

Appellate Court upholds decision of lower court that certified mail is first class mail for purposes of providing a notice of default

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Represented investor of the loan in a contested foreclosure action whereby the appellate court upheld the trial court's decision to grant summary judgment to the investor. The borrowers argued that the notice of default was not sent via first class mail, as required by the terms of the mortgage; rather, it was sent via certified mail for which the borrower contended he never received and thus, the notice was undelivered. As a result, the borrower alleged that the investor failed to comply with conditions precedent necessary to foreclose on the mortgage. The appellate court held that certified mail is first class mail allowing for the conclusion that pursuant to the terms of the mortgage, because the notice of default was sent via first class mail, notice was "deemed to have been given" when sent and actual proof of receipt was not required.