

IN THE SUPREME COURT OF OHIO
FRANKLIN COUNTY, OHIO

THE STATE OF OHIO EX. REL.
LEONARD NYAMUSEVYA
P. O. Box 314
Reynoldsburg, Ohio 43068

Upon Original Jurisdiction
in Precedendo and Prohibition.

RELATOR,

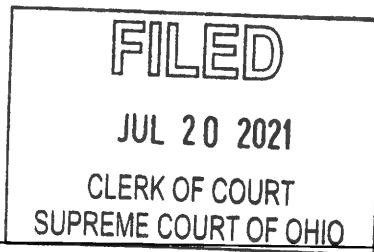
-vs-

FRANKLIN COUNTY COURT OF
COMMON PLEAS: HONORABLE
JUDGE DANIEL R. HAWKINS
345 South High Street
Courtroom 6B
Columbus, Ohio 43215

Case No.: GEN-2021-0853

RESPONDENT.

Emergency Verified Motion for an
Alternative Writ or Temporary Restraining
Order or Preliminary Injunction Order.



NOW COMES Leonard Nyamusevya, (hereinafter the "Relator or Mr. Nyamusevya") and respectfully moves this Court for an Emergency Alternative Writ or a Temporary Restraining Order or a Preliminary Injunction Order to enjoin the Court of Common Pleas, Franklin County, Ohio Respondent from imminently and unlawfully ordering the foreclosure auction of Relator's entirely paid off real property and mortgage account *in rem*, after 09/14/ 2010, while Respondent patently and unambiguous lack of its subject matter and *personam* jurisdiction, pursuant to R.C. § 2305.01.

1. Based on the whole record and the evidence, this matter is properly before this Court on the ground that Relator's mortgage account had been entirely paid off *in rem* after September 14, 2010 the date the foreclosure complaint was filed; consequently, Relator's real property that is located at 2064 Worcester Court, Columbus, Ohio 43232 is satisfied and paid off entirely; hence, the original allegations in the foreclosure complaint are no more and had been extinguished by the pay off of the mortgage account *in rem*; hence, currently there is no justiciable controversy between the parties, as

Citimortgage, Inc., lacks any justiciable controversy against Relator; thus, currently the Court of Common Pleas, Franklin County Respondent patently and unambiguously lacks the subject matter and personam jurisdictions over the Case No. 2010-CVE-09-13480 under R.C. § 2305.01.

2. Based on the evidence, the Supreme Court of Ohio should urgently and timely issue the extraordinary relief sought before July 31, 2021, in order to prevent the prohibited and unlawful and irreparable foreclosure auction of Relator's real property and to enjoin the Respondent from ordering the foreclosure auction of Relator's real property, while Respondent currently lacks its subject matter and personam jurisdictions over the Case No. 2010-CVE-09-13480 under R.C. § 2305.01. The attached memorandum in support and affidavit set forth the grounds for this motion.

MEMORANDUM IN SUPPORT

INTRODUCTION AND FACTS:

3. Based on the whole record and the evidence, this matter is properly before this Court on the ground that Relator's mortgage account had been entirely paid off *in rem* after September 14, 2010 the date the foreclosure complaint was filed; consequently, Relator's real property that is located at 2064 Worcester Court, Columbus, Ohio 43232 is satisfied and paid off entirely; hence, the original allegations in the foreclosure complaint are no more and had been entirely extinguished by the payoff of the mortgage account *in rem* by proofs; hence, currently there is no justiciable controversy between the parties, as Citimortgage, Inc., lacks any justiciable controversy against Relator.

4. Based on the whole record and the evidence, the Court of Common Pleas, Franklin County Respondent currently and patently and unambiguously lacks the subject matter and personam jurisdictions over the Case No. 2010-CVE-09-13480 under R.C. § 2305.01 and can only perform ministerial acts to close the Case No. 2010-CVE-09-13480 and is barred to adjudicate any further in the Case No. 2010-CVE-09-13480 by imminently ordering the foreclosure auction of Relator's real property after July 31, 2021, in violation of R.C. § 2305.01. Citimortgage, Inc., is no longer entitled to maintain an action in foreclosure against Relator, because it currently lacks any secured interest

in Relator's real property that had been satisfied and paid off entirely, after September 14, 2010; consequently, Relator's real property is no longer a mortgaged property and it is no longer in payment default; consequently, the Court of Common Pleas, Franklin County, Ohio Respondent currently and patently and unambiguously lacks the subject matter and personam jurisdictions over the civil Case No. 2010-CVE-09-13480 by proofs.

5. Based on the whole record and the evidence, currently, Respondent is proceeding unlawfully, by allowing and condoning and abetting and disregarding Citimortgage, Inc.'s fraudulent concealment of the payment satisfaction of the mortgage account in its entirety *in rem*, after September 14, 2010, base on Citimortgage, Inc.'s July 15, 2020 Supplemental Final Judicial Report that is in violation of R.C. § 2329.191(B) and that failed to disclose the substantial updates to the record title of Relator's real property that must be disclosed pursuant the statutory provision under R.C. § 2329.191(B), including the Bankruptcy Court Order of Discharge that extinguished Relator's personal liabilities.

