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

REPLY BRIEF IN SUPPORT OF PLAINTIFFS' EMERGENCY MOTION FOR PARTIAL SUMMARY JUDGMENT

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I. ISSUES TO BE ADDRESSED PURSUANT TO COURT ORDER, Dkt. NO. 10

A. This Court Has Subject Matter Jurisdiction

1. This Court Has Subject Matter Jurisdiction Pursuant To The U.S. Constitution and Supreme Court Precedence.

Plaintiffs assert federal question jurisdiction pursuant to the Seventh Amendment, U.S. Constitution and the U.S. Supreme Court ruling in, *inter alia*, *Fenn v. Holme*, 62 U.S. 481, 483-88 (1858) (Dkt. 6, ¶¶ 1, 12). *Fenn v. Holme* is on all fours and is still good law. *See, Bosse v. Oklahoma*, 580 U.S. 1, 3 (2016) ("[I]t is this Court's prerogative alone to overrule one of its precedents."). Therefore, this Court has subject matter jurisdiction over this matter.

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(4), 59(5) and 144 (Dkt. 6, ¶¶ 8-10, 14).

> 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 [federal land patent holders]*.

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 U.S. 661, 677 (1974)) (emphasis added).

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 [federally patented] lands." *See Id.* As such the instant matter, as the *Oneida* matter, is "properly brought in federal court." *See Id.*

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, pursuant to the decision 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 emphasized text, *supra*, is correctly interpreted to mean that the original patentees, their heirs, assigns and successors, including Plaintiffs, own their properties "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 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 [federal law], 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 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).

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 passed to the original patentees. Can those interests be defeated by equitable titles and state statutory schemes in mixed courts of law and equity, or are they truly 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 itself] 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 the issues in this matter. In *Klais v. Danowski*, 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. 262, 277 (1964). 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. Abstention Is Not Warranted

1. 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 v. Menifee Cir. Ct., 75 Fed.Appx. 996, 997 (6th Cir.2003) (*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. In fact, ChoiceOne Bank has filed documents that unequivocally demonstrate the state summary proceedings are concluded: Dkt. 21-7, PageID 351, Judgment of Possession for 305 W. Elizabeth Street; and Dkt. 21-8, , PageID 353, Judgment of Possession for 3468 Catholic Church Road. In its opposition papers to the instant motion for partial summary judgment, Defendant concedes additional facts to prove there is no "an ongoing judicial proceeding." Dkt. 51, PageID 780. *Younger* does not apply to this matter.

2. 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,* at 997 (*citing District of Columbia Ct. of App. v. Feldman*, 460 U.S. 462 (1983)).

> 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.

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 statutory scheme operated exactly as intended for it abrogated what would otherwise have been common law actions in ejectment or claims to quiet "legal" title, in 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. Regarding 305 W. Elizabeth Street, the non-judicial foreclosure and state summary proceeding were based entirely on three of the six events: 1) the mortgage from L&M to ChoiceOne Bank's alleged predecessor (Dkt. 6, ¶ 36); 2) the subsequent Sheriff's Deed resulting from said mortgage by L&M (Dkt. 6, ¶ 46); and 3) the state summary proceeding against L&M (Dkt. 6, ¶ 49). None of those three facts may be considered in this matter or the instant motion for they all pertain to equitable title. Plaintiffs were not even parties in the non-judicial foreclosure or state summary proceeding.

Plaintiffs' instant claims regarding said property are based on entirely different events: 4) the federal land patent issued to Ira Wood (Dkt. 6, ¶ 33-34); 5) the Warranty Deed to L&M for purposes of chain of title, only (Dkt. 6, ¶ 35); and 6) the Quit Claim Deed to Mr. and Mrs. Dalton (Dkt. 6, ¶ 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 of the six events: 1) the mortgage from Mr. and Mrs. Dalton to ChoiceOne Bank's alleged predecessor (Dkt. 6, ¶ 54); 2) the subsequent Sheriff's Deed resulting from said mortgage by Mr. and Mrs. Dalton (Dkt. 6, ¶ 64); and 3) the state summary proceeding (Dkt. 6, ¶¶ 66-67). None of those three facts may be considered in this matter or the instant motion for the same reason, they all pertain to equitable title.

Plaintiffs' instant claims regarding said property are based on entirely different events: 4) the federal land patent issued to John Haydock (Dkt. 6, ¶ 51-52); 5) the Warranty Deed to Mr. and Mrs. Dalton for purposes of chain of title, only (Dkt. 6, ¶ 53); and 6) the Quit Claim Deed to Mr. Dalton (Dkt. 6, ¶ 56).

