

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

NONA TOBIN, an individual,

Appellant,

vs.

BRIAN CHIESI, an individual,  
DEBORA CHIESI, an individual,  
QUICKEN LOANS INC.; JOEL A.  
STOKES, an individual, JOEL A.  
STOKES and SANDRA F. STOKES, as  
Trustees of the JIMIACK  
IRREVOCABLE TRUST; JIMIACK  
IRREVOCABLE TRUST; RED ROCK  
FINANCIAL SERVICES; and  
NATIONSTAR MORTGAGE, LLC,

Respondents.

Supreme Court No. 82294

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**APPEAL**

from the Eighth Judicial District Court, Department XXII  
The Honorable Susan Johnson, District Judge  
District Court Case No. A-19-799890-C

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**RESPONDENT'S ANSWERING BRIEF**

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**NRAP 26.1 DISCLOSURE**

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Nationstar Mortgage LLC dba Mr. Cooper Group Inc.

Nationstar Sub1 LLC

Nationstar Sub2 LLC

Nationstar Mortgage Holdings Inc.

KKR Wand Investors Corporation, a Cayman Islands corporation.

Troutman Pepper LLP

Kravitz Schnitzer Johnson Watson & Zeppenfeld, CHTD.

Federal Home Loan Mortgage Corporation

DATED this 4<sup>th</sup> day of January, 2022.

TROUTMAN PEPPER

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## **JURISDICTIONAL STATEMENT**

Respondent Nationstar Mortgage LLC (**Nationstar**) agrees that this Court has jurisdiction under NRAP 3A(b)(1). See Appellant's Opening Br. (**AOB**) at ix. The Notice of Entry of Order Granting Defendant Red Rock Financial Services' Motion to Dismiss Complaint and all Joinders to the Motion was served on December 3, 2020. Appellant's Appendix (AA) at AA4511-4537. Appellant Nona Tobin (**Tobin**) timely filed its appeal on December 29, 2020. See NRAP 4(a)(1) (notice of appeal must be filed "no later than 30 days after the date that written notice of entry of the judgment or order appealed from is served"). (AA4556-AA4557.)

## **ROUTING STATEMENT**

Although Rule 17 does not list quiet title matters as one of the cases retained by the Supreme Court, the Rule does not specify quiet-title actions as one of the types of cases presumptively assigned to the Court of Appeals either, see NRAP 17(b). This appeal is presumptively retained by this Court because it raises a question of statewide public importance. See NRAP 17(a)(12).

## ISSUES PRESENTED

1. Whether the district court properly found that Tobin’s claims to quiet title to the property are barred by claim preclusion where it is undisputed that Tobin participated in the prior Quiet Title Litigation in her capacity as trustee of the Hansen Trust?

2. Whether the district court properly found that Tobin’s claims to quiet title to the property are barred by issue preclusion where it is undisputed that Tobin participated in the prior Quiet Title Litigation in her capacity as trustee of the Hansen Trust?

## STATEMENT OF THE CASE

The record clearly Provides that all of the claims asserted in this action by Tobin against Nationstar, Red Rock Financial Services (**Red Rock**) and Sun City Anthem Community Association (**HOA**) was or should have been litigated in previous litigation. The same reasons precluding this action against Red Rock apply to Nationstar—and even further, Nationstar was a party to the prior litigation, yet Tobin failed to raise any claims against it.

In the prior litigation, case no. A-15-720032-C (**Quiet Title Litigation**), Tobin, as trustee of the Gordon B. Hansen Trust (**Hansen Trust**) intervened and brought cross-claims against the HOA and F. Bondurant, LLC, and Opportunity Homes, LLC, and a counterclaim against the purchasers, Joel A. Stokes and Sandra



F. Stokes, as trustees of the Jimijack Irrevocable Trust (**Jimijack**). Although Nationstar was a party to the litigation, Tobin never plead any claims against Nationstar.

