# UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

• 445 Broadway, Albany, NY 12207-2936 •

**Unified United States Common Law Grand Jury**[1] **Sureties of the Peace**[2]
P.O. Box 59, Valhalla, NY 10595 Fax: (888) 891-8977

AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY:

Proceeding as Next Friend under Rule 17, 28 USCA[3] on behalf of petitioner: Deborah Foster Removed from Superior Court of Arizona, for Cause, violation of the right of due process; Amendment V.

**PETITIONER:** Deborah Foster
P.O. Box 806
Payson, AZ 85547

**DEFENDANTS:** Judge Timothy M Wright
Superior Court of Arizona-Gila County
714 S. Beeline Highway
Payson, AZ 85541

CEO Robert G. Wilmers
M&T Bank
One M&T Plaza, 8th Floor
Buffalo, New York 14203-2399

**RE:** Non Judicial Mortgage Foreclosure
For cause violation of the unalienable right of due process protected by Amendment V.

[1] **The UUSCLGJ** is comprised of fifty Grand Jurys each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of Thousands of People in the name of We the People to suppress, through our Courts of Justice, subverts both foreign and domestic acting under color of law within our governments. States were unified by re-constituting all 3,133 United States counties.

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Proceeding as Next Friend under Rule 17, 28 USCA[6] on behalf of Petitioner, Deborah Foster

Grand Jury, Sovereigns of the Court
We the People

- Against -

Judge Timothy M. Wright,
CEO Robert G. Wilmers

Defendants

Jurisdiction: Court of Record, under the rules of Common Law[7]
Action at law:[8]

Case NO: 1:16-CV-1490
Magistrate: Daniel J. Stewart

**SHOW CAUSE**

We the People[9] of the Unified United States Common Law Grand Jury, under the power and authority of the Sureties of the Peace, hereinafter the Grand Jury, whereas the Unified

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[7] **"A Court of Record** is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial." Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

[8] **AT LAW:** (Bouvier's) this phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

[9] **PEOPLE:** People are supreme, not the state. Waring vs. the Mayor of Savanah, 60 Georgiaat 93; The state cannot diminish rights of the people. Hertado v. California, 100 US 516; Preamble to the US and NY Constitutions - We the people ... do ordain and establish this Constitution...; ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves... CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 DALL (1793) pp471-472]: The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

Common Law Grand Juries arose out of We the People in each of the Fifty States which came together to form a Unified United States Common Law Grand Jury. This was done in an effort to subdue subversion against the United States of America from enemies both foreign and domestic.

There is wide spread ignorance concerning "Non-Judicial Foreclosures" and the "APPEARANCE" that it is a Lawful Procedure that functions without the REQUIRED filing of Proof of Claim (form 4490) and Fiduciary Authority (form 56) which must be filed within the federal district of the claim with copies of the same with notice of the foreclosure served upon the petitioner, giving opportunity of due process as required to comply with the law of the land.

Let this action first serve to inform the defendants that a Non-Judicial Foreclosure lacks Due Process of Law which is an unalienable right protected under the 5th Amendment and that any court permitting such a court filing procedure is acting under the color of law which is a criminal act and enters into a conspiracy, non-judicial foreclosure laws of any State to the contrary not with-standing.

Therefore, We the People DEMAND that the defendants Show Cause by what Constitutional Authority you act that permits an action "*in rem"* against the People without Proof of Claim, Fiduciary Authority and due process **OR**, notify this Court immediately of your error and withdrawal of your unlawful proceedings that deny due Process of the petitioner; if the home has already been foreclosed, restore the victim to their original state. In lieu of this, you may notify this Court immediately of your errors and withdrawal of your unlawful proceedings that deny due Process of the petitioner and this proceeding will be quashed.

We are offering you a grace period of 30 days for non-government defendants and 60 days for government officials acting under the color of law to correct their errors and restore the petitioner to their original state or defendants will be brought before the Grand Jury for consideration of indictment for conspiracy, subversion, RICO, war against the Constitution and other charges. See Memorandum of Law on Non-Judicial Foreclosures attached.

