

FILED

IN THE SUPREME COURT OF THE STATE OF NEVADA

MAY 19 2020

INDICATE FULL CAPTION:

RALPH STEPHEN COPPOLA,
Appellant,
v.
WELLS FARGO BANK, N.A.,
Respondent.

No. 81007

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.



20-19105

1. Judicial District Second Department 1
County Washoe Judge Drackulich
District Ct. Case No. CV18-01272

2. Attorney filing this docketing statement:

Attorney Appellant is Pro Per Telephone _____
Firm _____
Address _____

Client(s) _____

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Andrew M. Jacobs (NV Bar 12787) Telephone (702) 784-5200
Firm Snell & Wilmer L.L.P.
Address _____
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169

Client(s) Wells Fargo Bank, N.A.

Attorney Kelly H. Dove (NV Bar 10569) Telephone (702) 784-5200
Firm Snell & Wilmer L.L.P.
Address _____
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169

Client(s) Wells Fargo Bank, N.A.

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input checked="" type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input checked="" type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input checked="" type="checkbox"/> Other (specify): <u>Certif. for Forecl. to issue</u> |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>Forcl. Med. R. 24</u> |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
☐ Venue
☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

N/A

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Ralph Stephen Coppola, T'ee, Petitioner, v. Wells Fargo Bank, N.A., Respondent, Second Judicial Court Case No. CV18-01272

Ralph Stephen Coppola, T'ee, Petitioner, v. Wells Fargo Bank, N.A., Respondent, Second Judicial Court Case No. CV17-00439

U.S. Bankruptcy: 10-52731-gwz RALPH STEPHEN COPPOLA 7 07/13/10 Debtor 03/22/11

U.S. Bankruptcy: 13-50931-btb RALPH STEPHEN COPPOLA 11 05/10/13 Debtor 11/20/13

U.S. Bankruptcy: 13-51445-btb RALPH STEPHEN COPPOLA 11 07/22/13 Debtor 09/22/14

8. Nature of the action. Briefly describe the nature of the action and the result below:

World Savings Bank, later acquired for free after tax credits by Respondent, Wells Fargo, provided a loan program named, 'pick a payment'. The loan rate disclosures by World Savings through the program have been determined to be fraudulent by the attorney generals of many states. Over a decade ago the loan payment was to be recalculated on Appellant's home. Appellant recalculated the amount himself and determined the inaccuracies of the disclosures. The bank refused to accept the correct payment amount, instead insisting on payment of the higher, and fraudulently calculated, payment amount. Litigation has ensued since that time. Wells Fargo has never presented the original of the promissory note, in the face of Appellants arguments that the promissory note was securitized and destroyed. Wells Fargo presumptively also has no mortgage, the note having been accelerated over 10 years ago, and the home being held adverse to the purported mortgage since the bankruptcies of Appellant in 2010 and 2011. Continued on Attachment.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Appellant, in good faith reasonably believes the following to be the issues on appeal under, e. g., Nevada Foreclosure Mediation Rules ("NFMR"):

1. Was Wells Fargo required to provide a written "short sale vale" at the mediation?
2. Was Wells Fargo required to provide originals/copies of the note/deed of trust/amendments at the mediation?
3. Did Wells Fargo meet the requirements of III. REQUIRED MEDIATION DOCUMENTS Rule 13. (7) Documents to Be Presented for the Mediation?
4. Did the mediator "discuss with the parties whether the borrower qualifies for HAMP, Hardest Hit Funds, Attorney General Settlement Programs, or any other program in existence at the time of the mediation . . ." as required by Rule 19?
5. Did Wells Fargo commit fraud upon the Court below by presenting three different, contradictory, and mutually exclusive stories concerning whether it provided a short sale value? Continued on Attachment.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Appellant is not aware of any proceedings presently pending before the Court which raise(s) the same or similar issues raised in this appeal.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☐ Yes

☒ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: 1. What is the definition of "short-sale value" and can a lender's short sale value in good faith exceed the appraised value of a property.

2. Does a homeowner's court-assumed knowledge from a prior mediation experience waive the requirement of NFMR 19.

3. Are there any prerequisites on what documents a homeowner must provide a lender for a lender to provide a short-sale value.

Continued on attachment.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

Assigned to the Court of Appeals under NRAP 17 (b)(15).

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 03-10-2020

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served 03-10-2020

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed 04-07-2020

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|--|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) <u>NFMR 24</u> | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

NRAP 3A(b)(1) provides general authority.

