

## **APPENDIX**

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## APPENDIX A

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Filed: April 20, 2021

State of Minnesota

In Supreme Court

A21-0033

Jerald Hammann, Petitioner,

vs.

Wells Fargo Bank NA, Respondent.

### ORDER

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED that the petition of Jerald Hammann for further review be, and the same is, denied.

Dated: April 20, 2021 BY THE COURT:

/s/ Lorie S. Gildea

Lorie S. Gildea

Chief Judge

## **APPENDIX B**

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Filed: February 9, 2021

STATE OF MINNESOTA  
IN COURT OF APPEALS

A21-0033

Jerald Hammann, Appellant,

vs.

Wells Fargo Bank NA, Respondent.

ORDER

Considered and decided by Segal, Chief Judge, Jesson, Judge; and Smith, Tracy M., Judge.

Based upon all the file, record, and proceedings, and for the following reasons:

This appeal was filed on January 8, 2021. Appellant Jerald Hammann seeks review of a November 9, 2020 judgment entered on a November 6, 2020 order denying appellant's motion to vacate. In a January 13, 2021 order, this court questioned whether appellant's motion to vacate raised issues that were raised or could have been raised in appellant's previous motions and appeals and, if so, whether this appeal should be dismissed. The parties filed informal memoranda.

Appellant Jerald Hammann entered into a lease for residential property in Hennepin County in 2010. The property owners defaulted on their mortgage later that year, and respondent Wells Fargo Bank NA initiated foreclosure proceedings. After several years of litigation, Wells Fargo recovered possession of the property in December 2015. In February 2016, Hammann commenced a lockout action against Wells Fargo, asserting claims for ouster, unlawful exclusion or removal, and breach of landlord covenants. The district court dismissed the lockout action with prejudice, and this court affirmed that decision. Hammann v. Wells Fargo Bank, N.A., Nos. A16-0737, A16-1161, 2017 WL 24683, at \*2 (Minn. App. Jan. 3, 2017), review denied (Minn. Mar. 14, 2017).

In 2018, Hammann served a “supplemental complaint” in the lockout action on Wells Fargo. In 2019, Hammann attempted to electronically file the supplemental complaint in the closed lockout file. After the supplemental complaint was not accepted for filing, Hammann moved to compel the district court administrator to accept the supplemental complaint for filing. The district court denied Hammann’s motion to compel as untimely and barred by res judicata, and this court affirmed the district court’s denial of Hammann’s motion. Hammann v. Wells Fargo Bank NA, No. A19-1304, 2020 WL 875259, at \*1-3 (Minn. App. Feb. 24, 2020), review denied (Minn. May 19, 2020).

On November 3, 2020, Hammann moved to vacate the judgment in the lockout file. Hammann argued (1) “that the Housing Court lacks authority to determine matters that do not involve residential rental housing and that the claims being asserted do not involve residential rental housing”; (2) “that the Housing Court did not follow statutory limits on its authority relative to [his] personal property repossession claims, rendering its orders and judgments void”; and (3)

“that newly-discovered evidence,” Wells Fargo’s July 18, 2018 discovery responses regarding Hammann’s supplemental complaint, “reveals a material error of factual presumption in the order and judgment entered relative to [his] real property repossession claims.”

On November 6, 2020, the district court confirmed a referee’s order denying the motion to vacate. The district court entered judgment on the November 6, 2020 order on November 9. On November 9, Hammann filed a motion requesting that the Hennepin County District Court Chief Judge amend a standing order regarding certain civil cases involving real property. On November 11, Hammann filed a motion to compel the chief judge to compel court administration to comply with the standing order. On November 16, Hammann filed an objection to assignment of a housing-court referee and a notice of judge review regarding the November 6, 2020 order.

1.

Hammann argues that this court should “stay proceedings in this appellate action and return jurisdiction over this case to the district court so that it has the authority to resolve the outstanding issues pending before it,” including Hammann’s pending motion to amend the Hennepin County District Court Chief Judge’s standing order, motion to compel compliance with the standing order, objection to the assignment of a referee, and notice of judge review of the November 6, 2020 order.

