

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**BEVERLY A. ELLIS** and **FREDERICK J. ELLIS**,  
Appellants,

v.

**U.S. BANK TRUST, N.A.**, as Trustee for LSF9 Master Participation Trust,  
Appellee.

No. 4D17-2127

[October 24, 2018]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Robert E. Belanger, Judge; L.T. Case No. 2010CA000241.

Amanda L. Mollica and Kendrick Almaguer of The Ticktin Law Group, Deerfield, for appellants.

David Rosenberg, Cynthia L. Comras and Jarrett Cooper of Robertson, Anschutz & Schneid, P.L., Boca Raton, for appellee.

GERBER, C.J.

The borrowers appeal from the trial court's order denying the borrowers' motion to tax costs and attorney's fees. We affirm the trial court's order as to the borrowers' attorney's fees pursuant to *Nationstar Mortgage LLC v. Glass*, 219 So. 3d 896, 899 (Fla. 4th DCA 2017) ("A party that prevails on its argument that dismissal is required because the plaintiff lacked standing to sue upon the contract cannot recover fees based upon a provision in that same contract."), *review granted*, SC17-1387, 2018 WL 2069328 (Fla. Feb. 13, 2018). We affirm the trial court's order as to the borrowers' taxable costs because the borrowers did not preserve this request by evidence or argument at the hearing on the motion. *See Aills v. Boemi*, 29 So. 3d 1105, 1110 (Fla. 2010) ("To be preserved for appeal, the specific legal ground upon which a claim is based must be raised at trial and a claim different than that will not be heard on appeal.") (alterations omitted).

*Affirmed.*

LEVINE and KLINGENSMITH, JJ., concur.

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***Not final until disposition of timely filed motion for rehearing.***