Tobin had the opportunity to bring claims against Nationstar in the prior case, but failed to do so. Her arguments are barred by res judicata and claim preclusion. Claim preclusion applies where "(1) the parties or their privies are the same, (2) the final judgment is valid, and (3) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case." *Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008) holding modified by *Weddell v. Sharp*, 131 Nev. Adv. Op. 28, 350 P.3d 80 (2015). Claim preclusion "embraces all grounds of recovery that were asserted in a suit, as well as those that could have been asserted." *Five Star*, 194 P.3d at 715.

Tobin, as trustee, was a party to the Quiet Title Litigation. Although she attempts to file her claims in this matter individually (perhaps to avoid claim preclusion) she cannot do so pursuant to the clear doctrine of claim preclusion and res judicata. As an individual she is still clearly in privity with her status as a trustee—and represents the same interest, goals and objectives, regardless of her capacity. Further, Tobin attempted to intervene individually in the prior case and the court denied her attempt.

Not only did Tobin have the opportunity to bring claims against Nationstar in the Quiet Title Litigation, but she actually took steps to do so. On November 30, 2018, Tobin filed a motion to amend answer, counterclaim, and crossclaims seeking to "clarify her claim for quiet title to include all parties, including. . . Nationstar[.]" (4 AA0864-897). The court granted the motion. (4 AA0898). Despite that, Tobin never filed an order, much less an entry of order, granting her motion for leave to amend. Tobin knew Nationstar was a party, represented to the court that she had colorable claims against Nationstar, successfully obtained leave to amend to add Nationstar as a party, but failed to file the amended pleading. Tobin cannot now use this action to complete the efforts she abandoned in the prior action.

In the Quiet Title Litigation, the district court entered a valid final judgment—granting summary judgment on certain claims and issuing a decision after a bench trial. All of the claims brought here (challenging the validity of the foreclosure sale) were or should have been brought in the Quiet Title Litigation. Res judicata bars Tobin's claims against Nationstar.

## **STATEMENT OF FACTS**

### **I. Factual Background.**

1. In 2003, Gordon B. Hansen and Marilyn Hansen purchased 2763 White Sage Drive, Henderson, Nevada 89052 (**Property**) for \$388,311. 19 AA3819-22.

On June 11, 2004, Marilyn Hansen transferred her interest in the Property to Gordon Hansen. 19 AA3824-27.

2. On July 22, 2004, Gordon Hansen obtained a loan secured by the Property. 16 AA 3239-3256 at ¶13(b).

3. On August 27, 2008, Gordon Hansen transferred the Property to the Gordon B. Hansen Trust (**Hansen Trust**). 19 AA3829-32.

4. In 2012, Mr. Hansen died. 16 AA 3239-3256 at ¶13(a)-(b).

5. In 2012, the Hansen Trust defaulted on the HOA assessments for the Property. 19 AA3834-43 (Finding of Fact No. 4).

6. On October 3, 2012, Appellant Nona Tobin (**Tobin**) sent a letter to the HOA informing the HOA that Gordon Hansen passed away (**Tobin Letter**). *Id.* at (Finding of Fact No. 7). The Tobin Letter acknowledged that the HOA assessments were delinquent and advised the HOA that Tobin was attempting to short sell the Property. *Id.* The Tobin Letter also advised the HOA that no further assessments would be paid during the short sale process. *Id.* at (Finding of Fact No. 9). No further HOA assessments were paid after the Tobin Letter. *Id.* at (Finding of Fact No. 10).

7. The HOA, through its agent Red Rock, foreclosed upon the Property on August 15, 2014, whereby the Property was sold to Opportunity Homes, LLC (**HOA Sale**). *Id.* at (Finding of Fact No. 30 and Conclusion of Law No. 11). On

August 22, 2014, a foreclosure deed was recorded transferring title of the Property to Opportunity Homes, LLC. 19 AA3845-47.

