

1 **NONA TOBIN**
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6 ***Defendant-in Intervention/ Cross-Claimant***
7 ***In Proper Person***

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 **JOEL A. STOKES and SANDRA F.**
11 **STOKES, as trustees of the JIMI JACK**
12 **IRREVOCABLE TRUST,**
13 **Plaintiffs,**

14 **vs.**

15 **BANK OF AMERICA, N.A.,**
16 **Defendant.**

17 **NATIONSTAR MORTGAGE, LLC,**
18 **Counter-Claimant,**

19 **Vs.**

20 **JIMI JACK IRREVOCABLE TRUST;**
21 **Counter-Defendant**

22 **NONA TOBIN, an individual, Trustee of**
23 **the GORDON B. HANSEN TRUST,**
24 **dated 8/22/08**

Cross-Claimant,

vs.

JOEL A. STOKES and SANDRA F.
STOKES, as trustees of the JIMI JACK
IRREVOCABLE TRUST; SUN CITY
ANTHEM COMMUNITY
ASSOCIATION, INC., Yuen K. Lee, an
individual, d/b/a Manager, F. Bondurant,
LLC, and DOES 1-10 AND ROE
CORPORATIONS 1-10, inclusive
Cross-Defendant.

Case No.: A-15-720032-C

Consolidated with: A-16-730078-C

Department: XXXI

MOTION TO VACATE SUN CITY
ANTHEM MOTION FOR SUMMARY
JUDGMENT AND NATIONSTAR
MORTGAGE JOINDER THERETO
AND COUNTERMOTION FOR
SUMMARY JUDGMENT

1 COMES NOW, NONA TOBIN, an Individual, Defendant-in Intervention/ Cross-
2 Claimant, appearing henceforth in proper person, hereby submits the following Motion to
3 vacate the Sun City Anthem Motion for Summary Judgment and Nationstar Mortgage, LLC's
4 Joinder Thereto, entered on April 17, 2019, pursuant to RNRCP Rule 60(b).

5 A Counter Motion For Summary Judgment Against Sun City Anthem is incorporated
6 herein. This motion is based on all papers and pleadings on record herein, and any oral
7 arguments the court may consider at the time of hearing on this matter.

8 **I. Hearing requested to coincide with pending motions to prevent fraud**

9 1. Tobin petitions this court to hear this motion to vacate the April 17, 2019 Order and the
10 counter motion herein with all other pending motions on a date outside of May 2 -May 9, 2019
11 prior to the May 28, 2019 date set for trial.

12 2. Jimijack and NSM are perpetrating a fraud upon this Court, i.e., to conceal that they have
13 no admissible evidence to support their claims of ownership. They are employing procedural
14 sleights of hand to prevent the court from hearing Tobin's evidence against them. It is for this
15 reason that Tobin petitions the court to consider all pending motions simultaneously when all
16 parties are present with Tobin appearing as a Pro Se.

17 3. Tobin earlier requested that the court hear her April 12, 2019 Opposition to Nationstar
18 Mortgage's (NSM's) Motion for Summary Judgment against Jimijack Irrevocable Trust
19 (Jimijack) and Countermotion against Jimjack on April 23, 2019 in conjunction with NSM's
20 motion for summary judgment against Jimijack

21 4. Jimijack did not file any opposition to NSM's March 21, 2019 motion for summary
22 judgment.

23 5. To date, Jimijack has not filed any opposition to Tobin's April 12, 2019 motion for
24 summary judgment.

1 6. NSM filed a notice of settlement between NSM and Jimjack on April 12, 2019 that must
2 be rejected by this Court to prevent NSM gaining standing to foreclose on a deed of trust it does
3 not own and a promissory note it does not hold.

4 7. On April 15, 2019, NSM filed a (SAO) stipulation and order that extended the briefing
5 schedule and continued the hearing from April 23, 2019 to May 7, 2019, without notifying
6 Tobin whose opposition was pending.

7 8. On April 22, 2019, Jimijack filed a NTSO to enter the stipulation and order that continued
8 the April 23, 2019 hearing to May 7, when Tobin is unavailable and unfairly permits Jimijack
9 to evade answering Tobin's April 12 Motion for summary judgment without Tobin's knowledge
10 or consent.

11 **II. MOTION TO VACATE ORDER , APRIL 17, 2019, PURSUANT TO**
12 **NRCF RULE 60 (b) Relief From a Judgment or Order**

13 **(b) Grounds for Relief From a Final Judgment, Order, or Proceeding.**
14 On motion and just terms, the court may relieve a party or its legal
15 representative from a final judgment, order, or proceeding for the following
16 reasons:

17 (1) mistake, inadvertence, surprise, or excusable neglect;

18 (3) fraud (whether previously called intrinsic or extrinsic),
19 misrepresentation, or misconduct by an opposing party;

20 (6) any other reason that justifies relief.

21 **III. SCA AND NSM DID NOT MEET THEIR BURDEN PURSUANT TO**
22 **RULE 56(C) OF NO DISPUTED MATERIAL FACTS**

23 The court shall grant summary judgment if the movant shows that there is
24 no genuine dispute as to any material fact and the movant is entitled to
judgment as a matter of law. The court should state on the record the reasons
for granting or denying the motion.

A. Facts listed in Findings of Fact are Disputed

1 9. Tobin disputes, and offers evidence to refute the listed facts 1,2,4,5,6,7,8,9,10,11,12,
2 13,14,15,16,17,18,19,20,21,22,23,25,26,27, 28, 29, 30, 31, 32, 33, 34, 35, 36.

3 10. Tobin petitions the Court to weigh all parties' evidence for admissibility and credibility
4 according to the same standards.

5 **B. Evidence Presented to Dispute "Findings of Fact"**

6 11. Sworn affidavits or declarations, made by Nona Tobin under penalty of perjury have been
7 filed into this case or to State enforcement officials, dated on or about 9/23/16, 1/10/17, 9/2/17,
8 3/5/17, 5/11/18, 3/5/19, 3/14/19, and 4/14/19 that have demonstrated the existence of disputed
9 facts.

10 12. Tobin's 3/5/19 Opposition to the Motion for Summary judgment contained a declaration
11 made under penalty of perjury that identified many more disputed facts that were not considered
12 by Counsel due to SCA attorney Ochoa's failing to properly inform the Court that he had agreed
13 to an extended deadline to file the opposition as SCA had not responded to Tobin's requests for
14 documents.

15 13. Declaration made by Craig Leidy, dated May 11, 2018, to support Tobin's motion for
16 summary judgment, that Tobin's counsel of record did not present previously to the Court is
17 incorporated with this motion.

18 14. The Leidy declaration specifically refutes RRFS' claim that it provided Leidy or Tobin
19 notice of the August 15, 2014 sale.

20 15. In addition, Leidy states under oath that the sale was extended more than three times.

21 16. Ombudsman Compliance Screen, authenticated on 4/15/19, as official public record of
22 Nevada Real Estate Division from database of all 2009 - 2014 notices of sale and HOA
23

24

1 foreclosure deeds submissions made as required by NRS (2013)116.311635 and
2 NRS116.31164(3)(b).

3 17. See Exhibit for a summary of evidence entered into the case to support pending motions.
4

5 **C. Per rule 56(d) Tobin petitions court to admit authenticated records previously**
6 **excluded**

7 18. The Ombudsman Compliance Screen, excluded and deemed inadmissible at the March
8 26 hearing was authenticated on 4/15/19 by Terralyn Lewis (fka Thompson), Administration
9 Section Manager, and is provided herein.

10 19. The compliance screen is the Ombudsman's contemporaneous log of letters, notices, and
11 deeds submitted to the State of Nevada Real Estate Division for any HOA foreclosure.

12 20. The Ombudsman Compliance Screen authenticated provides the only official record
13 available to the public documenting the notice of sale process and foreclosure of 2763 White
14 Sage.

15 21. Per the NRED Records Retention schedule, the physical records submitted are securely
16 destroyed after one year so none of these 2014 physical documents have survived to the present.

17 22. The Ombudsman is required to maintain the database of all records, including notices of
18 sale and HOA foreclosure deeds that were submitted to the Ombudsman for HOA foreclosure
19 that occurred between 2009-2014 as required by NRS (2013)116.311635 and
20 NRS116.31164(3)(b) which is the source of the document submitted to the Court.

21 **D. SCA waived its objection to the admissibility of the Ombudsman's Compliance**
22 **Record by failing to object to it for nearly three years**

23 23. Tobin obtained the Ombudsman Compliance Screen from Terralyn Thompson (now
24 Lewis) on May 26, 2016 pursuant to a public records request.

1 24. Tobin first presented it to SCA in 2016 and used it as the basis of her February 1, 2017
2 complaint.

3 25. SCA did not file an answer to Tobin's 2017 complaint until April 20, 2018, and did not
4 answer specifically or object to the Ombudsman compliance screen.

5 26. SCA had never challenged the authenticity of TOBIN00080, the Ombudsman's Notice
6 of Sale Compliance Screen, which was included with in Tobin's 8/20/18 Statement Disputed
7 Issues submitted with her NRS 38 claim for mediation and in Tobin pleadings and disclosures
8 filed into this case on 2/1/17, 3/3/17, 4/10/17, 7/13/18, 11/30/18, 2/27/19 and 3/5/19.

9 **E. Per rule 56(c)(2) Tobin raises an objection to SCA's allegations are not supported**
10 **by admissible evidence**

11 **NRCP 56(c)(2) Objection That a Fact Is Not Supported by Admissible**
12 **Evidence.** A party may object that the material cited to support or dispute
13 a fact cannot be presented in a form that would be admissible in evidence.

14 **F. Sun City Anthem evidence does not meet the Rule 56 (c)(4) standard re supporting**
factual positions

15 (4) **Affidavits or Declarations.** An affidavit or declaration used to support or
16 oppose a motion must be made on personal knowledge, set out facts that would
17 be admissible in evidence, and show that the affiant or declarant is competent
18 to testify on the matters stated.

19 **NRS 47.190 Determination on evidence of basic facts.** When a
20 presumption is made conclusive by statute or no direct evidence is
21 introduced contrary to the existence of the presumed fact, the question of
22 the existence of the presumed fact depends upon the existence of the basic
23 facts and is determined as follows:

24 1. If reasonable minds would necessarily agree that the evidence
renders the existence of the basic facts more probable than not, the judge
shall direct the jury to find in favor of the existence of the presumed fact.

2. If reasonable minds would necessarily agree that the evidence does
not render the existence of the basic facts more probable than not, the judge
shall direct the jury to find against the existence of the presumed fact.

1 27. SCA's evidence should be viewed with suspicion as it is based entirely on the unverified,
2 uncertified testimony of the debt collector.

3 28. SCA attorneys have withheld, concealed, or misrepresented all evidence that refutes the
4 Red Rock version of reality, including SCA's official records.

5 29. Tobin objects to SCA000176-SCA000643 Red Rock Foreclosure File being entered as
6 SCA's official record and used as evidence of "undisputed facts".

7 30. Tobin has proffered substantial certified and sworn evidence to refute the many
8 misrepresentations and outright falsifications that are contained in SCA000176-SCA000643
9 Red Rock Foreclosure File that has not been fully presented to the Court due to errors and
10 omissions by the Counsel of Record.

11 31. The Court has SCA attorneys misrepresentation of the RRFS file as the SCA official
12 record is comparable to a cop letting his criminal buddy write the police report that exonerated
13 him so no other cop could investigate the crime.

14 32. SCA Board meeting agendas and minutes, conforming to statutes and certified by the
15 secretary of the Board as accurate and complete, and mandated accessible to all owners, are the
16 ONLY OFFICIAL RECORD of the corporate acts of the Board.

17 33. "SCA000176- SCA000643, the Red Rock Foreclosure file" was filed into this case by
18 the SCA attorneys, without corroboration, verification or certification as SCA's official, and
19 only, record of actions leading up to the sale.

20 34. SCA attorney Ochoa has presented to the Court the RRFS Foreclosure file and
21 deceptively characterized it as the official record of SCA Board action.

22 35. Sun City Anthem did not present to the Court ANY sworn affidavits or declarations made
23 under penalty of perjury to support the allegations, erroneously called undisputed facts, in the
24 4/17/19 Order.

1 36. The only evidence SCA presented to the court purporting to establish facts asserted to
2 justify the motion for summary judgment was SCA000176-SCA000643 “Red Rock
3 Foreclosure File” without any authentication of the veracity or accuracy of the record that told
4 only RRFS’ version of events.

5 37. The SCA evidence used to support the motion for summary judgment is insufficient to
6 meet the rule 56(c)(4) standard as there were no affidavits by any independent person that
7 established its veracity.

8 38. SCA attorney Ochoa withheld in discovery SCA official records that were requested by
9 Tobin.

10 39. SCA attorney Ochoa withheld from the Court ALL SCA’s official certified records.

11 40. SCA attorney Ochoa misrepresented RRFS’s unverified foreclosure file to the Court as
12 if was legitimately the SCA official record and the only record the Court needed to consider.

13 41. SCA000176-SCA000643 is the “Red Rock Foreclosure File”, it is not in any legal way
14 the official record of SCA Board action.

15 42. SCA000176-SCA000643 Red Rock Foreclosure File” is unverified, uncorroborated by
16 any independent source, and is without legal authority to be characterized as SCA’s official
17 record.

18 43. SCA000176-SCA000643 Red Rock Foreclosure File” is contradicted by SCA’s actual
19 official records, i.e., SCA Board agendas and minutes, certified by the SCA Board President
20 and Secretary as accurate and complete.

21 44. SCA attorney has repeatedly blocked Tobin from acquiring or presenting to the Court,
22 present the SCA official record to the Court to show that the Red Rock Foreclosure file is
23 refused production of these documents in
24

1 45. SCA's official ownership record, the Resident Transaction Report, and the SCA Board
2 agendas and minutes were withheld in discovery.

3 46. SCA attorney Ochoa did not present to the court any authenticated or certified SCA
4 Board minutes as evidence of SCA Board decisions and actions leading up to the foreclosure
5 sale .

6 47. SCA attorneys, without any legal authority, put SCA Board's imprimatur on the words
7 and acts of Red Rock Financial Services, and represented it to the Court as SCA's official record
8 of the Board actions leading up to the foreclosure.

9 48. This misrepresentation, and failure to disclose, effectively allowed Red Rock Financial
10 Services to create a version of reality for the Court's eyes that is contradicted by the SCA official
11 records.

12 49. SCA attorneys have withheld in discovery SCA's actual official records of this sale and
13 other SCA foreclosures.

14 50. SCA's response to Tobin's Request for Production was to conceal and misrepresent the
15 evidence that there are no SCA Board minutes that document any SCA Board motion, second,
16 or vote to authorize the sale of 2763 White Sage.

17 51. SCA attorney falsely claimed in the response to Tobin's demand for production that
18 SCA000644-SCA000654 contained Board Meeting Minutes that documented the Board's
19 authorization of the sale.

20 52. This is false because SCA's disclosures ended on SCA000643.

21 53. SCA000644-SCA000654 were not disclosed or presented to the Court.

22 54. SCA has placed nothing into evidence, no certified official SCA record that corroborates
23 SCA000176-SCA000643 Red Rock Foreclosure File.

24

1 55. SCA attorneys' duplicity, covering up the wrongdoing of Red Rock Financial Services,
2 and falsely accusing Tobin of unclean hands is presented herein as grounds for vacating the
3 order pursuant to NRCP 60 (b)(3).

4
5 **G. NSM evidence does not meet the Rule 56 (c)(4) standard re supporting factual**
6 **positions**

7 (4) **Affidavits or Declarations.** An affidavit or declaration used to support or
8 oppose a motion must be made on personal knowledge, set out facts that would
be admissible in evidence, and show that the affiant or declarant is competent
to testify on the matters stated.

9 **56. NSM's Joinder p. 3, lines 4-7 states**

10 "adopt(ed) the (SCA's) statement of undisputed material facts, arguments,
11 and legal authority... to the extent they establish the absence of a genuine
12 issue of material fact"

13 57. NSM did not proffer any affidavit, declaration, or any other evidence to establish NSM
14 had any specific knowledge to support the NSM claim that '*the HOA conducted a proper*
foreclosure'.

15 58. Tobin has submitted sworn affidavits and declarations based on personal knowledge that
16 SCA did not provide her the notice and due process mandated by the SCA CC&Rs.

17 59. NSM attorneys do not have any personal knowledge of SCA's actions in relation to
18 Tobin's rights, or even what Tobin's rights are.

19 60. Tobin made a declaration, dated March 14, 2019, and filed with the Nevada Attorney
20 General, made under penalty of perjury, to demonstrate that NSM does not have admissible
21 evidence to establish it owns the Western Thrift deed of trust and is fraudulently using this civil
22 action to attempt to trick the Court into granting NSM quiet title, thereby creating an ownership
23 interest out of thin air.
24

1 61. The Court has not required NSM to produce admissible evidence to refute Tobin’s claims
2 that NSM has recorded false affidavits to make fraudulent claims against title and that NSM
3 cannot establish it has standing to foreclose by meeting the anti-foreclosure fraud requirements
4 entered into NRS 107 by AB 284 (2011).

5 **H. The entire sale is void due to SCA’s rejection of \$825 that would have cured the**
6 **default, not just the super-priority portion**

7 62. NSM did not proffer any evidence to establish or provide any citations to support NSM’s
8 distinction it made to assert that “the HOA conducted a proper foreclosure of the sub-priority
9 portion of its lien”.

10 63. SCA did not cite any authority to support its conclusion that the sale was valid to
11 extinguish Tobin’s ownership rights for reasons NSM had no knowledge of, but the sale void
12 and did not extinguish the deed of trust.

13 Quoting from Resources Group v. Nevada Association Services,

14 A foreclosure sale on an NRS Chapter 116 homeowners' association (HOA)
15 lien is void if, before the sale, the owner or deed-of-trust beneficiary cures
16 the default. Bank of Am., N.A. v. SFR Inus. Pool 1, LLC, 134 Nev., Adv.
17 Op. 72, 427 P.3d 113, 121 (2018) ("A foreclosure sale on [an HOA] lien
after valid tender satisfies that lien is void, as the lien is no longer in
default.").

18 64. Even if NSM’s argument were correct, it is misleading to the Court to provide the benefit
19 of this interpretation to NSM that has not provided any evidence it actually owns. the security
20 interest that constitutes the super-priority portion of its lien.

21 65. The Exhibits to the 2/12/19 joinder relate solely to the undisputed fact that the HOA
22 rejected the Miles Bauer’s 5/9/13 tender of \$825

1 **IV. CONCLUSIONS OF LAW WERE TOO NARROWLY CONSTRUED**

2
3 *When sitting in equity, courts must consider the entirety of the circumstances that bear upon*
4 *the equities.*

5 66. SCA alleged that its agent RRFS complied with the notice requirements specifically
6 delineated in NRS 116.3116 et sec. as evidenced by SCA000176-SCA000643.

7 67. The Court concurred that SCA was entitled to summary judgment as a matter of law.

8 68. Tobin petitions the Court to weigh the substantial evidence presented to refute SCA's
9 claim that RRFS actually did comply with all the requirements of NRS 116.3116 et sec.

10 69. Judicial notice is requested of the relevant provisions of SCA governing documents and
11 NRS chapters 38, 111, 116, 116A, 205, and 240 that are applicable in this case.

12 70. The Order also granted SNSM's joinder despite NSM presenting no evidence whatsoever
13 to support its claim that the sale was valid to extinguish Tobin's ownership rights but was void
14 to extinguish the security interests that, without evidence, NSM claims to own.

15 71. By focusing solely on the foreclosure statutes, the Court did not consider that these other
16 laws are relevant when weighing superiority of title between specific parties vying for quiet title
17 in this case.

18 72. The Court did not consider the notary laws or the statutes of fraud governing the transfer
19 of real property that were violated and rendered Jimjack's evidence of ownership inadmissible.

20 73. The Court did not consider the laws that prohibit NSM from making false claim of
21 ownership.

22 74. The Court ruled solely on RRFS' representation that it complied with the specific notice
23 requirements articulated in NRS 116.3116 et sec.,
24

1 75. The Court did not evaluate the entire legal framework that binds governs and binds SCA,
2 its agents, the banks, Jimijack and Tobin in different ways.

3 **A. Tobin does not have unclean hands by virtue of a single error of memory.**

4
5 76. SCA is justifying the surprise sale of a now-\$500,000 home for a \$2,000 debt that was
6 guaranteed to be paid by saying that a mistake of memory bars the deceased owner's estate from
7 relief.

8 77. SCA claimed that Tobin's mistake regarding the timing of the delivery of check 143 is
9 evidence of "unclean hands" and that the principle of equitable estoppel bar Tobin from relief.

10 78. Tobin pleadings filed into this case on 2/1/17, 3/3/17, 4/5/17, 4/10/17 and 11/30/18 and
11 into mediation on 8/20/18 and 11/6/18 included the statement that check 143 was delivered to
12 the HOA on 8/17/12 with a second check 142, stamped received on 8/17/12.

13 79. SCA produced evidence that Tobin saw for the first time on 12/26/18 that check 143 was
14 actually submitted on 10/3/12 with a letter to SCAHOA signed by Tobin that enclosed check
15 143.

16 80. Tobin Declaration contained herein stipulates that check 143 was submitted on 10/3/12
17 and not on 8/17/12, but that this is an insignificant failing when weighing the totally
18 disproportionate and unfair penalty that was imposed after SCA's agents refused to let the
19 delinquency be cured (two super-priority amounts rejected on 5/9/13 and 5/28/14 and from the
20 owner on 10/3/12) and the banks aggressively prevented the HOA being paid assessments as
21 Tobin intended (out of escrow opened on four market value sales).

22 81. Tobin urges the Court to weigh the abusive collection practices and unjust enrichment
23 gained by RRFS as well as the misrepresentations and dirty tricks of SCA attorney when
24 considering who has unclean hands.

1 82. The Declaration as well as previous pleadings and declarations filed into this case show
2 the SCA Board has been duped into to allowing its agents to become unjustly enriched and to
3 confiscate owners' property without notice or due process and that Tobin was provided no
4 effective notice of anything the association was doing related to her property.

5 83. SCA Board actions were all taken in secret.

6 84. RRFS conducted the sale without notifying any party with a known interest and without
7 giving the party with deeded property rights a chance to protect those rights by curing the trivial
8 debt or even knowing when to go to bid on equal footing at a public sale.

9 85. A finding that equitable estoppel bars Tobin from relief is unreasonable given the facts
10 of the case.

11 86. Tobin is an SCA homeowner who in fifteen years had only one late assessment payment
12 which occurred on August 17, 2012.

13 87. She made a mistake in thinking she had paid the assessments for her recently deceased
14 fiance's home at the same time, but paid those assessments immediately upon discovering that
15 she still had the check 143, dated August 17, 2012, in the checkbook.

16 88. When she paid the assessments with the check 143 she had written 47 days earlier, she
17 also notified the HOA that the property had been sold and that future assessments would be paid
18 out of escrow. She did not refuse to pay as SCA attorneys have mischaracterized her words.

19 89. Then for the next two years, she was hounded and harassed by the banks, at the same
20 time as they are blocking her ability to close escrow four times.

21 90. Meanwhile, the HOA and the debt collector decide everything they are going to do about
22 her property in secret and never speak to her or provide any written notice whatsoever in the six
23 months leading up to the sale.

24 91. Her property was confiscated without any notice or a chance to protect it.

1 92. When she has tried to remedy the situation, the HOA attorneys ruthlessly blocked her
2 ability to handle this dispute without litigation, and then forced her to get an attorney which has
3 cost her \$40,000 in addition to at least \$10,000 in other costs and had to invest three years of
4 hard work to keep the costs going over the value of the Property.

5 93. In this civil action, all of the opposing counsels have tried every trick in the book to keep
6 her motions from being heard on their merits, and misrepresented the facts to the court,
7 concealing documents, making side deals, and worse.

8 94. The Court has tolerated a lot of procedural irregularities and untimely responses that have
9 been denied to Tobin at least partially because of Trust's counsel's equally unacceptable
10 practice of failing to timely file pleadings Tobin has drafted.

11 95. Tobin petitions the Court to consider that the necessary elements of equitable estoppel
12 have not been met to bar Tobin from relief when it is she who has suffered a disproportionate
13 penalty 200 times the debt owed

14 96. Tobin has made no claims for damages so SCA really doesn't have a dog in this fight.
15 So why spend so much money to make sure Tobin's claims aren't heard?

16 97. What does SCA accomplish by this brutal attack on one of its long-standing members in
17 good standing. It just leaves the Court with a quiet title dispute between Jimijack, who is not a
18 bona fide purchaser for value and who does not have a recorded deed that is admissible as
19 evidence that its claim to ownership is superior to Tobin's, and who is colluding with NSM to
20 walk away from this deal with four years of rent profits.

21 98. If the sale is voided, Nationstar's claims against SCA are moot, and Nationstar is not
22 prejudiced in any way, as its rights to foreclose according to NRS 107 exist exactly as they did
23 the day before the sale. Only NSM would have to foreclose on Tobin who knows, but is not
24 playing, their game.

1 99. So why is NSM pulling all these procedural dirty tricks to get Tobin out of the case?
2 Simple answer. NSM has no standing to foreclose and can only get it by the magic trick of
3 pulling the wool over the judge's eyes.

4 **Equitable estoppel standard must be equally applied.**

5
6 100. On Page7-8

7 In determining whether a party's connection with an action is sufficiently
8 offensive to bar equitable relief, two factors must be considered: (1) the
9 egregiousness of the misconduct at issue, and (2) the seriousness of the harm
caused by the misconduct.

10 Only when these factors weigh against granting the requested equitable
relief will the unclean hands doctrine bar that remedy.

11 101. Tobin petitions the Court to consider that both SCA and NSM were completely
12 uncooperative in discovery and concealed records Tobin specifically requested because these
13 records prove Tobin's case.

14 102. Item 8 on page 8 of the Order SCA asked the Court to apply this standard of unclean
15 hands against Tobin.

16 8. The Nevada Supreme Court in Las Vegas Fetish & Fantasy Halloween Ball, Inc.
17 v. Ahem Rentals, Inc. cited to Income Inv'rs v. Shelton, 3 Wash. 2d 599, 602, 101
18 P.2d 973, 974-75 (1940), for its position on denying equity to a party with unclean
hands. The Income Inv'rs Court stated:

19 Equity will not interfere on behalf of a party whose conduct in connection
20 with the subject-matter or transaction in litigation has been unconscientious,
21 unjust, or marked by the want of good faith, and will not afford him any
22 remedy. 1 Pomeroy's Equity Jurisprudence (4th ed.) 739, § 398; Dale v.
Jennings, 90 Fla. 234, 107 So. 175; Bearman v. Dux Oil & Gas Co., 64 Oki.
147, 166 P. 199; Dewese v. Reinhard, 165 U.S. 386, 17 S.Ct. 340, 41 L.Ed.
757. Other authorities might be cited, but the rule appears to be universal.

23 If the parties were guilty of the conduct which the trial court found that they
24 were, the appellant comes squarely within the rule that equity will deny it
relief, because coming into a court of equity and asking relief after wilfully

1 concealing, withholding, and falsifying books and records, is certainly not
2 coming in with clean hands.

3 Income Inv'rs v. Shelton, at 974-75.

4 103. Tobin petitions the court to apply this standard of unclean hands and equitable estoppel
5 to the opposing parties.

6 **V. CONCLUSION**

7
8 104. Tobin petitions the court to vacate the order for summary judgment against her as SCA
9 and NSM did not meet their burden to establish that there are no disputed material facts.

10 105. Tobin petitions the court to consider the entire legal frame work applicable to this case
11 and vacate the Order as neither SCA nor NSM are entitled to summary judgment against Tobin
12 as a matter of law.

13 106. Tobin requests that the Court schedule to hear all pending motions, oppositions, and
14 replies simultaneously on a date outside May 2 through 9, 2019.

15 107. Judicial notice is requested of the coversheet summarizing the contents to the exhibits to
16 Tobin's 4/17/19 pleading

17
18 Dated this 24th day of April, 2019.

19 

20 NONA TOBIN

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22 Henderson NV 89052

23 Phone: (702) 465-2199

24 nonatobin@gmail.com

*Defendant-in Intervention/ Cross-Claimant
In Proper Person*

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I. TOBIN MOVES FOR SUMMARY JUDGMENT

1. The sale did not comply with all the applicable statutes as established by the evidence Tobin provided and which SCA did not produce any credible, certified or admissible evidence to refute. SCA did not provide the notices required by NRS 116.31162(4), NRS 116.31163, NRS 116.311635, or provide a deed to the Ombudsman per NRS 116.31164(3)(b), and did not distribute the proceeds of the sale as mandated by NRS 116.31164(3)(c).

2. SCA did not provide any of the notice and due process required by NRS 116.31031 and SCA bylaws 7.4.

3. SCA acting unreasonably and prevented the delinquency from being cured on two occasions and rejected the super-priority amount twice.

4. The sale was not authorized by valid SCA Board action. The SCA Board did not take any documented vote in any duly-called Board meeting to authorize the sale. There are no minutes certified by the SCA Board President and Secretary documenting a motion, second, or vote to approve any actions taken by Red Rock Financial Services

5. vote compliant with NRS 116.31083 and NRS 16.31085, documents any Board vote to authorize the foreclosure sale of 2763 White Sage Drive.

6. As there is no SCA record that SCA foreclosed and sold the property,

7. As the sale price was commercially unreasonable, i.e., sold for \$63,100, less than 18% of the \$353,529 Real Property Transfer Tax value on the day of the sale and the \$358,800 offer on the table pending lender approval, and evidence supports a finding that the sale unfair and

1 oppressive to the estate of the deceased homeowner in favor of Jimijack, a non-bona fide purchaser
2 with no admissible evidence to support its claim of ownership.

3 **II. LEGAL STANDARD**

4 8. In *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev., Adv. Op. 75, 334 P.3d 408
5 (2014), court held that HOA lien is split into super-priority and sub-priority. The lien is split, and
6 a proper foreclosure of the super-priority piece extinguishes the first deed of trust.

7 9. The Nevada Supreme Court in which unequivocally held in *Horizons at Seven Hills*
8 *Homeowners Association v. Ikon Holdings, LLC*, that an HOA's super-priority lien does not
9 include interest, collection costs, or other fees.

10 10. On August 11, 2016, in *Stone Hollow Avenue Trust v. Bank of America, N.A.*, the Nevada
11 Supreme Court held that a mortgagee's tender to the HOA of the super-priority amount of the
12 HOA's lien extinguishes the super-priority lien, *even if the HOA wrongfully rejects the tender*.

13 11. In *Nationstar Mortg., LLC v. Saticoy Bay LLC Series 2227 Shadow Canyon*“, the NV
14 Supreme Court found on November 22, 2017, “where inadequacy of the price is great, a court may
15 grant relief based on slight evidence of fraud, unfairness, or oppression.” price is wholly irrelevant.
16 To the contrary, *Golden* recognized that the price/fair-market-value disparity is a relevant
17 consideration because a wide disparity may require less evidence of fraud, unfairness, or
18 oppression to justify setting aside the sale:

19 12. *Golden v. Tomiyasu*, 79 Nev. 503, 514, 387 P.2d 989, 995 (1963), upheld a sale with a
20 purchase price that was 29 percent of fair market value, finding no reason to invalidate a “legally
21 made” sale absent *actual* evidence of fraud, unfairness, or oppression. See *Golden*, 79 Nev. at 515,
22 387 P.2d at 995 (“[I]t is universally recognized that inadequacy of price is circumstance of greater
23 or less weight to be considered in connection with other circumstances impeaching the fairness of
24

1 the transaction as a cause of vacating it. . . ." (emphasis added) (quoting *Odell v. Cox*, 90 P. 194,
2 196 (Cal.1907))).

3 13. *Nationstar Mortg., LLC v. Saticoy Bay LLC Series 2227 Shadow Canyon*, 133 Nev., Adv.
4 *Op. 91*, 405 P.3d 641, 647-48 (2017). But the greater the disparity between price and value, the
5 less in the way of unfairness or irregularity need be shown.

6 14. *Residential Capital LLC v. Cal-W. Reconveyance Corp.*, 134 Cal. Rptr. 2d 162, 173 (Ct.
7 *App. 2003*)("Only a properly conducted foreclosure sale, free of substantial defects in procedure,
8 creates rights in the high bidder at the sale.").

9 15. *From Resources Group* Grant S. Nelson, Dale A. Whitman, Ann M. Burkhart & R. Wilson
10 Freyermuth, Real Estate Finance Law § 7:21 (6th ed. 2014) (noting that a trustee's sale is void
11 where there is no authorization to foreclose, and that there is no authorization to foreclose when
12 the loan is not in default).

13 **III ARGUMENT**

14 16. It was unlawful, unfair and unreasonable for RRFS to prevent the deficiency from being
15 cured by owner or bank payments.

16 17. SCA did not stop RRFS from adding unauthorized charges or claiming unearned and
17 unnecessary collection fees.

18 18. The delinquency was cured by the 10/3/12 payment with check 143. It is was unjustified
19 and unfair to put a lien on the property that same quarter where no additional late fees were
20 authorized, demanding of \$925.76 to cover \$275 assessments and \$25 late fee was all that was due
21 and owing.

22 19. SCA rejected the Miles Bauer tender of \$825 on May 9, 2013 when \$825 would have cured
23 the delinquency by paying totally for the nine months assessments then past due. Only \$75 in late
24 fees were authorized.

1 20. It would be unreasonable to claim that in was only the superiority piece when RRFS did
2 not inform anyone of its unilateral decision to reject the tender and BANA had caused the HOA
3 not to be paid the \$3,055.47 that would have been paid out of the escrow of the May 10, 2013
4 Mazzeo \$395,000 purchase offer.

5 21. [*Shadow Wood, 132 Nev., Adv. Op. 5, 366 P.3d at 1112*](#) on January 28, 2016, the NV
6 Supreme Court set aside a sale for equitable principles, reaffirmed its holding on the nine-month
7 super-priority HOA lien, and held that a lender that obtains title to property is responsible for pays
8 HOA assessments which become due after it takes title.

9 22. In Summer 2013, BANA took possession of the property but would not take the title.

10 23. This was an unfair practice because the title stayed with the Trust, but locked Tobin out.

11 24. The banks didn't pay the assessments, but they wouldn't let Tobin sell it.

12 25. BANA and Nationstar's refusal to allow the Property to be sold at fair market value is the
13 proximate cause of the foreclosure sale.

14 26. Nationstar is barred from arguing that the SCA refusal of the Miles Bauer tender only
15 protects the bank's interests.

16 27. Nationstar is barred from claiming it automatically assumes BANA's rights after BANA
17 defaulted. See the Order entered June 7, 2016 in this case.

18 28. Nationstar is barred from quiet title until it proves it owns the note and has standing to
19 foreclose independent of trying to sneak one by the judge.

20 **Sale was not authorized by official Board action**

21
22 29. Legal analysis of NRS 116 meeting laws support a finding that there was no Board action,
23 compliant with NRS 116.31083 and NRS 116.31085, that authorized the sale of 2763 White Sage
24 Drive.

1 30. The way SCA approved this foreclosure would be equivalent to a judge meeting in
2 chambers with A and, based solely on A's allegations that B owed A \$2000, the judge ruled that
3 A could sell B's house without telling her. There was no court record, no order entered, Absent an
4 official, compliant Board action to authorize the sale, the sale IS void or voidable.

5 **The sale of 2763 White Sage did not comply with NRS 116.31083 and NRS 116.31085**

6 31. [NRS 116.3102](#) define the powers of unit-owners' association.

7 32. [NRS 116.3102\(m\)](#) limits the association's authority to sanction an owner for an alleged
8 violation of the governing documents by requiring the association to provide notice and due
9 process as delineated in [NRS 116.31031](#) to the owner who may be sanctioned.

10 33. With certain exceptions defined in [NRS 116.31085](#), Board actions must occur at duly called
11 Board meetings, compliant with the provisions of [NRS 116.31083](#), i.e.,

- 12 a. that are open to all unit owners,
- 13 b. that provide meaningful notice of the actions the Board intends to take at that
14 meeting,
- 15 c. that provide minutes of all Board decisions made and actions taken.

