

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
Feb 06 2017 10:42 a.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**

MOTION TO STAY REMITTITUR

Andrew M. Jacobs

Nevada Bar No. 12787

Kelly H. Dove

Nevada Bar No. 10569

SNELL & WILMER L.L.P.

3883 Howard Hughes Parkway, Suite 1100

Las Vegas, NV 89169

Telephone: (702) 784-5200

Facsimile: (702) 784-5252

ajacobs@swlaw.com

kdove@swlaw.com

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

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Rule 41(b) of the Nevada Rules of Appellate Procedure, Wells Fargo Bank applies to this Court for a stay of the issuance of remittitur to the Eighth Judicial District Court pending Wells Fargo's application to the United States Supreme Court for a Writ of Certiorari. In support of its Motion, Wells Fargo hereby states as follows:

1. On January 26, 2017, the Nevada Supreme Court issued its Order reversing and remanding this case. A copy of that Order is attached as Exhibit A.

2. In accordance with NRAP 41(a)(1), the Clerk of this Court would ordinarily issue a mandate 25 days after entry of the Supreme Court's Order: February 20, 2017.

3. Wells Fargo plans to pursue its right to petition the United States Supreme Court for a Writ of Certiorari.

4. Because Wells Fargo plans to seek that review, it requests that, pursuant to NRAP 41(b)(2), this Court stay issuance of its mandate for 120 days.¹

¹ Rule 13(1) of the Rules of the United States Supreme Court provides that:

5. This Court previously granted Wells Fargo a stay of the issuance of a mandate in a case that presented similar constitutional issues, but more obliquely.

6. Because of the clarity of the conflict between *Bourne Valley* and this case, Wells Fargo respectfully suggests that a stay of the mandate would be at least as appropriate here.

7. Finally, after Wells Fargo files a Petition for a Writ of Certiorari, this Court should stay the issuance of remittitur until the final disposition by the United States Supreme Court, pursuant to NRAP 41(b)(2).

[A] petition for a writ of certiorari to review a judgment in any case, civil or criminal, entered by a state court ... is timely when it is filed with the Clerk within 90 days after entry of the judgment.

CONCLUSION

This Court should stay the issuance of remittitur for at least 120 days, and, upon Wells Fargo's filing a Petition for Writ of Certiorari with the United States Supreme Court, until final disposition by that Court. *See* NRAP 41(b)(2).

DATED: February 6, 2017

SNELL & WILMER L.L.P.

/s/ Kelly H. Dove

ANDREW M. JACOBS, ESQ.

Nevada Bar No. 12787

KELLY H. DOVE, ESQ.

Nevada Bar No. 10569

3883 Howard Hughes Parkway, Suite
1100

Las Vegas, NV 89169

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 February 6, 2017, I caused to be served a true and correct copy of the foregoing **MOTION TO STAY REMITTITUR** 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.