8. On June 9, 2015, Opportunity Homes, LLC transferred its interest in the Property to F. Bondurant, LLC. 19 AA3849-51.

9. On June 9, 2015, F. Bondurant, LLC transferred its interest in the Property to Jimijack. 19 AA3853-55.

## **II. Quiet Title Litigation.**

10. On June 16, 2015, Jimijack initiated a quiet title action in the Eighth Judicial Court as Case Number A-15-720032-C (**Quiet Title Litigation**). 21 AA 4382 at Finding of Fact No. 1.

11. In the Quiet Title Litigation, Tobin, as trustee of the Hansen Trust intervened and brought cross-claims against the HOA and F. Bondurant, LLC, and Opportunity Homes, LLC, and a counterclaim against Jimijack. Although Nationstar was a party to the litigation, Tobin never plead any claims against Nationstar.

12. Despite the HOA Sale extinguishing the Hansen Trust's interest in the Property, on March 28, 2017, Tobin, in her capacity as the trustee of the Hansen Trust, recorded a wild deed, purporting to transfer the Property to Tobin, in her individual capacity, by Quitclaim Deed. 20 AA4176-79.

13. On April 17, 2019, the district court in the Quiet Title Litigation entered its Findings of Fact, Conclusions of Law and Order on Cross-Defendant Sun City

Anthem Community Association’s Motion to Summary Judgment (**Quiet Title Order**). 19 AA3834-43. The Quiet Title Order includes detailed factual findings with regard to the HOA Sale. The district court found:

HOA has met its burden in establishing that there is no genuine issue of material fact and that it is entitled to summary judgment. Tobin has failed to meet her burden in opposing the Motion . . . The totality of the facts evidence that the HOA properly followed the processes and procedures in foreclosing upon the Property.

(19 AA3834-43 at Conclusion of Law No. 11).

14. The district court thereafter conducted a bench trial to resolve the only remaining claims in the Quiet Title Litigation – the Counterclaims asserted by the Hansen Trust against Jimijack in its Answer and Counterclaim. (20 AA4180-97, n.1.)

15. Following the bench trial, the district court entered judgment in favor of Jimijack, finding that issue and claim preclusion, and the doctrine of the law of the case precluded all claims against Jimijack as each claim was contingent upon a finding that the HOA Sale was void. *See id.* at Conclusion of Law Nos. 1-4. Because the district court had already determined in its Quiet Title Order that the HOA Sale followed the processes and procedures of NRS Chapter 116, the court found that none of the remaining claims could stand against Jimijack as Jimijack acquired title to the Property through the purchaser at the valid HOA Sale. In addition, the court found that even if the claims were not barred by issue and claim

preclusion, the Counterclaims failed based on Tobin’s own trial testimony in which she acknowledged the house had been subject to multiple short sales, the Hansen Trust was in default with the lender and the HOA, and Tobin had received the Notice of Foreclosure Sale. (*Id.* at Conclusion of Law No. 5.)

16. On July 24, 2019, the final judgment in the Quiet Title Litigation was recorded in the Official Records of Clark County, Nevada. *Id.*

17. A timely appeal of the final judgment in the Quiet Title Litigation was filed. In a detailed opinion, the Nevada Court of Appeals affirmed the district court judgment in the Quiet Title Litigation, finding that the HOA Sale was valid because the Hansen Trust was continuously in default on obligations that were properly included in the HOA’s lien from the date the underlying notice of delinquent assessment lien was recorded to the date of the foreclosure sale. *See Tobin v. Stokes*, 79295-COA, 2021 Nev. App. Unpub. LEXIS 199, 2021 WL 1401498 (Nev. App. Apr. 12, 2021).

