

**RECEIVED**

04/03/2026

KELLY L. STEPHENS, Clerk

**Case No. 26-1238**

---

**In The UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

---

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

Plaintiffs-Appellants

v.

CHOICEONE BANK

Defendant-Appellee

---

**On Appeal From the United States District Court  
for the Western District of Michigan, Southern Division  
Case No. 1:26-cv-163  
U.S. Magistrate Judge Ray Kent**

---

**PLAINTIFFS-APPELLANTS' REPLY BRIEF IN SUPPORT OF  
EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL AND  
TO EXPEDITE APPEAL**

Michael D. Dalton, Jr.,  
Leah M. Dalton, and  
Michael A. Deem  
Plaintiffs-Appellants  
3360 Dexter Trail  
Stockbridge, MI 49285

**TABLE OF CONTENTS**

PRELIMINARY STATEMENT ..... 1

ARGUMENT ..... 1

    I.    ChoiceOne Bank Has Conceded That This Court Has  
        Jurisdiction To Determine The Instant Motion ..... 1

    II.   ChoiceOne Bank Has Conceded Appellants’ Recitation Of  
        Operative Facts ..... 2

    III.  ChoiceOne Bank Has Conceded That Appellants Have Pleaded  
        Federal Question Jurisdiction ..... 3

    IV.  By Conceding Both The Facts And Arguments Asserted By  
        Appellants, ChoiceOne Bank Has Also Conceded That  
        Appellants Are Likely To Succeed On The Merits ..... 7

CONCLUSION ..... 8

CERTIFICATE OF COMPLIANCE

CERTIFICATE OF SERVICE

## PRELIMINARY STATEMENT

As explained below, ChoiceOne Bank's opposition papers to the instant motion are bankrupt. Just as the financial system that central banking has brought to this country is grounded in a fiat money system, so too are ChoiceOne Bank's legal arguments grounded in a fiat state legal system that violates Appellants' Seventh Amendment rights. Appellants are entitled to a preliminary injunction restoring them to possession of both properties, 305 W. Elizabeth Street and 3468 Catholic Church Road, Stockbridge, Michigan, forthwith, effective until final resolution on the merits and all appeals are exhausted.

## ARGUMENT

### **I. ChoiceOne Bank Has Conceded That This Court Has Jurisdiction To Determine The Instant Motion**

Appellants asserted this court has jurisdiction to review interlocutory orders that have the practical effect of refusing an injunction. ChoiceOne Bank has failed to rebut that argument or distinguish the legal authorities in support of it. "Th[is court] views [an appellee]'s failure to respond to the arguments of [an opposing party] to be a concession [of the unopposed argument]." *See Figueroa v. U.S. Postal Serv.*, 422 F. Supp. 2d 866, 879 (N.D. Ohio 2006), *aff'd*, 220 Fed.Appx. 407 (6th Cir. 2007).

This court has jurisdiction to render the relief requested.

## II. ChoiceOne Bank Has Conceded Appellants' Recitation Of Operative Facts

In their brief in support of the instant motion, Appellants included a list of "Operative Facts." 6C 3-1, p. 8-9. "As the [appellee] has not replied [or challenged the appellants' statement of facts], the court accepts the recitation of facts propounded by the [appellants] as true and conceded by the [appellee]." *United States v. Montgomery*, 2008 WL 655982, at \*1 (W.D. Ky.), *aff'd*, 395 Fed.Appx. 177 (6th Cir. 2010).

The facts conceded by ChoiceOne Bank prove unequivocally that Appellants were denied their Seventh Amendment rights, as explained in, *inter alia*, *Fenn v. Holme*, 62 U.S. 481 (1858).

The facts conceded by ChoiceOne Bank prove unequivocally that "[Appellants] continue to own, through chain of title [i.e.: Quit Claim Deeds], what was granted to the [two original] patentees in the first place." *See Klais v. Danowski*, 373 Mich. 262, 276 (1964).

The facts conceded by ChoiceOne Bank prove unequivocally that ChoiceOne Bank's only claim to the two properties at issue is equitable title [i.e.: Sheriff's Deeds], which can *never* be admitted for any purpose in a court of law, such as this court. *See, e.g. Frost v. Spitley*, 121 U.S. 552, 556 (1887); *Dick v. Foraker*, 155 U.S. 404, 414 (1894). All of ChoiceOne Bank's arguments that rely or refer to equitable title, such as mortgages, Sheriff's Deeds, and current

ownership of “fee simple title” that derives from Sheriff’s Deeds, including without limitation reliance on MCL 600.3236, must be ignored and stricken from consideration of this motion. *See Id.*

The facts conceded by ChoiceOne Bank prove that Appellants’ two properties in question are in fact “unique,” the wrongful deprivation of which continues to cause Appellants irreparable harm. *See Wonderland Shopping Ctr. Venture Ltd. P’ship v. CDC Mortg. Cap., Inc.*, 274 F.3d 1085, 1097 (6th Cir. 2001).

