

Fifth Circuit Court of Appeal State of Louisiana

No. 26-C-319

US BANK NATIONAL

versus

MARC GERARD BARBE, ET AL.

IN RE MARC G. BARBE AND RENADA E. BARBE
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT
COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE
JUNE B. DARENSBURG, DIVISION "C", No. 780-038

TRUE COPY

September 23, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Susan M. Chehardy,
Jude G. Gravois, and Marc E. Johnson

WRIT DENIED; STAY DENIED

Relators, Marc Barbe and Renada Easterling Barbe, appearing in proper person, seek this Court's supervisory review of the trial court's June 17, 2026 judgment, which was rendered after a hearing in the trial court that same day. The judgment denied relators':

- 1) Motion to Vacate Order on Motion to Withdraw and Substitute Counsel;
- 2) Motion for Summary Judgment;
- 3) Peremptory Exception of No Right of Action;
- 4) Dilatory Exception for Lack of Procedural Capacity;
- 5) Motion to Strike; and
- 6) Motion to Show Authority.

Extensive written reasons for this Judgment were issued by the trial court on July 8, 2026.

In a separate Order dated June 17, 2026, the trial court granted plaintiff's "Renewed Motion to Substitute Party Plaintiff," substituting "U.S. Bank Trust National Association, Not In Its Individual Capacity, But Solely As Owner Trustee for RCF 2 Acquisition Trust" as the correct name of the proper party plaintiff herein.

In their writ application, relators argue that this Court should: 1) sustain their Dilatory Exception for Lack of Procedural Capacity and Peremptory Exception of No Right of Action; 2) vacate the trial court's oral order granting the Motion for Substitution of Party Plaintiff; 3) strike all pleadings and oral enrollments of counsel operating under a "defunct" law firm; and 4) dismiss this 8.5-year foreclosure action with prejudice "due to a continuous chain of title and representation fraud, and a total lack of any entity entitled to enforce the instrument under La. R.S. 10:3-301," as asserted in their motion for summary judgment.

In the alternative, relators request that this Court reverse the trial court's ruling sustaining their Exception of Lack of Procedural Capacity, and order Attorney Wilbourn to submit into the record a certified contract of mandate by plaintiff U.S. Bank, N.A.¹

For the following reasons, on the showing made, we conclude that relators have not shown that they are entitled to any of the relief requested in their writ application, and accordingly deny the writ application. We also deny relators' request for a stay of the proceedings below pending resolution of this writ application.

ANALYSIS

As noted by relators, this is a mortgage foreclosure action, instituted against them in January of 2018 by Wells Fargo, N.A., plaintiff's predecessor-in-interest. In its Written Reasons for Judgment issued on July 8, 2026 concerning the June 17, 2026 judgment, the trial court summarized the matter's very extensive procedural history.

Relators assert herein that on December 19 and 29, 2025, they filed: 1) a Peremptory Exception of No Right of Action; 2) a Dilatory Exception of Lack of

¹ Relators also argue that at the hearing on June 17, 2026, their rights under the Americans with Disabilities Act were violated because they were not furnished with adaptive devices for the hearing-impaired. Relators have not substantiated this claim herein, and furthermore such a claim is not grounds to invalidate any of the rulings at issue herein.

Procedural Capacity, Motion to Strike, and Motion to Show Authority; and 3) a Motion for Summary Judgment. Relators assert that on January 27, 2026, they filed a Motion to Vacate Order on Motion to Withdraw and Substitute Counsel. According to the writ application and the judgment dated June 17, 2026, these exceptions and motions were denied by the trial court at the June 17, 2026 hearing. However, none of these pleadings are contained in the writ application, in violation of Uniform Rules–Courts of Appeal, Rule 4-5(C)(8) and (9), which provide:

C. The submission shall contain these items: ...

- (8) a copy of each pleading on which the judgment, order, or ruling was founded, including the petition(s) in civil cases and the indictment or the bill of information in criminal cases.²
- (9) a copy of any opposition and any attachments thereto filed by a party in the trial court or a statement by the applicant that no opposing written document was filed;

In any event, in its Written Reasons for Judgment, the trial court stated that concerning relators' Motion for Summary Judgment, which apparently centered on whether U.S. Bank could prove its ownership of the promissory note in question, this Court only found that U.S. Bank's predecessor in interest, Wells Fargo, had not sufficiently proven its ownership of the note at that time. The trial court went on to find that U.S. Bank has corrected the previous defects and established its ownership of the promissory note, through various listed documents and exhibits, and thus, genuine issues of material fact remain and relators are not entitled to a dismissal of this foreclosure proceeding as a matter of law, as apparently was requested in their Motion for Summary Judgment. Upon *de novo* review, we also conclude that relators are not entitled to summary judgment as a matter of law.

