

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

7813 MILKWEED COURT TRUST, A
NEVADA TRUST,
Appellant,
vs.
WELLS FARGO BANK, N.A., A
NATIONAL ASSOCIATION,
Respondent.

No. 71584

FILED

DEC 14 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK


ORDER OF REVERSAL AND REMAND

7813 Milkweed Court Trust appeals from a district court order of dismissal in a real property action. Eighth Judicial District Court, Clark County; Ronald J. Israel, Judge.

This case arises from a declaratory relief action following a homeowners association foreclosure pursuant to NRS Chapter 116. Below, the district court granted respondent's motion to dismiss 7813 Milkweed Court Trust's case on the ground that NRS Chapter 116 was unconstitutional. On appeal, the parties agree that the Nevada Supreme Court's recent decision in *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage*, 133 Nev. ___, 388 P.3d 970 (2017), specifically addresses this matter and mandates reversal. Under these circumstances, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.¹


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Ronald J. Israel, District Judge
Craig A. Hoppe, Settlement Judge
Ayon Law, PLLC
Snell & Wilmer, LLP/Tucson
Snell & Wilmer, LLP/Las Vegas
Eighth District Court Clerk

¹We conclude that an award of attorney fees based on NRAP 38 (authorizing an award of fees as a sanction for, among other things, frivolous appeals, appeals taken or processed solely for delay, or when “the appellate processes of the court have otherwise been misused”) is not warranted. Accordingly, 7813 Milkweed Court Trust’s request for a fees award under this rule is denied.