VERMONT SUPERIOR COURT, CIVIL DIVISION, WASHINGTON UNIT

Wells Fargo Bank, National Association as Trustee for Soundview Home Loan Trust 2007-OPT1, Asset-Backed Certificates, Series 2007-OPT1 v. Fuad Ndibalema et al.

Wells Fargo v. Ndibalema · No. 22-CV-01936 · Decided March 30, 2026

SUMMARY

The Vermont Superior Court denied defendants' post-judgment motions in a foreclosure action, including motions for relief from judgment, a new trial, permission to appeal, an extension of time to appeal, and leave to amend pleadings. The court held that the defendants had not properly opposed summary judgment, their Truth in Lending Act rescission theory was untimely and unavailable, the appeal-related motions were untimely, and the proposed amendments would cause undue delay and prejudice. The foreclosure judgment and redemption period remain in effect.

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Washington Unit
WRITING FOR THE COURT	Daniel Richardson
JURISDICTION	Vermont Superior Court, Civil Division, Washington Unit
DECIDED	March 30, 2026
DOCKET	22-CV-01936
DISPOSITION	other
PROCEDURAL POSTURE	Defendants filed post-judgment motions seeking relief from the summary judgment order and amended foreclosure judgment, permission to file reconstructed pleadings, a new trial, permission and additional time to appeal, and leave to amend their pleadings and assert counterclaims. The Vermont Superior Court denied all motions.
STANDARD OF REVIEW	Abuse of discretion for reconsideration and amendment decisions; the court applied the rules governing summary-judgment responses, Rule 60 relief, Rule 59 new-trial motions, and timeliness of appeals.
PRECEDENTIAL VALUE	Unknown

PARTIES	Fuad Ndibalema, Fatu Kankolongo, Snffreshstart, LLC v. Wells Fargo Bank, National Association as Trustee for Soundview Home Loan Trust 2007-OPT1, Asset-Backed Certificates, Series 2007-OPT1

TOPICS

foreclosure · motion for reconsideration · motion to amend · summary judgment · appellate procedure

PRACTICE AREAS

civil procedure · foreclosure · appellate procedure · consumer protection

QUESTIONS PRESENTED

1. Whether defendants were entitled to relief from the summary judgment order or amended foreclosure judgment under Vermont Rule of Civil Procedure 60(b)(1), (5), or (6).
2. Whether defendants' filings constituted a proper response to Wells Fargo's motion for summary judgment under Vermont Rule of Civil Procedure 56(c).
3. Whether a Rule 59 motion for a new trial was available to challenge the grant of summary judgment.
4. Whether defendants' motions to appeal and to extend the time for appeal were timely or supported by excusable neglect.
5. Whether defendants should be permitted to amend their pleadings after final judgment to assert seven counterclaims.
6. Whether the proposed amended counterclaims should be allowed despite undue delay and prejudice to Wells Fargo.

HOLDINGS

1. Relief under Rule 60(b)(1) was properly denied because defendants' later filings did not respond to Wells Fargo's summary-judgment motion in the paragraph-by-paragraph form required by Rule 56(c), and therefore did not provide a sufficient basis to reopen the judgment.
2. Rule 60(b)(5) did not authorize setting aside the foreclosure judgment based on defendants' rescission notice because the rule applies to judgments with prospective effect, not judgments securing a remedy for a past wrong.
3. Defendants could not rescind the 2007 mortgage transaction in 2025 because the Truth in Lending Act rescission period expired no later than three years after consummation.
4. Defendants could not use Rule 60(b)(6) to raise a Truth in Lending Act rescission argument that could have been asserted in opposition to summary judgment, and the argument was independently meritless because rescission was sought eighteen years after execution of the mortgage.
5. A Rule 59 motion for a new trial was improper because no trial had occurred; defendants also could not use the motion to circumvent their failure to timely or properly oppose summary judgment.

6. The motion to appeal was properly denied as untimely because it was filed two days after the fourteen-day deadline and defendants showed neither excusable neglect nor another basis for an extension.
7. The motion to extend the time to appeal was properly denied because defendants did not timely seek permission to appeal and did not demonstrate excusable neglect.
8. Leave to amend was properly denied because defendants sought to add seven counterclaims nearly a month after final judgment, resulting in undue delay and substantial prejudice to Wells Fargo.

KEY QUOTATIONS

> *"A failure to properly respond to a motion for summary judgment, particularly the statement of undisputed facts, means that the Court need not consider any facts outside of Plaintiff's statement of undisputed material facts."* (2)

> *"The deadline for a motion to appeal is a jurisdictional consideration, and a late filing must be denied unless there is a showing of excusable neglect."* (5)

> *"In effect, Defendants' motion looks to turn back the clock three years and re-start the litigation."* (6)

FACTUAL BACKGROUND

The underlying action involved a 2007 mortgage loan and foreclosure claims brought by Wells Fargo as trustee. Defendants defaulted on the loan beginning with the November 2017 payment, and foreclosure litigation concerning the property had continued since 2018. After summary judgment and entry of an amended foreclosure judgment, defendants sought to reopen the case based on purportedly missing filings, a January 2025 Truth in Lending Act rescission notice, new counterclaims, and other post-judgment arguments.

PROCEDURAL HISTORY

The court previously granted Wells Fargo summary judgment on its foreclosure claims on March 14, 2025, and entered an amended final judgment on August 25, 2025. Defendants filed multiple post-judgment motions in September 2025, including motions under Vermont Rules of Civil Procedure 60, 59, 15, and 80.1. The court denied the motions and left the foreclosure judgment and redemption period in place.

DISPOSITION

other

CASES CITED

- Sandgate School District v. Cate, 2005 VT 88, ¶ 6
- Caldwell v. Champlain College Incorporated, 2025 VT 17, ¶¶ 8-9
- Zorn v. Smith, 2011 VT 10, ¶ 22
- Vahlteich v. Knott, 139 Vt. 588, 591 (1981)
- Tapper v. Hearn, 833 F.3d 166, 170-72 (2d Cir. 2016)
- One West Bank, FSB v. Hazlett, 2014 WL 5795273, at *2 (May 12, 2014)

- Jackson v. Hartford Life & Accident Insurance Co., 543 F. App'x 977, 979 (11th Cir. 2013)
- Belter v. City of Burlington, 2025 VT 35, ¶ 11
- In re Lund, 2004 VT 55, ¶ 4
- In re L.B., 147 Vt. 82, 84 (1986)
- In re von Turkovich, 2018 VT 57, ¶¶ 5-6
- Darden v. O'Keefe, 171 Vt. 571 (2000) (mem.)
- Woodbine Condominium Association v. Lowe, 174 Vt. 457, 458 (2002) (mem.)
- Colby v. Umbrella, Inc., 2008 VT 20, ¶ 4
- Hickory v. Morland, 2005 VT 73, ¶ 6 (mem.)
- Laber v. Long View R.V., Inc., 454 F. Supp. 3d 158, 172-73 (D. Conn. 2020)

INSTRUCTIONS FOR AN AI ASSISTANT