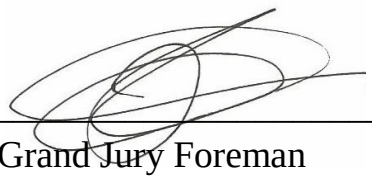
**THEREFORE**, on behalf of the petitioner, the Unified United States Common Law Grand Jury DEMANDS that the court of the non-judicial foreclosure filing, in good faith do your duty and protect the victim(s) of these crimes by removing all said filings immediately, cease all non-judicial foreclosure practices and notify this court of the same. We further demand

that said defendants withdraw said filing from the court of filing, cease all non-judicial foreclosure filings and notify this court immediately of said actions.

**WHEREFORE**, if the defendants default, this court will be moved for an order to cease and desist their subversive activities, restore the petitioner to their original state before the misuse of justice under the color of law and be brought before the full Grand Jury for consideration of indictment for conspiracy, subversion, RICO, war against the Constitution and other charges.

SEAL

September 22, 2017



Grand Jury Foreman

Sureties of the Peace

# Affidavit *of* Deborah S. Foster

I, Deborah S Foster, Affiant, being of lawful age, qualified and competent to testify to, and having firsthand knowledge of the following facts, do hereby swear that the following facts are true, correct and not misleading:

The property of mine which is the focus of this action is at 566 W. Mary Patricia Drive, Payson, Arizona, which I acquired on or about April 7, 2006. Due to the recession beginning in 2009, my income dropped. My personnel business did not bring in any income and my savings was exhausted and I could not make the payments.

On or about July 17, 2016, I was served foreclosure papers from M&T Bank?

On July 19, 2016, my home was unlawfully taken away from me, due to a Non Judicial Foreclosure Sale. There was no Trial by Jury or Due Process of Law.

The Judgment for Eviction was made by Judge Timothy Wright in the Superior Court in Payson Arizona and signed by Judge Wright in Gila County, Arizona on or about June 17, 2016.

I am currently living at 1102 West Saddle Lane, Payson, AZ 85541. I want to have full restitution of my property to its state and condition before this foreclosure action commenced.

Deborah S. Foster

Deborah S. Foster

**NOTARY**

In Arizona State, Gila County, on this 9th day of September, 2017, before me, ~~Deborah Spafford Foster~~ Charles I. Whitehouse, the undersigned Notary Public, personally appeared Deborah Spafford Foster, to me known to be the living (wo)man described herein, who executed the forgoing instrument, and has sworn before me that he/she executed the same as his/her free-will act and deed.

Charles I. Whitehouse

Notary

My commission expires: 5/25/19

CHARLES I. WHITEHOUSE
[Notary seal]
Notary Public - State of Arizona
GILA COUNTY
My Commission Expires
May 25, 2019

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Proceeding as Next Friend under Rule 17, 28 USCA[3] on behalf of Debra Foster:

| | |
|---|---|
| Grand Jury, Sovereigns of the Court<br>We the People<br><br>- Against -<br><br>Judge Timothy M Wright,<br>CEO Robert G. Wilmers<br><br>Defendants | Case NO: 1:16-CV-1490<br><br>Magistrate: Daniel J. Stewart<br><br>**MEMORANDUM OF LAW NON-JUDICIAL FORECLOSURES** |

This memorandum reveals the fraud upon the People committed by mortgages companies and municipalities. Said fraud differs little between the two. The following conspiratorial process is essentially the same in that the home is securitized.

The Securitization of Mortgages and Tax Foreclosures has become a common and growing white collar swindle that is illegal primarily because of "Antitrust Law Violations", consisting of specific violations such as usury, fraud, conspiracy, forgery and robo-signing. When victims are robbed because State and Federal Legislators pass unconstitutional

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legislation and State Constitutional Courts sanction non-judicial foreclosures by looking the other way, this constitutes RICO and war against the Constitution.

