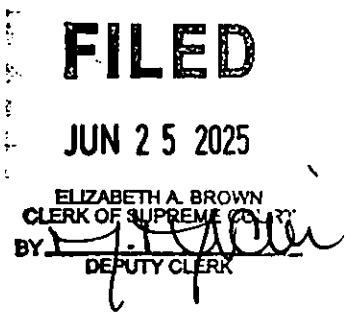
IN THE SUPREME COURT OF THE STATE OF NEVADA

SFR INVESTMENTS POOL 1, LLC,
Appellant,
vs.
THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATE HOLDERS CWAB, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-25, A NATIONAL BANK; AND SABLES, LLC, A FOREIGN LIMITED LIABILITY COMPANY,
Respondents.

No. 87777



ORDER VACATING JUDGMENT AND REMANDING

This is an appeal from a district court summary judgment in an action to cancel written instruments as to real property. Eighth Judicial District Court, Clark County; Jacob A. Reynolds, Judge.

Appellant SFR Investments Pool 1, LLC (SFR) purchased a residential property at a homeowners association (HOA) foreclosure sale in 2012. Respondent the Bank of New York Mellon (BNYM) held the deed of trust to the property prior to the foreclosure sale via assignment from its predecessor-in-interest. In 2018, BNYM sued the HOA and SFR in federal court to quiet title, seeking an affirmative declaration that its deed of trust survived the HOA foreclosure sale via tender or futility of tender. SFR moved to dismiss, arguing that because the HOA foreclosure sale had occurred more than four years prior to BNYM filing suit, it was barred by the statute of limitations. The federal district court agreed and dismissed BNYM's complaint as time barred. After BNYM reinitiated non-judicial foreclosure proceedings in 2019, SFR sued in state court and sought to cancel BNYM's deed of trust under Nevada's ancient mortgage statute,

codified at NRS 106.240.[1] SFR argued that BNYM's first notice of default to the borrowers accelerated the note's maturity date from 2046 to 2008, making the note wholly due in 2018, and therefore barring BNYM's suit.

After the district court dismissed BNYM's action pursuant to NRS 106.240, BNYM appealed to this court. We vacated the district court judgment and remanded the matter to the district court in 2022, concluding that summary judgment was inappropriate because genuine disputes existed regarding whether the first notice clearly and unequivocally established that the obligation securing the deed of trust became wholly due in 2008. *Bank of N.Y. Mellon v. SFR Invs. Pool 1, LLC (BNYM I)*, No. 81604, 2022 WL 18496103 (Nev. Sept. 13, 2022) (Order Vacating and Remanding). Before reaching the merits, we initially concluded that claim and issue preclusion from the federal suit did not bar BNYM's defense of SFR's ancient mortgage cancellation claims. *Id.* at *2-3. On remand, the district court issued summary judgment in favor of BNYM, concluding that the ancient mortgage statue did not accelerate the loan's maturity date, that this court ruled that claim and issue preclusion were inapplicable to this case, and therefore BNYM's deed of trust survived the HOA foreclosure sale such that SFR took title subject to BNYM.

SFR argues that the district court erroneously characterized this court's prior ruling as holding that claim and issue preclusion had no application whatsoever to this case. Reviewing de novo, *see Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005), we agree because summary judgment is proper when the pleadings and all other

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[1]"NRS 106.240 creates a conclusive presumption that a lien on real property is extinguished ten years after the debt becomes due." *Pro-Max Corp. v. Feenstra*, 117 Nev. 90, 94, 16 P.3d 1074, 1077 (2001).

evidence demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id*; *see also* NRCP 56(a).

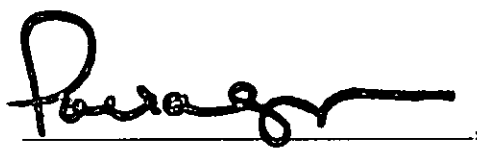
When this court determines a principle or rule of law, "the law-of-the-case doctrine provides that the determination governs the same issue in subsequent proceedings in the same case." *Dictor v. Creative Mgmt. Servs., LLC*, 126 Nev. 41, 42, 223 P.3d 332, 333 (2010). "In order for the law-of-the-case doctrine to apply, the appellate court must actually address and decide the issue explicitly or by necessary implication." *Id.* at 44, 223 P.3d at 334. "However, the doctrine does not bar a district court from hearing and adjudicating issues not previously decided[.]" *Id.*

In concluding that claim and issue preclusion was inapplicable in *BNYM I*, we specifically explained that "[t]he federal dismissal does not preclude BNYM's defense of *SFR's cancellation claim*." *BNYM I*, 2022 WL 18496103, at *2 (emphasis added). Because the district court in the litigation underling *BNYM I* made its ruling solely on NRS 106.240 grounds, this court did not engage in an analysis beyond the confines of the narrow statutory issue. Thus, our prior holding was narrowly drawn to conclude that BNYM was not precluded from defending against SFR's cancellation claims under NRS 106.240. *Id.* at *2-3.

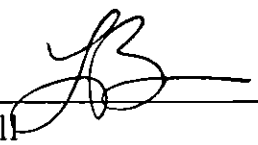
The district court misconstrued *BNYM I* as barring the application of claim or issue preclusion to the entire action, rather than just to SFR's cancellation claim. But we did not opine on the application of claim or issue preclusion beyond SFR's NRS 106.240 cancellation claims. We therefore remand with instructions that the district court conduct the proper claim and issue preclusion analysis regarding BNYM's assertion

that its deed of trust survived the HOA sale via tender or futility of tender. Accordingly, we

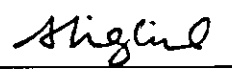
ORDER the judgment of the district court VACATED and REMAND this matter to the district court for proceedings consistent with this order.



_____, J.
Parraguirre



_____, J.
Bell



_____, J.
Stiglich

cc: Hon. Jacob A. Reynolds, District Judge
Thomas J. Tanksley, Settlement Judge
Hanks Law Group
ZBS Law, LLP
Eighth District Court Clerk