

CLERK OF THE COURT

**NEOJ**  
ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
STEVEN G. SHEVORSKI, ESQ.  
Nevada Bar No. 8256  
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Email: ariel.stern@akerman.com  
Email: steven.shevorski@akerman.com

*Attorneys for Bank of America, N.A.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

7510 PERLA DEL MAR AVE. TRUST,

Plaintiff,

v.

BANK OF AMERICA, N.A.; NORTH  
AMERICAN TITLE COMPANY, a Nevada  
corporation; MOUNTAINS EDGE MASTER  
ASSOCIATION; and DOMINIC NOLAN,

Defendants.

Case No.: A-13-686277-C

Dept.: XXX

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that an AMENDED ORDER GRANTING BANK OF  
AMERICA, N.A.'S MOTION TO DISMISS TO REFLECT COURT'S ORDER GRANTING 7510  
PERLA DEL MAR AVE. TRUST'S REQUEST FOR N.R.C.P. 45(B) CERTIFICATION was  
entered in the above-captioned matter on March 3, 2014.

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A copy of said Order is attached hereto.  
DATED this 3rd day of March, 2014.

**AKERMAN LLP**

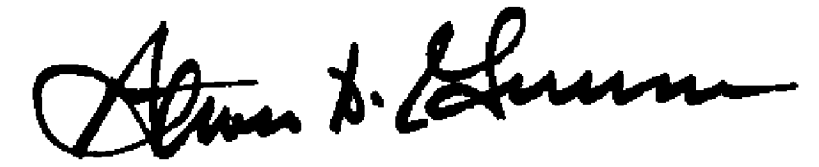
/s/ Steve Shevorski, Esq.  
ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
STEVEN G. SHEVORSKI, ESQ.  
Nevada Bar No. 8256  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144  
  
*Attorneys for Bank of America, N.A.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 3rd day of March, 2014 and pursuant to NRCP 5(b), I served and deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, postage prepaid and addressed to:

Michael F. Bohn, Esq.  
LAW OFFICES OF MICHAEL F. BOHN, LTD.  
376 E. Warm Springs Road, Suite 125  
Las Vegas, NV 89119  
*Attorney for Plaintiff*

/s/ Eloisa Nuñez  
\_\_\_\_\_  
An employee of AKERMAN LLP



CLERK OF THE COURT

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12 Email: steven.shevorski@akerman.com

13 *Attorneys for Defendant*  
14 *Bank of America, N.A.*

15 **EIGHTH JUDICIAL DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 7510 PERLA DEL MAR AVE. TRUST,  
18  
19 Plaintiff,

20 v.

21 BANK OF AMERICA, N.A.; NORTH  
22 AMERICAN TITLE COMPANY, a Nevada  
23 corporation; MOUNTAINS EDGE MASTER  
24 ASSOCIATION; and DOMINIC NOLAN,  
25

26 Defendants.

Case No.: A-13-686277-C  
Dept.: XXX

**AMENDED ORDER GRANTING BANK  
OF AMERICA, N.A.'S MOTION TO  
DISMISS TO REFLECT COURT'S  
ORDER GRANTING 7510 PERLA DEL  
MAR AVE. TRUST'S REQUEST FOR  
N.R.C.P. 45(B) CERTIFICATION**

27 Bank of America, N.A.'s (**Bank of America**) motion to dismiss 7510 Perla Del Mar Ave.  
28 Trust's (**Plaintiff**) complaint with prejudice and Plaintiff's countermotion for stay came on for  
hearing on December 19, 2013. Steve Shevorski, Esq. of Akerman LLP appeared for Bank of  
America. Michael F. Bohn, Esq., LTD appeared for plaintiff. The Court reviewed Bank of  
America's motion, the exhibits attached thereto, all the papers and pleadings, the oral arguments of  
counsel for Bank of America and counsel for Plaintiff, and good cause appearing,

**IT IS HEREBY ORDERED** Bank of America's motion is granted without prejudice and  
plaintiff's counter motion to stay is denied.

