

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

**MICHAEL D. DALTON, JR.,
LEAH M. DALTON, and
MICHAEL A. DEEM,**

Case No. 1:26-cv-00163

Honorable: Ray Kent

Plaintiffs,

v.

CHOICEONE BANK,

Defendant.

Michael D. Dalton, Jr.
Leah M. Dalton, and
Michael A. Deem
In Pro Per Plaintiffs
3468 Catholic Church Rd.
Stockbridge, MI 49285

**WINEGARDEN, HALEY, LINDHOLM,
TUCKER & HIMELHOCH, PLC**
Attorneys for Defendant
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**DEFENDANT CHOICEONE BANK'S COMBINED MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(b)(1) AND 12(b)(6)**

NOW COMES the Defendant, **ChoiceOne Bank** (“**ChoiceOne**” or “**Defendant**”), by and through its attorneys, Winegarden, Haley, Lindholm, Tucker & Himelhoch, PLC, and respectfully moves this Court to dismiss Plaintiffs’ Complaint in its entirety pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). In support of its Motion, ChoiceOne Bank states as follows:

1. The Plaintiffs conclusorily claim Federal Question jurisdiction pursuant to 28 USC § 1331 without any factual support or basis to support that assertion.
2. There is no federal question presented by this case which is a simple real property dispute in which the Plaintiffs seek ejectment of ChoiceOne Bank from the commercial property

involved in the case and to quiet title to the two parcels of real estate described in the Amended Complaint in favor of the Plaintiffs.

3. Property rights in Michigan real estate are governed by Michigan state law, not federal law.
4. The Plaintiffs have not identified any issues to be resolved under the U S Constitution, federal laws, or treaties of the United States.
5. The Plaintiffs have identified several Michigan state laws governing property rights in Michigan.
6. There is no diversity jurisdiction in this case as ALL parties are citizens of the State of Michigan.
7. In addition, the Plaintiffs' claims raised in the Amended Complaint constitute an impermissible collateral attack on two (2) separate State Court Judgments which have already determined that ChoiceOne Bank is entitled to possession of the two parcels or real estate described in the Amended Complaint. The Plaintiffs ask this Court to overturn those Judgments and determine that the Plaintiffs are entitled to possession of the properties in direct contravention to the State Court determinations to the contrary.

This Motion is supported by the accompanying Brief in Support and incorporated authorities.

FOR THESE REASONS, the Defendant **ChoiceOne Bank** respectfully requests that this Court **DISMISS** the Plaintiffs' Amended Complaint **with prejudice** and grant ChoiceOne Bank grant such other relief as the Court deems just and proper under the facts and circumstances of this case.

Respectfully submitted,

WINEGARDEN, HALEY, LINDHOLM,
TUCKER & HIMELHOCH, PLC
Attorneys for Defendant

Dated: February 6, 2026

By: /s/ John R. Tucker

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