

CLERK OF THE COURT

1 NEO
2 Amy F. Sorenson, Esq.
3 Nevada Bar No. 12495
4 Richard C. Gordon, Esq.
5 Nevada Bar No. 9036
6 Robin E. Perkins, Esq.
7 Nevada Bar No. 9891
8 SNELL & WILMER L.L.P.
9 3883 Howard Hughes Parkway, Suite 1100
10 Las Vegas, NV 89169
11 Telephone: (702) 784-5200
12 Facsimile: (702) 784-5252
13 asorenson@swlaw.com
14 rgordon@swlaw.com
15 rperkins@swlaw.com

16 *Attorneys for Defendant Wells Fargo Bank, N.A.*

17
18
19
20
21
22
23
24
25
26
27
28
DISTRICT COURT

CLARK COUNTY, NEVADA

DAISY TRUST,

Plaintiff,

vs.

WELLS FARGO BANK, N.A.; MTC
FINANCIAL, INC., dba TRUSTEE
CORPS, DONALD K. BLUME and
CYNTHIA S. BLUME,

Defendants.

CASE NO. A-13-679095-C
DEPT. XXIII

**NOTICE OF ENTRY OF DECISION
GRANTING WELLS FARGO'S MOTION
TO DIMISS**

///

///

///

///

///

///

Snell & Wilmer

L.L.P.

LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
(702) 784-5200

1 PLEASE TAKE NOTICE that a Decision granting Wells Fargo's Motion to Dismiss was
2 entered in the above-captioned matter on July 9, 2013. A copy of said Decision is attached hereto
3 as Exhibit 1.

4 DATED this 11 day of July, 2013.

5 SNELL & WILMER L.L.P.

6
7 By: Robin E. Perkins
8 Amy F. Sorenson, Esq.
9 Richard C. Gordon, Esq.
10 Robin E. Perkins, Esq.
11 3883 Howard Hughes Parkway
12 Suite 1100
13 Las Vegas, Nevada 89169

14 *Attorneys for Defendant Wells Fargo Bank, N.A.*
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Snell & Wilmer
L.L.P.
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.734.5100

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF DECISION GRANTING WELLS FARGO'S MOTION TO DIMISS** by the method indicated:

- X U.S. Mail
- U.S. Certified Mail
- Facsimile Transmission
- Overnight Mail
- Federal Express
- Hand Delivery
- Electronic Filing

and addressed to the following:

Michael F. Bohn, Esq.
Law Offices of Michael F. Bohn, Esq., Ltd.
376 E. Warm Springs Rd., Ste. 125
Las Vegas, NV 89119
mbohn@bohnlawfirm.com
Attorneys for Plaintiff

Richard J. Reynolds, Esq.
Burke, Williams & Sorensen, LLP
1851 E. First St., Ste. 1550
Santa Ana, CA 92705
rreynolds@bwslaw.com
Attorneys for MTC Financial Inc. dba Trustee Corps

Michael E Sullivan, Esq.
Robison, Belaustegui, Sharp & Low
71 Washington St.
Reno, NV 89503
msullivan@rbsllaw.com
Attorneys for MTC Financial Inc. dba Trustee Corps

DATED this 11 day of July, 2013

Maureen A. Wilmer
An Employee of Snell & Wilmer LLP

EXHIBIT 1

EXHIBIT 1

DISTRICT COURT
CLARK COUNTY, NEVADA

DAISY TRUST,

Plaintiff,

v.

CASE NO: A679095
DEPARTMENT XXIII

WELLS FARGO BANK NA, MTC
FINANCIAL, INC., dba TRUSTEE
CORPS, DONALD K. BLUME and
CYNTHIA S. BLUME,

Defendants.

