
CLERK OF THE COURT

Electronically Filed
Feb 26 2014 01:14 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

1 **NOAS**
2 **ROGER P. CROTEAU, ESQ.**
3 **Nevada Bar No. 4958**
4 **TIMOTHY E. RHODA, ESQ.**
5 **Nevada Bar No. 7878**
6 **ROGER P. CROTEAU & ASSOCIATES, LTD.**
7 **9120 West Post Road, Suite 100**
8 **Las Vegas, Nevada 89148**
9 **(702) 254-7775**
10 **(702) 228-7719 (facsimile)**
11 **crotcaulaw@crotcaulaw.com**
12 ***Attorney for Plaintiff***
13 **LAS VEGAS DEVELOPMENT GROUP, LLC**

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DISTRICT COURT
CLARK COUNTY, NEVADA

13 LAS VEGAS DEVELOPMENT GROUP, LLC,)
14 a Nevada limited liability company,)

15 Plaintiff,)

16 vs.)

17 BANK OF AMERICA, GENEVIEVE UNIZA-)
18 ENRIQUEZ, DOES 1 THROUGH 20, AND)
19 ROE CORPORATIONS 1 THROUGH 20,)
20 INCLUSIVE,)

21 Defendants.)

Case No. A-12-654840-C
Dept. No. XXIII

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NOTICE OF APPEAL

22 **NOTICE IS HEREBY GIVEN** that the Plaintiff, LAS VEGAS DEVELOPMENT
23 GROUP, LLC, by and through its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD.,
24 hereby appeals to the Supreme Court of the State of Nevada from (1) the Order granting
25 Defendants' Motion to Dismiss entered on or about October 10, 2013; (2) the Order denying
26 Plaintiff's Motion for Reconsideration entered on or about January 23, 2014; (3) all rulings and

interlocutory orders made appealable by any of the foregoing.

DATED this 21st day of February, 2014.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Timothy E. Rhoda

ROGER P. CROTEAU, ESQ.

Nevada Bar No. 4958

TIMOTHY E. RHODA, ESQ.

Nevada Bar No. 7878

9120 West Post Road, Suite 100

Las Vegas, Nevada 89148

(702) 254-7775

Attorney for Plaintiff

LAS VEGAS DEVELOPMENT GROUP, LLC

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that on the 21st day of February, 2014, I served a copy of the foregoing **NOTICE OF APPEAL**, by causing a copy of the same to be deposited in the United States mail, postage prepaid, addressed as follows:

Jacob D. Bundick, Esq.
Natalie L. Winslow, Esq.
AKERMAN LLP
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
Attorneys for Defendant
Bank of America, N.A.

/s/ Timothy E. Rhoda

An employee of ROGER P. CROTEAU &
ASSOCIATES, LTD.


CLERK OF THE COURT

1 **ASTA**
2 **ROGER P. CROTEAU, ESQ.**
3 Nevada Bar No. 4958
4 **TIMOTHY E. RHODA, ESQ.**
5 Nevada Bar No. 7878
6 **ROGER P. CROTEAU & ASSOCIATES, LTD.**
7 9120 West Post Road, Suite 100
8 Las Vegas, Nevada 89148
9 (702) 254-7775
10 (702) 228-7719 (facsimile)
11 crotcaulaw@crotcaulaw.com
12 ***Attorney for Plaintiff***
13 **LAS VEGAS DEVELOPMENT GROUP, LLC**

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DISTRICT COURT
CLARK COUNTY, NEVADA

12 LAS VEGAS DEVELOPMENT GROUP, LLC,)
13 a Nevada limited liability company,)
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15 Plaintiff,)
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17 vs.)
18)
19 BANK OF AMERICA, GENEVIEVE UNIZA-)
20 ENRIQUEZ, DOES 1 THROUGH 20, AND)
21 ROE CORPORATIONS 1 THROUGH 20,)
22 INCLUSIVE,)
23)
24 Defendants.)
25)
26)
27)
28)

Case No. A-12-654840-C
Dept. No. XXIII

CASE APPEAL STATEMENT

20 COMES NOW, Plaintiff, LAS VEGAS DEVELOPMENT GROUP, LLC, by and through
21 its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., and hereby submits its Case
22 Appeal Statement.

23 **1. Name of appellant filing this case appeal statement:**

24 LAS VEGAS DEVELOPMENT GROUP, LLC

25 **2. Identify the judge issuing the decision, judgment, or order appealed from:**

26 The Honorable Stefany A. Miley
27
28

3. **Set forth the name, law firm, address, and telephone number of all counsel on appeal and identify the party or parties whom they represent:**

a. LAS VEGAS DEVELOPMENT GROUP, LLC

Roger P. Croteau, Esq.
Timothy E. Rhoda, Esq.
Roger P. Croteau & Associates, Ltd.
9120 West Post Road, Suite 100
Las Vegas, Nevada 89148
(702) 254-7775

4. **Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel:**

a. GENEVIEVE UNIZA-ENRIQUEZ

Respondent's appellate counsel and trial counsel are unknown because said party had not yet appeared in the action at the time of the Order appealed from.

b. BANK OF AMERICA

Respondent's appellate counsel is unknown at this time but will presumably be Respondent's trial counsel:

Jacob D. Bundick, Esq.
Natalie L. Winslow, Esq.
AKERMAN LLP
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144

5. **Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):**

N/A

6. **Indicate whether appellant was represented by appointed or retained counsel in the district court:**

Retained counsel

7. **Indicate whether appellant is represented by appointed or retained counsel**

on appeal:

Retained counsel

8. **Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:**

N/A

9. **Indicate the date the proceedings commenced in the district court, e.g., date complaint, indictment, information, or petition was filed:**

The original Complaint in this matter was filed on January 17, 2012, in the Eighth Judicial District Court of the State of Nevada in and for Clark County, Nevada.

10. **Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:**

The action is a quiet title and injunctive relief action related to real property purchased by the Plaintiff at an HOA lien auction. Plaintiff alleges that the HOA lien auction served to extinguish any and all mortgages previously secured by the property. On August 15, 2013, Defendant, Bank of America, N.A. filed a Motion to Dismiss Second Amended Complaint, which was subsequently granted by the district court on or about October 10, 2013. Plaintiff filed a Motion to Reconsider on October 18, 2013, which was subsequently denied by the district court on or about January 23, 2014. These are the Orders from which Plaintiff appeals.

11. **Indicate whether the case has previously been the subject of an appeal or an original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:**

N/A

12. **Indicate whether this appeal involves child custody or visitation:**

N/A

13. **If this is a civil case, indicate whether this appeal involves the possibility of**

settlement:

Plaintiff does not believe there is a possibility of settlement as this appeal involves an issue of first impression in the State of Nevada.