6. Currently, Respondent is proceeding unlawfully and willfully and deliberately and unconstitutionally by unlawfully exceeding its jurisdiction in disregarding Ohio law and statutes not limited to R.C. § 2305.01 and R.C. § 2329.191(B) and Ohio appellate Courts' precedents, while the whole record and the evidence substantiate that Citimortgage, Inc., received the pay off funds entirely on the mortgage account *in rem* and is currently abetted and condoned and permitted to fraudulently concealing the mortgage account pay off entirely *in rem*, as materially substantiated by Citimortgage, Inc.'s Supplemental Judicial Report that was filed on the record on July 15, 2020 and that is being unlawfully disregarded by Respondent in its prohibited actions to unlawfully and unconstitutionally exceeding its statutory jurisdiction in violation of R.C. § 2305.01.

7. Based on the evidence and the whole record, Relator demands that the Supreme Court of Ohio should urgently and timely issue the extraordinary relief sought to enjoin the Respondent from unlawfully blocking the update to the record title of Relator's real property and the entirely pay off

of the mortgage account *in rem*, including the Bankruptcy Court Order of Discharge that extinguished Relator's personal liabilities, mainly to cause the unlawful and prohibited and irreparable loss of Relator's real property at the imminent foreclosure auction after July 31, 2021, in violation of R.C. § 2305.01 and R.C. § 2329.191(B). Relator demands this Court to issue an Alternative Writ or a Temporary Restraining Order or a Preliminary Injunction Order to stay the prohibited and unlawful proceedings in the Case No. 2010-CVE-09-13480 to order the foreclosure auction after July 31, 2021 of Relator's paid off entirely real property until final determination of the Supreme Court of Ohio in this action sub judice.

8. Because the evidence substantiate that Citimortgage, Inc., conceded to have received the payment in full on the mortgage account *in rem* and its balance is now \$0.00 and there is no sum in dispute between the parties; hence, the issuing of the extraordinary relief sought by Relator will not unjustly harm Respondent and Citimortgage, Inc., and will serve the public interest.

LAW; ARGUMENTS; AND LEGAL ANALYSIS:

9. Currently the Respondent is proceeding unlawfully by exceeding its jurisdiction and concealing and causing to be concealed and blocking the mandatory and statutorily disclosure of the update to the record title under R.C. § 2329.191(B) of Relator's real property that is substantiated by the Supplemental Final Judicial Report, to prevent the disclosure of the pay off in entirety of the mortgage account *in rem* that totally divested and extinguished Respondent's subject matter and personam jurisdictions and the Bankruptcy Court Order of Discharge that extinguished Relator's personal liabilities, in order to conceal its currently and patently and unambiguously lack of the subject matter and personam jurisdictions over the Case No. 2010-CVE-09-13480, pursuant to the statutory provision under R.C. § 2305.01, as currently the whole record and the evidence substantiate that there is no sum in dispute between the parties and Citimortgage, Inc., lacks any justiciable controversy against Relator and his real property *in rem*, after September 14, 2010.

10. In order to unlawfully proceed further in the Case No. 2010-CVE-09-13480 to specifically causing the irreparable loss of Relator's real property at the imminent foreclosure auction after July 31, 2021; currently Respondent disregarded and abetted and condoned and permitted the fraudulently concealment of the mortgage account pay off entirely *in rem*, as materially substantiated by Citimortgage, Inc.'s Supplemental Judicial Report that was filed on the record on July 15, 2020 and that is being unlawfully disregarded by Respondent in its prohibited actions to unlawfully and unconstitutionally exceeding its statutory jurisdiction in violation of R.C. § 2305.01.

11. Currently because the evidence substantiate that Citimortgage, Inc., conceded to have received the payment in full on the mortgage account *in rem* and its balance is now \$0.00, after September 14, 2010 and there is no sum in dispute between the parties and currently Citimortgage, Inc., lacks any justiciable controversy against Relator and his property *in rem*; thus, under R.C. § 2305.01 Respondent is totally divested of the subject matter and *personam* jurisdiction over the Case No. 2010-CVE-09-13480 and is prohibited to order the foreclosure auction of Relator's real property after July 31, 2021, as a matter of substantive law and the facts that are attached herein.

12. Relator states that the Court of Common Pleas, Franklin County, Ohio Respondent knows and is barred to disregard that R.C. § 2305.01 does not grant the Court of Common Pleas, Franklin County, Ohio Respondent's jurisdiction over the civil Case No. 2010-CVE-09-13480, in which currently there is no justiciable controversy between the parties and there is no sum or matter in dispute, as the whole record and the evidence substantiate that after September 14, 2010, Citimortgage, Inc., received the totality of payments funds on the mortgage account *in rem*, and its balance is currently \$0.00. Relator's real property is no longer a mortgaged property and it is no longer in payment default; consequently, the Court of Common Pleas, Franklin County, Ohio Respondent currently and patently and unambiguously lacks the subject matter and *personam* jurisdictions over the civil Case No. 2010-CVE-09-13480 by proofs.

13. The Supreme Court of Ohio held in *State ex rel. United States Steel Corp. v. Zaleski*, 98 Ohio St.3d 395, 2003- Ohio-1630, 786 N.E.2d 39 as follows:

In interpreting a statute, a court's paramount concern is legislative intent. *State ex rel. United States Steel Corp. v. Zaleski*, 98 Ohio St.3d 395, 2003- Ohio-1630, 786 N.E.2d 39, ¶ 12. To determine this intent, we read words and phrases in context and construe them in accordance with the rules of grammar and common usage. R.C. 1.42; *Hedges v. Nationwide Mut. Ins. Co.*, 109 Ohio St.3d 70, 2006-Ohio-1926, 846 N.E.2d 16, ¶ 24.