DECISION

This matter was last before the court on July 2, 2013 on Daisy Trust's Ex Parte Motion for Temporary Restraining Order; Or Alternatively for Order to Show Cause. Wells Fargo filed an Opposition and Countermotion to Dismiss, with MTC, Inc. filing a Joinder properly thereto. Daisy Trust subsequent filed an Opposition and Wells Fargo countered with a Reply in Support of their motion. At the hearing, Michael Bohn, Esq. was present for Plaintiff Daisy Trust, Richard Reynolds, Esq. appeared telephonically on behalf of Defendant MTC Financial, Inc., and Robin Perkins, Esq. and Richard Gordon, Esq. appeared on behalf of the Defendant Wells Fargo Bank, N.A.

After considering the oral argument of counsel as well as all papers and pleadings on file, the Court denied the Preliminary Injunction and the Countermotion to Dismiss was taken under advisement. The court now finds as follows.

STEFANY A. MILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2400

1

2

3

A. Statement of Facts

4

5

6

7

8

This matter concerns property commonly known as 10209 Dove Row Avenue, Las Vegas, NV and legally described as: Cliffs Edge POD 115 116 & 117 Unit 1B, Plat book 133, Page 56, Lot 46, Block A Clark County. COURT adopts Defendant Wells Fargo Bank, N.A.'s statement of the relevant factual background as laid out in their Countermotion to Dismiss.

9

10

11

12

13

14

15

16

17

18

19

B. Standard of Review for Motion to Dismiss

Defendant asserts that plaintiff's quiet title claim fails to "establish a claim upon which relief can be granted." NRCP 12(b) (5). It is well-settled that a district court order granting an NRCP 12(b) (5) motion to dismiss is subject to rigorous appellate review. See *Sanchez v. Wal-Mart Stores*, 125 Nev. 818, 823, 221 P.3d 1276, 1280 (2009) (citing *Lubin v. Kumin*, 117 Nev. 107, 110-11, 17 P.3d 422, 425 (2001)). This court must accept the plaintiff's factual allegations as true; however the allegations must be legally sufficient to constitute the elements of the claim asserted. *Id.*, citing *Malfabon v. Garcia*, 111 Nev. 793, 796, 898 P.2d 107, 108 (1995). Furthermore, the court must draw every reasonable inference in the plaintiff's favor. *Id.*

20

21

22

23

24

C. Statutory Interpretation of NRS §116.3116

25

26

27

28

The question before the court is a clear-cut issue of statutory interpretation. Homeowner's association liens are governed by NRS §116.3116. Here, Plaintiff argues that a foreclosure under NRS §116.3116 extinguishes the senior deed of trust. Defendant

1 argues that this interpretation of the statute is erroneous and would lead to absurd
2 results.
3

4 The Court construes the statute under common methods of statutory
5 construction. The court also considers NRS §116.3116 *in paria materia* with other
6 foreclosure statutes. *See, e.g., Williams v. United Parcel Services*, 129 Nev. Adv. Op. 41
7 (2013) (stating that statutory provisions are read as a whole, with effect given to each
8 word or phrase); *Barney v. Mt. Rose Heating & Air Conditioning*, 192 P.3d 730 (2008)
9 (statutes must read in context, policy can be considered as an interpretive aid.); *State,*
10 *Dept. of Business and Industry v. Nevada Ass'n Svcs., Inc.*, 294 P.3d 1223 (Nev.,
11 2012) (court considered NRS Chapter 116 and NRS Chapter 649 in a way that
12 harmonizes them as a whole).
13

14 The statute states in relevant part that an association's lien "is prior to all other
15 liens and encumbrances on a unit except... (b) A first security interest on the unit
16 recorded before the date on which the assessment sought to be enforced became
17 delinquent." *NRS §116.3116 (2)(b)*. The statute also creates a super priority interest for
18 assessments "which would have become due in the absence of acceleration during the 9
19 months immediately preceding institution of an action to enforce the lien." *Id.* Any
20 amounts superfluous to the nine months are not afforded a super priority. *Id.*
21

