

WELLS FARGO BANK, N.A.

v.

BRIAN J. EKBORG et al.

Submitted on Briefs September 14, 2006  
Decided November 28, 2006

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS,  
LEVY, and SILVER, JJ.

## MEMORANDUM OF DECISION

Brian J. and Susan M. Ekborg appeal from a summary judgment entered in the Superior Court (York County, *Brennan, J.*) in favor of Wells Fargo Bank, N.A., for the foreclosure and sale of the Ekborgs' real estate. The Ekborgs did not file a response to the Bank's motion for summary judgment, and the court accepted the facts contained in the Bank's statement of material facts as admitted.<sup>1</sup> *See* M.R. Civ. P. 56(h)(4). Although the Ekborgs have asked this Court to consider their financial setbacks and desire to renegotiate the mortgage, their failure to raise

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<sup>1</sup> The Bank failed to support, with a record citation, its statement of fact that it held an assignment of the mortgage. *See* M.R. Civ. P. 56(h)(4). However, the failure was not raised by the Ekborgs in the Superior Court or this Court.

any defense in the Superior Court precludes our ability to grant them relief on appeal.

The entry is:

Judgment affirmed.

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**Attorney for plaintiff:**

John A. Doonan, Esq.  
Doonan, Graves & Longoria, LLC  
Suite 213C  
100 Cummings Center  
Beverly, MA 01915

**For defendants:**

Brian J. & Susan M. Ekborg  
75 Nutter Camp Road  
Alfred, ME 04002