### **III. Procedural Background.**

18. On June 3, 2020 – while the appeal of the Quiet Title Litigation was still pending – Tobin filed her Amended Complaint in this action. 16 AA3239-56. Each of Tobin’s three claims for relief seek to obtain title to the Property. *Id.* at ¶106 (the “Property should be quieted in Tobin’s name”); ¶111 (the “Property should be held in constructive trust for Tobin”); ¶ 116 (“Tobin seeks a declaration from the

Court that the transfers of ownership and encumbrances after the transfer from the [Hansen] Trust to the present title are void and unenforceable.”).

19. On June 23, 2020, Red Rock filed a Motion to Dismiss Tobin’s Amended Complaint, demonstrating that Tobin’s Amended Complaint is barred by issue and claim preclusion as a result of the prior Quiet Title Litigation. (16 AA3257-3357.)

20. On June 25, 2020, Nationstar filed a Joinder to Red Rock’s Motion. (19 AA3801-12.)

21. On July 20, 2021, Tobin filed an Opposition to the Motion to Dismiss and Joinders Thereto. (21 AA4255-4343.) Ignoring that fact that issue and claim preclusion apply to a party, and their privies, Tobin’s Opposition asserted that because “the parties are not the same” as the parties involved in the Quiet Title Litigation, issue and claim preclusion would not preclude Tobin from having the district court reconsider the title dispute that was previously resolved in the Quiet Title Litigation. *Id.*

22. On August 11, 2021, the district court heard oral argument on the Motion to Dismiss. (21 AA4368-80.) The district court found that Tobin’s claims were barred by issue and claim preclusion as Tobin already had an opportunity to assert her claims as trustee of the Hansen Trust. (21 AA4379.) On December 3, 2020, the district court entered its written Order Granting Defendant Red Rock Financial

Services' Motion to Dismiss Complaint and All Joinders to the Motion. (22 AA4486-4510.)

23. On December 29, 2020, Tobin filed a timely Notice of Appeal with respect to the district court's final judgment. (22 AA4556-57.)

### **STANDARD OF REVIEW**

The Nevada Supreme Court reviews a district court order granting a motion to dismiss de novo. *Munda v. Summerlin Life & Health Ins. Co.*, 127 Nev. 918, 267 P.3d 771, 774 (2011). Such an order will be affirmed only where "it appears beyond a doubt that the plaintiff could prove no set of facts . . . [that] would entitle him [or her] to relief." *Id.* (quoting *Vacation Vill., Inc. v. Hitachi Am., Ltd.*, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994)); see also *Zohar v. Zbiegien*, 130 Nev. 733, 736, 334 P.3d 402, 404-405 (2014).

### **SUMMARY OF THE ARGUMENT**

Tobin, both in her individual capacity and in her capacity as trustee of the Hansen Trust, has been attempting to set aside the August 15, 2014 HOA Sale for years. Specifically, on January 31, 2017, and February 1, 2017, Tobin, in her capacity as Trustee of the Hansen Trust, filed three pleadings in the Quiet Title Litigation: (1) "Nona Tobin's Crossclaim for Quiet Title Against Sun City Anthem Community Association, Inc."; (2) "Nona Tobin's Answer to Plaintiff's Complaint and Counterclaim"; and (3) "Nona Tobin's Crossclaim Against Thomas Lucas d/b/a



Opportunity Homes, LLC” (collectively, **Tobin’s Quiet Title Claims**). In the Quiet Title Litigation, like here, Tobin asserted that the HOA Sale was void and that various parties were allegedly unjustly enriched by the HOA Sale.

The district court in the Quiet Title Litigation determined that the HOA properly followed the processes and procedures of NRS Chapter 116 for the HOA Sale. As to the Hansen Trust’s counterclaim, following a bench trial, the district court entered judgment in favor of Jimijack finding that the counterclaims failed based on Tobin’s own trial testimony in which she acknowledged the house had been subject to multiple short sales, the Hansen Trust was in default with the lender and the HOA, and Tobin had received the Notice of Foreclosure Sale. Tobin had the opportunity to bring claims against Nationstar in the prior case, but failed to do so. The Orders entered by the district court in the Quiet Title Litigation constituted a final judgment.