NFMR 24 provides specific authority for foreclosure mediation case appeals.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

1. RALPH STEPHEN COPPOLA, TRUSTEE OF THE R.S. COPPOLA TRUST
DATED OCTOBER 19, 1995 AS MOST RECENTLY
AMENDED ON SEPTEMBER 13, 2001.
2. WELLS FARGO BANK, N.A.
3. NATIONAL DEFAULT SERVICES.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

3. NATIONAL DEFAULT SERVICES - other.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

1. RALPH STEPHEN COPPOLA, TRUSTEE OF THE R.S. COPPOLA TRUST DATED OCTOBER 19, 1995 AS MOST RECENTLY AMENDED ON SEPTEMBER 13, 2001, adverse possession against Wells Fargo; void deed against Wells Fargo; judicial fraud against Wells Fargo. Not.
2. WELLS FARGO BANK, N.A. claim of right to foreclose. 3-10-2020
3. NATIONAL DEFAULT SERVICES.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

The sole issues at mediation is if a certificate should issue and penalties against the lender. Other claims were not at issue.

(b) Specify the parties remaining below:
None

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☒ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

Order is independently appealable under NRAP 3A(b) and NFMR 24.

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Ralph Stephen Coppola,
Name of appellant

Pro Per
Name of counsel of record

May 15, 2020
Date

Signature of counsel of record

Washoe, NV
State and county where signed

CERTIFICATE OF SERVICE

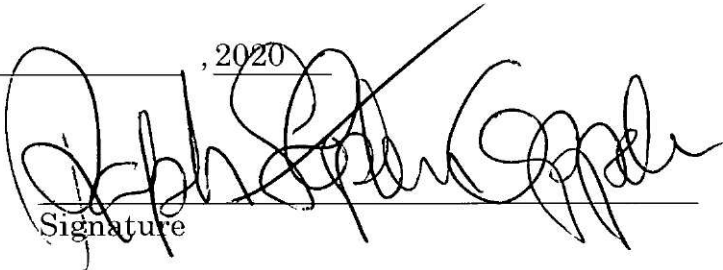
I certify that on the 15th day of May, 2020, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Kelly H. Dove
Andrew M. Jacobs
Gil Kahn
Snell & Wilmer L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169

Dated this 15th day of May

, 2020


Signature

RALPH STEPHEN COPPOLA,
Appellant,
v.
WELLS FARGO BANK, N.A.,
Respondent.

No. 81007

ADDENDUM TO:

DOCKETING STATEMENT CIVIL APPEALS

3. Attorney(s) representing respondents(s):

Attorney Gil Kahn (NV Bar 14220) Telephone (702) 784-5200

Firm Snell & Wilmer L.L.P.

Address 3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169

Client(s) Wells Fargo Bank, N.A.

4. Nature of disposition below (check all that apply):

And: Nevada Rules of Appellate Procedure Rule 3A.

8. Nature of the action. Briefly describe the nature of the action and the result below:

In fact, Wells Fargo acknowledges in its pleadings the over ten-year refusal of Appellant to recognize the obligations of the mortgage and promissory note. Finally, as Appellant has been discharged from liability on the promissory note, there is no promisor on the note. Wells Fargo brought has brought several foreclosure attempts. In the latest attempt, the mediator found that Wells Fargo had failed to fulfill the statutory requirements for issuance of a certificate, but did not make that recommendation. The Court below ignored the findings of the mediator, ignored the failure of Wells Fargo to present any documents required to be presented at the mediation, and ignored the failure of the mediator to discuss other programs, and ordered the certificate of foreclosure to be issued.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

6. Is a homeowner required to provide any documents to the lender as a prerequisite to the lender's duty to provide a short sale value, and, if so, what documents?

7. Did Wells Fargo comply with the provision of NFMR 13(10) that requires, "the beneficiary of the deed of trust or its representative . . . submit any conditions that must be met in order for a short sale to be approved."

7A. Is the failure of Respondent Wells Fargo to produce a short sale value excused by reason of the fact that Appellant (a) did not place Appellant's home up for sale, and (b) failed to provide them with a copy of the purchase contract pursuant to NFMR 13(3)?

7C. Can the short sale value provided by a lender be more than the appraisal amount ("Wells Fargo explains that the \$620,000 offer was a valid short sale value as a matter of law because it was less than the outstanding balance of the loan at the time of the mediation which was \$649,201.93." (The Court below's March 10, 2020, Order, at p. 8, ll. 3 – 5, *citing*, Wells Fargo's *Supplement in Support of Respondent's Request for Appropriate Relief*, filed on December 13, 2019, at 3:21–4:9); otherwise stated, given the duty of good faith by Wells Fargo, is it implicit in the term "short-sale" that the property could actually be sold in the normal course of business for the "short-sale value", and hence, the short sale value must be less than the appraised value?