A party may seek review by a district court judge of a decision recommended by a housing-court referee by serving and filing a notice of review within ten days after service of the adopted written order. Minn. R. Gen. Prac. 611(a). “Although a party is not required to seek judicial review of the referee’s decision, if a party serves and files a proper and

timely notice for such review under Minn. R. Gen. Prac. 611(a), the judgment entered on the referee's confirmed order is not a final judgment for appeal purposes.” *Dominium Mgmt. Servs. LLC v. Lee*, 924 N.W.2d 925, 927 (Minn. App. 2019).

Because Hammann timely filed the notice of judge review of the referee's confirmed order, the November 9, 2020 judgment entered on that order is not a final judgment for appeal purposes. See *id.* This appeal is therefore premature.

Although this appeal is premature, in the interests of judicial economy, we also address whether the denial of Hammann's motion to vacate is nonappealable under *Carlson v. Panuska*, 555 N.W.2d 745, 746 (Minn. 1996).

## 2.

Generally, “an order denying a motion to vacate a final judgment is not appealable.” *Id.* “If the appeal is one from an order denying a motion to vacate an authorized judgment upon grounds reviewable by appeal from the judgment, the order is not appealable.” *Id.* “The purpose of this rule is to prevent an extension of the time to appeal the original judgment by filing a motion to vacate.” *Id.* An order denying a motion to vacate a final judgment may be appealable, however, if the defendant did not participate in the underlying action. *Id.* at 747. “[T]he critical factor” . . . “is whether [the] defendant participated in the original action so that an appeal from the judgment would also raise the propriety of its vacation.”” *Fink v. Shutt*, 445 N.W.2d 869, 870 (Minn. App. 1989) (quoting *Spicer v. Carefree Vacations, Inc.*, 370 N.W.2d 424, 425 (Minn. 1985)).

Hammann acknowledges that the first ground for Hammann's motion to vacate “regarding the Housing

Court's lack of authority to determine matters that do not involve residential rental housing was noticed to the Appellate Court in the A19-1304 action relating to the supplemental personal property claims as a basis for Rule 60 relief." Hammann also acknowledges that the second ground "regarding the Housing Court's failure to follow statutory limits on its authority relative to his personal property repossession claims" was "included as an argument in [his] A19-1304 Initial Brief."

Hammann argues that the third ground regarding newly discovered evidence "was not raised nor could it have been raised in [his] previous motions and appeals." But Hammann concedes that Hammann referenced the evidence in question—Wells Fargo's July 18, 2018 discovery responses—in a brief supporting an earlier motion to vacate in another district court file. Hammann argues that the evidence was not newly discovered evidence in that action, "but instead evidence generated through discovery obtained through the rules of civil procedure ordinarily available in traditional civil actions but rarely available in housing court accelerated docket actions." It is unclear why Hammann waited until November 2020 to raise a newly-discovered-evidence argument regarding evidence from July 2018. Hammann could have raised that argument when moving to compel the filing of the supplemental complaint in 2019 or in the subsequent appeal, in which Hammann raised the two other grounds for the motion to vacate.

Hammann argues that because he "did not participate in the original [eviction] action, the present appeal represents an exception to the general non-appealability . . . of a motion to vacate." However, Hammann brought the November 3, 2020 motion to vacate in the lockout file, not in the original eviction file. And there is no question that Hammann

participated in the underlying lockout action as Hammann commenced that action in 2016.

Because Hammann's November 3, 2020 motion to vacate did not raise issues that were either not raised or could not have been raised in Hammann's previous motions and appeals, we conclude that the November 9, 2020 judgment entered on the November 6, 2020 order is nonappealable under Carlson. See 555 N.W.2d at 746.

IT IS HEREBY ORDERED:

1. This appeal is dismissed.

1. The clerk of the appellate courts shall provide copies of this order to the Honorable Toddrick S. Barnette, Hennepin County District Court Referee Mark Labine, the self-represented appellant, counsel for respondent, and the district court administrator.

Dated: February 9, 2021      BY THE COURT:

/s/ Susan L. Segal

Susan L. Segal

Chief Judge

## APPENDIX C

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STATE OF MINNESOTA  
IN COURT OF APPEALS

A19-1304

Jerald Hammann, Appellant,

vs.

