

Landmark case could redefine mortgage mediation in Nevada

By Jason Hildago, Reno Gazette-Journal

Is Nevada's Foreclosure Mediation Program unconstitutional?

That's the \$64,000 question in a brewing legal battle that's poised to redefine the foreclosure mediation process in the Silver State.

The battleground is the Nevada Supreme Court, where "Wells Fargo Bank vs. Renslow" now is working its way through the system.

The case was kicked up to the state's high court after Judge Patrick Flanagan of Washoe County's Second Judicial District Court ruled against Wells Fargo and modified the mortgage of a Reno couple, Duke and Tina Renslow, earlier this year.

Created by the Nevada Legislature in 2009, the Foreclosure Mediation Program allows homeowners who receive a notice of default to seek a one-on-one meeting with their lender in front of a neutral mediator for a potential loan modification. The law requires lenders to negotiate in good faith or face sanctions.

The Renslow case is the first time that a Nevada District Court judge has exercised the provision in the program that allows courts to modify the terms of a mortgage when lenders or servicers negotiate in bad faith.

Flanagan declined to comment because the Renslow case is pending before the Nevada Supreme Court. But according to a court docket acquired by the Reno Gazette-Journal, Flanagan cited Wells Fargo's egregious conduct in dealing with the Renslows as the prime reason for his ruling.

Now, Wells Fargo is appealing the decision with the Nevada Supreme Court, alleging that Flanagan's modification of the Renslow mortgage – along with the entire Nevada Foreclosure Mediation Program – is unconstitutional.

Regardless of how the Nevada Supreme Court rules, the case will be a game-changer said legal experts such as Geoffrey Giles, a Reno lawyer with extensive experience in foreclosure cases. It also could mean a potential tipping of the scales for a system that has been criticized as being more favorable toward banks.

Read the whole story