UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

Michael D. Dalton, Jr.,
Leah M. Dalton, and
Michael A. Deem,

Plaintiffs,

v.

ChoiceOne Bank,

Defendant.

1:2026-cv-00163 (HYJ) (RK)

PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS THE FIRST AMENDED COMPLAINT

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I. PRELIMINARY STATEMENT

Defendant ChoiceOne Bank moves to dismiss the First Amended Complaint (FAC) for lack of subject matter jurisdiction and failure to state a claim. Its motion is sophomoric. ChoiceOne Bank fails to connect the three issues addressed in its brief to the shotgun list of seven issues in its motion. In shotgun fashion ChoiceOne Bank asserts that Michigan state law controls property rights, but it doesn't even attempt to explain which Michigan state law controls the instant matter, nor does it distinguish the compelling Michigan state law cited in the FAC. ChoiceOne Bank fails to inform this court that Plaintiffs were not even parties in the non-judicial foreclosure or state summary proceedings involving 305 W. Elizabeth Street, and pursuant to controlling Michigan state law they were not parties in the non-judicial foreclosure and state summary proceedings involving 3468 Catholic Church Road. Moreover, ChoiceOne Bank's brief is riddled with logical fallacies, affirmative misrepresentations, reliance on inapplicable abstention doctrines, and a gross misunderstanding of controlling federal and state law. ChoiceOne Bank's motion is wrong on the facts, law, policy and reason, and must be denied pursuant to controlling federal constitutional, statutory and case law, and controlling state statutory and case law. Finally, ChoiceOne Bank places great reliance on a law review article. Said article does not contain a single citation to Michigan state or federal law, and actually supports Plaintiffs' position.

II. STANDARDS OF REVIEW

A. Standard of Review Pursuant to Federal Rules of Civil Procedure 12(b)(1)

"Rule 12(b)(1) motions to dismiss based upon subject matter jurisdiction generally come in two varieties." *Ohio Nat. Life Ins. Co. v. United States*, 922 F.2d 320, 325 (6th Cir. 1990). "A *facial* attack on the subject matter jurisdiction alleged by the complaint merely questions the

sufficiency of the pleading." *Id.* "In reviewing such a facial attack, a trial court takes the allegations in the complaint as true, which is a similar safeguard employed under 12(b)(6) motions to dismiss." *Id.* "On the other hand, when a court reviews a complaint under a *factual* attack, as here, no presumptive truthfulness applies to the factual allegations." *Id.* "Such a factual attack on subject matter jurisdiction commonly has been referred to as a 'speaking motion.'" *Id.* "When facts presented to the district court give rise to a factual controversy, the district court must therefore weigh the conflicting evidence to arrive at the factual predicate that subject matter jurisdiction exists or does not exist." *Id.* "In reviewing these speaking motions, a trial court has wide discretion to allow affidavits, documents and even a limited evidentiary hearing to resolve disputed jurisdictional facts." *Id.*

ChoiceOne Bank does not indicate which of the two varieties it invokes under Rule 12(b)(1). Regardless which variety it ultimately declares, the argument is meritless. This court has subject matter jurisdiction over this matter.

B. Standard of Review Pursuant to Federal Rules of Civil Procedure 12(b)(6)

"Under Rule 12(b)(6), a district court should only dismiss the complaint when it fails to state a claim upon which relief can be granted." *Fluker v. Ally Fin., Inc.*, 2025 WL 1827747, at *2 (6th Cir. 2025) (internal citations, quotations and brackets omitted). "Such a failure occurs when the complaint lacks sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Id.* "In examining the plausibility of a claim, [the court must] construe the complaint in the light most favorable to the plaintiff[s] by accepting all factual allegations as true and drawing all reasonable inferences in [their] favor." *Id.*

"As a general rule, when a district court considers matters outside the pleadings in ruling on a motion to dismiss under Rule 12(b)(6), the motion is ordinarily converted to a motion for

summary judgment under Rule 56(c)." *Garner v. City of Memphis*, 576 Fed.Appx. 460, 461 (6th Cir. 2014) (internal citations, quotations and brackets omitted).

Here, ChoiceOne Bank has submitted documents outside the pleadings. Plaintiffs are submitting documents outside the pleadings in support of their opposition to the defendant's motion to dismiss, and have submitted other documents in support of other motions they have filed. Plaintiffs invite this court to consider all exhibits they have filed in the instant matter. Plaintiffs join ChoiceOne Bank's motion for summary judgment pursuant to Rule 56(c), and request judgment be entered in their favor granting their claims to quiet "legal" title, and/or the actions in ejectment, for both 305 W. Elizabeth Street and 3468 Catholic Church Road.

III. ARGUMENT

A. This Court Has Subject Matter Jurisdiction

Plaintiffs have pleaded federal question jurisdiction pursuant to 28 U.S.C. § 1331 in three ways.

1. This Court Has Subject Matter Jurisdiction Pursuant to U.S. Supreme Court Precedents.

Plaintiffs assert federal question jurisdiction pursuant to the U.S. Constitution and the U.S. Supreme Court ruling in, *inter alia*, *Fenn v. Holme*, 62 U.S. 481 (1858) (FAC, ¶¶ 1, 12). *Fenn v. Holme* is on all fours. *Fenn* controls the instant matter and assertion of federal question jurisdiction.

> The Constitution had declared, in the 3d article, that the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority, &c. It is well known that in civil suits, courts of equity and admiralty, juries do not intervene, and that courts of equity use the trial by jury only in extraordinary cases. When, therefore, we find that the amendment requires that the right of trial by jury shall be preserved in suits at common law, the natural conclusion is, that the distinction was present in the minds of the framers of the amendment. By *common law*, they meant what the

Constitution denominated in the 3d article LAW, not merely *suits* which the common law recognised among its old and settled proceedings, but suits in which *legal* rights were to be ascertained and determined, in contradistinction to those where *equitable rights* alone were recognised and equitable remedies administered.

The same doctrine is recognized in the cases of *Strother v. Lucas*, [and] *Bennet v. Butterworth* [wherein] the Chief Justice thus states the law as applicable to the question before us:

The common law has been adopted in [Michigan], but the forms and rules of pleading in common-law cases have been abolished, and the parties are at liberty to set out their respective claims and defences in any form that will bring them before the court; and, as there is no distinction in its courts between cases at law and in equity, it has been insisted in this case, on behalf of the defendant in error, that this court may regard the plaintiff's petition either as a declaration at law or a bill in equity. Whatever may be the law of [Michigan] in this respect, they do not govern the proceedings in the courts of the United States; and, although the forms of proceedings and practice in the State courts have been adopted in the District Court, yet the adoption of the State practice must not be understood as confounding the principles of law and equity, nor as authorizing legal and equitable claims to be blended together in one suit. The Constitution of the United States, in creating and defining the judicial power of the General Government, establishes this distinction between law and equity, and a party who claims a legal title must proceed at law, and may undoubtedly proceed according to the form of practice in such cases in the State court. But if the claim be an equitable one, he must proceed according to the rules which this court has prescribed, regulating proceedings in equity in the courts of the United States.