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 (emphasis added).

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. The relevant Michigan state courts cannot do so because of the state's statutory scheme. Those courts are mixed courts of law *and* equity. The *Rooker-Feldman* doctrine does not apply to the instant matter.

C. State Preclusion Law Does Not Bar Plaintiffs' Claims

"The Michigan Supreme Court [has held] that *res judicata* bars every claim arising from the same transaction that the parties [] could have raised in the first case." *Etherton v. Service First Logistics, Inc.*, 807 Fed.Appx. 469, 471 (6th Cir.2020).

Here, Plaintiffs were denied their Seventh Amendment right to a common law trial by jury as a matter of law. *See* MCL 600.2932, 600.5714 and 600.8302(1) and (2).

Plaintiffs attempted to raise the issues of their Seventh Amendment right to a common law trial by jury and their rights under a federal land patent in person. Their arguments were ignored. The transcript for the summary proceeding regarding the School provides,

THE COURT:	So this is ChoiceOne versus L & M Family Investments, but I don't see L & M Family Investments here.
MR. TUCKER:	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.

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. 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.

Plaintiffs can't speak to why the state court judge is unfamiliar with Michigan case law, but it is clear that Michigan case law is on point. "[Plaintiffs] continue to own, through chain of title, what was granted to the [two original] patentees in the first place," *Klais v. Danowski*, 373 Mich. at 277. In *Webber v. Pere Marquette Boom Co.*, the Michigan Supreme Court explained what Plaintiffs own. The *Webber* 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)) (Dkt. 6, ¶ 17).

The transcript of the summary proceeding for the Home 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.

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[t] in 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: 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.

Clearly, the state court summary proceedings were only focused on three issues: (1) a sheriff's sale resulting from a non-judicial foreclosure; (2) the expiration of a redemption period; and (3) the fact that the court was presiding over summary proceedings in a mixed court of law and equity. None of those issues are relevant to Plaintiffs' instant claims. In fact, the issue of a Sheriff's Deed is prohibited because it is a form of equitable title, and expressly prohibited from being considered in claims to quiet "legal" title. *See Frost v. Spitley*,

> 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

121 U.S. 552, 556 (1887) (Dkt. 6, ¶ 15).

The issues in the instant matter are; Plaintiffs' federal land patents, warranty deeds, quit claim deeds, Seventh Amendment rights, claims to quiet "legal" title and, in the alternative, actions in ejectment if needed. All of these issues arise from different transactions than the underlying issues in the non-judicial foreclosures or state summary proceedings – mortgages and Sheriff's Deeds.

Therefore, state preclusion law does not bar the instant claims.

D. Comity Is Not An Issue In This Matter

On the facts and law governing this matter, all issues of comity must be jettisoned. The Michigan Legislature violated 5 Stat. 49(4), 59(5) and 144 ("[T]he said State shall never interfere with the primary disposal of the soil within the same by the United States"), by creating a statutory framework (*see* MCL 600.2932, 600.5714 and 600.8302(1) and (2)), that denies federal land patent holders their Seventh Amendment rights, *see Fenn v. Holme*, at 483-88, and allowing equitable titles to collaterally attack federal land patents. *See Minnesota Mining Co. v. National Mining Co.*, 11 Mich. 186, 187 (1863) ("[The] act [of 5 Stat. 144,] being accepted by the State, became an irrevocable ordinance, binding as well upon the Federal Government as the State."); *Fenn v. Holme*, 62 U.S. at 488, *supra*; *New Products Corp. v. Harbor Shores BHBT Land Development, LLC*, 308 Mich.App. 638 (Mich.App. 2014) ("the [Michigan] the Legislature implicitly abrogated the common-law action for ejectment"); *and Shaya v. Countrywide Home Loans, Inc.*, 489 Fed.Appx. 815, 819 (6th Cir.2012) (quiet title is a remedy, not a freestanding claim).

Moreover, the holding in *Haywood v. Drown* 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.

