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7 Attorney for appellant

Electronically Filed  
Aug 29 2014 09:48 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

8  
9 SUPREME COURT COURT

10 STATE OF NEVADA

11  
12 7510 PERLA DEL MAR AVE TRUST,

CASE NO.: 65069

13 Appellant,

14 vs.

15 BANK OF AMERICA, N.A.,

16 Respondent.

17  
18 **JOINT APPENDIX 3**

19  
20 Michael F. Bohn, Esq.  
LAW OFFICE OF MICHAEL F. BOHN,  
21 ESQ., LTD.  
376 East Warm Springs Road, Ste. 140  
22 Las Vegas, Nevada 89119  
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23 Attorney for Appellant  
24

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

Attorney for Respondent

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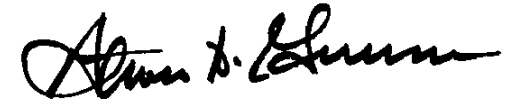
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CLERK OF THE COURT

1 SAO

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

2 ANDRE FARINHA

Nevada Bar No. 10035

3 GREGORY P. KERR, ESQ.

Nevada Bar No. 10383

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Las Vegas, Nevada 89120

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7 Attorneys for Defendant, Mountains Edge Master  
Association

8 IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF CLARK

10 7510 PERLA DEL MAR AVE TRUST,

11 Plaintiff,

12 vs.

13 BANK OF AMERICA, N.A.; NORTH  
14 AMERICAN TITLE COMPANY, A  
15 NEVADA CORPORATION;  
16 MOUNTAINS EDGE MASTER  
17 ASSOCIATION and DOMINIC J.  
NOLAN;

18 Defendants.

Case No. A686277

Dept. No.: XXX

STIPULATION AND ORDER OF  
DISMISSAL OF MOUNTAINS EDGE  
MASTER ASSOCIATION

19  
20 Plaintiff, 7510 PERLA DEL MAR AVE TRUST ("Plaintiff"), by and through its  
21 attorney, Michael F. Bohn, Esq., and the above identified Defendant listed as MOUNTAINS  
22 EDGE MASTER ASSOCIATION ("Master Association"), by and through its attorneys, WOLF,  
23 RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP, by Gregory P. Kerr, Esq., hereby agree and  
24 stipulate as follows:

- 25 1. This matter concerns real property located at 7510 Perla Del Mar Ave., Las Vegas,  
26 NV 89179 ("Property").
- 27 2. Plaintiff obtained title to the Property by way of foreclosure deed recorded on  
28 February 7, 2013.

STIPULATION AND ORDER

1           3. Plaintiff purchased the Property at a foreclosure sale conducted by Mandolin  
2 Homeowners Association ("Mandolin") for unpaid assessments owed to it by the previous owner  
3 of the Property, Mr. Dominic Nolan.

4           4. Mandolin is a sub-association in the Master Association. The Property is subject to  
5 both the Declaration of Covenants, Conditions and Restrictions ("CC&Rs") of Mandolin and the  
6 CC&Rs of the Master Association, which are recorded against the property.

7           5. NRS 116.3116 gives a statutory lien to both Mandolin and the Master Association  
8 for assessments levied against all properties located within the Mandolin and Master Association  
9 communities, which includes the Property.

10          6. At the time of the foreclosure sale by Mandolin, there were delinquent assessments  
11 owed to the Master Association for which it has a lien against the Property under NRS 116.3116.

12          7. Also, Bank of America is the assignee of a deed of trust which was recorded as an  
13 encumbrance on the Property on December 10, 2010.

14          8. As a result of the foreclosure sale, the delinquent assessments owed to Mandolin  
15 were satisfied from the proceeds of the sale and surplus funds remained.

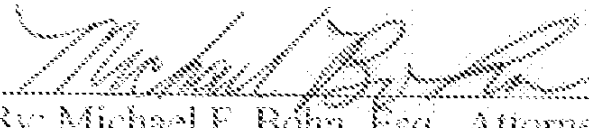
16          9. On or about December 12, 2013, the Master Association's lien for delinquent  
17 assessments owing up to the date of the foreclosure sale was satisfied from the surplus funds and  
18 is no longer owed any amounts under the lien on the Property prior to and through the foreclosure  
19 sale.