22 The Nevada Supreme Court has not addressed what an "action" means under
23 NRS 116.3116(2)(c). Black's Law Dictionary defines action as "a lawsuit brought in a
24 court; a formal complaint within the jurisdiction of a court of law." BLACK'S LAW
25 DICTIONARY 28 (6th ed. 1990). Other departments in the Eighth Judicial District Court
26 Department have held that an action, in the context of §116 means a civil action. *See*
27
28

1 e.g., *Deutsche Bank National Trust Comp. v. The Foothills at Macdonald Ranch*, Case
2 No. A-13-680505 (Nev. 2013); *SFR Investments Pool 1, LLC v. U.S. Bank, N.A., et al*,
3 Case No. A-13-678814, (Nev. 2013); *Daisy Trust v. Wells Fargo Bank, N.A., et al*, Case
4 No. A-13-675183 (Nev. 2013).
5

6 Furthermore, this interpretation is consistent with Nevada federal district court
7 decisions. *Diakonos Holdings, LLC v. Countrywide Home Loans, Inc.*, 2013 WL
8 531092, at *3 (D. Nev. Feb. 11, 2013) (holding that when an HOA holds a non-judicial
9 foreclosure sale, the buyer takes the property subject to the first security interest);
10 *Weeping Hollow Ave. Trust v. Spencer*, 2013 WL 2296313, 5 (D.Nev. May 24, 2013)
11 (stating that the super priority lien does not extinguish the first position deed of trust.);
12 *Bayview Loan Servicing, LLC v. Alessi & Koenig, LLC*, 2013 WL 2460452, *4 (D.
13 Nev. June 6, 2013) (stating that foreclosure of neither a super-priority lien nor a first
14 mortgage will extinguishes the other, but first proceeds must go to the super-priority
15 lien); *Salvador v. National Default Servicing Corp.*, 2013 WL 3049084, at *5-6 (D.
16 Nev. June 13, 2013) (denying preliminary injunction for failure to establish likelihood
17 of success on the merits because statute does not eliminate the first security interest as a
18 matter of law). Therefore, action under *NRS §116.3116* means a civil action filed by
19 either the bank or the HOA.
20
21

22 COURT FINDS that the first security interest Deed of Trust was recorded on
23 September 28, 2007 prior to the home owner's association lien which was recorded on
24 August 5, 2010 and the notice of default filed September 30, 2010.
25

26 COURT FINDS the home owner's association super-priority lien only creates a
27 priority to payment from foreclosure proceeds.
28

1 COURT FINDS, NRS §116.3116 refers to a judicial foreclosure action and is
2 not applicable when the home owner's association forecloses under the non-judicial
3 foreclosure statutes.
4

5 COURT FURTHER FINDS that the home owner's association foreclosure sale
6 of its lien, under NRS §116.3116, cannot extinguish Wells Fargo's deed of trust
7 because it was recorded prior to the home owner association's lien and Plaintiff Daisy
8 Trust purchased the property with notice of the first in time deed of trust.
9

10 In light of the foregoing, COURT ORDERS, Defendant Wells Fargo Bank,
11 N.A.'s Countermotion to Dismiss with Joinder by MTC Financial Inc., GRANTED.
12

13 IT IS SO ORDERED.
14

15 DATED this 9th day of July, 2013.
16

17
18 
19 HONORABLE STEFANY A. MILEY
20 DISTRICT COURT JUDGE
21
22
23
24
25
26
27
28

STEFANY A. MILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
AS VEGAS NV 00101-2408

1
2
3
4
5 CERTIFICATE OF FACSIMILE & MAILING

6 I hereby certify that: On the 9th day of July, 2013:

7 ☒ I faxed the foregoing Decision to:

8 Michael F. Bohn, Esq. at (702) 642-9766; to Richard Reynolds, Esq at (949) 863-3350
9 and to Richard Gordon, Esq. at (702) 784-5252.

