

IN THE SUPREME COURT OF THE STATE OF NEVADA

RYAN M. HENDERSON; AND MICAL  
 S. HENDERSON,  
 Appellants,  
 vs.  
 WELLS FARGO HOME MORTGAGE,  
 INC.; DEUTSCHE BANK NATIONAL  
 TRUST COMPANY; AND NATIONAL  
 DEFAULT SERVICING  
 CORPORATION,  
 Respondents.

No. 60530

**FILED**

NOV 21 2013

TRACIE K. LINDEMAN  
 CLERK OF SUPREME COURT  
 BY A. Malone  
 DEPUTY CLERK

*ORDER OF REVERSAL AND REMAND*

This is an appeal from a district court order denying a petition for judicial review in a Foreclosure Mediation Program (FMP) matter. Eighth Judicial District Court, Clark County; J. Charles Thompson, Judge.


In an appeal from a district court order granting or denying judicial review in an FMP matter, this court defers to the district court's factual determinations and reviews de novo the district court's legal determinations. *Edelstein v. Bank of N.Y. Mellon*, 128 Nev. \_\_\_, \_\_\_, 286 P.3d 249, 260 (2012). To obtain an FMP certificate, a deed of trust beneficiary must: (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 person. NRS 107.086(4) (2011); *Leyva v. Nat'l Default Servicing Corp.*, 127 Nev. \_\_\_, \_\_\_, 255 P.3d 1275, 1278-79 (2011).

Appellants contend that the district court abused its discretion in ordering the issuance of an FMP certificate without first conducting an evidentiary hearing to investigate potential document falsification on the

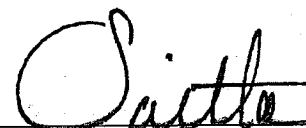
part of respondent Wells Fargo Home Mortgage, Inc. Having considered the record on appeal, we agree. *Pasillas v. HSBC Bank USA*, 127 Nev. \_\_\_, \_\_\_, 255 P.3d 1281, 1286-87 (2011). Specifically, appellants' petition for judicial review identified various discrepancies in Wells Fargo's documents and expressly requested an evidentiary hearing. Wells Fargo, in turn, failed to explain these perceived discrepancies in either its response or at the show-cause hearings.

Because the district court abused its discretion in denying appellants' petition without first resolving these outstanding issues, we reverse the district court's denial of appellants' petition for judicial review, and remand this matter to the district court for further proceedings. *Id.* On remand, we direct the district court to consider the document-related issues raised in appellants' petition for judicial review and to exercise its discretion in determining the extent to which an evidentiary hearing is necessary to resolve these issues.<sup>1</sup> See FMR 21(2) (providing the district court with the discretion to determine the extent to which an evidentiary hearing is necessary).

It is so ORDERED.

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

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

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

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<sup>1</sup>We clarify that nondocument-related issues and issues not raised in appellants' petition for judicial review need not be considered on remand.

cc: Chief Judge, The Eighth Judicial District Court  
Hon. J. Charles Thompson, Senior Judge  
Crosby & Fox, LLC  
Tiffany & Bosco, P. A.  
Eighth District Court Clerk