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492, 50 P.3d 546, 548 (2002), overruled in part on other grounds by *Garvin v. Dist. Ct.*, 118 Nev. 749, 765 n. 71, 59 P.3d 1180, 1190 n. 71 (2002)). Here, Plaintiff's interpretation, that an HOA foreclosure can wipe out a senior deed of trust under NEV. REV. STAT. §116.3116(2)(c), renders the Nevada's legislature's explicit grant of priority to senior deeds of trust under section 2(b) to be completely nugatory. There is no section in Chapter 116 that states an HOA foreclosure can extinguish a senior deed of trust.

**ORDER BASED UPON COURT'S FINDINGS AND CONCLUSIONS OF LAW**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Bank of America's motion to dismiss is **GRANTED** ~~with prejudice~~.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's countermotion to stay is **DENIED**.

THE COURT'S ORDER IS HEREBY AMENDED *NUNC PRO TUNC* to reflect that 7510 Perla Del Mar Ave. Trust's request that this action be certified to the Nevada Supreme Court pursuant to N.R.C.P. 54(b) is granted.

DATED this 28 day of February, 2014.

THE HONORABLE JERRY A. WEISE

DISTRICT COURT JUDGE

Submitted by:


AKERMAN LLP

Ariel E. Stern, Esq., Nevada Bar No. 8276  
Steve Shevovski, Esq., Nevada Bar No. 8256  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144

*Attorneys for Defendant  
Bank of America, N.A.*

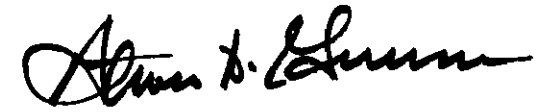
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2 **MICHAEL F. BOHN, ESQ., LTD.**

3 

4 Michael F. Bohn, Esq., Nevada Bar No. 1641  
5 Law Offices of Michael F. Bohn, Esq., Ltd.  
6 376 E. Warm Springs Road, Suite 125  
Las Vegas, NV 89119

7 *Attorney for Plaintiff*



CLERK OF THE COURT

1 **OGM**  
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11 Email: ariel.stern@akerman.com  
12 Email: steven.shevorski@akerman.com

13 *Attorneys for Defendant*  
14 *Bank of America, N.A.*

15 **EIGHTH JUDICIAL DISTRICT COURT**  
16 **CLARK COUNTY, NEVADA**

17 7510 PERLA DEL MAR AVE. TRUST,  
18  
19 Plaintiff,

20 v.

21 BANK OF AMERICA, N.A.; NORTH  
22 AMERICAN TITLE COMPANY, a Nevada  
23 corporation; MOUNTAINS EDGE MASTER  
24 ASSOCIATION; and DOMINIC NOLAN,  
25

26 Defendants.

Case No.: A-13-686277-C  
Dept.: XXX

**AMENDED ORDER GRANTING BANK  
OF AMERICA, N.A.'S MOTION TO  
DISMISS TO REFLECT COURT'S  
ORDER GRANTING 7510 PERLA DEL  
MAR AVE. TRUST'S REQUEST FOR  
N.R.C.P. 45(B) CERTIFICATION**

27 Bank of America, N.A.'s (**Bank of America**) motion to dismiss 7510 Perla Del Mar Ave.  
28 Trust's (**Plaintiff**) complaint with prejudice and Plaintiff's countermotion for stay came on for  
hearing on December 19, 2013. Steve Shevorski, Esq. of Akerman LLP appeared for Bank of  
America. Michael F. Bohn, Esq., LTD appeared for plaintiff. The Court reviewed Bank of  
America's motion, the exhibits attached thereto, all the papers and pleadings, the oral arguments of  
counsel for Bank of America and counsel for Plaintiff, and good cause appearing,

**IT IS HEREBY ORDERED** Bank of America's motion is granted without prejudice and  
plaintiff's counter motion to stay is denied.