16
17
18 **NO NOTICE OF ANY VOTE RE 2763 WHITE SAGE ON ANY AGENDA**

19 34. According to NRS 116.31083(5), meetings of an association's executive board must
20 comply with the provisions of subsection 4 of NRS 116.3108.

21 NRS 116.3108(4) defines requirements of notice and agendas:

22 (a) A clear and complete statement of the topics scheduled to be considered
during the meeting, ...

23 (b) A list describing the items on which action may be taken and clearly denoting
that action may be taken on those items. In an emergency, the units' owners may take
24 action on an item which is not listed on the agenda as an item on which action may
be taken.

1 (c) A period devoted to comments by units' owners regarding any matter affecting
2 the common-interest community or the association and discussion of those
3 comments. Except in emergencies, no action may be taken upon a matter raised under
4 this item of the agenda until the matter itself has been specifically included on an
5 agenda as an item upon which action may be taken pursuant to paragraph (b).

6 **NO CERTIFIED BOARD MINUTES DOCUMENT ANY VOTE TO SELL**

7 35. NRS (2013) 116.31083 (8) (10) require the Board to maintain "*the minutes of each*
8 *meeting of the executive board until the common-interest community is terminated.*" that
9 include the following specific information:

10 8. Except as otherwise provided in subsection 9 (Section 9 allows the Board to
11 "establish reasonable limitations on materials, remarks or other information to be
12 included in the minutes of its meetings.") and NRS 116.31085, the minutes of each
13 meeting of the executive board must include:

- 14 (a) The date, time and place of the meeting;
- 15 (b) Those members of the executive board who were present and those members
16 who were absent at the meeting;
- 17 (c) The substance of all matters proposed, discussed or decided at the meeting;
- 18 (d) A record of each member s vote on any matter decided by vote at the meeting;
19 and
- 20 (e) The substance of remarks made by any unit s owner who addresses the executive
21 board at the meeting if the unit s owner requests that the minutes reflect his or her
22 remarks or, if the unit s owner has prepared written remarks, a copy of his or her
23 prepared remarks if the unit s owner submits a copy for inclusion.

24 **IT IS IMPERMISSIBLE TO SANCTION AN OWNER IN A CLOSED MEETING.**

36. The decision to foreclose on 2763 White Sage was made in a closed session which was not
permissible under the terms of NRS 16.31085 (3) (4).

37. There are no minutes of any SCA Board meeting that document the owner being offered
an opportunity for an open hearing or the Board providing the due process or any hearing prior to
the sale of 2763 White Sage Drive.

1 **38. [NRS 116.31085](#) (3) defines the only permissible topics of discussion and actions the Board**
2 is authorized to take in an executive session closed to owners

3 NRS 116.31085 (3)

4 3. An executive board may meet in executive session only to:

5 (a) Consult with the attorney for the association on matters relating to proposed
6 or pending litigation if the contents of the discussion would otherwise be governed
7 by the privilege set forth in [NRS 49.035](#) to [49.115](#), inclusive.

8 (b) Discuss the character, alleged misconduct, professional competence, or
9 physical or mental health of a community manager or an employee of the
10 association.

11 **(c) Except as otherwise provided in subsection 4, discuss a violation of the
12 governing documents, including, without limitation, the failure to pay an
13 assessment.**

14 (d) Discuss the alleged failure of a unit's owner to adhere to a schedule required
15 pursuant to [NRS 116.310305](#) if the alleged failure may subject the unit's owner to
16 a construction penalty.

17 **39. Whereas NRS 116.31085(3)(c) only authorizes the Board to “discuss” alleged violations**
18 **of the governing documents in executive session, NRS 116.31085(4) only permits Board action to**
19 **sanction an owner for an alleged violation in closed session when it holds a hearing at which the**
20 **owner can present a defense to dissuade the Board from imposing a sanction for an alleged**
21 **violation.**

22 NRS 116.31085(4)

23 4. An executive board shall meet in executive session to hold a hearing
24 on an alleged violation of the governing documents unless the person who may
be sanctioned for the alleged violation requests in writing that an open hearing
be conducted by the executive board. If the person who may be sanctioned for
the alleged violation requests in writing that an open hearing be conducted, the
person:

(a) Is entitled to attend all portions of the hearing related to the alleged
violation, including, without limitation, the presentation of evidence and the
testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by
regulation by the Commission, which must include, without limitation, the
right to counsel, the right to present witnesses and the right to present
information relating to any conflict of interest of any member of the hearing
panel; and

(c) Is not entitled to attend the deliberations of the executive board.

1 40. NRS 116.31085(6) requires the Board to report its actions taken in closed session in the
2 regular Board minutes.

3 6. Except as otherwise provided in this subsection, any matter discussed by the
4 executive board when it meets in executive session must be generally noted in the
minutes of the meeting of the executive board.

5 41. NRS 116.31085 (6) also defines a sanctioned owner's right to receive minutes of any closed
6 meeting at which the Board took action to sanction an owner for an alleged violation pursuant to
7 a hearing.

8 The executive board shall maintain minutes of any decision made pursuant to
9 subsection 4 concerning an alleged violation and, upon request, provide a copy
10 of the decision to the person who was subject to being sanctioned at the hearing
or to the person's designated representative.

11 42. SCA refused to provide minutes as required by NRS 116.31085(6) to document a decision
12 to foreclose was made pursuant to a hearing.

13 43. The fact that SCA Board did not provide notice of its intent to authorize the foreclosure of
14 2763 White Sage, nor offer the owner an opportunity for an open hearing, nor hold a hearing that
15 provided the owner with the mandated due process is evidenced by CAM Lori Martin's June 1,
16 2016 email refusing Tobin's request for minutes of any meeting at which the BOD took action to
foreclose:

17 "Your request for the "minutes where actions leading to foreclosure for delinquent
18 assessment(s) was approved for 2763 White Sage" cannot be fulfilled since those
19 minutes are Executive Session minutes and not privy to the anyone except the
20 Board. The only time Executive Session minutes are released to a homeowner is if
a hearing was held and then, only that portion of the meeting minutes is provided."

21 **UNDISPUTED FACTS**

22 44. Minutes of all 2014 Board meetings are available to all SCA members by law, but SCA
23 withheld them in discovery.

24 45. [SCA 315](#) was the only evidence proffered of Board action to authorize the sale of 2763

1 White Sage Drive on March 7, 2014.

2 46. SCA 315 alleges that Jean Capillupo, Board member, signed on February 27, 2014 a
3 statement on RRFS letterhead, dated February 14, 2014,

4 “The Board of Directors of Sun City Anthem Community Association
5 approves that Red Rock Financial Services is to proceed with the foreclosure
6 of the property address 2763 White Sage Dr., Henderson NV 89052 on
7 March 7, 2014 at 10:00 AM pursuant to this authorization and the conditions
8 set forth in the Permission for Publication of Foreclosure Sale and Authority
9 to Conduct Foreclosure Sale.”

10 47. SCA 315 also includes a note, handwritten by an unknown author, that stated

11 “approved
12 12/5
13 R05-120513”

14 48. Item R05 – 120513 on page 2 did not authorize the sale of 2763 White Sage Drive.

15 49. SCA Board [minutes of the December 5, 2013 Board meeting](#) Item R05 – 120513 reads

16 “(R05-120513) **UPON motion duly made by Dan Forgeron and Jim Mayfield,**
17 **the Board unanimously voted to refer the bids to the Reserve Study group for**
18 **analysis and recommendation presented at the January 23, 2014 regular Board**
19 **meeting.”**

20 50. There are no agendas or minutes of any Board meeting held between December 5, 2013
21 and December 31, 2014 that document SCA Board authorization to sell the property on March 7,
22 2014 or on any other date.

23 51. SCA sold the property without notice to any party with a known interest, i.e., the owner,
24 the servicing bank, or the bona fide purchaser with a \$358,800 offer pending lender approval,

108. SCA sanctioned the owner of 2763 White Sage with foreclosure, but did not provide the
notice or hearing and opportunity to defend delineated in NRS 116.31085 and NRS 116.31031.

109. The motion to vacate herein requests that the Court admit the official Nevada State record
as it is now authenticated, and exclude SCA000176-SCA000643, as uncertified and unverified.

1 110. The Ombudsman’s official record reports that the following specific actions or omissions
2 were in violation of the NRS 116.31162-NRS 116.31164 Notice of Sale process

- 3
- 4 a. The 2/12/14 Notice of Sale was cancelled on 5/15/14.
 - 5 b. The 5/15/14 Trustee sale was cancelled.
 - 6 c. There was no notice of sale in effect when the 8/15/14 sale took place.
 - 7 d. SCA did not provide any notice to the Ombudsman that the sale had occurred.
 - 8 e. SCA did not submit a foreclosure deed within 30 days after the sale (or ever) as required
9 by NRS 116.31164(3)(b)(2013).

10 111. SCA’s agent unilaterally rejected a tender from BANA of \$825, nine months of
11 assessments then delinquent, on or about May 9, 2013 without crediting the Property account
12 with \$825 of paid assessments.

13 112. NRS 116A.640(9) makes it unlawful for an HOA to

14 “refuse to accept from a unit’s owner payment of any assessment, fine, fee
15 or other charge that is due because there is an outstanding payment due.”

16 113. RRFS did not inform the Board or Tobin of its unilateral decision to continue the
17 unnecessary and unauthorized accumulation of “fines” misnamed as collection fees.

18 114. SCA’s agent RRFS, on May 28, 2014, RRFS unilaterally rejected it when [Nationstar](#)
19 [offered \\$1,100](#), an amount equivalent to one year of assessments.

20 **VI. CONCLUSION**

21 115. Based on the foregoing, Defendant-in-Intervention/Counterdefendant, Nona Tobin
22 requests this Court grant her motion(s) for summary judgment, and for any
23
24

1 further relief the Court may deem to be just and proper. SCA did not comply with all the relevant
2 statutes or its own governing documents. Sufficient undisputed facts support Tobin's claims
3 such that she is entitled to summary judgment against Sun Coty Anthem as a matter of law.

4
5 Dated this 24th day of April, 2019.

6 

7
8 NONA TOBIN
9 2664 Olivia Heights Avenue
10 Henderson NV 89052
11 Phone: (702) 465-2199
12 nonatobin@gmail.com
13 *Defendant-in Intervention/ Cross-Claimant*
14 *In Proper Person*

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1
2 **CERTIFICATE OF SERVICE**

3 **I HEREBY CERTIFY that on this 24TH day of April, 2019 and pursuant to NRCP 5(b), I**
4 **served via the Clark County electronic filing system a true and correct copy of the**
5 **foregoing TOBIN MOTION TO VACATE ORDER, ENTERED APRIL 17, 2019 AND**
6 **COUNTER MOTION FOR SUMMARY JUDGMENT**

7 **Michael R. Mushkin & Associates**
8 **L. Joe Coppedge joe@mushlaw.com**
9 **Karen L. Foley karen@mushlaw.com**
10 **Michael R. Mushkin michael@mushlaw.com**
11 **Lipson Neilson P.C.**
12 **Susana Nutt snutt@lipsonneilson.com**
13 **Renee Rittenhouse rrittenhouse@lipsonneilson.com**
14 **Kaleb Anderson kanderson@lipsonneilson.com**
15 **David Ochoa dochoa@lipsonneilson.com**
16 **Ashley Scott-Johnson ascott-johnson@lipsonneilson.com**
17 **Medrala Law Firm, PLLC**
18 **Jakub P Medrala jmedrala@medralaw.com**
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21 **Hong & Hong APLC**
22 **Joseph Y. Hong, Esq. yosuphonglaw@gmail.com**
23 **Pro Se**
24 **Nona Tobin nonatobin@gmail.com**
Michael Kelley mkelley@wrightlegal.net
NVEfile nvefile@wrightlegal.net

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EXHIBIT 1

Ombudsman NOS Compliance Screen

Received on 5/23/16 Authenticated on 4/15/19

Ombudsman's Compliance Record of Actions/Omissions

1. The 2/12/14 Notice of Sale was cancelled on 5/15/14.
2. The 5/15/14 Trustee sale was cancelled.
3. No 2nd notice of sale published the 8/15/14 sale date.
4. No foreclosure deed was ever submitted

EXHIBIT 1

CERTIFICATE OF CUSTODIAN OF RECORDS

NOW COMES, TERALYN LEWIS, who declares under penalty of perjury:

1. That the undersigned is an employee of the State of Nevada Department of Business & Industry, Real Estate Division and a custodian of the records attached hereto.

2. That on the 9th day of April 2019, the undersigned or designee received a public records request requesting certified copies of the Real Estate Division database screens for notices of sales for following assessor parcel numbers and addresses:

- a) 190-06-214-036 1382 Couperin Dr
- b) 190-18-613-021 2416 Idaho Falls
- c) 190-06-410-083 2532 Grandville Ave
- d) 190-18-713-093 2115 Sandstone Cliffs
- e) 191-12-210-030 2842 Forest Grove
- f) 191-14-511-001 2167 Maple Heights
- g) 191-18-113-004 2584 Pine Prairie
- h) 191-13-811-052 2763 White Sage Dr.
- i) 191-12-512-023 2721 Evening Sky
- j) 190-18-812-053 2260 Island City
- k) 190-18-312-003 2175 Clearwater Lake Dr.
- l) 191-13-213-005 2921 Hayden Creek Terrace
- m) 191-13-313-003 2986 Olivia Heights Ave
- n) 191-13-411-023 2273 Garden City Ave.
- o) 191-13-113-050 2078 Wildwood Lake St.
- p) 124-29-314-081 3416 Casa Alto Ave. No Las Vegas 89031
- q) 190-17-310-002 2227 Shadow Canyon Dr


3. That the undersigned provided records on or about April 15, 2019.

4. That the undersigned has examined the original or authentic copy of records produced and has made or caused to be made a true and exact copy of them and that the reproduction of them attached hereto is true and complete.

CERTIFICATE OF CUSTODIAN OF RECORDS

5. That to the best of my knowledge, the original of those records produced was made at or near the time of the act or event recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity.

DATED this 15 day of April, 2019.



TERALYN LEWIS
Custodian of Records
State of Nevada Real Estate Division

State of Nevada }
County of Clark }

SIGNED AND SWORN to before me on 15th day of APRIL, 2019,

By FELIPE RODRIGUEZ



NOTARY PUBLIC

My Commission Expires: 10/6/2020



STEVE SISOLAK
Governor

STATE OF NEVADA



MICHAEL BROWN
Director

SHARATH CHANDRA
Administrator

DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

www.red.nv.gov

PUBLIC RECORDS REQUEST FEE

Date: April 12, 2019

Requestor: Nona Tobin

Re: Certified copies of Ombudsman compliance screens for the following NOS': (1) 2763 White Sage Drive APN 191-13-811-052 (2) APN 190-06-214-036 1382 Couperin Dr (3) APN 190-18-613-021 2416 Idaho Falls (4) APN 190-06-410-083 2532 Grandville Ave (5) APN 190-18-713-093 2115 Sandstone Cliffs (6) APN 191-12-210-030 2842 Forest Grove (7) APN 191-14-511-001 2167 Maple Heights (8) APN 191-18-113-004 2584 Pine Prairie (9) APN 191-12-512-023 2721 Evening Sky (10) APN 190-18-812-053 2260 Island City (11) APN 190-18-312-003 2175 Clearwater Lake Dr. (12) APN 191-13-213-005 2921 Hayden Creek Terrace (13) APN 191-13-313-003 2986 Olivia Heights Ave (14) APN 191-13-411-023 2273 Garden City Ave. (15) APN 191-13-113-050 2078 Wildwood Lake St. (16) APN 124-29-314-081 3416 Casa Alto Ave. No Las Vegas 89031 (17) APN 190-17-310-002 2227 Shadow Canyon Dr

Quantity	Description	Rate	Amount
17 documents	Certified copies of notices of sales listed above	\$5.00 per document	\$85.00
Total			\$85.00

Please submit payment by cash (exact change), check or money order made payable to the Nevada Real Estate Division. Provide this document for proper remittance. Please contact me if you have questions regarding this matter.

Teralyn Lewis
Telephone: (702) 486-4036
Email: Teralyn.Lewis@red.nv.gov

**Nevada Department of Business and Industry
Real Estate Division**

Payment Receipt

Transaction Date : 04/15/2019

Cashier : Evelyn Pattee

Receipt # : 513923

Receipt Identification : NRED CUSTOMER

Money Tendered

Type	Amount	Reference	Payer Name	Payment Comment
Check	\$85.00	513	NONA TOBIN	PUBLIC RECORDS REQUEST
Total :	\$85.00			

Distribution


License	Use	Amount	Fee Desc	Business Name	Paid From	Paid To	BY
\$\$\$0000001	----	85.00	OMB COPIES	NRED CUSTOMER			Evelyn Pattee

The following licenses have fees due or credit amounts available.

\$\$\$0000001 \$36.44 Fees Due

Close

Compliance View Screen [update]

Case	2014-659	Date Created	02/18/2014	 Audit Entry Items Documents Notes Disciplines Participants Add Discipline
Legacy	191-13-811-052	Date Received	02/13/2014	
Compliance Status	NOS CLOSED	How Received	LETTER	
Respondent ID	271957	Receiving Board	RED	
Respondent Address	ESTATE OF GORDON B HANSEN, THE <input checked="" type="radio"/> Public <input type="radio"/> Mail ESTATE OF GORDON B HANSEN, THE 2763 WHITE SAGE DR HENDERSON, NV 89052	Receiving Profession		
Complainant ID	123186	Receiving Department	OMB - NOTICE OF SALE (NOS) PROCESS	
Complainant	SUN CITY ANTHEM COMMUNITY ASSOCIATION INC	Received By	Bonnie Schmidt	
Comments:	R808634	Priority	SOUTH	
		Alleged Issues	OMB ADR - NRS 38 310(1)(a), DELINQUENT ASSESSMENTS	
		Case Nature	Chapter 38	

- Resolution
- Action Items
- Participants



Resolution [update]

Field	Value	Field	Value
Department:	OMB - NOTICE OF SALE (NOS) PROCESS	Found Issues:	
Worker:	Bonnie Schmidt	Resolution:	• OMB NOS - CANCELLED (OWNER RETAINED)

Starting Effective Date: 04/08/2013
 Ending Effective Date: 05/15/2014
 Date Closed: 05/15/2014

Resolution Notes:

Action Items [add]

Type	Assigned To	Activity	Due	Effective	Completed	Order Signed	Created	User
 NOS - 4 TRUSTEE SALE CANCELLED	OMB - NOTICE OF SALE (NOS) PROCESS, Anne Moore		05/15/2014	05/15/2014	05/15/2014		06/02/2014	Anne Moore
Target: ESTATE OF GORDON B HANSEN, THE Case Status: Status Changed To: NOS CLOSED Comments: 89052								
 NOS - 1 SEND NOTIFICATION LETTER (NOTICE REC'D)	OMB - NOTICE OF SALE (NOS) PROCESS, BONNIE SCHMIDT		03/07/2014	03/07/2014	02/18/2014		02/18/2014	BONNIE SCHMIDT
Target: ESTATE OF GORDON B HANSEN, THE Case Status: Status Changed To: PENDING NOS DATE OF SALE Action Info: EFFECTIVE DATE OF NOS DEFAULT LIEN DATE ON NOS FORECLOSURE DATE ON NOS AMOUNT OF NOS APN ON NOS Comments: 89052								

CERTIFIED
 This is a true and correct copy of the original which is on file at the Nevada Division of Real Estate.

(Signature)
 CUSTODIAN OF RECORDS
 Date Certified 4/2/15



Nona Tobin <nonatobin@gmail.com>

Request to review records

1 message

Nona Tobin <nonatobin@gmail.com>

Tue, May 17, 2016 at 6:26 PM

To: TERALYN THOMPSON <TLTHOMPSON@red.nv.gov>

I would like to set up an appointment to come and see all documents that are in your office's possession regarding the property at:

2763 White Sage Drive
Henderson NV 89052

This property was sold on August 15, 2014 at a foreclosure sale for delinquent HOA dues by Red Rock Financial Services.

Thanks.

Nona Tobin
(702) 465-2199



Nona Tobin <nonatobin@gmail.com>

RE: Request to review records

1 message

Nona Tobin <nonatobin@gmail.com>
To: TERALYN THOMPSON <TLTHOMPSON@red.nv.gov>

Mon, May 23, 2016 at 12:40 PM

APN 191-13-811-052
2763 White Sage Dr. Henderson 89052

Gordon B. Hansen transferred title to the Gordon B. Hansen Trust on 8/27/2008

On May 23, 2016 3:26 PM, "TERALYN THOMPSON" <TLTHOMPSON@red.nv.gov> wrote:

Good afternoon,

In order for the Real Estate Division to search for this specific property I would need you to provide me with the assessor parcel number for the property and the name of the owner of the property at the time of foreclosure. Thank you.

Teralyn Thompson
Administration Section Manager
State of Nevada Department of Business and Industry
Real Estate Division
2501 E. Sahara Avenue, Suite 303
Las Vegas, Nevada 89104
[702-486-4036](tel:702-486-4036)
Fax: [702-486-4067](tel:702-486-4067)
tlthompson@red.nv.gov

From: Nona Tobin [mailto:nonatobin@gmail.com]
Sent: Tuesday, May 17, 2016 9:27 PM
To: TERALYN THOMPSON
Subject: Request to review records

I would like to set up an appointment to come and see all documents that are in your office's possession regarding the property at:

2763 White Sage Drive
Henderson NV 89052

NREDB002R157

This property was sold on August 15, 2014 at a foreclosure sale for delinquent HOA dues by Red Rock Financial Services.

Thanks.

Nona Tobin

[\(702\) 465-2199](tel:(702)465-2199)

RE: Request to review records

1 message

TERALYN THOMPSON <TLTHOMPSON@red.nv.gov> Thu, May 26, 2016 at 1:44 PM
To: Nona Tobin <nonatobin@gmail.com>

Good afternoon,

I've attached the only public records that the Division has in its possession regarding the foreclosure sales of APN 191-16-811-052. The attached document is a print screen from the Division's database and is not available for your to review in person. Please contact me if you have questions regarding your request. Thank you.

Have a great day,

Teralyn Thompson

Administration Section Manager

State of Nevada Department of Business and Industry

Real Estate Division

2501 E. Sahara Avenue, Suite 303

Las Vegas, Nevada 89104

702-486-4036

Fax: 702-486-4067

tlthompson@red.nv.gov

From: Nona Tobin [mailto:nonatobin@gmail.com]

Sent: Monday, May 23, 2016 3:41 PM

To: TERALYN THOMPSON

Subject: RE: Request to review records

APN 191-13-811-052
2763 White Sage Dr. Henderson 89052

Gordon B. Hansen transferred title to the Gordon B. Hansen Trust on 8/27/2008

On May 23, 2016 3:26 PM, "TERALYN THOMPSON"
<TLTHOMPSON@red.nv.gov> wrote:

Good afternoon,

In order for the Real Estate Division to search for this specific property I would need you to provide me with the assessor parcel number for the property and the name of the owner of the property at the time of foreclosure. Thank you.

Teralyn Thompson

Administration Section Manager

State of Nevada Department of Business and Industry

Real Estate Division

2501 E. Sahara Avenue, Suite 303

Las Vegas, Nevada 89104

[702-486-4036](tel:702-486-4036)

Fax: [702-486-4067](tel:702-486-4067)

tlthompson@red.nv.gov

From: Nona Tobin [mailto:nonatobin@gmail.com]

Sent: Tuesday, May 17, 2016 9:27 PM

To: TERALYN THOMPSON

Subject: Request to review records

I would like to set up an appointment to come and see all documents that are in your office's possession regarding the property at:

NREDB0052160

2763 White Sage Drive


Henderson NV 89052

This property was sold on August 15, 2014 at a foreclosure sale for delinquent HOA dues by Red Rock Financial Services.


Thanks.

Nona Tobin

(702) 465-2199

 **APN 191-13-811-052.pdf**
28K

Compliance View Screen [update]

Case	2014-659	Date Created	02/18/2014	 Audit Entry Items Documents Notes Disciplines Participants Add Discipline
Legacy Compliance Status	191-13-811-052 NOS CLOSED	Date Received	02/13/2014	
		How Received	LETTER	
		Receiving Board	RED	
Respondent ID	271957	Receiving Profession		
Respondent Address	ESTATE OF GORDON B HANSEN, THE <input checked="" type="radio"/> Public <input type="radio"/> Mail ESTATE OF GORDON B HANSEN, THE 2763 WHITE SAGE DR HENDERSON, NV 89052	Receiving Department	OMB - NOTICE OF SALE (NOS) PROCESS	
		Received By	Bonnie Schmidt	
		Priority	SOUTH	
		Alleged Issues	OMB ADR - NRS 38.310(1)(a), DELINQUENT ASSESSMENTS	
		Case Nature	Chapter 38	
Complainant ID	123186			
Complainant	SUN CITY ANTHEM COMMUNITY ASSOCIATION INC			

Comments: R808634

- Resolution
- Action Items
- Participants



Resolution [update]

Field	Value	Field	Value
Department:	OMB - NOTICE OF SALE (NOS) PROCESS	Found Issues:	
Worker:	Bonnie Schmidt	Resolution:	• OMB NOS - CANCELLED (OWNER RETAINED)

Starting Effective Date: 04/08/2013
 Ending Effective Date: 05/15/2014
 Date Closed: 05/15/2014

Resolution Notes:

Action Items [add]

Type	Assigned To	Activity	Due	Effective	Completed	Order Signed	Created	User
 NOS - 4 TRUSTEE SALE CANCELLED	OMB - NOTICE OF SALE (NOS) PROCESS, Anne Moore		05/15/2014	05/15/2014	05/15/2014		06/02/2014	Anne Moore
	Target: ESTATE OF GORDON B HANSEN, THE							
	Case Status: Status Changed To: NOS CLOSED							
	Comments: 89052							
 NOS - 1 SEND NOTIFICATION LETTER (NOTICE REC'D)	OMB - NOTICE OF SALE (NOS) PROCESS, BONNIE SCHMIDT		03/07/2014	03/07/2014	02/18/2014		02/18/2014	BONNIE SCHMIDT
	Target: ESTATE OF GORDON B HANSEN, THE							
	Case Status: Status Changed To: PENDING NOS DATE OF SALE							
	Action Info: EFFECTIVE DATE OF NOS	02/11/2014						
	DEFAULT LIEN DATE ON NOS	04/08/2013						
	FORECLOSURE DATE ON NOS	03/07/2014						
	AMOUNT OF NOS	5,081.45						
	APN ON NOS	191-13-811-052						
	Comments: 89052							

RE: RECORDS REQUEST

1 message

Teralyn Lewis <teralyn.lewis@red.nv.gov>
To: Nona Tobin <nonatobin@gmail.com>

Fri, Mar 22, 2019 at 8:31 AM

Good afternoon,

I've attached the Compliance Screen print out from the Division's database for the address and APN provided. The Division does not have 10 years of records of notices of sales. As previously states, the Division's retention schedule for notices of sales is one year. The records that were previously logged into the Division's database cannot be deleted at this time. If the Division were able to delete those records, I would not be able to provide the attached. The Division currently has NOS' for 2009-2014 in the database. Notices received from 2015 to present are kept for 1 year and then destroyed.

Thank you.

Have a great day,

Teralyn Lewis

Administration Section Manager

State of Nevada Department of Business and Industry

Real Estate Division

[3300 W. Sahara Avenue, Suite 350](#)

[Las Vegas, Nevada 89102](#)

Phone: 702-486-4036

Email: Teralyn.Lewis@red.nv.gov



From: Nona Tobin <nonatobin@gmail.com>
Sent: Friday, March 15, 2019 9:40 AM
To: Teralyn Lewis <teralyn.lewis@red.nv.gov>
Subject: RECORDS REQUEST

Could you please get me the OMB-NOS form for another Sun City Anthem 2014 foreclosure?

190-17-310-002

[2227 Shadow Canyon Dr. 89044](#)

I don't know how this case got all the way through the NV Supreme Court without me finding it in SCA litigation reports or the county recorder's property records.

If I requested an electronic file of OMB-NOS compliance screens for all the HOA foreclosures in Nevada from the last decade, could your office produce it in response to a public records request? Or would I need to have the AG request it or subpoena it as part of the investigation of my [AG complaint 2.2019](#)?

Thanks for your assistance. And please send the 2227 Shadow Canyon info ASAP.

Please don't hold it up while the powers that be analyze the request for the whole file or fret over the implications of the AG complaint. I appreciate your service. Thank you.

Nona Tobin

(702) 465-2199

Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has. -Margaret Mead

 **Tobin-Document Provided 3-22-19.pdf**
29K



Nona Tobin <nonatobin@gmail.com>

RECORDS REQUEST

1 message

Nona Tobin <nonatobin@gmail.com>

Fri, Mar 15, 2019 at 6:39 AM

To: Teralyn Lewis <teralyn.lewis@red.nv.gov>

Could you please get me the OMB-NOS form for another Sun City Anthem 2014 foreclosure?

190-17-310-002
2227 Shadow Canyon Dr. 89044

I don't know how this case got all the way through the NV Supreme Court without me finding it in SCA litigation reports or the county recorder's property records.

If I requested an electronic file of OMB-NOS compliance screens for all the HOA foreclosures in Nevada from the last decade, could your office produce it in response to a public records request? Or would I need to have the AG request it or subpoena it as part of the investigation of my [AG complaint 2.2019](#)?

Thanks for your assistance. And please send the 2227 Shadow Canyon info ASAP.

Please don't hold it up while the powers that be analyze the request for the whole file or fret over the implications of the AG complaint. I appreciate your service. Thank you.

Nona Tobin
(702) 465-2199

Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has. -Margaret Mead

NREDBIN.02165

State of Nevada B&I: Real Estate Division

Version Date: 2/8/2017

1995060 Commission Case Files

Description: This record series consists of disciplinary hearings for real estate and appraisal licensees. The files may contain: Complaint, Notice of Complaint, Obligation to respond, Notice of hearing, Answer from Respondent, State's Exhibits, Respondent's Exhibits, Proof of Mailing, Findings of Fact, Conclusion of Law and Decision, Receipts for fines paid, education completed and possible District Court action.

Retention: Retain these records for a period of six (6) calendar years from the close of the case.

Disposition: Destroy Securely

1995062 Investigative Files

Description: This record series documents the investigation of complaints and results of audits. The files may contain, but are not limited to: complaints, complaint investigation documentation including investigative reports, copies of audits, copies of real estate documents, trust account records, correspondence, and any other pertinent documentation.

Retention: Retain these records for a period of three (3) calendar years from the completion and resolution of an investigation.

Disposition: Destroy Securely

2011022 Ombudsman Notices of Sale Files

Description: These records document the foreclosure notifications received by the Ombudsman from homeowner associations, etc. (See NRS 116.311635). The files may include, but are not limited to: Notice from association; Copy of informational letter from Ombudsman, and; Related correspondence

Retention: Retain these records for a period of one (1) fiscal year from the end of the fiscal year to which the record pertains.

Disposition: Destroy Securely

2017015 Real Estate Licensing Files

Description: This record series documents the licensing of individuals by the Real Estate Division in accordance with NRS Chapters 645, 645C, 645D and 645H. Records may include but are not limited to application and supporting documentation, proof of pre-licensing education, proof of experience, examination results, renewal forms, continuing education and training verification records, verified statements, financial information, proof of payment of required fees, and related correspondence.

Retention: Retain this record series for a minimum period of three (3) calendar years from the expiration, suspension, or revocation of the license.

Disposition: Destroy Securely

2004221 Sold Out Owner-Developer and Exemptions

Description: These files document the review of applications for compliance with the Land Sales Act (NRS Chapter 119). Exemptions and Owner-Developer files contain a copy of the contractor's license, purchase and sale agreement, title report(s), cover letter and plat map(s). Additionally, Owner-Developer files also contain a copy of the business license, confidential financial statement and an Owner-Developer application.

Retention: Retain these records for a period of one (1) calendar year from the date a project is sold out, not renewed, discontinued, or exempted following the provisions of NAC 119.200 through 119.250.

Disposition: Destroy Securely

1995061 Subdivision/Timeshare/Campground Filings

Description: This record series documents the review of applications for compliance with the Land Sales Act, Timeshare Act and Campground Act. Sale of Subdivided Land: documents the regulation of developers, review of application filings, handle exemptions, permits, issuance of public property reports (purchaser's disclosure documents) and advertising approvals. Timeshare files: documents review of application filings and of timeshare projects, issuance of permits, public offering statements and advertising approvals. Campground filings; documents regulation in regard to the sale of memberships, review of application filings, issuance of permits to sell, and advertising approvals. Files include questionnaire application requirements and extensive exhibit documentation verifying developer qualifications, Public Offering Statements and/or property reports.

Retention: Retain these records for a period of three (3) calendar years from the date a project is sold out, not renewed, or discontinued.

Disposition: Destroy Securely

Compliance View Screen [update]



Case	2013-3869	Date Created	12/02/2013	Audit Entry Items Documents Notes Disciplines Participants Add Discipline
Legacy	190-17-310-002	Date Received	11/27/2013	
Compliance		How Received	LETTER	
Status	NOS - CLOSED SOLD TO THIRD PARTY	Receiving Board	RED	
Respondent ID	269450	Receiving Profession		
Respondent	PATRICIA E EVANS	Receiving Department	OMB - NOTICE OF SALE (NOS) PROCESS	
Address	<input checked="" type="radio"/> Public <input type="radio"/> Mail PATRICIA E EVANS 2227 SHADOW CANYON DRIVE HENDERSON, NV 89052	Received By	Bonnie Schmidt	
		Priority	SOUTH	
		Alleged Issues	OMB ADR - NRS 38.310(1)(a), DELINQUENT ASSESSMENTS	
		Case Nature	Chapter 38	
Complainant ID	123186			
Complainant	SUN CITY ANTHEM COMMUNITY ASSOCIATION INC			

Comments: R62960

- Resolution
- Action Items
- Participants

Resolution [update]

Field	Value	Field	Value
Department:	OMB - NOTICE OF SALE (NOS) PROCESS	Found Issues:	• OMB NOS - NRS 116.31162, DELINQUENT ASSESSMENTS
Worker:	Bonnie Schmidt	Resolution:	• OMB NOS - TRUSTEE DEED (PROPERTY FORECLOSED)

Starting Effective Date: 06/24/2010
 Ending Effective Date: 01/02/2014
 Date Closed: 01/02/2014

Resolution Notes:

Action Items [add]

Type	Assigned To	Activity	Due	Effective	Completed	Order Signed	Created	User
NOS - 5 SOLD TO 3RD PARTY	OMB - NOTICE OF SALE (NOS) PROCESS, Anne Moore		01/02/2014	01/02/2014	01/02/2014	01/02/2014	01/10/2014	Anne Moore
	Target: PATRICIA E EVANS							
	Case Status: Status Changed To:	NOS - CLOSED SOLD TO THIRD PARTY						
	Comments: 89052							
NOS - 1 SEND NOTIFICATION LETTER (NOTICE REC'D)	OMB - NOTICE OF SALE (NOS) PROCESS, BONNIE SCHMIDT		01/02/2014	01/02/2014	12/02/2013	12/02/2013	12/02/2013	Anne Moore
	Target: PATRICIA E EVANS							
	Correspondence: Letter: OMB NOS - FORECLOSURE NOTIFICATION LETTER.rtf (Preview Letter)							
	Envelope: envelope.rtf							
	Case Status: Status Changed To:	PENDING NOS DATE OF SALE						
	Action Info: EFFECTIVE DATE OF NOS	11/26/2013						
	DEFAULT LIEN DATE ON NOS	06/24/2010						
	FORECLOSURE DATE ON NOS	01/02/2014						
	AMOUNT OF NOS	8,005.16						
	APN ON NOS	190-17-310-002						
	SALE AMOUNT	35,000.00						
	Comments: 89044							

STATE OF NEVADA



DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

3300 W. Sahara Avenue, Suite 350
Las Vegas, Nevada 89102
(702) 486-4036 Fax: (702) 486-4067
Email: teralyn.lewis@red.nv.gov
<http://red.nv.gov/>

Public Record Request Pursuant to NRS 239

PRINT LEGIBLY OR TYPE ALL INFORMATION

Instructions:

All requests must be made in writing and signed.

