IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARKHAM XIII, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
BANK OF AMERICA, N.A., A NATIONAL BANKING ASSOCIATION,
Respondent.

No. 90371-COA

ORDER OF AFFIRMANCE

Arkham XIII, LLC, appeals from a district court final order entered in an action to quiet title. Eighth Judicial District Court, Clark County; Hon. Jasmin D. Lilly-Spells, Judge.

Arkham was the owner of a residential property and initiated an action to quiet title. In the operative complaint, Arkham raised several claims involving respondent Bank of America, N.A. (BANA), the beneficiary of a deed of trust encumbering the property. As relevant to this matter, Arkham alleged that the deed of trust had been extinguished as a matter of law under NRS 106.240, which it alleged was triggered by a notice of intent to accelerate the underlying debt sent to the original borrower in 2011 or 2012. Arkham further alleged that BANA willfully violated NRS 107.200-.300 by failing to timely respond to Arkham's request for information regarding the debt secured by the deed of trust.

BANA later filed a motion to dismiss, asserting, among other things, that the facts as alleged in Arkham's NRS 106.240 claim were insufficient to state a claim for which relief could be granted. BANA argued that the NRS 106.240 claim lacked merit as nothing alleged in the operative complaint triggered NRS 106.240. BANA also argued that Arkham's NRS 106.240 claim was barred by claim preclusion as it could have raised that claim in an earlier suit brought in federal court. Arkham opposed the motion. The district court ultimately issued a written order granting the motion in part and denying in part. The court dismissed Arkham's NRS 106.240 claim, as it determined it was barred by claim preclusion as it could have been raised in the prior federal court action initiated by Arkham. However, the district court determined that several additional claims should not be dismissed.

BANA thereafter answered and subsequently filed a motion for summary judgment. As relevant to this appeal, BANA contended that the undisputed facts demonstrated that Arkham's NRS 107.200-.300 claim lacked merit, as Arkham did not make a valid request for information concerning the debt secured by the deed of trust under those statutes. In particular, BANA contended Arkham did not mail its request for information to the appropriate address as required by NRS 107.270. BANA noted that the undisputed facts demonstrated that Arkham mailed its request for information to an address in Plano, Texas, when the address it should have mailed the request to was in Washington, D.C. Arkham opposed the motion. Arkham contended it substantially complied with NRS 107.270 by mailing the request for information to the BANA address in Plano, Texas, as that address was listed on the recorded notice of default.

The district court subsequently granted BANA's motion for summary judgment. The court determined that the undisputed facts demonstrated that Arkham did not strictly comply with NRS 107.270's mailing requirement and that its claim under NRS 107.200-.300 lacked merit. It accordingly determined that BANA was entitled to summary judgment in its favor. This appeal followed.

NRS 106.240 claim

On appeal, Arkham first challenges the district court's decision to dismiss its NRS 106.240 claim. Arkham contends the court should not have determined that claim preclusion barred its NRS 106.240 claim. We rigorously review a district court order granting an NRCP 12(b)(5) motion to dismiss, accepting all of the plaintiff's factual allegations as true and drawing every reasonable inference in the plaintiff's favor to determine whether the allegations are sufficient to state a claim for relief. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). A complaint should be dismissed for failure to state a claim "only if it appears beyond a doubt that [the plaintiff] could prove no set of facts, which, if true, would entitle [the plaintiff] to relief." *Id.* at 228, 181 P.3d at 672.

Notwithstanding Arkham's claim preclusion argument, we determine that the district court did not err by dismissing Arkham's NRS 106.240 claim, albeit on different grounds than relied upon by that court. *See Saavedra-Sandoval v. Wal-Mart Stores, Inc.*, 126 Nev. 592, 599, 245 P.3d 1198, 1202 (2010) (recognizing that this court may affirm the district court on any ground supported by the record, even if not relied upon by the district court). In particular, Arkham's allegation that the deed of trust that secured the debt became extinguished pursuant to NRS 106.240 failed to state a valid claim because neither the default by the original borrower nor a written notice allegedly sent to the borrower concerning the default could have accelerated the due date on the loan, and thus the ten-year period under NRS 106.240 was not triggered. *See LV Debt Collect, LLC v. Bank of N.Y. Mellon*, 139 Nev. 232, 236-37, 534 P.3d 693, 698 (2023) (explaining that recording a notice of default to institute nonjudicial foreclosure proceedings does not trigger NRS 106.240's 10-year time frame in part because of the statutory cure period); *Arns Fund, LLC v. JPMorgan Chase Bank, N.A.*, No. 88661, 2025 WL 3251312, *1 (Nev. Nov. 20, 2025) (Order Affirming in Part, Reversing in Part and Remanding) (stating that "merely defaulting on a loan or sending a letter informing the homeowner of their default [was] insufficient to trigger NRS 106.240" and rejecting an argument that the terms of the deed of trust rendered the debt wholly due when the borrower had the opportunity to cure the default).