R.C. § 2305.01 provides in pertinent parts as follows:

Except as otherwise provided by this section or section 2305.03 of the Revised Code, the court of common pleas has original jurisdiction in all civil cases in which the sum or matter in dispute exceeds the exclusive original jurisdiction of county courts and appellate jurisdiction from the decisions of boards of county commissioners.

14. In *Wiegand v. Deutsche Bank Natl. Trust*, 8th Dist. Cuyahoga No. 97424, 2012-Ohio-933,

the Court held as follows:

R.C. § 2305.01 grants common pleas courts jurisdiction over all civil cases in which the sum or matter in dispute exceeds the exclusive jurisdiction of county courts or municipal courts. *Wiegand v. Deutsche Bank Natl. Trust*, 8th Dist. Cuyahoga No. 97424, 2012-Ohio-933, ¶ 4; *Brookbank v. Gray*, 1st Dist. Hamilton No. C-930312, 1994 WL 388682, *2 (July 27, 1994).

15. R.C. § 2305.01 is clear and unambiguous. The Court of Common Pleas, Franklin County, Ohio Respondent knows that based on the whole record and the evidence that are attached to Relator's complaint for a writ in prohibition and this Motion, Citimortgage, Inc., didn't object to have received a satisfaction of payments entirely on the mortgage account *in rem* after September 14, 2010. Currently because based upon the whole record and the evidence the mortgage account *in rem* had been paid off entirely after September 14, 2010; hence, subsequently Respondent patently and unambiguously lacks the subject matter and personam jurisdictions to perform any judicial power or act in the Case No. 2010-CVE-09-13480, after the satisfaction of the mortgage account *in rem*, pursuant to the statutory provision under R.C. § 2305.01. Citimortgage, Inc., received the totality of payments funds on the mortgage account *in rem*, and its balance is currently \$0.00 and there is no sum in dispute between the parties and Citimortgage, Inc., lacks any justiciable controversy against Relator and Relator's real property is no longer a mortgaged property, after

September 14, 2010, due to the pay off entirely of the mortgage account *in rem* to Citimortgage, Inc., that is substantiated by the evidence.

16. The Respondent knows that currently, based on the evidence, the Court of Common Pleas, Franklin County, Ohio Respondent can only perform ministerial acts to close the civil Case No. 2010-CVE-09-13480, as the payment satisfaction on the mortgage account in its entirety *in rem* caused the Court of Common Pleas, Franklin County, Ohio Respondent to currently lose its subject matter and *personam* jurisdiction under R.C. § 2305.01 over the Case No. 2010-CVE-09-13480.

17. The Respondent knows and disregards that after the foreclosure decree was unlawfully entered on November 15, 2018 in violation of R.C. § 2329.191(B) and Local Rule 96, *TPI Asset Mgt., L.L.C. v. Ealey*, 2015-Ohio-740; *GMAC Mgt., L.L.C. v. Jacobs*, 196 Ohio App.3d 167, 172-73, 2011-Ohio-1780, ¶ 22 (9th Dist.), Citimortgage, Inc., filed its Supplemental Final Judicial Report on July 15, 2020, which is in violation of R.C. § 2329.191(B), to fraudulently and dishonestly concealing substantial updates to the title record of Relator's real property, including and not limited to the payment satisfaction after September 14, 2010 of the mortgage account *in rem* and the November 21, 2019 Bankruptcy Court Order of Discharge that extinguished Relator's personal liabilities, mainly to unlawfully and unconstitutionally deprive and confiscate Relator's paid off entirely residential real property, through a scheme of unnecessary and undue litigations.

18. In proceeding unlawfully, the Respondent disregarded that pertaining to the statutory compliance under R.C. § 2329.191(B), in *TPI Asset Mgt., L.L.C. v. Ealey*, 2015-Ohio-740, the 10th District Court of Appeals established in Franklin County by holding as follows:

{¶ 2} R.C. § 2329.191(B) requires the filing of preliminary and final judicial reports in foreclosure actions. The preliminary report must contain the property's legal description, address, parcel number, owner's name, a reference to the volume and page where the deed was recorded, and the names and addresses of lienholders. R.C. § 2329.191(B)(1) through (7).

{¶ 3} The statute further provides that:

Prior to submitting any order or judgment entry to a court that would order the sale of the residential real estate, the party submitting the order or judgment entry shall file with the clerk of the court of common pleas a final judicial report that updates the state of the record title to that real estate from the effective date of the preliminary judicial report through the date of *lis pendens*... R.C. § 2329.191(B)(1) through (7).

{¶ 4} The purpose of the final report is to update the state of the record title to the property at issue. R.C. § 2329.191(B). The legislature's decision to include this mandatory language in the statute evidences the legislature's understanding of the importance of establishing a definitive record of title in a foreclosure action prior to the ultimate sale or disposition of the property. *GMAC Mgt., L.L.C. v. Jacobs*, 196 Ohio App.3d 167, 172-73, 2011-Ohio-1780, ¶ 22 (9th Dist.).

