

SUMMARY STATEMENT

Washington Federal v. Hulsey, Docket. No. 43936

This case involved an action to foreclose a deed of trust and recover a deficiency. The Court held that the doctrine of claim preclusion did not estop the debtor from challenging the existence or amount of a deficiency based on certain prior proceedings in a bankruptcy court. The Court also held that there was substantial and competent evidence to support the district court's finding that Washington Federal failed to satisfy its burden of proving the existence of a deficiency and the amount.

The Court vacated the district court's judgment denying Washington Federal's request for attorney's fees and costs even though the district court determined that the bank was not the prevailing party. The express terms of the promissory note and deed of trust obligated the debtor to pay reasonable attorney's fees and costs where the bank had to take action to enforce the debt. The Court awarded Washington Federal reasonable attorney's fees for defending against the cross-appeal and costs. The case was remanded to address attorney's fees and costs.