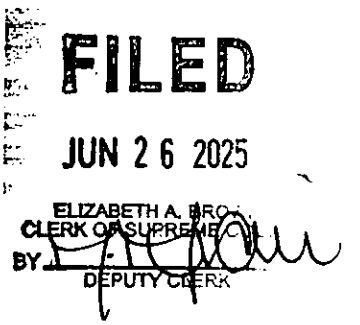
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DANNY, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
QUALITY LOAN SERVICE CORPORATION, A CALIFORNIA CORPORATION; AND SPECIALIZED LOAN SERVICING, LLC, A LIMITED LIABILITY COMPANY,
Respondents.

No. 88607-COA



ORDER OF AFFIRMANCE

Danny, LLC appeals from a district court order granting a motion for summary judgment in an action to quiet title. Eighth Judicial District Court, Clark County; Danielle K. Pieper, Judge.

Danny sued respondent Quality Loan Service Corporation and respondent Specialized Loan Servicing, LLC (respondents) for quiet title, declaratory judgment, wrongful foreclosure, and a violation of NRS 107.028. Danny alleged that it was the owner of the relevant property and that a deed of trust encumbered the property. Danny further alleged that the deed of trust had been extinguished as a matter of law under NRS 106.240. That statute provides that a lien on real property is conclusively presumed to be discharged "10 years after the debt secured by the mortgage or deed of trust according to the terms thereof or any recorded written extension thereof become[s] wholly due." NRS 106.240. According to Danny, respondents' interest in the subject property was extinguished under NRS 106.240,

25-28154

which was triggered by alleged notices of intent to accelerate the underlying debt in letters sent to the original borrower in May 2009 and/or December 2011, or by the original borrower's bankruptcy filing on November 30, 2011. Danny also asserted that the note and deed of trust had been split and not reunified, contended Quality Loan Service violated NRS 107.028, and contended respondents wrongfully sought to foreclose on the property.

Danny also moved for a temporary restraining order and/or a preliminary injunction regarding the pending foreclosure sale of the property. The district court thereafter issued an order setting a hearing regarding Danny's motion for December 6, 2023, and directed Danny to effectuate service of process by November 28, 2023. On November 30, 2023, respondents appeared in this matter and filed a peremptory challenge of the district court judge pursuant to SCR 48.1. Respondents also filed an amended peremptory challenge on December 1, 2023, and this matter was subsequently transferred to a different district court judge.

Danny later moved to strike respondents' peremptory challenge, as it asserted the motion was not timely filed. Respondents opposed the motion to strike. Danny also withdrew its motion for a temporary restraining order and/or a preliminary injunction. The district court subsequently denied Danny's motion to strike because it found respondents filed the peremptory challenge more than three days prior to the originally scheduled December 6, 2023, hearing date and it was thus timely filed pursuant to SCR 48.1(3)(b).

Respondents thereafter filed a motion to dismiss or, in the alternative, a motion for summary judgment. Respondents contended,

among other things, there was no genuine dispute of fact as to whether NRS 106.240 extinguished the deed of trust, as the loan had not become wholly due in either 2009 or 2011. They also argued the debt had not become wholly due by the original borrower's default or by letters sent concerning the default. Respondents further asserted that Specialized Loan Servicing was the beneficiary of the deed of trust and possessed the note such that the note and the deed of trust were reunified, and that Quality Loan Service did not violate NRS 107.028. In addition, respondents filed documents and affidavits in support of their motion, which included information related to the deed of trust and the note, the recorded assignments of the deed of trust, and the recorded 2023 notice of default and election to sell.

Danny opposed the motion, arguing that it had provided sufficient allegations to state a claim as to each of its causes of action. In the alternative, Danny contended that there remained genuine disputes of fact. In addition, Danny asserted respondents' interest in the subject property was extinguished under NRS 106.240. Danny alternatively requested NRCP 56(d) relief to conduct discovery. Respondents subsequently filed a reply in support of their motion.

The district court issued a written order in which it elected to treat the motion as one for summary judgment as it relied upon documents outside of the pleadings and concluded that there was no genuine dispute of fact and that respondents were entitled to summary judgment as a matter of law in their favor. The court ruled the plain language of NRS 106.240 precluded events, such as the ones alleged in Danny's complaint, from triggering the ten-year period under NRS 106.240. Further, the court

concluded that the undisputed facts demonstrated the note and deed of trust were reunified, and that Danny's NRS 107.028 and wrongful foreclosure claims lacked merit. The court also determined Danny was not entitled to declaratory or injunctive relief. The district court accordingly granted respondents' motion for summary judgment.[1] This appeal followed.