Wells Fargo Bank NA, Respondent.

### ORDER

Based upon all the file, record, and proceedings, and because:

1. This appeal was filed on August 16, 2019. Appellant seeks review of a June 19, 2019 order and judgment that denied appellant's motion to compel the filing of a supplemental complaint in a closed housing court file. The June 19, 2019 order also assessed a penalty of \$300 against appellant which must be paid before appellant attempts to file any further motions or pleadings in any action involving the real property at issue. Appellant also seeks review of a July 23, 2019 order that denied appellant's request to file a motion for reconsideration and assessed a \$500 penalty against appellant which must be paid before appellant attempts to file any further motions or pleadings pertaining to the real property at issue.

2. On August 26, 2019, appellant filed a motion to supplement the record on appeal with various documents including statistical information and a copy of respondent's responses to appellant's first set of discovery requests.

3. The documents filed in the district court, the exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases. Minn.R.Civ.App.P. 110.01. "An appellate court may not base its decision on matters outside the record on appeal, and may not consider matters not produced and received in evidence below." Thiele v. Stich, 425 N.W.2d 580, 582-83 (Minn. 1988).

4. Because our review is limited to the existing record, appellant's motion to supplement the record is unauthorized. See Plowman v. Copeland, Buhl, & Co., 261 N.W.2d 581, 584 (Minn. 1977) (holding that production of evidence is never allowed in an appellate court for the purpose of reversing a judgment).

5. Appellant's brief and addendum are due on September 16, 2019. See Minn. R. Civ. App. P. 131.01, subd. 1, 126.01.

Petitioner Hammann has not established that the "facts and circumstances" on which he relies would cause a reasonable person to believe that all judges are unlikely to be neutral when considering petitioner's claims. And petitioner has not established that he was entitled to a jury trial before dismissal of his claims under Minn. R. Civ. P. 5.04(a) or on his motion to vacate.

IT IS HEREBY ORDERED:

1. Appellant's motion to supplement record is denied.

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2. Appellant's brief and addendum shall be filed and served by September 16, 2019.

Dated: August 28, 2019      BY THE COURT:

/s/ Tracy M. Smith

Judge Tracy M. Smith

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## APPENDIX D

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STATE OF MINNESOTA DISTRICT COURT  
COUNTY OF HENNEPIN FOURTH JUDICIAL  
DISTRICT

Filed: November 6, 2020

27-cv-hc-16-719

Jerald Hammann, Plaintiff,

vs.

Wells Fargo Bank NA, as Trustee, Defendant.

Order

This matter came on for review before the Honorable  
Mark Labine, Referee of Housing Court on November 6,  
2020.

Plaintiff Jerold (sic) Hammann has file a motion to  
vacate judgment under Rule 60.02.

Plaintiff shall hereinafter be referred to as Hammann.  
The Defendant was NOT present. Defendant shall  
hereinafter be referred to as Wells Fargo.

Based upon the verified petition, testimony, evidence,  
and arguments presented, and all of the files, records, and  
proceedings, the Court makes the following:

...

**November 3, 2020 Motion to Vacate**

29. Now, again, Hammann has made another motion to vacate the judgment entered in this action.

30. As noted in this court's last order filed June 19, 2019 and as stated in the order filed by the Court of Appeals on February 24, 2020 under file A19-1304, this case has been dismissed with prejudice by operation of law.

31. Hammann's motion is without merit and is dismissed.

**Order**

1. Jerald Hammann's motion to vacate the judgment entered in this action is DENIED.

2. SERVICE OF ORDER: The Clerk of Court shall either give to the parties or mail to the parties by first class mail a copy of this Order, or e-serve the order to attorneys and/or parties if they are set up for e-filing.