556 U.S. 729, 740–42 (2009) (internal citations, quotations and brackets omitted).

II. ARGUMENT

A. Defendant's Attempt To Incorporate By Reference Previous Arguments It Has Made From Non-Pleadings Is Prohibited By Fed.R.Civ.P. 10(c)

Defendant attempts to "incorporate by reference" various arguments from its motion to dismiss (Dkt. 21), into its instant opposition to Plaintiffs' Emergency Motion for Partial Summary Judgment (*see* Dkt. 51 PageID 779, 786). There is no authority for Defendant to do so. "Rule 10(c) provides that a statement *in a pleading* may be adopted by reference in the same pleading or in any other pleading or motion." *Southall v. USF Holland, Inc.*, 2023 WL 2668497, at *4 (MDTN 2023) (*citing* Fed.R.Civ.P. 10(c)) (emphasis in original). "A motion, of course, is

not a pleading, and the narrowly tailored provisions of Rule 10(c) that allow adoption by reference of a pleading's specific allegations do not allow for a general adoption of a[] party's arguments made in support of a motion." *Id.* (*citing Marco Int'l, LLC v. Como-Coffee, LLC*, 2018 WL 1790171, at *1 (EDMI 2018)) ("Rule 10(c) merely provides that a statement made in a pleading may be adopted by reference elsewhere ... Documents that constitute 'pleadings' are specifically enumerated in Fed.R.Civ.P. 7(a), and a motion or a response to a motion is not a pleading.").

When combined with the canon of statutory construction, "*expressio unius est exclusio alterius,* expressing one item of an associated group or series excludes another left unmentioned," it is clear Defendant's attempt to rewrite Rule 10(c) must be denied as well as its attempt to incorporate by reference arguments from one of its previous motions. *See Chevron U.S.A. Inc. v. Echazabal*, 536 U.S. 73, 80 (2002) (internal quotations omitted).

Finally, "[i]t is well-settled that the non-moving party *must cite specific portions of the record* in opposition to a motion for summary judgment." *Russell v. Home Depot, Inc.*, 2022 WL 18955863, at *3 (6th Cir.2022) (*citing U.S. Structures, Inc. v. J.P. Structures, Inc.*, 130 F.3d 1185, 1191 (6th Cir.1997) (emphasis added). Incorporating by reference does not constitute "cit[ation to] specific portions of the record."

B. Defendant Mischaracterizes Plaintiffs' Argument Regarding Their Legal Titles

ChoiceOne Bank goes through great lengths to avoid addressing, or even attempting to address, the Michigan Supreme Court's decision in *Klais v. Danowski*, 373 Mich. 262 (1964). The *Klais* court held, "[Plaintiffs] continue to own, through chain of title, what was granted to the [original] patentees in the first place [by operation of law]" *Id.*, at 277. Plaintiffs were not required to do or file anything in addition to taking legal title through quit claim deeds. *Klais*

carries the day for Plaintiffs, when compelling U.S. Supreme Court precedence is considered. *See, Fenn v. Holme, supra*; *Hooper v. Scheimer*, 64 U.S. 235 (1859); *Gibson v. Chouteau*, 80 U.S. 92 (1871); *Frost v. Spitley, supra*,; *Dick v. Foraker*, 155 U.S. 404 (1894); *St. Louis Smelting & Refining Co. v. Kemp, supra*.

However, Plaintiffs elected to take additional precautions, tantamount to wearing a belt *and* suspenders, to support their legal argument and federally protected property rights. Plaintiffs took advantage of the filing and recording system provided by Michigan (*see, e.g.* MCL 211.27a, 565.3, 565.8, 565.24, 565.47, 565.49), to address concerns raised in state cases such as *Schmidt v. Jennings*, 359 Mich. 376 (1960) (discussing legal significance of delivery, acceptance and recording of deeds and property interests); *Gibson v. Dymon*, 281 Mich. 137 (1937) (discussing legal significance of delivery, acceptance and recording of deeds and property interests); *In re Duke Estate*, 312 Mich.App. 574 (2015) (discussing legal significance of acknowledgement and recording of deeds and property interests).

Plaintiffs do not rely on this alternate theory of superior legal title for the purposes of the instant emergency motion for partial summary judgment. ChoiceOne Bank's raising this alternate theory of legal title and opposing it is nothing more than another strawman argument by Defendant – resort to a logical fallacy because it *cannot* rebut the Michigan Supreme Court's ruling in *Klais v. Danowski, supra*.

