

EXHIBIT 1

FILED

UNITED STATES COURT OF APPEALS

NOV 04 2016

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

BOURNE VALLEY COURT TRUST,

Plaintiff-Appellee,

v.

WELLS FARGO BANK, NA,

Defendant-Appellant.

No. 15-15233

D.C. No.

2:13-cv-00649-PMP-NJK

District of Nevada,

Las Vegas

ORDER

Before: WALLACE, D.W. NELSON, and OWENS, Circuit Judges.

Judges Nelson and Owens have voted to deny the petition for rehearing.

Judge Wallace voted to grant the petition for rehearing. Judge Owens voted to deny the petition for rehearing en banc. Judge Nelson recommended denying the petition for rehearing en banc. Judge Wallace recommended granting the petition for rehearing en banc.

The full court has been advised of the petition for rehearing en banc and no active judge has requested a vote on whether to rehear the matter en banc. (Fed.R. App. P. 35.)

The Petition for Rehearing or Rehearing En Banc is **DENIED**.

IN THE SUPREME COURT OF THE STATE OF NEVADA

SATICOY BAY LLC SERIES 350
DURANGO 104

Appellant,

vs.

WELLS FARGO HOME
MORTGAGE, N.A.,

Respondent.

Case No.: 68630

Electronically Filed
Nov 07 2016 01:20 p.m.
District Court, Elizabeth A. Brown
A-13-688410-6 Clerk of Supreme Court

APPEAL

**From the Eighth Judicial District Court
The Honorable Ronald J. Israel**

AMENDED NOTICE OF SUPPLEMENTAL AUTHORITY

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Attorneys for Wells Fargo Bank Home Mortgage, N.A.

Pursuant to NRAP 31(e), Respondent Wells Fargo Bank submits the following notice of supplemental authority.

On November 4, 2016, the United States Court of Appeals for the Ninth Circuit denied the Petition for Rehearing and Rehearing En Banc in *Bourne Valley Court Trust v. Wells Fargo Bank* (“*Bourne Valley*”). See Exhibit 1. As indicated in that order, no active judge of that Court requested a vote to rehear the case, resulting in the Ninth Circuit’s unified adherence to the rules of law stated in *Bourne Valley*, including its analysis of state action under the United States Constitution.

As *Bourne Valley* was discussed repeatedly during the September 8, 2016 oral argument in this matter – including specifically its state action analysis, and the pendency in that case of a Petition for Rehearing En Banc – and was one subject of a Notice of Supplemental Authorities that Wells Fargo filed on August 18, 2016, Wells Fargo wished to inform the Court of this development promptly and to renew its request that this Court follow *Bourne Valley*. See *Akin v. Missouri Pac. R. Co.*, 977 P.2d 1040, 1052 (Okla. 1998) (recognizing that federal circuit court decisions are highly persuasive to state courts).

DATED: November 7, 2016

SNELL & WILMER L.L.P.

/s/ Kelly H. Dove

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Attorneys for Respondent

*WELLS FARGO HOME MORTGAGE,
N.A.*

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On November 7, 2016, I caused to be served a true and correct copy of the foregoing **AMENDED NOTICE OF SUPPLEMENTAL AUTHORITY** by the method indicated:

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ **BY EMAIL:** by emailing a PDF of the document(s) listed above to the email addresses of the individual(s) listed below:
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below:
- ☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

/s/ Ruby Lengsavath

An Employee of Snell & Wilmer L.L.P.