19. The Respondent further disregarded that pertaining to the statutory compliance under R.C. § 2329.191(B), in *GMAC Mgt., L.L.C. v. Jacobs*, 196 Ohio App.3d 167, 172-73, 2011-Ohio-1780, ¶ 19 (9th Dist.), the Court held as follows:

Compliance with procedural requirements

{¶ 19} In foreclosure actions, R.C. § 2329.191 and Loc.R. 11.03 of the Summit County Common Pleas Court prescribe the filing of preliminary and final judicial reports. A preliminary report must be filed at the beginning of the action, and the final report is to be filed prior to the trial court's entry of judgment. R.C. § 2329.191(B)(7); Loc.R. 11.03. Here, GMAC filed a preliminary report with its complaint; however, it did not file a final report. Jacobs argues that this omission precluded summary judgment. Although this omission may not have precluded summary judgment, we agree that the trial court erred in entering its final decree of foreclosure prior to the filing of a final judicial report.

20. The Chief Justice of the Supreme Court should agree that in observation of the Court's holding in *GMAC Mgt., L.L.C. v. Jacobs*, 196 Ohio App.3d 167, 172-73, 2011-Ohio-1780, ¶ 19 (9th Dist.) and in *TPI Asset Mgt., L.L.C. v. Ealey*, 2015-Ohio-740, because the November 15, 2018 foreclosure decree was entered in violation of R.C. § 2329.191(B); thus, currently the Court of Common Pleas, Franklin County Ohio erred in entering its final decree of foreclosure prior to the filing of the Supplemental Final Judicial Report that was filed on July 15, 2020. The Ohio law and statute should not be disregarded mainly to deprive and confiscate Relator's paid off real property.

21. The Respondent is currently barred to disregard the statutory provisions of R.C. § 2305.01 and R.C. § 2329.191(B), in order to unlawfully adjudicate further in the Case No. 2010-CVE-09-13480, mainly to cause the irreparable harm and injury and loss to Relator. Currently, Respondent is

proceeding unlawfully, by allowing and condoning and abetting and disregarding Citimortgage, Inc.'s fraudulent concealment of the payment satisfaction on the mortgage account in its entirety *in rem*, after September 14, 2010, base on Citimortgage, Inc.'s July 15, 2020 Supplemental Final Judicial Report that is in violation of R.C. § 2329.191(B) by failing to disclose the substantive update to the record title of Relator's real property, after the April 15, 2010 date of the Preliminary Judicial Report that was filed in the Case No. 2010-CVE-09-13480 on September 29, 2010 and the payments in full that Citimortgage, Inc., received on the mortgage account *in rem*, after September 14, 2010. The whole record and the evidence speak against the Respondent and Citimortgage, Inc. The Supreme Court of Ohio should urgently and timely issue the extraordinary relief sought before July 31, 2021 to prevent the irreparable loss of Relator's real property after July 31, 2021.

22. Based on the evidence Respondent knows and disregards that R.C. § 2329.191(B) and Local Rule 96 mandate that the Supplemental Final Judicial Report must update the status of the record title from the April 15, 2010 date of the Preliminary Judicial Report to disclose the payment satisfaction of the mortgage account *in rem*; in order to unlawfully adjudicate further in the Case No. 2010-CVE-09-13480, mainly to unlawfully cause the irreparable harm and injury and the loss of Relator's real property, disregarding that Respondent currently and patently and unambiguously lacks the subject matter and *personam* jurisdictions pursuant to R.C. § 2305.01, as the original allegations in the foreclosure complaint are no more and had been extinguished by the pay off entirely of the mortgage account *in rem* by proofs.

23. Based on the evidence, Respondent is exceeding its jurisdiction and knows and disregards that the civil action Case No. 2010-CVE-09-13480 is no longer within the Court of Common Pleas, Franklin County, Ohio Respondent's subject-matter and *personam* jurisdictions under R.C. § 2305.01. Respondent is unlawfully disregarding the statutory provisions pursuant to R.C. § 2305.01 and R.C. § 2329.191(B), in order to unlawfully adjudicate further in the Case No. 2010-CVE-09-

13480, mainly to unlawfully cause the irreparable harm and injury and loss to Relator and the prohibited and unlawful and unconstitutional and fraudulent loss of Relator's paid off real property.

24. Based on the whole Court's record and the evidence, Relator's right to relief is clear as currently, Respondent knows that Citimortgage, Inc., lacks any justiciable controversy against Relator, as the whole record and the evidence substantiate that the mortgage account *in rem* had been paid off entirely after September 14, 2010; hence, there is a substantial likelihood that Relator will prevail on the merits given the evidence that are properly presented in this action before the Supreme Court of Ohio.

25. The Respondent and Citimortgage, Inc., are bared to prevail by fraudulently concealing the substantial updates on the title record of Relator's real property, as substantiated by the Supplemental Final Judicial Report that was filed on July 15, 2020; thus, the Chief Justice of the Supreme Court of Ohio should not be concealed the substantial updates on the title record of Relator's real property, not limited to the pay off entirely of the mortgage account *in rem* and the Bankruptcy Court Order of Discharge that extinguished Relator's personal liabilities.