The authorities above cited are deemed decisive against the right of the plaintiff in the court below to a recovery upon the facts disclosed in this record, which show that the action in that court was instituted upon an equitable and not upon a legal title. []

The inquiry then presents itself, as to who holds the *legal* title to the land in question. The answer to this question is, that the title remains in the original owner, the Government, until it is invested by the Government in its [pate]ntee. This results from the nature of the case, and is the rule affirmed by this court in the case of *Bagnell, et al. v. Broderick*, in which it is declared, that Congress has the sole power to declare the dignity and effect of titles emanating from the United States; and the whole legislation of the Government in reference to the public lands declares the patent to be the superior and conclusive evidence of the *legal title*. Until it issues, the fee is in the Government, which by the patent passes to the grantee, and he is entitled to enforce the possession in ejectment.

> A practice has prevailed in some of the States (and amongst them the State of Mi[chigan]) of permitting the action of ejectment to be maintained upon warrants of land, and upon other titles not complete or legal in their character [such as Sheriff's Deeds]; but this practice, as was so explicitly ruled in the case of *Bennett v. Butterworth*, can in no wise affect the jurisdiction of the courts of the United States, who, both by the Constitution and be the acts of Congress, are required to observe the distinction between legal and equitable rights, and to enforce the rules and principles of decision appropriate to each.

Id., at 486-488 (emphasis in original).

Here, as discussed in *Fenn*, "the forms and rules of pleading in common-law cases have been abolished" in Michigan state court. For example, Michigan only provides for mixed courts of law and equity in matters where possessory rights to land are at issue. MCL 600.5714 (FAC, ¶¶ 23, 24), *Summary proceedings to recover possession of premises* [], provides in part as amended,

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

A court presiding over a summary proceeding pursuant to MCL 600.5714 sits in law and equity. *See*, MCL 600.8302(1) (FAC, ¶ 24) ("In addition to the civil jurisdiction provided in sections 5704 and 8301, the district court has equitable jurisdiction and authority [] in the matters and to the extent provided by this section."), and MCL 600.8302(2) (FAC, ¶ 24) ("In an action under chapter 57, the district court may hear and determine an equitable claim relating to [] or involving a right, interest, obligation, or title in land.").

As such, Plaintiffs are unable to exercise their Seventh Amendment rights in any Michigan state court. Federal court is the only forum available for Plaintiffs to exercise their federal constitutional and statutory rights, as explained in *Fenn*.

Moreover, in 2014, the Michigan Court of Appeals examined Michigan's statutory framework regarding the common-law action for ejectment. *New Products Corp. v. Harbor Shores BHBT Land Development, LLC*, 308 Mich.App. 638 (Mich.App. 2014). (FAC, ¶¶ 26, 27). The *New Products* court held,

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

Id. at 659 *fn.* 5.

Now, twelve years later, the Michigan Legislature has yet to amend MCL 600.2932 (FAC, ¶¶ 22, 26-28) or restore the common-law action for ejectment. Federal court is the only forum available for Plaintiffs to protect their forever benefits and possessory rights (FAC, ¶¶ 43-45, 61-63) under their federal land patents via actions in ejectment (FAC, ¶ 69).

Further, the Michigan Legislature has also abrogated the equitable claim to quiet "legal" title, where equity is employed in the aid of law to prevent lesser titles from collaterally attacking a federal land patent and the rights thereunder. The U.S. Supreme Court has repeatedly explained how a claim to quiet title comes in the aid of legal title. In *Frost v. Spitley* (FAC, ¶ 15), the court held,

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

121 U.S. 552, 556 (1887) (emphasis added); *also, Dick v. Foraker*, 155 U.S. 404, 414 (1894) (same) (FAC, ¶ 15).

However, under MCL 600.2932, "quiet title is a remedy, not a freestanding claim. Like a request for an injunction or disgorgement, a request for quiet title [pursuant to MCL 600.2932] is only cognizable when paired with some recognized cause of action." *Haywood v. Roundpoint Mortg. Servicing Corp.*, 2018 WL 3159624, *5 (EDMI 2018) (*citing, Shaya v. Countrywide Home Loans, Inc.*, 489 Fed.Appx. 815, 819 (6th Cir. 2012) (FAC, ¶ 28). Traditionally, that was not so in Michigan. *See, Kilgannon v. Jenkinson*, 51 Mich. 240 (1883) (overruling a claim to quiet tile on the facts, remedy was at law, not equity). Federal court is the only forum available for Plaintiffs to exercise their Seventh Amendment rights and protect their forever benefits and possessory rights (FAC, ¶¶ 43-45, 61-63) under their federal land patents via claims to quiet "legal" title (FAC, ¶¶ 70-71).

2. This Court Has Subject Matter Jurisdiction Pursuant To Three Federal Statutes.

Plaintiffs assert federal question jurisdiction pursuant to two federal land patents and the possessory rights thereunder as protected by federal law, specifically 5 Stat. 49, 59 and 144 (FAC, ¶¶ 8-10, 14, 33-35, 38, 51-53, 56).

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

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

Here, as in *Oneida*, Plaintiffs seek "to [protect and/or] recover certain lands [] upon a claim that possession derived from a federal [land pate]nt, [*and*] federal law protects the possessory rights of [said] lands." *Id.* As such, the instant matter, as the *Oneida* matter, is

"properly brought in federal court." *Id.* Specifically, there are three federal statutes that converge to protect Plaintiffs possessory rights under each of their two patents, 5 Stat. 49, 59 and 144.

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

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

(emphasis added).

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

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

(emphasis added).

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

> Whereas, in pursuance of the act of Congress of June fifteenth, eighteenth hundred and thirty-six, entitled "*An act to establish the northern boundary of*

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

(underlined emphasis added).

