

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
3360 Dexter Trail
Stockbridge, MI 49285

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**CHOICEONE BANK'S REPLY BRIEF IN SUPPORT OF DEFENDANT'S
COMBINED MOTION TO DISMISS (ECF No. 20, PageID.289-291)**

NOW COMES the Defendant, **ChoiceOne Bank**, by and through its attorneys, Winegarden, Haley, Lindholm, Tucker & Himelhoch, PLC, and for its Reply Brief in Support of Defendant's Combined Motion to Dismiss (ECF No. 20, PageID.289-291) states as follows:

I. Subject Matter Jurisdiction

Whilst expending many words, the Plaintiffs have yet to identify any federal statutes, constitutional provisions or treaties implicated in the resolution of this case. While they reference the 7th and 14th Amendments to the US Constitution, they fail to identify any issues in contention in

this case with respect to either of those amendments. Nobody, including ChoiceOne Bank, disputes that the Plaintiffs had a right to a trial by jury in the state court summary proceedings action. Michigan statutes and the related Court Rules specifically provided the Plaintiffs with a right to elect trial by jury. MCL 600.5738 provides as follows:

Any party to summary proceedings may demand a trial by jury within the time and manner provided by court rule. Procedures for selecting, impaneling and otherwise governing jurors in such proceedings shall be the same as for a trial by jury in other civil actions in the same court (emphasis added).

MCR 4.201(G)(4) provides:

Jury Demand. If the defendant wants a jury trial, he or she must demand it orally at the first appearance or in writing within five days of being advised of the rights and information listed in subrule (K)(2)(a). The jury trial fee must be paid when the demand is made or within 5 days of being advised of the rights and information listed in subrule (K)(2)(a), unless payment of fees is waived under MCR 2.002 (emphasis added).

MCR 4.201 (K)(2)(a) provides as follows:

Conducting the Trial.

- (a) Unless otherwise provided in subrule (K)(2), **at the initial date and time set for trial noticed by the summons, the court must verbally inform the parties of the following rights and information:**
- (i) The right to an attorney under subrule (G)(2).
 - (ii) The right to proper venue under subrule (G)(3).
 - (iii) **The right to demand a jury trial under subrule (G)(4).**

Here, the Plaintiffs were given notice of their right to a jury trial in the Summary Proceeding action on **at least Four (4) separate occasions:**

1. On **October 27, 2025**, ChoiceOne Bank provided the Daltons with a copy of the **Advice of Rights** form generated by the Michigan Supreme Court Administrators Office (“**SCAO**”) DC 538 together with a copy of the Summons and Complaint in **each/both** of the summary proceedings actions.

Section 3 of this Advice of Rights form clearly told the Daltons that they had a right to a Trial by Jury in each of the summary proceedings actions along with the time and manner of action that the Daltons needed to take to obtain a jury trial. A copy of the **Advice of Rights** form is attached as **Exhibit 1. Proof of Service** of the Advice of Rights form on the Daltons is attached as **Exhibits 2 & 3.**

2. On **November 19, 2025** the Michigan District Court holding the Summary Proceedings actions also mailed the Daltons the very same **Advice of Rights** form as identified above. **Proof of Service** by the Court is attached as **Exhibits 4 & 5.**
3. On **January 8, 2026** the Daltons were physically present in the 55th District Court (state court) for the preliminary hearing on the Summary Proceeding action for the **Dalton Residence** and were verbally advised of their right to a Jury Trial in the Summary proceeding action by state district court judge the **Honorable Richard L. Hillman** as required by MCR 4.201 (K)(2)(a)(iii).¹

¹ The Court should note that there are generally many Summary Proceedings cases scheduled to be heard at the same time and it is the custom of the state courts in Summary Proceeding actions to advise all Defendants of their rights under the Advice of Rights form (as required by MCR 4.201 (K)(2)(a)) at the same time at beginning of the Court's case call when all of the Defendants are present, so as to avoid repeating the Advice of Rights for each separate case. After the Advice of Rights is given, the state court then calls each case individually. The Daltons have provided the Court with only that portion of the Summary Proceeding transcript that pertains to their specific eviction action. That is why the state court's recitation of their rights does not appear in the transcripts provided by the Plaintiffs. Rest assured, that Advice of Rights was given while the Daltons were present in Court and the complete transcript from that day would so show.