The final judgment in the Quiet Title Litigation was appealed. *See Tobin v. Stokes*, 79295-COA, 2021 Nev. App. Unpub. LEXIS 199, 2021 WL 1401498 (Nev. App. Apr. 12, 2021). Rather than seeking a stay of the judgment pending appeal, Tobin filed this new action, asserting the same claims that were previously rejected by district court’s final judgment in the Quiet Title Litigation. During the time in which this action was pending, the Nevada Court of Appeals affirmed the district court’s judgment in the Quiet Title Litigation. *Tobin v. Stokes*, 79295-COA, 2021

Nev. App. Unpub. LEXIS 199, 2021 WL 1401498 (Nev. App. Apr. 12, 2021) (unpublished Order affirming final district court judgment in the Quiet Title Litigation).

Despite the Nevada Court of Appeals' clear and unequivocal opinion affirming the district court's finding that the HOA properly followed the processes and procedures of NRS Chapter 116 for the HOA Sale, Tobin's Appeal in this action argues that Tobin should nonetheless be allowed to relitigate that finding simply because Red Rock was not a party to the Quiet Title Litigation and Tobin was not allowed to participate in the Quiet Title Litigation in her individual capacity. There can be no question that Tobin, in her individual capacity, is in privity with the Hansen Trust. *Bower v. Harrah's Laughlin, Inc.*, 125 Nev. 470, 481, 215 P.3d 709, 718 (Nev. 2009) (A person is in privity with another if the person acquired an interest in the subject matter affected by the judgment through one of the parties such as by inheritance, succession, or purchase) *see also* Restatement (Second) of Judgments, § 41(1)(a)(a beneficiary of a trust or estate is bound by a judgment in which the trustee participated in the action).

The district court correctly found that Tobin's claims are barred by issue and claim preclusion. This Court should affirm the district court's decision.

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## ARGUMENT

### **I. The District Court Correctly Found that Tobin’s Claims are Barred by Issue and Claim Preclusion.**

In 2008, this Court clarified Nevada law regarding res judicata and collateral estoppel, adopting the modern terminology of claim and issue preclusion respectively, and establishing separate tests for each. *See Five Star*, 124 Nev. 1048, 194 P.3d 709.

The *Five Star* Court set forth a three-part test for determining whether claim preclusion should apply: (1) the parties or their privies are the same; (2) the final judgment is valid; and (3) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case. *Id.* at 1054, 194 P.3d at 713. The majority of state and federal courts utilize these three factors. *Id.* at 1054, 194 P.3d at 713. Claim preclusion generally applies to all grounds of recovery, regardless of the nature or category of damages request. *Id.* at 1058, 194 P.3d at 715. Claim preclusion "embraces all grounds of recovery that were asserted in a suit, as well as those that could have been asserted." *Id.*

A policy-driven doctrine, claim preclusion is designed to promote finality of judgments and judicial efficiency by requiring a party to bring all related claims against its adversary in a single suit, on penalty of forfeiture. *Id.* “[A]ll claims based on the same facts and alleged wrongful conduct that were or could have been brought in the first proceeding are subject to claim preclusion.” *G.C. Wallace v. Eight*

*Judicial Dist. Court*, 127 Nev. 701, 707, 262 P.3d 1135, 1139 (Nev. 2011) (emphasis added) (finding that because a tenant's default gave rise to both a landlord's summary eviction as well as the landlord's later damages for breaching the lease, the two actions were based upon an identical set of facts that could have been brought simultaneously).

In addition, *Five-Star* established a four-part test for issue preclusion: (1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; (3) the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation; and (4) the issue was actually and necessarily litigated. *Id.* at 1055, 194 P.3d at 713.