20          10. Plaintiff's Complaint seeks a declaration that the liens and encumbrances recorded  
21 against the property as of the date of the foreclosure sale are wiped out and that the Plaintiff owns  
22 the Property free and clear of those liens and encumbrances.

23          11. Because the Master Association's lien for all amounts owed through the foreclosure  
24 were satisfied, the Master Association has no further interest or stake in the outcome of this  
25 litigation and only maintains that its statutory lien under NRS 116.3116 remains in place as a  
26 matter of law for assessment amounts owed post-foreclosure. As such, Plaintiff and the Master  
27 Association agree and stipulate that the Master Association is hereby dismissed from this case  
28 without prejudice at this time.

1  
2 DATED: December 19, 2013

LAW OFFICES OF MICHAEL F. BOHN

3  
4   
5 By: Michael F. Bohn, Esq., Attorney for  
6 7510 Perla Del Mar Ave., Trust

7 DATED: December 23, 2013

WOLF, RIFKIN, SHAPIRO, SCHULMAN &  
RABKIN, LLP

8  
9  
10 By: Gregory P. Kerr, Esq., Attorneys for  
11 MOUNTAIN'S EDGE MASTER ASSOCIATION

12 IT IS SO ORDERED.

13 DATED this 26<sup>th</sup> day of December, 2013

14  
15  
16   
17 HON.  
18 DISTRICT COURT JUDGE

17 Respectfully submitted by:  
18 WOLF, RIFKIN, SHAPIRO,  
19 SCHULMAN & RABKIN, LLP

20  
21 GREGORY P. KERR, ESQ.  
22 Nevada Bar No. 10383  
23 3556 E. Russell Road, Second Floor  
24 Las Vegas, Nevada 89120  
25 (702) 341-5200/Fax: (702) 341-5300  
26 Attorneys for Defendant,  
27 Mountain's Edge Master Association  
28



CLERK OF THE COURT

1 NESO  
2 WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP  
3 ANDRE FARINHA  
4 Nevada Bar No. 10035  
5 GREGORY P. KERR, ESQ.  
6 Nevada Bar No. 10383  
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10 mlemcool@wrslawyers.com  
11 gkerr@wrslawyers.com

12 *Attorneys for Defendant, Mountains Edge Master*  
13 *Association*

14 **IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA**  
15 **IN AND FOR THE COUNTY OF CLARK**

16 7510 PERLA DEL MAR AVE TRUST,

17 Plaintiff,

18 vs.

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

24 Defendants.

Case No. A686277

Dept. No.: XXX

**NOTICE OF ENTRY OF STIPULATION  
AND ORDER OF DISMISSAL OF  
MOUNTAINS EDGE MASTER  
ASSOCIATION**

25 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

26 PLEASE TAKE NOTICE that the attached STIPULATION AND ORDER OF  
27 DISMISSAL OF MOUNTAINS EDGE MASTER ASSOCIATION was signed by the Court on  
28 December 26, 2013, and filed on December 27, 2013.

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NOTICE OF ENTRY OF STIPULATION AND ORDER OF DISMISSAL OF  
MOUNTAINS EDGE MASTER ASSOCIATION

1 A true and correct copy of said Stipulation and Order is attached hereto.

2 DATED this 8<sup>th</sup> day of January, 2014.

3 WOLF, RIFKIN, SHAPIRO,  
4 SCHULMAN & RABKIN, LLP

5  
6 By: 

ANDRE V. FARINHA, ESQ.

Nevada Bar No. 10035

GREGORY P. KERR, ESQ.