Section A-Requester Information

Your Name

Phone Fax Email

Mailing Address

City State Zip Code

Section B-Record(s) Requested

Describe the record(s) you are requesting. Please be as specific as possible and include enough detail to assist Division staff in locating the record(s). Include relevant dates or date range. For multiple records, you may attach additional pages.

Ombudsman Compliance Screens CERTIFIED COPIES for 2763 White Sage Drive (APN 191-13-811-052) and the other properties listed.

Section C-Receiving Record(s)

Please specify the preferred method of receiving the requested record(s).

- By postal mail at the mailing address above
- Electronic format: By email at the email address above or a flash drive/CD mailed to requestor's mailing address. Please note: If you choose to receive the records by electronic format there will be a per page cost if the document is not available electronically.
- Will pick up in person from Division office on April 15, 2019

I understand that copying and other associated fees may apply and that records will not be released until payment is received. You will be given an estimate of the charges prior to copying.

Rona Jhi

Date April 8, 2019

Requester Signature-Required

DIVISION STAFF USE ONLY

Date Received: _____

Request Status:

Payment Received: _____

Estimate
An estimate of \$ _____
Amount

Information provided and
request completed _____
Date

Amount Paid: _____

provided on _____
Date

Information not provided

by _____
Division Staff

Request withdrawn
_____ Date

Records Requested for these Properties

- 190-06-214-036 1382 Couperin Dr**
- 190-18-613-021 2416 Idaho Falls**
- 190-06-410-083 2532 Grandville Ave**
- 190-06-410-083 2532 Grandville Ave**
- 190-18-713-093 2115 Sandstone Cliffs**
- 191-12-210-030 2842 Forest Grove**
- 191-14-511-001 2167 Maple Heights**
- 191-18-113-004 2584 Pine Prairie**
- 191-13-811-052 2763 White Sage Dr.**
- 191-12-512-023 2721 Evening Sky**
- 190-18-812-053 2260 Island City**
- 190-18-312-003 2175 Clearwater Lake Dr.**
- 191-13-213-005 2921 Hayden Creek Terrace**
- 191-13-313-003 2986 Olivia Heights Ave**
- 191-13-411-023 2273 Garden City Ave.**
- 191-13-113-050 2078 Wildwood Lake St.**
- 124-29-314-081 3416 Casa Alto Ave. No Las Vegas 89031**
- 190-17-310-002 2227 Shadow Canyon Dr**

1 MICHAEL R. MUSHKIN
Nevada Bar No. 2421
2 L. JOE COPPEDGE
Nevada Bar No. 4954
3 MUSHKIN CICA COPPEDGE
4 4495 S. Pecos Road
Las Vegas, NV 89121
5 Telephone: 702-454-3333
6 Facsimile: 702-386-4979
Michael@mushlaw.com
7 Joe@mushlaw.com

8 *Attorneys for Nona Tobin, an individual and*
9 *as Trustee of the Gordon B. Hansen Trust*

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 JOEL A. STOKES and SANDRA F.
13 STOKES, as trustee for the JIMI JACK
IRREVOCABL TRUST,

14 Plaintiffs,

15 vs.

17 BANK OF AMERICA, N.A.; SUN CITY
18 ANTHEM COMMUNITY ASSOCIATION.;
DOES I through X and ROES BUSINESS
19 ENTITIES 1 through 10, inclusive,

20 Defendants.

21 And Related Matters.

Case No.: A-15-720032-C
Consolidated with: A-16-730078-C

Department: XXXI

22 **DECLARATION OF NONA TOBIN IN SUPPORT OF OPPOSITION TO SUN CITY**
23 **ANTHEM COMMUNITY ASSOCIATION'S MOTION FOR SUMMARY JUDGMENT**

24 Nona Tobin, under penalty of perjury, states as follows:

25 I have personal knowledge of the facts stated herein, except for those facts stated to be
26 based upon information and belief. If called to do so, I would truthfully and competently testify
27 to the facts stated herein, except those facts stated to be based upon information and relief. I
28 make this declaration in support of Counterclaimant/Cross-Claimant Nona Tobin's Opposition

1 to Cross-Defendant Sun City Anthem Community Association's Motion for Summary
2 Judgment and in Opposition to Nationstar's Limited Joinder.

3 1. I have lived in Sun City Anthem at 2664 Olivia Heights Avenue since February
4 20, 2004 and have been an owner in good standing the entire time.

5 2. On or about July 31, 2003, Gordon B. Hansen, together with his then wife
6 Marilyn, purchased the property located at 2763 White Sage Drive, Henderson, Nevada 89052,
7 APN 191-13-811-052 (the "Property"). See Deed, Exhibit 1.

8 3. Gordon and Marilyn divorced, and on or about June 10, 2004, Marilyn Hansen
9 quit claimed the Property to Gordon Hansen as a part of the divorce settlement. See Quitclaim
10 Deed, Exhibit 2.

11 4. On or August 22, 2008, the Gordon B. Hansen Trust (the "Trust") was formed,
12 and Nona Tobin was identified as a successor trustee. See Trust, Exhibit 3.

13 5. On August 27, 2008, title to the property was transferred to the Gordon B.
14 Hansen Trust. See Deed, Exhibit 4.

15 6. Gordon B. Hansen died on January 14, 2012, and I became the sole trustee of the
16 Trust. See Certificate of Death, Exhibit 5.

17 7. I paid the HOA dues and late fees for three quarters after Gordon Hansen's
18 death.

19 8. I did not recall the timing and method of submitting the last payment (check 143,
20 dated August 17, 2012 of \$275 assessments for the quarter ending September 30, 2012 plus \$25
21 installment late fee, and the anomalies with cancelled checks made me think I had delivered it
22 on August 17, 2012 with the check for the assessments paid for my own house.

23 9. On or about December 24, 2018 I saw SCA00063, a letter signed by me to
24 SCAHOA dated 10/3/12.

25 10. SCA00063 refreshed my memory that check 143 was sent with instructions to
26 collect future assessments out of escrow because the house had been sold and to direct questions
27 to Real Estate Broker Doug Proudfit, who was also a long-time SCA owner in good standing.

28 11. SCA agents, RMI community manager, and its affiliate, Red Rock Financial

1 Services ("RRFS") ignored the notice that the property had been sold and did not follow, or
2 even acknowledge, the explicit instructions, that the \$300 check was for "HOA dues"

3 12. The payment for "HOA dues" was applied on October 18, 2012 to unauthorized
4 and unnecessary collection fees despite the NRS 116A.640(8) explicit prohibition against
5 "Intentionally apply(ing) a payment of an assessment from a unit's owner towards any fine, fee
6 or other charge that is due."

7 13. I made no attempt to evaluate or reduce the RRFS demands for fees as I had
8 contracted with Proudfit Realty to complete a short sale and expected the bank and the new
9 owner to arrange to pay the HOA the full amount due.

10 14. SCA's claim, in the motion for summary judgment, that I had also attached to the
11 October 3, 2012 letter a notice of sanction dated September 20, 2012 is false, and I believe an
12 attempt to unfairly disparage me rather than a long-standing SCA member in good standing that
13 was trying to sell a house at the bottom of the market on behalf of a deceased homeowner's
14 estate.

15 15. The October 3, 2012 letter plainly states there are two enclosures – check for
16 HOA dues and death certificate.

17 16. There was no third enclosure listed of a September 20, 2012 notice of hearing.

18 17. The September 20, 2012 notice of hearing RRFS says was enclosed with the
19 October 3, 2012 letter could not have come from me as I obviously would only have had the
20 original.

21 18. SCA proceeded with unnecessarily with collections and adding unauthorized
22 fees despite two pay off demands from Ticor Title on or about December 20, 2012 and January
23 16, 2013.

24 19. SCA managing and collection agents ignored the fact that both the real estate
25 agent Doug Proudfit and the executor of the estate, Nona Tobin, both long-term SCA
26 homeowners in good standing who had no interest in the HOA not receiving all assessments
27 that were due and were working diligently to sell the property after the market had crashed.

28 20. Check no. 143 was payment for the HOA quarterly dues for the Property for the

1 period commencing July 1, 2012 in the principal amount of \$275.00, together with late fees in
2 the amount of \$25.00. Check no. 143 cleared the bank until October 23, 2012. See check no.
3 143, Exhibit 6.

4 21. Check No. 143 in the amount of \$300.00 was incorrectly credited by the HOA's
5 debt collector, Red Rock Financial Services ("RRFS") to the account for the Property on or
6 about October 18, 2012 as shown by the RRFS ledger sent on November 5, 2012 to the Property
7 (but not the owner's address of record). See Ledger, Exhibit 7.

8 22. The Resident Transaction Report shows that the \$300 from check no. 143 was
9 credited as "Collection Payment Part(ial)" rather than as \$275 plus \$25 late fee for the July
10 2012 quarter, which would have brought the account current with a zero balance instead of the
11 \$495.15 RRFS claimed was still owing. See Ledger, Exhibit 7. NRS116A.640(8) prohibits an
12 HOA agent from applying assessment payments to "any fine, fee or other charge that is due".

13 23. On or about September 13, 2012, the RRFS ledger shows charges of \$150.00 for
14 "Management Company Collection Cost", and \$125.00 + mailing fees for an "Intent to Lien
15 Letter" on the Property's account with the HOA, unauthorized as the account was referred to
16 collection before there was a default. The error of adding and compounding collection fees
17 which were not owing was never corrected by the HOA. See Ledger, Exhibit 7.

18 24. The legal framework requires that prior to sanctioning an owner for an alleged
19 violation of the governing documents, such as delinquent assessments, the Board must provide a
20 specific notice of violation, a notice of violation hearing, notice of sanction (hearing
21 determination), notice of appeal, appeal determination letter.

22 25. SCA did not provide me any of these notices prior to the imposition of fines
23 misnamed as collection costs.

24 26. SCA imposed progressively more serious and disproportionate sanctions for the
25 alleged violation of delinquent assessments, up to and including foreclosure, without providing
26 any meaningful and compliant due process.

27 27. SCA claims to have sent a September 17, 2012 notice of intent to lien, that I do
28 not have any record or recollection of having received.

1 28. Even if sent, that notice was defective and non-compliant

2 a. There was no preceding notice of violation,

3 b. RRFS's claiming \$617.94 on September 17, 2012 is excessive and
4 unauthorized when \$275 only came due on July 1, 2012.

5 c. Only \$25 late fee was authorized on July 31, 2012 when the payment is
6 30 days late

7 d. \$317.94 claimed by RRFS for collection costs for the next 35 days the
8 payment was late is not authorized

9 e. An excessive, non-negotiable fee, of \$317.94, which SCA collection
10 agent claimed must be disputed within 30 days of a notice I didn't get, is not a
11 "collection cost", it is a fine and a sanction.

12 29. On or about December 14, 2012, the HOA caused a Notice of Delinquent
13 Assessments (the "Lien") to be recorded against the Property which claimed the amount of
14 \$925.76 was delinquent and owed as of December 5, 2012 when at that time, only \$275.00 was
15 due and owing for the period commencing October 1, 2012. The Lien included erroneous
16 charges and did not credit assessments paid when the amount was below the minimum past due
17 amount when collection can begin. See Lien, Exhibit 8.

18 30. As of December 14, 2012, the maximum amount of the delinquency for the
19 Property's HOA account was \$300.00, consisting of then-current quarterly dues in the amount
20 of \$275.00, together with late fees in the amount of \$25.00.

21 31. On or about March 12, 2013, a Notice of Default and Election to Sale (the "First
22 Notice of Default") was issued and served by RRFS. See First Notice of Default, Exhibit 9.

23 32. The First Notice of Default was rescinded on or about April 3, 2013. See
24 Recorded Rescission of Notice of Default, Exhibit 10.

25 33. On or about April 8, 2013, a second Notice of Default and Election to Sale (the
26 "Second Notice of Default") was issued and served by RRFS. This notice incorrectly states that
27 no payments of any kind have been made since July 1, 2012, contradicting RRFS' own October
28 18, 2012 ledger entry which credits Check No. 143 in the amount of \$300.00, albeit to fees

1 instead of first to assessments. See Letter to Property with RRFS Ledger, Exhibit 7.

2 34. On or about April 30, 2013, RRFS responded to a payoff demand from "Miles
3 Bauer", agents for Bank of America (BANA), and claimed that \$2,876.95 was due and payable
4 as of April 30, 2013. See May 29, 2013 Red Rock Financial Services Ledger, Exhibit 11.

5 35. On or about May 9, 2013, Miles Bauer tendered \$825 for the nine months of
6 assessments which were at that point in time delinquent. However, RRFS refused BANA's
7 tender without notifying the SCA Board.

8 36. This unjustified refusal of BANA's payment should have stopped all collection
9 efforts as all delinquencies on the account had been cured and the account was then current.

10 37. On or about February 12, 2014, a Notice of Foreclosure Sale ("Notice of Sale")
11 was issued and served by RRFS, which claimed \$5,081.45 was due and owing, and scheduled
12 the sale for March 7, 2014. See Notice of Foreclosure Sale, Exhibit 12.

13 38. On March 28, 2014, RRFS sent an Accounting ledger to Chicago Title in
14 response to a payoff demand related to a contingent sale to Red Rock Region Investments LLC
15 in which the amount before fees claimed as due and owing on February 11, 2014 was
16 \$4,240.10, and that the amount due on March 28, 2014 was \$4,687.64. See Accounting Ledger,
17 Exhibit 13. Note that the Notice of Sale claims that \$5,081.45 was due as of 2/11/14 but no
18 ledger went to the owner with the Notice of Sale recorded on 2/12/14.

19 39. On or about February 20, 2014, I signed a new listing agreement with Craig
20 Leidy, also a long time SCA owner in good standing.

21 40. I gave him verbal authority to handle all notices and contact with the HOA's
22 agents, RRFS, and written authority to arrange a short sale with Nationstar Mortgage, the new
23 loan servicer as of December 1, 2013.

24 41. NRS 116.3116 was violated when RRFS refused two tenders of the super-
25 priority amount, one May 9, 2013 from BANA, and the second from Nationstar on June 5,
26 2014.

27 42. The Notice of Sale was sent to the Ombudsman on February 13, 2014 as
28 required by NRS 116.311635(2)(b)(3). However, on May 15, 2014, RRFS notified the

1 Ombudsman that the Notice of Sale was cancelled, the Trustee sale was cancelled, and the
2 Owner was retained. See Compliance View Screen, Exhibit 14.

3 43. The Property was sold on August 15, 2014 although no valid notice of sale was
4 in effect as the Notice of Sale was cancelled on or about May 15, 2014 and not replaced.

5 44. The August 22, 2014 Foreclosure Deed, the recording of which was requested by
6 Opportunity Homes, LLC claims the Property was sold for \$63,100 based upon the First Notice
7 of Default, dated March 12, 2013, which was rescinded on April 3, 2013. See Recorded
8 Rescission of Notice of Default, Exhibit 10.

9 45. The August 22, 2014 Foreclosure Deed contains the false recitals that 1) default
10 had occurred as described in the rescinded Notice of Default and Election to Sell; 2) there had
11 been no payments made after July 1, 2012; 3) that as of February 11, 2014, \$5,081.45 was due
12 and owing and that 4) RRFS "complied with all the requirements of law". Exhibit 15.

13 46. SCA did not provide the notices required by NRS 116.31162(4)

14 (a) A schedule of the fees that may be charged if the unit s owner fails to pay
15 the past due obligation;

16 (b) A proposed repayment plan; and

17 (c) A notice of the right to contest the past due obligation at a hearing before
18 the executive board and the procedures for requesting such a hearing.

19 47. NRS 116.31164(3)(b) (2013) requires that "the person conducting the
20 sale...deliver a copy of the deed to the Ombudsman within 30 day after the deed is delivered to
21 the purchaser...", but no foreclosure deed has ever been delivered to the Ombudsman. See
22 OMB Compliance screen, Exhibit 14.

23 48. NRS 116.31164 (3)(c) 1-5 requires the order in which the proceeds of the sale
24 are to be paid out. No distribution was made to any claimant out of the reported \$63,100
25 collected for the sale except for the \$2,701.04 that paid the HOA in full.

26 49. I attempted to make a claim for the proceeds in September 2014 but was rebuffed
27 by RRFS, which falsely claimed that the proceeds had been deposited with the court for
28 interpleader.

1 50. SCA agents did not conduct the collection process leading up the foreclosure in
2 compliance with the legal framework empowering and limiting the SCA Board's authority to
3 sanction or fine an owner for ANY alleged violation of the governing documents.

4 51. On September 16, 2016, SCA refused my request for SCA records of its
5 compliance actions against the owner of the Property without a court order.

6 52. I signed to approve purchase offers for four sales which did not come out of
7 escrow due to the actions of BANA and Nationstar.

8 53. Initially, I accepted an offer for \$310,000 on or about August 8, 2012, but BANA
9 refused to close, and the prospective buyers who had moved in on or about October 23, 2012
10 withdrew and moved out in April, 2013.

11 54. A second offer to purchase the Property was made on May 10, 2013 for
12 \$395,000.00.

13 55. I offered to return the property to BANA on a deed in lieu in mid-2013, but
14 BANA rejected it claiming the title wasn't clear.

15 56. The third escrow opened on March 4, 2014 for a \$340,000 cash offer which
16 Nationstar, as the new servicing bank, held in abeyance while Nationstar required that it be
17 placed up for public auction on www.auction.com.

18 57. The auction.com sale period was from May 4, 2014 to May 8, 2014 when it was
19 sold to the high bidder for \$367,500, pending approval by the beneficiary.

20 58. Nationstar's negotiator would not accept either the \$340,000 offer held in
21 abeyance nor would it accept the \$367,000 from the auction.com sale.

22 59. When listing agent Leidy put a notice on the MLS on July 25, 2014 that the
23 property was back on the market, he indicated he had worked out all the other liens and it
24 should close quickly.

25 60. A buyer who had bid several times on it in March, 2014, re-expressed interest by
26 making a new offer on July 26, 2014.

27 61. I signed a counter-offer on August 1, 2014 for \$375,000.

28 62. At the same time, Nationstar required that the asking price on the listing be

1 raised to \$390,000.

2 63. The buyer countered on August 4, 2014 with an offer of \$358,800 which was on
3 the table when the HOA foreclosed without notice to me, the listing agent, the servicing bank,
4 or any of these bona fide purchasers who were interested in purchasing the property in arms-
5 length transactions.

6 64. The Nevada Statement of Value recorded on August 22, 2014 for the purpose of
7 establishing the Real Property Transfer Tax (RPPT) stated the RPPT market value was
8 \$353,529.

9 65. At the time of the foreclosure sale, based upon the various offers to purchase the
10 Property, it is my opinion that the value of the Property was not less than \$358,800.00

11 66. RRFS disclosures claim that Thomas Lucas purchased the property for \$63,100
12 and took title in the name of Opportunity Homes LLC.

13 67. SCA official ownership records, however, do not have any entry that shows SCA
14 foreclosed on this property nor that either Thomas Lucas nor Opportunity Homes LLC ever
15 owned the property.

16 68. Nationstar's limited joinder to declare the sale valid must be denied.

17 69. Nationstar has no knowledge of how SCA conducted the sale and has no basis
18 for claiming that the sale was valid to remove my property rights but was not valid to extinguish
19 a deed of trust.

20 I declare under penalty of perjury under the laws of the State of Nevada that the
21 foregoing is true and correct.

22 Dated this 5 day of March 2019.

23
24 /s/ Nona Tobin
25 NONA TOBIN

1 MICHAEL R. MUSHKIN
Nevada Bar No. 2421
2 L. JOE COPPEDGE
Nevada Bar No. 4954
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Michael@mushlaw.com
7 Joe@mushlaw.com

8 *Attorneys for Nona Tobin, an individual and*
9 *as Trustee of the Gordon B. Hansen Trust*

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 JOEL A. STOKES and SANDRA F.
13 STOKES, as trustee for the JIMI JACK
14 IRREVOCABLE TRUST,

15 Plaintiffs,

16 vs.

17 BANK OF AMERICA, N.A.; SUN CITY
18 ANTHEM COMMUNITY ASSOCIATION.;
19 DOES I through X and ROES BUSINESS
20 ENTITIES 1 through 10, inclusive,

21 Defendants.

22 And Related Matters.

Case No.: A-15-720032-C

Consolidated with: A-16-730078-C

Department: XXXI

MOTION FOR SUMMARY JUDGMENT

23 Craig Leidy, under penalty of perjury, states as follows:

24 1. I am a licensed real estate agent in the state of Nevada and have personal
25 knowledge of the facts stated herein, except for those facts stated to be based upon information
26 and belief. If called to do so, I would truthfully and competently testify to the facts stated
27 herein, except those facts stated to be based upon information and belief.

28 2. I make this declaration in support of Counterclaimant/Cross-Claimant Nona
Tobin's Motion for Summary Judgment.

3. On or about February 20, 2014, I signed a listing agreement with Nona Tobin,

1 Trustee of the Gordon B. Hansen Trust, to sell the property located at 2763 White Sage Drive,
2 Henderson, Nevada 89052, APN 191-13-811-052 (the "Property").

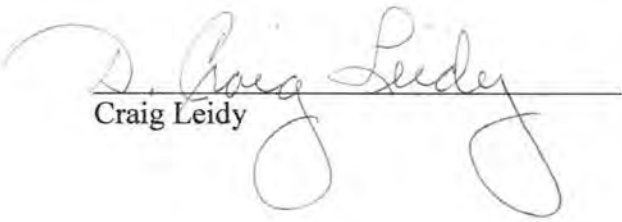
3 4. I began working with Red Rock Financial Services ("RRFS") and requested
4 notice and delay of any proposed HOA foreclosure sale regarding the Property.

5 5. The sale date was continued at least four (4) times. See Electronic Mail, Exhibit
6 hereto.

7 6. The Property was sold on August 15, 2014 although I was not given notice of the
8 sale until immediately before it transpired.

9 I declare under penalty of perjury under the laws of the State of Nevada that the
10 foregoing is true and correct.

11 Dated this 11 day of May, 2018.

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14 Craig Leidy

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I made all these annotations to note on 4/23/19 *nona JRL* what I know now vs on 5/11/18

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Attorneys for Nona Tobin, an individual and
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DISTRICT COURT
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JOEL A. STOKES and SANDRA F.
STOKES, as trustee for the JIMIJACK
IRREVOCABLE TRUST,

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vs.

BANK OF AMERICA, N.A.; SUN CITY
ANTHEM COMMUNITY ASSOCIATION.;
DOES I through X and ROES BUSINESS
ENTITIES 1 through 10, inclusive,

Defendants.

And Related Matters.

Case No.: A-15-720032-C

Consolidated with: A-16-730078-C

Department: XXXI

DECLARATION OF NONA TOBIN

I stipulate that #8 was an error that I found out about when I saw the 10/3/12 letter.

the MSJ against SCA that this and Crist Leidy's 5/11/18 declarations were made to support was never filed

Nona Tobin, under penalty of perjury, states as follows:

1. I have personal knowledge of the facts stated herein, except for those facts stated to be based upon information and belief. If called to do so, I would truthfully and competently testify to the facts stated herein, except those facts stated to be based upon information and belief.

1 2. I make this declaration in support of Counterclaimant/Cross-Claimant Nona
2 Tobin's Motion for Summary Judgment.

3 3. On or about July 31, 2003, Gordon B. Hansen, together with his then wife
4 Marilyn, purchased the property located at 2763 White Sage Drive, Henderson, Nevada 89052,
5 APN 191-13-811-052 (the "Property"). See Deed, Exhibit 1 hereto.

6 4. Gordon and Marilyn divorced, and on or about June 10, 2004, Marilyn Hansen
7 quit claimed the Property to Gordon Hansen as a part of the divorce settlement. See Quitclaim
8 Deed, Exhibit 2 hereto .

9 5. On or August 22, 2008, the Gordon B. Hansen Trust (the "Trust") was formed,
10 and Nona Tobin was identified as a successor trustee. See Trust, Exhibit 3 hereto.

11 6. On August 27, 2008, title to the property was transferred to the Gordon B.
12 Hansen Trust. See Deed, Exhibit 4 hereto.

13 7. Gordon B. Hansen died on January 14, 2012, and Nona Tobin became the sole
14 trustee of the Trust. See Certificate of Death, Exhibit 5 hereto.

15 8. On August 17, 2012, I delivered ~~two (2) checks~~, check no. 142 ~~and check no.~~
16 ~~143~~, to the Sun City Anthem Community Association (the "HOA") at 2450 Hampton Road,
17 Henderson NV 89052, each in the amount of \$300.00.

18 9. Check no. 142 was payment for the HOA quarterly dues for my personal
19 residence located at 2664 Olivia Heights Avenue, Henderson, Nevada 89052 for the quarter
20 commencing July 1, 2012 in the principal amount of \$275.00, together with late fees in the
21 amount of \$25.00. Check No. 142 cleared the bank on August 23, 2012. See check no. 142,
22 Exhibit 6 hereto.

23 10. Check no. 143 was payment for the HOA quarterly dues for the Property for the
24 period commencing July 1, 2012 in the principal amount of \$275.00, together with late fees in
25 the amount of \$25.00. ~~Although delivered on August 17, 2012,~~ check no. 143 did not clear the
26 bank until October 23, 2012. See check no. 143, Exhibit 7 hereto. *none*

27 //
28 //

none
4/23/19

1 11. On or about October 18, 2012, check No. 143 in the amount of \$300.00 was
2 incorrectly credited as "Red Rock Partial Payment" by the HOA's debt collector, Red Rock
3 Financial Services ("RRFS"). See Ledger, Exhibit 8 hereto.

4 12. The account for the Property would have been current through September 30,
5 2012 if the \$300 payment had been applied to assessments before fees in the same manner as
6 check 142 was applied to the assessments due for my personal property.

7 13. On or about November 5, 2012, RRFS sent the first collection notice to the
8 Property (but not to 2664 Olivia Heights, the owner's address of record) when RRFS was "in
9 receipt of the correspondence that the Homeowner has passed away" In the letter, RRFS
10 claimed to have been retained to collect the delinquent balance of \$495.15 owed as of
11 November 5, 2012. See RRFS ledger sent . See Ledger, Exhibit 8 hereto.

12 14. On November 6, 2012, the HOA Resident Transaction Report credits the \$300
13 from check no. 143 as "Collection Payment Part(ial)" but claims a conflicting balance due of
14 \$351.21.

15 15. Check 143 was not ever correctly applied to \$275 assessments plus \$25 late fee
16 for the July 2012 quarter, as required by NAC116A.345(7) which prohibits an HOA agent from
17 applying assessment payments first to fees. See HOA Resident Transaction Report, Exhibit 9
18 hereto. *when this declaration was made on 5/11/18*

19 16. On or about September 13, 2012, the RRFS ledger shows charges of \$150.00 for
20 "Management Company Collection Cost", and \$125.00 + mailing fees for an "Intent to Lien
21 Letter" on the Property's account with the HOA, unauthorized as the account was referred to
22 collection before there was a default. The error of adding and compounding collection fees
23 which were not owing was never corrected by the HOA or RRFS. See Ledger, Exhibit 8 hereto.

24 17. On or about December 14, 2012, the HOA caused a Notice of Delinquent
25 Assessments (the "Lien") to be recorded against the Property which claimed the amount of
26 \$925.76 was delinquent and owed as of December 5, 2012, one month after RRFS claimed
27 \$495.15 was due and the HOA Resident Transaction report claimed only \$351.21 was due. The
28 Lien included erroneous charges, began collections prematurely, and did not credit the account

*9/17/12
or
9/20/12
notices
allegedly
sent
or I
would
have
mentioned
them*

1 as having assessments paid through September 30, 2012. See Lien, Exhibit 10 hereto.

2 18. As of December 14, 2012, the maximum amount of the delinquency for the
3 Property's HOA account was \$300.00, consisting of then-current quarterly dues in the amount
4 of \$275.00, together with late fees in the amount of \$25.00 in contrast to the \$925.76 claimed
5 on the Lien.

6 19. On or about March 12, 2013, a Notice of Default and Election to Sale (the "First
7 Notice of Default") was issued and served by RRFS. See First Notice of Default, Exhibit 11
8 hereto.

9 20. On or about April 3, 2013, the First Notice of Default was rescinded. See
10 Recorded Rescission of Notice of Default, Exhibit 12 hereto.

11 21. On or about April 8, 2013, a second Notice of Default and Election to Sale (the
12 "Second Notice of Default") was issued and served by RRFS. This notice incorrectly states that
13 no payments of any kind had been made since July 1, 2012, contradicting RRFS' own October
14 18, 2012 ledger entry which credits Check No. 143 in the amount of \$300.00, albeit to fees
15 instead of first to assessments. See Letter to Property with RRFS Ledger, Exhibit 8 hereto.

16 22. On or about April 30, 2013, RRFS responded to a payoff demand from "Miles
17 Bauer", agents for Bank of America (BANA), and claimed that \$2,876.95 was due and payable
18 as of April 30, 2013. See May 29, 2013 Red Rock Financial Services Ledger, Exhibit 13 hereto.

19 23. On or about February 12, 2014, a Notice of Foreclosure Sale ("Notice of Sale")
20 was issued and served by RRFS, which claimed \$5,081.45 was due and owing, and scheduled
21 the sale for March 7, 2014. See Notice of Foreclosure Sale, Exhibit 14 hereto

22 24. On or about February 20, 2014, I signed a listing agreement with Craig Leidy
23 and gave him ^{verbal} authority to handle all notices and contact with the HOA's agents, RRFS, and
24 Nationstar Mortgage, the new loan servicer as of December 1, 2013. *the only third party authorization I signed was to NSM*

25 25. On March 28, 2014, in response to a payoff demand related to a contingent sale
26 to Red Rock Region Investments LLC, RRFS sent an Accounting ledger to Chicago Title in
27 which the amount (before fees) claimed as due and owing on February 11, 2014 was \$4,240.10.
28 RRFS payoff demand claimed that the amount due on March 28, 2014, three weeks after the

*2/12/12
(attached)*

1 March 7, 2014 scheduled sale was postponed or cancelled, was \$4,687.64. See RRFS payoff
2 demand Ledger, Exhibit 15 hereto.

3 26. Note that the Notice of Sale which claimed that \$5,081.45 was due as of 2/11/14
4 was sent to the owner without any accounting ledger so I could not reconcile the inconsistencies
5 with the RRFS payoff demand Ledger.

6 27. On or about February 13, 2014, the Notice of Sale was sent to the Ombudsman
7 as required by NRS 116.311635(1)(b)(3) (2013).

8 28. However, on May 15, 2014, RRFS notified the Ombudsman that the Notice of
9 Sale was cancelled, the Trustee sale was cancelled, and the Owner was retained.

10 29. Subsequent to RRFS cancelling the Notice of Sale, and cancelling the sale
11 originally scheduled for March 7, 2014, there were no further notices to me that a sale was
12 planned. After the Ombudsman cancelled the ADR-NRS 38.310(1)(a) process, neither the HOA
13 nor its agent RRFS provided any notice nor did they take any of the actions statutorily-required
14 before an HOA can foreclose for delinquent assessments. See Compliance View Screen, Exhibit
15 15 hereto.

16 30. When the Property was sold on August 15, 2014, it came as a complete surprise.
17 There was no valid Notice of Sale was in effect. The entire HOA sale process had been closed
18 by the Ombudsman's Office on or about May 15, 2014. The cancellation of the HOA sale
19 occurred only one week after I signed a May 8, 2014 Residential Purchase Agreement to sell the
20 Property to MZK Residential, LLC for the winning bid of \$367,500 through www.auction.com.
21 See Purchase Agreement, Exhibit 16 hereto.

22 31. The August 22, 2014 Foreclosure Deed, the recording of which was requested by
23 Opportunity Homes, LLC, claims the Property sold for \$63,100 based upon the First Notice of
24 Default, dated March 12, 2013, which was rescinded on April 3, 2013. See Recorded Rescission
25 of Notice of Default, Exhibit 16 hereto.

26 32. The August 22, 2014 Foreclosure Deed contains the false recitals that 1) default
27 had occurred as described in the rescinded Notice of Default and Election to Sell; 2) there had
28 been no payments made after July 1, 2012; 3) that as of February 11, 2014, \$5,081.45 was due

*the deed recitals are false regardless
of Ochoa's convoluted argument*

1 and owing and that 4) RRFS "complied with all the requirements of law". See exhibit 18 hereto.

2 33. RRFS did not comply with the NRS 116.31164(3)(b) (2013) requirement that
3 "the person conducting the sale...deliver a copy of the deed to the Ombudsman within 30 day
4 after the deed is delivered to the purchaser...", but no foreclosure deed has ever been delivered
5 to the Ombudsman. See OMB Compliance screen, Exhibit 17 hereto.

6 34. In addition to RRFS failing to provide me, as the Property owner, any notice,
7 written or verbal, that the HOA sale was going to be held, neither RRFS, nor the HOA, have
8 ever given me any notice, written or verbal, that the HOA agents actually sold the Property on
9 August 15, 2014.

10 35. The HOA Resident Transaction Report does not list either Thomas Lucas or
11 Opportunity Homes, LLC, buyer at the HOA sale per the August 22, 2014 Foreclosure Deed in
12 Exhibit 18, as ever owning the Property. See Page 1336 and 1337, HOA Resident Transaction
13 Report, in Exhibit 9 hereto.

14 36. RRFS did not distribute the proceeds of the sale pursuant to NRS 116.31164
15 (3)(c)(4)(5) (2013) which defines the required order in which the proceeds of the sale are to be
16 paid out.

17 37. The HOA was paid \$2,701.04 out of the \$63,100 proceeds of the sale. That
18 payment was recorded on August 27, 2014 in the Resident Transaction report as payment in full
19 effective August 21, 2014. See entry "Collection Payment PIF", dated 8/27/14, on Page 1336,
20 Resident Transaction Report in Exhibit 9 hereto.

21 38. RRFS refused to make a distribution to me, although I attempted to make a claim
22 to RRFS shortly after the sale. In an October 13, 2014 email to my listing agent, Craig Leidy,
23 page 1, paragraph 2, I reported to him that RRFS refused to let me make a claim for the proceeds
24 as the owner. See Exhibit 19 hereto.

25 39. Upon information and belief, RRFS did not pay out any of the sale proceeds to
26 any other lienholder out of the reported \$63,100 collected for the sale, See Nationstar Mortgage
27 Loan Statement dated 12/21/14, the last statement Nationstar sent to me after I notified
28 Nationstar that the sale had occurred four months earlier. This statement does not have any entry

1 indicating that Nationstar had been paid anything from the proceeds. See Exhibit 20 hereto.

2 40. According to Clark County Recorder's Office records, two garbage liens, \$264.49
3 (201309230001369), dated September 23, 2013, and for \$253.50 (20145064357) dated May 6,
4 2014, went unpaid and were released on March 30, 2017. See Exhibit 21 hereto.

5 I declare under penalty of perjury under the laws of the State of Nevada that the
6 foregoing is true and correct.

7 Dated this 11th day of May, 2018.

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10 Nona Tobin

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TABLE OF AUTHORITIES

2013 Lien and Foreclosure Statutes

[NRS 116.3116](#) - Liens against units for assessments.

[NRS 116.31162](#) - Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit s owner may pay lien to avoid foreclosure; limitations on type of lien

[NRS 116.3163](#) - Foreclosure of liens: Mailing of notice of default and election to sell to certain interested persons

[NRS 116.311635](#) - Foreclosure of liens: Providing notice of time and place of sale; service of notice of sale; contents of notice of sale; proof of service.

[NRS 116.31164](#) - Foreclosure of liens: Procedure for conducting sale; purchase of unit by association; execution and delivery of deed; use of proceeds of sale.

[NRS 116.31166](#) - Foreclosure of liens: Effect of recitals in deed; purchaser not responsible for proper application of purchase money; title vested in purchaser without equity or right of redemption.

[NRS 116.31168](#) - Foreclosure of liens: Requests by interested persons for notice of default and election to sell; right of association to waive default and withdraw notice or proceeding to foreclose.