10 By: 

11 Carmen Alper
12 Judicial Executive Assistant
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STEPHANY A. MILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
AS VEGAS NV 89101-2408

CIVIL COVER SHEET

A- 13- 679095- C

CLARK County, Nevada XVI I I

Case No. _____
(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone): DAISY TRUST	Defendant(s) (name/address/phone): WELLS FARGO BANK, NA, MTC FINANCIAL INC., dba TRUSTEE CORPS, DONALD K. BLUME AND CYNTHIA S. BLUME
Attorney (name/address/phone): MICHAEL F. BOHN, Esq. 376 E. Warm Springs Road Suite 125 Las Vegas, NV 89119 (702) 642-3113	Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ **Arbitration Requested**

Civil Cases		
Real Property	Negligence	Torts
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence -- Auto <input type="checkbox"/> Negligence -- Medical/Dental <input type="checkbox"/> Negligence -- Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence -- Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair competition
Probate	Other Civil Filing Types	
<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<div style="display: flex; justify-content: space-between;"> <div style="width: 33%;"> <input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal </div> <div style="width: 33%;"> <input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recover of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters </div> </div>	

III. Business Court Requested (Please check applicable category; for Clark and Washoe Counties only.)

<input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 90) <input type="checkbox"/> Securities (NRS 90)	<input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademarks (NRS 600A)	<input type="checkbox"/> Enhanced Case Mgmt/Business <input type="checkbox"/> Other Business Court Matters
--	---	---

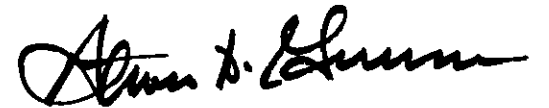
MARCH 28, 2013

Date



Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 **COMP**
2 MICHAEL F. BOHN, ESQ.
3 Nevada Bar No.: 1641
4 mbohn@bohnlawfirm.com
5 LAW OFFICES OF
6 MICHAEL F. BOHN, ESQ., LTD.
7 376 East Warm Springs Road, Ste. 125
8 Las Vegas, Nevada 89119
9 (702) 642-3113/ (702) 642-9766 FAX
10
11 Attorney for plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

11 DAISY TRUST
12 Plaintiff,

13 vs.

14 WELLS FARGO BANK NA, MTC
15 FINANCIAL, INC., dba TRUSTEE CORPS,
16 DONALD K. BLUME and CYNTHIA S.
17 BLUME
18 Defendants.

CASE NO.: **A- 13- 679095- C**
DEPT NO.: **XVI I I**

EXEMPTION FROM ARBITRATION:
Title to real property

COMPLAINT

19 Plaintiff, Daisy Trust, by and through it's attorney, Michael F. Bohn, Esq. alleges as follows:

- 20 1. Plaintiff is the owner of the real property commonly known as 10209 Dove Row Avenue,
21 Las Vegas, Nevada.
- 22 2. Plaintiff obtained title by way of foreclosure deed recorded on August 9, 2012.
- 23 3. The plaintiff's title stems from a foreclosure deed arising from a delinquency in
24 assessments due from the former owner to the Westminster at Providence Association, pursuant to
25 NRS Chapter 116.
- 26 4. Defendant Wells Fargo Home NA is the assignee of a deed of trust which was recorded as
27 an encumbrance to the subject property on September 28, 2007.

5. Defendant MTC Financial dba Trustee Corps is the trustee on the deed of trust.

8. Defendants Donald K. Blume and Cynthia S. Blume are the former owner of the subject real property.

9. The interest of each of the defendants has been extinguished by reason of the foreclosure sale resulting from a delinquency in assessments due from the former owners, Donald K. Blume and Cynthia S. Blume to the Westminster at Providence Association, pursuant to NRS Chapter 116.

10. Nonetheless, defendant Wells Fargo has recorded a notice of default and election to sell under it's deed of trust pursuant to NRS 107.080.

