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

2 **SUNTRUST MORTGAGE, INC.,**

3 Plaintiff-Appellee,

4 v.

No. A-1-CA-37098

5 **ROGER SAUL,**

6 Defendant-Appellant,

7 and

8 **ALMA SAUL; WORLDWIDE**
9 **CHRISTIAN AID, INC., CHARLES**
10 **PAUL SAUL; BAPTIST CHURCH**
11 **PENSION AND RETIREMENT**
12 **FUND; AND FIRST FINANCIAL**
13 **BANK, N.A.,**

14 Defendants.

15 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

16 **Nan G. Nash, District Judge**

17 Rose L. Brand & Associates PC

18 Andrew P. Yarrington

19 Albuquerque, NM

20 for Appellee

1 Roger Saul
2 Albuquerque, NM
3 Pro Se Appellant

4 **MEMORANDUM OPINION**

5 **VANZI, Chief Judge.**

6 {1} Defendant Roger Saul appeals from the denial of a motion to reconsider an
7 award of summary judgment in the underlying foreclosure action. We previously
8 issued a notice of proposed summary disposition, proposing to affirm. Defendant has
9 filed a memorandum in opposition. After due consideration, we remain unpersuaded.
10 We therefore affirm.

11 {2} The pertinent background information was previously set forth in the notice of
12 proposed summary disposition. We will avoid undue reiteration here, focusing instead
13 on the content of the memorandum in opposition.

14 {3} Defendant continues to assert that he should have been granted relief from the
15 judgment based upon his submission of a loan modification application. [MIO 1-2]
16 However, as we previously observed, [CN 3] the record reflects that Defendant's
17 initial submission was incomplete. [RP 356] Defendant was given the opportunity to
18 rectify the deficiencies, [RP 368, 383-84] but after supplementation, the application
19 was denied. [RP 398-404] Although Defendant appears to believe that his application
20 should have been granted, [MIO 1-2] the limited record before us presents no basis

1 for second-guessing the denial. We therefore remain unpersuaded that Plaintiff was
2 under any obligation to discontinue the foreclosure process. *Cf. Charter Bank v.*
3 *Francoeur*, 2012-NMCA-078, ¶¶ 12-25, 287 P.3d 333 (concluding that neither HAMP
4 nor equitable considerations precluded foreclosure proceedings from moving forward,
5 notwithstanding the defendant’s application for a loan modification).

6 {4} Defendant also reiterates his claims that Plaintiff engaged in fraud and tortious
7 interference with business relations. [MIO 3-4] However, insofar as these matters
8 were not raised in the course of the district court proceedings, [MIO 3] they supply no
9 basis for relief. *See, e.g., Charter Bank*, 2012-NMCA-078, ¶¶ 3, 25 (concluding that
10 a homeowner’s assertions of fraud, misrepresentation, and/or “other misconduct” in
11 conjunction with a motion to set aside were insufficient to preserve these matters,
12 where the homeowner “did not specifically raise a bad-faith defense and therefore did
13 not fairly invoke a ruling by the district court”); *and see generally J.A. Silversmith,*
14 *Inc. v. Marchiondo*, 1965-NMSC-061, ¶ 9, 75 N.M. 290, 404 P.2d 122 (explaining
15 that “matters not raised or brought into issue by the pleadings, and upon which no
16 ruling of the trial court was invoked, are not preserved for review on appeal”).

17 {5} Accordingly, for the reasons stated above and in the notice of proposed
18 summary disposition, we affirm.

19 {6} **IT IS SO ORDERED.**

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2

LINDA M. VANZI, Chief Judge

3 **WE CONCUR:**

4

5 **JULIE J. VARGAS, Judge**

6

7 **HENRY M. BOHNHOFF, Judge**