5 Stat. 49(4), 59(5) and 144 expressly prohibit Michigan from "interfere[ing] with the sale by the United States, and under their authority, of the vacant and unsold lands within the limits of the said State," including the forever benefits granted to the original patentees. Plaintiffs now "continue to own, through chain of title, what was granted to the [two original] patentees in the first place," *Klais v. Danowski*, 373 Mich. 262, 277 (1964) (FAC, ¶¶ 20, 35, 38, 53, 56), including the forever benefits and superior legal title at issue in the instant matter. The ruling in *Klais* is compelling on this and all other federal courts. *See, e.g. Animal Sci. Prods., Inc. v. Hebei Welcome Pharm. Co.*, 585 U.S. 33, 34 (2018) ("If the relevant state law is established by a decision of the State's highest court, that decision is binding on the federal courts.") (internal quotations omitted); *Mid-Century Ins. Co. v. Fish*, 749 F.Supp.2d 657, 667 (WDMI 2010) (*citing Ohio ex rel. Skaggs v. Brunner*, 549 F.3d 468, 472 (6th Cir. 2008) (same).

However, as explained *supra*, the Michigan Legislature has violated all three federal statutes, 5 Stat. 49(4), 59(5) and 144 by: abrogating the common law action for ejectment; abrogating the equitable claim to quiet "legal" title, where equity aids law to protect legal title – federal land patents; failing to provide Plaintiffs with a common law forum; and allowing equitable titles, such as Sheriff's Deeds, to dispossess federal land patent holders. Doing so violated Congress' "power of disposal [of public lands]." *See, Gibson v. Chouteau*, 80 U.S. 92, 103-04 (1871) ("[N]either in a separate suit in a Federal court, nor in an answer to an action of

ejectment in a State court, can the mere [assertion of equitable title] by [ChoiceOne Bank], be held to constitute a sufficient equity in their favor to control the legal title subsequently conveyed to others by the patent of the United States, without trenching upon the power of Congress in the disposition of the public lands.").

The three referenced federal statutes buttress the holding in *Gibson, supra*. "[I]n the action of ejectment in the Federal courts, the legal title must prevail, and the patent, when regular on its face, is conclusive evidence of that title." *Id.*, at 102. "So also in the action of ejectment in the State courts, when the question presented is whether the plaintiff or the defendant has the superior legal title from the United States, the patent must prevail." *Id.* Michigan state statutory law is in flagrant violation of federal statutory and case law.

3. This Court Has Subject Matter Jurisdiction To Interpret Federal Law.

Third, Plaintiffs assert federal question jurisdiction pursuant to two federal land patents and the possessory rights thereunder as announced in *Wilcox v. Jackson*, 38 U.S. 498, 516 (1839):

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

(emphasis added).

The words used by the *Wilcox* court, emphasized *supra*, are correctly interpreted to mean that the original patentees, and their heirs, assigns or successors, including Plaintiffs (FAC, ¶¶ 33-35, 38, 43-45, 51-53, 56, 61-63), own the properties in question "forever" (in perpetuity, without end) by legal title, that cannot be defeated by equitable titles (i.e.: Sheriff's Deeds) or

lesser legal titles (i.e.: such as Sheriff's Deeds that have been "upgraded" by state legislation, in violation of federal constitutional, statutory and case law). *See, also Borax Consolidated, Ltd. v. City of Los Angeles,* 296 U.S. 10, 22 (1935) ("It is a question which concerns the validity and effect of an act done by the United States; it involves the ascertainment of the essential basis of a right asserted under federal law."). "[*Borax*] held that the extent and validity of a federal [land] grant was a question to be resolved by federal law, and in *Bonelli* we decided that the nature of the title conferred by the equal-footing doctrine set forth in *Pollard's Lessee v. Hagan*, 3 How. 212 [] (1845), should likewise be governed by federal common law." *Oregon ex rel. State Land Bd. v. Corvallis Sand & Gravel Co.*, 429 U.S. 363, 369–70 (1977). "The federal nature of the right[s] to be established [under the federal land patents] is decisive—not the source of the authority to establish it." *People of Puerto Rico v. Russell & Co., Sucesores S. En. C.*, 288 U.S. 476, 483 (1933). Plaintiffs have properly invoked federal jurisdiction to determine the nature of their rights under their federal land patents.

Likewise, in *Knight v. United Land Ass'n* , the U.S. Supreme Court held, "[i]n the first place, the patent is a deed of the United States. As a deed its operation is that of a quit-claim, or rather a conveyance of such interest as the United States possessed in the land." 142 U.S. 161, 188 (1891); *Beard v. Federy*, 70 U.S. 478, 491 (1865) (same). This case is about the nature of the interest the United States possessed and passed to the original patentees. Can those interests be defeated by equitable title in a court of mixed court of law and equity, or are they unassailable and Plaintiffs have a Seventh Amendment right to a common law trial by jury to protect those interests in state court, or federal court if denied such a forum in state court? "It is th[e U.S. Supreme] Court's responsibility to say what a federal statute [or land patent] means, and once the

Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law." *James v. City of Boise, Idaho*, 577 U.S. 306, 307 (2016).

> As Justice Story explained 200 years ago, if state courts were permitted to disregard this Court's rulings on federal law, the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable.

Id. (*citing Martin v. Hunter's Lessee*, 1 Wheat. 304, 348 (1816)).

Michigan state law does not resolve this question. In *Klais*, the Michigan Supreme Court, held "[Plaintiffs] continue to own, through chain of title, what was granted to the [two original] patentees in the first place," 373 Mich. at 277. This begs the question, What was passed to the original patentees? Only federal courts can definitively answer that question.

Plaintiffs have successfully invoked three separate bases for federal question jurisdiction.

B. It Is The Duty Of This Court To Exercise Jurisdiction Over This Matter

"[I]t is as much the duty of this court to exercise jurisdiction in cases where it is given by the constitution and laws of the United States, as to refuse to assume it where it is not given." *Hope Ins. Co. of Providence v. Boardman*, 9 U.S. 57, 59 (1809). "[A]bstention from the exercise of federal jurisdiction is the exception, not the rule." *Ankenbrandt v. Richards*, 504 U.S. 689, 705 (1992). "Abstention rarely should be invoked, because the federal courts have a virtually unflagging obligation to exercise the jurisdiction given them." *Id.*

All citations to precedents of the U.S. Supreme Court cited herein are still good law. They control this case. *See, Bosse v. Oklahoma*, 580 U.S. 1, 3 (2016) ("[I]t is this Court's prerogative alone to overrule one of its precedents."). Plaintiffs have demonstrated three separate bases for federal question jurisdiction. This court must take jurisdiction of this matter.

Moreover, the holding in *Haywood v. Drown*, 556 U.S. 729 (2009) is on point and illustrates why this court must take jurisdiction of the instant matter.