Appellants are entitled to a preliminary injunction restoring them to physical possession of both properties.

### **III. ChoiceOne Bank Has Conceded That Appellants Have Pleaded Federal Question Jurisdiction**

Appellants asserted two bases for federal question jurisdiction in support of the instant motion. In response ChoiceOne Bank argues,

Before diving into the issues raised by the Plaintiffs – Appellants’ Motion, it should be noted that there is no federal court subject (*sic*) [matter] jurisdiction for this case. Federal Court interference with the existing state court Judgments that have already determined that ChoiceOne Bank is the party that is entitled to possession of the properties in question is also prohibited by the Younger abstention doctrine. These issues have already been raised and briefed below. See LC ECF Nos. 20, 21, 41-43 and 57. Those arguments will not be repeated here but the Court should be aware of their existence.

6C 7, p. 3.

This is now the sixth occasion that ChoiceOne Bank has failed to respond to Appellants' detailed explanation of why the instant matter is firmly grounded in federal question jurisdiction. The other five were in the district court.

The first time was with respect to ChoiceOne Bank's motion to dismiss. ChoiceOne Bank asserted the *nisi prius* court lacked subject matter jurisdiction. (ECF Nos. 20, 21). In response, Appellants provided three separate bases for federal question jurisdiction. (ECF Nos. 41-43). In its reply (ECF No. 57), ChoiceOne Bank failed to rebut any of Appellants' facts or distinguish any of the cases cited by Appellants, including the controlling cases that are on point from the U.S. Supreme Court and Michigan Supreme Court. ChoiceOne Bank elected to simply ignore them, like the proverbial ostrich sticking its head in the sand, with its tail displayed to the world.

Next, ChoiceOne Bank had an opportunity to respond in detail to Appellants' assertion of federal question jurisdiction in its opposition to Appellants' three motions for temporary restraining orders / preliminary injunctions.<sup>1</sup> See ECF Nos. 50, 59 and 60. In ECF No. 50, p. 1, ChoiceOne Bank argued,

In its Scheduling Order (ECF No. 19, PageID.287-288) for the subject Motion (ECF No. 16, PageID.203-219), this [District]

---

<sup>1</sup> Appellants are aware that the district court lacks jurisdiction to continue to entertain those motions as a result of the instant appeal. However, ChoiceOne Bank filed opposition papers to the original motions after the notice of interlocutory appeal was filed.

Court ordered the parties to address the issues of subject matter jurisdiction, [] in addition to the issues directly raised by the Motion. The Defendant, ChoiceOne Bank, has previously raised and briefed the issues of subject matter jurisdiction and abstention in its Combined Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) (ECF No. 20, PageID.289-291) and the Brief in Support of that Motion (ECF No. 21, PageID.292-302). Those arguments are hereby incorporated by reference and will not be repeated here.

However, even a cursory examination of the cited documents (ECF Nos. 20, 21) reveal that those papers were ChoiceOne Bank's moving papers. They were not in reply to Appellants' detailed explanation of the three federal questions raised by the operative complaint. ChoiceOne Bank gave the illusion of relying on a meritorious argument that responded to Appellants' arguments, but in reality ChoiceOne Bank compounded its avoidance of Appellants' meritorious arguments regarding federal question jurisdiction.

In ECF No. 59, p. 1, ChoiceOne Bank argued,

The Plaintiffs[-Appellants] have previously raised the very same issues as those raised in this current Motion. See ECF No. 16, PageID.203-219. ChoiceOne Bank has already replied to those issues in its Brief in Opposition to the prior Motion. See ECF No. 50, PageID.765-774. That analysis and those arguments will not be repeated again here. Rather, ChoiceOne Bank simply incorporates the analysis and argument in opposition to the prior Motion as its analysis and argument in opposition to the current Motion.

Once again, ChoiceOne Bank gave the illusion of relying on a meritorious argument that responded to Appellants' arguments, but in reality ChoiceOne Bank

further compounded its avoidance of Appellants' meritorious arguments regarding federal question jurisdiction.

In ECF No. 60, p. 1, ChoiceOne Bank made the exact same argument as it did in ECF No. 59, p. 1, *supra*. Once again, ChoiceOne Bank gave the illusion of relying on a meritorious argument that responded to Appellants' arguments, but in reality ChoiceOne Bank further compounded its avoidance of Appellants' meritorious arguments regarding federal question jurisdiction.

