

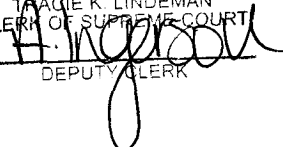
IN THE SUPREME COURT OF THE STATE OF NEVADA

TRAVIS LONGOBARDO; AND LEO
LONGOBARDO,
Appellants,
vs.
WELLS FARGO BANK, N.A.
SUCCESSOR BY MERGER TO WELLS
FARGO HOME MORTGAGE, INC.,
Respondent.

No. 59458

FILED

DEC 14 2012

TAGIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

This court reviews a district court's factual determinations deferentially, Ogawa v. Ogawa, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009) (stating that a "district court's factual findings... are given deference and will be upheld if not clearly erroneous and if supported by substantial evidence"), and its legal determinations de novo. Clark County v. Sun State Properties, 119 Nev. 329, 334, 72 P.3d 954, 957 (2003). Absent factual or legal error, the choice of sanction in an FMP judicial review proceeding is committed to the sound discretion of the district court. Pasillas v. HSBC Bank USA, 127 Nev. ___, ___, 255 P.3d 1281, 1287 (2011).

To obtain a foreclosure certificate, a deed of trust beneficiary must strictly comply with four requirements: (1) attend the mediation; (2) participate in good faith; (3) bring the required documents; and (4) if attending through a representative, have a person present with authority

to modify the loan or access to such a person. NRS 107.086(4) and (5); Leyva v. National Default Servicing Corp., 127 Nev. ___, ___, 255 P.3d 1275, 1279 (2011).

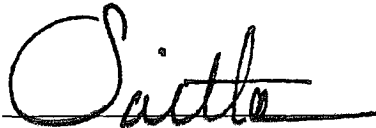
Having reviewed the briefs and appendix, we conclude that the district court did not abuse its discretion in ordering a foreclosure certificate to be issued. Appellants argue that respondent lacked authority to foreclose and to appear at the foreclosure mediation based on the fact that Mortgage Electronic Registration Systems, Inc. (MERS), was involved in the relevant transactions. We recently addressed and rejected such arguments regarding MERS in Edelstein v. Bank of New York Mellon, 128 Nev. ___, 286 P.3d 249 (2012). Therefore, appellants' challenge to the district court's order based on the involvement of MERS fails.

Appellants also assert that respondent acted in bad faith by refusing to disclose the amount paid to acquire its interest in the loan. As nothing in NRS 107.086 or the FMP rules requires this disclosure, the district court did not abuse its discretion in determining that respondent did not act in bad faith. NRS 107.086(4) and (5); Pasillas, 127 Nev. at ___, 255 P.3d at 1287.

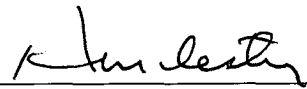
Finally, we reject appellants' argument that respondent failed to produce all of the assignments as required and therefore the proper party did not attend the mediation. Appellants base this argument on nothing more than speculation. Both the mediator and the district court

found that all the necessary documents had been produced and nothing in the record demonstrates otherwise.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


Saitta, J.


Pickering, J.


Hardesty, J.

cc: Hon. Patrick Flanagan, District Judge
Mark L. Mausert
Tiffany & Bosco, P. A.
Washoe District Court Clerk

¹Appellants raise a challenge to the validity of the assignment under NRS 111.210 based on the assignment's failure to specify the amount paid within the document. Appellants failed to raise this argument in the district court; thus, we do not consider it. See In re AMERCO Derivative Litigation, 127 Nev. ___, ___ n.6, 252 P.3d 681, 697 n.6 (2011) (declining to consider an issue raised for the first time on appeal).