Nevada Bar No. 10383

3556 E. Russell Road, Second Floor

Las Vegas, Nevada 89120

(702) 341-5200/Fax: (702) 341-5300

Attorneys for Defendant, Mountains Edge Master  
Association

13 CERTIFICATE OF SERVICE

14 I hereby certify that on this 8<sup>th</sup> day of January, 2014, a true and correct copy

15 of NOTICE OF ENTRY OF STIPULATION AND ORDER OF DISMISSAL OF

16 MOUNTAINS EDGE MASTER ASSOCIATION was placed in an envelope, postage prepaid,

17 addressed as stated below, in the basket for outgoing mail before 4:00 p.m. at WOLF, RIFKIN,

18 SHAPIRO, SCHULMAN & RABKIN, LLP. The firm has established procedures so that all mail

19 placed in the basket before 4:00 p.m. is taken that same day by an employee and deposited in a

20 U.S. Mail box.

21 Michael F. Bohn, Esq.

Michael F. Bohn, Esq., LTD

376 East Warm Springs Road, Suite 125

Las Vegas, NV 89119

Attorney for Plaintiff

7510 Perla Del Mar Ave Trust

Ariel E. Stern, Esq.

Akerman Senterfitt LLP

1160 Town Center Drive, Suite 330

Las Vegas, NV 89101

Attorneys for Defendant, Bank of America

25  
26 By 

Nina Miller, an Employee of

WOLF, RIFKIN, SHAPIRO, SCHULMAN &

RABKIN, LLP

SAO  
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP CLERK OF THE COURT

ANDRÉ FARINHA

Nevada Bar No. 10035

GREGORY P. KERR, ESQ.

Nevada Bar No. 10383

3556 E. Russell Road, Second Floor

Las Vegas, Nevada 89120

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mlemcool@wrslawyers.com

gkerr@wrslawyers.com

*Attorneys for Defendant, Mountains Edge Master  
Association*

IN THE EIGHTH JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

7510 PERLA DEL MAR AVE TRUST,

Plaintiff,

vs.

BANK OF AMERICA, N.A.; NORTH  
AMERICAN TITLE COMPANY, A  
NEVADA CORPORATION;  
MOUNTAINS EDGE MASTER  
ASSOCIATION and DOMINIC J.  
NOLAN;

Defendants.

Case No. A686277

Dept. No.: XXX

STIPULATION AND ORDER OF  
DISMISSAL OF MOUNTAINS EDGE  
MASTER ASSOCIATION

Plaintiff, 7510 PERLA DEL MAR AVE TRUST ("Plaintiff"), by and through its  
attorney, Michael F. Bohn, Esq., and the above identified Defendant listed as MOUNTAINS  
EDGE MASTER ASSOCIATION ("Master Association"), by and through its attorneys, WOLF,  
RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP, by Gregory P. Kerr, Esq., hereby agree and  
stipulate as follows:

1. This matter concerns real property located at 7510 Perla Del Mar Ave., Las Vegas,  
NV 89179 ("Property").

2. Plaintiff obtained title to the Property by way of foreclosure deed recorded on  
February 7, 2013.

STIPULATION AND ORDER



1           3. Plaintiff purchased the Property at a foreclosure sale conducted by Mandolin  
2 Homeowners Association ("Mandolin") for unpaid assessments owed to it by the previous owner  
3 of the Property, Mr. Dominic Nolan.

4           4. Mandolin is a sub-association in the Master Association. The Property is subject to  
5 both the Declaration of Covenants, Conditions and Restrictions ("CC&Rs") of Mandolin and the  
6 CC&Rs of the Master Association, which are recorded against the property.

7           5. NRS 116.3116 gives a statutory lien to both Mandolin and the Master Association  
8 for assessments levied against all properties located within the Mandolin and Master Association  
9 communities, which includes the Property.

10           6. At the time of the foreclosure sale by Mandolin, there were delinquent assessments  
11 owed to the Master Association for which it has a lien against the Property under NRS 116.3116.

12           7. Also, Bank of America is the assignee of a deed of trust which was recorded as an  
13 encumbrance on the Property on December 10, 2010.

14           8. As a result of the foreclosure sale, the delinquent assessments owed to Mandolin  
15 were satisfied from the proceeds of the sale and surplus funds remained.

