

WEDNESDAY, APRIL 28, 2010
9:00 A.M.

NO. 1

#25262

NATTYMAC CAPITAL LLC,
Plaintiff and Appellant,

vs.

RICK and RAMONA PESEK, FIRST
DAKOTA NATIONAL BANK and
GETTY ABSTRACT AND TITLE COMPANY,
Defendants and Appellees,

RICK and RAMONA PESEK and
FIRST DAKOTA NATIONAL BANK,
Third Party Plaintiffs
and Appellees,

vs.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.
Third Party Defendant
and Appellee.

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(FOR DEFENDANTS/THIRD
PARTY PLAINTIFFS/
APPELLEES)

The Honorable Stuart L. Tiede
Second Judicial Circuit
Minnehaha County

(CIV 07-4118)

STATEMENT OF THE ISSUES

- I. Whether the Circuit Court erred in concluding that ACT Lending Corporation d/b/a ACT Mortgage Capital properly satisfied a mortgage when it was not the mortgagee of record?

The Circuit Court concluded that ACT Mortgage Capital properly satisfied a mortgage despite the fact that it was not the mortgagee of record.

Relevant Authority:

SDCL § 44-8-6

SDCL § 44-8-14

Faircloth v. Raven Indust., Inc., 2000 SD 158, 620 NW2d 198

Zoss v. Schaefers, 1999 SD 105, 598 NW2d 550

- II. Whether the Circuit Court erred in granting summary judgment to Getty Abstract and Title Company on the issue of negligence in accepting a satisfaction of mortgage from an entity that was not the mortgagee of record?

The Circuit Court concluded that there were no genuine issues of material fact with regard to the negligence of the employee of Getty Abstract and Title Company.

Relevant Authority:

First American Bank & Trust, N.A. v. Farmers State Bank of Canton, 2008 SD 83, 756 NW2d 19

Mever v. Santema. 1997 SD 21, 559 NW2d 251