

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CREDIT SUISSE FIRST  
BOSTON MORTGAGE SECURITIES CORP., CSMC MORTGAGE-BACKED  
PASS-THROUGH CERTIFICATES, SERIES 2006-6

v.

MARTYN J. YOUNG et al.

Argued February 10, 2021

Decided March 16, 2021

Panel: GORMAN, JABAR, HUMPHREY, and HORTON, JJ.

MEMORANDUM OF DECISION

U.S. Bank National Association appeals from a judgment of the District Court (York, *Sutton, J.*) in favor of Martyn and Sharon Young on the Bank's foreclosure complaint. The Bank purports to argue that the court abused its discretion when it granted the Youngs' motion in limine and sanctioned the Bank for violating the terms of a pretrial order by excluding at trial the Bank's witnesses and other evidence. The Bank thereafter presented no evidence, and the court entered judgment for the Youngs.<sup>1</sup> Because the Bank failed to present

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<sup>1</sup> Given the posture of this case, we cannot review the trial court's ruling on the motion in limine. We take this opportunity, however, to remind trial courts that prior to imposing a sanction, particularly the ultimate sanction of dismissal with prejudice, default judgment, or, as is the case here, an interlocutory ruling that inevitably leads to a judgment for one party, the court "must consider a number of factors, including (1) the purpose of the specific rule at issue; (2) the party's conduct throughout the proceedings; (3) the party's basis for its failure to comply; (4) prejudice to other parties; and (5) the need for the orderly administration of justice." *Bayview Loan Servicing, LLC v. Bartlett*, 2014 ME 37, ¶ 12, 87 A.3d 741 (quotation marks omitted); *see also* M.R. Civ. P. 16A(d) ("If a party fails to comply with the requirements of [a pretrial order], the court *shall* impose . . . *such sanctions as the circumstances warrant.*" (emphasis added)). A sanction must be warranted, meaning

any evidence or make an offer of proof concerning what evidence it would have offered at trial, we do not review the court's ruling on the motion and hold that the court did not err in entering a judgment for the Youngs. *See Wilmington Sav. Fund Soc'y, FSB v. Abildgaard*, 2020 ME 48, ¶¶ 4-5 & n.2, 229 A.3d 789 ("Where a mortgagee fails to present evidence to establish all required elements of a foreclosure claim, the mortgagor is entitled to a judgment on the merits.").

The entry is:

Judgment affirmed.

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Andrew J. Schaefer, Esq., Bendett & McHugh, P.C., Portland, and William A. Fogel, Esq. (orally), Carlsbad, California, for appellant U.S. Bank National Association

Mark A. Kearns, Esq. (orally), Portland, for appellees Martyn J. Young and Sharon A. Young

York District Court docket number RE-2016-34  
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justified or necessitated, by the circumstances of the case. *See Baker's Table, Inc. v. City of Portland*, 2000 ME 7, ¶ 16, 743 A.2d 237 ("[T]he court must, in effect, fit the punishment to the crime."). We also emphasize that the trial court's articulation of the circumstances warranting a sanction are pertinent to appellate review of the court's chosen sanction.