26. Because the mortgage account had been paid off entirely *in rem* after September 14, 2010, the Respondent patently and unambiguously has no longer the subject matter and personam jurisdictions over the Case No. 2010-CVE-09-13480, under R.C. § 2305.01 and thus it clearly appears that Respondent is going to unlawfully exceed its jurisdiction in violation of R.C. § 2305.01 by ordering the foreclosure auction of Relator's entirely paid off real property after July 31, 2021, and cause the suffering of irreparable harm and injury and loss to Relator, while the Respondent and Citimortgage, Inc., are not being affected; consequently, the Chief Justice of the Supreme Court of Ohio should issue the extraordinary relief sought by Relator. The Respondent's imminent action to order the foreclosure auction of Relator's real property is unlawful and prohibited and in violation of R.C. § 2305.01. Denying the extraordinary relief sought will result in Relator's suffering of

irreparable harm and injury and loss for which no other adequate remedy exists in the ordinary course of law.

27. Because the mortgage account had been paid off entirely *in rem* after September 14, 2010; consequently, the Respondent and Citimortgage, Inc., will not be unjustifiably harmed if the extraordinary relief is issued, as the threatened irreparable and unjust and undue injury to Relator outweighs the threat of harm to the Respondent and Citimortgage, Inc.

28. Because the mortgage account had been paid off entirely *in rem* after September 14, 2010; thus, granting the extraordinary relief sought or an injunction will serve the public interest. The public interest will suffer irreparable harm if the extraordinary relief sought is not granted, as the imminent unjust and unlawful and irreparable loss of Relator's real property will affect the public interest in the integrity of the State of Ohio judicial system, as Citimortgage, Inc., will be condoned and abetted by the Respondent to fraudulently conceal the mortgage account payment record and file Supplemental Final Judicial Reports that are in violation of R.C. § 2329.191(B); and the Respondent will *sua sponte* continue to unlawfully disregard the statutory provisions of R.C. § 2305.01 and R.C. § 2329.191(B).

29. An Emergency Alternative Writ or Temporary Restraining Order or Preliminary Injunction Order will serve the public interest by causing the public to trust in the integrity of the State of Ohio judicial system and by protecting Ohio residents and homeowners from unlawfully losing their entirely paid off real properties, whenever the Court of Common Pleas, Franklin County, Ohio Respondent willfully *sua sponte* and unlawfully disregards the statutory provisions of R.C. § 2305.01 and R.C. § 2329.191(B). Thus, the extraordinary relief or an injunction is proper and necessary under Rule 65 of the Ohio Rules of Civil Procedure in order to protect the public interest.

30. Because the mortgage account had been paid off entirely *in rem* after September 14, 2010; hence, the Supreme Court of Ohio's issuing of an Emergency Alternative writ or Temporary Restraining Order or Preliminary Injunction Order will supply the extraordinary relief to Relator,

because without the extraordinary relief sought, Relator will suffer irreparable injury and loss of Relator's real property, if the extraordinary relief is not granted immediately before July 31, 2021.

31. Because the mortgage account had been paid off entirely *in rem* after September 14, 2010, which patently and unambiguously divested totally the Court of Common Pleas, Franklin County, Ohio Respondent of its subject matter and *personam* jurisdictions in the Case No. 2010-CVE-09-13480; therefore, Relator respectfully and honestly demands that the Chief Justice of the Supreme Court of Ohio should hold it to be too harsh to require Relator to defend major litigation through an appeal simply to demonstrate a right so well established by the whole record and the evidence that are properly presented before the Supreme Court of Ohio in this action.

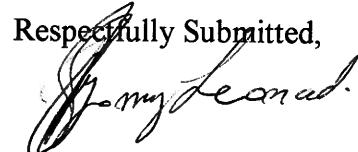
CONCLUSION:

WHEREFORE, Mr. Nyamusevya respectfully asks the Chief Justice of the Supreme Court of Ohio to urgently or immediately issue an Alternative Writ or a Temporary Restraining Order or a Preliminary Injunction Order prohibiting the Court of Common Pleas, Franklin County, Ohio Respondent from ordering an imminent and unlawful and prohibited foreclosure auction of Relator's entirely paid off real property and mortgage account *in rem*, after September 14, 2010, While Respondent patently and unambiguously lack of its subject matter and *personam* jurisdiction, in violation of R.C. § 2305.01 and disregarded R.C. § 2329.191(B); in order to prevent the suffering of irreparable and undue harm and injury and loss of Mr. Nyamusevya's real property. This Court should urgently and immediately issue the extraordinary relief sought before July 31, 2021, to prevent the irreparable and unjust loss of Relator's paid off entirely real property, as Relator lacks an adequate remedy in the ordinary course of the law through a direct appeal of right.

Relator states that because the mortgage account had been paid off entirely *in rem* after September 14, 2010; hence, the Supreme Court of Ohio's issuing of an Emergency Alternative writ or Temporary Restraining Order or Preliminary Injunction Order will supply the extraordinary relief to Relator, because without the extraordinary relief sought, Relator will suffer irreparable injury and

loss of Relator's real property, if the extraordinary relief is not granted immediately before July 31, 2021, while the whole record and the evidence that are properly presented before the Supreme Court of Ohio substantially and unquestionably substantiate that the Court of Common Pleas, Franklin County, Ohio Respondent patently and unambiguously lacks its subject matter and personam jurisdiction over the Case No. 2010-CVE-09-13480, pursuant to the statutory provision under R.C. § 2305.01.