**A. The parties or their privies are the same.**

Tobin's Opening Brief argues that because Tobin was not allowed to participate in the Quiet Title Litigation in her individual capacity, the district court erred in finding that Tobin's claims in this action are barred by issue and claim preclusion. The problem with Tobin's argument is that it completely ignores the fact that issue and claim preclusion apply if a party is in privity with a party to the prior

litigation. Here, there is no question that Tobin, in her individual capacity, is in privity with the Hansen Trust. Likewise, Red Rock is in privity with the HOA.<sup>1</sup>

Any interest Tobin acquired in the Property in her individual capacity (which was none) derived from the Quitclaim Deed Tobin recorded during the course of the Quiet Title Litigation, by which the Hansen Trust purported to transfer its (extinguished) interest in the Property to Tobin individually for no consideration. 20 AA4176-79. Nevada law is clear: a person is in privity with another if the person acquired an interest through inheritance, succession, or purchase. *Bower*, 125 Nev. at 481, 215 P.3d at 718.

Tobin participated in the Quiet Title Litigation in her capacity as trustee of the Hansen Trust. Her participation in the Quiet Title Litigation as trustee, standing alone, is likewise sufficient to find that Tobin was in privity with the Hansen Trust. Addressing the privity element in *Bower*, the Nevada Supreme Court noted that its holding was consistent with the Restatement (Second) of Judgments, § 41(1)(a), which provides that a trustee or beneficiary of a trust or estate is bound by a judgment in which the trustee participated in the action. *Bower*, 125 Nev. at 481, 215 P.3d at 718.

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<sup>1</sup> Red Rock acted as the HOA's agent in the HOA Sale. In the Quiet Title Litigation, Tobin, in her capacity as trustee of the Hansen Trust, asserted claims against the HOA by arguing that the HOA's agent – Red Rock – failed to comply with NRS Chapter 116. Accordingly, Red Rock was in privity with the HOA. The undersigned anticipates that Red Rock will further expand on this issue in its Answering Brief.

Here, it is undisputed that Tobin participated in the Quiet Title Litigation in her capacity as trustee and beneficiary of the Hansen Trust. 19 AA3976-78. In addition, Tobin testified at the bench trial in the Quiet Title Litigation. Indeed, it was Tobin's own trial testimony that proved fatal to the Hansen Trust's counterclaim against Jimijack. (20 AA4180-97 at Conclusion of Law No. 5.) For that same reason, the Court of Appeals affirmed the district court's judgment, finding that the HOA Sale was valid because the Hansen Trust was continuously in default on obligations that were properly included in the HOA's lien from the date the underlying notice of delinquent assessment lien was recorded to the date of the foreclosure sale. *See Tobin*, 79295-COA, 2021 Nev. App. Unpub. LEXIS 199, 2021 WL 1401498.

**B. The final judgment is valid and was actually litigated.**

The Quiet Title Litigation resulted in a final judgment entered on June 24, 2019. (20 AA4181-97.) Before entry of the final judgment, Tobin, in her capacity as trustee, appealed. Rather than seeking a stay of the judgment pending appeal, Tobin filed this new action, asserting the same claims that were previously rejected in the Quiet Title Litigation. Regardless, a judgment on appeal retains its preclusive effect for purposes of both claim and issue preclusion. *See Edwards v. Ghandour*, 123 Nev. 105, 117, 159 P.3d 1086, 1094 (Nev. 2007), disagreed with on other grounds in *Five Star*, 124 Nev. at 1053-54, 194 P.3d at 712-13.

There is no question that the Quiet Title Litigation was actually litigated. The Hansen Trust's counterclaims against Jimijack proceeded to a bench trial. (20 AA4181-97.)

Finally, while not necessary for the application of issue or claim preclusion, the district court's final judgment in the Quiet Title Litigation was appealed and affirmed by the Nevada Court of Appeals. In a detailed opinion, the Nevada Court of Appeals found that the HOA Sale was valid because the Hansen Trust was continuously in default on obligations that were properly included in the HOA's lien from the date the underlying notice of delinquent assessment lien was recorded to the date of the foreclosure sale. *See Tobin*, 79295-COA, 2021 Nev. App. Unpub. LEXIS 199, 2021 WL 1401498.