Other Relevant Statutes which apply to the enforcement of the SCA governing documents

[NRS 116.1113](#) Obligation of good faith

[NRS 116.3102\(3\)\(4\)](#) Enforcement decisions must be prudent, not arbitrary or capricious

[NRS 116.3103](#) Fiduciary, business judgment, act on an informed basis

[NRS 116.31031](#) Limits on Board's power to sanction

[NRS 116.310313](#) Authority of Association to collect past due obligations and to charge reasonable fee to collect.

[NRS 116.3106\(d\)](#) Requires association bylaws to define what BOD can't delegate

[NRS 116A.640\(8\)](#) Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.

- [NRS 116A.640\(9\)](#) Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.
- [NRS 116A.640\(10\)](#) Collect any fees or other charges from a client not specified in the management agreement.
- [NRS 116.31085](#)
[NRS 116.31085\(4\)](#) BOD SHALL meet in exec session to hold a hearing on an alleged violation of the governing documents unless the person who is about to be sanctioned requests an open hearing by the BOD. If the person requests in writing that an open hearing be conducted
- [NRS 116.31085\(4a\)](#) Owner who is being sanctioned for an alleged violation is entitled to attend all portions of the Board hearing, including the presentation of evidence and the testimony of witnesses
- [NRS 116.31085\(4b\)](#) Owner is entitled to due process which must include without limitation the right to counsel, right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel (BOD)
- [NRS 116.31085\(5\)](#) Subsection 4 establishes the MINIMUM protections the BOD must provide before it makes a decision
- [NRS 116.31085\(6f\)](#) Any matter discussed in exec session must be noted briefly in the minutes of the Executive Board. The Board shall maintain minutes of any decision related to subsection concerning the alleged violation and upon request shall provide a copy of the decision to the owner subject to being sanctioned or representative
- [NRS 116.31087](#) Right of units' owners to have certain complaints placed on BOD agenda
- [NRS 116.31065](#) Rules must not evade an obligation, must be uniformly enforced or can't be enforced at all; association may only sanction an owner after complying with [NRS 116.31031](#)
- [NRS 116.4117](#) Civil action for failure to comply with NRS 116 or governing documents
- [NRS 116.31175](#) Board required to provide owner rights to access association records
- [NRS 116.31083](#) Owner rights to attend all Board meetings and hear all deliberations, to receive clear notice of the agenda so it is known what actions the Board intends to take

Relevant Governing Documents provisions

SCA Third Amended and restated CC&Rs (2008)

6.1 Function of the association -primary entity to enforce the governing documents; must perform in accordance with governing documents

7.4 Compliance & Enforcement: The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in the By-Laws.

8.8 Lien for assessment may be enforced in the manner proscribed in act

8.8A Procedures for sale

8.12 Asset enhancement fee 1/3 of 1% due to the association on all but specifically exempted transfers of title.

XVI Dispute resolution and limitation on litigation

SCA Third Amended and Restated Bylaws, 2008

3.13(a, e, f) Compensation can't appear to influence decisions, create a conflict; can't relate to fines or violations; must conform to standards of practice

3.15 Open BOD meetings - must give owner minutes of hearing on violation of governing documents

3.15A SHALL hold hearing re violations Executive session

3.17 Powers of BOD business judgment benefits the association

3.18(a) Duties of the Board that SHALL NOT be delegated (a) adopt budget

3.18(b) Duties of the Board that SHALL NOT be delegated (b) levy and collect assessments

3.18(e) Duties of the Board that SHALL NOT be delegated (e) deposit all funds taken on association's behalf and use to operate

3.18(f) Duties of the Board that SHALL NOT be delegated (f) Use restrictions and rules

3.18(g) Duties of the Board that SHALL NOT be delegated (g) opening of bank accounts on the Association's behalf and designating signatories required

- [3.18\(i\)](#) Duties of the Board that SHALL NOT be delegated (i) enforcing the Governing Documents and bringing any legal proceedings...on behalf of or against the Owners concerning the Association; provided, the Association's obligation in this regard shall be conditioned as provided in CC&Rs 7.4
- [3.20](#) Defines what duties SHALL NOT be delegated
- [3.21](#) Accounts and reports: delinquency report
- [3.25](#) Board standards: must be reasonable
- [3.26](#) Enforcement procedures
- [4.6](#) Contracts, checks, agreements must be signed by two BOD members, not manager or debt collector or attorney
- [5.2](#) Deed Restriction Enforcement Committee (Covenants)
- [6.4 \(a,b,c\)](#) Books & Records: rights of owners and directors to SCA information defined

SCA Policies

- 10/1/13 [SCA Board Resolution Delinquent Assessment Policy and Procedure](#)
- 11/17/11 [Resolution Establishing the Governing Documents Enforcement Policy & Process](#)
- 10/23/14 [SCA Rules and Regulations](#)

Management and Debt Collection Agreements

- 1/1/10 [RMI Management Agreement](#)
RMI Management LLC
- 4/27/12 [RRFS Delinquent Assessment Collection Agreement](#)
Red Rock Financial Services, a FirstService Residential Management company
- 3/31/14 [FSR Management Agreement](#)
FirstService Residential, Nevada Management Agreement

Nevada Real Estate Division Advisory Opinions

- 12/12/12 [NRED Advisory 13-01 The Super Priority Lien](#)
- 11/15/12 [NRED Advisory 12-05-116 Executive Session Agendas](#)
- 6/30/14 [NRED Advisory 14-02 Notices prior to an association's foreclosure proceeding](#)

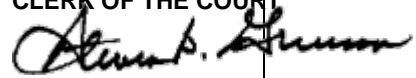
ANTI-FORECLOSURE FRAUD LEGISLATION

AB 284 [Foreclosure reform act](#) – specifies duties of the trustee; assignments not effective unless and until recorded; notarized affidavit under penalty of perjury that the lender or trustee is in actual possession of the note; civil penalties for mortgage lending fraud;

[NRS 205.372](#) False representation of title raised to category C felony or category B if there is a pattern of deceit.

[12 CFR1026.39](#) Mortgage transfer disclosures - Truth in Lending (TILA)

[SB 321 \(2013\)](#) Nevada Homeowner Bill of Rights – prevention of “dual tracking”



1 **MINV**
NONA TOBIN, *Applicant in Intervention*
2 2664 Olivia Heights Avenue
Henderson NV 89052
3 Phone: [\(702\) 465-2199](tel:(702)465-2199)
nonatobin@gmail.com
4 *In Proper Person*

5 **DISTRICT COURT**
CLARK COUNTY, NEVADA

6 NONATOBIN, as TRUSTEE
7 GORDON B. HANSEN TRUST, dated
8/22/08

Counter-Claimant, Cross-Claimant

9 vs.

10 JOEL A. STOKES and SANDRA F.
11 STOKES, as trustees of the JIMI JACK
IRREVOCABLE TRUST; YUEN K. LEE, AN INDIVIDUAL, F. BONDURANT, LLC

12 Counter-Defendants

Case No.: A-15-720032-C

Dept. No.: XXXI

**NONA TOBIN MOTION TO INTERVENE
CONSOLIDATED CASES A-15-720032-C
CASE A -16-730078 PER RULE 24**

13
14
15 COMES NOW, NONA TOBIN, AN INDIVIDUAL, (Herein "*Applicant*"), in proper
16 person, and hereby moves, pursuant to NRS § 12.130 and NRCPC 24(a)(2) (intervention of
17 right), or alternatively, NRCPC 24(b)(2) (permissive intervention), to intervene as Counter-
18 Claimant.

19 This consolidated case to quiet title to 2763 White Sage Drive, Henderson (Herein
20 "*Subject Property*") has had many parties, but the June 5 trial only adjudicated the claims of
21 the parties in the new caption.

22 Nona Tobin, an individual, was a party in this case for two and a half years. Attorneys
23 for Sun City Anthem and Nationstar assisted the attorney for Jimijack in persuading the Court
24

1 that the procedural history of the case did not include the Court's April 27, 2017 DENIAL of
2 SCA's March 22, 2017 motion to dismiss Nona Tobin's claims. as an individual, for not
3 having an attorney. The court was also not made aware that the decision on whether the Trust
4 was required to have an attorney was deferred and there never was a decision rendered nor an
5 Order entered to that effect.

6 The Court relied on this revisionist history presented as fact by SCA, NSM and
7 Jimijack's attorneys. There have been other serious misrepresentations to the Court by
8 parties that should have remained neutral in the quiet title dispute between Nona Tobin, in
9 both her roles, and Jimijack.

10 Dated this 17th day of June, 2019

11 

12 _____
13 NONA TOBIN,
14 2664 Olivia Heights Avenue
15 Phone: [\(702\) 465-2199](tel:7024652199)
16 Henderson NV 89052
17 nonatobin@gmail.com
18 *Applicant in Intervention,*
19 *In Proper Person*

1
2
3 **NOTICE OF MOTION**

4 **NOTICE IS HEREBY GIVEN** that the Applicants' MOTION TO INTERVENE will
5 be heard in the above captioned court on the ____ day of June, 2019, at ____ .m., in
6 Department 31.

7 Dated this 17th day of June, 2019.

8 

9 _____
NONA TOBIN,
2664 Olivia Heights Avenue
Henderson NV 89052
10 Phone: [\(702\) 465-2199](tel:(702)465-2199)
nonatobin@gmail.com
11 *Applicant in Intervention,*
12 *In Proper Person*

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I.**

15 **INTRODUCTION**

16 1. The Applicant, NONA TOBIN, AN INDIVIDUAL seeks to intervene prior to the
17 issuance of the June 5 trial order to avoid an almost predictable ruling against NONA TOBIN,
18 TRUSTEE OF THE GORDN B. HANSEN TRUST, DATED 8/22/08. That will be binding
19 on the individual who was prevented from protecting her title interests.

20 2. Applicant prays for this Court to consider the points and authorities herein and rule that
21 the June 5 trial order be issued by adopting in its entirety the GBH Trust's timely submitted
22 PFFCLs for the so as to not extinguish the title interests of Nona Tobin, the individual, who
23 the Court excluded as a Party before the June 5 trial as a Rule 11 sanction imposed for
24

1 attorney errors, omissions and misrepresentations that were outside of Nona Tobin's control.

2 **A. APPLICANT NONA TOBIN'S STANDING**

3 The court removed Nona Tobin, an Individual, whose November 15, 2016 Pro Se
4 motion to intervene was accepted by the court as Trustee of the Gordon Bruce Hansen Trust.
5 On April 27, 2017, the Court DENIED SCA's motion to dismiss Tobin as an individual, but
6 never entered an order to the effect. The court deferred the decision on whether Tobin needed
7 an attorney as Trustee, and there never was a court order regarding the requirement for the
8 Trust to have an attorney.

9 Tobin informed the Court on page 10 of her 4/5/17 Pro Se pleading in opposition to
10 the SCA motions to dismiss her claims (without ever answering them on their merits per
11 EDCR or ever) as a party based on false information was provided to the Court by opposing
12 counsels.

13 **3.** Standing was not lost when Nona Tobin was removed as party from the case for three
14 reasons: a) her removal as a party and the non-recognition of her standing as the holder of a
15 valid deed to 2763 White Sage Drive, recorded on March 28, 2017, was based on
16 misrepresentations made to the Court by opposing Counsels which can be rectified by the
17 declarations made under penalty of perjury incorporated herein; b) Nona Tobin, an
18 Individual, has standing as the owner of 2664 Olivia Heights Ave in Sun City Anthem, as her
19 rights under NRS 116.4117 and her rights to non-abusive redress of grievance has been
20 abridged by the harassment and retaliation SCA attorneys have employed against her for
21 being a party to this quiet title action; c) Nona Tobin has been an SCA member in good
22 standing for 15 years and she is qualified to bring an action to enforce a right of the
23 association that the SCA Board has failed to enforce, i.e., SCA Board has failed to
24 adequately account for assessments collected for SCA's sole and exclusive benefit, and failed

1 to adequately supervise and control its agents and attorneys who have been unjustly enriched
2 thereby, and Nona Tobin is qualified to bring such a Rule 23.1 derivative action should the
3 quiet title dispute between Jimijack and Tobin not be resolved as hoped.

4
5 **A. PROMISSORY ESTOPPEL PRECLUDES SUN CITY ANTHEM FROM
OPPOSING APPLICANT’S MOTION TO INTERVENE**

6 The elements of promissory estoppel are:

- 7 i. legal/contractual relationship exists
8 ii. A representation or promise by one party.
9 iii. Reliance by the other party on the promise or representation.
iv. Detriment.
v. Unconscionability.

10 **Contractual Relationship with mutual obligations exists between Nona and SCA.**

11 Nona Tobin is a 15-year member in good standing of Sun City Anthem. Both Tobin
12 and the SCA Board are “Bound Parties” with mutual benefits and obligations defined in the
13 SCA CC&Rs.

14 **The SCA CC&Rs require Bound Parties to act in good faith to resolve conflicts without
15 litigation, but SCA attorneys obstruct the use of ADR**

16 SCA CC&Rs XVI Limit on Litigation. Section 16.3 states:

17 "Bound Parties" agree to encourage the amicable resolution of disputes involving
18 the Properties, without the emotional and financial costs of litigation.
19 Accordingly, each Bound Party covenants and agrees that those claims,
grievances, or disputes described in Sections 16.4 ("Claims") shall be resolved
using the procedures set forth in Section 16.5 in lieu of filing suit in any court.

20 **Nona Tobin offered this deal to SCA in March 2017**

21 **Nona would agree to:**

- 22
23 ■ No claim for attorney fees
24 ■ No claim for damages

- 1 ■ Waive claim of Respondeat Superior
- 2 ■ Withdraw 2/1/17 Cross-claim against SCA as if with prejudice
- 3 ■ No further civil action or NRED complaint to hold SCA accountable for the acts of
- 4 SCA's agents that resulted in a defective foreclosure sale
- 5 **SCA Board would have to agree to**
- 6 ■ Not oppose my A-15-720032-C motion to void the sale filed as a pro Se on March 3
- 7 2017
- 8 - *statutory non-compliance NRS 116.31162 et seq & NRS 116.31085*
- 9 - *Failure to provide notice and due process*
- 10 - *Failure to distribute the proceeds per NRS 116.31164*
- 11 - *Improper accounting and excessive fees charge*
- 12 ■ Instruct the attorneys to withdraw two motions to dismiss Tobin as an individual and as
- 13 a trustee for NRS 38 mediation and for practicing law without a license
- 14 ■ SCA Board to conduct a review of the collection process to ensure owners get the same
- 15 notice and due process when their house is sold as SCA owners get when fined \$25 for a
- 16 dead tree.

SCA Board to affirm or deny Tobin's 2/1/17 claims on their merits

- 17 ■ No notice to owner or Ombudsman
- 18 ■ Premature referral to collections
- 19 ■ Excess fees charged
- 20 ■ Foreclosure deed relied on rescinded 3/12/13 NOD
- 21 ■ Canceled 2/12/14 NOS of 3/7/14 sale
- 22 ■ no NOS in effect when sold on 8/15/14
- 23 ■ Sale not commercially reasonable – 18% of FMV when no lender approval on sales up
- 24 to \$395,000
- Agents falsified records to keep their actions covert
- Agents kept \$60,000 that belonged to the Hansen Trust

- 1 ■ Breach of contract – charging attorney fees to SCA that should have been paid by Red
2 Rock

3
4 **Tobin’s offer to SCA in March 2017 was unilaterally rejected by Ochoa**

5 With no BOD approval sought

6 **SCA attorneys obstructed parties’ use of CC&Rs 16 or NRS 38.310**

7 Tobin’s March 22, 2017 offer to utilize CC&R-mandated ADR and withdraw her
8 2/1/17 claims filed into this case if the SCA Board would investigate her claims, and if true,
9 support her 3/3/17 motion to void the sale for statutory non-compliance and declare that the
10 Board did not authorize the unlawful acts of its agents. See DECL.

11 **Detriment**

12 SCA attorney David Ochoa did not give Tobin’s offer to the Board for approval, and
13 instead has forced Tobin to spend \$40,000 on attorney fees and over 5,000 hours of her
14 personal time in litigation to attempt to get title to 2763 White Sage back from Jimijack.

15 **Unconscionability**

16 Without the litigation serving any beneficial purpose for SCA, and to Tobin’s great
17 personal detriment, attorney Ochoa has filed many unwarranted motions, oppositions, replies,
18 and published false statements about Tobin that have created an unfair advantage to Jimijack.

19 By this motion, Nona Tobin is serving notice on the SCA attorneys of her intent to
20 move for Rule 11(b) (1)(3) sanctions:

21 (b) The court may, after notice and an opportunity to be heard, impose upon an
22 attorney or a party any and all sanctions which may, under the facts of the case, be
reasonable, including the imposition of fines, costs or attorney’s fees when an
attorney or a party without just cause:

23 (1) Presents to the court a motion or an opposition to a motion which is obviously
24 frivolous, unnecessary or unwarranted.

1 (3) So, multiplies the proceedings in a case as to increase costs unreasonably and
2 veraciously.

3 See notice for Rule 11b sanctions in Exhibit

4 **B. FRAUDULENT MISREPRESENTATION PRECLUDES NATIONSTAR**
5 **ATTORNEYS OR HONG FROM OPPOSING APPLICANT’S MOTION TO**
6 **INTERVENE**

7 Voiding the HOA sale in its entirety directly benefits the legitimate noteholder. NSM
8 would not act the way it has, it would have defaulted Jimijack sometime after Jimijack didn’t
9 answer NSM’s 8/2/16 AACC. to make deals with Jimijack. If NSM had standing to foreclose it
10 would welcome the sake being voiding to me, so it could foreclose in me.

11 **The Elements of Fraudulent Misrepresentation are all present.**

12 **Material Representation.**

13 It is material that NSM has no admissible evidence that it has standing to be in this case
14 at all. NSM has misrepresented to the Court that its own disclosures establish that NSM does
15 not hold the original promissory note (NSM0258), does not own the beneficial interest to the
16 Western Thrift DOT, and has filed false affidavits against the title without have the powers of
17 attorney it claimed in the affidavit (NSM0270-NSM0272; NSM0404-0412).

18 The representation of having the authority to make a settlement deal with Jimijack is
19 material when the only purpose is to prevent Tobin from getting the title as NSM would be
20 required to prove it has standing to foreclose and its attorneys know that had that been possible,
21 the evidence would have been disclosed into the record.

22 NSM and Jimijack conspire to make a side deal that has the effect of creating ownership
23 rights for both parties prior to the adjudication of Tobin’s complaints, despite Tobin’s recorded
24

1 Lis Pendens and without disclosing the title change and encumbrance to the Court. It is
2 material when false notices re served on Tobin and her counsel of record that the April 23
3 hearing was continued to May 7.

4 **False Premise.** The statement was not an opinion or prediction.

5
6 False affidavits were recorded on at least two occasions, December 1, 2014 and March
7 8, 2019.

8 The 2/12/19 Joinder to SCA misrepresented the Miles Bauer 5/9/13 tender.

9
10 NSM 's joinder does not have any affidavits conforming to EDCR 2.21 to support its
11 assertion that the SCA ale was properly noticed. NSM has no knowledge of how Red Rock
12 conducted the sale and even less knowledge of what notices Tobin did or did not receive.

13
14 NSM's joinder is for an inappropriate purpose: to create the erroneous impression in the
15 Court's mind that falsely benefit NSM and hurt Tobin without any relevant affidavits to
16 influence the Court believe that 1) NSM should benefit from the sale being voided solely on the
17 sub-super-priority portion without NSM actually owning the beneficial interest,

18 NSM the sale should not be voided in its entirety because the sale was valid to
19 extinguish Tobin's interest.

20
21 If the sale were voided in its entirety, there would be n detriment to NSM if NSM
22 actually were the noteholder. Filing the 2/12/19 Joinder is one of the unwarranted motions that
23 Tobin cites to move for rule 11(b)(1) sanctions.

1 despite the actual facts that (the 5/9/13 tender of \$825 would have paid the actual nine
2 months of assessments due and owing through 6/30/13; and was should not be voided in its
3 entirety

4 NSM misled the court in the April 23 ex-parte hearing and in the April 19, 2019 RESP
5

6 **Reckless Disregard.**

7 NSM's conduct in this case is clearly intentional. If NSM actually did own the note, and
8 could prove it, it would make no difference whether Jimijack or I were granted quiet title.

9 The legitimate noteholder would have standing to foreclose if the sale were voided
10 because the DO would not have been extinguished by a valid sale.
11

12 NSM did not attempt to get a default for non-response from Opportunity Homes that
13 never answered NSN's 1/11/16 complaint. NSM never issued a TDN on Jimijack until 3/18/19
14 after Jimijack failed to respond to NSM's 2016 AACC

15 **Intent to Induce.**

16 The April 23 ex-parte rulings against Tobin were possible because Tobin and Coppedge were
17 served notice to not appear on April 23 because the Court had ordered on April 12 that the April
18 23 hearing was continued to May 7. Further, the refusal to provide the Equator records from the
19 BHHS listing period in discovery was another means by which the truth that NSM does not
20 own the note could be concealed.
21

22 **Reliance.**

23 The Court relied on the false statements made at the April 23 ex-parte hearing by the
24 only two present at the hearing: NSM attorney Morgan and Jimijack attorney Hong. The Court

1 was led to believe that Tobin's and Coppedge's absence was their negligence, and not the
2 manipulation of the Court's e-file and serve system to ensure neither Tobin nor Coppedge could
3 correct the misinformation given to the Court.

4 **Damages.**

5 Fraudulent representations by Morgan and Hong caused the Court to place extreme
6 sanctions on Tobin at the April 23 ex-parte hearing, i.e., striking nearly 1,000 pages of exhibits,
7 and including multiple declarations made under penalty of perjury, solely because her attorney
8 had not filled out the proper withdrawal form.

9
10 Tobin lost standing as a party in the case because the Court relied on the false statements
11 of NSM attorneys and SCA attorneys that worked solely to harm Tobin and to benefit Jimijack.

12
13 These ex-parte rulings to silence Tobin and to exclude all her evidence from the Court's
14 consideration was the absolute only way Jimijack could win.

15 **B. INTERVENE PURSUANT TO RULE 24(A)(2) INTERVENTION OF RIGHT**

16 1. Applicant's motion to intervene should be granted because Applicant satisfies the
17 requirements for intervention of right under NRCP 24(a)(2). Specifically, the requirements
18 are:

- 19 i. The applicant must claim an interest relating to the property or the transaction which is
20 the subject of the action;
- 21 ii. The applicant is so situated that the disposition of the action may as a practical matter
22 impair or impede the applicant's ability to protect that interest;
- 23 iii. The applicant's interest is not adequately represented by existing parties; and
- 24 iv. The motion is timely.

1 **i. Applicant Nona Tobin Has Substantial Interest in The Property, Which Is the**
2 **Subject of The Action, as an Individual**

3 1. The subject property is: 2763 White Sage Drive (APN 191-13-811-052) in Sun City
4 Anthem Community Association (HOA) in Henderson.

5 2. The property was owned by the Gordon B. Hansen Trust (Herein “*GBH Trust*”) from
6 August 27, 2008 until it was sold at the disputed foreclosure sale that took place on August 15,
7 2014 (Herein “*HOA sale*”).

8 3. Nona Tobin, an individual, holds all of the title interest of the Gordon B. Hansen Trust,
9 pursuant to a deed recorded on March 28, 2017.

10 4. Nona Tobin was not permitted to protect her individual property rights nor assert her
11 individual claim for quiet title and equitable relief as she was removed from being a party
12 whose claims were adjudicated at the June 5 trial.

13 **ii. The applicant is so situated that the disposition of the action may as a practical**
14 **matter impair or impede the applicant’s ability to protect that interest;**

15 2. See Declaration in Exhibit.

16 3. Applicant prays for this Court to consider that the Rule 11 sanctions imposed could
17 result in the loss of the property interests of both existing -party Nona Tobin, as Trustee of
18 GBH Trust, and non-party, applicant in intervention, Nona Tobin, an individual.

19 4. Applicant will allege in declarations made under penalty of perjury that attorneys for
20 SCA and NSM, filed unwarranted motions and pleadings to hurt Tobin in order to further their
21 own inappropriate agendas, and that the court erred in replying on their misrepresentations to
22 exclude all of Tobin’s evidence from the June 5 trial and to strike all Tobin’s Pro Se filings
23 These court orders exclusively helped Jimijack and hurt Tobin, in both her party Trustee and
24 non-party individual roles. These court ordered harsh sanctions against Tobin for attorney

1 errors, misrepresentations and omissions over which she had no control.

2 5. The Court ordered harsh rule 11 sanctions on Tobin for the errors, omissions or
3 deliberate misrepresentation of one of more of the attorneys in the case.

4 6. Tobin had no control over the actions of any other attorneys and yet she has been
5 consistently the recipient of the sanction.

6 7. Tobin has fought having an attorney for the entire two years that SCA forced ne on her
7 rather than answer her claims on their merits.

8 8. Tobin has given the counsel of record multiple orders to withdraw which he did not
9 follow.

10 9. Once he finally did comply, the court refused to let him withdraw.

11 10. Nona Tobin is petitioning the Court to please stop rewarding Jimijack with additional
12 unfair advantages over Tobin in a quiet title dispute that should be just between Tobin and
13 Jimijack.

14 11. Please put the sanction for Rule 11 non-compliance on Jimijack and don't use the late
15 PFFCLs against Tobin who has already been brutalized by all the parties ganging up on her
16 and forcing her to pay an attorney to obstruct the presentation of her case.

17 12. No sanctions have been imposed on Jimijack for attorney Hong's pre-trial Rule 11
18 noncompliance.

19 13. Jimijack has been allowed to retain its unfair advantage created by SCA and NSM
20 attorneys in the title dispute that was supposed to be just against Tobin's February 2017 claims.

21 14. If the Court sanctions Jimijack for the untimely submission of the PFFCLs by striking
22 them, the Nona Tobin's individual title interests will be protected as the June 5 trial order
23 would adopt the GBH Trust's timely PFFCLs in its entirety.

24 **If the June 5 trial order protects Nona Tobin's interests, there is no need for a hearing**

1 15. If the trial order does not extinguish Tobin's property rights and title is returned to her
2 the proposed pleadings in the exhibits are either moot or would be more appropriately
3 addressed in a different manner or before a different tribunal, e.g., complaint for interpleader or
4 Rule 23 derivative suit.

5 **iii. Applicant's Interests are not Adequately Represented by Existing Parties**

6 16. The existing parties do not adequately represent the Applicant's interests. Nevada
7 courts follow federal law holding that, to satisfy this fourth prong, an applicant-intervenor
8 need only show that the representation afforded by existing parties "may be" inadequate. *Am.*
9 *Home Assurance Co.*, 122 Nev. at 1241-42 (citing *Trbovich*, 404 U.S. at 538 n.10).

10 17. While the remaining-captioned counter-claimant had a small chance to defend the GBH
11 Trust's title interest, Applicant did not. Applicant has different, unique, separate, and *adverse*
12 interests to existing, and former parties, that have exerted undue influence on the Court to tip
13 the scales toward Jimijack. Thus, it is impossible for the existing, or former, parties to
14 represent Applicant's interest, since the interests of each party are adverse.

15 **iv. The Motion is Timely**

16 18. As to the timeliness of Applicant's motion, NRS § 12.130 allows: "before the trial
17 commences ... [intervention] in an action under the Nevada Rules of Civil Procedure (NRCP).
18 NRCP 24 governs intervention, providing for both intervention of right and permissive
19 intervention." *Am. Home Assurance Co. v. Eighth Judicial Dist. Court*, 122 Nev. 1229, 1235
20 (2006) (footnote omitted).

21 19. There has been no trial to adjudicate Nona Tobin's individual interests, so the motion is
22 timely.

23 20. Applicant's motion is timely because she seeks intervention at the before the trial order
24 is entered and there is still time to protect her individual rights without years of appeals

1 because her claims were never adjudicated on their merits. *Estate of Lomastro ex rel.*
2 *Lomastro v. Am. Family Ins. Grp.*, 124 Nev. 1060, 1070 n.29 (2008) ("intervention is timely if
3 the procedural posture of the action allows the intervenor to protect its interest").

4 21. Under the authority of *American Home Assurance Company v. Eighth Judicial District*
5 *Court*, 122 Nev. 1229, 1235 (2006), intervention is timely if the application is filed any time
6 "before the trial commences ". I

7 22. Ideally, the Court will choose to use discretion granted to the Court under Rule 11(a)(3)
8 and refuse to accept Jimijack's untimely PFFCLs in order to balance the scales without the
9 necessity to start over and have a trial on the merits of the 2/1/17 claims Nona Tobin would
10 have had resolved on their merits but for the bad faith of the SCA attorneys.

11 23. Here, Applicant moved to intervene well within the time period in which the Court is
12 still contemplating the June 5 trial Order. The purpose of this motion to intervene is to move
13 the Court to adopt the Proposed Findings of Fact and Conclusions of Law (PFFCL) timely
14 filed on behalf of the GBH Trust and to reject the Jimijack/Lee PFFCL that was submitted
15 after the first day of trial was complete.

16 24. The timing of this motion to intervene was intended to provide the Court with facts to
17 refute the misrepresentations of opposing Counsels that has caused the Court to make unfair,
18 ex-parte rulings that eliminated Nona Tobin's rights to speak for herself.

19 25. These facts are all supportable by exhibits, too voluminous to incorporate herein. The
20 declaration, made under penalty of perjury, is provided to support the Court's reconsideration
21 of its acceptance of the Jimijack PFFCL two days after the deadline when all of Tobin's
22 evidence was excluded for an attorney error that was caused by Jimijack's attorney. Thus,
23 the timeliness of this motion to intervene cannot reasonably be disputed.

24 26. Applicant's interests are inextricably tied with the interests of existing party, GBH

1 Trust, the timing of this motion is to stop prejudicial rulings that benefited Jimijack the
2 existing parties. See *Lawler v. Ginochio*, 94 Nev. 623, 626 (1978) ("The most important
3 question to be resolved in the determination of the timeliness of an application for
4 intervention is not the length of the delay by the intervenor but the extent of prejudice to the
5 rights of the existing parties resulting from the delay.") Thus, granting Applicant's motion to
6 intervene will not delay resolution of this lawsuit if it succeeds in persuading the Court to
7 adopt the GBH Trust PFFCLs in its entirety and strike Jimijack's PFFCLs are untimely.

8 27. Applicant moved with alacrity to intervene; as such, Applicant satisfied NCRP
9 24(a)(2)'s requirement by filing a timely application.

10 **II.**
11 **ARGUMENT**

12 28. Nevada has long followed the rule that it is better to determine a matter on the
13 merits than to decide a case on a technical error of the opponent. *Howe v. Coldren* Nev.
14 171, 174 (1868). Other Nevada courts have followed this same thinking. In the case of
15 *Hotel Last Frontier v. Frontier Property*, 79 Nev. 150, 380 P.2d 293 (1963), the Nevada
16 Supreme Court said,

17 "Finally, we mention, as a proper guide to the exercise of discretion, the
18 basic underlying policy to have each case decided on its merits. In the
normal course of events, justice is best served by such a policy."

19 29. The Nevada Rules of Civil Procedure are largely based on the Federal Rules of Civil
20 Procedure and, therefore, federal case law is "strong persuasive authority" regarding questions
21 of their interpretation. *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53 (2002)
22 (quoting *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 119 (1990)).

23 30. And Nevada courts have previously looked to federal interpretations of Federal Rule
24 24, governing intervention, when construing Nevada's intervention rule. See *Am. Home*

1 *Assurance Co. v. Eighth Judicial Dist. Court*, 122 Nev. 1229, 1241-42 (2006) (citing *Trbovich*
2 *v. United Mine Workers of Am.*, 404 U.S. 528, 538 (1972), for the proposition that, just like the
3 federal rules, Nevada's rules governing intervention require only a minimal showing to
4 establish that the existing parties do not adequately protect an applicant's interest).

5 31. Moreover, federal courts construe the intervention rules "broadly in favor of proposed
6 intervenors." *Wilderness Soc 'y v. U.S. Forest Service*, 630 F.3d 1173, 1179 (9th Cir. 2011)
7 (quoting *United States v. City of Los Angeles*, 288 F.3d 391, 397 (9th Cir. 2002)). They do so
8 because a "liberal policy in favor of intervention serves both efficient resolution of issues and
9 broadened access to the courts." *Id.*

10 32. Applicant has shown that she meets all four criteria for intervention of right. But even
11 if this Court were to determine that Applicant had not met the criteria for intervention of right,
12 the Court should still grant permissive intervention.

13 **C. INTERVENE PURSUANT TO RULE 24(B)(2) PERMISSIVE INTERVENTION**

14 33. Alternatively, Applicant seeks permissive intervention under NRCP 24(b)(2). Applicant
15 Nona Tobin's claims or defenses share a common question of law with the main action,
16 intervention will not cause undue delay or prejudice to the existing parties, and Applicant's
17 participation in this case will not prejudice the rights of the original parties.

18 **III.**

19 **PROCEDURE FOR INTERVENTION**

20 **A. THIS MOTION HAS BEEN SERVED UPON THE PARTIES AS PROVIDED
21 BY RULE 5**

22 34. Procedure for correctly filing a motion to intervene is delineated in NRCP rule 24(c)
23 which states:

- 24 a) A person desiring to intervene shall serve a motion to intervene upon the parties

1 as provided in Rule 5;

2 b) The motion shall state the grounds therefor;

3 c) shall be accompanied by a pleading setting forth the claim or defense for which
4 intervention is sought.

5 35. The parties have been served through the e-file and serve system.

6 36. The motion has stated that the purpose of this motion is to encourage the court to adopt
7 the GBH Trust timely PFFCLs and reject Jimijack's extremely late PFFCLs for the
8 sake of judicial efficiency and to allow Nona Tobin to protect her individual property
9 rights without another two years of litigation.

10 37. The exhibits contain declaration under penalty of perjury that explain the court was
11 misinformed about Tobin's status as a party in the case and about the court's 4/27/19
12 denial of SCA's motion to dismiss Tobin as an individual for not having an attorney,
13 The court was not informed that SCA attorneys have blocked Tobin's ability to resolve
14 this matter without litigation since 2017 and persist in filing unwarranted and harassing
15 motions against her for inappropriate purposes

16
17 **V.**

18 **CONCLUSION**

19 Based on the foregoing, Applicant should be permitted to protect the title interest of the
20 the NONA TOBIN, AN INDIVIDUAL, titleholder of record of the Gordon B. Hansen Trust
21 interest in the property since March 28, 2017.

22 Applicant requests that the Court utilize the Proposed Findings of Fact and Conclusions
23 of Law timely filed on behalf of Nona Tobin, as trustee of the GBH Trust. This use of judicial
24 discretion will serve the interests of Nona Tobin, as an individual, as well as the interests of

1 Nona Tobin, trustee. It will resolve the quiet title dispute between Tobin and Jimijack and will
2 not prejudice any the legitimate interests of any other current or former party.

3 Applicant requests that the Court grant Applicant's Motion to Intervene as quiet title
4 Defendant, in its entirety as Tobin's was unfairly eliminated as a party by the errors, omissions
5 and misrepresentations of attorneys for all the parties in the case. Sun City Anthem's MSJ and
6 NSM's joinder thereto were against Nona Tobin, as Trustee of the Gordon B. Hansen Trust and
7 not against Nona Tobin, an individual, and yet, Nona Tobin was explicitly prevented from
8 speaking for herself and defending her interests.

9 Nona Tobin's Pro Se documents were stricken by trickery of opposing Counsels who
10 have acted in bad faith to manipulate the Court into excluding Tobin's evidence from
11 consideration. Nona Tobin's individual claims were not adjudicated in the June 5 trial. Nona
12 Tobin as Trustee of the Gordon B. Hansen Trust will file a motion to vacate the April 18, 2019
13 order granting the SCA MSJ and NSM Joinder pursuant to NRCP

14 The instant Motion to Intervene is rendered moot if the Court adopts in its entirety the
15 Proposed Findings of Fact and Conclusions of Law (PFFCL) timey submitted, pursuant to
16 EDCR 2.69, two days before trial, on behalf of Nona Tobin, as Trustee of the Gordon B.
17 Hansen Trust, dated 8/22/08.

