IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COMPLETE TITLE OF CASE

DAVID AND VIOLA STAGNER,

Appellants-Respondents,

v.

WELLS FARGO BANK, N.A., AS TRUSTEE FOR AEGIS ASSET BACKED SECURITIES TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2004-1, and SELECT PORTFOLIO SERVICES, INC.,

Respondents,

and

MILLSAP & SINGER, P.C.,

Respondent-Appellant.

DOCKET NUMBER WD83819
(Consolidated with WD83842)
MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DATE: August 3, 2021

APPEAL FROM

The Circuit Court of Ray County, Missouri
The Honorable Kevin L. Walden, Judge

JUDGES

Division Three: Ardini, P.J., and Pfeiffer and Thomson, JJ. CONCURRING.

ATTORNEYS

Gregory Leyh, Andrea M. Knernschield, and Nicholas Leyh, Gladstone, MO, Attorneys for Appellants-Respondents.

Andrew R. Kasnetz, St. Louis, MO, and Ross A. Boden, Kansas City, MO, Attorneys for Respondents.

Mark G. Arnold, St. Louis, MO, Jeffrey J. Simon and Michael S. Hargens, Kansas City, MO, and Charles S. Pulliam, Chesterfield, MO, Attorneys for Respondent-Appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

DAVID AND VIOLA STAGNER, Appellants-Respondents,
v.
WELLS FARGO BANK, N.A., AS TRUSTEE FOR AEGIS ASSET BACKED SECURITIES TRUST MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2004-1, and SELECT PORTFOLIO SERVICES, INC.,Respondents,
and
MILLSAP & SINGER, P.C., Respondent-Appellant.

WD83819 (Consolidated with WD83842) **Ray County**

Before Division Three Judges: Edward R. Ardini, Jr., Presiding Judge, and Mark D. Pfeiffer and W. Douglas Thomson, Judges

David and Viola Stagner (the "Stagners") appeal from partial summary judgment rulings entered by the Circuit Court of Ray County, Missouri ("circuit court"), in favor of Wells Fargo Bank, N.A., as Trustee for Aegis Asset Backed Securities Trust Mortgage Pass-Through Certificates, Series 2004-1 ("Wells Fargo"), Select Portfolio Servicing, Inc. ("SPS"), and Millsap & Singer, P.C. ("Millsap & Singer"). Millsap & Singer appeal from the circuit court granting the Stagners' motion for class certification and denying Millsap & Singer's motion to decertify the class. The two appeals were consolidated by this Court.

APPEAL DISMISSED; REMANDED.

Division Three holds:

There is no "final judgment" for purposes of appeal under section 512.020(5), RSMo. A final judgment must satisfy two criteria: it must be a judgment, that is, it must fully resolve at least one claim in a lawsuit and establish all the rights and liabilities of the parties with respect to that claim; and it must be 'final,' either because it disposes of all claims (or the last claim) in a lawsuit, or because it has been certified for immediate appeal pursuant to Rule 74.01(b).

All of the Stagners' claims asserted in their Petition are premised on Wells Fargo holding the Stagners' Note, appointing Millsap & Singer as Successor Trustee, and Millsap & Singer acting as successor trustee on the Deed of Trust and conducting a foreclosure sale on the Property. The resolved claim against Millsap & Singer (Count V—MMPA violations of excessive charges and fees) is closely intertwined with the unresolved and currently pending claim against Wells Fargo (Count VI—MMPA violations of excessive charges and fees). There is no ruling by the circuit court that has finally disposed of all claims as to Wells Fargo; thus, there is no Wells Fargo "judicial unit" that is properly before us on this appeal.

As to the circuit court's ruling that granted Millsap & Singer's Motion for Summary Judgment on Count V of the Stagners' Petition, the ruling does not dispose of, and expressly certify for interlocutory appeal, *all* claims against Millsap & Singer, as there were two counts alleged against Millsap & Singer. Further, the counts against Millsap & Singer are closely intertwined and are not sufficiently distinct from the claims that remain pending at the circuit court. Without such express determination, there is no right to immediate appeal of the claims involving Millsap & Singer to this Court at this time.

Because none of the summary judgment rulings appealed from qualify as "final judgments," this Court lacks jurisdiction. Further, because there is no "final judgment" before this Court, Millsap & Singer's challenge to the circuit court's class certification ruling granting class certification is likewise premature for appellate review.

Opinion by: Mark D. Pfeiffer, Judge August 3, 2021

* * * * * * * * * * * *

THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.