16           9. On or about December 12, 2013, the Master Association's lien for delinquent  
17 assessments owing up to the date of the foreclosure sale was satisfied from the surplus funds and  
18 is no longer owed any amounts under the lien on the Property prior to and through the foreclosure  
19 sale.

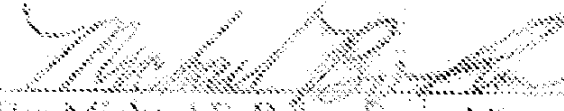
20           10. Plaintiff's Complaint seeks a declaration that the liens and encumbrances recorded  
21 against the property as of the date of the foreclosure sale are wiped out and that the Plaintiff owns  
22 the Property free and clear of those liens and encumbrances.

23           11. Because the Master Association's lien for all amounts owed through the foreclosure  
24 were satisfied, the Master Association has no further interest or stake in the outcome of this  
25 litigation and only maintains that its statutory lien under NRS 116.3116 remains in place as a  
26 matter of law for assessment amounts owed post-foreclosure. As such, Plaintiff and the Master  
27 Association agree and stipulate that the Master Association is hereby dismissed from this case  
28 without prejudice at this time.

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DATED: December 18, 2013

LAW OFFICES OF MICHAEL F. BOHN

  
By: Michael F. Bohn, Esq., Attorney for  
7510 Perla Del Mar Ave., Trust

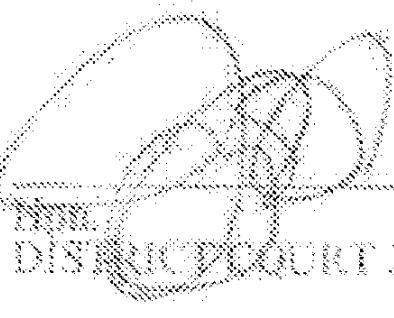
DATED: December 23, 2013

WOLF, RIFKIN, SHAPIRO, SCHULMAN &  
RABKIN, LLP

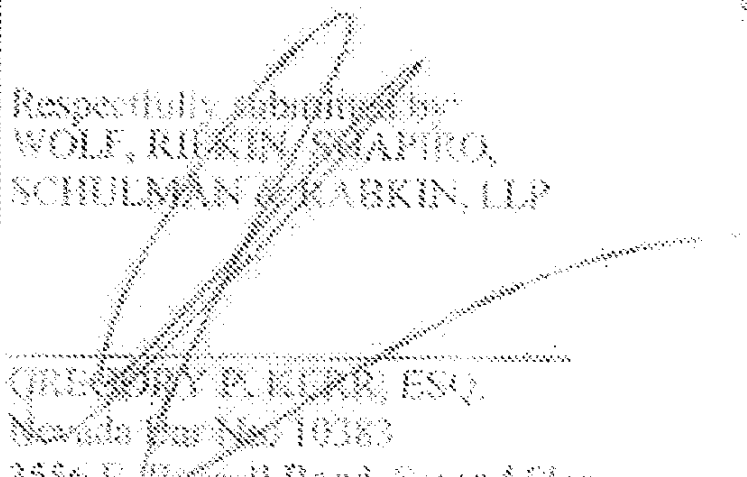
  
By: Gregory E. Kert, Esq., Attorneys for  
MOUNTAIN EDGE MASTER ASSOCIATION

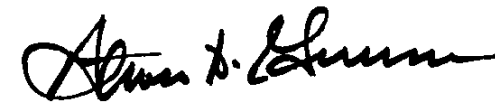
IT IS SO ORDERED.

DATED this 26<sup>th</sup> day of December 2013

  
DISTRICT COURT JUDGE

Respectfully submitted by  
WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP

  
GREGORY E. KERT, ESQ.  
Nevada Bar No. 10383  
3556 E. Russell Road, Second Floor  
Las Vegas, Nevada 89120  
(702) 341-5200/Fax: (702) 341-5300  
Attorneys for Defendant,  
Mountain Edge Master Association



CLERK OF THE COURT

OSCC

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*\*

PERLA DEL MAR AVE., TRUST,

CASE NO.: A-13-686277-C

PLAINTIFF(S)

VS.