DATED this 21st day of February, 2014.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Timothy E. Rhoda
ROGER P. CROTEAU, ESQ.
Nevada Bar No. 4958
TIMOTHY E. RHODA, ESQ.
Nevada Bar No. 7878
9120 West Post Road, Suite 100
Las Vegas, Nevada 89148
(702) 254-7775
Attorney for Plaintiff
LAS VEGAS DEVELOPMENT GROUP, LLC

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that on the 21st day of February, 2014, I served a copy of the foregoing **CASE APPEAL STATEMENT**, by causing a copy of the same to be deposited in the United States mail, postage prepaid, addressed as follows:

Jacob D. Bundick, Esq.
Natalie L. Winslow, Esq.
AKERMAN LLP
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
Attorneys for Defendant
Bank of America, N.A.

/s/ Timothy E. Rhoda
An employee of ROGER P. CROTEAU &
ASSOCIATES, LTD.

DEPARTMENT 23
CASE SUMMARY
CASE NO. A-12-654840-C

Las Vegas Development Group LLC, Plaintiff(s)
vs.
Bank of America, Defendant(s)

§
§
§
§
§

Location: **Department 23**
Judicial Officer: **Miley, Stefany**
Filed on: **01/17/2012**
Cross-Reference Case Number: **A654840**

CASE INFORMATION

Case Type: **Title to Property**
Subtype: **Quiet Title**
Case Flags: **Appealed to Supreme Court**
Automatically Exempt from Arbitration

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-12-654840-C
Court	Department 23
Date Assigned	01/17/2012
Judicial Officer	Miley, Stefany

PARTY INFORMATION

Plaintiff

Las Vegas Development Group LLC

Lead Attorneys

Croteau, Roger P, ESQ
Retained
702-254-7775(W)

Defendant

BAC Home Loans Servicing LP

Removed: 08/01/2013
Inactive

Stern, Ariel E.
Retained
702-634-5000(W)

Bank of America

Stern, Ariel E.
Retained
702-634-5000(W)

Uniza-Enriquez, Genevieve

DATE

EVENTS & ORDERS OF THE COURT

INDEX

01/17/2012



Complaint

Filed By: Plaintiff Las Vegas Development Group LLC
Complaint to Quiet Title to Real Property

01/17/2012

Case Opened

01/18/2012



Lis Pendens

Filed By: Plaintiff Las Vegas Development Group LLC
Notice of Pendency of Action

02/27/2012



Motion to Dismiss

Filed By: Defendant Bank of America
Defendants, Bank of America and BAC Home Loans Servicing LP Motion to Dismiss, or in the Alternative, for More Definite Statement

02/27/2012



Initial Appearance Fee Disclosure








Filed By: Defendant Bank of America

DEPARTMENT 23
CASE SUMMARY
CASE NO. A-12-654840-C




Initial Appearance Fee Disclosure

03/09/2012	 Stipulation and Order Filed by: Plaintiff Las Vegas Development Group LLC <i>Stipulation and [Proposed] Order Re Plaintiff's Filing of Their Opposition Brief to Defendants Motion to Dismiss on March 27, 2012 and Defendants to File Their Reply Brief of April 5, 2012</i>
03/23/2012	 Opposition to Motion Filed By: Plaintiff Las Vegas Development Group LLC <i>Plaintiff's Opposition to Defendant's Motion to Dismiss, Or In the Alternative, For More Definite Statement</i>
04/03/2012	 Reply to Opposition Filed by: Defendant Bank of America <i>Defendants Bank of America and BAC Home Loans Servicing LP Reply to Plaintiff's Opposition to Defendant's Motion to Dismiss or in the Alternative for More Definite Statement</i>
04/10/2012	 Motion to Dismiss (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Defendants, Bank of America and BAC Home Loans Servicing LP Motion to Dismiss, or in the Alternative, for More Definite Statement</i>
04/12/2012	 Answer Filed By: Defendant Bank of America <i>Answer</i>
05/31/2012	 NRCP 16.1 Initial List of Witnesses and Documents Filed By: Plaintiff Las Vegas Development Group LLC <i>Plaintiff's Initial Disclosures Pursuant to NRCP 16.1</i>
08/09/2012	 Notice Filed By: Plaintiff Las Vegas Development Group LLC <i>Notice of counsel's vacation out of the country</i>
08/25/2012	 Motion for Summary Judgment Filed By: Defendant Bank of America <i>Defendants' Motion for Summary Judgment</i>
08/25/2012	 Appendix Filed By: Defendant Bank of America <i>Appendix of Exhibits to Defendants' Motion for Summary Judgment</i>
09/11/2012	 Stipulation and Order Filed by: Defendant Bank of America <i>Stipulation and [Proposed] Order Regarding Continuing Hearing Date on Defendants' Motion for Summary Judgment and Extending Due Date for Plaintiff's to File Their Opposition Brief</i>
09/12/2012	 Notice of Entry of Order Filed By: Defendant Bank of America <i>Notice of Entry of Order</i>
09/14/2012	 Motion to Amend Complaint Filed By: Plaintiff Las Vegas Development Group LLC <i>Motion to Amend Complaint</i>

DEPARTMENT 23
CASE SUMMARY
CASE NO. A-12-654840-C

09/14/2012	 Certificate of Mailing Filed By: Plaintiff Las Vegas Development Group LLC <i>Certification of Service of Motion to Amend Complaint</i>
09/24/2012	 Joint Case Conference Report Filed By: Plaintiff Las Vegas Development Group LLC <i>Joint Case Conference Report</i>
09/25/2012	 Certificate of Service Filed by: Plaintiff Las Vegas Development Group LLC <i>Certificate of Service of Joint Case Conference Report</i>
10/03/2012	 Opposition Filed By: Defendant Bank of America <i>Defendants' Opposition to Plaintiff's Motion to Amend Complaint</i>
10/09/2012	 Notice to Appear for Discovery Conference <i>Notice to Appear for Discovery Conference</i>
10/10/2012	 Reply Filed by: Plaintiff Las Vegas Development Group LLC <i>Plaintiff's Reply in Support of Plaintiff's Motion to Amend The Complaint</i>
10/11/2012	 Certificate of Mailing Filed By: Plaintiff Las Vegas Development Group LLC <i>Certification of Service of Plaintiff's Reply in Support of Plaintiff's Motion to Amend The Complaint</i>
10/12/2012	 Amended Joint Case Conference Report Filed By: Defendant Bank of America
10/16/2012	 Motion to Amend Complaint (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Plaintiff's Motion to Amend Complaint</i>
10/23/2012	 Stipulation and Order Filed by: Defendant Bank of America <i>Stipulation and Order regarding continuing hearing date on defendants' motion for summary judgment and extending due date for plaintiff's to file their opposition brief</i>
10/23/2012	 Discovery Conference (9:00 AM) (Judicial Officer: Bulla, Bonnie)
11/06/2012	 Scheduling Order <i>Scheduling Order</i>
11/09/2012	 Stipulation and Order Filed by: Defendant Bank of America <i>Stipulation and Order regarding continuing deadlines for defendants to plead in response to plaintiff's first amended complaint and plaintiff's response to discovery requests</i>
11/13/2012	 Notice of Withdrawal of Motion Filed By: Defendant Bank of America <i>Notice of Withdrawal of Motion for Summary Judgment</i>