Respectfully Submitted,



LEONARD NYAMUSEVYA

Relator – *(pro se)*

P.O. Box 314

Reynoldsburg, Ohio 43068

(614) 323-5898

Email: nyaleo@hotmail.com

CERTIFICATE FOR SERVICE

I certify that a true and accurate copy of the foregoing Document was delivered at 345 South High Street, in Courtroom 6B and 373 South High Street, 14th Floor, Columbus, Ohio 43215; and was delivered this 20th day of July 2021, by emailing and by regular US mail to:

HONORABLE JUDGE DANIEL R. HAWKINS
FRANKLIN COUNTY COURT OF COMMON PLEAS: HONORABLE
345 South High Street
Courtroom 6B
Columbus, Ohio 43215

GEORGE M. TYACK
Franklin County Prosecuting Attorney
373 South High Street, 14th Floor
Columbus, Ohio 43215
Counsel of Record

Respectfully Submitted,



LEONARD NYAMUSEVYA

Relator – *(pro se)*

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IN THE SUPREME COURT OF OHIO
FRANKLIN COUNTY, OHIO

THE STATE OF OHIO EX. REL. LEONARD NYAMUSEVYA P. O. Box 314 Reynoldsburg, Ohio 43068]	Upon Original Jurisdiction in Precedendo and Prohibition.
RELATOR,]	Case No.: GEN-2021-0853
-vs-]	
FRANKLIN COUNTY COURT OF COMMON PLEAS: HONORABLE JUDGE DANIEL R. HAWKINS 345 South High Street Courtroom 6B Columbus, Ohio 43215]	Lower Case No.: 2010-CVE-09-13480
RESPONDENT.]	From the Court of Common Pleas Franklin County, Ohio

**Relator's Affidavit in Support to Emergency Motion for an Alternative Writ
Or a Temporary Restraining Order or a Preliminary Injunction Order.**

STATE OF OHIO :
COUNTY OF FRANKLIN, : SS:

AFFIDAVIT IN SUPPORT TO EMERGENCY MOTION

1. The undersigned, Leonard Nyamusevya ("Relator or Affiant") being a firsthand eyewitness; with firsthand personal knowledge and experience; and being physically and morally competent to testify to the facts; and having personal knowledge of the facts and the same and being first duly cautioned and sworn, deposes and states that the information contained herein and all exhibits referenced to and incorporated into and made part of Relator's complaint are incorporated and made part of this Motion and are public records and are true and correct to the best of my knowledge.
2. Further, Affiant states that I am the Relator in this original action against the Court of Common Pleas, Franklin County, Ohio: Honorable Judge Daniel R. Hawkins ("Respondent"). I have reviewed and verified the allegations in the complaint for a writ in prohibition and this Emergency Motion and swear that the allegations are true and accurate and made upon my personal knowledge. The allegations are supported by the properly presented evidence before the Supreme Court of Ohio.
3. Further, Affiant states that the Respondent substantially and unquestionably knows that Relator received a Bankruptcy Court Order of Discharge on November 21, 2019, which discharged Relator's personal liabilities and that Citimortgage, Inc.'s mortgage account *in rem* had been satisfied and paid off entirely, after the 09/14/ 2010 foreclosure Complaint was filed in Case No. 2010-CVE-09-13480.

4. Further, Affiant states that the Respondent substantially and unquestionably knows that the evidence that are attached to Relator's complaint for a writ in prohibition and this Motion substantiate that Citimortgage, Inc., received a satisfaction of payments entirely on the mortgage account after September 14, 2010, which had been satisfied and paid off entirely by Relator; hence, currently Citimortgage, Inc., lacks any justiciable controversy against Relator; thus, the Court of Common Pleas, Franklin County, Ohio Respondent patently and unambiguously lacks the subject matter and personam jurisdictions to perform any judicial power or act in the Case No. 2010-CVE-09-13480.

5. Further, Affiant states that the Court of Common Pleas, Franklin County, Ohio Respondent substantially and unquestionably knows that based on the whole record and the evidence that are attached to Relator's complaint for a writ in prohibition and this Motion, Citimortgage, Inc., didn't object to have received a satisfaction of payments entirely on the mortgage account *in rem* after September 14, 2010. Currently because based upon the whole record and the evidence the mortgage account *in rem* had been paid off entirely after September 14, 2010; hence, subsequently Respondent patently and unambiguously lacks the subject matter and personam jurisdictions to perform any judicial power or act in the Case No. 2010-CVE-09-13480, after the satisfaction of the mortgage account *in rem*, pursuant to the statutory provision under R.C. § 2305.01.

6. Further, Affiant states that the Court of Common Pleas, Franklin County, Ohio Respondent substantially and unquestionably knows and is barred to disregard that R.C. § 2305.01 does not grant the Court of Common Pleas, Franklin County, Ohio Respondent's jurisdiction over the civil Case No. 2010-CVE-09-13480, in which currently there is no justiciable controversy between the parties and there is no sum or matter in dispute, as the whole record and the evidence substantiate that after September 14, 2010, Citimortgage, Inc., received the totality of payments funds on the mortgage account *in rem*, and its balance is currently \$0.00.