11. Defendant Wells Fargo has failed to provide statutory notice of the foreclosure to the plaintiff .

12. Plaintiff is entitled to an injunction prohibiting the foreclosure sale from proceeding.

13. The plaintiff is entitled to an award of attorneys fees and costs.

SECOND CLAIM FOR RELIEF

14. Plaintiff repeats the allegations contained in paragraphs 1 through 13.

15. Plaintiff is entitled to a determination from this court, pursuant to NRS 40.010 that the plaintiff is the rightful owner of the property and that the defendants have no right, title, interest or claim to the subject property.

16. The plaintiff is entitled to an award of attorneys fees and costs.

THIRD CLAIM FOR RELIEF

17. Plaintiff repeats the allegations contained in paragraphs 1 through 16.

18. Plaintiff seeks a declaration from this court, pursuant to NRS 40.010, that title in the property is vested in plaintiff free and clear of all liens and encumbrances, that the defendants herein have no estate, right, title or interest in the property, and that defendants are forever enjoined from asserting any estate, title, right, interest, or claim to the subject property adverse to the plaintiff.

19. The plaintiff is entitled to an award of attorneys fees and costs.

WHEREFORE, plaintiff prays for Judgment as follows:

1. For injunctive relief;

1 2. For a determination and declaration that plaintiff is the rightful holder of title to the
2 property, free and clear of all liens, encumbrances, and claims of the defendants.

3 3. For a determination and declaration that the defendants have no estate, right, title, interest
4 or claim in the property.

5 4. For a judgment forever enjoining the defendants from asserting any estate, right, title,
6 interest or claim in the property; and

7 || 5. For such other and further relief as the Court may deem just and proper.

8 DATED this 28th day of March 2013.

9 | LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

By: / s / Michael F. Bohn, Esq. /
Michael F. Bohn, Esq.
376 East Warm Springs Road, Ste. 125
Las Vegas, Nevada 89119
Attorney for plaintiff

1 **IAFD**
MICHAEL F. BOHN, ESQ.
2 Nevada Bar No.: 1641
mbohn@bohnlawfirm.com
3 LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.
4 376 East Warm Springs Road, Ste. 125
Las Vegas, Nevada 89119
5 (702) 642-3113/ (702) 642-9766 FAX
6 Attorney for plaintiff

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
DISTRICT COURT
CLARK COUNTY, NEVADA

DAISY TRUST
Plaintiff,

vs.

WELLS FARGO BANK NA, MTC
FINANCIAL, INC., dba TRUSTEE CORPS,
DONALD K. BLUME and CYNTHIA S.
BLUME
Defendants.

CASE NO.:
DEPT NO.:

INITIAL APPEARANCE FEE DISCLOSURE

Pursuant to NRS Chapter 19, filing fees are submitted for the party appearing in the above-entitled action as indicated below:

Daisy Trust Plaintiff \$270.00

TOTAL REMITTED: \$270.00

DATED this 28th day of March 2013.

LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

By: / s /Michael F. Bohn, Esq. /
MICHAEL F. BOHN, ESQ.
376 East Warm Springs Road, Ste. 125
Las Vegas, Nevada 89119
Attorney for plaintiff

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

DAISY TRUST

Appellant

vs.

WELLS FARGO BANK NA, MTC
FINANCIAL, INC., dba TRUSTEE CORPS,
NEED ADDITIONAL PAGES FOR
ADDITIONAL COUNSEL

Respondents

No. 63611

Electronically Filed
Jul 23 2013 03:54 p.m.

DOCKETING STATEMENT
CIVIL APPEALS
Tara K. Lindeman
Clerk of Supreme Court

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 23
County Clark Judge Stefany A. Miley
District Ct. Case No. A679095

2. Attorney filing this docketing statement:

Attorney Michael F. Bohn, Esq. Telephone 702-642-3113
Firm Law Offices of Michael F. Bohn, Esq., Ltd.
Address 376 E. Warm Springs Road, Suite 125
Las Vegas, Nevada 89119

Client(s) Daisy Trust

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Robin E. Perkins Telephone 702-784-5200
Firm Snell & Wimer LLP
Address 3883 Howard Hughes Pkwy # 1100
Las Vegas, NV 89169
Client(s) Wells Fargo Bank, N.A.