> A jurisdictional rule cannot be used as a device to undermine federal law, no matter how evenhanded it may appear. As we made clear in *Howlett,* the fact that a rule is denominated jurisdictional does not provide a court an excuse to avoid the obligation to enforce federal law if the rule does not reflect the concerns of power over the person and competence over the subject matter that jurisdictional rules are designed to protect. Ensuring [Seventh Amendment rights] is thus the beginning, not the end, of the Supremacy Clause analysis.
>
> [Michigan] is not at liberty to shut the courthouse door to federal [land patent holders'] claims that it considers at odds with its local policy. A State's authority to organize its courts, while considerable, remains subject to the strictures of the Constitution. We have never treated a State's invocation [or exclusion] of jurisdiction as a trump that ends the Supremacy Clause inquiry. []
>
> Our holding addresses only the unique scheme adopted by the State of [Michigan]—a law designed to shield a particular class of defendants ([mortgagees – equitable title holders]) from a particular type of [title] ([federal land patents]) brought by a particular class of plaintiffs ([federal land patent holders and their successors]). [] Finding this [statutory] scheme unconstitutional merely confirms that the Supremacy Clause cannot be evaded by formalism.

Haywood v. Drown, 556 U.S. at 740–42 (internal citations, quotations and brackets omitted).

The gravamen of the decision in *Haywood v. Drown* resonates exponentially when one considers that "[p]owerful interests [such as central banks and mortgage companies] are capable of amassing armies of lobbyists and lawyers to influence (and even capture) politically accountable bureaucracies." *Oil States Energy Servs., LLC v. Greene's Energy Grp., LLC*, 584 U.S. 325, 348 (2018) (Gorsuch, J., dissenting). We must be forever vigilant to prevent such influence from continuing or taking root.

C. Plaintiffs Have Met Their Burden In Pleading A Plausible Claim To Quiet "Legal" Title

> It is well settled [] that, under the Federal equity practice, independently of a state statute, a bill to remove cloud from plaintiff's title will not lie where the plaintiff is not in possession of the premises, and can not be maintained without proof both of possession and of legal title.

Rowe v. Hill, 215 F. 518, 524 (6th Cir. 1914).

The FAC provides that at the time filing the instant complaint: ChoiceOne Bank claimed equitable title to 305 W. Elizabeth Street (FAC, ¶ 46); Plaintiffs were in possession of 305 W. Elizabeth Street (FAC, ¶¶ 38-48); Plaintiffs held, and continue to hold, legal title for said property by a federal land patent (FAC, ¶¶ 33-35) and a Quit Claim Deed (FAC, ¶ 38), and ChoiceOne Bank filed a "summary proceeding to recover possession[1] of premises [305 W. Elizaeth Street]" (FAC, ¶ 47) from "L & M Family Investments, LLC," not Plaintiffs.

The FAC also provides that at the time filing the instant complaint: ChoiceOne Bank claimed equitable title to 3468 Catholic Church Road (FAC, ¶ 64), Plaintiffs were in possession of 3468 Catholic Church Road (FAC, ¶¶ 56-65); Plaintiffs held, and continue to hold, legal title for said property by a federal land patent (FAC, ¶¶ 51-53) and a Quit Claim Deed (FAC, ¶ 56), and ChoiceOne Bank filed a "summary proceeding to recover possession[2] of premises [3468 Catholic Church Road]" (FAC, ¶ 64) from Plaintiffs.

Plaintiffs' claims to quiet "legal" title for each property are well pled.

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[1] "Recover possession" is a misnomer and statutory fiction because ChoiceOne Bank was never in possession of Plaintiffs' property.
[2] Same.

D. Plaintiffs Have Met Their Burden In Pleading A Plausible Alternative Action In Ejectment

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

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

Id.

Michigan state case law mirrors federal case law for actions in ejectment. In *Webber v. Pere Marquette Boom Co.*, the Michigan Supreme Court held,

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

62 Mich. 626, 636 (1886) (*citing, St. Louis Smelting & Refining Co. v. Kemp*, 104 U.S 636, 640-641 (1881)) (FAC, ¶ 17).

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

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

342 Mich. 632, 637-638 (1955) (collecting cases) (FAC, ¶ 18).

And, in *Moran v. Moran*, the Michigan Supreme Court held,

> The common law rule, which excludes all defenses in ejectment which are not legal, has been abrogated in many parts of the Union. The courts of the United States, however, still adhere to it. [] And it also remains in force in this state.

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

> [N]othing is better settled in this state than that in an action of ejectment an equitable title cannot be set up as a defense against a legal title.

106 Mich. at 12 (*citing, Michigan Land & Iron Co. v. Thoney*, 89 Mich. 226, 231 (1891) (FAC, ¶ 19).

The FAC provides that at the time of filing, ChoiceOne Bank was granted a judgment of possession against "L & M Family Investments, LLC," not Plaintiffs (FAC, ¶ 49), in a summary proceeding, and Plaintiffs held, and continue to hold, legal title for said property by a federal land patent (FAC, ¶¶ 33-35) and a Quit Claim Deed (FAC, ¶ 38). Plaintiffs were physically evicted from 305 W. Elizabeth Street on February 16, 2026 (P: 234), despite not being a named party to the non-judicial foreclosure (P: 145, 155, 165, 168, 175, 234) or summary proceedings (P: 145), and not being given an opportunity to be heard in either (P: 170, l. 7 – P: 173, l. 23; P: 177, l. 23 – P: 185, l. 185).

Plaintiffs have demonstrated a current plausible action in ejectment for 305 W. Elizabeth Street.

E. The *Rooker-Feldman* Doctrine Does Not Apply to the Instant Matter

"The *Rooker-Feldman* doctrine prevents a federal court from exercising jurisdiction over a claim alleging error in a state court decision." *Doscher v. Menifee Cir. Ct.*, 75 Fed.Appx. 996, 997 (2003) (*citing District of Columbia Ct. of App. v. Feldman*, 460 U.S. 462 (1983)).

> The *Rooker-Feldman* doctrine derives from 28 U.S.C. § 1257(a), which gives the Supreme Court limited jurisdiction to review a decision of a state's highest court. The doctrine is based on the negative inference that, if appellate court review of such state judgments is vested in the Supreme Court, then it follows that such review may not occur in the lower federal courts. And the intent is to prohibit end-runs around state court judgments that might occur when parties go into federal court essentially seeking a review of a state-court decision.

> But the *Rooker-Feldman* doctrine is limited in scope and does not bar a district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court. *Rooker-Feldman* applies if the source of the plaintiff's injury is the state-court judgment itself. If there is some other source of injury, such as a third party's actions, then the plaintiff asserts an independent claim. But if a third party's actions are the product of a state court judgment, then a plaintiff's challenge to those actions are in fact a challenge to the judgment itself. To assess the source of a plaintiff's claimed injury, the Court must consider the plaintiff's claims for relief.