DEPARTMENT 30

BANK OF AMERICA, N.A.,

DEFENDANT(S)

**CIVIL ORDER TO STATISTICALLY CLOSE CASE**

Upon review of this matter and good cause appearing,

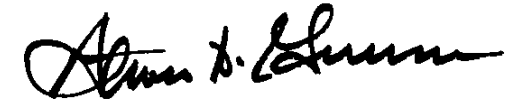
IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to  
statistically close this case for the following reason:

**DISPOSITIONS:**

- ☐ Other Manner of Disposition (Notice of Bankruptcy only)
- ☐ Voluntary Dismissal
- ☐ Transferred (before/during trial)
- ☐ Involuntary (statutory) Dismissal
- ☐ Judgment on Arbitration Award
- ☒ Stipulated Dismissal
- ☐ Stipulated Judgment
- ☐ Default Judgment
- ☐ Motion to Dismiss (by Defendant)
- ☐ Summary Judgment
- ☐ Non-Jury (bench) Trial
- ☐ Jury Trial

DATED this 23rd day of January, 2014.

  
\_\_\_\_\_  
JERRY A WIESE  
DISTRICT COURT JUDGE



CLERK OF THE COURT

1 **OGM**  
2 ARIEL E. STERN, ESQ.  
3 Nevada Bar No. 8276  
4 STEVE SHEVORSKI, ESQ.  
5 Nevada Bar No. 8256  
6 AKERMAN LLP  
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8 Las Vegas, Nevada 89144  
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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 Defendants.

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

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

26 Bank of America, N.A.'s (**Bank of America**) motion to dismiss 7510 Perla Del Mar Ave.  
27 Trust's (**Plaintiff**) complaint with prejudice and Plaintiff's countermotion for stay came on for  
28 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 and plaintiff's counter  
motion to stay is denied.

{27995543;1}

AKERMAN SENTERFITT LLP

1160 Town Center Drive, Suite 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 - FAX: (702) 380-8572

## 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**.

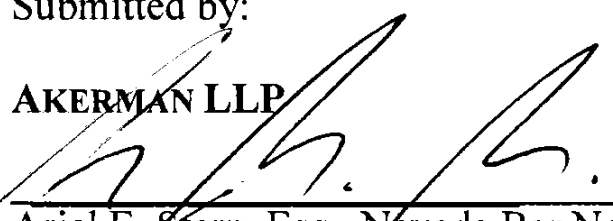
10 DATED this 18<sup>th</sup> day of February, 2014.

11 **THE HONORABLE JERRY A. WEISE**

12   
13 DISTRICT COURT JUDGE 

14 Submitted by:

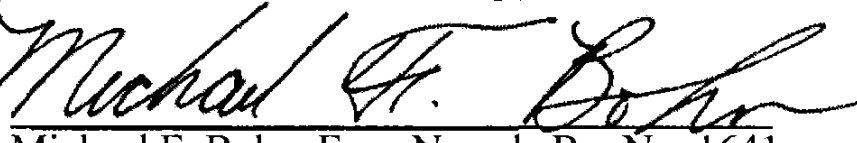
15 **AKERMAN LLP**

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

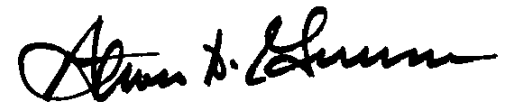
19 *Attorneys for Defendant*  
20 *Bank of America, N.A.*

21 Approved as to form and content, all rights reserved

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

23   
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

1 **NEOJ**  
2 ARIEL E. STERN, ESQ.  
3 Nevada Bar No. 8276  
4 STEVEN G. SHEVORSKI, ESQ.  
5 Nevada Bar No. 8256  
6 AKERMAN LLP  
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12 Email: steven.shevorski@akerman.com  
13  
14 *Attorneys for Bank of America, N.A.*

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

11 7510 PERLA DEL MAR AVE. TRUST,  
12  
13 Plaintiff,

14 v.