First, Danny argues the district court abused its discretion by denying its motion to strike respondents' peremptory challenge to the district court judge. Danny contends the challenge was untimely filed, as it contends that NRCP 6(a)(1) and the advisory committee's note concerning the 2019 amendments to that rule required respondents to file such a challenge at least seven days prior to the December 6, 2023, hearing and respondents' challenge was not filed prior to that deadline.

"Although we review a district court's decision to grant or deny a motion to strike for abuse of discretion . . . [w]e review a district court's interpretation of a Supreme Court Rule de novo." *Reggio v. Eighth Jud. Dist. Ct.*, 139 Nev. 36, 39, 525 P.3d 350, 353 (2023). Moreover, "[t]he rules of statutory interpretation apply to the Supreme Court Rules." *Id.* Thus, if

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[1]We note that, by granting respondents' motion for summary judgment, the district court effectively denied Danny's requested NRCP 56(d) relief to conduct discovery. *See Bd. of Gallery of History, Inc. v. Datecs Corp.*, 116 Nev. 286, 289, 994 P.2d 1149, 1150 (2000) (concluding that a district court's failure to rule on a request constitutes a denial of that request). We also note Danny does not challenge any decision to deny its requested relief. As a result, we decline to address this issue. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) ("Issues not raised in an appellant's opening brief are deemed waived.").

the rule is clear on its face, courts will not look beyond the rule's plain language. *See id.*; *Beazer Homes Nev., Inc. v. Eighth Jud. Dist. Ct.*, 120 Nev. 575, 579-80, 97 P.3d 1132, 1135 (2004). "When two rules apply, they are to be harmonized and read so as to provide effect to both whenever possible." *Morrow v. Eighth Jud. Dist. Ct.*, 129 Nev. 110, 114, 294 P.3d 411, 415 (2013). In addition, a more specific rule will control over a more general rule. *See Williams v. State Dep't of Corr.*, 133 Nev. 594, 601, 402 P.3d 1260, 1265 (2017).

SCR 48.1 permits a party in a civil action to seek a change of a district court judge through a peremptory challenge. The party seeking a change of district court judge must file the peremptory challenge "[w]ithin 10 days after notification to the parties of a trial or hearing date" or "[n]ot less than 3 days before the date set for the hearing of any contested pretrial matter, whichever occurs first." SCR 48.1(3). NRCP 6(a)(1) provides that a time period stated in days excludes the day of the event that triggers the period, generally includes the last day of the period, and encompasses every day including intermediate Saturdays, Sundays, and legal holidays. In addition, the advisory committee note concerning the 2019 amendments to NRCP 6 explains that periods which previously were for five days or less were generally lengthened to seven days under the amended rule. *See* NRCP 6 advisory committee's note to 2019 amendment.

Our review of this issue reveals Danny's argument is misplaced. "NRCP 6(a) informs parties how to count prescribed time periods in the district court," *Morrow*, 129 Nev. at 115, 294 P.3d at 415, while SCR 48.1(3) provides the specific time period for when a party must file a peremptory

challenge to the district court judge. Because SCR 48.1(3) is the rule that provides the specific time period for a party filing a peremptory challenge to a district court judge, its time period applies in this matter. Pursuant to SCR 48.1(3)(b), respondents were required to file the peremptory challenge not less than three days before the December 6, 2023, hearing. Here, the district court found respondents filed the peremptory challenge more than three days before December 6, 2023, and the court's finding is supported by the record. Respondents' peremptory challenge accordingly was timely filed. Thus, we conclude Danny fails to demonstrate the district court abused its discretion by denying its motion to strike.

Second, Danny argues the district court erred by granting summary judgment in favor of respondents. This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine dispute of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence "must be viewed in a light most favorable to the nonmoving party." *Id.* General allegations and conclusory statements do not create genuine disputes of fact. *Id.* at 731, 121 P.3d at 1030-31.

