller is requesting that this court reverse Judge Daniel Johnson's Orders (Appendix 1 & 2 on the sound grounds that the court's order(s) are wrong for all the reasons stated and will **not** be sustained on appeal for the following reason.

The record does NOT reflect that the court, considered the relevant facts, properly interpreted, and applied the law, and reached a reasoned determination. Ness, 227 Wis.2d at 600.

The facts do not support the court's decision, and the court applies the wrong legal standard. *J.L. Phillips & Associates, Inc. v. E & H Plastic Corp.*, 217 Wis.2d 348, 364-365, 577 N.W.

When good judges write opinions, they cite authority. They lace their representations of what the law is and how it applies to a given situation with references to statutes, regulations, and prior appellate decisions they believe to be pertinent and supporting. Absolutely none of that exists in either of Judge Daniel Johnson's orders (**Appendix 1 & 2**). Judge Daniel Johnson's decision (**Appendix 1 & 2**) as written are not sustainable on appeal.

²⁶ 288. See id. ("Because this record does not fully inform us of the precise nature of the litigation . . . [we] vacate the judgment below, and remand.").

This court will find that Judge Daniel Johnson discretion has been exercised erroneously, where the trial court fails to exercise its discretion, the facts do not support the court's decision, the court applied the wrong legal standard. *J.L. Phillips & Associates, Inc. v. E & H Plastic Corp.*, 217 Wis.2d 348, 364-365, 577 N.W.2d 13 (1998).

The Trial court decision(s) (Appendix 1 & 2) were based on erroneous interpretation of the facts and incorrect application of the law, as it applies to the facts. Appellants calls upon this court to correct and reverse the trial courts decisions.

On page 11 of the March 3, 2020 (**Appendix 4**) Transcript at lines 20-25 Judge Daniel Johnson says to Christopher Stoller,

20	More particularly, this has been stylized as
21	a motion to reopen under 806.07(c). With fraud,
22	misrepresentation and other misconduct alleged. I'm
23	not clear on what the specific instances of fraud and
24	misrepresentation are in this case. There certainly
25	were no specific factual allegations pled in that regard

17 As I said, I'm giving you an
18 opportunity to tell me now why you should prevail. So
19 go ahead.

20 MR. STOLLER: Okay. Judge, I'll tell you why
21 I shall prevail. U.S. Bank does not have a proper
22 assignment of the mortgage in this case, Judge. And
23 I'll tell you why. They don't have a proper
24 attestation of an assignment of the mortgage in this
25 property. Nor does the trustee Legacy Mortgage.

Page 5

1 don't have a proper note. And a proper assignment of
2 the note. So it's not properly collateralized. It's
3 toxic, Judge. And that's under the Deutsch case. So
4 they have no mortgage on this property that's properly
5 collateralized. They have no interest in this
6 property, Judge. And therefore they didn't have it
7 properly foreclosed. And that's why they have no
8 interest in this property foreclosed, Judge. And they
9 engaged in a fraudulent foreclosure -- foreclosure
10 because they have no proper assignment of the note.

Christopher Stoller made the above argument on the record that the Plaintiff's mortgage and Note were not enforceable and thus the foreclosure order that Judge Daniel Johnson court

issued on July 23, 2019, which is the subject of this appeal was void ab initio as well known to the Plaintiff's trial counsel William Foshag and Plaintiff's Appellate counsel David P. Muth who are both experts in Wisconsin Foreclosure Law.

Attorney David P. Muth has called to the attention of this court in other pleadings that Christopher Stoller did not file his appearance (Doc 28) until February 28, 2020, seven months after the Foreclosure Order was on July 23, 2019 (Doc 19), and somehow that should preclude Christopher Stoller from moving to set it aside. Christopher Stoller argues that the erroneous Foreclosure Order, was a fraudulent order, a void or voidable order.

The law is well-settled that a void order or judgment is void even before reversal; 254 U.S. 348, 41 S. Ct. 116 (1920) ("courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgments and orders are regarded as nullities. They are not voidable, but simply VOID, AND THIS EVEN PRIOR TO REVERSAL." [Emphasis added]); *Old Wayne Mt. L. Assoc. v. McDonough*, 204 U.S. 8, 27 S.Ct. 236 (1907); *Williamson v. Berry*, 8 Ho. 495, 540, 12 L.Ed. 1170, 1189 (1850); *Rose v. Himely*, 4 Cranch, 241, 269, 2 L.Ed. 608, 617 (1808). It is clear and well established that a void order can be challenged in any court. *Old Wayne Mut. L. Assoc. v. McDonough*, 204 U.S. 8, 27 S.Ct. 236 (1907) ("jurisdiction of any court exercising authority over a subject 'may be inquired into in every other court when the proceedings in the former are relied upon and brought before the latter by a party claiming the benefit of such proceedings...'") 207 Ill. App. 3d 297, 565 N.E. 2d 724 (2nd Dist. 1990) ("a void judgment, order or decree may be attacked at any time or in any court, either directly or collaterally"); *Oak Park Nat. Bank v. Peoples Gas Light & Coke Co.*, 46 Ill. App. 2d 385, 197 N.E. 2d 73, 77 (1st Dist. 1964) ("that judgment is void and may be attacked at any time in the same or any other court, by the parties

or by any other person who is affected thereby.”).