4. About 1 hour later on **January 8, 2026** and in a different court room across the hall in the 55th District Court (state court) the Daltons were again physically present in Court for the preliminary hearing on the Summary Proceeding action for the **Dalton Commercial Property** and were verbally advised of their right to a Jury Trial in the Summary Proceeding action by a second state district court judge the **Honorable Donald L. Allen, Jr.** as required by MCR 4.201 (K)(2)(a)(iii).¹

Despite this plethora of instruction on their rights to a jury trial in the state court Summary Proceeding action, the Daltons **never requested a Jury Trial in the Dalton Commercial Property eviction** and waited until **February 5, 2026** to request a Jury Trial in the **Dalton Residence eviction**. The Plaintiffs' problem is not that they did not have a right to a jury trial in the summary proceeding actions. Rather, it is that they failed to exercise that right in a timely manner. Because of their failure to act in a timely manner, Judge Hillman properly determined that the Daltons had, by their inaction, waived their right to a trial by jury and therefore properly denied the Daltons' request for a Jury Trial on the date of the trial. ECF No. 43, PageID.738-741.

So, there is no controversy as the Plaintiffs' right to a Jury Trial under the 7th Amendment. The Plaintiffs had such a right but waived it due to their inaction.

Similarly, there is no Due Process issues to be resolved under the 14th Amendment. Due Process requires only that the Plaintiffs be given notice of a hearing and an opportunity to be heard at that hearing. The Plaintiffs have attached the proof of the failure of their argument by attaching transcripts from Four (4) different state court hearings at which they were present and given the opportunity to be heard. ECF No. 43, PageID.678-684; ECF No. 43, PageID.685-696; ECF No. 43,

PageID.717-725; ECF No. 43, PageID.726-743. So, it is apparent that the Plaintiffs were in fact given Due Process in the state court Summary Proceeding hearing. Their objection is not to a lack of Due Process but rather, to the fact that the state court judges gave absolutely no weight or credence to their fanciful claims to “allodial title” or rights under a Federal Land patent. This is because those claims have absolutely no merit, not because they were not allowed to be raised and heard. They were simply rejected as should be the case. The Plaintiffs confuse the failure of persuasion with the failure of Due Process.

The issues **actually raised** by the Plaintiffs’ First Amended Complaint are simple real property rights issues. In the one corner, we have the Plaintiffs with their conjured claims of “allodial title”, rights under a Federal Land Patent and “forever” rights. In the other corner, we have ChoiceOne Bank’s claim of fee simple ownership of the properties involved following the foreclosure of two Mortgages given by the Daltons to secure the repayment of two loans which resulted in cold hard cash being placed into the hands of the Daltons. Cash which the Daltons purposely and consciously decided that they did not have to repay. One of these positions is supported by the Michigan Foreclosure by Advertisement statutes (MCL 600.3200 *et. seq.*) and the Michigan Summary Proceedings Act (MCL 600.5700 *et. seq.*). The other... well, the reality is that there is no support for these fanciful, internet-based claims that track “sovereign citizen” ideology. There is absolutely no statute and no cases that say that these claimed rights exist. The only thing that states that these rights actually exist in 2026 are the Plaintiffs’ heart-felt claims that they really and truly do exist. Please don’t look behind the curtain.

When pressed to decide between these two competing state law claims, both of the state court judges rightfully and quickly rejected the Plaintiffs' fanciful claims. The Plaintiffs object to the short-shift treatment given by the state court judges of their ridiculous claims. Frankly, this is the expected treatment when a party just starts making up their own law. Had they been more objective, this is exactly the treatment that the Plaintiffs should have expected when they raised these fiction claims and rights. So, it did not take much more than a micro-second for the state court judges to decide between these competing claims. That is simply the reflection of the fact that one set of claims is completely imaginary. So, the state courts have already resolved the competing property rights claims between the parties. Both state court judges have already decided that **ChoiceOne Bank** is the party entitled to possession of the properties despite the presentation of the very same opposing claims that are now being raised for a second time in the First Amended Complaint. To that end, a **Judgment of Possession** has already been entered in each of the state court cases below and the Plaintiffs have already been **evicted** from both of the properties simply because the state court judges correctly determined that the Plaintiffs claims have absolutely no merit under Michigan real property law. ECF No. 21-7, PageID.351; ECF No. 21-8, PageID.353.

The Court should also note that even if the Plaintiffs' wild and imaginary claims were actually true, it would not help the Plaintiffs in this case. This is because under Michigan real property law, upon the expiration of the relevant redemption period, a foreclosing creditor is given all of the rights of the borrower in the property as of the date of the mortgage, or any time thereafter.