**C. The subsequent action is based on the same claims.**

Issue preclusion may be applicable “even though the causes of action are substantially different, if the same fact issue is presented.” *LaForge v. State, University System*, 116 Nev. 415, 420, 997 P.2d 130,134 (Nev. 2000) (citing *Clark v. Clark*, 80 Nev. 52, 56, 389 P.2d 69, 71 (Nev. 1964)). The court in the prior action must have addressed and decided the same underlying factual issues. *Id.*

Here, while the claims for relief have been restated, the issues presented in the Amended Complaint are the same issue that were previously fully adjudicated in the Quiet Title Litigation, i.e., whether the HOA Sale followed the procedures of NRS

Chapter 116 to constitute a valid sale. (Compare 19 AA3980-4174 with 16 AA3239-56.) In both Orders entered in the Quiet Title Litigation, the court considered, and rejected as futile, Tobin’s attempt to challenge the validity of the sale based on Tobin’s own letter and trial testimony. (See 19 AA 3834-43 and 20 AA4181-97.) The district court’s finding was thereafter affirmed by the Nevada Court of Appeals. *See Tobin*, 79295-COA, 2021 Nev. App. Unpub. LEXIS 199, 2021 WL 1401498.

By filing a second complaint regarding the same transaction that was involved in the Quiet Title Litigation, Tobin impermissibly attempted to have the district court in this action substitute its judgment for that of the district court – and worse – the Nevada Court of Appeal’s review of the final judgment entered in the Quiet Title Litigation.

Tobin’s Amended Complaint goes against the public policy reasons supporting issue and claim preclusion which is founded upon the “public policy of limiting litigation by preventing a party who had one full and fair opportunity to litigate an issue from again drawing it into controversy.” *Bower*, 125 Nev. at 481, 215 P.3d at 718. The district court correctly found that Tobin’s claims were barred by issue and claim preclusion as Tobin already had an opportunity to assert her claims as trustee of the Hansen Trust. (21 AA 4379.) Tobin is bound by the final judgment entered against the Hansen Trust. *Id.* Accordingly, this Court should affirm



the district court's finding that Tobin's Amended Complaint is barred by the doctrines of issue and claim preclusion.

### **CONCLUSION**

As set forth above, the district court properly found that Tobin's claims are barred by issue and claim preclusion. Tobin participated in the Quiet Title Litigation in her capacity as trustee and beneficiary of the Hansen Trust. Moreover, Tobin acquired her purported interest in the Property by Quitclaim Deed from the Hansen Trust while the Quiet Title Litigation was pending. As a result, there is no question that Tobin is in privity with the Hansen Trust.

This Court should affirm the district court.

DATED this 4<sup>th</sup> day of January, 2022.

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## **CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this reply brief has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman and 14 point font size.

I FURTHER CERTIFY that this answering brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points or more and contains 4,289 words.

FINALLY, I CERTIFY that I have read this Respondent's Answering Brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this reply brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

I understand that I may be subject to sanctions in the event that the accompanying reply is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 4<sup>th</sup> day of January, 2022.

TROUTMAN PEPPER

*/s/ Aaron D. Lancaster* \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I certify that I electronically filed on January 4, 2022, the foregoing RESPONDENT’S ANSWERING BRIEF with the Clerk of the Court for the Nevada Supreme Court by using the Court's electronic file and serve system. I further certify that all parties of record to this appeal are either registered with the Court's electronic filing system or have consented to electronic service and that electronic service shall be made upon and in accordance with the Court's Master Service List.

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ CHRISTINA N. HILL \_\_\_\_\_  
Christina N. Hill  
Employee for Troutman Pepper