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COVER STORY

High court: Federal removal not required for Fannie Mae

By Kevin Lee
Daily Journal Staff Writer

The Federal National Mortgage Association, more commonly known as Fannie Mae, cannot automatically transfer state law disputes to federal court, the U.S. Supreme Court unanimously ruled Wednesday.

Fannie Mae, a government-sponsored enterprise, had claimed that language in its federal charter conferred federal jurisdiction over all claims brought by or against the mortgage giant.

The high court of eight justices disagreed with the contention and held that state judges can hear state law claims involving Fannie Mae.

"The doors to federal court remain open to Fannie Mae through diversity and federal-question jurisdiction," Justice Sonia M. Sotomayor wrote for the high court. *Lightfoot v. Cendant Mortgage Corp.,* 2017 DJDAR 421. "Indeed, the usual assumption is that state courts are up to the task of adjudicating their own laws."

The decision is important for consumers or homeowners who bring causes of action against Fannie Mae, which reported $11 billion in net annual income in 2015.

"Here in California, plaintiffs would always prefer to be in state court," said Andrew H. Friedman of Helmer Friedman LLP in Beverly Hills. "State courts are generally more hospitable to claims brought by consumers."

Friedman was one of the lawyers who represented petitioners Beverly Ann Hollis-Arrington and her daughter Crystal Lightfoot.

Mother and daughter sued Fannie Mae and other companies in an attempt to undo the foreclosure and sale of their West Hills home.

Under federal statute, Fannie Mae has the power "to sue and to be sued, and to complain and to defend, in any court of competent jurisdiction, state or federal."

Courtesy of Helmer Friedman LLP

From left, Gregory D. Helmer of Helmer Friedman LLP, lead plaintiff Beverly Ann Hollis-Arrington, and Andrew H. Friedman of Helmer Friedman LLP. The firm prepared the petition arguing the case should be tried in state court.

The 9th U.S. Circuit Court of Appeals had ruled 2-1 that the plaintiffs' state law claims must be heard by a federal judge.

The majority relied on a 1992 U.S. Supreme Court decision, which held that federal courts had exclusive jurisdiction over lawsuits involving the American Red Cross, another federally chartered organization. American Nat. *Red Cross v. S. G.*, 505 U. S. 247 (1992).

Sotomayor wrote that the charter language governing the Red Cross was distinguishable from Fannie Mae's charter.

"This case cannot be resolved by a simple comparison," she wrote.

The phrase "any court of competent jurisdiction" opens the door for state courts to consider state law claims, Sotomayor wrote.

Wednesday's high court result allows Hollis-Arrington and Lightfoot to pursue their Fannie Mae case in Los Angeles County Superior Court.

"They can restart their case in California and hopefully get this case to trial," said Gregory D. Helmer, also of Helmer Friedman. He was unsure whether his firm would represent the plaintiffs in state court proceedings.

The American Association of Justice submitted a high court brief in support of the petitioners and agreed with the result.

"State courts tend to be closer to the people. They are more favorably disposed to jury trials," wrote Jeffrey R. White, the associate general counsel for the association, in an email. "And they are the authoritative sources for state law."

Helmer Friedman prepared the petition for certiorari on behalf of petitioners. E. Joshua Rosenkranz of Orrick, Herrington & Sutcliffe LLP argued the case to the high court.

Brian P. Brooks, the executive vice president and general counsel of Fannie Mae, argued on behalf of the respondent. A company spokeswoman wrote in an email that the company was reviewing the decision.

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