Let Judgment Be Entered Accordingly

/s/ Mark Labine

Mark Labine, Referee

Dated: November 6, 2020

/s/ Toddrick S. Barnette

District Court Judge

Dated: November 6, 2020

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## APPENDIX E

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**Cases in Which Wells Fargo is the First-Named Party**

January 1, 2014 - December 31, 2018

Case Type	First-Named Plaintiff	First-Named Defendant
Civil Other/Misc.	1,041	67
Conciliation	1	48
Conciliation Appeal	-	6
Confession of Judgment	201	-
Consumer Credit Contract	507	1
Contract	183	14
Default Judgment	1,697	1
Employment	1	2
Eviction (UD)	853	-
Personal Injury	-	4
Quiet Title	41	13
Receivership	3	-
Reduced Mortgage		
Redemption	42	-
Replevin	2	-
Restitution Judgment	11	-
Tax Court	18	-
Torrens	1	-
Transcript Judgment	4	3
<b>Grand Total</b>	<b>4,606</b>	<b>159</b>

The above table represents cases filed in Minnesota state courts from January 1, 2014 through December 31, 2018 in which Wells Fargo (in any of its corporate names), was the first-named Defendant. The following case types are removed from this listing: Appointment of Trustee, Condemnation, Condemnation Appeal, Foreign Judgment, Forfeiture, Probate (all forms), Summary Administration, Transcript Judgment From Other Minnesota County, and Trust. These case types were removed because it is believed that Wells Fargo's role in these cases is either tangential to the action, represents an action not initiated in Minnesota, or is a duplicate of an action initiated in Minnesota.

Information obtained by Jerald Hammann from Minnesota Trial Court Public Access (MPA) Remote View from August 6-12, 2019.

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## APPENDIX F

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### **Civil-Other Cases in Which Wells Fargo is the First-Named Defendant**

January 1, 2014 - December 31, 2018

Case Number	Notes from File Review
27-CV-14-1597	Removed to federal court
02-CV-14-763	Removed to federal court
82-CV-14-1337	Removed to federal court
08-CV-14-437	Settled
02-CV-14-3119	Settled
27-CV-14-9807	Default judgment on an attorneys lien on an airplane. Wells Fargo did not appear to contest.
18-CV-14-2745	Plaintiffs successfully sought title to a motor home they purchased.
82-CV-14-3551	Removed to federal court
10-CV-14-867	Removed to federal court
27-CV-14-15883	Settled
62-CV-14-7781	Removed to federal court
27-CV-14-19555	Settled
27-CV-14-19748	Wells Fargo did not oppose default judgment
05-CV-15-210	Focused on whether a transfer from Wells Fargo to Freddie Mac constituted a sale requiring a right of first refusal. Court ruled that it did not constitute a sale because Freddie Mac was never a third party.
27-CV-14-21010	See Appendix L paragraph 1.
27-CV-15-3909	Removed to federal court

Case Number	Notes from File Review
27-CV-15-8676	Dismissal without prejudice
27-CV-15-8904	Wells Fargo obtained all of the assets of a company pursuant to a secured collateral surrender. Another creditor sued Wells Fargo for receiving more than the total amounts validly secured, when it had a \$25,097 receivable.
62-CV-15-4229	Wells Fargo was an intervening defendant in an action involving a family dispute involving inheritance.
18-CV-15-2685	Removed to federal court
27-CV-15-14683	Removed to federal court
62-CV-15-5044	Wells Fargo did not contest reduction of 6-month redemption period on primary mortgage to 5 weeks
27-CV-15-14998	Default judgment entered. HOA redemption only subject to Wells Fargo's first mortgage. All other mortgages eliminated.
27-CV-15-17809	Settled
02-CV-15-5095	Wells Fargo did not contest reduction redemption period to 5 weeks
66-CV-15-2686	Complaint filed by attorney, then attorney withdrew. Plaintiff did not continue to pursue claims and action was dismissed for failure to prosecute.
62-CV-15-6618	Removed to federal court
02-CV-16-426	Wells Fargo did not contest that a mortgage document in favor of Bank of America was lost, misplaced, or inadvertently not completed. Bank of America was entitled to the record satisfaction of the mortgage.
27-CV-HC-16-719	See Appendix L paragraph 3.
27-CV-16-4526	Removed to federal court
62-CV-16-2391	Settled
61-CV-16-212	Wells Fargo stipulated to annulment of sheriff's sale because of defects in Notice and service.