C. Defendant Has Failed To Produce Admissible Evidence Of Superior Legal Title In Opposition To Plaintiffs' Motion For Partial Summary Judgment, Thereby Conceding That Plaintiffs Have Superior Legal Title

"Under Fed.R.Civ.P. 56(e), evidence submitted in opposition to a motion for summary judgment must be admissible." *U.S. Structures, Inc. v. J.P. Structures, Inc.*, at 1189. In an action to quiet title for federally patented land, equity comes in the aid of legal title, to prevent the need

for an action for ejectment. *See Frost v. Spitley*, at 557. Equity, in a claim to quiet "legal" title prevents equitable titles from collaterally attacking the federal land patent. *See Id.* ("[U]nder the general jurisdiction in equity, it is the title – that is to say, the legal title – to real estate that is to be quieted against claims of adverse estate or interests" such as mortgages, Sheriff's Deeds and other equitable titles.).

Because ChoiceOne Banks has not and cannot produce legal title superior to Plaintiffs' federal land patents for either of the properties in question, Plaintiffs have met their burden for this element of their claims to quiet "legal" title.

Moreover, ChoiceOne Bank has also conceded that the two properties in question are within the boundaries of two federal land patents issued on May 5, 1837 (305 W. Elizabeth Street) and August 15, 1837 (3468 Catholic Church Road), respectively (*e.g.* Dkt. 51, PageID 782-83). This fact, combined with the unequivocal official records of the Ingham County Register of Deeds (*e.g.* Dkt. 52, ¶¶ 9, 11, 12, 14, 15, 39, 40, 46, 48, 49, 51, 52), proves as a matter of law (*see, e.g.* MCL 211.27a, 565.3, 565.8, 565.24, 565.47, 565.49), that Plaintiffs are successors to the original patentees and "own, through chain of title, what was granted to the [original] patentees in the first place [by operation of law]." *Klais v. Danowski*, 373 Mich. at 277.

D. Defendant Has Conceded That Plaintiffs Were In Possession Of The Properties At The Time Plaintiffs Filed The Instant Motion

ChoiceOne Bank attempts to argue the instant motion is moot because Plaintiffs have been evicted from both properties (Dkt. 51, PageID 779-80). According to ChoiceOne Bank, because it is now in physical possession of both properties there is nothing for this court to do. Case closed. ChoiceOne Bank is wrong.

"[A motion] is moot when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Los Angeles Cnty. v. Davis*, 440 U.S. 625, 631 (1979). "Stated differently, a [motion] is moot when it no longer presents a live controversy with respect to which the court can give meaningful relief." *In re Lucre, Inc.*, 471 F.Supp.2d 845, 847 (WDMI 2007) (internal quotation omitted).

Here, ChoiceOne Bank argues that the instant motion is moot by conceding facts (Dkt. 51, PageID 779-80), that prove one of the two elements for an action in ejectment for each of the two properties – Plaintiffs are out of physical possession. *See Fenn v. Holme,*

> 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.

ChoiceOne Bank saws off the very branch on which its argument rests. To argue that ChoiceOne Bank is now in physical possession of the two properties as of "February 16, 2026" and "March 4, 2026," respectively (Dkt. 51, PageID 780), is another way of saying that Plaintiffs were in physical possession of both properties when they filed the instant emergency motion for partial summary judgment on January 30, 2026 (Dkt. 10). "Physical possession" is one of the two elements Plaintiffs must prove for their claims to quiet "legal" title in each of the properties. *See, e.g. Frost v. Spitley*, at 556; *Dick v. Foraker*, at 414.

Clearly, ChoiceOne Bank is engaging in a shell game to delay this matter while maliciously inflicting irreparable harm to Plaintiffs, specifically the taking of their two unique properties due to the denial of Plaintiffs' Seventh Amendment right to a common law trial by

jury, *see Fenn v. Holme, supra*. This court should not allow such wanton disregard for the federal constitution.

E. Defendant Continues To Rely On Logical Fallacies To Support Its Argument Because It Cannot Rely On Facts, Law, Policy Or Reason

ChoiceOne Bank continues to levy *ad hominem* attacks against Plaintiffs and engaging in bald-faced lies to avoid discussing compelling federal and state law that governs the unequivocal facts of this motion and matter.

For example, ChoiceOne Bank uses phrases such as, "the Daltons claim that none of this matters because, in their mind [] they had magically transformed their ownership interest in the properties from a fee simple interest to 'allodial title'" (Dkt. 51, PageID 785): "It is legal sounding gibberish" (Dkt. 51, PageID 785); "absurd and outlandish claims asserted by the Plaintiffs" (Dkt. 51, PageID 786); "in the crazy, hypothetical world under which the foregoing analysis was performed" (Dkt. 51, PageID 786); "ridiculous propositions being asserted by the Plaintiffs" (Dkt. 51, PageID 788). Plaintiffs have cited numerous controlling U.S. Supreme Court and Michigan Supreme Court cases that are on point. ChoiceOne Bank does not even attempt to distinguish any of the cited cases, or attempt to show they are no longer good law because it can't. All of Plaintiffs citations are still good law.

