



STATE OF CONNECTICUT

SUPREME COURT
APPELLATE COURT

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October 17, 2022

THE SUPREME COURT IS SOLICITING AMICUS CURIAE BRIEFS IN:

SC 20622

Jpmorgan Chase Bank National Association

v.

Abu Hashem Malick

The Court invites amici curiae to file briefs in the above-captioned matter that address the following questions:

"Did the Appellate Court incorrectly determine that an objection to an affidavit of debt is sufficient to challenge the affidavit under Practice Book § 23-18 (a), when the named defendant failed to advance any evidence as to the amount of the debt?"

As this is a Court-initiated request, an application for permission to file as amicus curiae is not required. If you accept the Court's invitation, you must file the amicus brief limited to 10 pages on or before **November 8, 2022**, in compliance with Practice Book Section 67-7, including the disclosure required in the first footnote on the first page of text. No extensions of time or argument will be permitted for amicus curiae, and responsive briefs by the parties will not be allowed.

Please find the case summary that was prepared for the general public by court staff attached to this invitation. It does not represent the Court's view of this case.

If you have any questions, please call 860-757-2200.

JPMORGAN CHASE BANK NATIONAL ASSOCIATION v. ABU HASHEM MALIK, SC 20662

Judicial District of Fairfield

Foreclosure; Whether Objection to Affidavit of Debt Was Sufficient to Challenge Submission of Affidavit Under Practice Book § 23-18 (a), When Defendant Failed to Advance Any Evidence As to Amount of Debt. The plaintiff, JPMorgan Chase Bank National Association, sought to foreclose a mortgage on real property owned by the defendant, Abu Hashem Malik. The plaintiff filed an affidavit of debt attesting to the amount of the mortgage debt. The defendant filed an objection to the affidavit of debt, claiming that it contained inaccurate calculations as to his municipal tax liability and the interest owed on his loan. Following a hearing on the matter, the trial court granted the defendant additional time to obtain and submit verified documentation to support his contentions. The defendant thereafter filed another objection to the affidavit of debt in which he claimed that, according to town records, the affidavit overstated his municipal taxes by \$4,208.83 and miscalculated his interest by "tens of thousands of dollars." The defendant also claimed that he was entitled to an offset for damages in the amount of \$5,810. The trial court held another hearing to consider the defendant's offer of proof as to his objection to the amount of the mortgage debt set forth in the affidavit of debt, but the defendant failed to attend. The trial court, relying on the plaintiff's affidavit of debt and other submissions, rendered a judgment of strict foreclosure. The defendant appealed, and the Appellate Court (208 Conn. App. 38) reversed the judgment. The Appellate Court held that the trial court erred as a matter of law when it accepted the plaintiff's affidavit of debt under Practice Book § 23-18 (a) and relied on it to establish the amount of the defendant's indebtedness. The Appellate Court noted that § 23-18 (a) provides an exception to the general prohibition of hearsay evidence "where no defense to the amount of the mortgage debt is interposed" by allowing the debt to be proved by the submission of an affidavit by an affiant familiar with the details of the debt. The Appellate Court found, however, that, under our Supreme Court's decision in *Burritt Mutual Savings Bank of New Britain v. Tucker*, 183 Conn. 369 (1981), once the defendant in the present case raised objections concerning the amount of the mortgage debt set forth in the plaintiff's affidavit of debt, the hearsay exception provided in § 23-18 (a) no longer applied, and the plaintiff was required to provide evidence of the amount of the debt. The plaintiff filed a petition for certification to appeal, which the Supreme Court granted as to the issue of whether the Appellate Court incorrectly determined that an objection to an affidavit of debt is sufficient to challenge the submission of the affidavit under § 23-18 (a), when the defendant failed to advance any evidence as to the amount of the debt.