{28228413;1}

AKERMAN SENTERFITT LLP

1160 Town Center Drive, Suite 330  
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TEL.: (702) 634-5000 – FAX: (702) 380-8572



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492, 50 P.3d 546, 548 (2002), overruled in part on other grounds by *Garvin v. Dist. Ct.*, 118 Nev. 749, 765 n. 71, 59 P.3d 1180, 1190 n. 71 (2002)). Here, Plaintiff's interpretation, that an HOA foreclosure can wipe out a senior deed of trust under NEV. REV. STAT. §116.3116(2)(c), renders the Nevada's legislature's explicit grant of priority to senior deeds of trust under section 2(b) to be completely nugatory. There is no section in Chapter 116 that states an HOA foreclosure can extinguish a senior deed of trust.

**ORDER BASED UPON COURT'S FINDINGS AND CONCLUSIONS OF LAW**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Bank of America's motion to dismiss is **GRANTED** ~~with prejudice~~.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's countermotion to stay is **DENIED**.

THE COURT'S ORDER IS HEREBY AMENDED *NUNC PRO TUNC* to reflect that 7510 Perla Del Mar Ave. Trust's request that this action be certified to the Nevada Supreme Court pursuant to N.R.C.P. 54(b) is granted.

DATED this 28 day of February, 2014.

THE HONORABLE JERRY A. WEISE

DISTRICT COURT JUDGE

Submitted by:

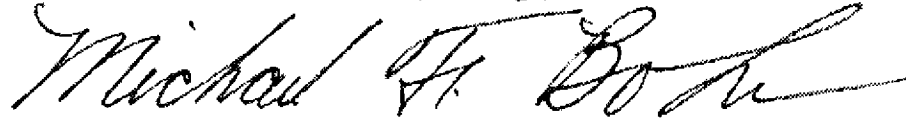
AKERMAN LLP

Ariel E. Stern, Esq., Nevada Bar No. 8276  
Steve Shevovski, Esq., Nevada Bar No. 8256  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144

*Attorneys for Defendant  
Bank of America, N.A.*

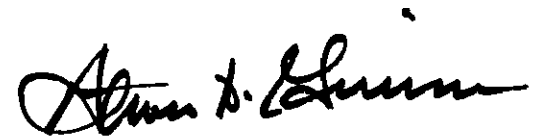
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2 **MICHAEL F. BOHN, ESQ., LTD.**

3 

4 Michael F. Bohn, Esq., Nevada Bar No. 1641  
5 Law Offices of Michael F. Bohn, Esq., Ltd.  
6 376 E. Warm Springs Road, Suite 125  
Las Vegas, NV 89119

7 *Attorney for Plaintiff*



CLERK OF THE COURT

**NEOJ**  
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Nevada Bar No. 8256  
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Email: ariel.stern@akerman.com  
Email: steven.shevorski@akerman.com

*Attorneys for Bank of America, N.A.*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

7510 PERLA DEL MAR AVE. TRUST,  
  
Plaintiff,

v.

BANK OF AMERICA, N.A.; NORTH  
AMERICAN TITLE COMPANY, a Nevada  
corporation; MOUNTAINS EDGE MASTER  
ASSOCIATION; and DOMINIC NOLAN,

Defendants.

Case No.: A-13-686277-C  
Dept.: XXX

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that an ORDER GRANTING BANK OF AMERICA, N.A.'S  
MOTION TO DISMISS was entered in the above-captioned matter on February 19, 2014. A copy  
of said Order is attached hereto.

DATED this 19th day of February, 2014.

**AKERMAN LLP**

/s/ Steve Shevorski, Esq.

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

STEVEN G. SHEVORSKI, ESQ.