Finally, in its opposition to Plaintiffs-Appellants' emergency motion for partial summary judgment (ECF No. 51, p. 1), ChoiceOne Bank recycled a previous argument that also failed to respond to Appellants' detailed assertion of federal question jurisdiction. ChoiceOne Bank argued,

In its Scheduling Order (ECF No. 19, PageID.287-288) for the subject Motion (ECF No. 10, PageID.38-52), this [District] Court ordered the parties to address the issues of subject matter jurisdiction, [] in addition to the issues directly raised by the Motion. The Defendant, ChoiceOne Bank, has previously raised and briefed the issues of subject matter jurisdiction and abstention in its Combined Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) (ECF No. 20, PageID.289-291) and the Brief in Support of that Motion (ECF No. 21, PageID.292-302). Those arguments are hereby incorporated by reference and will not be repeated here.

Again, ChoiceOne Bank gave the illusion of relying on a meritorious argument that responded to Appellants' arguments, but in reality ChoiceOne Bank

further compounded its avoidance of Appellants' meritorious arguments regarding federal question jurisdiction.

It is clear that ChoiceOne Bank's failure, if not refusal, to address Appellants' detailed explanation of why they have pleaded federal question jurisdiction is nothing more than a crude attempt to register a heckler's veto. Such gamesmanship is not permitted. "Th[is court] views [an appellee]'s failure to respond to the arguments of [an opposing party] to be a concession [of the unopposed argument]." *See Figueroa v. U.S. Postal Serv.*, 422 F. Supp. 2d 866, 879 (N.D. Ohio 2006), *aff'd*, 220 Fed.Appx. 407 (6th Cir. 2007).

This court has federal question jurisdiction to render the relief requested.

**IV. By Conceding Both The Facts And Arguments Asserted By Appellants, ChoiceOne Bank Has Also Conceded That Appellants Are Likely To Succeed On The Merits**

It is unequivocal, especially in light of ChoiceOne Bank's multiple concessions, that Appellants hold "perfect and consummate title [of a land patent]" to each of their two properties, *see Wilcox v. Jackson*, 38 U.S. 498, 516 (1839), "through chain of title," (i.e.: Quit Claim Deeds). *See Klais v. Danowski*, 373 Mich. at 276.

Appellants have a Seventh Amendment right to a common law trial by jury, if needed, to either prosecute actions in ejectment for each of the two properties, *see Fenn v. Holme*, 62 U.S. at 483, or claims to quiet "legal" title where,

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.

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

And, all of the cases cited herein are still good law for “it is th[e U.S. Supreme] Court’s prerogative alone to overrule one of its precedents.” *Bosse v. Oklahoma*, 580 U.S. 1, 3 (2016).

Appellants will succeed on the merits.

### CONCLUSION

Therefore, Appellants respectfully request that this Court issue an injunction restoring Appellants to possession of both properties, 305 W. Elizabeth Street and 3468 Catholic Church Road, Stockbridge, Michigan, forthwith, effective until final resolution on the merits and all appeals are exhausted.

Dated: April 2, 2026



Michael D. Dalton, Jr.  
Plaintiff



Leah M. Dalton  
Plaintiff

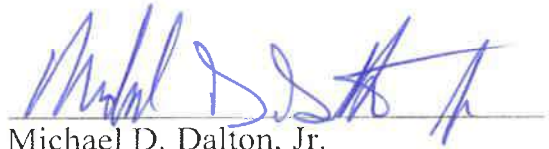


Michael A. Deem  
Plaintiff

### CERTIFICATE OF COMPLIANCE

Pursuant to FRAP 32(g) and 6 Cir. R. 32, we certify that the accompanying appeal brief was prepared using Times New Roman 14-point typeface, contains 1,776 words. This certificate was prepared in reliance on the word-count function of the word processing system (Microsoft Word) used to prepare the document.

Dated: April 2, 2026



Michael D. Dalton, Jr.  
Plaintiff



Leah M. Dalton  
Plaintiff





Michael A. Deem  
Plaintiff

**CERTIFICATE OF SERVICE**

We hereby certify that on April 3, 2026, we mailed a copy of the foregoing Plaintiffs-Appellants' Reply Brief In Support of Emergency Motion For Injunction Pending Appeal and To Expedite Appeal to: John R. Tucker, Esq., Winegarden, Haley, Lindholm, Tucker & Himelhoch, PLC, G-9460 S. Saginaw Road, Suite A, Grand Blanc, MI 48439.

Dated: April 3, 2026

  
\_\_\_\_\_  
Michael D. Dalton, Jr.  
Plaintiff

  
\_\_\_\_\_  
Leah M. Dalton  
Plaintiff