Securitization is the financial practice of pooling various types of contractual debt such as residential mortgages, commercial mortgages, auto loans or credit card debt obligations (or other non-debt assets which generate receivables); and, selling their related cash flows to third party investors as securities, which may be described as bonds, pass-through securities or collateralized debt obligations (CDOs). Investors are repaid from the principal and interest cash flows collected from the underlying debt which is redistributed through the capital structure of the new financing. Securities backed by mortgage receivables are called mortgage-backed securities (MBS), while those backed by other types of receivables are asset-backed securities (ABS). It was the private, competitive mortgage securitization that played an important role in the U.S. subprime mortgage crisis.

The process is not as complicated as it might seem at first glance and might be difficult to recognize as a crime; but, it should become clear to the local village, town, city and county courts and the Sheriff once they realize the process these criminal cartels, known as mortgage companies and municipalities, go through to use the Court and the Sheriff to assist in these illegal seizures of homes without their realizing that they became instruments of a robbery.

**CLARIFICATION:** Were these mortgage companies able to legally foreclose on the property, they would do so by filing the foreclosure in the State Court to acquire a judgment; then bring it to the Sheriff for collection. The problem is that they cannot produce proof of claim and fiduciary authority over the property and without these two affidavits, they cannot open a lawful court case to provide *"due process"* necessary for a lawful seizure of the property "*in rem*". So the BAR, banks, municipalities and mortgage cartels devised a plan to bypass *"due process"* by lobbying and convincing state legislators, who either consciously conspired; or, because constitutional principles are unbeknownst to them, ignorantly conspired to write unconstitutional *"non-judicial foreclosure statutes"* that proceed *"in rem*", which is a process to seize properties without due process whereas the party seizing the property has a "legal" claim and fiduciary authority.

Such practice moves the presumption of law from *"innocent until proven guilty"* to *"guilty with no opportunity to defend"*. This turns American Jurisprudence[4] on its head by removing

[4] **JURISPRUDENCE:** The philosophy of law, or the science which treats of the principles of positive law and legal relations; American Jurisprudence is the written law, constitution and principles every judge must obey.

any opportunity for the victims to be heard. This Provides absolute control to defraud without consequence by nefarious mortgage holders and municipalities which there seems to be no shortage of. As well as RICO-governed de facto state courts which allow the non-judicial foreclosure filings without the signature of a judge or magistrate.

*"In Rem"*, under international law, permits the seizure of property without notification to a property owner. This makes sense and is legal under international law at sea dealing with pirates; but, the *"Law of the Land"* a/k/a *"the Supremacy Clause of the Constitution"* requires *"Due Process"*.

> *"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and, all treaties made, or which shall be made, under the authority of the United States,* ***shall be the Supreme Law of the Land****; and, the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."* -- Constitution for the United States of America Article VI

Congress can make no law that would provide for a statutory construction which would negate the unalienable rights of the People; which is what would be required in order to make a State a *"Non-Judicial Foreclosure State"*. Therefore, no State can establish *"Non-Judicial Foreclosure Laws"*. Such Congressional and/or State actions would negate the following unalienable rights protected by the Constitution and expected to be enforced by the Sheriff:

(1) the unalienable right protected by the 4th Amendment to be secure from property seizures,
(2) the unalienable right protected by the 5th Amendment to due process,
(3) the unalienable right protected by the 7th Amendment to trial by jury, and
(4) the unalienable right protected by the 7th Amendment to common law courts.

Rights are unalienable[5] and cannot be transferred.[6] Any contract that would pass or hand over an unalienable right is null and void. The *"Burden of Proof"* is on the foreclosing party. All parties to a Non-Judicial Foreclosure cannot prove their case; nor can they prove their

[5] **UNALIENABLE:** Inalienable; incapable of being alienated, that is, sold and transferred. Black's 4th.
[6] **TRANSFER:** To convey or remove from one place, person, etc., to another; pass or hand over from one to another; specifically to make over the possession or control of (as, to transfer a title to land); sell or give. Chappell v. State, 216 Ind. 666, 25 N.E. 2d 999, 1001.