ChoiceOne Bank's arguments are beyond the pale and must be addressed for what they are, bald-faced lies. For example, ChoiceOne Bank asserts, "you do not find ANY citation to authority to support these outlandish and absurd claims" (Dkt. 51, PageID 785); "there is absolutely no legal support for them" (Dkt. 51, PageID 785); "there is no legal support for the absurd and outlandish claims asserted by the Plaintiffs" (Dkt. 51, PageID 786); "The asserted legal position championed by the Plaintiffs seem more derived from voodoo magic than any real cognizable legal claim." (Dkt. 51, PageID 786); "Plaintiffs have failed to identify any federal

constitutional provision, statute or treaty" (Dkt. 51, PageID 787); "the Plaintiffs do not have rights under a Federal Land Patent" (Dkt. 51, PageID 787).

ChoiceOne Bank's assertions are risible. In their instant moving brief alone Plaintiffs cited six U.S. Supreme Court decisions, some of which expressly hold that federal land patent holders have a Seventh Amendment right to a common law trial by jury. In addition, Plaintiffs also cited four Michigan Supreme Court decisions to support their legal arguments. All of the cited cases are on point for the propositions for which they are cited. In the instant reply brief Plaintiffs cite the Seventh Amendment, three federal statutes, twenty-one U.S. Supreme Court decisions, six Sixth Circuit Court of Appeals decisions, four U.S. District Court decisions, three rules from the Fed. R. Civ. P., four Michigan Supreme Court decisions, one Michigan Court of Appeals decision, and ten Michigan state laws to support their legal arguments.

ChoiceOne Bank on the other hand did not cite a single authority to support its arguments, except for the page and a half it devoted to discussing the standard of review for the instant motion and cases cited regarding that standard. Not one single case to support its position or discredit Plaintiffs' arguments. Zippo!

In a dramatic show of chutzpah, ChoiceOne Bank unilaterally discredits several cases cited from the U.S. Supreme Court and Michigan Supreme Court due to antiquity. Defendant asserts, "This mediaeval concept plays no role in Michigan real property law of the 21st century" (Dkt. 51, PageID 787); "Plaintiffs are using these ancient, erroneous and misguided concepts and arguments" (Dkt. 51, PageID 787). ChoiceOne Bank is wrong again for at least two reasons.

First, the U.S. Supreme Court has expressly held, "[I]t is this Court's prerogative alone to overrule one of its precedents." *Bosse v. Oklahoma,* 580 U.S. at 3. That decision was rendered in 2016, the 21st Century. Second, in *James v. City of Boise, Idaho,* 577 U.S. 306 (2016), a case

decided in the 21st Century, the court cited *Martin v. Hunter's Lessee,* 1 Wheat. 304 (1816), a case that was decided 200 years ago. Clearly, antiquity is not a concern if the underlying pinnings of the case are still relevant, as they are with respect to federal land patents and the rights held thereunder by successors of the original patentees.

Finaly, ChoiceOne Bank asserts that this court must view "the facts in a light most favorable to [it]" (Dkt. 51, PageID 786, 788). This is another shell game played by ChoiceOne Bank. There are no facts to view in favor of ChoiceOne Bank, let alone most favorable. All of the facts ChoiceOne Bank has put forth pertain to equitable title. This is a court of law. Equity may not enter in this matter on behalf of Defendant, it may only come in the aid of Plaintiffs' claims to quiet "legal" title. *See, e.g. Frost v. Spitley,* at 556; *Dick v. Foraker,* at 414.

III. CONCLUSION

For the reasons stated above, Plaintiffs have met their burden in proving they are entitled to partial summary judgment on their claims to quiet "legal" title.

Dated: March 18, 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), I certify that the accompanying brief, which was prepared using Times New Roman 12-point typeface, contains 2,205 words, excluding the parts of the document exempted by Local Rule 7.2(b)(i) and the parts briefed pursuant to the court's order (ECF 10). This certificate was prepared in reliance on the word-count function of the word processing system (Microsoft Word) used to prepare the document.

Dated: March 18, 2026

Michael D. Dalton, Jr.
Plaintiff

Leah M. Dalton
Plaintiff

Michael A. Deem
Plaintiff