Nevada Bar No. 8256

1160 Town Center Drive, Suite 330

Las Vegas, Nevada 89144

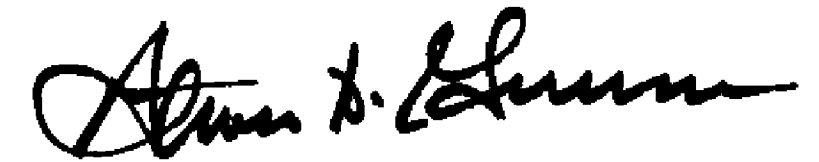
*Attorneys for Bank of America, N.A.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 19th day of February, 2014 and pursuant to NRCP 5(b), I served and deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, postage prepaid and addressed to:

Michael F. Bohn, Esq.  
LAW OFFICES OF MICHAEL F. BOHN, LTD.  
376 E. Warm Springs Road, Suite 125  
Las Vegas, NV 89119  
*Attorney for Plaintiff*

/s/ Eloisa Nuñez  
\_\_\_\_\_  
An employee of AKERMAN LLP



CLERK OF THE COURT

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11 Email: ariel.stern@akerman.com  
12 Email: steven.shevorski@akerman.com

13 *Attorneys for Defendant*  
14 *Bank of America, N.A.*

15 **EIGHTH JUDICIAL DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 7510 PERLA DEL MAR AVE. TRUST,

18 Plaintiff,

19 v.

20 BANK OF AMERICA, N.A.; NORTH  
21 AMERICAN TITLE COMPANY, a Nevada  
22 corporation; MOUNTAINS EDGE MASTER  
23 ASSOCIATION; and DOMINIC NOLAN,

24 Defendants.

Case No.: A-13-686277-C  
Dept.: XXX

**ORDER GRANTING BANK OF  
AMERICA, N.A.'S MOTION TO DISMISS**

25 Bank of America, N.A.'s (**Bank of America**) motion to dismiss 7510 Perla Del Mar Ave.  
26 Trust's (**Plaintiff**) complaint with prejudice and Plaintiff's countermotion for stay came on for  
27 hearing on December 19, 2013. Steve Shevorski, Esq. of Akerman LLP appeared for Bank of  
28 America. Michael F. Bohn, Esq., LTD appeared for plaintiff. The Court reviewed Bank of  
America's motion, the exhibits attached thereto, all the papers and pleadings, the oral arguments of  
counsel for Bank of America and counsel for Plaintiff, and good cause appearing,

**IT IS HEREBY ORDERED** Bank of America's motion is granted and plaintiff's counter  
motion to stay is denied.

## FINDINGS

1. Dominic Nolan (**Nolan**) obtained title via grant, bargain, and sale deed, which was recorded on December 10, 2010. Nolan borrowed \$161,524.00 from KEA Mortgage, LLC. This loan was secured by a first position deed of trust, which was recorded on December 10, 2010.

2. The senior deed of trust was then assigned to Bank of America. The assignment was recorded on January 6, 2012.

3. Bank of America then assigned the senior deed of trust, together with the note, to Nationstar Mortgage, LLC. The assignment was recorded on July 10, 2013.

4. The Mandolin (**HOA**) issued an assessment lien, which was recorded on January 4, 2012.

5. HOA recorded a notice of default and election to sell on February 27, 2012.

6. HOA recorded its notice of trustee's sale on November 15, 2012.

7. HOA sold the property to plaintiff via a trustee's sale on February 1, 2013. HOA recorded the trustee's deed on February 7, 2013.

## LEGAL CONCLUSIONS

When a statute is clear and unambiguous, this court gives effect to the plain and ordinary meaning of the words and does not resort to the rules of construction. *Seput v. Lacayo*, 122 Nev. 499, 502, 134 P.3d 733, 735 (2006), abrogated on other grounds by *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n. 6, 181 P.3d 670, 672 n. 6 (2008). The plain language of NEV. REV. STAT. §116.3116(2)(b) gives senior recorded deeds of trust priority of assessment liens. NEV. REV. STAT. §116.3116(2)(c) merely sets forth an order of payment and allows the HOA to recover 9 months of assessments from the proceeds of the beneficiary's non-judicial foreclosure.