DEPARTMENT 23
CASE SUMMARY
CASE NO. A-12-654840-C

11/13/2012	 Substitution of Attorney Filed by: Defendant Bank of America <i>Substitution of Counsel</i>
11/13/2012	 Certificate of Service Filed by: Defendant Bank of America <i>Certificate of Service</i>
11/14/2012	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial and Calendar Call</i>
11/27/2012	CANCELED Motion for Summary Judgment (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Vacated - per Clerk</i> <i>Deft's Motion for Summary Judgment</i>
04/10/2013	 Substitution of Attorney Filed by: Plaintiff Las Vegas Development Group LLC <i>Substitution of Counsel</i>
08/01/2013	 Stipulation and Order Filed by: Plaintiff Las Vegas Development Group LLC <i>Stipulation and Order for Leave to Amend First Amended Complaint</i>
08/01/2013	 Second Amended Complaint Filed By: Plaintiff Las Vegas Development Group LLC <i>Second Amended Complaint</i>
08/01/2013	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Las Vegas Development Group LLC <i>Notice of Entry of Stipulation and Order</i>
08/15/2013	 Motion to Dismiss Filed By: Defendant Bank of America <i>Bank of America, N.A.'s Motion to Dismiss Second Amended Complaint</i>
08/16/2013	 Certificate of Service Filed by: Defendant Bank of America <i>Certificate of Service</i>
08/20/2013	CANCELED Calendar Call (11:00 AM) (Judicial Officer: Miley, Stefany) <i>Vacated</i>
08/26/2013	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Miley, Stefany) <i>Vacated</i>
08/28/2013	 Opposition Filed By: Plaintiff Las Vegas Development Group LLC <i>Opposition to Motion to Dismiss</i>
09/06/2013	 Affidavit Filed By: Plaintiff Las Vegas Development Group LLC <i>Affidavit of Service Summons</i>
09/09/2013	 Reply in Support

DEPARTMENT 23
CASE SUMMARY
CASE NO. A-12-654840-C

	Filed By: Defendant Bank of America <i>Bank of America, N.A.'s Reply in Support of Motion to Dismiss Second Amended Complaint</i>
09/17/2013	 Motion to Dismiss (9:30 AM) (Judicial Officer: Miley, Stefany) <i>Bank of America, N.A.'s Motion to Dismiss Second Amended Complaint</i>
10/10/2013	 Notice of Entry of Order Filed By: Defendant Bank of America <i>Notice of Entry of Order</i>
10/10/2013	 Order Filed By: Defendant Bank of America <i>Order Granting Bank of America, N.A.'s Motion to Dismiss Second Amended Complaint</i>
10/10/2013	Order of Dismissal With Prejudice (Judicial Officer: Miley, Stefany) Debtors: Las Vegas Development Group LLC (Plaintiff) Creditors: Bank of America (Defendant) Judgment: 10/10/2013, Docketed: 12/03/2013
10/18/2013	 Certificate of Service Filed by: Plaintiff Las Vegas Development Group LLC <i>Certificate of Service</i>
10/18/2013	 Motion to Reconsider Filed By: Plaintiff Las Vegas Development Group LLC <i>Motion for Reconsideration</i>
11/04/2013	 Notice of Change of Firm Name Filed By: Defendant Bank of America <i>Notice of Change of Firm Name</i>
11/04/2013	 Opposition to Motion Filed By: Defendant Bank of America <i>Bank of America, N.A.'s Opposition to Motion for Reconsideration</i>
11/07/2013	 Notice of Rescheduling <i>Notice of Rescheduling of Hearing</i>
11/15/2013	 Substitution of Attorney Filed by: Plaintiff Las Vegas Development Group LLC <i>Substitution of Attorney</i>
11/15/2013	 Reply Filed by: Plaintiff Las Vegas Development Group LLC <i>Reply In Support of Motion for Reconsideration</i>
11/18/2013	 Notice of Rescheduling <i>Notice of Rescheduling of Hearing</i>
11/19/2013	 Certificate of Mailing Filed By: Plaintiff Las Vegas Development Group LLC <i>Certificate of Mailing</i>
12/03/2013	 Motion For Reconsideration (9:30 AM) (Judicial Officer: Miley, Stefany)

DEPARTMENT 23
CASE SUMMARY
CASE NO. A-12-654840-C

	12/03/2013, 12/17/2013 <i>Plaintiff's Motion For Reconsideration</i>	
01/23/2014	 Order Denying Motion Filed By: Defendant Bank of America <i>Order Denying Plaintiff's Motion for Reconsideration</i>	
01/27/2014	 Notice of Entry of Order Filed By: Defendant Bank of America <i>Notice of Entry of Order</i>	
02/21/2014	 Notice of Appeal Filed By: Plaintiff Las Vegas Development Group LLC <i>Notice of Appeal</i>	
02/21/2014	 Case Appeal Statement Filed By: Plaintiff Las Vegas Development Group LLC <i>Case Appeal Statement</i>	

DATE	FINANCIAL INFORMATION
	Defendant BAC Home Loans Servicing LP Total Charges 30.00 Total Payments and Credits 30.00 Balance Due as of 02/25/2014 0.00
	Defendant Bank of America Total Charges 423.00 Total Payments and Credits 423.00 Balance Due as of 02/25/2014 0.00
	Plaintiff Las Vegas Development Group LLC Total Charges 325.50 Total Payments and Credits 325.50 Balance Due as of 02/25/2014 0.00

CIVIL COVER SHEET

A-12-654840-C

County, Nevada

Case No.

XXIII

(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone):

LAS VEGAS DEVELOPMENT GROUP, LLC, a Nevada Corporation

Attorney (name/address/phone):

Nicholas A. Boylan
450 West A Street, Suite 400
San Diego, CA 92101
(619) 696-6344

Defendant(s) (name/address/phone):

BANK OF AMERICA; BAC HOME LOANS SERVICING L.P.; and DOES 1 through 10, inclusive

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

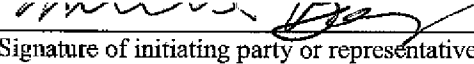
Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input checked="" type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific 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 <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	
Estimated Estate Value: _____ <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	<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"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<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"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

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

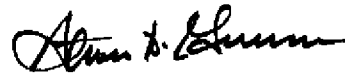
- | | | |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input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

Date

1/17/12


Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 **OGM**
2 JACOB D. BUNDICK, ESQ.
3 Nevada Bar No. 9772
4 NATALIE L. WINSLOW, ESQ.
5 Nevada Bar No. 12125
6 AKERMAN SENTERFITT LLP
7 1160 Town Center Drive, Suite 330
8 Las Vegas, Nevada 89144
9 Telephone: (702) 634-5000
10 Facsimile: (702) 380-8572
11 Email: jacob.bundick@akerman.com
12 Email: natalie.winslow@akerman.com

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

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

17 LAS VEGAS DEVELOPMENT GROUP, LLC,
18 a Nevada limited liability company,

19 Plaintiff,

20 v.