18 Dated this 17th day of June, 2019.

19
20 

21 NONA TOBIN,
22 2664 Olivia Heights Avenue
23 Henderson NV 89052
24 Phone: [\(702\) 465-2199](tel:(702)465-2199)
nonatobin@gmail.com
Applicant in Intervention,
In Proper Person

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June, 2019 and pursuant to NRCP 5(b), I served via the Clark County electronic filing system a true and correct copy of the foregoing TOBIN MOTION TO INTERVENE AS AN INDIVIDUAL PER RULE 24

- Michael R. Mushkin & Associates**
- L. Joe Coppedge joe@mushlaw.com**
- Karen L. Foley karen@mushlaw.com**
- Michael R. Mushkin michael@mushlaw.com**
- Lipson Neilson P.C.**
- Susana Nutt snutt@lipsonneilson.com**
- Renee Rittenhouse rrittenhouse@lipsonneilson.com**
- Kaleb Anderson kanderson@lipsonneilson.com**
- David Ochoa dochoa@lipsonneilson.com**
- Ashley Scott-Johnson ascott-johnson@lipsonneilson.com**
- Medrala Law Firm, PLLC**
- Jakub P Medrala jmedrala@medralaw.com**
- Shuchi Patel spatel@medralaw.com**
- Office admin@medralaw.com**
- Hong & Hong APLC**
- Joseph Y. Hong, Esq. yosuphonglaw@gmail.com**
- Pro Se**
- Nona Tobin nonatobin@gmail.com**
- Michael Kelley mkelley@wrightlegal.net**
- NVEfile nvefile@wrightlegal.net**


Nona Tobin

List of Exhibits

Page	To Page	Exhibit
1	1	May 16 2019 email to Joseph Hong to meet about pre-trial memo
2	4	April 22 2019 NTSO to continue hearing to May 7
5	6	April 15 2019 SAO to continue hearing to May 7
7	8	March 22, 2017 Tobin offer to SCA to settle
9	11	April 23 2019 Minutes of court hearing
12	14	April 16 2019 email to instruct Coppedge to withdraw
15	16	April 15 2019 SAO to continue hearing to May 7
17	18	April 27, 2017 court minutes -SCA 3/22/17 motion DENIED
19	34	March 12 2019 Counter motion for summary judgment – not filed by counsel
35	54	Nona Tobin DECL
55	91	EDCR Supplement to Pre-trial memo – not accepted at calendar call
92	95	NOTA – declared rogue based on misinformation
96	119	NOTC – mediation
120	129	Opposition to NSM MSJ vs Jimijack
130	142	Counter motion for summary judgment
143	162	Tobin Declaration against NSM



Nona Tobin <nonatobin@gmail.com>

Please contact me to arrange a meeting

1 message

Nona Tobin <nonatobin@gmail.com>

Thu, May 16, 2019 at 8:49 PM

To: yosuphonglaw@gmail.com

I have tried to contact you to arrange a pre-trial meeting before you leave on your trip. Please contact me at the number below.

I am going to handle the trial as a Pro Se as Nona Tobin, an individual, is the real party in interest.

Please contact me as it is my understanding that tomorrow is the last day you have available.

Nona Tobin
(702) 465-2199

Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has. -Margaret Mead

TOBIN. 2214

In order to reach a mutually beneficial conclusion to this dispute with SCA, I offer the following proposed settlement if SCA agrees to the terms and conditions below.

I will take the following actions and make the following commitments:

1. waive any argument against SCA of respondeat superior, that the principal is always responsible for the acts of its agents;
2. make no claim for damages against SCA;
3. make no claim for attorney's fees or litigation expense from SCA;
4. withdraw my February 1, 2017 cross-claim against SCA as if dismissed with prejudice;
5. agree not to initiate any further civil action or regulatory complaint against SCA to hold SCA in any way responsible for the fact that its former agents, FSR & RRFs, conducted a statutorily noncompliant foreclosure sale of 2763 White Sage Dr. (A summary of my claims is Attachment A).

In consideration for these actions, the SCA Board must make the following declarations and take the following actions:

1. SCA Board declares that it did not authorize and does not condone its former agents unjustly profiting from the foreclosure of 2763 by improper accounting, charging fees in excess of the legal limit, failing to offer the due process required by law, and failing to distribute the proceeds from the sale as required by NRS (2013) 116.31164.
2. SCA Board either voids the sale on its own motion or recommends to the court to grant my motion to void the sale of 2763 White Sage on the basis of SCA former Agents' failure to follow NRS 116.31162-NRS 116.31166, NRS 38.300-360, NRS 116.31085, SCA governing documents and Board policies.
3. SCA Board declares that any illegal actions by SCA's former Agents were done without authority knowingly granted by the SCA Board.
4. SCA Board declares it does not have any financial interest in the subject property and would lose nothing if the foreclosure sale were voided due to being statutorily non-compliant.
5. SCA Board confirms that \$2,701.04 credited to SCA on August 27, 2014, was accepted as payment in full, and that neither the Association nor any current or former Board member received nor benefitted from its former Agents' failure to distribute the proceeds in the manner prescribed by law.
6. SCA Board instructs its attorney to withdraw the counter-productive motion to dismiss my cross-claims for lack of jurisdiction under NRS 38.310 (2) as it increases both parties' costs in time and money to no purpose.
7. SCA Board instructs its attorney to withdraw or do not submit any motion that would attempt to require me to be represented by an attorney as it increases both of our costs in time and money to no purpose.
8. Prior to conducting an RFP for a new debt collector, the SCA Board will conduct a review of the SCA assessment process utilizing data analysis and meaningful Owner participation to adopt an assessment policy (not just a delinquent assessment policy) and process designed to:
 - a. Ensure that owners have the same (or more) due process rights as are currently afforded to owners being sanctioned for a dead tree;

- b. reduce the ability of debt collectors to prey on SCA members for their own unjust enrichment;
- c. increase the likelihood of voluntary collection;
- d. utilize foreclosure as a last resort;
- e. reduce the costs of SCA litigation;
- f. reduces the costs of errors & omissions insurance deductibles and premiums;
- g. follow both the letter and the spirit of applicable laws and regulations.

Attachment A

Summary of February 1, 2017 cross-claims against SCA:

1. Conduct of foreclosure sale was statutorily noncompliant with NRS 116.31162 through NRS 116.31166 (2013)
2. Failed to give proper notice to Respondent re 38.310 process conducted the sale after telling the Ombudsman that the sale was cancelled and the Owner was retained.
3. Referred the White Sage assessment account to collections before there was a default;
4. Charged fees in excess of the legally authorized amounts;
5. Rescinded the 3/12/13 notice of default;
6. Canceled the 2/12/14 notice of sale and did not replace it;
7. Conducted the sale while there was no notice of sale in effect;
8. Issued a foreclosure deed based upon a cancelled Notice of Default;
9. Former Agents concealed these actions from the SCA Board;
10. Statutory and Resolution process violated for not having any hearing or notice that appeal to the Board was available;
11. Sale was not commercially reasonable as sold to a non-bona fide purchaser for 18% of fair market value and sale involved fraudulent concealment of unlawful acts;
12. Former Agents kept money that belonged to Hansen estate of approximately \$60K from proceeds of the sale;
13. Former Agents kept money that belonged to the SCA and falsified the SCA records to keep their actions covert;
14. Former Agents were unjustly enriched – not SCA. So why should SCA defend them especially since they have not SCA Agents since April, 2015;
15. Breach of contract claims are against SCA former Agents and not the SCA Board and were an attempt to utilize indemnification clauses in the SCA contracts with former Agents to shield SCA's insurance from problems created by former Agents.

DISTRICT COURT
CLARK COUNTY, NEVADA

Other Title to Property

COURT MINUTES

April 27, 2017

A-15-720032-C JimiJack Irrevocable Trust, Plaintiff(s)
vs.
Bank of America NA, Defendant(s)

April 27, 2017 9:30 AM All Pending Motions

HEARD BY: Kishner, Joanna S. COURTROOM: RJC Courtroom 12B

COURT CLERK: Kory Schlitz

RECORDER: Rachelle Hamilton

PARTIES

PRESENT: Kelley, Michael S. Attorney for Nationstart Mortgage LLC
Ochoa, David Attorney for Sun City Anthem
Community Association Inc
Tobin, Nona Intervenor
Counter Claimant
Cross Claimant

JOURNAL ENTRIES

- Jakub Medralla Esq. present on behalf of Thomas Lucas and Opportunity Homes LLC.

CROSS-DEFENDANT SUN CITY ANTHEM COMMUNITY ASSOCIATION'S MOTION TO DISMISS NONA TOBIN'S CROSS-CLAIMS...

Matter argued and submitted. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

SUN CITY ANTHEM COMMUNITY ASSOCIATION'S MOTION TO DISMISS NONA TOBIN, AN INDIVIDUAL AND TRUSTEE OF THE GORDON B HANSEN TRUST'S CROSS...

Matter argued and submitted. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE as to Nona Tobin as an individual; Ruling DEFERRED as to Nona Tobin as a Trustee of the Gordon B. Hansen Trust. COURT FURTHER ORDERED, Status Check SET.

OPPOSITION TO SUN CITY ANTHEM COMMUNITY ASSOCIATION'S MOTION TO DISMISS AND COUNTER MOTION FOR ORDER VOIDING THE HOA SALE...

PRINT DATE: 04/27/2017

Page 1 of 2

Minutes Date: April 27, 2017

Matter argued and submitted. COURT ORDERED, Motion DENIED WITHOUT PREJUDICE.

THOMAS LUCAS'S AND OPPORTUNITY HOMES, LLC'S MOTION FOR SUMMARY JUDGMENT...

Matter argued and submitted. COURT ORDERED, Motion GRANTED. Court directed Mr. Medralla to prepare the Order, circulating to all parties for approval as to form and content in accordance with EDCR 7.21.

5/23/17 9:30 A.M. STATUS CHECK: CORPORATE COUNSEL (GORDON B. HANSEN TRUST)



Nona Tobin <nonatobin@gmail.com>

MSJ against all parties

1 message

Nona Tobin <nonatobin@gmail.com>
To: Joe Coppedge <joe@mushlaw.com>

Tue, Mar 12, 2019 at 10:23 AM

I will do the exhibits if you approve. I don't see how I can lose with this one.

I have to be gone by 3 PM.

Nona Tobin
(702) 465-2199*Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has. -Margaret Mead*

 **190312 Tobin Counter MSJ .doc**
219K

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*Attorneys for Nona Tobin, an individual and
as Trustee of the Gordon B. Hansen Trust*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JOEL A. STOKES and SANDRA F.
STOKES, as trustee for the JIMI JACK
IRREVOCABLE TRUST,

Plaintiff,

vs.

BANK OF AMERICA, N.A

Defendant.

NATIONSTAR MORTGAGE LLC

Counter-claimant,

vs.

JIMI JACK IRREVOCABLE TRUST,

Counter-defendant.

NONA TOBIN, an Individual and Trustee of
the GORDON B. HANSEN TRUST, Dated
8/22/08,

Counter-claimant,

Case No.: A-15-720032-C

Consolidated with: A-16-730078-C

Department: XXXI

TOBIN COUNTER MOTION FOR
SUMMARY JUDGMENT

vs.

JOEL A. STOKES and SANDRA F. STOKES, as trustee for the JIMI JACK IRREVOCABLE TRUST, SUN CITY ANTHEM COMMUNITY ASSOCIATION, INC., YUEN K. LEE, an Individual, d/b/a Manager, F.BONDURANT, LLC, and DOES 1-10, AND ROE CORPORATIONS 1-10, inclusive,

Counter-defendants.

I. Introduction

This is a quiet title action resulting from a disputed HOA sale for delinquent assessments conducted by Sun City Anthem's agents, Red Rock Financial Services, on August 15, 2014. Three of the parties are seeking to quiet title in their favor:

- Plaintiff Jimijack - the party in possession
- Counter-claimant Tobin - the owner at the time of the sale
- Nationstar - claims to be the noteholder of the Deed of Trust

II. Recent motions and oppositions before the court

1. On February 5, 2019, Sun City Anthem filed a [Motion for Summary Judgment](#) against Tobin claiming that the HOA sale complied with statutory notice requirements and that Tobin was barred from re-gaining title due to equitable principles of unclean hands and failure to dispute the charges.

2. On February 12, 2019 Nationstar filed a limited [Joinder to the SCA motion](#), claiming the HOA sale was valid, but that the sale did not extinguish the deed of trust.

3. On March 5, 2019 Tobin filed an [opposition to the SCA MSJ](#) claiming that the sale was not statutorily compliant, and it was unfair, involved deceit and SCA failed to provide due process defined by, and guaranteed, by the SCA governing documents and NRS 116.

4. Tobin also opposed the Nationstar Joinder as

- a. its claim was not based on any actual knowledge or evidence,
- b. presumes wrongly that Nationstar's claim to own the beneficial interest in the DOT is undisputed,
- c. Nationstar's, and its predecessor BANA's, mortgage servicing abuses unreasonably prevented four arms-length sales to bona fide purchasers and were the proximate cause of the HOA foreclosure due to assessments not being paid out of escrow as Tobin had instructed.

III. Counter Motion for Summary Judgment against all parties

A. Against Sun City Anthem – the sale was invalid and void

5. Tobin moves for summary judgment as there are no disputed material facts nor any credible or admissible evidence offered to contradict Tobin's claims that:

6. SCA did not comply with all applicable statutes or its own governing documents
7. SCA did not provide the specific due process mandated by law and delineated in SCA CC&Rs, bylaws, and policy.

8. SCA allowed its agents to unjustly profit at Tobin's expense and to the detriment of the Association as a whole.

9. The conduct of the sale was unfair, oppressive and involved deceit and fraudulent concealment.

B. Against Jimijack who lacks any admissible evidence of ownership

10. Plaintiff's sole claim to ownership, an [inadmissible quit claim deed](#), recorded June 9, 2015, is fraught with notary violations that rendered it void.

11. Plaintiff's claims are contradicted by the [HOA's official ownership records](#).

12. Tobin's August 27, 2008 [Grant Sale Bargain Deed](#) and [March 28, 2017 quit claim](#) deeds have priority over Jimijack's invalid deed.

C. Against Yuen K. Lee/F. Bondurant, LLC that disclaimed interest

13. Yuen K. Lee executed the fraudulent deed alleged conveying title to Jimijack.

14. F. Bondurant LLC [title claim](#) that it received its interest from Opportunity Homes LLC, alleged [purchaser at the August 15, 2014 HOA sale](#), are contradicted by HOA ownership records.

15. Thomas Lucas/Opportunity Homes LLC, recorded a [Disclaimer of Interest](#) on March 8, 2013.

16. Yuen K. Lee/F. Bondurant LLC filed a [Disclaimer of Interest](#) on March 13, 2013 and are not seeking to quiet title in its favor.

D. Against Nationstar and BANA

17. BANA's and Nationstar's mortgage servicing abuses were a proximate cause of the HOA sale that was commercially unreasonable as it was sold for \$63,100 to a non-bona fide purchaser without notice to Tobin while there was a \$358,800 arms-length offer pending.

18. Nationstar's claim to own the beneficial interest to the deed of trust is provably false.

IV. Tobin deserves summary judgment because the HOA sale was invalid, statutorily non-compliant, and unfair

19. SCA does not claim to have provided Tobin any of the due process delineated in NRS 116.31085.

20. NRS 116.31031, SCA CC&RS 7.4, and SCA bylaws 3.26 and 3.20/3.18 (i) are applicable whenever the SCA Board enforces the governing documents or proposes to impose a sanction against an owner for **any** alleged violation of the governing documents.

21. These provisions delineated the notice and other due process requirements that limit the SCA Board's authority and prohibit the Board's unilateral position of sanctions without the Board following specific steps.

22. SCA disclosure (SCA000635) claims that SCA only issued a “Notice for Hearing and Sanction for Delinquent Account” with a subject line “Suspension of Membership Privileges for Delinquent Account”.

23. SCA does not claim to have issued any other required notices related to the alleged violation of delinquent assessments required by these provisions.

24. SCA presented no evidence or argument that there was an exception to these notice requirements when the proposed sanctions for the alleged violation of delinquent assessments were more serious than the suspension of membership privileges.

25. [SCA withheld requested records](#) of the compliance actions taken regarding this property on September 16, 2016 to the present, telling Tobin she had to get a court order.

26. The due process requirements articulated in SCA Board policy “[Resolution Establishing the Policy and Procedures for Enforcement of the Governing Documents](#)”, adopted on November 11, 2017, updated in August 2018 for clarity, include:

1. **Notice of violation**

- a. Must include notice of what violation allegedly occurred,
- b. what provision of the governing documents was allegedly violated
- c. Identify the provision allegedly violated
- d. Description of the factual basis for the violation
- e. Identify a proposed action to cure the alleged violation
- f. Notice that failure to cure could result in a Notice of Violation Hearing which could result in the imposition of fines, sanctions and/or enforcement actions

2. **Notice of Violation Hearing – must be certified and provide these specific notices**

- a. What rule was allegedly violated
- b. The alleged facts
- c. What the owner can do to correct the violation
- d. How long the owner has to correct to avoid the Board imposing the next enforcement step;
- e. How many days the owner gets to correct the alleged violation
- f. If the owner doesn’t fix it, the Board must identify
 - a. “any and all fines that may be imposed”
 - b. (sanctions) “shall be commensurate with the severity of the violation”

- g. The date, time, and location of the hearing and that the owner may request to reschedule
- h. Covenants Committee, or Board, **shall hold a private hearing** on an alleged violation of the governing documents **unless** the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the Board of Directors;

3. **Notice of Violation Hearing Procedures:**

- a. Owner gets all the due process required by [NRS 116.31085](#)
- b. Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;
- c. Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel;

4. **Notice of Sanction (Hearing Determination Letter):** by certified mail, within 5 days, to property and owner address of record and must include these notices

- a. What was decided at the hearing;
- b. what **enforcement actions** will be imposed
- c. how much time the owner has appeal and how to do it
- d. any enforcement action will be suspended during appeal

5. **Notice of Appeal hearing procedures**

6. **Appeal Hearing Determination Letter**

27. SCA disclosures and pleadings do not claim or show evidence that SCA followed these steps or provided Tobin any of this due process when confiscating her property for sale. See exhibit for [emails with Jim Long](#) and [request for compliance records](#)

28. SCA Board's abdication to RRFS does not relieve the Board's duty to treat homeowner's fairly and to provide all the owner protections in the law when imposing sanctions for alleged violations.

29. SCA bylaws 3.20/3.18 (b), adopted pursuant to NRS 116.3106(c), prohibits the delegation of the Board duties to levy and collect assessments. See [exhibit](#)

30. SCA did, in fact, over delegate to the point of abdication, or in SCA attorney Ochoa's words, "outsourced", the assessment collection function to RRFS, and to such an extent that SCA retained no control over the funds collected, allowing its agents to be unjustly enriched through abusive collection practices the Board was led to believe were mandatory by law. See [emails with Jim Long](#), former SCA Board member at the time of the sale, emails above.

31. SCA has not claimed that it complied with any of these notice requirements or due process provisions when progressively more serious sanctions, up to, and including foreclosure, were proposed, and imposed, against Tobin for the alleged violation of the delinquent assessments.

32. SCA merely claimed that RRFS told the Board that RRFS had complied with all the legal requirements, and the Board believed RRFS without hearing from the owner.

33. The SCA Board acted according to RRFS's direction and, as instructed, kept all its actions confidential, i.e., secret, even from the accused and sanctioned homeowner.

34. SCA did not claim that it complied with **all** the specific statutes required for a valid foreclosure, it merely cherry-picked certain notices that were allegedly given and ignored the identified violations.

35. The Ombudsman's official record of SCA's Lien date, Notice of Default, Notice of Sale and Resolution, reports that the following specific actions or omissions were in violation of the NRS 116.31162-NRS 116.31164 Notice of Sale process. See exhibit for [Ombudsman compliance screen](#)

- a. The 2/12/14 Notice of Sale was cancelled on 5/15/14.
- b. The 5/15/14 Trustee sale was cancelled.
- c. There was no notice of sale in effect when the 8/15/14 sale took place.

- d. SCA did not provide any notice to the Ombudsman that the sale had occurred.
 - e. SCA did not submit a foreclosure deed within 30 days after the sale (or ever) as required by NRS 116.31164(3)(b)(2013).
36. SCA does not claim that it provided the schedule of fees, proposed repayment plan or the right to appeal to the Board required by NRS 116.31162 (4), only that an alleged defective [Notice of Intent to Lien](#), dated September 17, 2012 for which no proof of service and no prior notice of violation were given, should suffice.
37. SCA disclosures confirm that RRFS unilaterally rejected a tender from BANA of \$825, nine months of assessments then delinquent, on or about May 9, 2013.
38. RRFS did not credit the Property account with \$825 of paid assessments as required by [NRS 116A.640\(9\)](#).
39. RRFS did not inform the Board or Tobin of its unilateral decision to continue the unnecessary and unauthorized accumulation of “fines” misnamed as collection fees.
40. SCA disclosures revealed that, on May 28, 2014, RRFS unilaterally rejected it when [Nationstar offered \\$1,100](#), an amount equivalent to one year of assessments.
41. SCA disclosures show that RRFS did not inform the SCA Board of an offer in excess of the super-priority amount as coming from Nationstar.
42. RRFS inaccurately characterized it as a request from the owner for a waiver of fees. See exhibit of [RRFS-generated and unsigned waiver request](#), dated June 9, 2014.
43. SCA Board took a “hands-off” approach to RRFS and was not even aware that RRFS failed to distribute any of the \$63,100 from the August 15, 2014 sale, except for \$2,701.04, credited to SCA as payment in full, in the manner proscribed by NRS 116.31162(3)(c) (2013).

B. Undisputed facts regarding the inadmissibility of Jimijack’s claim to ownership

44. The 6/8/15 quit claim deed, recorded on June 9, 2015, is the only recorded claim that Jimijack has of ownership.

45. The quit claim deed, executed by Yuen K. Lee, is void for notary violations as the notary, CluAynne M. Corwin, claimed Thomas Lucas stood before her.

46. There is no entry in the Corwin notary journal that she witnessed Yuen K. Lee's signature or there was ever a compliant notarial act necessary for the valid conveyance of the property to Jimijack on June 8, 2015.

47. The [Resident Transaction Report](#), Sun City Anthem official record of ownership and payment of assessments and fees for each property, shows that Jimijack took possession of the property on September 25, 2014, and paid a new owner set up fee.

48. The Resident Transaction Report, shows there have only been two owners of the Property, Gordon Hansen and Jimijack.

49. There is no HOA record that Thomas Lucas or Opportunity Homes, LLC, the alleged purchaser at the disputed August 15, 2014, HOA foreclosure sale, was ever an owner of the property. See exhibit for [August 22, 2014 foreclosure deed](#).

50. Thomas Lucas filed and recorded a [Disclaimer of Interest](#) in the property.

51. The [Resident Transaction Report](#) has no entry that shows the property was foreclosed on or sold by Sun City Anthem on August 15, 2014.

52. There is no HOA record that Yuen K. Lee or F. Bondurant LLC ever owned the property or paid any fees required when title changes. See [Resident Transaction Report](#)

53. On March 13, 2017, a Yuen K. Lee and F. Bondurant LLC recorded a [Disclaimer of Interest](#).

C. Tobin is the only party seeking to quiet title that has a valid deed.

54. Nona [Tobin's March 28, 2017 deed](#) has priority over Jimijack's inadmissible June 9, 2015 deed, and all other parties with deeds have disclaimed interest.

55. On August 27, 2008, title to the property was transferred into the Gordon B. Hansen Trust by the [Grant, Sale Bargain Deed](#).

56. On March 28, 2017. Nona Tobin, trustee of the Gordon B. Hansen Trust, recorded a [Disclaimer of Interest](#) of Steve Hansen, leaving her the sole beneficiary of the Gordon B. Hansen Trust.

57. On March 28, 2017 Nona Tobin, trustee of the Gordon B. Hansen Trust, recorded [a quit claim deed](#) transferring the interest of the Gordon B. Hansen Trust, dated August 22, 2008, to Nona Tobin, an individual.

D. Title cannot be quieted to Nationstar as it obstructed legitimate sales

58. Nationstar's, and its predecessor BANA's, mortgage servicing abuses including, but not limited to, taking possession without foreclosure, refusing to take title when a deed in lieu was offered without giving Tobin written documentation of the disqualifying cloud to title BANA identified, refusing to disclose the identity of the beneficiary when Tobin requested it, and causing fraudulently executed and notarized claim against title to be recorded.

59. Nationstar's, and its predecessor BANA's, mortgage servicing abuses blocked Tobin's ability to avoid a foreclosure by the HOA.

60. BANA and Nationstar were the proximate cause of the total amount of all assessments, late fees, interest and collection costs demanded by RRFS being paid out of escrow by unreasonably refusing to approve legitimate arms-length sales at fair market value.

61. Nationstar, and its predecessor BANA, resulted in unreasonable rejections of multiple purchase offers from bona fide purchasers in arms-length transactions between August 8, 2012 and August 4, 2014 ranging from \$310,000 to \$395,000.

62. Nationstar allowed the property to be sold for the commercially unreasonable price of \$63,100 to a non-bona fide purchaser without notice to Tobin while an arms-length \$358,800 purchase offer was pending.

63. Nationstar's joinder to SCA MSJ unfairly asks the court to declare that the sale was valid to extinguish all Tobin's property interest despite SCA failing to provide Tobin the due process owed to her, but that the sale could not extinguish the first deed of trust, as if a lender had legal protections against loss of property rights without due process that exceeded the rights of an owner.

D. Title cannot be quieted to Nationstar as its recorded claims to title are false

64. BANA is not making any claim for quiet title as [BANA's default order](#) was entered on October 16, 2015.

65. BANA's April 4, 2012, original [assignment of the deed of trust](#), is void as

66. it was executed without authority as the last notice of change of ownership was given to Gordon Hansen on April 16, 2010 that [ownership transferred to Wells Fargo](#) resulting from a merger with Wachovia and the April 12, 2012 assignment failed to substitute the trustee as required.

67. The April 12, 2012 instrument was non-compliant with [California notary laws](#) as there is no notary record that the assignment was executed or witnessed properly,

68. The alleged assignment was contradicted by **all** BANA's subsequent actions, including the [October 30, 2012 notice](#) of standing to foreclose given to the Estate of Gordon Hansen that Wells Fargo was the noteholder.

69. See exhibit for [other documentation](#) that BANA did not notify Hansen's estate who the beneficiary was after the false affidavit was recorded on April 12, 2012, when it verbally "closed the file" on Tobin's Deed in Lieu offer, or when servicing, but not ownership, was

transferred to Nationstar, effective December 1, 2013.

70. Nationstar NSM0266-7 does not identify the beneficiary when Nationstar became the servicing bank, but it wrongly identifies the First Union National Bank as Trustee. (Note that per [NRS 107.028\(2\)](#) the beneficiary can't be the trustee to exercise the power of sale.)

71. Nevada's 2011 anti-foreclosure fraud law AB 284, prohibited this type of robo-signing of false affidavits against title.

72. AB 284 (2011) also increased penalties for recording false affidavits by amending NRS 205.372 and NRS 205.395.

73. NSM 167-168 is the first alleged assignment of the DOT, executed by Youda Crain, BANA employee, to servicing bank BANA, recorded on April 12, 2012.

74. There is [no notary record](#) of the April 4, 2012 assignment as the notary, Teresa D. Williams, CA notary #1919662, did not turn in her notary journal to San Bernardino County Clerk when her commission expired on 12/31/14, moved, and left no forwarding address.

75. In addition to CA govt code 8206.5 and 8213.5 [violations by the notary](#), BANA could have been guilty of violating [NRS 205.372](#), had BANA relied on this false affidavit, recorded without the required substitution of trustee, to falsely claim BANA was the noteholder or had the authority to foreclose on the deed of trust.

76. Nationstar is knowingly relying on BANA's false April 12, 2012 recorded affidavit and has doubled down with more false affidavits.

77. On September 9, 2014, BANA itself apparently attempted to correct the public record, by recording the [assignment of BANA's interest](#), if any, to Wells Fargo, that left BANA with zero interest in the DOT, effective August 21, 2014, which was perhaps coincidentally, the day before the disputed HOA sale foreclosure deed was recorded.

78. [NSM 180-181](#) is a false affidavit in which Nationstar, acting without authorization as BANA's alleged "attorney-in-fact", assigned BANA's interest to Nationstar, effective on October 23, 2014, recorded on December 1, 2014.

79. Nationstar's bogus affidavit has no power to convey the beneficial interest of the DOT to itself for multiple reasons, including, but not limited to,

- a. BANA did not have any interest to convey as its April 4, 2012 assignment was void for notarial violations and violations of AB 284 (2011).
- b. The real BANA had recorded on September 9, 2014, that it assigned its interest, if any, to Wells Fargo effective August 21, 2014;
- c. There was no valid substitution of named trustee John H. Anderson.
- d. Nationstar did not have any power of attorney from BANA in its disclosures.
- e. Nationstar disclosed in [NSM 404-406](#) an **unrecorded** rescission of the October 23, 2014 assignment "as though the assignment had never been issued and recorded".

80. [NSM 407-408](#) would probably earn Nationstar a couple of felonies pursuant to NRS 205.395 and NRS 205.372 if Nationstar attempted to rely on this to exercise the power of sale in a foreclosure. It is my opinion that Nationstar's attorneys are duplicitously attempting to get Nationstar quiet title by default in these HOA sale proceedings to evade detection that these are felonious false affidavits.

81. [NSM 407-408](#) is an executed, but as yet unrecorded, corporate assignment of Wells Fargo's beneficial interest in the DOT, if any, to Nationstar, effective February 25, 2019, executed by Nationstar acting without authorization as Wells Fargo's "attorney-in-fact".

82.

Fargo's name, place and stead. This limited power of attorney ("Limited Power of Attorney") is given in connection with, and relates solely to that certain Servicing Rights Release and Transfer Agreement dated as of December 28, 2015, between Wells Fargo and Nationstar, under the terms of which Wells Fargo transferred servicing for certain mortgage loans (such loans, the "Loans") to Nationstar. Each of the Loans comprises a promissory note evidencing a right to payment and performance secured

83. The Wells Fargo limited power of attorney disclosed by Nationstar in [NSM 270-272](#) is inapplicable and was executed for a different purpose, to wit

84. The Wells Fargo limited power of attorney disclosed by Nationstar [NSM 270-272](#) was "valid only for a period of six months from April 1, 2016 unless cancelled prior to said date", and was not in effect and would not legitimize either corporate assignment, fraudulently executed on October 23, 2014, and February 25, 2019, by Nationstar as Wells Fargo's "attorney-in-fact".

85. Nationstar did not disclose the recorded Wells Fargo [SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE](#), of the second DOT, executed on March 2, 2015 by Lisa Wilm, Wells Fargo Vice President Loan Documentation.

86. This omission has the effect of concealing from the court a correctly executed, notarized, and recorded reconveyance by Wells Fargo itself that would clearly demonstrates how Nationstar's claims against title are fraudulent.

87. Nationstar's duplicitous disclosures actually prove Nationstar is not the noteholder rather than it is.

88. [NSM 258-260](#) is a COPY of the note which is not admissible proof that Nationstar holds the ORIGINAL note. In fact, absent holding the original note, Nationstar cannot claim it owns the beneficial interest in the deed of trust any more than Tobin could claim that someone owed her money if she held a **copy** of the debtor's I.O.U. to BANA, particularly if that note was endorsed to a third party.

V. Legal Standard

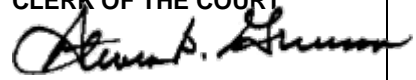
- 89. See exhibit for the [table of authorities](#) that are applicable to Sun City Anthem and which were violated and rendered the HOA sale void.
- 90. See exhibit for the relevant [statutes for validity of instruments](#) in NRS Chapter 111 Estates In Property; Conveyancing and Recording and in NRS Chapter 240 Notaries Public which rendered Jimijack's deed void.
- 91. See exhibit _____ for the [2011 legislative digest of AB 284](#) changes to Nevada law that render BANA's false affidavit and Nationstar's subsequent recorded claims to title void.
- 92. See exhibit ___ for an [amicus curie](#) from a certified mortgage fraud examiner that describes the forensic examination required to discern mortgage fraud that occurred in the aftermath of the collapse of the mortgage-backed securities market.

VI. Conclusion

- 93. Tobin deserves that her motion and declaratory relief of regaining title be granted.
 - a. SCA did not conduct a valid sale.
 - b. SCA unfairly confiscated Tobin's property without providing due process required.
 - c. RRFS unlawfully retained the proceeds of the sale, damaged Tobin by refusing to allow her to make a claim for them, and [disingenuously disclosed a check for \\$57,282.32](#) to the district court that in reality RRFS retained.
 - d. Jimjack does not have a valid claim of ownership and was not a bona fide purchaser for value.
 - e. Jimijack unjustly profited from collecting rents that should have gone to Tobin for at least 3 ½ years.
 - f. Jimijack unjustly profited by not paying any of the costs of the property during time of possession and/or holding title, including property taxes, that were paid by Nationstar.
- 94. Tobin deserves attorney fees from Nationstar for obstructing the legitimate sale of the property and fraudulently claiming to own the beneficial interest of the note.
- 95. Tobin deserves attorney fees from RRFS that misinformed the Board about what owners' due process rights are so it could unjustly profit and not from SCA.
- 96. Tobin, as an SCA homeowner, is damaged by SCA Board failing to enforce the indemnity clause in its undisclosed [April 27, 2012 contract with RRFS](#) in **any** of the litigation or settlements involving RRFS collections and foreclosures which have unfairly cost SCA homeowners hundreds of thousands of dollars and requests an order to that effect.

Red Rock agrees that if any claims or any proceedings are brought against the Association, whether by a governmental agency, private person, or otherwise, due to allegations that Red Rock has acted negligently or acted willfully or violated any law, regulation, order, or ruling, Red Rock shall defend, indemnify, and hold harmless the Association, its members, managers, agents, officers, and employees against any liabilities, loss, damage, or expense, including but not limited to payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, court costs, litigation expenses, and attorney's fees. Red Rock shall be responsible for all costs, including payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, court costs, litigation expenses, and attorney's fees which are the result of actual or alleged conduct of Red Rock.

Dated this ____ day of March 2019.



1 NS
2 MELANIE D. MORGAN, ESQ.
3 Nevada Bar No. 8215
4 DONNA WITTIG, ESQ.
5 Nevada Bar No. 11015
6 AKERMAN LLP
7 1635 Village Center Circle, Suite 200
8 Las Vegas, Nevada 89134
9 Telephone: (702) 634-5000
10 Facsimile: (702) 380-8572
11 Email: melanie.morgan@akerman.com
12 Email: donna.wittig@akerman.com

13 *Attorney for Nationstar Mortgage LLC*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 JOEL A. STOKES and SANDRA F. STOKES, as
17 trustees of the JIMI JACK IRREVOCABLE
18 TRUST,

19 Plaintiff,

20 vs.

21 BANK OF AMERICA, N.A.,

22 Defendant.

23 NATIONSTAR MORTGAGE LLC,

24 Counter-Claimant,

25 vs.

26 JIMI JACK IRREVOCABLE TRUST,

27 Counter-Defendant.

Case No.: A-15-720032-C

Consolidated with: A-16-730078-C

Dept. No.: XXXI

NOTICE OF SETTLEMENT

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

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NONA TOBIN, an individual, and Trustee of the
GORDON B. HANSEN TRUST. Dated 8/22/08
Counter-Claimant,

vs.

JOEL A. STOKES and SANDRA F. STOKES, as
trustees of the JIMI JACK IRREVOCABLE
TRUST, SUN CITY ANTHEM COMMUNITY
ASSOCIATION, INC., YUEN K. LEE, an
individual, d/b/a Manager, F. BONDURANT,
LLC, and DOES 1-10, and ROE
CORPORATIONS 1-10, inclusive,

Counter-Defendants.

PLEASE TAKE NOTICE that Nationstar Mortgage LLC and Joel A. Stokes' and Sandra F. Stokes', as trustees of the Jimijack Irrevocable Trust have reached an agreement on all material terms required to settle all of Nationstar's claims asserted against Jimijack in the action.