Concerning relators' Exception of No Right of Action, in its Written Reasons for Judgment, the trial court recognized that relators had noted a discrepancy between the named party plaintiff (U.S. Bank National Association, Not in Its Individual Capacity But Solely as Trustee of the NRZ Pass-Through Trust XVI) and the listed plaintiff in the present motions (U.S. Bank **Trust** National Association, Not in Its Individual Capacity But Solely as Trustee of the NRZ Pass-Through Trust XVI), but went on to find based on the evidence and pleadings that U.S. Bank

² The writ application does contain plaintiff's opposition to defendants' motion for summary judgment, exception of no right of action, and dilatory exception of lack of procedural capacity.

confirmed that these are the same entities, and therefore, the trial court recognized the proper party plaintiff has been involved in this matter. Again, upon review, we conclude that relators have not shown that the trial court erred in its judgment denying relators' Exception of No Right of Action.

Concerning relators' Exception of Lack of Procedural Capacity, in its Written Reasons for Judgment, the trial court noted relators' argument that McGlinchey Stafford and Attorney Jonathan Wilbourn were improperly retained as counsel for U.S. Bank in this case. The trial court found, however, that U.S. Bank's Power of Attorney shows that Fay Servicing, L.L.C., as the Attorney-in-Fact for U.S. Bank, had proper and express authority to retain McGlinchey Stafford as counsel of record, and upon transfer of the Mortgage Loan, Selene Finance, L.P., as the new mortgage servicer for U.S. Bank Trust, had proper authority to retain McGlinchey Stafford. The court therefore did not order McGlinchey Stafford to further show its authority in this matter and refused to strike pleadings filed by McGlinchey Stafford. Again, upon review, we conclude that relators have not shown that the trial court erred in its judgment denying relators' Exception of Lack of Procedural Capacity.

Finally, upon review, we also conclude that relators have not shown that the trial court erred in its Order granting plaintiff's Renewed Motion to Substitute Party Plaintiff.

For the foregoing reasons, we further decline relators' request in their writ application that we strike all pleadings and oral enrollments of counsel operating under a "defunct" law firm, and further dismiss this 8.5-year foreclosure action with prejudice "due to a continuous chain of title and representation fraud, and a total lack of any entity entitled to enforce the instrument under La. R.S. 10:3-301," as asserted in their motion for summary judgment. We also decline relators' request to order Attorney Wilbourn to submit into the record a certified contract of mandate by plaintiff U.S. Bank, N.A.

In conclusion, considering the writ application, including the extensive Written Reasons for Judgment issued by the trial court on July 8, 2026, and the noted omissions from the writ application, including the absence of the hearing's transcript,³ for the foregoing reasons, on the showing made, we conclude that relators

³ While a transcript of the hearing is not specifically required by the Uniform Rules, the Order attached to relators' Notice of Intent, which was prepared by relators and adopted in part by the trial court who signed it on June 22, 2026, orders that "the Official Court Reporter provide a

have not shown that they are entitled to any of the relief requested in their writ application. This writ application is accordingly denied. Relators' request for a stay of the proceeding below pending resolution of this writ application is also denied.

Gretna, Louisiana, this 23rd day of September, 2026.

JGG
SMC
MEJ

complete, certified transcript of the June 17, 2026 hearing to the Defendants upon payment of costs.” As of the date of this disposition, no transcript has been supplemented in this writ application.

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



FIFTH CIRCUIT
101 DERBIGNY STREET (70053)
POST OFFICE BOX 489
GRETNA, LOUISIANA 70054
www.fifthcircuit.org

CURTIS B. PURSELL
CLERK OF COURT

SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

LINDA M. TRAN
FIRST DEPUTY CLERK

MELISSA C. LEDET
DIRECTOR OF CENTRAL STAFF

(504) 376-1400
(504) 376-1498 FAX

NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **09/23/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

26-C-319

E-NOTIFIED

24th Judicial District Court (Clerk)
Honorable June B. Darensburg (DISTRICT JUDGE)
No Attorney(s) were ENOTIFIED

MAILED

Marc G. Barbe (Relator)
Renada Barbe (Relator)
In Proper Person
4421 Pike Drive
Metairie, LA 70003

Jonathan G. Wilbourn (Respondent)
Attorney at Law
511 Union Street
Suite 1000
Nashville, TN 37219

Corey J. Giroir (Respondent)
Attorney at Law
Post Office Box 87379
Baton Rouge, LA 70879