Thompson v. Gorcyca, 2021 WL 4234948, at *3 (EDMI 2021), *report and recommendation adopted,* 2021 WL 4220753 (EDMI 2021), *aff'd*, 2022 WL 11367756 (6th Cir. 2022) (internal citations, quotations and brackets omitted).

The *Rooker-Feldman* doctrine does not apply to the instant matter. Plaintiffs do not allege that the judgments of possession in the state summary proceedings were entered in error. Indeed, Plaintiffs assert that said judgments were foregone conclusions, the natural and expected results of Michigan's state statutory scheme regarding actions to "recover" possession of property. Michigan's juridical framework operated exactly as intended. Michigan state statutory law abrogated what would otherwise have been meritorious common law actions in ejectment or meritorious claims to quiet "legal" title, and an exclusive common law forum, with a trial by jury if necessary in which to bring said actions or claims.

Plaintiffs also assert that the state summary proceedings were based on facts and circumstances entirely separate and apart from the facts and circumstances in the instant matter.

There are six basic operative events for each of the two properties.[3] Regarding 305 W. Elizabeth Street, the non-judicial foreclosure and state summary proceeding were based entirely

[3] Mr. and Mrs. Dalton took extra measures to further strengthen their legal titles to the properties at issue, pursuant to Michigan state law, but to illustrate the two entirely separate legal tracks of the state summary proceedings and the claims in the instant matter it is sufficient to focus on the six identified events.

on three events: 1) the mortgage from L&M to ChoiceOne Bank's alleged predecessor (FAC, ¶ 36); 2) the subsequent Sheriff's Deed resulting from said mortgage by L&M (FAC, ¶ 46); and 3) the state summary proceeding (FAC, ¶ 49). Plaintiffs' instant claims regarding said property are based primarily on: 1) the federal land patent issued to Ira Wood (FAC, ¶ 33-34); 2) the Warranty Deed to L&M (FAC, ¶ 35); and 3) the Quit Claim Deed to Mr. and Mrs. Dalton (FAC, ¶ 38).

There are also two entirely separate legal tracks for 3468 Catholic Church Road. The non-judicial foreclosure and state summary proceeding for said property were based entirely on three events: 1) the mortgage from Mr. and Mrs. Dalton to ChoiceOne Bank's alleged predecessor (FAC, ¶ 54); 2) the subsequent Sheriff's Deed resulting from said mortgage by Mr. and Mrs. Dalton (FAC, ¶ 64); and 3) the state summary proceeding (FAC, ¶¶ 66-67). Plaintiffs' instant claims regarding said property are based primarily on: 1) the federal land patent issued to John Haydock (FAC, ¶ 51-52); 2) the Warranty Deed to Mr. and Mrs. Dalton (FAC, ¶ 53); and 3) the Quit Claim Deed to Mr. Dalton (FAC, ¶ 56).

Like two ships sailing in the night the issues in the state summary proceedings are wholly separate and distinct from the issues in the instant matter. Because the issues in the instant matter are entirely different than those addressed in the non-judicial foreclosures and state summary proceedings, the *Rooker-Feldman* doctrine does not apply to the instant matter.

Moreover, the U.S. Supreme Court has already held in *Fenn v. Holme, supra*, that the state summary proceedings do not control or prohibit the instant matter. The *Fenn* court held,

> A practice has prevailed in some of the States (and amongst them the State of Mi[chigan]) of permitting the action of ejectment to be maintained upon warrants of land, and upon other titles not complete or legal in their character [such as Sheriff's Deeds]; **but this practice**, as was so explicitly ruled in the case of *Bennett v. Butterworth*, **can in no wise affect the jurisdiction of the courts of the United States, who, both by the Constitution and be the acts**

> **of Congress, are required to observe the distinction between legal and equitable rights, and to enforce the rules and principles of decision appropriate to each**.

62 U.S. 481, 488.

This is exactly what Plaintiffs seek for this court to do, enforce the rules and principles of decision appropriate to the U.S. Constitution and the acts of Congress, which the Michigan state courts have failed to do and cannot do because of the state's statutory scheme. The *Rooker-Feldman* doctrine does not apply to the instant matter.

F. The *Younger* Doctrine Does Not Apply to the Instant Matter

> Three requirements must be met for *Younger* abstention to be appropriate: : (1) there must be an ongoing state judicial proceeding; (2) the proceeding must implicate important state interests; and (3) there must be an adequate opportunity in the state proceeding to raise constitutional challenges.

Doscher, 75 Fed.Appx. at 997 (*citing Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423 (1982)).

ChoiceOne Bank has failed to demonstrate how any of *Younger*'s three requirements are met in the instant matter. Indeed, ChoiceOne Bank does not even attempt to engage in an analysis of each requirement and how all three requirements are present in this matter, because it can't. ChoiceOne Bank simply levels the accusations in hopes that the court will come to its rescue, search the record and make the argument for it.

In fact, ChoiceOne Bank has filed documents that unequivocally demonstrate the state summary proceedings are concluded (Dkt. 21-7, Judgment of Possession for 305 W. Elizabeth Street; Dkt. 21-8, Judgment of Possession for 3468 Catholic Church Road). And, Plaintiffs have now been evicted from 305 W. Elizabeth Street (P: 234). Failure to prove "an ongoing judicial proceeding" alone vitiates ChoiceOne Bank's argument that *Younger* governs this matter.

Moreover, Plaintiffs were denied the opportunity to raise constitutional challenges in the non-judicial state proceedings. The U.S. Supreme Court has held that federal land patent holders have an absolute common law right to trial by jury, that is protected by the Seventh Amendment. *See, Fenn, supra.* In each of the two state summary proceedings Plaintiffs filed a motion to dismiss for lack of subject matter jurisdiction, SP1-MtD and SP2-MtD (P:145-165; P: 187-206, respectively). SP1-MtD and SP2-MtD both invoked, *inter alia*, Plaintiffs' Seventh Amendment rights. (P: 160, 162; P: 202, 204).

SP1-MtD was stricken on ChoiceOne Bank's motion, because the defendant in that matter was L&M, a corporation. Mr. Dalton was not permitted by state law to represent L&M in a state summary proceeding because he is not an attorney. Mr. Dalton attempted to raise his constitutional rights under his federal land patent, but the state court refused to allow him to be heard. Said transcript provides,

THE COURT:	So this is ChoiceOne versus L & M Family Investments, but I don't see L & M Family Investments here.
MR. DALTON:	That's correct. The Daltons, Mr. Dalton in particular, is the member of L & M Family Investments, but as we've already raised on the record and discussed with him at the preliminary hearing, he's not licensed to practice law in the state of Michigan and cannot represent L & M Family, limited liability company, in this proceeding.
[]	
THE COURT:	All right, so we're back with you, Mr. Tucker. You're representing yourself and --
MR. DALTON:	ChoiceOne Bank.