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

Defendants.

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

**NOTICE OF ENTRY OF ORDER**

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

21 DATED this 19th day of February, 2014.

22 **AKERMAN LLP**

23 /s/ Steve Shevorski, Esq.  
24 ARIEL E. STERN, ESQ.  
25 Nevada Bar No. 8276  
26 STEVEN G. SHEVORSKI, ESQ.  
27 Nevada Bar No. 8256  
28 1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144

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

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 – FAX: (702) 380-8572

**CERTIFICATE OF SERVICE**

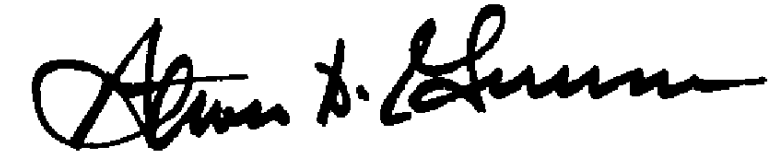
I HEREBY CERTIFY that on the 19th day of February, 2014 and pursuant to NRCP 5(b), I served and deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, postage prepaid and addressed to:

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

1 **OGM**  
2 ARIEL E. STERN, ESQ.  
3 Nevada Bar No. 8276  
4 STEVE SHEVORSKI, ESQ.  
5 Nevada Bar No. 8256  
6 AKERMAN LLP  
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10 Facsimile: (702) 380-8572  
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

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**.

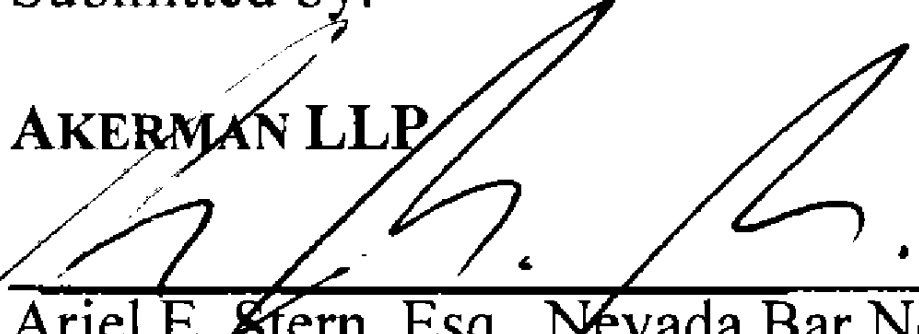
DATED this 18<sup>th</sup> day of February, 2014.

**THE HONORABLE JERRY A. WEISE**

  
DISTRICT COURT JUDGE

Submitted by:

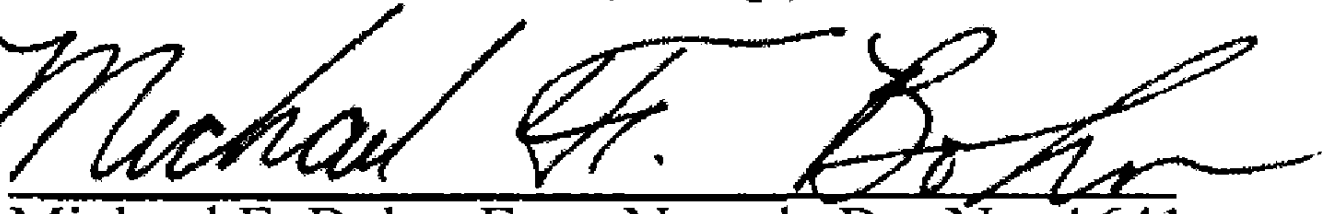
**AKERMAN LLP**

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

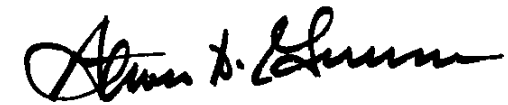
*Attorneys for Defendant  
Bank of America, N.A.*

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

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

*Attorney for Plaintiff*



CLERK OF THE COURT

1 **OGM**  
2 ARIEL E. STERN, ESQ.  
3 Nevada Bar No. 8276  
4 STEVE SHEVORSKI, ESQ.  
5 Nevada Bar No. 8256  
6 AKERMAN LLP  
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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  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 - FAX: (702) 380-8572

1           **AMENDED ORDER** 7510 Perla Del Mar Ave. Trust's request that this action be certified to  
2 the Nevada Supreme Court pursuant to N.R.C.P. 54(b) is granted *nunc pro tunc*.

