IN THE SUPREME COURT OF THE STATE OF NEVADA

FEDERAL NATIONAL MORTGAGE ASSOCIATION; AND GRANDBRIDGE REAL ESTATE CAPITAL, LLC,
Appellants,
vs.
WESTLAND LIBERTY VILLAGE, LLC, A NEVADA LIMITED LIABILITY COMPANY; AND WESTLAND VILLAGE SQUARE, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Respondents.

No. 82174

FILED

MAY 25 2021

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

ORDER DENYING MOTIONS TO RECONSIDER AND INTERVENE

This is an appeal from a district court preliminary injunction in a business dispute. In the preliminary injunction order, the district court denied appellant Federal National Mortgage Association's (Fannie Mae) motion for a receiver based on an alleged default and granted respondents Westland Liberty Village, LLC, and Westland Village Square, LLC's motion for a preliminary injunction, enjoining foreclosure proceedings and several other actions stemming from the alleged default. Currently before this court are two motions, which we now address.

Motion for reconsideration

In January 2021, Fannie Mae moved for a stay pending appeal, seeking to stay sections (2) – (4) and (5)(b) – (o) of the district court's preliminary injunction. On February 11, we granted the stay motion in part, staying sections (2) and (3) of the district court's injunction directing that Fannie Mae remove the notices of default and election to sell from the properties' titles, such that the notices remain of record pending resolution

of this appeal and further order of this court, and denying the motion in all other respects. Fannie Mae now moves for reconsideration of our stay order, urging this court to additionally stay preliminary injunction section 5(o), which prohibits Fannie Mae from "tak[ing] any adverse action against any Westland entity in relation to other loans . . . based on the purported default." According to Fannie Mae, this prohibition is overbroad because it forces Fannie Mae to lend or refinance to nonparty Westland entities. Respondent Westland entities have filed an opposition, claiming that section 5(o) does not reach so far as Fannie Mae contends and instead only prohibits any adverse actions resulting from the purported default, thus placing the parties in the same position as if Fannie Mae had never alleged a default. Fannie Mae has filed a reply.

Having considered the parties' arguments, we deny the motion for reconsideration. As the respondent Westland entities point out, section 5(o) does not extend so far as Fannie Mae asserts and merely places the parties in the same position as if the alleged default had not occurred.

Motion to intervene

The Federal Housing Finance Agency (FHFA), as Fannie Mae's conservator, has moved to intervene in this appeal, asserting that the preliminary injunction purports to restrain its powers in operating its conservatorship in excess of the district court's jurisdiction under 12 U.S.C. § 4617(b)(2)(B)(iii), and that, upon intervention, it will ask this court to dissolve the injunction. Respondent Westland entities oppose the FHFA's intervention, pointing out that no rule of appellate procedure permits intervention and that the FHFA has instituted a writ proceeding to protect any interests, which is currently in briefing, *see Fed. Housing Fin. Agency v. Eighth Judicial Dist. Court*, Docket No. 82666. The FHFA filed a reply and notified this court that the district court recently granted its motion to intervene below.

In *Stephens v. First National Bank of Nevada*, we explained that this court possesses original jurisdiction over writ proceedings and all other jurisdiction is appellate. 64 Nev. 292, 304, 182 P.2d 146, 151 (1947). In so doing, we recognized that the predecessor to NRS 12.130 "makes no provision for intervention in the supreme court, in any case, at any stage of the proceedings, or at all," *id.*, and thus declined to allow for intervention, reasoning that adding parties or permitting new issues was an original court function outside this court's appellate jurisdiction, would improperly commingle original and appellate court functions, and could impair the integrity of the appellate process. *Id.* at 299, 182 P.2d at 149. Although *Stephens* was decided in 1947, nothing in the relevant statute or affecting the court's reasoning has materially changed so as to make intervention appropriate now. Further, the FHFA has appropriately sought writ relief. *Gladys Baker Olsen Family Tr. v. Olsen*, 109 Nev. 838, 841, 858 P.2d 385, 387 (1993). Therefore, the motion to intervene is denied.[1]

It is so ORDERED.

_____, J.
Cadish

_____, J.
Pickering

_____, J.
Herndon

[1]In light of this order, the FHFA's motion to associate attorney Michael A.F. Johnson of Arnold & Porter Kaye Scholer LLP, pursuant to SCR 42, is denied as moot.

cc: Chief Judge, Eighth Judicial District Court
Hon. Mark Denton, District Judge
Snell & Wilmer, LLP/Las Vegas
Holland & Hart LLP/Las Vegas
Snell & Wilmer, LLP/Reno
Campbell & Williams
Law Offices of John Benedict
John W. Hofsaess
Fennemore Craig, P.C./Reno
Arnold & Porter Kaye Scholer, LLP/Washington, DC
Eighth District Court Clerk