The settling parties anticipate that the performance of the terms of the settlement agreement will be completed within sixty (60) days of the date of this notice, at which time the parties expect to present the Court with a Stipulation for Dismissal of Nationstar's claims against Jimijack.

DATED April 12, 2019

AKERMAN LLP

/s/ Melanie D. Morgan
MELANIE D. MORGAN, ESQ.
Nevada Bar No. 8215
DONNA WITTIG, ESQ.
Nevada Bar No. 11015
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134

Attorneys for Nationstar Mortgage LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of April, 2019 and pursuant to NRCP 5(b), I served via the Clark County electronic filing system a true and correct copy of the foregoing **NOTICE OF SETTLEMENT**, addressed to:

Michael R. Mushkin & Associates

L. Joe Coppedge joe@mushlaw.com
Karen L. Foley karen@mushlaw.com
Michael R. Mushkin michael@mushlaw.com

Lipson Neilson P.C.

Susana Nutt snutt@lipsonneilson.com
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Medrala Law Firm, PLLC

Jakub P Medrala jmedrala@medralaw.com
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Office admin@medralaw.com

Hong & Hong APLC

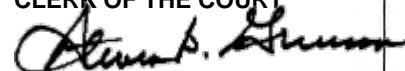
Joseph Y. Hong, Esq. yosuphonglaw@gmail.com
Nona Tobin nonatobin@gmail.com

/s/Jill Sallade

_____ An employee of AKERMAN LLP

ORIGINAL

Electronically Filed
4/15/2019 6:32 PM
Steven D. Grierson
CLERK OF THE COURT



1 SAO
2 JOSEPH Y. HONG, ESQ.
3 Nevada Bar No. 5995
4 HONG & HONG
5 A Professional Law Corporation
6 10781 W. Twain Ave.
7 Las Vegas, Nevada 89135
8 Tel: (702) 870-1777
9 Fax: (702) 870-0500
10 Email: Yosuphonglaw@gmail.com

11 Attorney for Joel A. Stokes and
12 Sandra Stokes, as trustees of the
13 Jimijack Irrevocable Trust

PLEASE FILE WITH MASTER
CALENDAR

DISTRICT COURT

CLARK COUNTY, NEVADA

14 JOEL A. STOKES and SANDRA F. STOKES,
15 as trustees of the JIMI JACK IRREVOCABLE
16 TRUST,

Plaintiff,

vs.

17 BANK OF AMERICA, N.A.,

Defendant.

CASE NO. A-15-720032-C
DEPT. NO. XXXI

Consolidated with: A-16-730978-C

18 NATIONSTAR MORTGAGE LLC.,

Counterclaimant,

vs.

19 JIMI JACK IRREVOCABLE TRUST,

Counterdefendant.

STIPULATION AND ORDER
TO EXTEND BRIEFING
SCHEDULE FOR NATIONSTAR
MORTGAGE LLC'S MOTION
FOR SUMMARY JUDGMENT
AND CONTINUE HEARING

20 NONA TOBIN, an individual, and trustee of the
21 GORDON B. HANSEN TRUST, Dated 8/22/08

Counterclaimant,

vs.

22 JOEL A. STOKES and SANDRA F. STOKES, as
23 trustees of the JIMI JACK IRREVOCABLE
24 TRUST; SUN CITY ANTHEM COMMUNITY
25 ASSOCIATION, INC.; YEUN K. LEE, an
26 individual d/b/a Manager; F. BONDURANT,
27 LLC.; AND DOES 1-10 and ROE
28 CORPORATIONS 1-10, inclusive,

Counterdefendants.

COME NOW, the parties, JIMI JACK IRREVOCABLE TRUST ("JIT"), and Nationstar

TOBIN. 2238

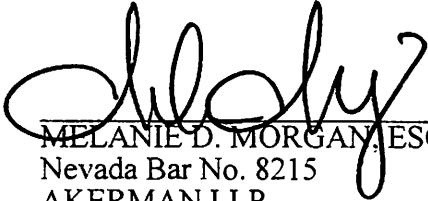


1 Mortgage LLC ("Nationstar"), by and through their counsel of record, hereby stipulate and agree
2 as follows:

3 The hearing on Nationstar's Motion for Summary Judgment, presently scheduled for
4 April 23, 2019 at 9:00a.m., shall be continued to a date and time in the second week of May 2019
5 wherein JIT shall file and serve its Opposition to Nationstar's Motion for Summary Judgment by
6 April 26, 2019, and ~~Dana~~ ^{Nationstar} will thereafter file and serve its Reply accordingly.

7 DATED this 10th day of April, 2019.

DATED this 10th day of April, 2019.

8
9 

10 MELANIE D. MORGAN, ESQ.
11 Nevada Bar No. 8215
12 AKERMAN LLP
13 1635 Village Center Cir., # 200
14 Las Vegas, Nevada 89134
15 Attorney for Nationstar Mortgage LLC.

8
9 

10 JOSEPH Y. HONG, ESQ.
11 Nevada Bar No. 5995
12 1980 Festival Plaza Dr., Suite 650
13 Las Vegas, Nevada 89135
14 Attorney for Jimijack Irrevocable Trust

13
14 **ORDER**


15 Pursuant to the foregoing Stipulation of the parties and good cause appearing :

16 **IT IS SO ORDERED** that the hearing on Nationstar Mortgage LLC.'s Motion for
17 Summary Judgment, which is presently scheduled for April 23, 2019 at 9:00 a.m., shall be
18 continued to May 7, 2019 at 9:30 a.m. *In granting this stipulation the parties*

19 DATED this 12 day of April, 2019. *will be still be set for trial on*

20 
21 DISTRICT COURT JUDGE

22
23 Respectfully submitted by:

24 
25 JOSEPH Y. HONG, Esq.
26 Nevada Bar No. 5995
27 1980 Festival Plaza Dr., Suite 650
28 Las Vegas, Nevada 89135
Attorney for Jimijack Irrevocable Trust

*the May 28, 2019 trial stack as
set forth in the Trial Order and
the parties must otherwise
comply with all other
pre-trial and trial dates
and requirements of the
Reply is due in
accordance with NCRP 6
and the EDCR.*



Nona Tobin <nonatobin@gmail.com>

I'm Pro Se now, but you need to fix what you have done to hurt me

1 message

Nona Tobin <nonatobin@gmail.com>

Tue, Apr 16, 2019 at 3:31 PM

To: Joe Coppedge <joe@mushlaw.com>

Bcc: Brandon Dalby <bdalby1976@gmail.com>, Mark Burton <me.burton27@gmail.com>

As I said in the VM, the clerk of the court just told me that you signed off on the order of summary judgment against me. How could you do that without showing it to me?

This is outrageous. I paid you \$40,000 and all you did was obstruct the presentation of my case.

I always told you that I believed, as a matter of law, an MSJ against all parties in my favor should easily have been granted based as a matter of law based on the undisputed facts supporting my claims, but that couldn't happen because you did not present any MSJ for the court's consideration.

You did not put before the court any of the many pleadings and disclosures I prepared and you didn't timely file any of the few you did submit.

You even failed to enter the order amending my 2/1/17 complaint filed as a Pro Se, that was granted on 1/10/19 at a hearing you told me not to attend.

So the judge grants a MSJ against me without having any of my case before her.

Why didn't tell me the Ombudsman compliance screen was not admissible when I have easily authenticated and prepared it for submission.

After the hearing when I was told you I absolutely wanted a motion to reconsider, you would not commit to do it and just said "go to Hawaii enjoy your vacation."

I spent the entire vacation preparing an OPPC opposing the NSM MSJ against Jimijack and a counter motion and set aside preparing a motion to reconsider because I didn't think an order had been circulated, let alone signed by you.

Since I knew I couldn't count on you to file anything for me and I was so mad about your failure to put my case before the court, I decided to go back to representing myself.

I filed a NOTA for Tobin, an individual to be a Pro Se and filed the OPPC. Unfortunately, I made a mistake and it was only efiled and not served until last Friday April 12 at 1 AM Vegas time. It was 4/11 in Hawaii because of the three-hour time change.

On Friday afternoon I saw that NSM filed a notice that NSM and Jimijack had reached a settlement. This is an outrageous manipulation of this HOA foreclosure process for them to steal \$500,000 from me. A settlement with Jimijack instead of having the sale voided and NSM having to deal with me to prove it owns the note

A settlement is a very convenient, easy way for NSM to perpetrate a fraud. Get rid of Nona who NSM knows it can't foreclose on. Get rid of Nona who NSM knows has filed a complaint with the AG describing in detail NSM's pattern of fraudulently getting title to notes they don't own in HOA quiet title actions by tricking the court.

TOBIN. 2240

Why did NSM file a joinder saying the SCA MSJ “establish(ed) the absence of a genuine issue of material fact that the HOA conducted a proper foreclosure of the sub-priority portion of its lien” if NSM would get whatever security interest it had before the sale if the sale were voided entirely as NSM had pled back in 2016?.

The answer is NSM does not own the note and so it does not have standing to foreclose if Judge Kishner doesn't unwittingly create standing for NSM out of thin air by knocking me out of the case.

In its 3/21/19 MSJ, NSM waived its unjust enrichment claim against Jimijack as part of this clever trick. The devil's bargain is Jimijack keeps four years of rents collected without paying taxes or on a mortgage and in exchange NSM trick Judge Kishner into giving NSM standing to foreclose on a note it does not own. Now do you see why I told you the bank would never join with me on the MSJ I wrote back in 2017? Only because I can prove NSM is lying.

Last night I got another huge shock when I saw the the judge had signed a stipulation and order on Friday 4/12/19 and entered on 4/15/19, signed by Hong and NSM, moving the briefing schedule and continuing the 4/23/19 hearing to May 7. This is right in the middle of the time I told you I would be in Paris for Mark's 70th birthday, May 2 through 9, but I don't know if you saw this because it is a deal just between them. I was confused about why they didn't contact me since I had filed an OPPC to be heard on the same day.

I called the clerk of the court today to request continuing that hearing since I would be gone, she told me i was not a party to the case. I said I filed a NOTA as a Pro Se for NT, the Individual. I did not think it was necessary or appropriate for me to remove you as counsel for the trust, and I did not think there was any rule that prohibited me from representing myself as a Pro Se when you were doing such an abominable job of telling the story I need the court to hear.

However, I now find out from the Clerk that you have to withdraw as my attorney or you stay counsel of record.

So I want you to withdraw as the attorney for NT the individual because there is absolutely no way I am going to allow these crooks to MSJ me out when I have worked literally 1000s of hours on this albatross of a house for seven years and have been in this case since January 2017 and you have obstructed me from submitting anything since May 2017.

Do you know I have 157 screenshots of almost two years of our texts still on my phone that are 99% your excuses for inaction?

The trial is May 28, and I must not be restricted from presenting my case simply because you refused to do it.

I have already prepared for submission today a Reply to my counter motion to MSJ Jimijack out that includes the authenticated ombudsman's compliance screen and 400 more pages of specific evidence to prove that in addition to being statutorily non-compliant, the sale was unfair, oppressive, and fraudulent . NSM does not own the note and Jimijack's deed is fraudulent and inadmissible.

I had no inkling while I was in Hawaii for 2 1/2 weeks that you had signed an order from the ridiculous 3/26/19 hearing where you refused to present my counter-motion for summary judgment without showing it to me. You knew how outraged I would be at your, wittingly or not, facilitating the obvious BS legal trick of the opposing counsels who are gaming the system to keep my case from being heard on its merits.

I spent the last three weeks full-time getting ready to represent myself as a Pro Se at the trial, preparing the OPPC, and trying to learn the new e-file system so I could file the documents you blocked me from filing.

Immediate Actions

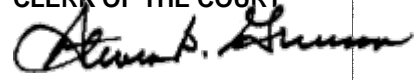
1. I am going to file the reply I prepared for the 4/23/19 hearing with the exhibits today as a Pro Se.
2. I am going to request that you be removed as counsel for NT, the individual, for your failure to present my case as instructed, and allowing undeserving parties to be unjustly enriched by default.
3. I am going to include a request that the hearing be moved to a day after May 10 since I am gone May 2-May 9.
4. I am going to request that the judge not sign the order you signed but I've never seen until after hearing my OPPC and this reply as a Pro Se.
5. If the judge will grant this request, I think the admissible evidence presented will show that the sale should be voided for many reasons, not the least of which is that removing me from the case allows NSM and Jimijack to collude to unjustly enrich themselves at my expense and for either RRFs or NSM to be allowed to steal the \$60,000 undistributed proceeds of the sale.
6. You need to immediately file a rule 60 motion to vacate MSJ ordered because of (3) fraud and misrepresentation by opposing counsel, but if you can't, or won't, do that for the 4/25/19 pre-trial conference, at least, tell me and give me a copy of the order you signed so i can attempt to fix it myself.
7. Then, you need to file whatever notice is required to withdraw immediately as counsel for Tobin, an individual, at least. Withdraw from the counsel for the Trust if you choose. The Trust no longer has any interest to protect in this case. I only need to be a Pro Se for myself because I hold the 3/28/17 deed as an individual. I am the real party in interest, and I need to get my case before the court and be ready for trial on May 28.

Frankly, I am afraid that if I don't figure out how to get the court to recognize me as a Pro Se, you will do nothing and the mere fact that you are counsel of record at the time of the pre-trial conference on 4/25/19, the dirty legal tricks of opposing counsel will have worked. My case won't be heard on its merits and I will lose everything by your inaction.

I am apoplectic with rage at the injustice of this.

Nona Tobin
(702) 465-2199

Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has. -Margaret Mead



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3 State Bar No. 005995
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7 Telephone No.: (702) 870-1777
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9 E-mail: yosuphonglaw@gmail.com
10 Attorney for Plaintiff/Counterdefendant
11 *JOEL A. STOKES and SANDRA F. STOKES,*
12 *as trustees of the JIMI JACK IRREVOCABLE TRUST*

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

11 JOEL A. STOKES and SANDRA F. STOKES, as
12 trustees of the JIMI JACK IRREVOCABLE
13 TRUST,

13 Plaintiff,

14 vs.

15 BANK OF AMERICA, N.A.,

16 Defendant.

17 _____
18 NATIONSTAR MORTGAGE LLC.,

19 Counterclaimant,

20 vs.

21 JIMI JACK IRREVOCABLE TRUST,

22 Counterdefendant.

Case No.: A-15-720032-C
Dept. No.: XXXI

Consolidated with: A-16-730978-C

**NOTICE OF ENTRY OF
STIPULATION AND ORDER
TO EXTEND BRIEFING
SCHEDULE FOR NATIONSTAR
MORTGAGE LLC'S MOTION FOR
SUMMARY JUDGMENT ANC[sic]
CONTINUE HEARING**

1 NONA TOBIN, an individual, and trustee of the
2 GORDON B. HANSEN TRUST, Dated 8/22/08,

3 Counterclaimant,

4 vs.

5 JOEL A. STOKES and SANDRA F. STOKES, as
6 trustees of the JIMI JACK IRREVOCABLE
7 TRUST; SUN CITY ANTHEM COMMUNITY
8 ASSOCIATION, INC.; YEUN K. LEE, an
9 individual d/b/a Manager; F. BONDURANT,
10 LLC.; AND DOES 1-10 and ROE
11 CORPORATIONS 1-10, inclusive,

12 Counterdefendants.

13 TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

14 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that a STIPULATION
15 AND ORDER TO EXTEND BRIEFING SCHEDULE FOR NATIONSTAR MORTGAGE
16 LLC'S MOTION FOR SUMMARY JUDGMENT ANC [sic] CONTINUE HEARING was
17 entered in the above-entitled matter, and filed on the 15th day of April, 2019, a copy of which is
18 attached hereto.

19 DATED this 22nd day of April, 2019.

20 HONG & HONG LAW OFFICE

21 /s/ Joseph Y. Hong

22 JOSEPH Y. HONG, ESQ.

23 State Bar No. 005995

24 1980 Festival Plaza Drive, Suite 650

25 Las Vegas, Nevada 89135

26 Attorney for Plaintiff/Counterdefendant

27 *JOEL A. STOKES and SANDRA F.*

28 *STOKES, as trustees of the JIMI JACK
IRREVOCABLE TRUST*

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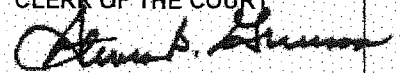
CERTIFICATE OF ELECTRONIC SERVICE

Pursuant to NRCP 5(b)(2)(D), I certify that I am an employee of Joseph Y. Hong, Esq., and that on this 22nd day of April, 2019, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND BRIEFING SCHEDULE FOR NATIONSTAR MORTGAGE LLC'S MOTION FOR SUMMARY JUDGMENT ANC [sic] CONTINUE HEARING** by electronic transmission through the Eighth Judicial District Court EFP system (Odyssey eFileNV) pursuant to NEFCR 9 upon each party in this case who is registered as an electronic case filing user with the Clerk.

By/s/ Debra L. Batesel
An employee of Joseph Y. Hong, Esq.

ORIGINAL

Electronically Filed
4/15/2019 6:32 PM
Steven D. Grierson
CLERK OF THE COURT



1 SAO
2 JOSEPH Y. HONG, ESQ.
3 Nevada Bar No. 5995
4 HONG & HONG
5 A Professional Law Corporation
6 10781 W. Twain Ave.
7 Las Vegas, Nevada 89135
8 Tel: (702) 870-1777
9 Fax: (702) 870-0500
10 Email: Yosuphonglaw@gmail.com

11 Attorney for Joel A. Stokes and
12 Sandra Stokes, as trustees of the
13 Jimijack Irrevocable Trust

PLEASE FILE WITH MASTER
CALENDAR

DISTRICT COURT
CLARK COUNTY, NEVADA

14 JOEL A. STOKES and SANDRA F. STOKES,
15 as trustees of the JIMI JACK IRREVOCABLE
16 TRUST,

Plaintiff,

vs.

BANK OF AMERICA, N.A.,

Defendant,

NATIONSTAR MORTGAGE LLC.,

Counterclaimant,

vs.

JIMI JACK IRREVOCABLE TRUST,

Counterdefendant.

NONA TOBIN, an individual, and trustee of the
GORDON B. HANSEN TRUST, Dated 8/22/08

Counterclaimant,

vs.

JOEL A. STOKES and SANDRA F. STOKES, as
trustees of the JIMI JACK IRREVOCABLE
TRUST; SUN CITY ANTHEM COMMUNITY
ASSOCIATION, INC.; YEUN K. LEE, an
individual d/b/a Manager; F. BONDURANT,
LLC.; AND DOES 1-10 and ROE
CORPORATIONS 1-10, inclusive,

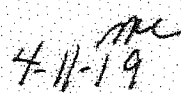
Counterdefendants.

CASE NO. A-15-720032-C
DEPT. NO. XXXI

Consolidated with: A-16-730978-C

STIPULATION AND ORDER
TO EXTEND BRIEFING
SCHEDULE FOR NATIONSTAR
MORTGAGE LLC'S MOTION
FOR SUMMARY JUDGMENT
AND CONTINUE HEARING

COME NOW, the parties, JIMI JACK IRREVOCABLE TRUST ("JIT"), and Nationstar

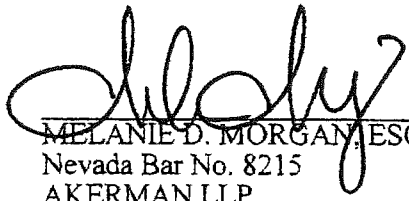
4-11-19



1 Mortgage LLC ("Nationstar"), by and through their counsel of record, hereby stipulate and agree
2 as follows:

3 The hearing on Nationstar's Motion for Summary Judgment, presently scheduled for
4 April 23, 2019 at 9:00a.m., shall be continued to a date and time in the second week of May 2019
5 wherein JIT shall file and serve its Opposition to Nationstar's Motion for Summary Judgment by
6 April 26, 2019, and ~~Bana~~ ^{Nationstar} will thereafter file and serve its Reply accordingly.

7 DATED this 10th day of April, 2019.

DATED this 10th day of April, 2019.

8
9 
10 MELANIE D. MORGAN, ESQ.
11 Nevada Bar No. 8215
12 AKERMAN LLP
13 1635 Village Center Cir., # 200
14 Las Vegas, Nevada 89134
15 Attorney for Nationstar Mortgage LLC.

8
9 
10 JOSEPH Y. HONG, ESQ.
11 Nevada Bar No. 5995
12 1980 Festival Plaza Dr., Suite 650
13 Las Vegas, Nevada 89135
14 Attorney for Jimijack Irrevocable Trust

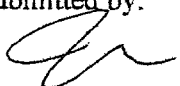
14 **ORDER**

15 Pursuant to the foregoing Stipulation of the parties and good cause appearing :

16 **IT IS SO ORDERED** that the hearing on Nationstar Mortgage LLC.'s Motion for
17 Summary Judgment, which is presently scheduled for April 23, 2019 at 9:00 a.m., shall be
18 continued to May 7, 2019 at 9:30 a.m. *In granting this stipulation the parties*

19 DATED this 12 day of April, 2019. *will be still be set for trial on*

20 
21 DISTRICT COURT JUDGE

22
23 Respectfully submitted by:
24 
25 JOSEPH Y. HONG, Esq.
26 Nevada Bar No. 5995
27 1980 Festival Plaza Dr., Suite 650
28 Las Vegas, Nevada 89135
Attorney for Jimijack Irrevocable Trust

*the May 28, 2019 trial stack as
set forth in the Trial Order and
the parties must otherwise
comply with all other
pre-trial and trial dates
and requirements of the
Reply is due in
accordance with NACPB
and the EDCR.*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property **COURT MINUTES** **April 23, 2019**

A-15-720032-C fJoel Stokes, Plaintiff(s)
vs.
Bank of America NA, Defendant(s)

April 23, 2019 **9:00 AM** **All Pending Motions**

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Natalie Ortega

RECORDER: Sandra Harrell

PARTIES

PRESENT: Hong, Joseph Y. Attorney for Plaintiff
Morgan, Melanie D. Attorney for Defendant -
Nationstar

JOURNAL ENTRIES

- TOBIN OPPOSITION TO NATIONSTAR MOTION FOR SUMMARY JUDGMENT AGAINST JIMI JACK AND COUNTERMOTION FOR SUMMARY JUDGMENT TOBIN OPPOSITION TO NATIONSTAR MOTION FOR SUMMARY JUDGMENT AGAINST JIMI JACK AND COUNTERMOTION FOR SUMMARY JUDGMENT

COURT NOTED on April 9, 2019 a Notice of Appearance was filed; however a Notice of Withdrawal was never received from Mr. Mushkin's firm on behalf of Ms. Tobin. Mr. Hong stated Mr. Mushkin's office represented Tobin as the trustee for the Hansen Trust, not as an individual. Further, when Ms. Tobin appeared in the case originally, in proper person, the Court advised her she did not have standing because she was not the trustee. Thereafter, she appeared as the trustee and Mr. Mushkin represented her. Further, she did not have standing due to as an individual she did not have anything to do with this case. Additionally, when the Court granted the HOA's Motion for Summary Judgment against the Trust that concluded. Therefore, Ms. Tobin filed an opposition/counter-motion in proper person, individually. Ms. Tobin did not have standing in this case. The only party that had standing was the trust being they were the former owner when the foreclosure occurred. Moreover, Ms. Tobin intervened in the other case that was consolidated with this case as a trustee. COURT FURTHER NOTED in was in receipt of a Notice of Settlement of Nationstar, Joel Stokes and Sandra F.

Stokes as Trustee of the Jimijack Irrevocable Trust stating that it had reached agreement on all material terms. Upon Court's inquiry, counsel stated that the May 7, 2019 Motion for Summary Judgment hearing could be moot. Ms. Morgan stated they would withdraw the motion. COURT FINDS there was a Notice of Appearance from the Sun City Anthem and there was not anything else that remained this case. Further, the Court would need to set a status check as to settlement documents between the parties that filed a Notice of Settlement on April 12, 2019. Ms. Morgan stated Nona Tobin still had claims against Jimijack. Upon Court's further inquiry, Mr. Hong acknowledged that Mr. Mushkin was counsel for the trustee and he was counsel for Jimijack. Mr. Hong stated based on this Court's previous Order for Summary Judgment in Favor of the buyer, Opportunity Homes, it would be requested to file a simple motion mirroring the Court's Order similar to a res judica noting that the claims alleged by the trust were identical. COURT NOTED it could not grant any oral leave without a hearing or other parties present. COURT FINDS there was a rogue document filed, Notice of Appearance on April 9, 2019 of Nona Tobin in Proper Person. There was not leave sought by Ms. Tobin for any individual capacity. Further, the only portion of this case in which Ms. Tobin was involved, in any capacity, was as Trustee of the Gordan B. Hansen, August 22, 2008. In that capacity Ms. Tobin was represented by counsel. That counsel had not filed any motion to withdraw, any pleadings on behalf of Ms. Tobin as Trustee for Gordan B. Hansen Trust would need to be filed by counsel.

COURT ORDERED the Notice of Appearance filed April 9, 2019 was a rogue document, therefore STRICKEN. COURT NOTED as to the Notice of Completion of Mediation filed on April 9, 2019, the Court already had a prior document with regards to the completion of mediation Furthermore, since that was also filed by Ms. Tobin, individually, and not her counsel, COURT FURTHER ORDERED, Notice of Completion of Mediation filed April 9, 2019 STRICKEN. COURT FINDS the Tobin's Opposition to Nationstar Summary Judgment against Jimijack and counter-motion filed April 10, 2019 at 11:17 a.m., filed by Nona Tobin, not filed by Mr. Mushkin as counsel as trustee of the Gordan B. Hansen Trust, a rogue document, therefore, COURT ADDITIONALLY ORDERED, Tobin's Opposition to Nationstar Summary Judgment against Jimijack and counter-motion STRICKEN. COURT FINDS that if the Court reviewed the underlying arguments, which it could not, even independently, it was understood that there were no claims between Nationstar that currently existed with regards to Nona Tobin as Trustee of the Gordan Hansen Trust. There would not be an appropriate opposition. COURT ORDERED, the April 12, 2019 at 1:40 a.m. Tobin Opposition To Nationstar Motion For Summary Judgment Against Jimijack And Counter Motion For Summary Judgment Hearing Requested Conjunction With Hearing For Nationstar MSJ Scheduled STRICKEN being a rogue documents. COURT FURTHER ORDERED, the Notice of Appearance Nona Tobin in Proper Person and the Notice of Completion of Mediation filed on April 12, 2019 STRICKEN as rogue and duplicative. COURT ADDITIONALLY ORDERED, April 12, 2019 1:11 AM Notice of Completion of Mediation and April 12, 12:39 am Notice of Appearance STRICKEN as rogue and duplicative. On April 17, 2019 at 8:37 a.m., Tobin's Reply In Support of Joinder to Nationstar Mortgage, LLC s Motion For Summary Judgment and Reply In Support Of Tobin's Motion For Summary Judgment, COURT ADDITIONALLY motion ORDERED STRICKEN as rogue. COURT was NOT FINDING that it

should strike the April 19th Response by Nationstar, being it was clarification to enlighten the Court the improper filing of documents. Upon Court's inquiry, Ms. Morgan stated she was not requesting the Court to take action.

As to the remaining underlying documents, Mr. Hong stated they would withdraw and vacate the Stipulation to Extend the briefing scheduling noting it was prepared and filed prior to settlement, that document was now moot. Upon Court's inquiry, Mr. Hong acknowledged the Court could disregard the stipulation as to the briefing schedule. As to the pending Motion for Summary Judgment on May 7th. Ms. Morgan stated that would not be heard stating the only claims remained had been resolved and she would file a Notice of Withdraw. At the request of the movant, no opposition by Mr. Hong, and since only party which could had filed any pleadings, COURT ORDERED, May 7, 2019 Motion for Summary Judgment VACATED.

COURT NOTED the Calendar Call and Bench Trial dates would remain. Further, Nona Tobin as Trustee for the Gordan B. Hansen Trust versus Jimijack were the only remaining parties in these combined cases, A720032 with A730078. Ms. Morgan advised Tobin as Trustee also had pending claims against Yuen K. Lee and F Bonderant LLC. Colloquy regarding the caption.

COURT ORDERED, Status Check SET regarding Settlement Documents.

05/21/19 STATUS CHECK: SETTLEMENT DOCUMENTS

CLERK'S NOTE: Minutes amended to reflect the additional stricken documents as follows: 04/12/19 1:11 AM Notice of Completion of Mediation and 04/12/19 12:39 AM Notice of Appearance.
ndo05/09/19

1
2 **DECLARATION OF NONA TOBIN**

3
4 *Nona Tobin, under penalty of perjury, states as follows:*

5 *I have personal knowledge of the facts stated herein, except for those facts stated to be*
6 *based upon information and belief. If called to do so, I would truthfully and competently testify*
7 *to the facts stated herein, except those facts stated to be based upon information and relief.*

8 *This declaration is made in support of a June 17, 2019 Motion to Intervene as an*
9 *Individual*

10 1. Sun City Anthem did not present to the Court evidence on which the 4/17/19 order was
11 based on sworn affidavits or declarations made under penalty of perjury.

12 2. The non-sworn arguments of attorney Ochoa, allegedly representing Sun City Anthem,
13 interpreted the SCA CC&Rs binding terms, consistently to the detriment of the parties of that
14 contract, in favor of undeserving third parties, namely, Joel and Sandra Stokes, the unknown
15 partners of Red Rock Financial Services, EIN and whoever is making money off of Nationstar's
16 fraudulent claims.
17

18 3. None of SCA's disclosures include authenticated or certified minutes that are the official
19 records of SCA Board action.
20

21 4. SCA attorneys simply, and without any legal authority, put SCA Board's imprimatur on
22 the words and acts of Red Rock Financial Services.

23 5. I view this abdication as comparable to a cop letting a criminal write the police report so
24 the cop didn't need to investigate the crime.
25

26 6. SCA does not have any independent corroborating evidence to support, or even to know,
27 if what RRFS said was true.
28

1 7. SCA attorneys have withheld in discovery SCA's actual official records of this sale and
2 other SCA foreclosures.

3 **REQUEST NO. 7:**

4 Produce all documents, including but not limited to notices, notes, agents, minutes of
5 SCA Board meetings, recordings of SCA Board meetings, informal SCA Board
6 meetings and/or any other document which references and/or relates to the subject
property or Nona Tobin.

7 **RESPONSE TO REQUEST NO. 7:**

8 SCA objects to this Request on the grounds that it seeks documents which are irrelevant
9 to the claims in this lawsuit and not reasonably calculated to lead to the discovery of
admissible evidence. SCA objects to this Request to the extent it seeks to violate third
party privacy rights.

10 Without waiving said objections, SCA responds as follows: *See* SCA's disclosures:
11 RRFS' Foreclosure File (SCA000176-SCA000643) and Board Meeting Minutes
(SCA000644-SCA000654).

12 8. Opposing counsels have misled the court about the facts of this case and about the validity
13 of the evidence.

14 9. SCA000176-SCA000643 is the "Red Rock Foreclosure File", it is not in any legal way
15 the official record of SCA Board action.

16 10. Board Meeting Minutes (SCA000644-SCA000654) were not disclosed.

17 11. SCA's disclosures ended on SCA000643.

18 12. SCA Board meeting agendas and minutes, conforming to statutes and certified by the
19 secretary of the Board as accurate and complete, and mandated accessible to all owners, are the
20 ONLY OFFICIAL RECORD of the corporate acts of the Board.
21

22 13. As required by SCA attorneys, I went through the counsel of record to request documents
23 and responses to interrogatories instead of just asking the association for the records. (See
24 exhibit for earlier and repeated SCA rejections to provide compliance records or access to the
25 Board related to this case.)
26
27
28

1 14. This use-of-attorney requirement was an unnecessary obstacle placed in my path that cost
2 me thousands of dollars in attorney and paralegal costs and many hours of my personal time.

3 15. SCA attorney Ochoa, in concerted action, if not collusion, with SCA General counsel
4 and current SCA debt collector, Adam Clarkson, have taken unlawful action against me
5 personally in pursuit of preventing my access to SCA records that have probative value.
6

7 16. Concealing SCA records has been very prejudicial to me in this case, and has been done
8 intentionally to damage me.

9 17. More importantly, the attorneys who have concealed official SCA records have allowed
10 agents and third parties to effectively steal from the Association and to evade detection.
11

12 18. SCA attorney Ochoa has presented to the Court the RRFS Foreclosure file and
13 deceptively characterized it as the official record of SCA Board action.

14 19. SCA Board agendas and minutes are the only official record.

15 20. If Ochoa doesn't know that, he is incompetent, but since I am sure that he does, he should
16 be sanctioned for perpetrating a fraud on the Court.
17

18 21. NRS 116.31175, NRS 116.311083 and SCA bylaws 3.15 and 6.4, mandate that the Board
19 control, certify as accurate and complete, and make easily and promptly accessible to all SCA
20 owners, all official SCA records, including, but not limited to, published SCA Board meeting
21 agendas and minutes as well as SCA's budget and SCA's accounting records of ALL SCA
22 funds collected or disbursed under the Board's authority.
23

24 22. SCA attorney Ochoa did not cooperate with discovery and his only response to Tobin's
25 ROGs and RFDs, served on 2/26/19, was evasive and falsely claimed privilege on documents
26 NRS 116.31175 says every owner is entitled to.
27
28

1 23. He filed this non-response two days before the end of discovery and three weeks after
2 the MSJ claimed there were no disputed facts.

3 24. He filed the unwarranted MSJ two days before the end of discovery, and three weeks
4 after Ochoa filed a motion for summary judgment against me SCA attorney Ochoa still withheld
5 the official SCA records from discovery, i.e.,
6

7 25. The SCA Board imposed progressively more and more serious sanctions on me , an SCA
8 homeowner in good standing, for the alleged violation, by the estate of a deceased homeowner,
9 up to and including confiscating a house now worth over \$500,000 for the alleged violation of
10 \$2,000 delinquent assessments, all without there ever being any official SCA record of it even
11 happening.
12

13 26. there was never any Delinquency Report made at any SCA Board meeting between the
14 September 27, 2012 Board meeting and the November 15, 2014 Board despite that specific
15 notice being required by SCA bylaws 3.21(f) (v).
16

17 27. SCA Board never told me or any other SCA member about this collection or foreclosure
18 process or about any SCA collection and foreclosure process.
19

20
21 28. SCA never provided me an opportunity to request an open hearing.
22

23 29. SCA Board never offered nor held a hearing prior to imposing any sanction up to and
24 including foreclosure, except when the alleged violation was dead trees.
25
26
27
28

1 30. I was never offered a hearing by the Covenants Committee, the SCA hearing tribunal, or
2 an appeal to the Board, when the SCA Board considered imposing a sanction of permanently
3 revoking membership privileges by foreclosure.
4

5
6 31. SCA did offer a hearing and a chance to appeal to the Board when the proposed penalty
7 was a \$25 fine for each dead tree, and a Notice of Sanction, dated 8/13/15.
8

9
10 32. I received no notice whatsoever that a \$350,000 house was going to be sold on 8/15/14,
11 two days after the Notice of \$25 Sanction.
12

13 33. No SCA Board agenda from 2012 to 2014 includes an item naming Gordon Hansen, the
14 estate of Gordon Hansen or 2763 White Sage Drive, identifying that a delinquency on
15 assessments existed at all or specifying that there would be any Board discussion, let alone
16 action, that could even remotely, lead me, or any other SCA homeowner, to believe that SCA
17 Board intended to allow its agents to seize this property and without notice, appeal or recourse,
18 permanently strip the owner of all membership privileges.
19

20 34. To be valid corporate action, SCA Board actions must occur in a duly called meeting, to
21 which all owners are given notice and an itemized agenda.
22

23 35. SCA Board is prohibited from meeting in closed session to discuss any topic other than
24 the four topics specifically authorized by NRS 116.31085 and SCA bylaws 3.15A.
25

26 36. Necessary elements of the official corporate record of any Board action must include, the
27 specific wording of the motion, which director made the motion, who seconded it and how each
28 Board member voted.