Case Number	Notes from File Review
27-CV-16-7370	Removed to federal court
55-CV-16-4203	See Appendix L paragraph 2.
70-CV-16-18930	Removed to federal court
70-CV-16-21531	Removed to federal court
34-CV-16-558	Co-pending action. Plaintiff failed to properly serve Wells Fargo and case was closed administratively for inaction.
31-CV-17-29	Settled
82-CV-17-104	Removed to federal court
62-CV-17-1704	Removed to federal court
27-CV-17-5219	Settled
85-CV-17-808	Wells Fargo did not object to correction of a Transfer on Death Deed to correct an error that prevented its filing. Wells Fargo remained the primary mortgage on the property. All other claims were extinguished.
50-CV-17-1336	Dismissal without prejudice
70-CV-17-12018	Removed to federal court
02-CV-17-3767	Removed to federal court
27-CV-17-12834	Removed to federal court
02-CV-17-4768	Removed to federal court
62-CV-18-957	Removed to federal court
73-CV-18-3523 – 73-CV-18-3537	Plaintiff demanded that the Commissioner of Public Safety issue title for 15 motorcycles that represented collateral on a floor plan. Wells Fargo's is ultimately the seller of the motorcycles.
19HA-CV-18-2754	Settled
02-CV-18-5291	See Appendix L paragraph 4.
62-CV-18-6563	Removed to federal court
27-CV-18-19611	See Appendix L paragraph 5.

18a

Case Number	Notes from File Review
62-CV-18-8322	Settled

Information obtained by Jerald Hammann from Minnesota  
Trial Court Public Access (MPA) Remote View from August  
6-14, 2019.

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**APPENDIX G**

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**Minnesota Appellate Cases involving Wells Fargo as a First-Named Party**

January 1, 2014 - December 31, 2018 (Opinion File Date)

Case No.	Original Decision Favors	Appellate Result	Appendix L Notes
A16-0737, A16-1161	Wells Fargo	Affirmed	Paragraph 6.
A16-1263	Wells Fargo	Affirmed	Paragraph 7.
A15-1819	Wells Fargo	Affirmed	Paragraph 8.
A15-0478	Wells Fargo	Affirmed	Paragraph 9.
A14-0868	Wells Fargo	Affirmed	Paragraph 10.
A15-0110	Wells Fargo	Affirmed	Paragraph 11.
A13-1418	Wells Fargo	Affirmed	Paragraph 7.
A15-1557	Wells Fargo	Affirmed	None. Court Trial

20a

Case No.	Original Decision Favors	Appellate Result	Appendix L Notes
A13-1839	Wells Fargo	Affirmed	None. Trust Proceeding
A13-1417	Wells Fargo	Affirmed	None. Release of Appeal Bond

Information obtained by Jerald Hammann from Minnesota  
State Law Library Opinion Archive from August 16-22,  
2019.

## APPENDIX H

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### Contested Minnesota State Court Cases Involving Wells Fargo as a First-Named Plaintiff or First-Named Defendant

January 1, 2014 - December 31, 2018

1. **Case No. 27-CV-14-21010:** Plaintiff slipped and fell on an icy sidewalk near a Wells Fargo ATM machine. The jury concluded that Wells Fargo was 55% negligent for the plaintiff's fall and that the plaintiff was 45% negligent. As Minnesota is a comparative fault state, this would have resulted in Wells Fargo being 55% liable for the plaintiff's damages. However, the jury determined that neither party was the direct cause of the accident, presumably because they felt that the ice was the direct cause of the accident – a fact ascertainable from even the most basic knowledge of the properties of ice. 27-CV-14-21010 Index #66. Based on these jury findings, the district court judge dismissed the plaintiff's claims against Wells Fargo with prejudice, denying the plaintiff relief. Wells Fargo prevailed because the court asked the wrong question of the jury and further because the judge then elected to ignore the jury findings which accounted for the error in the question. Judgment against the plaintiff was entered for costs and disbursements totaling \$8,265.78. 27-CV-14-21010 Events & Orders of the Court.