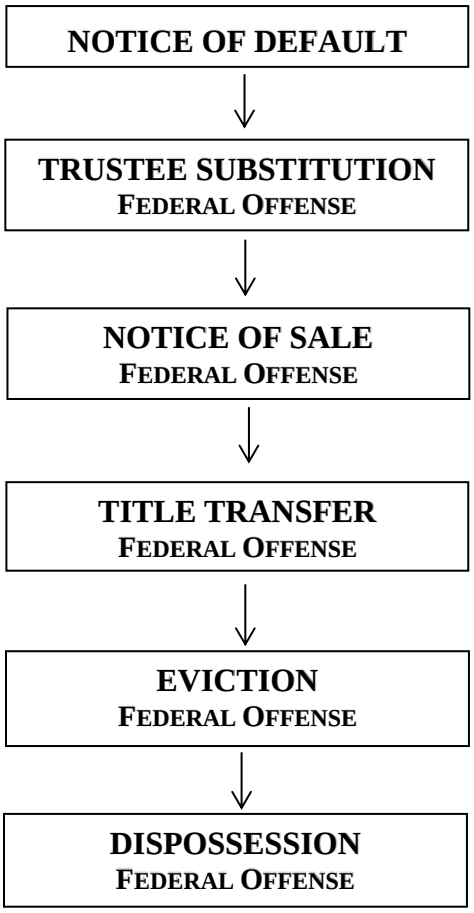
right to sell someone's property without progressing to a Final Judgment in a court of law. Any court that ignores these facts and/or proceeds with a Summary Judgment becomes complicit to the robbery. This violates the victim's rights under Color of Law, thereby giving a reason to move the Case for Cause to an Article III Federal District Court for both criminal and civil remedy.

After establishing unconstitutional statutes, white-collar criminals, acting under Color of Law, devised the following *"ruse"* to manipulate our judicial system and our County Sheriffs so as to create an appearance of lawful acts while illegally seizing the property of their victims:

(1) Give Notice of Default to the victim, "without judicial process";
(2) Give Notice of Substitution of Trustee, "without judicial process";
(3) Give Notice of Sale, "without judicial process";
(4) Commence public auction, "without judicial process";
(5) Use aforesaid documents to transfer title, "without judicial process";
(6) File fraudulent eviction proceedings acting as *"landlord"* (using the fraudulent title) and calling the owner of the property *"tenant"* who owes back rent in an unsuspecting village, town or city court, "giving the appearance of judicial process"; and
(7) File the fraudulent judgement with the County Clerk to achieve a fraudulent Eviction Order for execution by the unsuspecting Sheriff.

We the People find it apparent that most of our Constitutional Officers are ignorant as to the Law of the Land as defined in the Constitution for the United States of America, Article VI. Therefore, they are often unable to determine constitutional violations which causes Sheriffs to fall prey to the minions of the subversive BAR, in jeopardy of violating their oath and We the People in jeopardy of losing our property and Liberty to tyrants.

This formal "Notification of Crimes" directs the participating courts to honor their oaths and protect the victim(s) from the following RUSE:




Failing to file an Affidavit of Default proving adherence to Due Process constitutes fraud.

Assuming Fiduciary Authority without filing Federal Form 56 [*Proof of Fiduciary Authority under Oath*] within the Federal District constitutes fraud.

Acting on a Claim without filing Federal Form 4490 [*Proof of Claim under Oath*] within the Federal District constitutes fraud.

Transferring Title without Due Process constitutes fraud. Any court that provides a Summary Judgment enters into a conspiracy under Color of Law and escalates the crime to RICO.

Any court granting an Eviction after being fully informed of the conspiracy to defraud enters into the conspiracy.

Any Sheriff executing a Court Order to Evict after being fully informed of the conspiracy enters into the conspiracy.

