OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

JASON A. LEWANDOWSKI,	)	No. ED109368
	)	
Respondent,	)	
	)	
vs.	)	Appeal from the Circuit Court
	)	of Jefferson County
ALABAMA HOUSING FINANCE	)	19JE-CC00273
AUTHORITY, SERVISOLUTIONS, INC.,	)	
SUBSTITUTE TRUSTEE	)	
CORPORATION,	)	
	)	
and	)	Honorable Troy A. Cardona
	)	
MISSOURI LAWYERS MEDIA, LLC,	)	
	)	
Appellants.	)	FILED: September 28, 2021

Alabama Housing Finance Authority, ServiSolutions, Inc., Substitute Trustee Corporation (collectively, the "Foreclosure Defendants") and Missouri Lawyers Media, LLC ("MLM") appeal the trial court's entry of summary judgment in favor of Jason A. Lewandowski. MLM also appeals the trial court's denial of its motion for summary judgment. The underlying lawsuit arose from Lewandowski's challenge to the non-judicial foreclosure of his home by the Foreclosure Defendants, the notice of which was published in *The Jefferson Countian* ("*The Countian*"), a newspaper owned by MLM. Appellants challenge the trial court's conclusion that the foreclosure sale was void in that the notice of the foreclosure was invalid due to *The Countian*'s lack of qualification to publish real estate notices in Jefferson County.

REVERSED, JUDGMENT ENTERED IN FAVOR OF APPELLANT MISSOURI LAWYERS MEDIA, AND REMANDED

Division Four Holds: The trial court erred in entering summary judgment in Lewandowski's favor and in failing to grant MLM's motion for summary judgment on the issue of *The Countian*'s statutory qualification to publish notice of non-judicial foreclosure sales in Jefferson County under sections 493.050 and 493.055.

The Countian was properly qualified to publish notices of non-judicial foreclosure sales because it met the five necessary qualifications set forth in section 493.050, as established by an affidavit from the publisher of *The Countian*, which constituted competent evidence.

The trial court erroneously interpreted section 493.027 to hold that *The Countian* was required to petition the Jefferson County Circuit Court en banc for approval prior to publishing the notice at

issue. Section 493.027 allows a circuit court to establish procedures for newspapers seeking to be qualified, but does not require a newspaper to petition the court for approval in the absence of such procedures.

The trial court also erroneously concluded that MLM's failure to register *The Countian* as a fictitious name voided the non-judicial foreclosure sale as a matter of law. Any failure to register *The Countian* as a fictitious name with the State of Missouri did not render void the foreclosure-sale notice at issue. The intent of the fictitious name statute, section 417.200, is not to penalize third parties, such as those selling the property at the foreclosure sale or the subsequent purchaser of the property. Further, there is no dispute that Lewandowski had actual notice of the sale or that notice of the sale was in fact published in a generally circulated newspaper.

Opinion by: Michael E. Gardner, P.J.
James M. Dowd, J., and Lisa P. Page, J., concur.

Attorneys for Appellant Missouri Lawyers Media:	Joseph E. Martineau and Kenneth J. Mallin.
Attorneys for Appellants Alabama Housing Finance Authority, ServiSolutions, Inc., and Substitute Trustee Corporation:	Shawn Scharenborg and Kerry C. Feld
Attorneys for Respondent:	Gregory P. White and Scott A. Schatzman

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