3                           **FINDINGS**

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

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

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

11           4.       The Mandolin (**HOA**) issued an assessment lien, which was recorded on January 4,  
12 2012.

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

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

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


17                           **LEGAL CONCLUSIONS**

18           When a statute is clear and unambiguous, this court gives effect to the plain and ordinary  
19 meaning of the words and does not resort to the rules of construction. *Seput v. Lacayo*, 122 Nev.  
20 499, 502, 134 P.3d 733, 735 (2006), abrogated on other grounds by *Buzz Stew, LLC v. City of N. Las*  
21 *Vegas*, 124 Nev. 224, 228 n. 6, 181 P.3d 670, 672 n. 6 (2008). The plain language of NEV. REV.  
22 STAT. §116.3116(2)(b) gives senior recorded deeds of trust priority of assessment liens. NEV. REV.  
23 STAT. §116.3116(2)(c) merely sets forth an order of payment and allows the HOA to recover 9  
24 months of assessments from the proceeds of the beneficiary's non-judicial foreclosure.

25           No part of a statute should be rendered meaningless and its language "should not be read to  
26 produce absurd or unreasonable results." *Harris Assocs. v. Clark County Sch. Dist.*, 119 Nev. 638,  
27 642, 81 P.3d 532, 534 (2003) (quoting *Glover v. Concerned Citizens for Fuji Park*, 118 Nev. 488,  
28

1 492, 50 P.3d 546, 548 (2002), overruled in part on other grounds by *Garvin v. Dist. Ct.*, 118 Nev.  
2 749, 765 n. 71, 59 P.3d 1180, 1190 n. 71 (2002)). Here, Plaintiff's interpretation, that an HOA  
3 foreclosure can wipe out a senior deed of trust under NEV. REV. STAT. §116.3116(2)(c), renders the  
4 Nevada's legislature's explicit grant of priority to senior deeds of trust under section 2(b) to be  
5 completely nugatory. There is no section in Chapter 116 that states an HOA foreclosure can  
6 extinguish a senior deed of trust.

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

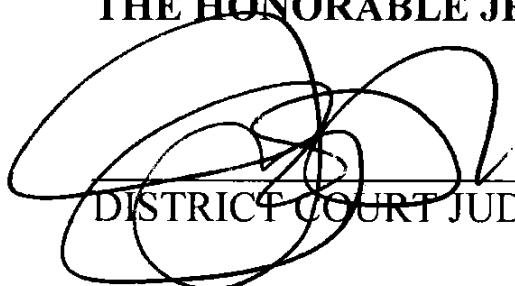
8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Bank of America's  
9 motion to dismiss is **GRANTED** ~~with prejudice.~~ 

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

12 **THE COURT'S ORDER IS HEREBY AMENDED NUNC PRO TUNC** to reflect that  
13 7510 Perla Del Mar Ave. Trust's request that this action be certified to the Nevada Supreme Court  
14 pursuant to N.R.C.P. 54(b) is granted.

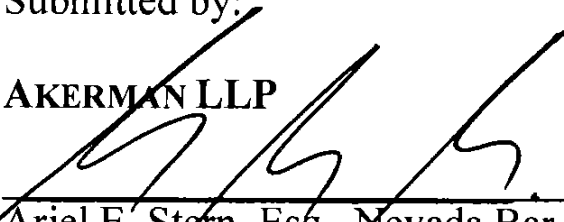
15 DATED this 28 day of February, 2014.

