

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILIP REDMON AND PATRICIA  
REDMON,  
Appellants,  
vs.  
HOMEQ SERVICING, INC.; BANK OF  
NEW YORK MELLON TRUST  
COMPANY; PATRICK KING; AND  
ADMINISTRATIVE OFFICE OF THE  
COURTS FORECLOSURE MEDIATION  
PROGRAM,  
Respondents.

No. 56358

**FILED**

JUL 07 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *H. Ingerson*  
DEPUTY CLERK

ORDER VACATING JUDGMENT AND REMANDING

This is an appeal from a district court order denying a petition for judicial review arising in a foreclosure mediation action. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Following an unsuccessful mediation conducted under Nevada's Foreclosure Mediation Program, appellants Philip and Patricia Redmon (the Redmons) filed a petition for judicial review seeking sanctions against their loan servicer, respondent HomEq Servicing, Inc. (HomEq). The district court concluded that HomEq's conduct was not sanctionable and ordered that a foreclosure certificate be issued. As explained below, we vacate the district court's order and remand this matter to the district court.

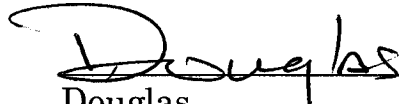
The Redmons' mediation was scheduled for December 28, 2009. On that day, the Redmons met with the mediator and an attorney representing HomEq. Due to an apparent miscommunication, HomEq's attorney was unable to contact via telephone a HomEq employee who ostensibly had the authority to negotiate the Redmons' loan. Two days

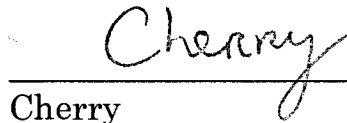
later, a follow-up conference call was held in which the mediator, HomEq's attorney, and the HomEq employee participated—but not the Redmons.


The Redmons' petition for judicial review contended that, among other things, HomEq should be sanctioned for its failure to make someone available during the mediation who had the authority to negotiate their loan. See NRS 107.086(5) (indicating that the mediator shall recommend sanctions when the beneficiary or its representative “does not have the authority or access to a person with the authority” to negotiate a loan modification). In denying their petition, the district court failed to explain the basis for its conclusion that HomEq had made someone with authority available during the mediation. Specifically, the district court's order does not explain who had authority on HomEq's behalf, nor does it explain on what day or days the mediation took place.


On remand, we direct the district court to make the factual findings necessary to determine whether HomEq made someone available during the mediation who had the authority to negotiate the Redmons' loan. If the district court concludes that HomEq failed in this regard, the district court shall determine how HomEq should be appropriately sanctioned. Pasillas v. HSBC Bank USA, 127 Nev. \_\_\_, \_\_\_, \_\_\_ P.3d \_\_\_, \_\_\_ (2011) (construing NRS 107.086(5) to mean that a violation of one of the four statutory requirements must be sanctioned and that the district court is to consider several factors in determining what sanctions are appropriate). Accordingly, we


ORDER the judgment of the district court VACATED AND REMAND this matter to the district court for proceedings consistent with this order.

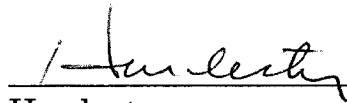
 \_\_\_\_\_, C.J.  
Douglas

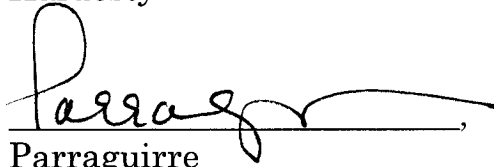
 \_\_\_\_\_, J.  
Cherry

 \_\_\_\_\_, J.  
Saitta

 \_\_\_\_\_, J.  
Gibbons

 \_\_\_\_\_, J.  
Pickering

 \_\_\_\_\_, J.  
Hardesty

 \_\_\_\_\_, J.  
Parraguirre

cc: Hon. Patrick Flanagan, District Judge  
Geoffrey Lynn Giles  
Fennemore Craig, P.C./Las Vegas  
Houser & Allison, APC  
Cooper Castle Law Firm, LLC  
Washoe District Court Clerk