P: 179, l. 5-23.

THE COURT:	The request for a judgment of possession for ChoiceOne Bank is granted. If you would prepare a proposed order, I'll sign it.
MR. TUCKER:	Thank you, your Honor.
THE COURT:	Anything else for the record?
[]	
MR. DALTON:	Yes, Judge, I just want to say that we have an allodial title, and that is not – that has not even been discussed. We should be able to discuss that. We have the highest form of title. This is a – this is a matter of –

THE COURT:	It's L & M Family. I don't know who you are as an individual, but L & M Family is the defendant in this case.
MR. DALTON:	But – but Michael Dalton holds the title to the property, the federal land patent, the highest form of title.
THE COURT:	You know, they missed that at my law school. They just concentrated on the state of the law in the state of Michigan at that time, so the judgment's going to be rendered in favor of the plaintiff in this matter. Mr. Tucker, if you'd get that order to me, I'll sign it.

P: 184, l. 19 – P: 185, l. 16.

By granting possession of 305 W. Elizabeth Street to ChoiceOne Bank based on a Sheriff's Deed that was obtained against L&M, and not giving Mr. and Mrs. Dalton an opportunity to be heard on their federal land patent, Plaintiffs were denied their property rights without due process of law in violation of the Fourteenth Amendment. *See, Hansberry v. Lee*, 311 U.S. 32, 40 (1940) ("It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment *in personam* in a litigation in which he is not designated as a party. A judgment rendered in such circumstances is not entitled to the full faith and credit which the Constitution and statute of the United States [] prescribe. [A]nd judicial action enforcing it against the person or property of the absent party is not that due process which the Fifth and Fourteenth Amendments requires.") (internal citations and quotations omitted).

SP2-MtD was flatly ignored. Said transcript provides,

MR. DALTON:	Objection, your Honor. Can I – before we get started, can I –
THE COURT:	So you've made an objection. What's your legal objection to –
MR. DALTON:	I want to see if we can – if I can get a decision on my motion that I filed. The motion to dismiss.
THE COURT:	Okay. I'm going to hear the proofs before I hear any motion to dismiss. Okay. So your objection's overruled. All right. Counsel, you may proceed with examination.

P: 220, l. 17 – P: 221, l. 2.

And Mrs. Dalton's attempt to invoke her Seventh Amendment rights were futile because of Michigan's statutory framework of providing a mixed court of law and equity in all cases, as discussed, *supra*. The transcript provides,

MR. DALTON:	No, your Honor, but I do wish to invoke my 7th Amendment common law right to trial by jury.
THE COURT:	Okay. All right. All right, you may be seated. Ms. Dalton, would you like to testify?
MRS. DALTON:	Well, I would just say, I'd like – we'd like to invoke our 7th Amendment common law right to a trial by jury. We're demanding an exclusive common law trial by jury as the U.S. Supreme Court has held repeatedly that we are entitled to, and no [a]n mixed court of law and equity. We are demanding an exclusive common law trial by jury as the Supreme Court has held repeatedly that we are both entitled to.
THE COURT:	Okay. You may be seated. Mr. Tucker, response to their request for a jury trial?

P: 228, l. 10-24.

MRS. DALTON:	So he's – for a trial by jury here, but that --- this is a mixed court of law and equity, and we're asking our constitutional rights be heard. And in *Fenn v. Holme*, it states: "That the plaintiff in ejectment must in all cases prove a legal title…" Clearly federal courts recognize the distinction between legal and equitable jurisdiction. This distinction is crucial if our 7th Amendment rights are protected. We have the right to a trial by jury under common law. Equity does not trump our constitutional rights. We have a right –
THE COURT:	Do you know the difference between law and equity?
MRS. DALTON:	I do.
THE COURT:	Okay.
MRS. DALTON:	And a Sheriff's deed is equitable title. We have allodial title. Allodial title is the highest form of title. Highest form. And – and in *Webber v. Pere Marquette*, it states: "…patents issued by the U.S.…are in general unassailable in an action at law." They cannot be attacked, questioned, or defeated. And this is a collateral attack against our patent. Clearly, Mr. Tucker doesn't understand and even in his arguments he said allodial – allodial title doesn't exist anymore. Show us where allodial title doesn't exist. It's clear in case law in the Supreme Court. Case law after case law after case law proves that allodial title does exist. It's we've forgotten about it. And this Court can't even hear it. And that's what we're asking. We're asking to be heard in a court that actually can hear it.
THE COURT:	Thank you, ma'am. All right. The Court does find that the defendants have failed to avail themselves of their right to a jury trial as required under Michigan court rule. There's been no written demand for a jury trial and

prior to today's date there had been no oral demand for a jury trial. So I'm denying the request for a jury trial that's been made. []

THE COURT: Okay. All right. Well, the Court is going to grant a judgment of possession to the plaintiff. As required by Michigan law, there's been a sheriff's sale on a foreclosure. The redemption period has expired, and these are summary proceedings under Michigan law. It's clear based on the record that the plaintiff is entitled to a judgment of possession, and the Court will enter an order so indicating. The order will indicate that the order of eviction will enter February 17th if the defendants have not provided possession back to the plaintiff.

P: 229, l. 22 – P: 231, l. 22.

ChoiceOne Bank's invocation of *Younger* cannot be supported on the instant record and must be denied.

G. Defendant's Shotgun Objections In Its Motion to Dismiss Are Misplaced

In its motion to dismiss, Points 1, 2 and 4, ChoiceOne Bank asserts there is no federal question jurisdiction in this matter. In Point III(A), *supra*, Plaintiffs demonstrated three separate theories of how federal question jurisdiction does exist in this matter.

In Point 3 of its motion to dismiss, ChoiceOne Bank again misstates the law with respect to federal land patents. The U.S. Supreme Court settled the issue of what law governs property rights long ago in *Wilcox v. Jackson*, 38 U.S. 498 (1839). The *Wilcox* court held,

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

Id., at 516 (emphasis added).

This case is about the emphasized text. What "title passed and vested according to the laws of the United States"? What is the enduring nature of that title? What can defeat that title, if anything? Michigan state law does not answer these questions. *See, Klais*, at 277 ("[Plaintiffs]

continue to own, through chain of title, what was granted to the [two original] patentees in the first place."). The Michigan Supreme Court placed the onus to define the nature of title and interests squarely with the federal courts. Only they can answer these questions definitively, not state courts. *See, Bagnell v. Broderick*, 38 U.S. 436, 450 (1839) ("Congress has the sole power to declare the dignity and effect of titles emanating from the United States.").

