UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

---x

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

Plaintiffs,

v.

ChoiceOne Bank,

Defendant.

---x

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

EXPEDITED CONSIDERATION REQUESTED

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION FOR PARTIAL SUMMARY JUDGMENT

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I. PRELIMINARY STATEMENT

The issues in this case have long been settled by the U.S. Supreme Court. Unfortunately, they have faded from memory and atrophied in application. Plaintiffs proudly dust them off and present them to this court to apply to the facts of this case. A man's, and woman's, home will be their castle once again, forever, as was intended with the founding and expansion of this nation.

II. STANDARD OF REVIEW

Rule 56(a) of the Federal Rules of Civil Procedure provides that a district court shall grant summary judgment in favor of a moving party if the movant "shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The "mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that the be no genuine issue of material fact." *Anderson v. Liberty Lobby Inc.*, 477 U.S. 242, 247-48 (1986) (emphasis in original). "A genuine issue of material fact exists where, after reviewing the record as a whole, a court finds that a reasonable [factfinder] could return a verdict for the nonmoving party." *Dulaney v. Packaging Corp. of Am.*, 673 F.3d 323, 330 (4th Cir. 2012).

Summary judgment must be denied "[i]f there are any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party." *Hancock v. Dodson*, 958 F.2d 1367, 1374 (6th Cir.1992). The moving party bears the initial burden of establishing there is no genuine issue of material fact. *See, Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The burden then shifts requiring "the nonmoving party to go beyond the

pleadings [and] designate specific facts showing that there is a genuine issue for trial." *Celotex Corp. v. Catrett*, 477 U.S. at 324.

III. ARGUMENT

A. Plaintiffs Have Standing

"To establish Constitutional standing, a plaintiff must establish three elements: (1) an 'injury in fact' that is concrete and particularized; (2) a connection between the injury and the conduct at issue—the injury must be fairly traceable to the defendant's action; and (3) likelihood that the injury would be redressed by a favorable decision of the Court." *Blachy v. Butcher*, 35 F. Supp. 2d 554, 558 (W.D. Mich. 1998), *amended on denial of reconsideration*, 190 F.R.D. 428 (W.D. Mich. 1999), and *aff'd in part, rev'd in part*, 221 F.3d 896 (6th Cir. 2000) (*citing Southwestern Pa. Growth Alliance v. Browner,* 144 F.3d 984, 988 (6th Cir.1998)).

Here, as in *Blachy*, "Plaintiffs clearly meet all of the requirements for standing." *Id.* "Plaintiffs have alleged and shown an injury in fact, namely, defective titles to the [their properties]." *Id.* The injuries are traceable to ChoiceOne Bank's conduct in foreclosing on the Dalton's properties and seeking to evict all Plaintiffs. "The entire point of Plaintiffs' suit is that a cloud exists on their title by reason of [the two] deed[s obtained by non-judicial foreclosure]." "Finally, a favorable ruling from this Court, [judgment quieting legal title for Plaintiffs], would remove the cloud from Plaintiffs' titles [and prevent Plaintiffs from being evicted]." *Id.*

B. Federal Case Law Applies to Plaintiffs' Quiet Title Claim

"[N]ormally, when courts decide to fashion [or apply] rules of federal common law, the guiding principle is that a significant conflict between some federal policy or interest and the use of state law must first be specifically shown." *Mickowski v. Visi-Trak Worldwide, LLC*, 415 F.3d 501, 511 (6th Cir. 2005) (*citing Wallis v. Pan Am. Petroleum Corp.,* 384 U.S. 63, 68 (1966)).

"Indeed, such a conflict is normally a precondition." *Id.* (*citing O'Melveny & Meyers v. F.D.I.C.*, 512 U.S. 79, 87 (1994). The instant matter is such a case.

One of the conditions in allowing the Territory of Michigan to enter the Union was its assent to the conditions enumerated in *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* (5 Stat. 49), and *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.* (5 Stat. 59). *See*, *An Act to admit the State of Michigan into the Union, upon an equal footing with the original States* (5 Stat. 144).

One of the conditions in 5 Stat. 49 provides,

> 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 [].

One of the conditions in 5 Stat. 59 provides,

> 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 [].

The Michigan Legislature is not in compliance with the above statutory provisions, which are still good law. Specifically, Michigan has abrogated the common law right of ejectment. The Michigan Court of Appeals has 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.

New Products Corp. v. Harbor Shores BHBT Land Development, LLC, 308 Mich.App. 638, 659 *fn*. 5 (Mich.App. 2014). When the text and import of MCL 600.2932 are examined, it is evident that the Michigan Court of Appeals wrote in pleasantries.

"Actions under this section are equitable in nature." MCL 600.2932. 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) (*citing, Shaya v. Countrywide Home Loans, Inc.*, 489 F.App'x 815, 819 (6th Cir. 2012). Therefore, federal decisional law must be applied to resolve this matter and protect Plaintiffs' federal legal and constitutional rights.

In *Wilcox v. Jackson*, the U.S. Supreme Court held,

> [N]othing but a patent passes a perfect and consummate title.