1 37. Only items that are listed on an agenda conforming to the requirements of NRS
2 116.31083 and NRS 116.3108(4) can be discussed at that meeting.

3 38. To establish whether the enforcement of the governing documents was uniform to all
4 owners, as required by NRS 116.31065, and whether SCA records would conform with what
5 they had reported to the Ombudsman, I requested information of Board authorization of all SCA
6 foreclosures
7

8 **REQUEST (for documents) NO. 3:**

9 Produce any and all documents, including any notices, agendas, and minutes of all
10 SCA board meetings, open or in executive session, at which the SCA Board
11 approved the approximately 17 foreclosures of properties within Sun City Anthem
12 HOA for delinquent assessments reports on the SCA annual registrations between
13 January 2010 to the present.

14 **RESPONSE TO REQUEST NO. 3:**

15 SCA objects to this Request on the grounds that it seeks documents which are
16 irrelevant to the claims in this lawsuit and not reasonably calculated to lead to the
17 discovery of admissible evidence. SCA objects to this Request to the extent it seeks
18 to violate third-party privacy rights. SCA further objects to this Request on the
19 grounds it is overly broad and unduly burdensome.

20 Without waving said objection, SCA responds as follows: For this foreclosure *See*
21 SCA's disclosures; specifically, the Board's authorization of this foreclosure is
22 referenced throughout Red Rock Foreclosure File SCA000176 – SCA000643.

23 39. I obtained the SCA Board agendas covering the relevant period from 2012 through 2014
24 from SCA CAM and Custodian of Records, Elyssa Rammos, via a records request, after SCA
25 attorney Ochoa refused to provide them in response to my RFDs.

26 40. I collected Board minutes from the SCA website that SCA attorneys would not release.

27 41. I personally compiled the excerpts of all Board actions related to foreclosure and write-
28 off of debt for the period from September 2012 through to the last meeting of 2014.

1 No minutes, certified by the SCA Board secretary as complete and accurate, exist of a duly-
2 called meeting of the Board, or document a Board vote on a duly made and seconded motion
3 that authorized posting this property for sale on March 7, 2014, or on August 15, 2014, or on
4 any other date.
5

6 42. SCA attorney has perpetrated a fraud on this Court by claiming that “the Board’s
7 authorization of this foreclosure is referenced throughout Red Rock Foreclosure File
8 SCA000176 – SCA000643” when he knows full well that no certified SCA Board minutes exist
9 that document “the Board’s authorization of this foreclosure” .
10

11 43. SCA attorney objected to releasing any others foreclosure notices, citing relevance
12 “any notices, agendas, and minutes of all SCA board meetings, open or in
13 executive session, at which the SCA Board approved the approximately 17
14 foreclosures of properties within Sun City Anthem HOA”

15 44. It is relevant to determine if this foreclosure was unique, and if only in this case, SCA
16 Board failed, through error or mistake, to authorize the sale of this single property in a duly-
17 called Board meeting.
18

19 45. In fact, all SCA foreclosures were done in secret meetings with no agendas, no votes, no
20 minutes.
21

22 46. It appears that the attorneys are misleading the court about the facts of this case to cover
23 up the fact that SCA Board never approved any foreclosure properly and never kept track of any
24 of the money collected.
25

26 47. I acquired through public records requests and have received authenticated Ombudsman
27 Notice of Sale Compliance Screens for 17 properties, including 2763 White Sage Drive.
28

1 48. The Ombudsman’s Notice of Sale Compliance Screen, ruled inadmissible on 3/26/19,
2 has been [authenticated on 4/15/19](#), and is provided herein.

3 49. Judicial notice is requested to note that this is the official record of the Notice of Sale
4 Process. It must be given significant weight and credence against “SCA 000176 – SCA000643
5 Red Rock Foreclosure file (redacted)” .
6

7 50. SCA 000176 – SCA000643 Red Rock Foreclosure file (redacted)” is the unsworn,
8 unverified, uncorroborated evidence entered into this case as SCA’s official, and only, record of
9 any notices RRFS says were provided to the owner of 2763 White Sage.
10

11 51. Note that SCA 000176 – SCA000643 Red Rock Foreclosure file (redacted)” contains 54
12 pages of proofs of service, none of which are proofs of service of any notice that Tobin disputes.

13 52. any authorization that were given or any Board action taken authorizing the Sale.

14 53. HOAs must provide specific notices to the Ombudsman that constitute statutory
15 compliance with the HOA foreclosure statutes.
16

17 54. NRS 116.311635 requires the Notice of Sale be submitted to the Ombudsman which
18 contains specific dates, e.g., the lien, the notice of default, and the amount due on the Notice of
19 Sale.

20 55. NRS 116.31164 requires that the person conducting the sale provide the Ombudsman
21 with a copy of the foreclosure deed 30 days after the sale is complete, and the foreclosure deed
22 contains recitals that describe exactly how the sale was conducted and what notices were
23 provided
24

25 56. NRS 116.31166 states that the recitals on the foreclosure deed are conclusive proof that
26 the sale was valid.

27 57.
28

1 58. The Ombudsman only retains the notices physically given pursuant to these statutes for
2 one year.

3 59. The Ombudsman maintains to this date only a database of the notices provided to the
4 Ombudsman

5 60. "SCA000176- SCA000643, the Red Rock Foreclosure file" was filed into this case by
6 the SCA attorneys, without corroboration, verification or even owner knowledge, as SCA's
7 official, and only, record of the sale.
8

9 61. The Board has allowed RRFS unsupervised authority to author the only record of any
10 foreclosures.
11

12 62. No independent SCA record provides evidence that the sale was authorized by the Board.

13 63. There is no entry in the SCA ownership record, the Resident Transaction report, that the
14 sale was held as RRFS reported; indeed, there is no SCA record that the property was foreclosed
15 at all.
16

17 64. The absence of any SCA accounting for the proceeds of the sale has resulted in RRFS'
18 100% proprietary control over all funds collected.

19 65. There is no independent SCA record to account for the \$63,100 proceeds.

20 66. There is no record that Thomas Lucas or Opportunity Homes ever owned the property.
21

22 67. SCA also objected on the grounds that it "violate(d)" third-party privacy rights without
23 specifying whose privacy rights would be violated.

24 68. Providing an SCA owner a copy of the notice of sale of an SCA property could not violate
25 a third-party's privacy rights if the intent of the notice was to hold a "public" auction.

26 69. SCA disclosures show that all SCA Board decisions were made in secret meetings such
27 that no SCA owner had any notice of any foreclosure sale.
28

1 70. I have a set of 2016 emails in which Jim Long, a former attorney and SCA Board member
2 in 2014, responded to my questions about SCA Board foreclosure decisions in 2014 that confirm
3 that the Boar carved out an exception to the normal standard operating procedures when it came
4 to foreclosures because that's how Red Rock and FSR told them it had to be done.
5

6 71. These emails make it clear that RRFS convinced very smart Board members that it was
7 their fiduciary duty, and a requirement of some unknown NRS 116 provision to keep strictly
8 confidential everything the Board did related to foreclosure of any particular property.
9

10 72. Since 2016 I have hundreds of pages of documents showing my repeated attempts to get
11 the Board to see the huge adverse consequences of letting debt collectors essentially steal
12 people's houses without notice.

13 73. All these attempts have been rebuffed on the advice of counsel.

14 74. Judicial notice is requested that SCA's counsel Clarkson is also the SCA debt collector.

15 75. SCA has had four debt collectors and every one of them has had serious conflicts of
16 interest.
17

18 76. In terms of this case, the managing agent holds the NRS 649 debt collection license d/b/a
19 Red Rock Financial.

20 77. show that all the foreclosure sale allegedly "publicly noticed even though had the Board
21 approved these in duly-called meetings, the Board is required to make the minutes available to
22 all owners.
23

24 78. This insistence on complete opacity enables the debt collector to usurp the authority of
25 the Board and to fraudulently conceal how much money its' making wielding the Board's power
26 and authority is one small example of how the attorney is conspiring with the debt collectors to
27 continue without detection abusive collection practices (unnecessary foreclosures without
28

1 notice, failure to provide mandated due process, retaliation against owners who complain) and
2 outright theft (unauthorized, unearned and excessive fees as well as failure to distribute the
3 proceeds from the sales).

4
5 79. Note that SCA disclosures stopped at SCA000643, and there were no SCA000644
6 through 654.

7 80. On March 14, 2014, I reported the irregularities and misconduct of counsels in this case
8 and in the whole HOA foreclosure racket in Nevada to the Nevada Attorney General.

9
10 81. I included the complaint as an exhibit to my 4/11/19 Opposition to Nationstar's Motion
11 for Summary Judgment against Jimijack and my counter-motion for summary judgment against
12 Jimijack in case 2-2019.

13 **The sale is void as it occurred after rejected assessment payments**

14 Red Rock's refusal of three assessment payments that cured the delinquency, paid authorized late
15 fees or paid above the super-priority amount invalidated the HOA foreclosure in its entirety.

- 16 1. Check 143 "\$300 for HOA dues" cured the delinquency and paid authorized late fees
17 through September 30, 2012
- 18 2. Miles Bauer tendered \$825 on May 9, 2013 when \$825 for nine months assessment was
19 delinquent as of April 30, 2013; the refused \$825 covered the assessments due and
20 owing for the period from 10/1/12 through 6/30/13.
- 21 3. On June 5, 2014 Leidy forwarded to Red Rock, NSM negotiator Duran's May 28, 2014
22 messaged that NSM would pay \$1,100 max to the HOA.
- 23 4. Red Rock's refused to accept NSM's offer of one year of assessments needed to close
24 escrow on MZK's \$350,000 winning bid,(plus \$17,500 buyer's premium) that was
25 accepted by Tobin on 5/8/14 as the high bid on the www.auction.com sale.
- 26 5. Red Rock gave no notice that it rejected these assessment payments to the Board, to the
27 owner, to the listing agent, the Title Company.
- 28 6. I did not receive any of the notices in SCA000176-643 that Red Rock claims were sent

- 1 except those that I forwarded to BANA, Proudift, or Leidy.
- 2 7. I received no notice whatsoever of anything from Red Rock after the 2/12/4 notice of the
- 3 3/7/14 sale that did not happen.
- 4 8. There are no proofs of service in SCA000176-643 or in RRFS0001-000425 that support
- 5 Red Rock's claims to have provided notice.

6 **Declaration on Sun City Anthem's misrepresentation of SCA's duty to Nona Tobin**

- 7 1. SCA CC&Rs define the SCA Board as a "Bound Party" as is Nona as an individual.
- 8 2. SCA CC&Rs require "Bound parties" to abide by CC&Rs XVI Limits on Litigation
- 9 3. SCA never answered Tobin's 2/1/17 complaint on its merits.
- 10 4. SCA attorney Ochoa filed a non-responsive answer to Tobin's 2/1/17 complaint 14
- 11 months past the EDCR deadline, on April 20, 2018.
- 12 5. SCA attorney never responded to the March 3, 2017 motion to void the sale on its
- 13 merits and got the new counsel of record to withdraw it and it was never dealt with on its
- 14 merits
- 15 6. SCA attorney knowingly misrepresented to the Court that the unverified,
- 16 uncorroborated Red Rock foreclosure file (SCA00176-SCA 000643) was SCA's official
- 17 undisputed record of a) notices provided to Tobin, b) Board approval to pot the property for
- 18 sale, all accounting for assessments, and how and when the proceeds of the sale were
- 19 distributed)
- 20 7. SCA never denied any of the substance of Tobin's motion to void the sale
- 21 8. SCA misrepresented the court record so as to diminish Tobin's ability to speak for
- 22 herself and to get substantial evidence the contradicted Ochoa's oral arguments out of the
- 23 court's consideration.
- 24 9. Ochoa filed an unwarranted MSJ which would gain nothing for the HOA that Nona
- 25
- 26
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1 hadn't offered to give in March 2017 without litigation

2 10. Ochoa has disrupted the court's ability to fairly adjudicate a title dispute that SCA
3 owed a duty to Tobin to be at least neutral.

4 11. David Ochoa concealed the April 27, 2012 Red Rock contract in discovery and
5 disclosed the 2007 contract that has an indemnity clause that is favorable to Red Rock and
6 unfavorable to SCA owners and to the Association as a whole.

7 12. David Ochoa concealed all SCA records requested by Nona's ROGs and RFDs.

8 13. Nona made an effort to make SCA's 3/22/17 motion to dismiss for no attorney moot,
9 Nona informed David Ochoa on 3/27/17 that she had transferred the title into her name so
10 his motion to force her to have an attorney was moot.
11

12
13 "Also, your motion to force me to get an attorney, besides having already
14 been adjudicated, is now moot.

15 Steve Hansen has signed a declaration disclaiming any interest in the
16 property or in the Gordon B. Hansen Trust. Therefore, as the Trustee and
17 sole beneficiary, I am executing a quit claim deed to the property to transfer
it from the Gordon B. Hansen Trust to myself as an individual."

18 14. See court minutes for March 28 2017 to see how David Ochoa works in conjunction with
19 speculators and debt collectors to the detriment of an SCA owner who is trying to get an issue
20 resolved by ADR and Ochoa and attorney for the alleged purchaser prevented Nona Tobin
21 from getting a requested EDCR 2.51 conference

22 15. I had requested the conference to try to get the issue resolved before I was elected to the SCA
23 Board in May 2017, but SCA attorneys prevented it being resolved amicably in 2017 and then
24 declared my elected board set vacant on August 24, 2017, and me permanently ineligible to
25 sit on the Board as long as this case could still be appealed.

26
27 Upon Court's inquiry, both Mr. Medrala and Ms. Ochoa state a **settlement**
28 **conference would not be helpful at this time.** COURT ORDERED, matter
CONTINUED to 4/ 27 /17 at 9:30 am.

1 16. Court minutes from 4/27/17 SCA show 3/22/17 motion to dismiss for not having an
2 attorney was DENIED as to Nona an individual but Ochoa never entered an order and did
3 not inform the Court of this when she inquired as to the history of Nona in the case as an
4 individual.
5

6 SUN CITY ANTHEM COMMUNITY ASSOCIATION'S MOTION TO DISMISS
7 NONA TOBIN, AN INDIVIDUAL AND TRUSTEE OF THE GORDON B
8 HANSEN TRUST'S CROSS ...

9 Matter argued and submitted. COURT ORDERED, Motion DENIED WITHOUT
10 PREJUDICE as to Nona Tobin as an individual; Ruling DEFERRED as to Nona
11 Tobin as a Trustee of the Gordon B. Hansen Trust. COURT FURTHER ORDERED,
12 Status Check SET.

13 17. Court minutes from 5/25/17 dismissed all individual and trust claims to go to NRS
14 38.310 mediation except quiet title – no ruling was ever entered on the issue of Tobin as
15 trustee of a trust with only a single member and single beneficiary being ordered to have an
16 attorney and the requirement was already denied on 4/27/17 as to Nona.

17 18. All of this could have been avoided if SCA attorneys had allowed Nona' and
18 the SCA Board to meet and confer in good faith, investigate the true facts and may
19 an amicable resolution in 2017.

20 STATUS CHECK: CORPORATE COUNSEL (GORDON B. HANSEN TRUST)
21 SUN CITY ANTHEM COMMUNITY ASSOCIATION'S MOTION TO DISMISS
22 NORA TOBIN, AN INDIVIDUAL AND TRUSTEE OF THE GORDON B.
23 HANSEN TRUST' S CROSS-CLAIM

24 Court noted corporate counsel filed a Notice of Appearance. Upon Court's inquiry
25 regarding status of case, Mr. Coppedge spoke with Mr. Ochoa yesterday and has
26 reread the motions. Mr. Coppedge concurs with the Motion to Dismiss, until time
27 for mediation, that all claims for relief and cross claims, except for quiet title be
28 dismissed without prejudice. Mr. Coppedge stated he was inclined to file an
amended cross claim to resolve any issues. Colloquy regarding procedural history
of the case. Mr. Ochoa stated they have no claim to quiet title; therefore, that claim
should not keep them in the case pending NRED mediation. Court stated its
inclination. Colloquy. As to Nona Tobin's countermotion to void the sale, Mr.
Coppedge WITHDREW motion without prejudice. Mr. Ochoa stated she filed two

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countermotions. COURT ORDERED, GRANTED IN PART, DENIED IN PART. COURT ORDERED, countermotions filed March 3 and March 31 WITHDRAWN WITHOUT PREJUDICE, at the request of counsel. COURT ORDERED, Motion to Dismiss GRANTED, pursuant to stipulation of parties to all claims other than quiet title; DENIED WITHOUT PREJUDICE with regards to the quiet title claim. The Court takes no position on the propriety of any actions that may have happened after the crossclaim.

19. SCA attorneys have abridged my rights as an individual owner to use ADR to resolve disputes, and then they have interpreted NRS 116.31034 in a convoluted way so to justify retaliating against me when I exercised the only option left open – civil action.

NRS 116.4117 gives a unit owner the right to file a civil action against the association

NRS 116.4117 Effect of violations on rights of action; civil action for damages for failure or refusal to comply with provisions of chapter or governing documents; members of executive board not personally liable to victims of crimes; circumstances under which punitive damages may be awarded; attorney’s fees.

1. Subject to the requirements set forth in subsection 2, if a declarant, community manager or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply may bring a civil action for damages or other appropriate relief.

2. Subject to the requirements set forth in [NRS 38.310](#) and except as otherwise provided in [NRS 116.3111](#), a civil action for damages or other appropriate relief for a failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

- (a) By the association against:
 - (1) A declarant;
 - (2) A community manager; or
 - (3) A unit’s owner.

**(b) By a unit’s owner against:
(1) The association;**

By exercising this right, I have been severely harassed and retaliated against by SCA attorneys, including removing me from my elected board set without a removal election and declaring me ineligible until all appeals have been exhausted

The court also received notice of the change of Nona’s title in a Pro Se pleading dated April 4, 2017

1 The instant motion has been necessitated to correct errors precipitated by attorney misconduct
2 and misrepresentations and errors introduced by opposing counsels who deceived the Court by
3 acting in bad faith, with the obvious

4
5 "intention to take advantage of the opposing party, interfere with judicial
6 decision-making, or otherwise manipulate the legal process." TCI Group, 244
7 *F.3d at 697*

8 **The basis for the Court's ruling that the individual had no standing was based on attorneys**
9 **misleading the Court about the procedural record.**

10 20. On February 5 2019 SCA filed a completely unwarranted MSJ that provided less benefit
11 to SCA or the SCA membership that was in my March 2017 offer that Ochoa rejected
12 unilaterally without telling the SCA Board or asking for BOD approval as required by SCA
13 CC&Rs and bylaws.

14 21. Ochoa's MSJ, defended Red Rock when he had to know that large portions of that file
15 were deliberately deceptive and provably false.

16 22. The 2/5/19 MSJ was unwarranted and done for an improper purpose. Nona Tobin, the
17 individual, is using this declaration and this motion to intervene to serve notice of her intent in
18 21-days to move for Rule 11(b)(1)(3) sanctions against David Ochoa and Lipson Neilson

19
20 23. I encourage the court to require the attorneys in this case to speak to the Court only under
21 oath.

22 24. David Ochoa filed against the SCA motion for summary judgment against Nona Tobin,
23 as Trustee, and there was no MSJ was filed against Nona Tobin, as an Individual.

24
25 25. This places Nona Tobin, an individual in the boxed in position of being severely
26 impacted by an order that she cannot appeal because it is not against her as an individual. The
27 same is true of the trial order.
28

1 26. Nona Tobin was prevented from speaking for herself and the Court adopted an
2 outrageously false set of “undisputed facts” that practically gifts the quiet title fight between
3 Tobin and Jimijack to Jimijack.

4
5 27. Ochoa filed the SCA motion for summary judgment against Nona Tobin, as Trustee, and
6 was no MSJ was filed against Nona Tobin, as an Individual.

7 28. Ochoa’s motion was filed without incorporating any affidavits or evidence compliant
8 with EDCR 2.21 to support his alleged “facts” “Unwarranted”- Ochoa refused without the BOD
9 considering, my March 2017 settlement offer to void the sale if the facts so warranted, that
10 required only BOD stipulating to certain facts, e.g., that the BOD did not approve its agents’
11 unlawful acts or that no one on the current or any prior BOD took any money.
12

13 29. SCA never investigated and never answered Tobin’s claims on their merits. SCA did not
14 challenge the Ombudsman Notice of Sale records. Without warning, SCA presented the
15 unverified, uncorroborated Red Rock Foreclosure file would be presented to the court as SCA’s
16 official record instead of Board agendas, minutes, resident transaction report, SCA compliance
17 enforcement records or any did not answer Tobin’s 2/1/17 complaint within 20 days as EDCR
18 requires.
19

20 30. SCA’s 4/20/18 answer was 14 months late, did not refute Tobin’s facts substantively.

21 31. CC&Rs XVI required ADR was not provided.

22 32. SCA did not participate in good faith in NRS 38 mediation.

23 33. SCA concealed all requested documents three weeks before the end of discovery when
24 virtually all material facts were known to be in dispute.
25
26
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28

1 34. SCA files the unwarranted, unnecessary MSJ based on no admissible verified evidence,
2 that, when granted, prevented the court from hearing Tobin's evidence and virtually guarantee
3 she loses the house that he forced her to spend three years and \$40,000 to try to get back.
4

5 **Declaration regarding the case procedural history**

6 1. The Gordon B. Hansen Trust (Herein "*GBH Trust*") Trust was the owner of the Subject
7 Property until title was taken as the result of the August 15, 2014 foreclosure sale that is the
8 center of the dispute in case A-15-720032-C, originally Jimijack Irrevocable Trust vs. Sun City
9 Anthem and Bank of America (BANA). Jimijack inexplicably never served Sun City Anthem
10 and, equally inexplicably, did not name Wells Fargo (WF) or Nationstar (NSM) in its June 16,
11 2015 complaint. NSM

12 2. On December 1, 2014 NSM recorded that NSM had BANA's power of attorney, to assign
13 the BANA's beneficial interest of the disputed Western Thrift Deed of Trust (DOT) to itself.

14 3. Jimijack also did not sue WF that held all of BANA's interest, if any, in the DOT, effective
15 August 21, 2014, and recorded on September 9, 2014.

16 4. These inconvenient truths were ignored throughout the three years of unwarranted filings
17 by NSM and SCA to get rid of Nona Tobin, in whatever role.

18 5. Multiple efforts to "reform the caption" were made without any input from Nona Tobin,
19 who had been silenced along the way, by the errors, omissions and deliberate misrepresentations
20 made by all the attorneys who have made appearances in the case.

21 6. The previous Orders of this Court that have been **ignored** to Tobin's detriment and only
22 provided benefit to Jimijack and NSM should be noted:

23 7. 10/16/15 Entry of the order of default judgment against BANA **and its assignees**

24 8. 6/8/17 Entry of order denying NSM's motion to set aside the 10/16/15 default judgment
25 and the motion to substitute NSM for BANA as the real party in interest. The only portion of
26 NSM's that was granted was to intervene on Jimijack's closed case.

27 9. Judicial notice is requested of the fact that NSM filed its quiet title complaint against
28 Opportunity Homes on 1/11/16, after Opportunity Homes recorded on 6/9/15 that it had
transferred its title interest to F. Bondurant LLC , and , a few minutes later, Jimijack's only

1 recorded ownership claim, albeit fraudulently executed and inadmissible, was also recorded on
2 6/9/15.

3 10. That neither Jimijack nor NSM filed claims against each other in the first instance when
4 the other was the titleholder of record and neither have filed claims against SCA is significant.
5 As is the fact that SCA and NSM have ganged up on Tobin and filed multiple unwarranted
6 motions, oppositions, and joinders to hurt Tobin and help Jimijack.

7 11. The court ordered that the caption was to be reformed so that going into the June 5 trial,
8 the only party with claims to adjudicate was the Gordon B. Hansen Trust, Nona Tobin Trustee,
9 claimant, counter-claimant vs. Jimijack Irrevocable Trust, Joel and Sandra Stokes, Trustees,
10 counter defendant and Yuen K. Lee, an individual, and F. Bondurant, LLC.

11 12. Nona Tobin, an individual, was sanctioned on April 23 2019 pursuant to rule 11a for filing
12 a NOTA as a Pro Se on April 9 before counsel of record filed his consent to withdraw in the
13 proper format. The sanction was a court order to strike her six April 2109 filings as a Pro Se that
14 included an

- 15 a. 4/12/19 Opposition to NSM's 3/21/19 MSJ against Jimijack (filed dismissing unjust
16 enrichment claim instead of filing a default anytime after Jimijack failed to respond to
17 NSM's 2016 AACC) and a countermotion for summary judgment against Jimijack with
18 exhibits totaling 245 pages, that included attorney general complaint 2-2019, filed on
19 3/14/19 and served on respondent NSM
- 20 b. 4/17/19 RPLY in support of MSJ against Jimijack with exhibits totaling 621 pages,
- 21 c. Notice of Completion of Mediation, that included a four-page listing of all the harassment
22 and unwarranted actions SCA has taken against Nona Tobin, as an individual, for being a
23 party to this quiet title litigation that she is only in because the attorneys did not allow the
24 SCA Board and Nona Tobin engage in ADR in 2017 to settle her claims without litigation
25 and SCA has never investigated nor answered Tobin's claims on their merits and has
26 concealed and misrepresented SCA's official records to the Court.
- 27 d. 4/24/19 motion to vacate the SCA MSJ and the NSM joinder for insufficient evidence per
28 rule 59 and for fraud on the court rule 60.

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I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct

Dated the _____ day of June 2019,

Nona Tobin

1 **NONA TOBIN**
2 **2664 Olivia Heights Avenue**
3 **Henderson NV 89052**
4 **Phone: (702) 465-2199**
5 **nonatobin@gmail.com**
6 ***Defendant-in Intervention/ Cross-Claimant***
7 ***In Proper Person***

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 **JOEL A. STOKES and SANDRA F.**
11 **STOKES, as trustees of the JIMI JACK**
12 **IRREVOCABLE TRUST,**

13 **Plaintiffs,**

14 **vs.**

15 **BANK OF AMERICA, N.A.,**
16 **Defendant.**

17 **NATIONSTAR MORTGAGE, LLC,**
18 **Counter-Claimant,**

19 **Vs.**

20 **JIMI JACK IRREVOCABLE TRUST;**
21 **Counter-Defendant**

22 **NONA TOBIN, an individual, Trustee of**
23 **the GORDON B. HANSEN TRUST,**
24 **dated 8/22/08**

Cross-Claimant,

vs.

JOEL A. STOKES and SANDRA F.
STOKES, as trustees of the JIMI JACK
IRREVOCABLE TRUST; SUN CITY
ANTHEM COMMUNITY
ASSOCIATION, INC., Yuen K. Lee, an
individual, d/b/a Manager, F. Bondurant,
LLC, and DOES 1-10 AND ROE
CORPORATIONS 1-10, inclusive

Cross-Defendant.

Case No.: A-15-720032-C

Consolidated with: A-16-730078-C

Department: XXXI

MOTION TO VACATE SUN CITY
ANTHEM MOTION FOR SUMMARY
JUDGMENT AND NATIONSTAR
MORTGAGE JOINDER THERETO
AND COUNTERMOTION FOR
SUMMARY JUDGMENT

1 COMES NOW, NONA TOBIN, an Individual, Defendant-in Intervention/ Cross-
2 Claimant, appearing henceforth in proper person, hereby submits the following Motion to
3 vacate the Sun City Anthem Motion for Summary Judgment and Nationstar Mortgage, LLC's
4 Joinder Thereto, entered on April 17, 2019, pursuant to RNRCP Rule 60(b).

5 A Counter Motion For Summary Judgment Against Sun City Anthem is incorporated
6 herein. This motion is based on all papers and pleadings on record herein, and any oral
7 arguments the court may consider at the time of hearing on this matter.

8 **I. Hearing requested to coincide with pending motions to prevent fraud**

9 1. Tobin petitions this court to hear this motion to vacate the April 17, 2019 Order and the
10 counter motion herein with all other pending motions on a date outside of May 2 -May 9, 2019
11 prior to the May 28, 2019 date set for trial.

12 2. Jimijack and NSM are perpetrating a fraud upon this Court, i.e., to conceal that they have
13 no admissible evidence to support their claims of ownership. They are employing procedural
14 sleights of hand to prevent the court from hearing Tobin's evidence against them. It is for this
15 reason that Tobin petitions the court to consider all pending motions simultaneously when all
16 parties are present with Tobin appearing as a Pro Se.

17 3. Tobin earlier requested that the court hear her April 12, 2019 Opposition to Nationstar
18 Mortgage's (NSM's) Motion for Summary Judgment against Jimijack Irrevocable Trust
19 (Jimijack) and Countermotion against Jimjack on April 23, 2019 in conjunction with NSM's
20 motion for summary judgment against Jimijack

21 4. Jimijack did not file any opposition to NSM's March 21, 2019 motion for summary
22 judgment.

23 5. To date, Jimijack has not filed any opposition to Tobin's April 12, 2019 motion for
24 summary judgment.

1 6. NSM filed a notice of settlement between NSM and Jimjack on April 12, 2019 that must
2 be rejected by this Court to prevent NSM gaining standing to foreclose on a deed of trust it does
3 not own and a promissory note it does not hold.

4 7. On April 15, 2019, NSM filed a (SAO) stipulation and order that extended the briefing
5 schedule and continued the hearing from April 23, 2019 to May 7, 2019, without notifying
6 Tobin whose opposition was pending.

7 8. On April 22, 2019, Jimijack filed a NTSO to enter the stipulation and order that continued
8 the April 23, 2019 hearing to May 7, when Tobin is unavailable and unfairly permits Jimijack
9 to evade answering Tobin's April 12 Motion for summary judgment without Tobin's knowledge
10 or consent.

11 **II. MOTION TO VACATE ORDER , APRIL 17, 2019, PURSUANT TO**
12 **NRCF RULE 60 (b) Relief From a Judgment or Order**

13 **(b) Grounds for Relief From a Final Judgment, Order, or Proceeding.**
14 On motion and just terms, the court may relieve a party or its legal
15 representative from a final judgment, order, or proceeding for the following
16 reasons:

17 (1) mistake, inadvertence, surprise, or excusable neglect;

18 (3) fraud (whether previously called intrinsic or extrinsic),
19 misrepresentation, or misconduct by an opposing party;

20 (6) any other reason that justifies relief.

21 **III. SCA AND NSM DID NOT MEET THEIR BURDEN PURSUANT TO**
22 **RULE 56(C) OF NO DISPUTED MATERIAL FACTS**

23 The court shall grant summary judgment if the movant shows that there is
24 no genuine dispute as to any material fact and the movant is entitled to
judgment as a matter of law. The court should state on the record the reasons
for granting or denying the motion.

A. Facts listed in Findings of Fact are Disputed

1 9. Tobin disputes, and offers evidence to refute the listed facts 1,2,4,5,6,7,8,9,10,11,12,
2 13,14,15,16,17,18,19,20,21,22,23,25,26,27, 28, 29, 30, 31, 32, 33, 34, 35, 36.

3 10. Tobin petitions the Court to weigh all parties' evidence for admissibility and credibility
4 according to the same standards.

5 **B. Evidence Presented to Dispute "Findings of Fact"**

6 11. Sworn affidavits or declarations, made by Nona Tobin under penalty of perjury have been
7 filed into this case or to State enforcement officials, dated on or about 9/23/16, 1/10/17, 9/2/17,
8 3/5/17, 5/11/18, 3/5/19, 3/14/19, and 4/14/19 that have demonstrated the existence of disputed
9 facts.

10 12. Tobin's 3/5/19 Opposition to the Motion for Summary judgment contained a declaration
11 made under penalty of perjury that identified many more disputed facts that were not considered
12 by Counsel due to SCA attorney Ochoa's failing to properly inform the Court that he had agreed
13 to an extended deadline to file the opposition as SCA had not responded to Tobin's requests for
14 documents.

15 13. Declaration made by Craig Leidy, dated May 11, 2018, to support Tobin's motion for
16 summary judgment, that Tobin's counsel of record did not present previously to the Court is
17 incorporated with this motion.

18 14. The Leidy declaration specifically refutes RRFS' claim that it provided Leidy or Tobin
19 notice of the August 15, 2014 sale.

20 15. In addition, Leidy states under oath that the sale was extended more than three times.

21 16. Ombudsman Compliance Screen, authenticated on 4/15/19, as official public record of
22 Nevada Real Estate Division from database of all 2009 - 2014 notices of sale and HOA
23

24

1 foreclosure deeds submissions made as required by NRS (2013)116.311635 and
2 NRS116.31164(3)(b).

3 17. See Exhibit for a summary of evidence entered into the case to support pending motions.
4

5 **C. Per rule 56(d) Tobin petitions court to admit authenticated records previously**
6 **excluded**

7 18. The Ombudsman Compliance Screen, excluded and deemed inadmissible at the March
8 26 hearing was authenticated on 4/15/19 by Terralyn Lewis (fka Thompson), Administration
9 Section Manager, and is provided herein.

10 19. The compliance screen is the Ombudsman's contemporaneous log of letters, notices, and
11 deeds submitted to the State of Nevada Real Estate Division for any HOA foreclosure.

12 20. The Ombudsman Compliance Screen authenticated provides the only official record
13 available to the public documenting the notice of sale process and foreclosure of 2763 White
14 Sage.

15 21. Per the NRED Records Retention schedule, the physical records submitted are securely
16 destroyed after one year so none of these 2014 physical documents have survived to the present.

17 22. The Ombudsman is required to maintain the database of all records, including notices of
18 sale and HOA foreclosure deeds that were submitted to the Ombudsman for HOA foreclosure
19 that occurred between 2009-2014 as required by NRS (2013)116.311635 and
20 NRS116.31164(3)(b) which is the source of the document submitted to the Court.

21 **D. SCA waived its objection to the admissibility of the Ombudsman's Compliance**
22 **Record by failing to object to it for nearly three years**

23 23. Tobin obtained the Ombudsman Compliance Screen from Terralyn Thompson (now
24 Lewis) on May 26, 2016 pursuant to a public records request.

1 24. Tobin first presented it to SCA in 2016 and used it as the basis of her February 1, 2017
2 complaint.

3 25. SCA did not file an answer to Tobin's 2017 complaint until April 20, 2018, and did not
4 answer specifically or object to the Ombudsman compliance screen.

5 26. SCA had never challenged the authenticity of TOBIN00080, the Ombudsman's Notice
6 of Sale Compliance Screen, which was included with in Tobin's 8/20/18 Statement Disputed
7 Issues submitted with her NRS 38 claim for mediation and in Tobin pleadings and disclosures
8 filed into this case on 2/1/17, 3/3/17, 4/10/17, 7/13/18, 11/30/18, 2/27/19 and 3/5/19.

9 **E. Per rule 56(c)(2) Tobin raises an objection to SCA's allegations are not supported**
10 **by admissible evidence**

11 **NRCP 56(c)(2) Objection That a Fact Is Not Supported by Admissible**
12 **Evidence.** A party may object that the material cited to support or dispute
13 a fact cannot be presented in a form that would be admissible in evidence.

14 **F. Sun City Anthem evidence does not meet the Rule 56 (c)(4) standard re supporting**
factual positions

15 (4) **Affidavits or Declarations.** An affidavit or declaration used to support or
16 oppose a motion must be made on personal knowledge, set out facts that would
17 be admissible in evidence, and show that the affiant or declarant is competent
18 to testify on the matters stated.

19 **NRS 47.190 Determination on evidence of basic facts.** When a
20 presumption is made conclusive by statute or no direct evidence is
21 introduced contrary to the existence of the presumed fact, the question of
22 the existence of the presumed fact depends upon the existence of the basic
23 facts and is determined as follows:

24 1. If reasonable minds would necessarily agree that the evidence
renders the existence of the basic facts more probable than not, the judge
shall direct the jury to find in favor of the existence of the presumed fact.

2. If reasonable minds would necessarily agree that the evidence does
not render the existence of the basic facts more probable than not, the judge
shall direct the jury to find against the existence of the presumed fact.

1 27. SCA's evidence should be viewed with suspicion as it is based entirely on the unverified,
2 uncertified testimony of the debt collector.