Attorney Michael E. Sullivan Telephone 775-329-3151
Firm Robison, Belaustegui, Sharp & Low
Address 71 Washington St
Reno, NV 89503
Client(s) MTC Financial INC., dba Trustee Corps

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input checked="" type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input checked="" type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input checked="" type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None

8. Nature of the action. Briefly describe the nature of the action and the result below:

Plaintiff filed an action for quiet title and declaratory relief after it purchased a real property at a foreclosure sale conducted pursuant to NRS Chapter 116. It is the plaintiff's position that the foreclosure sale extinguished all outstanding liens on the property. The district court denied the plaintiff's motion for a preliminary injunction and dismissed the case for failure to state a claim.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

The issue is if the "super-priority" homeowners association lien under NRS Chapter 116 takes priority over outstanding first mortgages and if foreclosure on the "super-priority" lien extinguishes the first mortgage.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Please see attached list

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☒ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: This court has not determined the construction of NRS 116.3117 regarding the priority of an HOA lien over a first mortgage on the same property.

13. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
N/A

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from Jul 9, 2013

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order was served Jul 11, 2013

Was service by:

☐ Delivery

☒ Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

18. Date notice of appeal filed Jul 12, 2013

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4 (a)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|---------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input checked="" type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:
Appeal from an order refusing to grant an injunction.

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Daisy Trust, plaintiff

Wells Fargo, N.A., defendant

MTC Financial INC., dba Trustee Corps, defendant

Cynthia S. Blume, defendant

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

Cynthia S. Blume has not made an appearance in the district court case.

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

1. Injunctive relief;
2. Quiet title; and
3. Declaratory relief

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes

☒ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

The case was dismissed, and Cynthia Blume never made an appearance before the District court

(b) Specify the parties remaining below:
Cynthia Blume

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

The order refusing to grant an injunction is independently appealable under NRAP 3A(b)(3).

26. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

DAISY TRUST

Name of appellant

Michael F. Bohn, Esq.

Name of counsel of record

Jul 16, 2013

Date



Signature of counsel of record

Clark County, Nevada

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 23rd day of July, 2013, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Richard J. Reynolds, Esq.,
Burke Williams & Sorensen
1851 E. First St. # 1550
Santa Ana, Ca 92705-4067

Robin E. Perkins, Esq.
Snell & Wilmer, LLP
3883 Howard Hughes Pkwy # 1
Las Vegas, NV 89169

Michael E. Sullivan, Esq.
Robison, Belaustegui, Sharp & Low
71 Washington St
Reno, NV 89503

Dated this 23rd day of July, 2013



Signature

Attachment to docketing statement question number 3:

Additional counsel representing respondents:

Richard J. Reynolds
Burke Williams & Sorensen
1851 E. First St. # 1550
Santa Ana, Ca 92705-4067

Counsel for MTC Financial Inc., dba Trustee Corps

Attachment to docketing statement question 10. Other proceedings before the Supreme Court raising similar issues:

63614	SFR INVESTMENTS POOL 1 VS. US BANK	Jacqueline A. Gilbert	Attorney	Civil Appeal	General	Other	Referred to Settlement Program
63613	SFR INVESTMENT POOL 1 VS. FED. NATIONAL MORTGAGE ASSOC.	Jacqueline A. Gilbert	Attorney	Civil Appeal	General	Other	Referred to Settlement Program
63612	SFR INVESTMENT POOL 1 VS. WELLS FARGO BANK	Jacqueline A. Gilbert	Attorney	Civil Appeal	General	Other	Appeal Docketed/Awaiting Filing Fee
63579	SFR INVESTMENTS POOL 1 VS. WELLS FARGO BANK	Jacqueline A. Gilbert	Attorney	Civil Appeal	General	Other	Referred to Settlement Program
63511	SFR INVESTMENTS POOL 1 VS. DIST. CT. (DEUTSCHE BANK NATIONAL TRUST)	Jacqueline A. Gilbert	Attorney	Original Proceeding	Civil	Mandamus	Awaiting Answer to Writ Petition
63451	SFR INVESTMENTS POOL 1 VS. FIRST HORIZON	Jacqueline A. Gilbert	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63313	SFR INVESTMENTS POOL 1 VS. BANK OF AMERICA	Jacqueline A. Gilbert	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63078	SFR INVESTMENTS POOL 1 VS. US BANK, N.A.	Jacqueline A. Gilbert	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63542	DRYSDALE COURT TRUST VS. BANK OF AMERICA	Michael V. Infuso	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63409	3182 TARPON 103 TRUST VS. WELLS FARGO BANK	Michael V. Infuso	Attorney	Civil Appeal	General	Other	Settlement Notice Issued/Briefing Suspended
63367 (c/w)	SANUCCI CT TRUST VS. ELEVADO C/W 63067	Michael V. Infuso	Attorney	Civil Appeal	General	Other	Briefing in Progress
63067 (c/w)	SANUCCI CT TRUST VS. ELEVADO C/W 63367	Michael V. Infuso	Attorney	Civil Appeal	General	Other	Briefing in Progress
63066	MANN STREET TRUST VS. NEWMAN	Michael V. Infuso	Attorney	Civil Appeal	General	Other	Briefing in Progress
62528	VILLA PALMS COURT 102 TRUST VS. RILEY	Michael V. Infuso	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63615	RIVER GLIDER AVE TRUST VS. US BANK	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Appeal Docketed/Awaiting Filing Fee
63611	DAISY TRUST VS. WELLS FARGO BANK	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Appeal Docketed/Awaiting Filing Fee
63550	RIVER GLIDER AVE TRUST VS. BANK OF AMERICA	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Referred to Settlement Program
63481	OLIVER SAGEBRUSH DRIVE TRUST VS. BAC HOME LOANS	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63384	9320 POKEWOOD CT TRUST VS. WELLS FARGO BANK	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63282	BOURNE VALLEY COURT TRUST VS. CITIBANK, N.A.	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63264	CORPOLO AVENUE TRUST VS. AHMEAD	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Settlement Notice Issued/Briefing Suspended
63185	VILLA VECCHIO CT TRUST VS. DEUTSCHE BANK	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63184	BOURNE VALLEY COURT TRUST VS. WELLS FARGO BANK	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Briefing Reinstated
63180	SHADOW WOOD HOMEOWNERS VS. NEW YORK COMMUNITY BANCORP	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Settlement Notice Issued/Briefing Suspended
63077	RIVER GLIDER AVE TRUST VS. BANK OF NEW YORK MELLON	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Briefing Reinstated

<u>63011</u>	SATICO BAY VS. BANK OF NEW YORK MELLON	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Briefing Reinstated
<u>63009</u>	9320 POKEWOOD CT TRUST VS. WELLS FARGO BANK	Michael F. Bohn	Attorney	Civil Appeal	General	Other	Briefing Reinstated
<u>62506</u>	CENTENO VS. MONTESA LLC	Martin Centeno	Appellant	Civil Appeal	General	Proper Person	Submitted for Decision
<u>61416</u>	CENTENO VS. NATIONAL DEFAULT SERVICING CORP.	Martin Centeno	Appellant	Civil Appeal	General	Proper Person	Rehearing Denied
<u>60984</u>	CENTENO VS. MAVERICK VALLEY PROPERTIES LLC	Martin Centeno	Appellant	Civil Appeal	General	Proper Person	Rehearing Denied