No part of a statute should be rendered meaningless and its language "should not be read to produce absurd or unreasonable results." *Harris Assocs. v. Clark County Sch. Dist.*, 119 Nev. 638, 642, 81 P.3d 532, 534 (2003) (quoting *Glover v. Concerned Citizens for Fuji Park*, 118 Nev. 488, 492, 50 P.3d 546, 548 (2002), overruled in part on other grounds by *Garvin v. Dist. Ct.*, 118 Nev. 749, 765 n. 71, 59 P.3d 1180, 1190 n. 71 (2002)). Here, SFR's interpretation, that an HOA

1 foreclosure can wipe out a senior deed of trust under NEV. REV. STAT. §116.3116(2)(c), renders the  
2 Nevada's legislature's explicit grant of priority to senior deeds of trust under section 2(b) to be  
3 completely nugatory. There is no section in Chapter 116 that states an HOA foreclosure can  
4 extinguish a senior deed of trust.

5 **ORDER BASED UPON COURT'S FINDINGS AND CONCLUSIONS OF LAW**

6 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Bank of America's  
7 motion to dismiss is **GRANTED**, with prejudice.

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiff's  
9 countermotion to stay is **DENIED**.

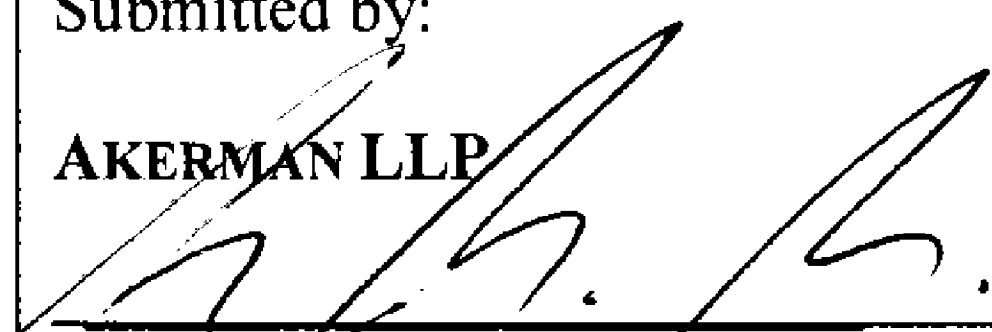
10 DATED this 18<sup>th</sup> day of February, 2014.

11 **THE HONORABLE JERRY A. WEISE**

12   
13 DISTRICT COURT JUDGE 

14 Submitted by:


15 **AKERMAN LLP**

16   
17 Ariel E. Stern, Esq., Nevada Bar No. 8276  
18 Steve Shevorski, Esq., Nevada Bar No. 8256  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144

19 *Attorneys for Defendant*  
20 *Bank of America, N.A.*

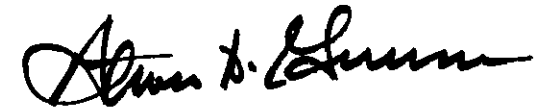
21 Approved as to form and content, all rights reserved

22 **MICHAEL F. BOHN, ESQ., LTD.**

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24 Michael F. Bohn, Esq., Nevada Bar No. 1641  
25 Law Offices of Michael F. Bohn, Esq., Ltd.  
376 E. Warm Springs Road, Suite 125  
26 Las Vegas, NV 89119

27 *Attorney for Plaintiff*





CLERK OF THE COURT

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12 Email: steven.shevorski@akerman.com

13 *Attorneys for Defendant*  
14 *Bank of America, N.A.*

15 **EIGHTH JUDICIAL DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 7510 PERLA DEL MAR AVE. TRUST,

18 Plaintiff,

19 v.