2. **Case No. 55-CV-16-4203:** An unrepresented litigant claimed a breach of contract claim for Wells Fargo's failure to have a "face to face" interview with him before three mortgage payments were unpaid, and then subsequently

foreclosing on an FHA mortgage. 55-CV-16-4203 Index #2. His motion to proceed in forma pauperis was denied because the district court found that "[t]he action is frivolous." 55-CV-16-4203 Index #9. However, this cause of action has been recognized in numerous states, including Minnesota. See *Dan Harry v. PNC Bank, N.A.*, C.A. No. 17-136 WES, 2018 WL 1083581, at \*4 (D.R.I. Feb. 27, 2018), citing *Njema v. Wells Fargo Bank, N.A.*, 124 F. Supp. 3d 852 (D. Minn. 2015) (bank's failure to hold face-to-face meeting is a breach of the mortgage contract).

3. **Case No. 27-CV-HC-16-719:** Unrepresented litigant Hammann claimed Wells Fargo failed to provide him with a 90-day notice to vacate and improperly locked him out of the residential property. The district (and appellate) court refused to even acknowledge the existence of the 90-day notice right provided by the Protecting Tenants at Foreclosure Act of 2009 and by Minn. Stat. §504B.285(1a)(a). 27-CV-HC-16-719 Index #2 ¶7-13, #13, #22, #28. Acknowledging the existence of the 90-day notice requirement would have resulted in the plaintiff prevailing on his action. See *Mik v. Federal Home Loan Mortg. Corp.*, 743 F. 3d 149 (6th.Cir. 2014).

4. **Case No. 02-CV-18-5291:** A represented litigant claimed Wells Fargo's process server did not serve her personally, but instead left a foreclosure notice on her lawn. As the plaintiff filing the action, she had already invoked the jurisdiction of the court over herself and her claims and was affirmatively requesting that it determine the merits of her claims. Nonetheless, the district court erroneously applied a ruling relevant to a defendant's assertion of the affirmative defense of a court's lack of personal jurisdiction over them to find that the present plaintiff "waived her insufficient service of process claims by moving for summary judgment

on other grounds.” 02-CV-18-5291 Index #31, Conclusions ¶11-12.

5. **Case No. 02-CV-18-19611:** An unrepresented litigant sought to enjoin or set aside a sale pursuant to Minn. Stat. § 582.043 (Loss Mitigation; Mortgage Foreclosure Dual Tracking). Wells Fargo moved for dismissal of this claim, arguing as its sole basis for dismissal that plaintiff’s August 17, 2015, notice of “lis pendens was voided and is treated as not filed, which creates a conclusive presumption that Wells Fargo complied with Minn. Stat. § 582.043. See Minn. Stat. § 582.043, subd. 7(b).” 27-CV-18-19611 Index #11 at 10. Wells Fargo dismissal memorandum did not assert a res judicata or collateral estoppel affirmative defense which would normally mean that it had waived these affirmative defenses. Id. Further, its argument would have failed before an unbiased judiciary. A lis pendens is “recorded” without regard to whether it is later voided. Minn. Stat. §582.043(7)(b). Rendering something “void” does not mean it never came into existence. See *Borchardt v. Kulick*, 234 Minn. 308, 319, 48 N.W.2d 318, 325 (1951) (“the statute of frauds does not render a contract absolutely void in the sense that no contract ever comes into existence”). The district court completely ignored Wells Fargo’s sole argument for dismissal of this claim and instead dismissed the claim sua sponte on other grounds not presented by Wells Fargo. 27-CV-18-19611 Index #20. While it is unclear from the record whether the plaintiff was provided the opportunity to be heard on this new sua sponte argument, it is clear that the plaintiff was never provided with reasonable notice. See 27-CV-18-19611 Register of Actions.

6. **Case Nos. A16-0737 and A16-1161:** Consolidated cases are discussed above at ¶2 in relation to the 27-CV-HC-16-719 case.