7. Further, Affiant states that the Respondent substantially and unquestionably knows that currently, R.C. § 2305.01 does not grant jurisdiction to the Court of Common Pleas, Franklin County, Ohio Respondent over the civil Case No. 2010-CVE-09-13480, in which Citimortgage, Inc., lacks any justiciable controversy against Relator, after September 14, 2010, as there is no sum or matter in dispute between the parties at this time; consequently, the Court of Common Pleas, Franklin County, Ohio Respondent currently and patently and unambiguously lacks the subject matter and personam jurisdictions over and lacks any judicial power and authority to act or to enter any further judgment in the civil Case No. 2010-CVE-09-13480.

8. Further, Affiant states that the Respondent substantially and unquestionably knows that Citimortgage, Inc., is no longer entitled to maintain an action in foreclosure against Relator, because it currently lacks any secured interest in Relator's residential real property that had been satisfied and paid off entirely, after September 14, 2010; consequently, Relator's real property is no longer a mortgaged property and it is no longer in payment default; consequently, the Court of Common Pleas, Franklin County, Ohio Respondent currently and patently and unambiguously lacks the subject matter and personam jurisdictions over the civil Case No. 2010-CVE-09-13480 by proofs.

9. Further, Affiant states that the Respondent substantially and unquestionably knows that currently, based on the evidence, that are referenced to and incorporated into and made part of Relator's Complaint for a writ in prohibition and this Motion, the Court of Common Pleas, Franklin County, Ohio Respondent can only perform ministerial acts to close the civil Case No. 2010-CVE-09-13480. Affiant states that the payment satisfaction on the mortgage account in its entirety *in rem* caused the Court of Common Pleas, Franklin County, Ohio Respondent to currently lose its subject

matter and personam jurisdiction under R.C. § 2305.01 over the civil Case No. 2010-CVE-09-13480, and is currently barred to disregard the statutory provisions of R.C. § 2305.01 and R.C. § 2329.191(B), in order to unlawfully adjudicate further in the civil Case No. 2010-CVE-09-13480, mainly to cause irreparable harm and injury and loss to Relator. Currently, Respondent is proceeding unlawfully, by allowing Citimortgage, Inc.'s fraudulent concealment of the payment satisfaction on the mortgage account in its entirety *in rem*, after September 14, 2010, base on Citimortgage, Inc.'s July 15, 2020 Supplemental Final Judicial Report that is in violation of R.C. § 2329.191(B).

10. Further, Affiant states that the Respondent substantially and unquestionably knows that after the foreclosure decree was unlawfully entered on November 15, 2018 in violation of R.C. § 2329.191(B) and Local Rule 96, Citimortgage, Inc., filed its Supplemental Final Judicial Report on July 15, 2020, which is in violation of R.C. § 2329.191(B), to fraudulently and dishonestly concealing substantial updates to the title record of Relator's real property, including and not limited to the payment satisfaction after September 14, 2010 of the mortgage account and the November 21, 2019 Bankruptcy Court Order of Discharge that extinguished Relator's personal liabilities.

11. Further, Affiant states based on the evidence and the whole record, Relator demands that the Supreme Court of Ohio should urgently issue the extraordinary relief sought to enjoin the Respondent from unlawfully blocking the update to the record title of Relator's real property and the entirely pay off of the mortgage account *in rem*, including the Bankruptcy Court Order of Discharge that extinguished Relator's personal liabilities, mainly to cause the unlawful and prohibited and irreparable loss of Relator's real property at the imminent foreclosure auction after July 31, 2021, in violation of R.C. § 2305.01 and R.C. § 2329.191(B).

12. Further, Affiant states that the Respondent substantially and unquestionably, based on the evidence, that are referenced to and incorporated into and made part of Relator's complaint for a writ in prohibition and this Motion knows that currently with its divested subject matter and personam jurisdictions under R.C. § 2305.01 over the civil Case No. 2010-CVE-09-13480, Respondent is unlawfully disregarding the statutory provisions of R.C. § 2305.01 and R.C. § 2329.191(B), in order to unlawfully adjudicate further in the civil Case No. 2010-CVE-09-13480, mainly to unlawfully cause the irreparable harm and injury and loss to Relator.

13. Further, Affiant states that the Respondent based on the evidence, knows and disregards that R.C. § 2329.191(B) and Local Rule 96 mandate that the Supplemental Final Judicial Report must update the status of the record title from the April 15, 2010 date of the Preliminary Judicial Report to disclose the payment satisfaction of the mortgage account *in rem*; in order to unlawfully adjudicate further in the Case No. 2010-CVE-09-13480, mainly to unlawfully cause the irreparable harm and injury and the loss of Relator's real property, disregarding that Respondent currently and patently and unambiguously lacks the subject matter and personam jurisdictions pursuant to R.C. § 2305.01, as the original allegations in the foreclosure complaint are no more and had been eliminated by the pay off.

14. Further, Affiant states that the Respondent substantially and unquestionably, based on the evidence, that are referenced to and incorporated into and made part of Relator's complaint for a writ in prohibition and this Motion knows and disregards that the civil action Case No. 2010-CVE-09-13480 is no longer within the Court of Common Pleas, Franklin County, Ohio Respondent's subject-matter and personam jurisdictions under R.C. § 2305.01. Respondent is unlawfully disregarding the statutory provisions pursuant to R.C. § 2305.01 and R.C. § 2329.191(B), in order to unlawfully adjudicate further in the Case No. 2010-CVE-09-13480, mainly to unlawfully cause the irreparable harm and injury and loss to Relator and the prohibited loss of Relator's paid off real property.