On appeal, Danny argues the district court erred by granting summary judgment in respondents' favor because it contends that the terms of the deed of trust permitted acceleration of the loan. Danny further argues the lender sent the original borrower notices indicating the acceleration of the loan secured by the deed of trust more than ten years ago and, because

the loan was accelerated, the deed of trust that secured that debt became extinguished pursuant to NRS 106.240.

NRS 106.240, Nevada's ancient-lien statute, provides that a lien created by a mortgage or deed of trust that has not been otherwise satisfied will be presumed discharged ten years after the debt becomes wholly due. A debt becomes "wholly due" according to either (1) the terms in the mortgage or deed of trust, or (2) any recorded, written extension of those terms. *LV Debt Collect, LLC v. Bank of New York Mellon*, 139 Nev. 232, 236, 534 P.3d 693, 697 (2023); *Posner v. U.S. Bank Nat'l Assn*, 140 Nev., Adv. Op. 22, 545 P.3d 1150, 1153 (2024). For a deed of trust to be presumed satisfied for the purposes of NRS 106.240, "ten years [must] have passed after the last possible date the deed of trust is in effect, as shown by the maturity date on the face of the deed of trust or any recorded extension thereof." *LV Debt Collect*, 139 Nev. at 238, 534 P.3d at 699. The supreme court also explained that, even if a notice provided to the borrower indicating a default in certain circumstances could render a loan wholly due, a notice that declared sums were due and payable but also provided the borrower with the opportunity to cure the default constituted the sort of conflicting language that did not amount to a clear and unequivocal announcement of the lender's intention to declare a debt wholly due. *Id.* at 238-39, 534 P.3d at 699.

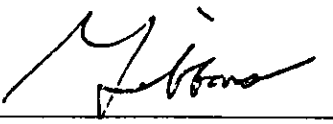
Here, because the terms of the deed of trust did not render the debt wholly due upon the original borrower's default and allowed the opportunity for the borrower to cure the default, NRS 106.240's ten-year period was not triggered by either the default or any purported lender's

letter concerning the default. To the extent Danny relies on the acceleration clause contained in the deed of trust and asserts that this clause made the debt wholly due, we are not persuaded by this argument because the borrower retained the option under the deed of trust to reinstate the loan to good standing. *See Norman, LLC v. Newrez LLC*, No. 87545, 2024 WL 5086198, at *1 (Nev. Dec. 11, 2024) (Order of Affirmance) (stating that merely defaulting on a loan is insufficient to trigger NRS 106.240); *Big Rock Assets Mgmt., LLC v. Newrez LLC*, No. 86675, 2024 WL 4865435, at *2 (Nev. Nov. 21, 2024) (Order of Affirmance) (explaining that "the filing of a notice of default may not automatically accelerate a loan, because NRS 107.080(2)-(3) requires a notice of default to give a borrower thirty-five days to cure, which is antithetical to an acceleration"); *RH Kids, LLC v. Specialized Loan Servicing, LLC*, No. 87701-COA, 2025 WL 365736, at *3 (Nev. Ct. App. Jan. 31, 2025) (Order of Affirmance) (rejecting appellant's argument that the debt secured by the deed of trust became wholly due more than ten years ago because the terms of the deed of trust permitted acceleration of the loan and a notice was sent indicating acceleration of the loan). Thus, we conclude that, under the language of the deed of trust, neither the default nor the letters could have accelerated the due date on the loan, and thus the ten-year period under NRS 106.240 was not triggered. Therefore, Danny fails to demonstrate that it was entitled to relief based on this argument.

Thus, based on the foregoing analysis, we conclude that Danny's argument that the district court erred by granting summary judgment in favor of respondents is without merit.[2] Accordingly, we

ORDER the judgment of the district court AFFIRMED.[3]

_____, C.J.
Bulla



_____, J.
Gibbons

_____, J.
Westbrook

cc: Hon. Danielle K. Pieper, District Judge
Persi J. Mishel, Settlement Judge
Hong & Hong
McCarthy & Holthus, LLP/Las Vegas
Eighth District Court Clerk

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[2]Danny does not challenge the district court's decision to grant summary judgment in favor of respondents as to the additional claims raised in its complaint. As a result, Danny has forfeited any argument related to the same. *See Powell*, 127 Nev. at 161 n.3, 252 P.3d at 672 n.3.

[3]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.