Accordingly, we determine the district court did not err by dismissing this claim.[1]

NRS 107.200-.300 claim

Next, Arkham argues the district court erred by granting summary judgment concerning its NRS 107.200-.300 claim. Arkham argues there remains a genuine dispute of fact as to whether BANA willfully failed to comply with its request for information concerning the debt secured by the deed of trust despite BANA's receipt of the written request at its Plano, Texas, address.

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.

[1]In light of our decision to affirm the district court's decision to dismiss Arkham's NRS 106.240 claim on an alternate basis, we need not consider Arkham's contentions concerning the district court's application of the doctrine of claim preclusion.

Taken together, NRS 107.200 and NRS 107.210 provide that "the beneficiary of a deed of trust . . . shall, within 21 days after receiving a request from a person authorized to make such a request . . . cause to be mailed, postage prepaid, or sent by facsimile machine to that person a statement regarding the debt secured by the deed of trust" and "the amount necessary to discharge the debt secured by the deed of trust." In addition, NRS 107.270 states that the request for the aforementioned information regarding the debt "must be made to the address to which the periodic payments under the note are made. If no periodic payments are made under the note, the request must be mailed to the address of the beneficiary listed on the note or deed of trust."

Here, the undisputed facts show that Arkham did not mail its request to BANA for information concerning the debt secured by the deed of trust to an address described under NRS 107.270. As the undisputed facts support that Arkham did not mail its request to an address mandated by NRS 107.270, Arkham fails to demonstrate that the district court erroneously determined that its NRS 107.200-.300 claim lacked merit. *See Kay v. Nunez*, 122 Nev. 1100, 1104, 146 P.3d 801, 804 (2006) (explaining that appellate review of an issue of statutory interpretation is de novo); *see also Fassari v. Fassari*, No. 90183-COA, 2025 WL 2989906, *5 (Nev. Ct. App. Oct. 25, 2025) (Order Affirming in Part, Reversing in Part, and Remanding) (stating "we generally agree that the use of 'may' in a statute is permissive whereas the use of 'must' is mandatory"); *see also BMO Harris Bank, N.A. v. Whittemore*, 139

Nev. 274, 278, 535 P.3d 241, 245 (2023) (explaining a method-of-notice requirement was a time and manner provision, "which weigh[ed] in favor of demanding strict compliance").

As a result, we conclude that the district court did not err by granting BANA's motion for summary judgment. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029. Therefore, Arkham fails to demonstrate that it is entitled to relief. Accordingly, we

ORDER the judgment of the district court AFFIRMED.[2]

Bulla, C.J.

Gibbons, J.

Westbrook, J.

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[2]We note that in the notice of appeal, Arkham identified an order denying a motion to strike a peremptory challenge as an order it sought to challenge on appeal. However, Arkham does not present argument concerning that order. As a result, Arkham has forfeited any argument related to the same. *See Palmieri v. Clark County*, 131 Nev. 1028, 1033 n.2, 367 P.3d 442, 446 n.2 (2015) (stating that issues that are not raised on appeal are deemed forfeited).

In addition, we deny Arkham's request for sanctions under NRAP 38. *See Anaya-Alvarado v. Anaya-Alvarado*, No. 84869-COA, 2023 WL 2033364, at *6 n.8 (Nev. Ct. App. Feb. 15, 2023) (Order of Affirmance) (declining to impose sanctions under NRAP 38 because the "appeal in its entirety is not frivolous, nor does it appear to have been undertaken solely for purposes of delay").

cc: Hon. Jasmin D. Lilly-Spells, District Judge
Akerman LLP/Las Vegas
Hong & Hong
Eighth District Court Clerk