

SUPREME COURT OF LOUISIANA

NO. 2010-C-0435

**THE BANK OF NEW YORK, ACTING SOLELY IN
ITS CAPACITY AS TRUSTEE FOR EQCC TRUST 2001-2**

VERSUS

KATHLEEN JOHNSON PARNELL

*On Application for Rehearing*¹

PER CURIAM

Rehearing granted in part and otherwise denied.

This matter is before the court on rehearing in part for consideration of whether this court erred in disposing of Kathleen Parnell's claim for wrongful seizure. After considering the limited nature of The Bank of New York's writ application, we find merit in Parnell's argument on this issue. Accordingly, Parnell's application for rehearing is granted in part to remove any reference in the original opinion relating to the dismissal of her claim for wrongful seizure. In all other respects, the rehearing is denied.

Therefore, the language on pages 14 and 15 of the slip opinion, beginning with the last sentence before the "CONCLUSION," is modified as follows:

Accordingly, the trial court's grant of summary judgment as to Parnell's HOEPA claims was legally correct. [Footnote omitted.]

CONCLUSION

For the foregoing reasons, the portion of the appellate court decision that reversed the trial court's granting of summary judgment in favor of the Bank as to Parnell's HOEPA is reversed. With respect to that claim, the judgment of the trial court is reinstated.

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Retired Judge Philip C. Ciaccio, assigned as Justice *ad hoc*, sitting for Chief Justice Catherine D. Kimball; Retired Judge Robert J. Klees, assigned as Justice *ad hoc*, sitting for Justice Greg Guidry, recused.

**REVERSED; TRIAL COURT JUDGMENT REINSTATED
IN PART.**