21 BANK OF AMERICA, GENEVIEVE UNIZA-
22 ENRIQUEZ, DOES 1 THROUGH 20; AND
23 ROE CORPORATIONS 1 THROUGH 20,
24 INCLUSIVE,

25 Defendants.

Case No.: A-12-654840-C
Dept.: XXIII

ORDER GRANTING BANK OF
AMERICA, N.A.'S MOTION TO DISMISS
SECOND AMENDED COMPLAINT

26 Defendant Bank of America, N.A.'s (BANA) motion to dismiss plaintiff Las Vegas
27 Development Group, LLC's (LVDG) second amended complaint, filed August 15, 2013, came on
28 for hearing before the Court on September 17, 2013. Marilyn Fine, Esq. appeared on behalf of
LVDG, and Natalie L. Winslow, Esq. appeared on behalf of BANA. The Court, having examined
the pleadings and heard the arguments of counsel at the hearing on the motion, finds as follows:

FINDINGS OF FACT

A. On June 22, 2006, Genevieve Uniza-Enriquez (the borrower) purchased certain real
property located at 6279 Downpour Court, Las Vegas, Nevada 89110.

1 B. The borrower secured her purchase of the property with a deed of trust for
2 \$360,000.00 against the property.

3 C. On June 25, 2010, the successor trustee under the deed of trust and/or agent of the
4 beneficiary, ReconTrust Company, N.A. (**ReconTrust**) recorded a first notice of default against the
5 property.

6 D. On June 30, 2010, an assignment of the deed of trust was recorded in favor of BAC
7 Home Loans Servicing, LP.

8 E. ReconTrust rescinded the first notice of default on March 30, 2011.

9 F. On April 5, 2011, ReconTrust recorded a second notice of default.

10 G. On December 29, 2011, the Nevada Foreclosure Mediation Program recorded its
11 certificate, indicating that "[t]he Beneficiary may proceed with the foreclosure process."

12 H. ReconTrust recorded a notice of trustee's sale on December 29, 2011, and additional
13 notices of trustee's sale on April 12, 2012 and July 25, 2012.

14 I. On April 1, 2010, Absolute Collection Services, LLC (ACS), as agent for Palo Verde
15 Ranch Homeowners' Association (**Palo Verde**), recorded a Notice of Delinquent Assessment Lien
16 against the property in the amount of \$754.56.

17 J. The notice specifically stated that "[a]dditional monies shall accrue under this claim
18 at the rate of the claimant's periodic assessments, *plus permissible late charges, costs of collection*
19 *and interest and other charges*, if any, that shall accrue subsequent to the date of this notice."
20 (Emphasis added).

21 K. The lien did not provide the amount attributable to assessments only – the only
22 amount subject to Nevada's super priority lien statute.

23 L. On July 14, 2010, ACS recorded a notice of default against the property, stating that
24 the amount owed as of July 13, 2010, totaled \$1,749.65.

25 M. On November 18, 2010, ACS recorded a notice of foreclosure sale, stating that
26 \$2,873.86 was required to pay off the lien to avoid the HOA foreclosure sale.

27 N. On April 12, 2011, LVDG purchased the property at the HOA foreclosure sale.

28 ///

1 O. A trustee's deed upon sale was recorded on April 13, 2011, in favor of LVDG, stating
2 that LVDG purchased the property for the total amount of \$4,001.00.

3 P. On January 17, 2012, LVDG initiated this action, alleging, *inter alia*, that BANA's
4 deed of trust was extinguished by virtue of the HOA foreclosure sale.

5 **CONCLUSIONS OF LAW**

6 1. Nevada Revised Statute 116.3116(1) grants a homeowners' association (HOA) a lien
7 against a residential property for unpaid association dues, fines, and certain other assessments (HOA
8 Lien).

9 2. A HOA Lien is junior in priority to "[a] first security interest recorded before the date
10 on which the assessment sought to be enforced became delinquent. . . ." NRS 116.3116(2)(b).

11 3. However, a HOA Lien "is also prior to all security interests described in [NRS
12 116.3116(2)(b)] to the extent of any charges incurred by the association on a unit pursuant to NRS
13 116.310312 and to the extent of the assessment for common expenses based on the periodic budget
14 adopted by the association pursuant to NRS 116.3115 which would have become due in the absence
15 of acceleration during the 9 months immediately preceding institution of an action to enforce the
16 lien. . . ." NRS 116.3116(2).

17 4. The plain language of NRS 116.3116 demonstrates that the super priority lien
18 attaches once a lender forecloses under a first deed of trust.

19 5. Nevada's statutes governing homeowner associations, including NRS 116.3116, are
20 based on the Uniform Common Interest Ownership Act (UCIOA). The UCIOA enacted the limited
21 priority conferred to an HOA to "strike an equitable balance between the need to enforce collection
22 of unpaid assessments and the obvious necessity for protecting the priority of the security interest of
23 lenders." UCIOA § 3-116 cmt. 1.

24 6. UCIOA § 3-116, as adopted by the Nevada Legislature, balances two interests: the
25 collection of unpaid HOA Assessments and the protection of the security interest of lenders.
26 Therefore, the limited priority afforded by NRS 116.3116(2) is triggered when the holder of a first
27 deed of trust (Holder) forecloses on the property. When foreclosure of the first deed of trust is
28

complete, the HOA would then be entitled to the priority amount owed on delinquent assessments pursuant to NRS 116.3116(2) before the Holder receives any of the proceeds.

ORDER

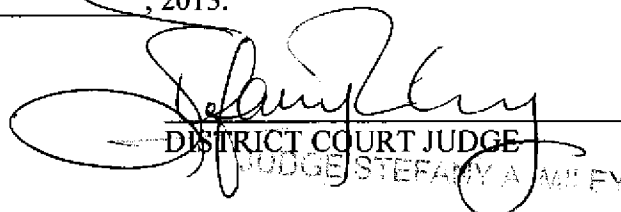
Based on the foregoing findings of fact and conclusions of law, the Court orders as follows:

Bank of America, N.A.'s motion to dismiss Las Vegas Development Group, LLC's second amended complaint is **GRANTED WITH PREJUDICE** with respect to Bank of America, N.A. because NRS 116.3116(2) creates a limited super priority lien for 9 months of HOA assessments leading up to the foreclosure of the first mortgage, but it does not eliminate the first security interest.

