

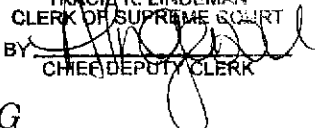
IN THE SUPREME COURT OF THE STATE OF NEVADA

BOWMAN LAIR, LLC,  
Appellant,  
vs.  
WELLS FARGO BANK, N.A.,  
Respondent.

No. 68581

**FILED**

JUN 17 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER VACATING AND REMANDING*

This is an appeal from a district court order granting a motion to dismiss in a quiet title action. Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

Having considered the parties' arguments, we conclude that dismissal of the underlying matter based on issue preclusion was improper because the April 22, 2013, order in a previous case did not accurately reflect that judge's reasoning.<sup>1</sup> In particular, the record demonstrates that the judge who entered the April 2013 order orally indicated she did not intend to dismiss the previous case on its merits, but only based on appellant's pending bankruptcy petition. Thus, the issue of whether Wells Fargo's deed of trust was extinguished by Butler Estates' foreclosure sale was not actually and necessarily litigated in the previous case. *See Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008) (setting forth the elements of issue preclusion). Because dismissal of the

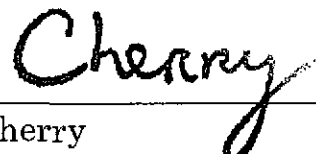
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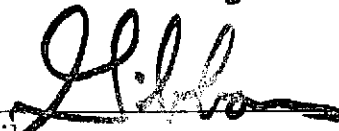
<sup>1</sup>The April 2013 order in the previous case was entered by then-District Judge Abbi Silver. District Judge Carolyn Ellsworth presided over the underlying matter.

underlying matter based on issue preclusion was improper, and because the district court in the underlying matter did not address the parties' remaining arguments, we

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

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

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

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

cc: Hon. Carolyn Ellsworth, District Judge  
Law Offices of Michael F. Bohn, Ltd.  
Snell & Wilmer, LLP/Tucson  
Snell & Wilmer, LLP/Las Vegas  
Eighth District Court Clerk