20 BANK OF AMERICA, N.A.; NORTH  
21 AMERICAN TITLE COMPANY, a Nevada  
22 corporation; MOUNTAINS EDGE MASTER  
23 ASSOCIATION; and DOMINIC NOLAN,

24 Defendants.

Case No.: A-13-686277-C  
Dept.: XXX

25 **ORDER GRANTING BANK OF**  
26 **AMERICA, N.A.'S MOTION TO DISMISS**

27 Bank of America, N.A.'s (**Bank of America**) motion to dismiss 7510 Perla Del Mar Ave.  
28 Trust's (**Plaintiff**) complaint with prejudice and Plaintiff's countermotion for stay came on for  
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America's motion, the exhibits attached thereto, all the papers and pleadings, the oral arguments of  
counsel for Bank of America and counsel for Plaintiff, and good cause appearing,

**IT IS HEREBY ORDERED** Bank of America's motion is granted and plaintiff's counter  
motion to stay is denied.

## FINDINGS

1. Dominic Nolan (**Nolan**) obtained title via grant, bargain, and sale deed, which was recorded on December 10, 2010. Nolan borrowed \$161,524.00 from KEA Mortgage, LLC. This loan was secured by a first position deed of trust, which was recorded on December 10, 2010.

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1 foreclosure can wipe out a senior deed of trust under NEV. REV. STAT. §116.3116(2)(c), renders the  
2 Nevada's legislature's explicit grant of priority to senior deeds of trust under section 2(b) to be  
3 completely nugatory. There is no section in Chapter 116 that states an HOA foreclosure can  
4 extinguish a senior deed of trust.

5 **ORDER BASED UPON COURT'S FINDINGS AND CONCLUSIONS OF LAW**

6 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Bank of America's  
7 motion to dismiss is **GRANTED**, ~~with prejudice~~.

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiff's  
9 countermotion to stay is **DENIED**.

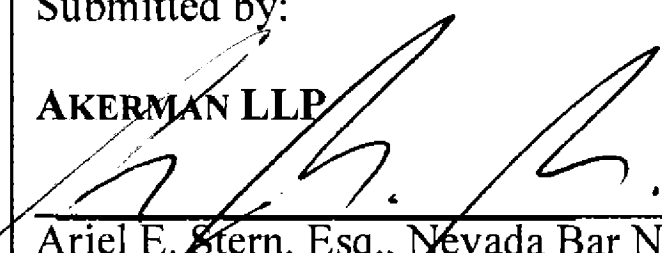
10 DATED this 18<sup>th</sup> day of February, 2014.

11 **THE HONORABLE JERRY A. WEISE**

12   
13 DISTRICT COURT JUDGE 

14 Submitted by:


15 **AKERMAN LLP**

16   
17 Ariel E. Stern, Esq., Nevada Bar No. 8276  
18 Steve Shevorski, Esq., Nevada Bar No. 8256  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144

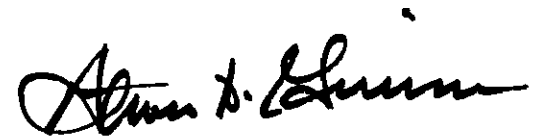
19 *Attorneys for Defendant*  
20 *Bank of America, N.A.*

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24 Michael F. Bohn, Esq., Nevada Bar No. 1641  
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26 376 E. Warm Springs Road, Suite 125  
Las Vegas, NV 89119

27 *Attorney for Plaintiff*



CLERK OF THE COURT

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

11 DISTRICT COURT  
12 CLARK COUNTY, NEVADA

13 7510 PERLA DEL MAR AVE TRUST,  
14 Plaintiff,

15 vs.

16 BANK OF AMERICA, N.A.; NORTH  
17 AMERICAN TITLE COMPANY, A NEVADA  
18 CORPORATION; MOUNTAINS EDGE  
19 MASTER ASSOCIATION; and DOMINIC J.  
20 NOLAN,  
21 Defendants.