3 28. SCA attorneys have withheld, concealed, or misrepresented all evidence that refutes the
4 Red Rock version of reality, including SCA's official records.

5 29. Tobin objects to SCA000176-SCA000643 Red Rock Foreclosure File being entered as
6 SCA's official record and used as evidence of "undisputed facts".

7 30. Tobin has proffered substantial certified and sworn evidence to refute the many
8 misrepresentations and outright falsifications that are contained in SCA000176-SCA000643
9 Red Rock Foreclosure File that has not been fully presented to the Court due to errors and
10 omissions by the Counsel of Record.

11 31. The Court has SCA attorneys misrepresentation of the RRFS file as the SCA official
12 record is comparable to a cop letting his criminal buddy write the police report that exonerated
13 him so no other cop could investigate the crime.

14 32. SCA Board meeting agendas and minutes, conforming to statutes and certified by the
15 secretary of the Board as accurate and complete, and mandated accessible to all owners, are the
16 ONLY OFFICIAL RECORD of the corporate acts of the Board.

17 33. "SCA000176- SCA000643, the Red Rock Foreclosure file" was filed into this case by
18 the SCA attorneys, without corroboration, verification or certification as SCA's official, and
19 only, record of actions leading up to the sale.

20 34. SCA attorney Ochoa has presented to the Court the RRFS Foreclosure file and
21 deceptively characterized it as the official record of SCA Board action.

22 35. Sun City Anthem did not present to the Court ANY sworn affidavits or declarations made
23 under penalty of perjury to support the allegations, erroneously called undisputed facts, in the
24 4/17/19 Order.

1 36. The only evidence SCA presented to the court purporting to establish facts asserted to
2 justify the motion for summary judgment was SCA000176-SCA000643 “Red Rock
3 Foreclosure File” without any authentication of the veracity or accuracy of the record that told
4 only RRFS’ version of events.

5 37. The SCA evidence used to support the motion for summary judgment is insufficient to
6 meet the rule 56(c)(4) standard as there were no affidavits by any independent person that
7 established its veracity.

8 38. SCA attorney Ochoa withheld in discovery SCA official records that were requested by
9 Tobin.

10 39. SCA attorney Ochoa withheld from the Court ALL SCA’s official certified records.

11 40. SCA attorney Ochoa misrepresented RRFS’s unverified foreclosure file to the Court as
12 if was legitimately the SCA official record and the only record the Court needed to consider.

13 41. SCA000176-SCA000643 is the “Red Rock Foreclosure File”, it is not in any legal way
14 the official record of SCA Board action.

15 42. SCA000176-SCA000643 Red Rock Foreclosure File” is unverified, uncorroborated by
16 any independent source, and is without legal authority to be characterized as SCA’s official
17 record.

18 43. SCA000176-SCA000643 Red Rock Foreclosure File” is contradicted by SCA’s actual
19 official records, i.e., SCA Board agendas and minutes, certified by the SCA Board President
20 and Secretary as accurate and complete.

21 44. SCA attorney has repeatedly blocked Tobin from acquiring or presenting to the Court,
22 present the SCA official record to the Court to show that the Red Rock Foreclosure file is
23 refused production of these documents in
24

1 45. SCA's official ownership record, the Resident Transaction Report, and the SCA Board
2 agendas and minutes were withheld in discovery.

3 46. SCA attorney Ochoa did not present to the court any authenticated or certified SCA
4 Board minutes as evidence of SCA Board decisions and actions leading up to the foreclosure
5 sale .

6 47. SCA attorneys, without any legal authority, put SCA Board's imprimatur on the words
7 and acts of Red Rock Financial Services, and represented it to the Court as SCA's official record
8 of the Board actions leading up to the foreclosure.

9 48. This misrepresentation, and failure to disclose, effectively allowed Red Rock Financial
10 Services to create a version of reality for the Court's eyes that is contradicted by the SCA official
11 records.

12 49. SCA attorneys have withheld in discovery SCA's actual official records of this sale and
13 other SCA foreclosures.

14 50. SCA's response to Tobin's Request for Production was to conceal and misrepresent the
15 evidence that there are no SCA Board minutes that document any SCA Board motion, second,
16 or vote to authorize the sale of 2763 White Sage.

17 51. SCA attorney falsely claimed in the response to Tobin's demand for production that
18 SCA000644-SCA000654 contained Board Meeting Minutes that documented the Board's
19 authorization of the sale.

20 52. This is false because SCA's disclosures ended on SCA000643.

21 53. SCA000644-SCA000654 were not disclosed or presented to the Court.

22 54. SCA has placed nothing into evidence, no certified official SCA record that corroborates
23 SCA000176-SCA000643 Red Rock Foreclosure File.

24

1 55. SCA attorneys' duplicity, covering up the wrongdoing of Red Rock Financial Services,
2 and falsely accusing Tobin of unclean hands is presented herein as grounds for vacating the
3 order pursuant to NRCP 60 (b)(3).

4
5 **G. NSM evidence does not meet the Rule 56 (c)(4) standard re supporting factual**
6 **positions**

7 (4) **Affidavits or Declarations.** An affidavit or declaration used to support or
8 oppose a motion must be made on personal knowledge, set out facts that would
be admissible in evidence, and show that the affiant or declarant is competent
to testify on the matters stated.

9 **56. NSM's Joinder p. 3, lines 4-7 states**

10 "adopt(ed) the (SCA's) statement of undisputed material facts, arguments,
11 and legal authority... to the extent they establish the absence of a genuine
12 issue of material fact"

13 57. NSM did not proffer any affidavit, declaration, or any other evidence to establish NSM
14 had any specific knowledge to support the NSM claim that '*the HOA conducted a proper*
foreclosure'.

15 58. Tobin has submitted sworn affidavits and declarations based on personal knowledge that
16 SCA did not provide her the notice and due process mandated by the SCA CC&Rs.

17 59. NSM attorneys do not have any personal knowledge of SCA's actions in relation to
18 Tobin's rights, or even what Tobin's rights are.

19 60. Tobin made a declaration, dated March 14, 2019, and filed with the Nevada Attorney
20 General, made under penalty of perjury, to demonstrate that NSM does not have admissible
21 evidence to establish it owns the Western Thrift deed of trust and is fraudulently using this civil
22 action to attempt to trick the Court into granting NSM quiet title, thereby creating an ownership
23 interest out of thin air.
24

1 61. The Court has not required NSM to produce admissible evidence to refute Tobin’s claims
2 that NSM has recorded false affidavits to make fraudulent claims against title and that NSM
3 cannot establish it has standing to foreclose by meeting the anti-foreclosure fraud requirements
4 entered into NRS 107 by AB 284 (2011).

5 **H. The entire sale is void due to SCA’s rejection of \$825 that would have cured the**
6 **default, not just the super-priority portion**

7 62. NSM did not proffer any evidence to establish or provide any citations to support NSM’s
8 distinction it made to assert that “the HOA conducted a proper foreclosure of the sub-priority
9 portion of its lien”.

10 63. SCA did not cite any authority to support its conclusion that the sale was valid to
11 extinguish Tobin’s ownership rights for reasons NSM had no knowledge of, but the sale void
12 and did not extinguish the deed of trust.

13 Quoting from Resources Group v. Nevada Association Services,

14 A foreclosure sale on an NRS Chapter 116 homeowners' association (HOA)
15 lien is void if, before the sale, the owner or deed-of-trust beneficiary cures
16 the default. Bank of Am., N.A. v. SFR Inus. Pool 1, LLC, 134 Nev., Adv.
17 Op. 72, 427 P.3d 113, 121 (2018) ("A foreclosure sale on [an HOA] lien
after valid tender satisfies that lien is void, as the lien is no longer in
default.").

18 64. Even if NSM’s argument were correct, it is misleading to the Court to provide the benefit
19 of this interpretation to NSM that has not provided any evidence it actually owns. the security
20 interest that constitutes the super-priority portion of its lien.

21 65. The Exhibits to the 2/12/19 joinder relate solely to the undisputed fact that the HOA
22 rejected the Miles Bauer’s 5/9/13 tender of \$825

1 **IV. CONCLUSIONS OF LAW WERE TOO NARROWLY CONSTRUED**

2 *When sitting in equity, courts must consider the entirety of the circumstances that bear upon*
3 *the equities.*

4 66. SCA alleged that its agent RRFS complied with the notice requirements specifically
5 delineated in NRS 116.3116 et sec. as evidenced by SCA000176-SCA000643.

6 67. The Court concurred that SCA was entitled to summary judgment as a matter of law.

7 68. Tobin petitions the Court to weigh the substantial evidence presented to refute SCA's
8 claim that RRFS actually did comply with all the requirements of NRS 116.3116 et sec.

9 69. Judicial notice is requested of the relevant provisions of SCA governing documents and
10 NRS chapters 38, 111, 116, 116A, 205, and 240 that are applicable in this case.

11 70. The Order also granted SNSM's joinder despite NSM presenting no evidence whatsoever
12 to support its claim that the sale was valid to extinguish Tobin's ownership rights but was void
13 to extinguish the security interests that, without evidence, NSM claims to own.

14 71. By focusing solely on the foreclosure statutes, the Court did not consider that these other
15 laws are relevant when weighing superiority of title between specific parties vying for quiet title
16 in this case.

17 72. The Court did not consider the notary laws or the statutes of fraud governing the transfer
18 of real property that were violated and rendered Jimjack's evidence of ownership inadmissible.

19 73. The Court did not consider the laws that prohibit NSM from making false claim of
20 ownership.

21 74. The Court ruled solely on RRFS' representation that it complied with the specific notice
22 requirements articulated in NRS 116.3116 et sec.,

1 75. The Court did not evaluate the entire legal framework that binds governs and binds SCA,
2 its agents, the banks, Jimijack and Tobin in different ways.

3 **A. Tobin does not have unclean hands by virtue of a single error of memory.**

4
5 76. SCA is justifying the surprise sale of a now-\$500,000 home for a \$2,000 debt that was
6 guaranteed to be paid by saying that a mistake of memory bars the deceased owner's estate from
7 relief.

8 77. SCA claimed that Tobin's mistake regarding the timing of the delivery of check 143 is
9 evidence of "unclean hands" and that the principle of equitable estoppel bar Tobin from relief.

10 78. Tobin pleadings filed into this case on 2/1/17, 3/3/17, 4/5/17, 4/10/17 and 11/30/18 and
11 into mediation on 8/20/18 and 11/6/18 included the statement that check 143 was delivered to
12 the HOA on 8/17/12 with a second check 142, stamped received on 8/17/12.

13 79. SCA produced evidence that Tobin saw for the first time on 12/26/18 that check 143 was
14 actually submitted on 10/3/12 with a letter to SCAHOA signed by Tobin that enclosed check
15 143.

16 80. Tobin Declaration contained herein stipulates that check 143 was submitted on 10/3/12
17 and not on 8/17/12, but that this is an insignificant failing when weighing the totally
18 disproportionate and unfair penalty that was imposed after SCA's agents refused to let the
19 delinquency be cured (two super-priority amounts rejected on 5/9/13 and 5/28/14 and from the
20 owner on 10/3/12) and the banks aggressively prevented the HOA being paid assessments as
21 Tobin intended (out of escrow opened on four market value sales).

22 81. Tobin urges the Court to weigh the abusive collection practices and unjust enrichment
23 gained by RRFS as well as the misrepresentations and dirty tricks of SCA attorney when
24 considering who has unclean hands.

1 82. The Declaration as well as previous pleadings and declarations filed into this case show
2 the SCA Board has been duped into to allowing its agents to become unjustly enriched and to
3 confiscate owners' property without notice or due process and that Tobin was provided no
4 effective notice of anything the association was doing related to her property.

5 83. SCA Board actions were all taken in secret.

6 84. RRFS conducted the sale without notifying any party with a known interest and without
7 giving the party with deeded property rights a chance to protect those rights by curing the trivial
8 debt or even knowing when to go to bid on equal footing at a public sale.

9 85. A finding that equitable estoppel bars Tobin from relief is unreasonable given the facts
10 of the case.

11 86. Tobin is an SCA homeowner who in fifteen years had only one late assessment payment
12 which occurred on August 17, 2012.

13 87. She made a mistake in thinking she had paid the assessments for her recently deceased
14 fiance's home at the same time, but paid those assessments immediately upon discovering that
15 she still had the check 143, dated August 17, 2012, in the checkbook.

16 88. When she paid the assessments with the check 143 she had written 47 days earlier, she
17 also notified the HOA that the property had been sold and that future assessments would be paid
18 out of escrow. She did not refuse to pay as SCA attorneys have mischaracterized her words.

19 89. Then for the next two years, she was hounded and harassed by the banks, at the same
20 time as they are blocking her ability to close escrow four times.

21 90. Meanwhile, the HOA and the debt collector decide everything they are going to do about
22 her property in secret and never speak to her or provide any written notice whatsoever in the six
23 months leading up to the sale.

24 91. Her property was confiscated without any notice or a chance to protect it.

1 92. When she has tried to remedy the situation, the HOA attorneys ruthlessly blocked her
2 ability to handle this dispute without litigation, and then forced her to get an attorney which has
3 cost her \$40,000 in addition to at least \$10,000 in other costs and had to invest three years of
4 hard work to keep the costs going over the value of the Property.

5 93. In this civil action, all of the opposing counsels have tried every trick in the book to keep
6 her motions from being heard on their merits, and misrepresented the facts to the court,
7 concealing documents, making side deals, and worse.

8 94. The Court has tolerated a lot of procedural irregularities and untimely responses that have
9 been denied to Tobin at least partially because of Trust's counsel's equally unacceptable
10 practice of failing to timely file pleadings Tobin has drafted.

11 95. Tobin petitions the Court to consider that the necessary elements of equitable estoppel
12 have not been met to bar Tobin from relief when it is she who has suffered a disproportionate
13 penalty 200 times the debt owed

14 96. Tobin has made no claims for damages so SCA really doesn't have a dog in this fight.
15 So why spend so much money to make sure Tobin's claims aren't heard?

16 97. What does SCA accomplish by this brutal attack on one of its long-standing members in
17 good standing. It just leaves the Court with a quiet title dispute between Jimijack, who is not a
18 bona fide purchaser for value and who does not have a recorded deed that is admissible as
19 evidence that its claim to ownership is superior to Tobin's, and who is colluding with NSM to
20 walk away from this deal with four years of rent profits.

21 98. If the sale is voided, Nationstar's claims against SCA are moot, and Nationstar is not
22 prejudiced in any way, as its rights to foreclose according to NRS 107 exist exactly as they did
23 the day before the sale. Only NSM would have to foreclose on Tobin who knows, but is not
24 playing, their game.

1 99. So why is NSM pulling all these procedural dirty tricks to get Tobin out of the case?
2 Simple answer. NSM has no standing to foreclose and can only get it by the magic trick of
3 pulling the wool over the judge's eyes.

4 **Equitable estoppel standard must be equally applied.**

5
6 100. On Page7-8

7 In determining whether a party's connection with an action is sufficiently
8 offensive to bar equitable relief, two factors must be considered: (1) the
9 egregiousness of the misconduct at issue, and (2) the seriousness of the harm
caused by the misconduct.

10 Only when these factors weigh against granting the requested equitable
relief will the unclean hands doctrine bar that remedy.

11 101. Tobin petitions the Court to consider that both SCA and NSM were completely
12 uncooperative in discovery and concealed records Tobin specifically requested because these
13 records prove Tobin's case.

14 102. Item 8 on page 8 of the Order SCA asked the Court to apply this standard of unclean
15 hands against Tobin.

16 8. The Nevada Supreme Court in Las Vegas Fetish & Fantasy Halloween Ball, Inc.
17 v. Ahem Rentals, Inc. cited to Income Inv'rs v. Shelton, 3 Wash. 2d 599, 602, 101
18 P.2d 973, 974-75 (1940), for its position on denying equity to a party with unclean
hands. The Income Inv'rs Court stated:

19 Equity will not interfere on behalf of a party whose conduct in connection
20 with the subject-matter or transaction in litigation has been unconscientious,
21 unjust, or marked by the want of good faith, and will not afford him any
22 remedy. 1 Pomeroy's Equity Jurisprudence (4th ed.) 739, § 398; Dale v.
Jennings, 90 Fla. 234, 107 So. 175; Bearman v. Dux Oil & Gas Co., 64 Oki.
147, 166 P. 199; Dewese v. Reinhard, 165 U.S. 386, 17 S.Ct. 340, 41 L.Ed.
757. Other authorities might be cited, but the rule appears to be universal.

23 If the parties were guilty of the conduct which the trial court found that they
24 were, the appellant comes squarely within the rule that equity will deny it
relief, because coming into a court of equity and asking relief after wilfully

1 concealing, withholding, and falsifying books and records, is certainly not
2 coming in with clean hands.

3 Income Inv'rs v. Shelton, at 974-75.

4 103. Tobin petitions the court to apply this standard of unclean hands and equitable estoppel
5 to the opposing parties.

6 **V. CONCLUSION**

7
8 104. Tobin petitions the court to vacate the order for summary judgment against her as SCA
9 and NSM did not meet their burden to establish that there are no disputed material facts.

10 105. Tobin petitions the court to consider the entire legal frame work applicable to this case
11 and vacate the Order as neither SCA nor NSM are entitled to summary judgment against Tobin
12 as a matter of law.

13 106. Tobin requests that the Court schedule to hear all pending motions , oppositions, and
14 replies simultaneously on a date outside May 2 through 9, 2019.

15 107. Judicial notice is requested of the coversheet summarizing the contents to the exhibits to
16 Tobin's 4/17/19 pleading

17
18 Dated this _____ day of April, 2019.

19
20 _____
21 NONA TOBIN
22 2664 Olivia Heights Avenue
23 Henderson NV 89052
24 Phone: (702) 465-2199
nonatobin@gmail.com
Defendant-in Intervention/ Cross-Claimant
In Proper Person

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I. TOBIN MOVES FOR SUMMARY JUDGMENT

1. The sale did not comply with all the applicable statutes as established by the evidence Tobin provided and which SCA did not produce any credible, certified or admissible evidence to refute. SCA did not provide the notices required by NRS 116.31162(4), NRS 116.31163, NRS 116.311635, or provide a deed to the Ombudsman per NRS 116.31164(3)(b), and did not distribute the proceeds of the sale as mandated by NRS 116.31164(3)(c).
2. SCA did not provide any of the notice and due process required by NRS 116.31031 and SCA bylaws 7.4.
3. SCA acting unreasonably and prevented the delinquency from being cured on two occasions and rejected the super-priority amount twice.
4. The sale was not authorized by valid SCA Board action. The SCA Board did not take any documented vote in any duly-called Board meeting to authorize the sale. There are no minutes certified by the SCA Board President and Secretary documenting a motion, second, or vote to approve any actions taken by Red Rock Financial Services
5. vote compliant with NRS 116.31083 and NRS 16.31085, documents any Board vote to authorize the foreclosure sale of 2763 White Sage Drive.
6. As there is no SCA record that SCA foreclosed and sold the property,
7. As the sale price was commercially unreasonable, i.e., sold for \$63,100, less than 18% of the \$353,529 Real Property Transfer Tax value on the day of the sale and the \$358,800 offer on the table pending lender approval, and evidence supports a finding that the sale unfair and

1 oppressive to the estate of the deceased homeowner in favor of Jimijack, a non-bona fide purchaser
2 with no admissible evidence to support its claim of ownership.

3 **II. LEGAL STANDARD**

4 8. In *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev., Adv. Op. 75, 334 P.3d 408
5 (2014), court held that HOA lien is split into super-priority and sub-priority. The lien is split, and
6 a proper foreclosure of the super-priority piece extinguishes the first deed of trust.

7 9. The Nevada Supreme Court in which unequivocally held in *Horizons at Seven Hills*
8 *Homeowners Association v. Ikon Holdings, LLC*, that an HOA's super-priority lien does not
9 include interest, collection costs, or other fees.

10 10. On August 11, 2016, in *Stone Hollow Avenue Trust v. Bank of America, N.A.*, the Nevada
11 Supreme Court held that a mortgagee's tender to the HOA of the super-priority amount of the
12 HOA's lien extinguishes the super-priority lien, *even if the HOA wrongfully rejects the tender*.

13 11. In *Nationstar Mortg., LLC v. Saticoy Bay LLC Series 2227 Shadow Canyon*“, the NV
14 Supreme Court found on November 22, 2017, “where inadequacy of the price is great, a court may
15 grant relief based on slight evidence of fraud, unfairness, or oppression.” price is wholly irrelevant.
16 To the contrary, *Golden* recognized that the price/fair-market-value disparity is a relevant
17 consideration because a wide disparity may require less evidence of fraud, unfairness, or
18 oppression to justify setting aside the sale:

19 12. *Golden v. Tomiyasu*, 79 Nev. 503, 514, 387 P.2d 989, 995 (1963), upheld a sale with a
20 purchase price that was 29 percent of fair market value, finding no reason to invalidate a “legally
21 made” sale absent *actual* evidence of fraud, unfairness, or oppression. See *Golden*, 79 Nev. at 515,
22 387 P.2d at 995 (“[I]t is universally recognized that inadequacy of price is circumstance of greater
23 or less weight to be considered in connection with other circumstances impeaching the fairness of
24

1 the transaction as a cause of vacating it. . . ." (emphasis added) (quoting *Odell v. Cox*, 90 P. 194,
2 196 (Cal.1907))).

3 13. *Nationstar Mortg., LLC v. Saticoy Bay LLC Series 2227 Shadow Canyon*, 133 Nev., Adv.
4 *Op. 91*, 405 P.3d 641, 647-48 (2017). But the greater the disparity between price and value, the
5 less in the way of unfairness or irregularity need be shown.

6 14. *Residential Capital LLC v. Cal-W. Reconveyance Corp.*, 134 Cal. Rptr. 2d 162, 173 (Ct.
7 *App. 2003*)("Only a properly conducted foreclosure sale, free of substantial defects in procedure,
8 creates rights in the high bidder at the sale.").

9 15. *From Resources Group* Grant S. Nelson, Dale A. Whitman, Ann M. Burkhart & R. Wilson
10 Freyermuth, Real Estate Finance Law § 7:21 (6th ed. 2014) (noting that a trustee's sale is void
11 where there is no authorization to foreclose, and that there is no authorization to foreclose when
12 the loan is not in default).

13 **III ARGUMENT**

14 16. It was unlawful, unfair and unreasonable for RRFS to prevent the deficiency from being
15 cured by owner or bank payments.

16 17. SCA did not stop RRFS from adding unauthorized charges or claiming unearned and
17 unnecessary collection fees.

18 18. The delinquency was cured by the 10/3/12 payment with check 143. It is was unjustified
19 and unfair to put a lien on the property that same quarter where no additional late fees were
20 authorized, demanding of \$925.76 to cover \$275 assessments and \$25 late fee was all that was due
21 and owing.

22 19. SCA rejected the Miles Bauer tender of \$825 on May 9, 2013 when \$825 would have cured
23 the delinquency by paying totally for the nine months assessments then past due. Only \$75 in late
24 fees were authorized.

1 20. It would be unreasonable to claim that in was only the superiority piece when RRFS did
2 not inform anyone of its unilateral decision to reject the tender and BANA had caused the HOA
3 not to be paid the \$3,055.47 that would have been paid out of the escrow of the May 10, 2013
4 Mazzeo \$395,000 purchase offer.

5 21. [*Shadow Wood, 132 Nev., Adv. Op. 5, 366 P.3d at 1112*](#) on January 28, 2016, the NV
6 Supreme Court set aside a sale for equitable principles, reaffirmed its holding on the nine-month
7 super-priority HOA lien, and held that a lender that obtains title to property is responsible for pays
8 HOA assessments which become due after it takes title.

9 22. In Summer 2013, BANA took possession of the property but would not take the title.

10 23. This was an unfair practice because the title stayed with the Trust, but locked Tobin out.

11 24. The banks didn't pay the assessments, but they wouldn't let Tobin sell it.

12 25. BANA and Nationstar's refusal to allow the Property to be sold at fair market value is the
13 proximate cause of the foreclosure sale.

14 26. Nationstar is barred from arguing that the SCA refusal of the Miles Bauer tender only
15 protects the bank's interests.

16 27. Nationstar is barred from claiming it automatically assumes BANA's rights after BANA
17 defaulted. See the Order entered June 7, 2016 in this case.

18 28. Nationstar is barred from quiet title until it proves it owns the note and has standing to
19 foreclose independent of trying to sneak one by the judge.

20 **Sale was not authorized by official Board action**

21
22 29. Legal analysis of NRS 116 meeting laws support a finding that there was no Board action,
23 compliant with NRS 116.31083 and NRS 116.31085, that authorized the sale of 2763 White Sage
24 Drive.

1 30. The way SCA approved this foreclosure would be equivalent to a judge meeting in
2 chambers with A and, based solely on A's allegations that B owed A \$2000, the judge ruled that
3 A could sell B's house without telling her. There was no court record, no order entered, Absent an
4 official, compliant Board action to authorize the sale, the sale IS void or voidable.

5 **The sale of 2763 White Sage did not comply with NRS 116.31083 and NRS 116.31085**

6 31. [NRS 116.3102](#) define the powers of unit-owners' association.

7 32. [NRS 116.3102\(m\)](#) limits the association's authority to sanction an owner for an alleged
8 violation of the governing documents by requiring the association to provide notice and due
9 process as delineated in [NRS 116.31031](#) to the owner who may be sanctioned.

10 33. With certain exceptions defined in [NRS 116.31085](#), Board actions must occur at duly called
11 Board meetings, compliant with the provisions of [NRS 116.31083](#), i.e.,

- 12 a. that are open to all unit owners,
- 13 b. that provide meaningful notice of the actions the Board intends to take at that
14 meeting,
- 15 c. that provide minutes of all Board decisions made and actions taken.

16
17
18 **NO NOTICE OF ANY VOTE RE 2763 WHITE SAGE ON ANY AGENDA**

19 34. According to NRS 116.31083(5), meetings of an association's executive board must
20 comply with the provisions of subsection 4 of NRS 116.3108.

21 NRS 116.3108(4) defines requirements of notice and agendas:

- 22 (a) A clear and complete statement of the topics scheduled to be considered
during the meeting, ...
- 23 (b) A list describing the items on which action may be taken and clearly denoting
that action may be taken on those items. In an emergency, the units' owners may take
24 action on an item which is not listed on the agenda as an item on which action may
be taken.

1 (c) A period devoted to comments by units' owners regarding any matter affecting
2 the common-interest community or the association and discussion of those
3 comments. Except in emergencies, no action may be taken upon a matter raised under
4 this item of the agenda until the matter itself has been specifically included on an
5 agenda as an item upon which action may be taken pursuant to paragraph (b).

6 **NO CERTIFIED BOARD MINUTES DOCUMENT ANY VOTE TO SELL**

7 35. NRS (2013) 116.31083 (8) (10) require the Board to maintain "*the minutes of each*
8 *meeting of the executive board until the common-interest community is terminated.*" that
9 include the following specific information:

10 8. Except as otherwise provided in subsection 9 (Section 9 allows the Board to
11 "establish reasonable limitations on materials, remarks or other information to be
12 included in the minutes of its meetings.") and NRS 116.31085, the minutes of each
13 meeting of the executive board must include:

- 14 (a) The date, time and place of the meeting;
- 15 (b) Those members of the executive board who were present and those members
16 who were absent at the meeting;
- 17 (c) The substance of all matters proposed, discussed or decided at the meeting;
- 18 (d) A record of each member s vote on any matter decided by vote at the meeting;
19 and
- 20 (e) The substance of remarks made by any unit s owner who addresses the executive
21 board at the meeting if the unit s owner requests that the minutes reflect his or her
22 remarks or, if the unit s owner has prepared written remarks, a copy of his or her
23 prepared remarks if the unit s owner submits a copy for inclusion.

24 **IT IS IMPERMISSIBLE TO SANCTION AN OWNER IN A CLOSED MEETING.**

36. The decision to foreclose on 2763 White Sage was made in a closed session which was not
permissible under the terms of NRS 16.31085 (3) (4).

37. There are no minutes of any SCA Board meeting that document the owner being offered
an opportunity for an open hearing or the Board providing the due process or any hearing prior to
the sale of 2763 White Sage Drive.

1 **38.** [NRS 116.31085](#) (3) defines the only permissible topics of discussion and actions the Board
2 is authorized to take in an executive session closed to owners

3 NRS 116.31085 (3)

4 3. An executive board may meet in executive session only to:

5 (a) Consult with the attorney for the association on matters relating to proposed
6 or pending litigation if the contents of the discussion would otherwise be governed
7 by the privilege set forth in [NRS 49.035](#) to [49.115](#), inclusive.

8 (b) Discuss the character, alleged misconduct, professional competence, or
9 physical or mental health of a community manager or an employee of the
10 association.

11 **(c) Except as otherwise provided in subsection 4, discuss a violation of the
12 governing documents, including, without limitation, the failure to pay an
13 assessment.**

14 (d) Discuss the alleged failure of a unit's owner to adhere to a schedule required
15 pursuant to [NRS 116.310305](#) if the alleged failure may subject the unit's owner to
16 a construction penalty.

17 **39.** Whereas NRS 116.31085(3)(c) only authorizes the Board to “**discuss**” alleged violations
18 of the governing documents in executive session, NRS 116.31085(4) only permits Board action to
19 sanction an owner for an alleged violation in closed session when it holds a hearing at which the
20 owner can present a defense to dissuade the Board from imposing a sanction for an alleged
21 violation.

22 NRS 116.31085(4)

23 4. An executive board shall meet in executive session to hold a hearing
24 on an alleged violation of the governing documents unless the person who may
be sanctioned for the alleged violation requests in writing that an open hearing
be conducted by the executive board. If the person who may be sanctioned for
the alleged violation requests in writing that an open hearing be conducted, the
person:

(a) Is entitled to attend all portions of the hearing related to the alleged
violation, including, without limitation, the presentation of evidence and the
testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by
regulation by the Commission, which must include, without limitation, the
right to counsel, the right to present witnesses and the right to present
information relating to any conflict of interest of any member of the hearing
panel; and

(c) Is not entitled to attend the deliberations of the executive board.

1 40. NRS 116.31085(6) requires the Board to report its actions taken in closed session in the
2 regular Board minutes.

3 6. Except as otherwise provided in this subsection, any matter discussed by the
4 executive board when it meets in executive session must be generally noted in the
minutes of the meeting of the executive board.

5 41. NRS 116.31085 (6) also defines a sanctioned owner's right to receive minutes of any closed
6 meeting at which the Board took action to sanction an owner for an alleged violation pursuant to
7 a hearing.

8 The executive board shall maintain minutes of any decision made pursuant to
9 subsection 4 concerning an alleged violation and, upon request, provide a copy
10 of the decision to the person who was subject to being sanctioned at the hearing
or to the person's designated representative.

11 42. SCA refused to provide minutes as required by NRS 116.31085(6) to document a decision
12 to foreclose was made pursuant to a hearing.

13 43. The fact that SCA Board did not provide notice of its intent to authorize the foreclosure of
14 2763 White Sage, nor offer the owner an opportunity for an open hearing, nor hold a hearing that
15 provided the owner with the mandated due process is evidenced by CAM Lori Martin's June 1,
16 2016 email refusing Tobin's request for minutes of any meeting at which the BOD took action to
foreclose:

17 "Your request for the "minutes where actions leading to foreclosure for delinquent
18 assessment(s) was approved for 2763 White Sage" cannot be fulfilled since those
19 minutes are Executive Session minutes and not privy to the anyone except the
20 Board. The only time Executive Session minutes are released to a homeowner is if
a hearing was held and then, only that portion of the meeting minutes is provided."

21 **UNDISPUTED FACTS**

22 44. Minutes of all 2014 Board meetings are available to all SCA members by law, but SCA
23 withheld them in discovery.

24 45. [SCA 315](#) was the only evidence proffered of Board action to authorize the sale of 2763

1 White Sage Drive on March 7, 2014.

2 46. SCA 315 alleges that Jean Capillupo, Board member, signed on February 27, 2014 a
3 statement on RRFS letterhead, dated February 14, 2014,

4 “The Board of Directors of Sun City Anthem Community Association
5 approves that Red Rock Financial Services is to proceed with the foreclosure
6 of the property address 2763 White Sage Dr., Henderson NV 89052 on
7 March 7, 2014 at 10:00 AM pursuant to this authorization and the conditions
8 set forth in the Permission for Publication of Foreclosure Sale and Authority
9 to Conduct Foreclosure Sale.”

10 47. SCA 315 also includes a note, handwritten by an unknown author, that stated

11 “approved
12 12/5
13 R05-120513”

14 48. Item R05 – 120513 on page 2 did not authorize the sale of 2763 White Sage Drive.

15 49. SCA Board [minutes of the December 5, 2013 Board meeting](#) Item R05 – 120513 reads

16 “(R05-120513) **UPON motion duly made by Dan Forgeron and Jim Mayfield,**
17 **the Board unanimously voted to refer the bids to the Reserve Study group for**
18 **analysis and recommendation presented at the January 23, 2014 regular Board**
19 **meeting.”**

20 50. There are no agendas or minutes of any Board meeting held between December 5, 2013
21 and December 31, 2014 that document SCA Board authorization to sell the property on March 7,
22 2014 or on any other date.

23 51. SCA sold the property without notice to any party with a known interest, i.e., the owner,
24 the servicing bank, or the bona fide purchaser with a \$358,800 offer pending lender approval,

108. SCA sanctioned the owner of 2763 White Sage with foreclosure, but did not provide the
notice or hearing and opportunity to defend delineated in NRS 116.31085 and NRS 116.31031.

109. The motion to vacate herein requests that the Court admit the official Nevada State record
as it is now authenticated, and exclude SCA000176-SCA000643, as uncertified and unverified.

1 110. The Ombudsman’s official record reports that the following specific actions or omissions
2 were in violation of the NRS 116.31162-NRS 116.31164 Notice of Sale process

- 3
- 4 a. The 2/12/14 Notice of Sale was cancelled on 5/15/14.
 - 5 b. The 5/15/14 Trustee sale was cancelled.
 - 6 c. There was no notice of sale in effect when the 8/15/14 sale took place.
 - 7 d. SCA did not provide any notice to the Ombudsman that the sale had occurred.
 - 8 e. SCA did not submit a foreclosure deed within 30 days after the sale (or ever) as required
9 by NRS 116.31164(3)(b)(2013).

10 111. SCA’s agent unilaterally rejected a tender from BANA of \$825, nine months of
11 assessments then delinquent, on or about May 9, 2013 without crediting the Property account
12 with \$825 of paid assessments.

13 112. NRS 116A.640(9) makes it unlawful for an HOA to

14 “refuse to accept from a unit’s owner payment of any assessment, fine, fee
15 or other charge that is due because there is an outstanding payment due.”

16 113. RRFS did not inform the Board or Tobin of its unilateral decision to continue the
17 unnecessary and unauthorized accumulation of “fines” misnamed as collection fees.

18 114. SCA’s agent RRFS, on May 28, 2014, RRFS unilaterally rejected it when [Nationstar](#)
19 [offered \\$1,100](#), an amount equivalent to one year of assessments.

20 **VI. CONCLUSION**

21 115. Based on the foregoing, Defendant-in-Intervention/Counterdefendant, Nona Tobin
22 requests this Court grant her motion(s) for summary judgment, and for any
23
24

1 further relief the Court may deem to be just and proper. SCA did not comply with all the relevant
2 statutes or its own governing documents. Sufficient undisputed facts support Tobin's claims
3 such that she is entitled to summary judgment against Sun Coty Anthem as a matter of law.
4

5 Dated this _____ day of April, 2019.
6

7 _____
8 NONA TOBIN
9 2664 Olivia Heights Avenue
10 Henderson NV 89052
11 Phone: (702) 465-2199
12 nonatobin@gmail.com
13 *Defendant-in Intervention/ Cross-Claimant*
14 *In Proper Person*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of April, 2019 and pursuant to NRCP 5(b), I served via the Clark County electronic filing system a true and correct copy of the foregoing NONA TOBIN'S SECOND SUPPLEMENTAL DISCLOSURE OF WITNESSES AND PRODUCTION OF DUCUMENTS, addressed to:

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