

SUMMARY STATEMENT

Federal National Mortgage Association v. Hafer, Docket No. 41825

The Federal National Mortgage Association (“FNMA”) purchased Russell Hafer’s home at a non-judicial foreclosure sale and filed an eviction suit when Russell and his wife, Sandra, refused to vacate. The Hafers claim that the foreclosure sale was invalid because their loan servicer, Homeward Residential, Inc., had agreed under the federal Home Affordable Modification Program to modify the terms of Russell’s loan just prior to the institution of the foreclosure proceedings. They claimed that Russell was therefore not in default at the time of the sale. Russell brought suit against Homeward and FNMA in Ada County Fourth District Court, seeking to set aside the foreclosure sale based upon the alleged modification agreement. The district court ruled that there was no valid modification agreement and that FNMA was entitled to possession of the home. On appeal, the Supreme Court ruled that the district court erred in granting judgment to Homeward because there was evidence in the record supporting Russell’s claim of a modification of the loan agreement, which also required vacation of the summary judgment in favor of FNMA. The case was remanded to the district court for further proceedings.