ChoiceOne Bank cherry picks which state law to follow. According to ChoiceOne Bank, the only law that matters is Michigan state law regarding non-judicial foreclosures and summary proceedings, the federal constitutional (Seventh Amendment, due process clause and supremacy clause), statutory and case law, as well as Michigan Supreme Court decisions such as *Webber, Gilford, Moran* and *Klais, supra*, are all irrelevant. Conveniently for ChoiceOne Bank, only state statutory law governing summary proceedings matters. The decision in *Haywood v. Drown, supra*, holds otherwise.

ChoiceOne Bank appears to be indignant over the fact that it will eventually lose money over these two properties, and it will. A well-settled maxim of the law is apropos here, *caveat emptor* – buyer [and lender] beware. *See, Christy v. Glass*, 415 Mich. 684, 694 (1982). What ChoiceOne Bank is really complaining about is its own negligence. The Michigan Supreme Court declared the rule long ago, which ChoiceOne Bank is desperate to avoid.

> The true doctrine on this subject is that, where a [lender] has knowledge of any fact sufficient to put him on inquiry as to the existence of some right or title in conflict with that he is about to [lend for and secure with], he is presumed either to have made the inquiry, and ascertained the extent of such prior right, or to have been guilty of a degree of negligence equally fatal to his claim to be considered as a *bona fide* [lender]. This rule is supported by numerous authorities in that state, and in our own and other states.

Schweiss v. Woodruff, 73 Mich. 473, 477–78 (1889).

Put simply, ChoiceOne Bank's predecessor made bad business decisions. Perhaps that's why it is no longer in business. ChoiceOne Bank assumed the risk of those bad decisions when it elected to succeed its predecessors and is now trying to avoid its own bad decision. It can't.

H. Defendant Resorts To Logical Fallacies Out Of Sheer Desperation Because It's Arguments On The Facts and Law Are Wrong

A logical fallacy is defined as: 1) "a deceptive, misleading, or false notion, belief," https://www.dictionary.com/browse/fallacy; 2) "the use of invalid or otherwise faulty reasoning in the construction of an argument that may appear to be well-reasoned if unnoticed," https://en.wikipedia.org/wiki/Fallacy; 3) "a false or mistaken idea," https://www.merriam-webster.com/dictionary/fallacy; 4) "erroneous reasoning that has the appearance of soundness," https://www.britannica.com/topic/fallacy; 5) "an idea that a lot of people think is true but is in fact false," https://dictionary.cambridge.org/dictionary/english/fallacy?q=fallacy.

ChoiceOne Bank's instant motion to dismiss is riddled with logical fallacies. For example, ChoiceOne Bank uses appeal to ridicule. "Appeal to Ridicule is an informal fallacy which claims an argument to be ridiculous or absurd. The fallacy uses this claim in an attempt to invalidate the argument since it is not worth entertaining." https://www.logicalfallacies.org/appeal-to-ridicule.html. ChoiceOne Bank asserts,

> The source of this argument lies in sovereign citizen ideology which, if you dive deep enough down the rabbit hole, makes irrational and completely false claims about the infallibility of property rights claimed under a Federal Land Patent [].

Dkt. 21, p. 7.

Plaintiffs do not identify with "sovereign citizen ideology," and it is not the basis of their actions or the instant complaint. The source of Plaintiffs' actions and complaint are compelling

federal constitutional, statutory and decisional law, and Michigan Supreme Court decisions. ChoiceOne Bank also asserts,

> This is the kernel of the Daltons' claim for Federal Question jurisdiction- a magic document has miraculously transformed their ownership of these properties to a state in the universe as if they were granted to them under a Federal Land Patent

Dkt. 21, p. 7-8.

Again, it is the Michigan Supreme Court, not Plaintiffs, which held Plaintiffs now "continue to own, through chain of title, what was granted to the [two original] patentees in the first place," *See, Klais*, at 277, including the forever benefits and superior legal title that is inherent with federal land patents. The decision in *Klais* is still good law and is binding on every federal court in the nation, even those that use the wrong standard to deny a motion to recuse because they have taken oaths of allegiance that would disqualify them from all public offices if disclosed, after being disbarred, prosecuted and sentenced to federal prison. ChoiceOne Bank further asserts,

> Claims such as those raised by the plaintiffs in this case have been floating around the dark recesses of the internet since the 1980s. It takes a brave Plaintiff to assert claims that would appear to most, to be delusional.

Dkt. 21, p. 8.

Again, it is U.S. Supreme Court and Michigan Supreme Court precedents that Plaintiffs rest their claims on. ChoiceOne Banks has done nothing to even attempt to distinguish a single case cited in Plaintiffs' FAC, because it can't. Every case cited by Plaintiffs is still good law – every single one. Those cases control this matter. ChoiceOne Bank knows that to be true, but can't get away from them. So, it resorts to logical fallacies out of sheer desperation.

ChoiceOne Bank also uses a strawman argument. "The strawman fallacy occurs when one misrepresents an argument so that it becomes easier to attack." https://www.logicalfallacies.org/strawman.html. ChoiceOne Bank asserts:

> claims about the infallibility of property rights claimed under a Federal Land Patent which are unassailable by man or beast or even the government. It also provides a "fill-in-the-blank form that you can record with the Register of Deeds and post around town after which, your title to your land is now under a Federal Land Patent an unreachable by the government and your secured creditors. All of this is complete and utter legal nonsense. It is legal gibberish.

Plaintiffs have never claimed that federal land patents are "unassailable by man or beast or even the government." Dkt. 21, p. 7. However, both the U.S. Supreme Court and Michigan Supreme Court have held time and time and time again that federal land patents are unassailable by equitable titles such as Sheriff's Deeds and lesser legal deeds, even those obtained through legislation that does not serve We The People, but does serve central bankers, who may have contributed handsomely to the politicians that passed said legislation. *See, Oil States Energy Servs., LLC, supra* (Gorsuch, J. dissenting).

Plaintiffs have never claimed their "land is now under a Federal Land Patent an (*sic*) unreachable by the government" because they recorded a form with the Register of Deeds. Dkt. 21, p. 7. However, the Michigan Supreme Court has held that Plaintiffs now "continue to own, through chain of title, what was granted to the [two original] patentees in the first place," *See, Klais*, at 277, including the forever benefits and superior legal title. And, both the U.S. Supreme Court and Michigan Supreme Court have held repeatedly that federal land patents are the highest form of title. *See, e.g. Wilcox, supra*; *Fenn, supra*; FAC, ¶¶ 8-20. The U.S. Supreme Court has also held repeatedly that equitable title, including Sheriff's Deeds, cannot defeat superior legal title, such as a federal land patent. Plaintiffs are merely arguing what compelling caselaw holds.