8. Did Wells Fargo comply with the provision of NFMR 13(10) that requires, "the third party must produce a copy of the agreement, or relevant portion thereof, which authorizes the third party to represent the beneficiary at the mediation"?

9. If a homeowner graciously waives solely the time-limit requirement the appraisal be within 60-days, does the homeowner also waive any other rights of the homeowner or obligations of the lender under NFMR should the lender then elect anyway to obtain a new appraisal, including, can a lender base its denial on such second appraisal if it never presented such appraisal in writing to the homeowner?

10. Is a lender required to maximize net present value?

11. Does the requirement that a lender participate in good faith extend to the decision by the lender as to whether the lender will extend a loan modification?

12. Are rental payments to the homeowner relevant if the lender has not requested payment pursuant to the Deed of Trust, if at all?

13. Is the request for a continuance by the homeowner "disingenuous and contrary to the purpose of the program" as alleged by Respondent Wells Fargo given that the request by the homeowner was based upon the homeowner's three-month severe illness followed by emergency spinal surgery and a three-month hospitalization due to a life threatening a spinal infection that left the homeowner unable to walk?

14. Is the rejection by the homeowner of a lender's purported short sale amount that is equal to the mortgage and more than the appraised value "disingenuous and contrary to the purpose of the program" as alleged by Respondent Wells Fargo?

15. If a lender has received from the appraisal company by fax the appraisal a few days before a mediation is the lender required to provide a written copy of the appraisal to the homeowner at the mediation?

16. Can a homeowner be considered to have denied a lender access to the home when the homeowner offered to make arrangements with the homeowner's housemates but the appraisal company made its own decision to wait until the homeowner was out of the hospital and the lender determined against a continuance?

17. Is it inconsistent for a homeowner to assert the deficiency of the lender in failing to provide a written short sale value but for the homeowner to then reject exploring a short sale based upon the lender's oral short sale value which is considerably more than the appraised value?

18. Is an affidavit credible that a short sale value was given by a certain person on behalf of the Lender, when the Lender has previously argued that it did not provide a short sale value, and all other affidavits are to the effect that the person signing the affidavit did not say anything related.

19. Did the court below misconstrue Appellant's argument concerning the fact that the lender has set forth three "alternative fact sets" (Order, p. 8, ll. 13 – 24).

20. What evidence is required to be provided by a lender or its representative that its representative actually has the authority to modify a loan?

21. Did the court below misstate the evidence concerning whether the homeowner's second set of tax returns were "unreliable" by stating the evidence which solely concerned the first set of tax returns?

22. Is it relevant that the court below misstated fact by stating "Petitioner and Respondent Wells Fargo have been through three previous mediations in this case" when in fact there had only been one previous mediation?

23. Did Wells Fargo otherwise violate Nevada Foreclosure Mediation Rule 20(3)?

24. Did the Court below assume facts not in evidence by assuming that a homeowner solely by virtue of assumed prior experience is familiar with "HAMP, Hardest Hit Funds, Attorney General Settlement Programs, [and] any other program in existence at the time of the mediation . . ." as required by Rule 19?

12. Other issues. Does this appeal involve any of the following issues?

x: A substantial issue of first impression

4. If a lender acknowledges that the homeowner has disputed the legitimacy of a mortgage for over a decade does the court have a duty to inquire into the standing of the lender on the basis that the mortgage is either void after ten years or on the basis of adverse possession.

5. If a homeowner graciously waives solely the time-limit requirement the appraisal be within 60-days, does the homeowner also waive any other rights of the homeowner or obligations of the lender under NFMR should the lender then elect anyway to obtain a new appraisal, including, can a lender base its denial on such second appraisal if it never presented such appraisal in writing to the homeowner?
6. Is a lender required to maximize net present value?
7. Does the requirement that a lender participate in good faith extend to the decision by the lender as to whether the lender will extend a loan modification?
8. Is the rejection by the homeowner of a lender's purported short sale amount that is equal to the mortgage and more than the appraised value "disingenuous and contrary to the purpose of the program" as alleged by Respondent Wells Fargo?
9. If a lender has received from the appraisal company by fax the appraisal a few days before a mediation is the lender required to provide a written copy of the appraisal to the homeowner at the mediation?

27. Attach file-stamped copies of the following documents:

The entire record below has been transmitted to and received by the Court, including each relevant document, listed below:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s) [N/A]
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order
-