Bank of America, N.A.'s motion to dismiss Las Vegas Development Group, LLC's second amended complaint is **DENIED** with respect to the remaining defendant GENEVIEVE UNIZA-ENRIQUEZ. However, this Court determines that there are no claims remaining in this Case against Bank of America, N.A. and no just reason for delay in entry of a final appeal order in favor of Bank of America, N.A. pursuant to NRCP 54(b).


IT IS SO ORDERED.

Dated this 8 day of October, 2013.


DISTRICT COURT JUDGE
JUDGE STEFANY A. WILEY

Submitted by:


AKERMAN SENTERFITT LLP


JACOB D. BUNDICK, ESQ.
Nevada Bar No. 9776
NATALIE L. WINSLOW, ESQ.
Nevada Bar No. 12125
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144

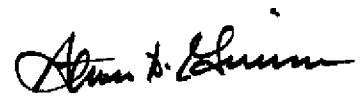
*Attorneys for Defendant
Bank of America, N.A.*

Approved as to Form and Content by:

MEIER & FINE, LLC


MARILYN FINE, ESQ.
Nevada Bar No. 5949
RACHEL E. DONN, ESQ.
Nevada Bar No. 10568
PETER E. DUNKLEY, ESQ.
Nevada Bar No. 11110
2300 W. Sahara Avenue, Suite 1150
Las Vegas, Nevada 89102

Attorneys for Plaintiff



CLERK OF THE COURT

NEOJ
JACOB D. BUNDICK, ESQ.
Nevada Bar No. 9772
NATALIE L. WINSLOW, ESQ.
Nevada Bar No. 12125
AKERMAN SENTERFITT LLP
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Telephone: (702) 634-5000
Facsimile: (702) 380-8572
Email: jacob.bundick@akerman.com
Email: natalie.winslow@akerman.com

Attorneys for Defendant Bank of America, N.A.

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS DEVELOPMENT GROUP, LLC,
a Nevada limited liability company,

Plaintiff,

v.

BANK OF AMERICA, GENEVIEVE UNIZA-
ENRIQUEZ, DOES 1 THROUGH 20; AND
ROE CORPORATIONS 1 THROUGH 20,
INCLUSIVE,

Defendants.

Case No.: A-12-654840-C
Dept.: XXIII

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an ORDER GRANTING BANK OF AMERICA, N.A.'S
MOTION TO DISMISS SECOND AMENDED COMPLAINT was entered in the above-captioned
matter on October 10, 2013. A copy of said Order is attached hereto.

DATED this 10th day of October, 2013.

AKERMAN SENTERFITT LLP

/s/ Natalie L. Winslow

JACOB D. BUNDICK, ESQ.

Nevada Bar No. 9772

NATALIE L. WINSLOW, ESQ.

Nevada Bar No. 12125

1160 Town Center Drive, Suite 330

Las Vegas, Nevada 89144

Attorneys for Defendant Bank of America, N.A.

1 **CERTIFICATE OF SERVICE**

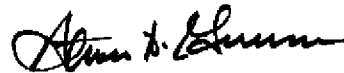
2 I HEREBY CERTIFY that on the 10th day of October, 2013 and pursuant to NRCP 5(b), I
3 served and deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE**
4 **OF ENTRY OF ORDER**, postage prepaid and addressed to:

5 Marilyn Fine, Esq.
6 Rachel E. Donn, Esq.
7 Peter E. Dunkley, Esq.
8 MEIER & FINE, LLC
9 2300 W. Sahara Avenue, Suite 1150
10 Las Vegas, NV 89102

11 *Attorneys for Plaintiff*

12 /s/ Eloisa Nuñez

13 An employee of AKERMAN SENTERFITT LLP



CLERK OF THE COURT

1 OGM
2 JACOB D. BUNDICK, ESQ.
3 Nevada Bar No. 9772
4 NATALIE L. WINSLOW, ESQ.
5 Nevada Bar No. 12125
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11 Email: jacob.bundick@akerman.com
12 Email: natalie.winslow@akerman.com

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

15
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DISTRICT COURT
CLARK COUNTY, NEVADA

1 LAS VEGAS DEVELOPMENT GROUP, LLC,
2 a Nevada limited liability company,

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Plaintiff,

v.

BANK OF AMERICA, GENEVIEVE UNIZA-
ENRIQUEZ, DOES 1 THROUGH 20; AND
ROE CORPORATIONS 1 THROUGH 20,
INCLUSIVE,

Defendants.

Case No.: A-12-654840-C
Dept.: XXIII

ORDER GRANTING BANK OF
AMERICA, N.A.'S MOTION TO DISMISS
SECOND AMENDED COMPLAINT

Defendant Bank of America, N.A.'s (BANA) motion to dismiss plaintiff Las Vegas Development Group, LLC's (LVDG) second amended complaint, filed August 15, 2013, came on for hearing before the Court on September 17, 2013. Marilyn Fine, Esq. appeared on behalf of LVDG, and Natalie L. Winslow, Esq. appeared on behalf of BANA. The Court, having examined the pleadings and heard the arguments of counsel at the hearing on the motion, finds as follows:

FINDINGS OF FACT

A. On June 22, 2006, Genevieve Uniza-Enriquez (the borrower) purchased certain real property located at 6279 Downpour Court, Las Vegas, Nevada 89110.

1 B. The borrower secured her purchase of the property with a deed of trust for
2 \$360,000.00 against the property.

3 C. On June 25, 2010, the successor trustee under the deed of trust and/or agent of the
4 beneficiary, ReconTrust Company, N.A. (**ReconTrust**) recorded a first notice of default against the
5 property.

6 D. On June 30, 2010, an assignment of the deed of trust was recorded in favor of BAC
7 Home Loans Servicing, LP.

8 E. ReconTrust rescinded the first notice of default on March 30, 2011.

9 F. On April 5, 2011, ReconTrust recorded a second notice of default.

10 G. On December 29, 2011, the Nevada Foreclosure Mediation Program recorded its
11 certificate, indicating that "[t]he Beneficiary may proceed with the foreclosure process."

12 H. ReconTrust recorded a notice of trustee's sale on December 29, 2011, and additional
13 notices of trustee's sale on April 12, 2012 and July 25, 2012.

14 I. On April 1, 2010, Absolute Collection Services, LLC (**ACS**), as agent for Palo Verde
15 Ranch Homeowners' Association (**Palo Verde**), recorded a Notice of Delinquent Assessment Lien
16 against the property in the amount of \$754.56.

17 J. The notice specifically stated that "[a]dditional monies shall accrue under this claim
18 at the rate of the claimant's periodic assessments, *plus permissible late charges, costs of collection*
19 *and interest and other charges*, if any, that shall accrue subsequent to the date of this notice."
20 (Emphasis added).