CASE NO.: A686277  
DEPT NO.:

**EXEMPTION FROM ARBITRATION:**  
**Title to real property**

22 **AMENDED COMPLAINT**

23 Plaintiff, 7510 Perla Del Mar Ave Trust, by and through it's attorney, Michael F. Bohn, Esq.  
24 alleges as follows:

25 **FIRST CLAIM FOR RELIEF**

- 26 1. Plaintiff is the owner of the real property commonly known as 7510 Perla Del Mar  
27 Avenue, Las Vegas, Nevada 89179.  
28 2. Plaintiff obtained title by way of a Foreclosure Deed recorded on February 7, 2013.  
3. Plaintiff's title stems from a foreclosure deed arising from a delinquency in assessments  
due from the former owner to Mandolin pursuant to NRS Chapter 116.

1           4. Defendant Bank of America, N.A. is the assignee of a deed of trust which was recorded as  
2 an encumbrance to the subject property on December 10, 2010.

3 || 5. Defendant North American Title Company is the trustee on the deed of trust.

4 || 6. Defendant Dominic J. Nolan is the former owner of the subject real property.

7. 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 owner, Dominic J. Nolan, to Mandolin, pursuant to NRS Chapter 116.

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

11 || 9. Plaintiff is entitled to an award of attorneys fees and costs.

**SECOND CLAIM FOR RELIEF**

13 10. Plaintiff repeats the allegations contained in paragraphs 1 through 9.

11. 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.

18 12. Plaintiff is entitled to an award of attorneys fees and costs.

19 WHEREFORE, plaintiff prays for Judgment as follows:

20 1. For injunctive relief;

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

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

25 |||

26 |||

27 |||

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

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

DATED this 1<sup>st</sup> day of September 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:

7510 PERLA DEL MAR AVE TRUST

Appellant

vs.

BANK OF AMERICA, N.A.,

Respondents

No. 65069

DOCKETING STATEMENT

CIVIL APPEALS

Electronically Filed  
Mar 11 2014 09:46 a.m.  
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 30  
County Clark Judge Jerry A Wiese  
District Ct. Case No. A686277

**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 140  
Las Vegas, Nevada 89119

Client(s) 7510 PERLA DEL MAR AVE 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 Steve Shevorski Telephone 702-634-5000  
Firm Akerman LLP  
Address 1160 Town Center Dr. #330  
Las Vegas, NV 89144  
Client(s) Bank of America, N.A.

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Client(s) \_\_\_\_\_



**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 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 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 116.3116 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** Feb 19, 2014

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** Feb 19, 2014

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** Feb 20, 2014

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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)

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**SUBSTANTIVE APPEALABILITY**

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

(a)

- |   |                                       |
|---|---------------------------------------|
| <input checked="" 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 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 of dismissal.

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

(a) Parties:

7510 Perla Del Mar Ave Trust, plaintiff  
Bank of America, N.A., defendant  
North American Title Company, defendant  
Mountains Edge Master Association, defendant  
Dominic J. Nolan, 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:

Dominic J. Nolan has not made an appearance in the district court case.  
North American Title Company has not made an appearance in the district court case.  
Mountains Edge Master Association signed a stipulation and was dismissed from the 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 claims pending against Dominic J. Nolan are still pending

The claims pending against North American Title Company are still pending

(b) Specify the parties remaining below:  
Dominic J. Nolan  
North American Title Company

(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)):**

**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

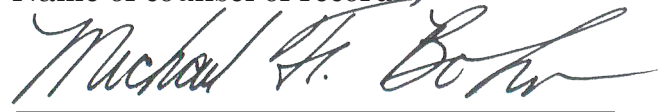
I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

7510 PERLA DEL MAR AVE TRUST  
Name of appellant

Mar 10, 2014  
Date

Clark County, Nevada  
State and county where signed

Michael F. Bohn, Esq.  
Name of counsel of record

  
Signature of counsel of record


## CERTIFICATE OF SERVICE

I certify that on the 10th day of March, 2014, 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.)

Steve Shevorski, Esq.  
Akerman LLP  
1160 Town Center Drive # 330  
Las Vegas, NV 89144

Dated this 10th day of March, 2014

  
Signature