CONCLUSION

The position of the Appellant/Defendant is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists. Defendant/Appellant requests that the court issue an order setting aside Judge **Danial** Johnsons orders (**Appendix 1 and 2**).

WHEREFORE, Appellant requests that the court enter the order to the lower court vacating the Christopher Stoller’s Motion to Intervene, vacating the ex parte Default Judgment (Doc 19) Order vacating the Sheriff’s Sale (**Appendix 1 & 2**)) vacate the final judgment confirming sale of the foreclosed property. Order the Appellee/Plaintiff to return possession of the subject property N3030 Marshall Lane, Lake Geneva, Wi 53147 to Christopher Stoller.

Issue an injunction against the Appellee/Plaintiff from every claiming ownership to the subject property.

Enter the proposed Order which is attached hereto.

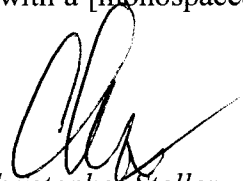
Respectfully submitted,


/s/Christopher Stoller

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CERTIFICATION

I, Christopher Stoller, hereby certify that this brief conforms to the rules contained in s. 809.19(8)(b) and (c) for a brief and appendix produced with a [monospaced] [proportional serif] font. The length of actual brief is 50 Pages



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STATE OF WISCONSIN

COURT OF APPEALS

DISTRICT 2

U.S. Bank Trust National Association, not]		
In its individual capacity but solely as]	Appeal	No2020AP556
Owner trustee for Legacy Mortgage]		
Asset 2018-GSI]	Walworth County Case	
Plaintiff/Appellee,]	Case No:	2019-CV-000164
V.]		
Christopher Stoller, assignee et al.,]		
Defendants/Appellant,]		

ORDER

IT IS ORDERED that Judge Daniel Johnson’s foreclosure Order dated July 23, 2019 (Doc 19) is vacated in its entirety.

IT IS FURTHER ORDERED that Judge Daniel Johnson’s Order dated March 3, 2020 (Doc 31) is vacated in its entirety.

IT IS FURTHER ORDERED that Judge Daniel Johnson’s Order dated April 16, 2020 (Doc 50) is vacated in its entirety.

IT IS FURTHER ORDERED that this matter is remanded to the trial court with instructions to allow Christopher Stoller to intervene, to grant Christopher Stoller immediate possession of the property known as

IT IS FURTHER ORDERED that the sheirf’s deed involving the said property is hereby canceled and the Recorders’s office is Ordered to expunge it.

IT IS FURTHER ORDERED THAT THE Plaintiff/Appellee U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for a *non-jural* entity, Legacy Mortgage Asset 2018-GSI is permanently enjoined from claiming any interest in the subject property:

PROPERTY DESCRIPTION

<u>DESCRIPTION:</u>	THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, IN TOWNSHIP 2 NORTH, RANGE 17 EAST, RESERVING FOR THE USE OF THE PUBLIC AS A HIGHWAY A STRIP OFF THE WEST SIDE 25 FEET IN WIDTH, SAID LAND LYING IN THE TOWN OF GENEVA, WALWORTH COUNTY, WISCONSIN.
<u>PROPERTY ADDRESS:</u>	N3030 Marshall Ln Lake Geneva, WI 53147-3553

ENTERED

**STATE OF WISCONSIN
WISCONSIN APPELLATE II
COURT COUNTY OF ORIGIN WALWORTH**

U.S. Bank Trust National Association, not
In its individual capacity but solely as

Appeal No 2020 AP556

Owner trustee for Legacy Mortgage Asset
2018-GSI

Plaintiff/Appellee

Case No 2019 CV 000164

Vs.

Christopher Stoller, assignee et al.,
Defendants/Appellant,

TO: SEE SERVICE LIST

NOTICE OF FILING

Christopher Stoller, Appellant files its Opening brief, with the Clerk of the Court. Copies of which are attached.


/s/Christopher Stoller Pro Se

P.O. Box 60645

Chicago, Illinois 60660

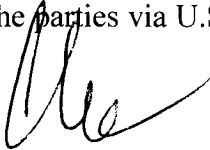
312-545-4554

Ldms4@hotmail.com

Cns40@hotmail.com

Certificate of Service

I caused the foregoing to be served on the parties via U.S. mail or email on Feb. 9, 2021 2020, see service list.


/s/Christopher Stoller

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