21 K. The lien did not provide the amount attributable to assessments only – the only
22 amount subject to Nevada's super priority lien statute.

23 L. On July 14, 2010, ACS recorded a notice of default against the property, stating that
24 the amount owed as of July 13, 2010, totaled \$1,749.65.

25 M. On November 18, 2010, ACS recorded a notice of foreclosure sale, stating that
26 \$2,873.86 was required to pay off the lien to avoid the HOA foreclosure sale.

27 N. On April 12, 2011, LVDG purchased the property at the HOA foreclosure sale.

28 ///

1 O. A trustee's deed upon sale was recorded on April 13, 2011, in favor of LVDG, stating
2 that LVDG purchased the property for the total amount of \$4,001.00.

3 P. On January 17, 2012, LVDG initiated this action, alleging, *inter alia*, that BANA's
4 deed of trust was extinguished by virtue of the HOA foreclosure sale.

5 **CONCLUSIONS OF LAW**

6 1. Nevada Revised Statute 116.3116(1) grants a homeowners' association (**HOA**) a lien
7 against a residential property for unpaid association dues, fines, and certain other assessments (**HOA**
8 **Lien**).

9 2. A HOA Lien is junior in priority to "[a] first security interest recorded before the date
10 on which the assessment sought to be enforced became delinquent. . . ." NRS 116.3116(2)(b).

11 3. However, a HOA Lien "is also prior to all security interests described in [NRS
12 116.3116(2)(b)] to the extent of any charges incurred by the association on a unit pursuant to NRS
13 116.310312 and to the extent of the assessment for common expenses based on the periodic budget
14 adopted by the association pursuant to NRS 116.3115 which would have become due in the absence
15 of acceleration during the 9 months immediately preceding institution of an action to enforce the
16 lien. . . ." NRS 116.3116(2).

17 4. The plain language of NRS 116.3116 demonstrates that the super priority lien
18 attaches once a lender forecloses under a first deed of trust.

19 5. Nevada's statutes governing homeowner associations, including NRS 116.3116, are
20 based on the Uniform Common Interest Ownership Act (**UCIOA**). The UCIOA enacted the limited
21 priority conferred to an HOA to "strike an equitable balance between the need to enforce collection
22 of unpaid assessments and the obvious necessity for protecting the priority of the security interest of
23 lenders." UCIOA § 3-116 cmt. 1.

24 6. UCIOA § 3-116, as adopted by the Nevada Legislature, balances two interests: the
25 collection of unpaid HOA Assessments and the protection of the security interest of lenders.
26 Therefore, the limited priority afforded by NRS 116.3116(2) is triggered when the holder of a first
27 deed of trust (**Holder**) forecloses on the property. When foreclosure of the first deed of trust is
28

complete, the HOA would then be entitled to the priority amount owed on delinquent assessments pursuant to NRS 116.3116(2) before the Holder receives any of the proceeds.

ORDER

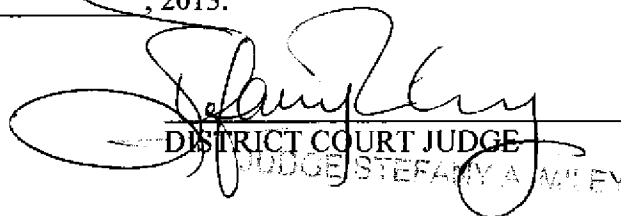
Based on the foregoing findings of fact and conclusions of law, the Court orders as follows:

Bank of America, N.A.'s motion to dismiss Las Vegas Development Group, LLC's second amended complaint is **GRANTED WITH PREJUDICE** with respect to Bank of America, N.A. because NRS 116.3116(2) creates a limited super priority lien for 9 months of HOA assessments leading up to the foreclosure of the first mortgage, but it does not eliminate the first security interest.

Bank of America, N.A.'s motion to dismiss Las Vegas Development Group, LLC's second amended complaint is **DENIED** with respect to the remaining defendant GENEVIEVE UNIZA-ENRIQUEZ. However, this Court determines that there are no claims remaining in this Case against Bank of America, N.A. and no just reason for delay in entry of a final appeal order in favor of Bank of America, N.A. pursuant to NRCP 54(b).

IT IS SO ORDERED.

Dated this 8 day of October, 2013.



DISTRICT COURT JUDGE
JUDGE STEFANY A. WILEY


Submitted by:

Approved as to Form and Content by:

AKERMAN SENTERFITT LLP

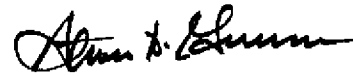
MEIER & FINE, LLC


JACOB D. BUNDICK, ESQ.
Nevada Bar No. 9776
NATALIE L. WINSLOW, ESQ.
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1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144


MARILYN FINE, ESQ.
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Las Vegas, Nevada 89102

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

Attorneys for Plaintiff



CLERK OF THE COURT

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3 Nevada Bar No. 9772
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11 Email: jacob.bundick@akerman.com
12 Email: natalie.winslow@akerman.com

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

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

17 LAS VEGAS DEVELOPMENT GROUP, LLC,
18 a Nevada limited liability company,

19 Plaintiff,

20 v.

21 BANK OF AMERICA, GENEVIEVE UNIZA-
22 ENRIQUEZ, DOES 1 THROUGH 20; AND
23 ROE CORPORATIONS 1 THROUGH 20,
24 INCLUSIVE,

25 Defendants.

Case No.: A-12-654840-C
Dept.: XXIII

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

26 Las Vegas Development Group, LLC's (**LVDG**) motion for reconsideration, filed October
27 18, 2013, came on for hearing before the Court on December 17, 2013. Jacob D. Bundick and
28 Natalie L. Winslow, Esq. appeared on behalf of Bank of America, N.A. (**BANA**). Counsel for
LVDG was not present. The Court, having examined the motion and corresponding documents, and
ruling solely based on the motion, opposition, and reply, as well as the other papers filed in this
matter, finds as follows:

1 1. LVDG presented no new fact in its motion for reconsideration. Specifically, LVDG
2 attached the following documents to its motion: (1) a report by the Joint Editorial Board for
3 Uniform Real Property Acts, dated June 1, 2013; (2) Nevada Real Estate Division advisory opinion
4 13-01, dated December 12, 2012; (3) a "presentation" to the Nevada Senate Judiciary Committee,
5 dated May 6, 2013; and (4) a Nevada Legislative Counsel Bureau Opinion, dated December 7, 2012.

6 2. The documents attached to LVDG's motion do not raise any new issues of law or fact
7 because all four exhibits were previously available to LVDG prior to the Court's hearing on the
8 motion to dismiss the second amended complaint on September 17, 2013.

9 3. The Court finds no manifest error in law or fact that would warrant it reconsider or
10 alter/correct the order granting BANA's motion to dismiss the second amended complaint.

