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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 **CITIMORTGAGE, INC.,**

3 Plaintiff-Appellee,

4 v.

NO. 34,335

5 **AARON JONES and JENNIFER JONES,**

6 Defendants-Appellants.

7 **APPEAL FROM THE DISTRICT COURT OF SAN JUAN COUNTY**

8 **Daylene A. Marsh, District Judge**

9 Little, Bradley & Nesbitt, PA

10 Sandra A. Brown

11 Albuquerque, NM

12 Justin B. Breen

13 Albuquerque, NM

14 for Appellee

15 Vanessa L. Deniro

16 Albuquerque, NM

17 for Appellants

18 **MEMORANDUM OPINION**

19 **GARCIA, Judge.**

1 {1} Appellants are appealing from a district court order denying their motion to set
2 aside a foreclosure judgment. We issued a calendar notice proposing to affirm.
3 Appellants have responded with a memorandum in opposition. Plaintiff has filed a
4 memorandum in support. We affirm.

5 {2} Appellants continue to argue that Plaintiff (Citimortgage) did not have standing
6 to bring the foreclosure action, and therefore the foreclosure decree is invalid.
7 Appellants are correct that under recent cases decided by our Supreme Court and this
8 Court, an entity wishing to foreclose on a mortgage must establish that, at the time the
9 foreclosure action is filed, the entity had the right to enforce the promissory note
10 underlying the mortgage. *See Bank of New York v. Romero*, 2014-NMSC-007, ¶ 17,
11 320 P.3d 1; *Deutsche Bank Nat'l Trust Co. v. Beneficial New Mexico Inc.*, 2014-
12 NMCA-090, ¶ 8, 335 P.3d 217.

13 {3} In this case, attached to Citimortgage's July 2011 complaint was a copy of the
14 original promissory note. [RP 1, 7] The note was indorsed by IWAYLOAN, LP. in an
15 allonge dated December 10, 2009. [RP 9] Also included was language identifying
16 Citimortgage as the payee. [RP 9] As our Supreme Court observed, this payee
17 designation makes the identified payee a "holder" of the note for purposes of
18 enforcement. *Bank of New York*, 2014-NMSC-007, ¶ 21.

19 {4} In its memorandum in opposition, Appellants continue to argue that a new note

1 was executed in 2013, containing a blank indorsement. Citimortgage points out that
2 this would simply make the note bearer paper, which would still give it standing under
3 *Romero* because it was the holder of the note. [MIS 2-3] *See id.*, ¶ 24. In addition, as
4 we stated above, *Romero* requires that a party establish the right to enforce the note
5 “at the time it filed suit.” *Id.* ¶ 17. Plaintiff’s complaint was filed in 2011, and the
6 documents attached to the complaint established standing under *Romero*.

7 {5} For the reasons set forth above, we affirm.

8 {6} **IT IS SO ORDERED.**

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TIMOTHY L. GARCIA, Judge

11 **WE CONCUR:**

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RODERICK T. KENNEDY, Judge

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J. MILES HANISEE, Judge