**STATUTORY CRIMES:** Under US laws, Securitized Mortgages are illegal primarily because they are fraudulent and constitute specific violations, namely:

1) RICO
2) Usury
3) Fraud
4) Conspiracy
5) Forgery
6) Robo-signing and
7) Antitrust law violations

The *"foreclosure crisis"* is a complex, interconnected series of state-sponsored crimes involving the following steps:

1) The mortgage or tax burden is created.
2) The mortgage is sold to an investor.
3) The mortgage or tax burden payments are loaded onto an international PONZI scheme a/k/a *"mortgage securitization"*.

4) Compliant judges in state and county courts look the other way, or, provide Summary Proceedings while:
   a. Mortgage companies conceal the fact that the notes and assignments were never delivered to the MBS Trusts [Mortgage-Backed Securities Trusts] while the mortgage companies disseminate false and misleading statements to the investors and the United States Government.
   b. Mortgage companies pursue foreclosure actions using false and fabricated documents, particularly mortgage assignments. The mortgage companies use Robo-signing on thousands of documents each week with no review or knowledge of the contents of the documents; thus, creating forged mortgage assignments with fraudulent titles in order to proceed with foreclosures.
   c. Mortgage companies have used these fraudulent mortgage assignments to conceal over 1,400 MBS Trusts, each with mortgages valued over $1 billion, which are missing critical documents; namely, mortgage assignments which are required to have been delivered to the Trusts at the inception of the Trust.
   d. Without lawfully executed mortgage assignments, the value of the mortgages and notes held by the Trusts is impaired; effective assignments are necessary for the Trust to foreclose on its assets in the event of mortgage defaults; and the Trusts do not hold good title to the loans and mortgages that investors have been told are secured notes.
   e. Mortgage assignments are prepared with forged signatures of individuals signing as grantors; and forged signatures of individuals signing as witnesses and Notaries.
   f. Mortgage assignments are prepared with forged signatures of individuals signing as corporate officers for banks and mortgage companies that have never employed said individuals and corporate officers.
   g. Mortgage assignments are prepared and signed by individuals as corporate officers of mortgage companies that have been dissolved by bankruptcy years prior to the assignment.
   h. Mortgage assignments are prepared with purported effective dates unrelated to the date of any actual or attempted transfer; and, in the case of Trusts, with purported effective dates years after the closing date of the Trusts.
   i. Mortgage assignments are prepared on behalf of grantors who had never themselves acquired ownership of the mortgages and notes by a valid transfer; and, such mortgage assignments include numerous ones where the grantor was identified as *"Bogus Assignee for Intervening Assignments"*.

j. Mortgage assignments are notarized by Notaries who never witness the signatures they notarize.
k. The MBS Trusts, and their trustees, depositors and servicing companies, further misrepresent to the public the assets of the Trusts; and, issue false statements in their Prospectuses and Certifications of Compliance.
l. Securitization violates usury laws in that the resulting effective interest rate typically exceeds legally-allowable rates set by State Usury Laws.
m. All *"True-Sale"*, *"Disguised-Loan"* and *"Assignment"* securitizations are essentially tax-evasion schemes. In the United States, the applicable tax-evasion statute is the United States Internal Revenue Code, Section7201 which reads as follows: *"Any person* [corporation] *who willfully attempts in any manner to evade or defeat any tax imposed by this title, or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony; and, upon conviction thereof, shall be fined not more than $500,000; or, imprisoned not more than 5 years; or, both; together with the costs of prosecution."*
n. Securitization undermines the United States Federal Bankruptcy Policy because it is used in lieu of secured financing as a means of avoiding certain Bankruptcy Law Restrictions. The origins of securitization in the United States can be traced directly to efforts by banks and financial institutions to avoid Bankruptcy Law Restrictions.
o. Securitization constitutes a violation of Federal RICO Section 1341: Mail Fraud; Section 1343: Wire Fraud; Section 1344: Financial Institution Fraud; Section 1957: Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity; and Section 1952: Racketeering.

SEAL

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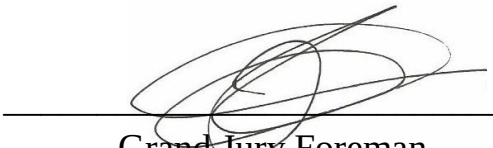

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