38 U.S. 498, 516 (1839).

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

38 U.S. at 517 (emphasis added).

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, are principles so elementary and so familiar to the profession as to render unnecessary the citation of authority in support of them.

62 U.S. at 483.

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

62 U.S. at 486.

> A practice has prevailed in some of the States [] of permitting the action of ejectment to be maintained upon warrants for land, and upon other titles not complete or legal in their character, but this practice, as we so explicitly ruled in the case of *Bennett v. Butterworth*, (11 How.,) can in no wise affect the jurisdiction of the courts of the United States, who, both by the Constitution and by the acts of Congress, are required to observe the distinction between legal and equitable rights, and to enforce rules and principles of decision appropriate to each.

62 U.S. at 488.

In *Hooper v. Scheimer*, the U.S. Supreme Court held,

> Where land is purchased in the name of one person, with the funds of another, the legal estate is vested in the former. The latter acquires only an equitable estate, and he must resort to a court of equity to enforce it, and cannot assert it in an action of ejectment.

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

> It is also the settled doctrine of this Court that no action of ejectment will lie on such an equitable title, notwithstanding a state legislature may have provided otherwise by statute. The law is only binding on the state courts, and has no force in the circuit courts of the Union.

64 U.S. at 246 (emphasis added).

In *Gibson v. Chouteau*, the U.S. Supreme Court held,

> As legislation of a State can only apply to persons and things over which the State has jurisdiction, the United States are also necessarily excluded from the operation of such statutes.
>
> With respect to the public domain, the Constitution vests in Congress the power of disposition and of making all needful rules and regulations. That power is subject to no limitations. Congress has the absolute right to prescribe the times, the conditions, and the mode of transferring this property, or any part of it, and to designate the persons to whom the transfer shall be made. No State legislation can interfere with this right or embarrass its exercise; and to prevent the possibility of any attempted interference with it, a provision has been usually inserted in the compacts by which new States have been admitted into the Union, that such interference with the primary disposal of the soil of the United States shall never be made. Such provision was inserted in the act admitting Mi[chigan (5 Stat. 49, 59, 144)], and it is embodied in the present Constitution, with the further clause that the legislature shall also not interfere 'with any regulation that Congress may find necessary for securing the title in such soil.'

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

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

80 U.S. at 100.

> The patent is the instrument which, under the laws of Congress, passes the title of the United States. It is the government conveyance. [] But, in the action of ejectment in the Federal courts, the legal title must prevail, and the patent, when regular on its face, is conclusive evidence of that title.

80 U.S. at 102.

> But neither in a separate suit in a Federal court, nor in an answer to an action of ejectment in a State court, can the mere occupation of the demanded premises by plaintiffs or defendants, for the period prescribed by the statute of limitations of the State, be held to constitute a sufficient equity in their favor to control the legal title subsequently conveyed to others by the patent of the United States, without trenching upon the power of Congress in the disposition of the public lands.

80 U.S. at 102. This provision highlights how states may not interfere with the enduring rights of federal land patent holders.

The above cases demonstrate the supremacy of a federal land patent – perfect title to land – a significant key to what was once the American dream – a Homestead. The federal law cited above (legislative, judicial and constitutional) protecting federal land patents is still good law. They have not been overruled. 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.").

Michigan state law mirrors federal law. 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)).

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

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

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

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

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

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 and 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).

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

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

373 Mich. 262, 277 (1964).

However, Plaintiffs have been dispossessed juridically by antiquated, equitable title as a result of the state court proceeding against L&M. They have a vacate date of February 2, 2026, and are still in physical possession. This presents a close question as to whether an action for ejectment is available. There is no need to resolve that question because an action to quiet title – legal title – is ripe.

C. Plaintiffs Have Met Their Burden In Proving the Two Elements to Quiet Legal Title

In the context of quieting title to a federal land patent, the action is unlike other equitable remedies where by pleading for it opens the door to the opposition also seeking equitable relief. In an action to quiet legal title for federally patented land, equity comes in the aid of the common law action for ejectment. It prevents lesser, equitable titles from collaterally attacking the federal land patent.

In *Frost v. Spitley*, the U.S. Supreme Court held,

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

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

As explained in the accompanying Declaration and Statement of Material Facts: (1) Plaintiffs are in physical possession of both subject properties; and (2) Mr. and Mrs. Dalton have superior legal title to 305 W. Elizabeth Street, and Mr. Dalton has superior legal title to 3468 Catholic Church Road.

Plaintiffs have met their burden in proving there is no genuine issue of material fact for claims to quiet legal title for each of the two subject properties. Plaintiffs are entitled to an expedited order granting partial summary judgment and quieting their legal titles for each of the subject properties.

IV. CONCLUSION

For the reasons stated above, partial summary judgment should be entered for Plaintiffs' claims to quiet legal title.

Dated: January 30, 2026

Michael D. Dalton, Jr.
Plaintiff

Leah M. Dalton
Plaintiff

Michael A. Deem
Plaintiff

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PLAINTIFFS' CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.2(b)(ii), I certify that the accompanying brief, which was prepared using Times New Roman 12-point typeface, contains 2,926 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.

Leah M. Dalton
Plaintiff