

MWZM Review

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The latest news, views, and announcements

Sixth Circuit Win!

INSIDE

-By Mark D. Cronenwett, Litigation Director

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In Tennessee, the note controls over the deed of trust. At issue in *Muhammad v. Deutsche Bank Nat'l Tr. Co.*, No. 21-6243, 2023 U.S. App. LEXIS 10293 (6th Cir., April 25, 2023), was a dispute between conflicting provisions in the note and deed of trust for how a notice of default was to be given. The note provided for notice by regular mail; the deed of trust specified notice by certified mail. In this case, the notice of default was provided by regular mail only. After the foreclosure sale, the borrower contended that the sale was void because notice of default was only provided by regular mail when it should have been sent by certified mail. The District Court disagreed, relying on longstanding Tennessee law that any conflicts between the note and deed of trust would be resolved in favor of the note. On appeal, the Sixth Circuit affirmed and the sale was preserved!