7. **Case Nos. A16-1263 and A13-1418:** Both of these cases involve the same error. The fourth element of a proper eviction requires that a party seeking eviction must prove that . . . (4) the plaintiff is entitled to possession of the property. Minn. Stat. §504B.285(1). While a sheriff's certificate provides *prima facie* evidence that all the requirements of law have been met and that the purchaser has obtained title (see Minn. Stat. §§ 580.12, .19 (2016)), all the phrase "*prima facie*" means is "*at first sight.*" Black's Law Dictionary Free Online Legal Dictionary 2nd Ed. When a party opposing eviction raises a credible claim that a plaintiff is not entitled to possession of the property, the *prima facie* characteristic of the sheriff's certificate is no longer sufficient for the party seeking eviction to prevail, and the party seeking eviction must sustain its burden to fully-prove the fourth element. Therefore, affirming the district court rulings was erroneous.

8. **Case No. A15-1819:** Wells Fargo was initially denied summary judgment but was later granted summary judgment pursuant to a motion for reconsideration. Wells Fargo had paid a contractor to remediate problems with a house it obtained through foreclosure. Wells Fargo never monitored its agent's performance on the remediation efforts or verified that the problems were actually remediated (which they weren't). Wells Fargo also failed to disclose the remediation efforts to buyers, instead relying upon its "*as-is*" terms of contract to argue a lack of duty to disclose, despite the fact that disclosure of known material facts that could affect "*an ordinary buyer's use and enjoyment of the property*" is always required by Minnesota Law even for "*as-is*" contracts. Minn. Stat. §513.55 (as to Wells Fargo) and §82.68(3)(a) (as to Wells Fargo's real estate broker agents). The failure in disclosure in this case was not solely as to the "*remaining problems*" as characterized by the court of appeals, but instead as to the initial problems requiring

remediation, which reappeared after the home was sold. Therefore, affirming the district court ruling was erroneous.

9. **Case No. A15-0478:** This is another case involving the most basic knowledge of the properties of ice. In the late Winter and early Spring in Minnesota, outdoor moisture often goes through repeated freeze-thaw cycles, freezing to ice in the evening as temperatures drop and thawing back to water in the late morning as temperatures rise. This freeze-thaw cycle is perpetuated for days at a time during this time period by the melting of accumulated snow and ice. The court of appeals found that these facts – which are well within the common knowledge of the average Minnesota juror – are “so technical that [they] would require expert testimony. See Minn. R. Evid. 702.” This finding places even the most ordinary knowledge within the province of expert knowledge and correspondingly outside the province of the jury’s traditional fact-finding powers. Denying the right to a jury trial on this basis is constitutionally-impermissible. Therefore, affirming the district court ruling was erroneous.

10. **Case No. A14-0868:** The opposing party submitted into evidence a fax cover sheet and fax receipt confirmation as proof that he had submitted a loss-mitigation worksheet to Wells Fargo pursuant to Minn. Stat. §582.043. The court of appeals denied that the fax cover sheet and fax receipt confirmation sheet created a genuine issue of material fact regarding whether a loss-mitigation worksheet was submitted to Wells Fargo, instead claiming that only the submission into evidence of the loss-mitigation worksheet itself would create a genuine issue of material fact in dispute. However, the submission into evidence of the loss-mitigation worksheet, along with the fax cover sheet and confirmation sheet, would actually have removed this issue from the genuine issues of material fact in dispute in the case in a

**APPENDIX I****Contract and Other Civil Cases With A Jury Trial (Held) Event Code But With No Jury Verdict****January 1, 2018 - December 31, 2018**

Case No.	Jury Trial	File Notes
02CV17549	No	Settled 5 days before trial date.
09CV142363	No	No recorded verdict. Instead a Court Trial.
19HACV174412	No	Settled before trial.
02CV17467	No	Transcript shows 1-day trial, but no documents evidencing an actual trial. Judgment was summary.
11CV17991	No	
62CV154170	No	
71CV161213	No	
86CV174631	No	
64CV17404	Yes	Claimed 4 hours of testimony before settlement.
70CV17892	Yes	Judgment as a matter of law granted for insufficient evidence of harm to reputation. No jury verdict as a result.

Information obtained by Jerald Hammann from the Minnesota Judicial Branch through a public data request. It would not provide all 201 civil cases where a jury trial was reported in 2018, but did provide the 42 contract (26) and Other Civil (16) cases where a jury trial was reported.