ChoiceOne Bank also uses appeal to tradition. "As the name suggests this fallacy relies on tradition to prove a point, arguing that a thesis must be correct because it has traditionally been so (we've always done it this way)." https://www.logicalfallacies.org/appeal-to-tradition.html. ChoiceOne Bank asserts:

> they are now free to ignore their creditors from whom they previously borrowed large sums of money and to whom they granted Mortgages on their properties which provided for the repossession of the properties on failure to repay the loans. None of that matters any more when you know the secret.

Dkt. 21, p. 8.

For the first time, ChoiceOne Bank's statement is correct. ChoiceOne Bank cannot repossess Plaintiffs properties for failure to repay the loans, and that fact is a secret closely kept by ChoiceOne Bank and its minions. Plaintiffs are simply reiterating what the U.S. Supreme Court and Michigan Supreme Court have held many, many, many times, that federal land patents are the highest form of title, which cannot be defeated in a common law action in ejectment, or an equitable claim to quiet "legal" title where equity comes in the aid of law to prevent equity from doing what is prohibited in law, collaterally attack a federal land patent with equitable title (Sheriff's Deed). Plaintiffs have an absolute Seventh Amendment right to a common law trial by jury, if needed, to resolve any challenges to their federal land patents. ChoiceOne Bank "pulls out all the stops" to discredit Plaintiffs, obscure the facts and misstate the law because it knows this case is the beginning of the end of mortgage lenders' multi-century fraud on the American people. We are witnessing ChoiceOne Bank's "death roar," similar to when a bear is wounded and just about to take its last breath it lets out a vicious roar. Soon, ChoiceOne Bank and all other central banks in the mortgage and foreclosure industry, will breath their last. Good riddance. A man's, and a woman's, home will be their castle once again – forever.

ChoiceOne Bank also uses appeal to authority. "The fallacy of appeal to authority makes the argument that if one credible source believes something that it must be true." https://www.logicalfallacies.org/appeal-to-authority.html. ChoiceOne Bank asserts:

> a couple of legal scholars from the Ohio State University Law School to write an article on the subject which was published in the Drake Law Review. Land Patents: Are they an Escape from Foreclosure? Drake Law Review Vol. 36, p 561 (1986-1987).

Dkt. 21, p. 8.

The law review article which ChoiceOne Bank touts as being authoritative provides absolutely no support in dismissing the operative complaint in this matter. The article consists of twenty-three pages and one-hundred ninety-four pages, but absolutely no citations to a single case involving Michigan state law, not one, nada, zilch, zippo, nothing. Nor does ChoiceOne bank even attempt to connect the various states' laws and cases in the forty-year-old article to the instant facts, and controlling federal and state law in this matter. Once again ChoiceOne Bank leaves it to this court to do its homework for it – find the facts and law on which to hang a Report & Recommendation for dismissal.

However, the law review article does support Plaintiffs' arguments. Said article provides in part, "Provided that the state does not violate constitutional guarantees, it has an inherent right to regulate the alienation of real estate within its borders." (Dkt. 21-12, p. 24, ¶ 2) As explained, *supra*, Michigan state law denied Plaintiffs their federal constitutional and statutory guarantees. Therefore, those laws and the judgments from the state summary proceedings carry no weight in the instant matter. *See, Haywood v. Drown, supra.*

I. ChoiceOne Bank Is Not Credible As A Matter Of Law

ChoiceOne Bank asserts in its Brief, "Plaintiffs seek to relitigate and collaterally attack state court determinations regarding real property rights." Dkt. 21, p. 2. ChoiceOne Bank's

assertion is flatly wrong. To be clear, Plaintiffs are not attempting to "collaterally attack" anything. Plaintiffs are conducting a frontal assault on the documents that the state court judgments relied on, two Sheriff's Deeds.

ChoiceOne Bank also asserts in its Brief, "The Daltons raised all of the same arguments now again raised in their Amended Federal Court Complaint at this second summary proceeding hearing." Dkt. 21, p. 4. ChoiceOne Bank's assertion is absolutely false, an affirmative misrepresentation, a bald-faced lie. First, the defendant in the summary proceeding regarding 305 W. Elizabeth Street was L & M Family Investments, LLC, not any of the Plaintiffs in the instant matter. P: 145, 155, 165, 168, 175, 234. Also, on ChoiceOne Bank's motion, Mr. Dalton's motion to dismiss the complaint for the summary proceeding regarding 305 W. Elizabeth Street was stricken from the record. P: 170, l. 18. And, when Mr. Dalton stated on the record that he held superior title to the property by a federal land patent, the judge expressly stated, "It's L & M Family. I don't know who you are as an individual, but L & M Family is the defendant in this case." P: 185, l. 6. Plaintiffs have yet to be heard in any court regarding their unassailable title to 305 W. Elizabeth Street, let alone heard in a court of law, where their Seventh Amendment rights can be protected.

ChoiceOne Bank further asserts in its Brief, "So how is it that the Daltons have come to believe that they owned these properties under a Federal Land Patent? They offer no source of authority for this bald assertion. No statutes. No cases. Just the bald, unequivocal and counter-intuitive statement that it is so." Dkt. 21, p. 7. Even a cursory reading of the FAC unequivocally demonstrates that Plaintiffs have asserted myriad controlling facts, law, policies and reason to support their FAC.

IV. CONCLUSION

For the reasons stated above, partial summary judgment should be entered for Plaintiffs' claims to quiet legal title for both properties, 305 W. Elizabeth Street and 3468 Catholic Church Road, or in the alternative for Plaintiffs' action in ejectment for 305 W. Elizabeth Street.

Dated: March 2, 2026

Michael D. Dalton, Jr.
Plaintiff

Leah M. Dalton
Plaintiff

Michael A. Deem
Plaintiff

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

Michael D. Dalton, Jr.,
Leah M. Dalton, and
Michael A. Deem,

Plaintiffs,

v.

ChoiceOne Bank,

Defendant.

1:2026-cv-00163 (HYJ) (RK)

PLAINTIFFS' CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.2(b)(ii), we certify that the accompanying brief in opposition to the defendant's motion to dismiss the first amended complaint, was prepared using Times New Roman 12-point typeface, contains 10,379 words, excluding the parts of the document exempted by Local Rule 7.2(b)(i). This certificate was prepared in reliance on the word-count function of the word processing system (Microsoft Word) used to prepare the document.

Michael A. Deem
Plaintiff