15. Further, Affiant is demanding the Chief Justice of the Supreme Court of Ohio to issue an Emergency Alternative Writ or Temporary Restraining Order or a Preliminary Injunction Order to prevent the Court of Common Pleas, Franklin County, Ohio Respondent from exceeding its jurisdiction by unlawfully adjudicating further in the Case No. 2010-CVE-09-13480 by ordering the foreclosure auction of Relator's entirely paid off real property. Based on the whole Court's record and the evidence, Relator's right to relief is clear as currently, Respondent knows that Citimortgage, Inc., lacks any justiciable controversy against Relator, as the whole record and the evidence substantiate that the mortgage account *in rem* had been paid off entirely after September 14, 2010; hence, there is a substantial likelihood that Relator will prevail on the merits given the evidence that are properly presented in this action before the Supreme Court of Ohio.

16. Further, Affiant states that because the mortgage account had been paid off entirely *in rem* after September 14, 2010, the Respondent patently and unambiguously has no longer the subject matter and *personam* jurisdictions over the Case No. 2010-CVE-09-13480, under R.C. § 2305.01 and thus it clearly appears that Respondent is going to unlawfully exceed its jurisdiction in violation of R.C. § 2305.01 by ordering the foreclosure auction of Relator's entirely paid off real property after July 31, 2021, and cause the suffering of irreparable harm and injury and loss to Relator, while the Respondent and Citimortgage, Inc., are not being affected; consequently, the Chief Justice of the Supreme Court of Ohio should issue the extraordinary relief sought by Relator. The Respondent's imminent action to order the foreclosure auction of Relator's real property is unlawful and prohibited and in violation of R.C. § 2305.01. Denying the extraordinary relief sought will result in Relator's suffering of irreparable harm and injury and loss for which no other adequate remedy exists in the ordinary course of law.

17. Further, Affiant states that because the mortgage account had been paid off entirely *in rem* after September 14, 2010; consequently, the Respondent and Citimortgage, Inc., will not be unjustifiably harmed if the extraordinary relief is issued and the threatened injury to Relator outweighs the threat of harm to the Respondent and Citimortgage, Inc.

18. Further, Affiant states that because the mortgage account had been paid off entirely *in rem* after September 14, 2010; thus, granting the extraordinary relief sought or an injunction will serve the public interest. The public interest will suffer irreparable harm if the extraordinary relief sought is not granted, as the imminent unjust and unlawful and irreparable loss of Relator's real property will affect the public interest in the integrity of the State of Ohio judicial system, as Citimortgage, Inc., will be condoned and abetted by the Respondent to fraudulently conceal the mortgage account payment record and file Supplemental Final Judicial Reports that are in violation of R.C. § 2329.191(B); and the Respondent will *sua sponte* continue to unlawfully disregard the statutory provisions of R.C. § 2305.01 and R.C. § 2329.191(B).

19. Further, Affiant states that an Emergency Alternative Writ or Temporary Restraining Order or Preliminary Injunction Order will serve the public interest by causing the public to trust in the integrity of the State of Ohio judicial system and by protecting Ohio residents and homeowners from unlawfully losing their entirely paid off real properties, whenever the Court of Common Pleas, Franklin County, Ohio Respondent willfully *sua sponte* and unlawfully disregards the statutory provisions of R.C. § 2305.01 and R.C. § 2329.191(B). Thus, the extraordinary relief or an injunction is proper and necessary under Rule 65 of the Ohio Rules of Civil Procedure in order to protect the public interest.

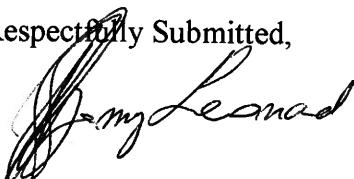
20. Further, Affiant states that because the mortgage account had been paid off entirely *in rem* after September 14, 2010, which patently and unambiguously divested totally the Court of Common Pleas, Franklin County, Ohio Respondent of its subject matter and *personam* jurisdictions in the civil Case

No. 2010-CVE-09-13480; therefore, Relator respectfully and honestly demands that the Chief Justice of the Supreme Court of Ohio should hold it to be too harsh to require Relator to defend major litigation through an appeal simply to demonstrate a right so well established by the whole record and the evidence that are properly presented before the Supreme Court of Ohio in this action.

21. Further, Affiant states that because the mortgage account had been paid off entirely *in rem* after September 14, 2010; hence, the Supreme Court of Ohio's issuing of an Emergency Alternative writ or Temporary Restraining Order or Preliminary Injunction Order will supply the extraordinary relief to Relator, because without the extraordinary relief sought, Relator will suffer irreparable injury and loss of Relator's real property, if the extraordinary relief is not granted immediately before July 31, 2021.

Further, Affiant sayeth Not.

Respectfully Submitted,



LEONARD NYAMUSEVYA

Before me, a Notary Public, in Franklin County, in the State of Ohio, personally appeared Mr. Leonard Nyamusevya, who acknowledged that he did sign the foregoing document and that the same is his free and voluntary act and deed. Sworn before me and subscribed in my presence this 20th day of July 2021.



BINIAM REDDAE
Notary Public, State of Ohio
My Commission Expires
December 20, 2021
NOTARY PUBLIC

20th July 2021