11 4. The Court finds LVDG has not presented any newly discovered evidence that would
12 warrant it to reconsider or alter/correct the order granting BANA's motion to dismiss the second
13 amended complaint.

14 5. The Court finds no manifest injustice that would warrant it to reconsider or
15 alter/correct the order granting BANA's motion to dismiss the second amended complaint.

16 6. The Court finds LVDG has not presented any change in controlling law that would
17 warrant it to reconsider or alter/correct the order granting BANA's motion to dismiss the second
18 amended complaint.

ORDER

Based on the foregoing, the Court orders as follows:

LVDG's MOTION FOR RECONSIDERATION is **DENIED**.

IT IS SO ORDERED.

Dated this 21st day of Jan, 2013.


DISTRICT COURT JUDGE


JUDGE STEFANY A. NILEY


Submitted by:

Approved as to Form and Content by:

AKERMAN LLP

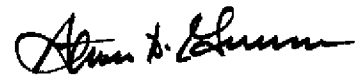
CROTEAU & ASSOCIATES, LTD.


NATALIE L. WINSLOW, ESQ.
Nevada Bar No. 12125
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144


ROGER P. CROTEAU, ESQ.
Nevada Bar No. 5949
9120 W. Post Road, Suite 100
Las Vegas, Nevada 89148

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

Attorneys for Plaintiff



CLERK OF THE COURT

1 **NOE**
2 DARREN T. BRENNER, ESQ.
3 Nevada Bar No. 8386
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5 Nevada Bar No. 12125
6 AKERMAN LLP
7 1160 Town Center Drive, Suite 330
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11 Email: darren.brenner@akerman.com
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13 *Attorneys for Defendant Bank of America, N.A.*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 LAS VEGAS DEVELOPMENT GROUP, LLC,
17 a Nevada limited liability company,

18 Plaintiff,

19 v.

20 BANK OF AMERICA, GENEVIEVE UNIZA-
21 ENRIQUEZ, DOES 1 THROUGH 20; AND
22 ROE CORPORATIONS 1 THROUGH 20,
23 INCLUSIVE,

24 Defendants.

Case No.: A-12-654840-C
Dept.: XXIII

NOTICE OF ENTRY OF ORDER

25 PLEASE TAKE NOTICE that an Order Denying Plaintiff's Motion for Reconsideration was
26 entered in the above-referenced matter on January 23, 2014.

27 A copy of said Order is attached hereto and incorporated herein by reference.

28 DATED this 27th day of January, 2014.

AKERMAN LLP

/s/ Natalie L. Winslow

DARREN T. BRENNER, ESQ.
Nevada Bar No. 8386
NATALIE L. WINSLOW, ESQ.
Nevada Bar No. 12125
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
Attorneys for Defendant 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

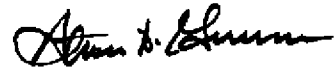
I HEREBY CERTIFY that on the 27th day of January, 2014 and pursuant to NRCP 5(b), I served and deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, postage prepaid and addressed to:

Roger P. Croteau, Esq.
Timothy E. Rhoda, Esq.
ROGER P. CROTEAU & ASSOCIATES, LTD.
9120 W. Post Road, Ste. 100
Las Vegas, NV 89148

Attorneys for Plaintiff

/s/ Debbie Julien

An employee of AKERMAN LLP



CLERK OF THE COURT

1 **ODM**
2 JACOB D. BUNDICK, ESQ.
3 Nevada Bar No. 9772
4 NATALIE L. WINSLOW, ESQ.
5 Nevada Bar No. 12125
6 AKERMAN LLP
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10 Facsimile: (702) 380-8572
11 Email: jacob.bundick@akerman.com
12 Email: natalie.winslow@akerman.com

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

15
16 **DISTRICT COURT**
17 **CLARK COUNTY, NEVADA**

18 LAS VEGAS DEVELOPMENT GROUP, LLC,
19 a Nevada limited liability company,

20 Plaintiff,

21 v.

22 BANK OF AMERICA, GENEVIEVE UNIZA-
23 ENRIQUEZ, DOES 1 THROUGH 20; AND
24 ROE CORPORATIONS 1 THROUGH 20,
25 INCLUSIVE,

26 Defendants.

Case No.: A-12-654840-C
Dept.: XXIII

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

27 Las Vegas Development Group, LLC's (LVDG) motion for reconsideration, filed October
28 18, 2013, came on for hearing before the Court on December 17, 2013. Jacob D. Bundick and
Natalie L. Winslow, Esq. appeared on behalf of Bank of America, N.A. (BANA). Counsel for
LVDG was not present. The Court, having examined the motion and corresponding documents, and
ruling solely based on the motion, opposition, and reply, as well as the other papers filed in this
matter, finds as follows:

1 1. LVDG presented no new fact in its motion for reconsideration. Specifically, LVDG
2 attached the following documents to its motion: (1) a report by the Joint Editorial Board for
3 Uniform Real Property Acts, dated June 1, 2013; (2) Nevada Real Estate Division advisory opinion
4 13-01, dated December 12, 2012; (3) a "presentation" to the Nevada Senate Judiciary Committee,
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7 because all four exhibits were previously available to LVDG prior to the Court's hearing on the
8 motion to dismiss the second amended complaint on September 17, 2013.

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10 alter/correct the order granting BANA's motion to dismiss the second amended complaint.

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12 warrant it to reconsider or alter/correct the order granting BANA's motion to dismiss the second
13 amended complaint.

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15 alter/correct the order granting BANA's motion to dismiss the second amended complaint.

16 6. The Court finds LVDG has not presented any change in controlling law that would
17 warrant it to reconsider or alter/correct the order granting BANA's motion to dismiss the second
18 amended complaint.

ORDER

Based on the foregoing, the Court orders as follows:

LVDG's MOTION FOR RECONSIDERATION is **DENIED**.

IT IS SO ORDERED.

Dated this 21st day of Jan, 2013.


DISTRICT COURT JUDGE


JUDGE STEFANY A. WILEY

Submitted by:


Approved as to Form and Content by:

AKERMAN LLP

CROTEAU & ASSOCIATES, LTD.


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


ROGER P. CROTEAU, ESQ.
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9120 W. Post Road, Suite 100
Las Vegas, Nevada 89148

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

April 10, 2012

A-12-654840-C Las Vegas Development Group LLC, Plaintiff(s)
vs.
Bank of America, Defendant(s)

April 10, 2012 9:30 AM Motion to Dismiss

HEARD BY: Miley, Stefany **COURTROOM:** RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Nicholas Boylan, Esq., present on behalf of Plaintiff telephonically.
Savera Sandhu-Smith, Esq., present on behalf of Defendants.

