

**STATEMENT OF LEGAL ISSUES**

Issue #1. Whether the circuit court erred in applying the doctrine of equitable subrogation, thereby recognizing Wells Fargo's superior lien position.

Relevant Authority: Restatement Third of Property § 7.6 cmt e.; *Wildeboer v. SD Junior Chamber of Comm.*, 1997 SD 33, P10; 561 N.W.2d 666; *GMAC Mortgage Corp. v. Bayko*, 2007 U.S. Dist. LEXIS 91050; *Lamb Excavation, Inc. v. Chase Manhattan Mortg.*, 208 Ariz. 478; 95 P.3d 542; 2004 Ariz. App. LEXIS 110; *Mort v. United States*, 83 F.3d 890 (9th Cir. 1996).

Issue #2. Whether the Credit Union timely filed its appeal pursuant to SDCL § 15-26A-6.

Relevant Authority: SDCL § 15-26A-6; *Long v. Knight Construction Company, Inc.*, 262 N.W.2d 207; 1978 S.D. LEXIS 302; *Canton Concrete Products Corp. v. Alder*, 273 N.W.2d 120, 122; 1978 S.D. LEXIS 240

Issue #3. Whether the Credit Union is barred from appealing the issue of whether the circuit court erred in applying the doctrine of equitable subrogation since the Credit Union did not argue or offer any evidence at the circuit court level that equitable subrogation was not applicable.

Relevant Authority: SDCL §15-26A-10; SDCL § 15-26A-6; *Nelson v. City of Sioux Falls*, 67 S.D. 320 (SD 1940); *Fales v. Kaupp*, 83 S.D. 487, 492 (SD 1968).