16 **THE HONORABLE JERRY A. WEISE**

17   
18 **DISTRICT COURT JUDGE**

19 Submitted by:

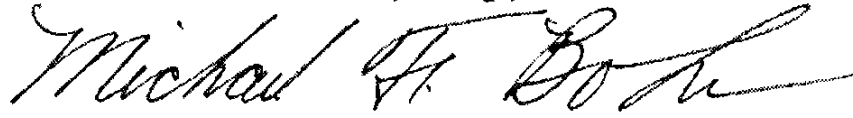
20 **AKERMAN LLP**  #8256

21   
22 Ariel E. Stern, Esq., Nevada Bar No. 8276  
23 Steve Shevovski, Esq., Nevada Bar No. 8256  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144

24 *Attorneys for Defendant*  
25 *Bank of America, N.A.*  
26  
27  
28

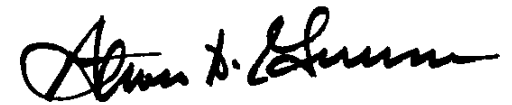
1 Approved as to form and content, all rights reserved

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 **NEOJ**  
2 ARIEL E. STERN, ESQ.  
3 Nevada Bar No. 8276  
4 STEVEN G. SHEVORSKI, ESQ.  
5 Nevada Bar No. 8256  
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12 Email: steven.shevorski@akerman.com  
13  
14 *Attorneys for Bank of America, N.A.*

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

11 7510 PERLA DEL MAR AVE. TRUST,  
12  
13 Plaintiff,  
14  
15 v.  
16  
17 BANK OF AMERICA, N.A.; NORTH  
18 AMERICAN TITLE COMPANY, a Nevada  
19 corporation; MOUNTAINS EDGE MASTER  
20 ASSOCIATION; and DOMINIC NOLAN,  
21  
22 Defendants.

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

**NOTICE OF ENTRY OF ORDER**

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

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///



**AKERMAN LLP**

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 – FAX: (702) 380-8572

1 A copy of said Order is attached hereto.

2 DATED this 3rd day of March, 2014.

3 **AKERMAN LLP**

4 /s/ Steve Shevorski, Esq.

5 ARIEL E. STERN, ESQ.

6 Nevada Bar No. 8276

7 STEVEN G. SHEVORSKI, ESQ.

8 Nevada Bar No. 8256

9 1160 Town Center Drive, Suite 330

10 Las Vegas, Nevada 89144

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

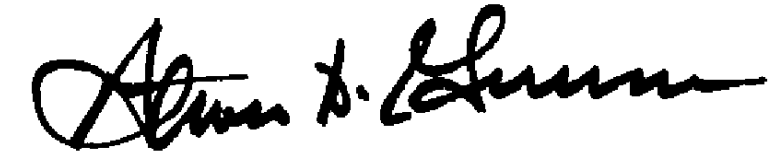
**CERTIFICATE OF SERVICE**

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

1 **OGM**  
2 ARIEL E. STERN, ESQ.  
3 Nevada Bar No. 8276  
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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.



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:

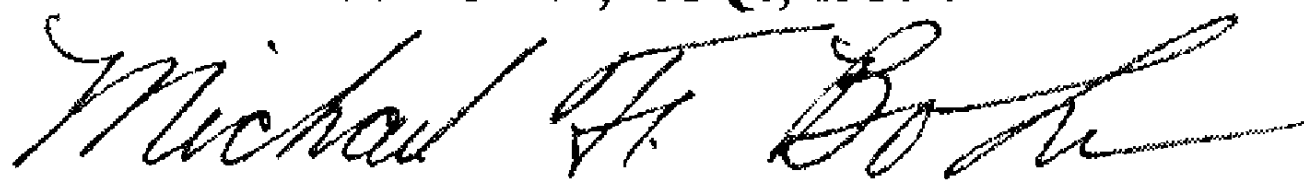
AKERMAN LLP

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1160 Town Center Drive, Suite 330  
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*Attorneys for Defendant  
Bank of America, N.A.*

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7 *Attorney for Plaintiff*