Ms. Sandhu-Smith argued the standard here is set under Rule 8, and while the Opposition doesn't indicate that the elements are set forth, there is no legal basis to support the quiet title claim which is the only claim being brought forth. Ms. Sandhu-Smith further argued the Complaint is totally devoid of how Las Vegas Development acquired the property, when it acquired it and took possession of it and if there is any deed of trust. Ms. Sandhu-Smith additionally argued the Defense cannot provide an answer that properly responds to the Complaint as it stands. Further argument by Ms. Sandhu-Smith. Mr. Boylan argued it is a quiet title claim, not a fraud claim and so there shouldn't be a requirement of how, when, where and who. Mr. Boylan further argued he thinks this is a delay going on and indicated he has requested Counsel to provide documents showing they have the note and mortgage lien on this property which they have been unable to do. Mr. Boylan further argued he would submit the pleading is sufficient. Additional argument by counsel. COURT stated its findings and ORDERED, Motion DENIED advising the Complaint is sufficient for the Defense to answer. Upon Court's inquiry, Ms. Sandhu-Smith advised an answer can be filed by Friday. COURT FURTHER ORDERED, Deft's answer is due by 4/13/12.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

October 16, 2012

A-12-654840-C Las Vegas Development Group LLC, Plaintiff(s)
vs.
Bank of America, Defendant(s)

October 16, 2012 9:30 AM **Motion to Amend
Complaint**

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Nicholas Boylan, Esq., present telephonically on behalf of Plaintiff.
Christopher Henderson, Esq., and Laraine Burrell, Esq., present on behalf of Defendants.

Mr. Boylan advised he is seeking to add a second cause of action for violation of NRS 107.080. Colloquy regarding upcoming Deft's Motion for Summary Judgment. Mr. Henderson argued Plaintiff's lawsuit is to quiet title and essentially stall the foreclosure process; Defts have a valid, recorded assignment of first deed of trust and Defts initiated the foreclosure process even before the Home Owners Association sale. Further arguments by Mr. Henderson. Mr. Boylan argued Defts became aware Plaintiff became a recorded owner and attempted to start the process again; this cause of action indicates Defts can't proceed with the foreclosure action because they haven't done it properly. Additional arguments by Mr. Henderson and Mr. Boylan. COURT FINDS the Rules do indicate leave shall be freely given and there has been enough showing by the Plaintiff to amend the Complaint and ORDERED, Motion GRANTED. Further colloquy regarding Deft's Motion for Summary Judgment.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

October 23, 2012

A-12-654840-C Las Vegas Development Group LLC, Plaintiff(s)
vs.
Bank of America, Defendant(s)

October 23, 2012 9:00 AM Discovery Conference

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing
Room

COURT CLERK: Alan Castle

RECORDER: Richard Kangas

REPORTER:

PARTIES

PRESENT: Christopher, Shawn Attorney
Henderson, Christopher Attorney

JOURNAL ENTRIES

- Counsel indicated hopeful on settlement. Counsel anticipate 1 - 2 days for trial re: Quiet Title. No settlement conference requested. COMMISSIONER RECOMMENDED, discovery cutoff is 4/01/13; adding parties, amended pleadings, and initial expert disclosures DUE 12/31/12; rebuttal expert disclosures DUE 1/30/13; dispositive motions TO BE FILED BY 4/29/13. Scheduling Order will issue.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

September 17, 2013

A-12-654840-C Las Vegas Development Group LLC, Plaintiff(s)
vs.
Bank of America, Defendant(s)

September 17, 2013 9:30 AM Motion to Dismiss

HEARD BY: Miley, Stefany

COURTROOM: RJC Courtroom 12C

COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Marilyn Fine, Esq., present on behalf of Plaintiff.
Natalie Winslow, Esq., present on behalf of Defendant.

Upon Court's inquiry, Ms. Fine confirmed the binder the Court received this morning was the Motion, Opposition, and Reply and not a supplement. Arguments by counsel. COURT ADOPTED the Findings of Fact and Conclusions of Law as set forth in Deft's Brief, stated its FINDINGS and ORDERED, Motion GRANTED. COURT FURTHER ORDERED, this is a final decision with respect to Bank of America only. Defense to prepare the order with findings of fact and conclusions of law for review by Plaintiff.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	December 03, 2013
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A-12-654840-C	Las Vegas Development Group LLC, Plaintiff(s) vs. Bank of America, Defendant(s)
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December 03, 2013	9:30 AM	Motion For Reconsideration
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HEARD BY: Miley, Stefany	COURTROOM: RJC Courtroom 12C
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COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Maria Garibay

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Timothy Rhoda, Esq., present on behalf of Plaintiff.
Natalie Winslow, Esq., present on behalf of Defendant.

Mr. Rhoda advised the parties agreed to continue the matter; COURT SO ORDERED.

CONTINUED TO: 12/17/13 9:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property	COURT MINUTES	December 17, 2013
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A-12-654840-C	Las Vegas Development Group LLC, Plaintiff(s) vs. Bank of America, Defendant(s)
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December 17, 2013	9:30 AM	Motion For Reconsideration
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HEARD BY: Miley, Stefany	COURTROOM: RJC Courtroom 12C
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COURT CLERK: Anntoinette Naumec-Miller

RECORDER: Debbie Winn

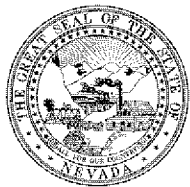
REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Jacob Bundick, Esq., and Natalie Winslow, Esq., present on behalf of Defendant Bank of America.

Based on the papers and pleading therein, COURT stated its FINDINGS and ORDERED, Motion DENIED. Defense to prepare the order for review by Plaintiff.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

ROGER P. CROTEAU, ESQ.
9120 W. POST ROAD, SUITE 100
LAS VEGAS, NV 89148

DATE: February 25, 2014
CASE: A654840

RE CASE: LAS VEGAS DEVELOPMENT GROUP, LLC vs. BANK OF AMERICA;
GENEVIEVE UNIZA-ENRIQUEZ

NOTICE OF APPEAL FILED: February 21, 2014

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ **\$250 – Supreme Court Filing Fee****
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ **\$24 – District Court Filing Fee (Make Check Payable to the District Court)****
- ☒ **\$500 – Cost Bond on Appeal (Make Check Payable to the District Court)****
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ **Case Appeal Statement**
 - NRAP 3 (a)(1), Form 2
- ☐ **Order**
- ☐ **Notice of Entry of Order**

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING BANK OF AMERICA, N.A.'S MOTION TO DISMISS SECOND AMENDED COMPLAINT; NOTICE OF ENTRY OF ORDER; ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

LAS VEGAS DEVELOPMENT GROUP, LLC,

Plaintiff(s),

vs.

BANK OF AMERICA; GENEVIEVE UNIZA-
ENRIQUEZ,

Defendant(s),

Case No: A654840

Dept No: XXIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 25 day of February 2014.

Steven D. Grierson, Clerk of the Court



Teodora Jones, Deputy Clerk