MCL 600.3236 provides in pertinent part as follows:

Unless the premises described in such (Sheriff's) deed shall be redeemed within the time limited for such redemption as hereinafter provided, **such deed shall thereupon become operative, and shall vest in the grantee therein named**, his heirs or assigns, **all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage, or at any time thereafter** (emphasis added).

So, even if the Daltons somehow possessed some sort of magic pill that protected their land from any attack, by operation of state real property law, that “magic pill” would now belong to ChoiceOne Bank.

It should be noted that much of the Plaintiffs’ arguments are premised upon their mistaken belief that there exists some sort of federal common law property rights that would deliver them great victory if it were applied to the facts of this case. The sad reality, from the Plaintiffs’ position, is that no such alternate set of federal common law property rights exist in 2026. It has long been held that federal courts are to use state law when determining the nature and extent of rights in real property. There is no “federal common law”.

Except in matters governed by the Federal Constitution or by Acts of Congress, the law to be applied in any case is the law of the State. And whether the law of the State shall be declared by its Legislature in a statute or by its highest court in a decision is not a matter of federal concern. **There is no federal general common law.** Congress has no power to declare substantive rules of common law applicable in a State, whether they be local in their nature or "general," be they commercial law or a part of the law of torts. **And no clause in the Constitution purports to confer such a power upon the federal courts.** *Erie Railroad Co. v. Tompkins*, 304 U.S. 64, 78 (1938).

Federal courts look to state law to determine the existence and scope of property interests. See *United States v. Craft*, 535 U.S. 274, 278 (2002) (federal tax lien attaches to “rights created under state law”); *Aquilino v. United States*, 363 U.S. 509, 513 (1960) (state law determines the nature of property interests); *Hatchett v. United States*, 330 F.3d 875, 881 (6th Cir. 2003) (state law determines which property rights exist); *Hall v. Meisner*, 51 F.4th 185, 190 (6th Cir. 2022) (existence of property interest determined by reference to state law).

Because the Plaintiffs’ arguments are based upon the mistaken belief that there exists some alternate form of federal real property law that supports their beliefs, those arguments must be

rejected. There is no federal “white knight” that would save the Plaintiffs from the consequences of their own deliberate and intentional acts. As it turns out, under Michigan real property law, you lose ownership of your property if you fail to repay a loan secured by mortgage on that property. This is a rather unremarkable proposition and the Plaintiffs knew or should have known that this was going to be the result if they intentionally failed to repay their loans.

At the end of the day, the Plaintiffs have yet to identify any federal statutes, constitutional provisions or treaties implicated in the resolution of this case. It is a simple real property rights dispute governed by state law in which the state courts have already ruled against the Plaintiffs who have already been **evicted** from the properties in question. There is no federal question jurisdiction raised by this case and it should be **DISMISSED**.

II. Rooker-Feldman and the Younger Abstention Doctrines

The Plaintiffs’ attempts to avoid the operation of the above-cited doctrines suffers from the same misguided premise that there exist some other federal universe under which the Plaintiffs’ claims would prevail. As noted above, there is no such alternate federal universe and any federal court hearing this case would apply Michigan real property law to decide the respective rights of the parties with respect to the properties in question. Curiously, the Plaintiffs **ADMIT** that the state courts reached the correct result under Michigan law.

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 forgone 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. ECF No, 41, PageID.637 (emphasis added).

This admission alone would doom the Plaintiffs case if subject matter jurisdiction actually existed and if the doctrines identified above did not operate to prevent federal court interference with previously issued state court judgments.

In this case, the Plaintiff ask this Court to do exactly that which the Rooker-Feldman and Younger Abstention doctrines prohibit—to act as an appellate court to reject an unfavorable state court judgment. Their efforts to avoid the operation of these doctrines are based upon a faulty premise of a more favorable federal court universe with respect to real property rights and are otherwise unpersuasive and should be rejected. The exercise of Federal Court jurisdiction in this case is inappropriate.

III. CONCLUSION

FOR THESE REASONS, and those expressed in the Brief Supporting ChoiceOne Bank’s Motion to Dismiss, 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.

Certificate of Compliance under lcivr-7.2b:

The undersigned hereby certifies that this Brief was prepared using WordPerfect 2020 software and contains 2,839 words.

Respectfully submitted,

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