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Tracie K. Lindeman
Clerk of Supreme Court

IN THE SUPREME COURT
STATE OF NEVADA

SATICOY BAY LLC SERIES 2021 GRAY
EAGLE WAY,

DOCKET NO. 68431

Appellant

vs.

JP MORGAN CHASE BANK, N.A.,

Respondent

**RESPONSE TO MOTION FOR RECONSIDERATION
OF ORDER GRANTING MOTION FOR
RECONSIDERATION AND REINSTATING APPEAL**

Plaintiff in intervention/appellant Saticoy Bay LLC Series 2021 Gray Eagle Way (hereinafter "Saticoy"), by and through it attorney, Michael F. Bohn Esq., files this response to the motion for reconsideration filed on September 21, 2015 by Respondent JPMorgan Chase Bank, N.A. (hereinafter "Chase").

1. Chase's motion for reconsideration is not supported by any evidence.

At page 3 of its motion for reconsideration, Chase speculates that the \$250 paid by counsel for appellant on July 17, 2015 "could have been for the 305 Durango Appeal." On the other hand, the declaration of Michael F. Bohn, Esq. states in paragraph 4 that the \$250 filing fee was for the above-captioned appeal. The Court's order reinstating this appeal is therefore supported by admissible evidence. Chase's

1 motion for reconsideration is not.

2 **2. Chase’s arguments regarding the merits of Saticoy’s appeal**
3 **should not be considered at this time.**

4 At page 5 of its motion for reconsideration, Chase asserts that Saticoy’s appeal
5 should not be considered because the dismissal below was based on NRCP 41(e)
6 and because the statute of limitations had run.

7 As will be more fully briefed on appeal, Saticoy’s complaint in intervention
8 was filed on September 30, 2013 and was pending for less than 18 months when the
9 district court issued its order to show cause why the action should not be dismissed
10 pursuant to NRCP 41(e). Saticoy’s appeal will focus on the district court’s decision
11 to deny Saticoy’s request that its claims be dismissed without prejudice, so that
12 Saticoy could timely file an independent action for quiet title and declaratory relief.

13 Furthermore, the district court erred in finding that “the three-year statute of
14 limitations for foreclosing an HOA lien” under NRS 116.3116(6) had run. NRS
15 116.3116(6) states that “[a] lien for unpaid assessments is extinguished unless
16 proceedings to enforce the lien **are instituted within 3 years** after the full amount
17 of the assessments becomes due.” (emphasis added)

18 In this case, proceedings to enforce the lien were commenced when the HOA
19 recorded its notice of delinquent assessment lien on April 20, 2009 and served it on
20 the unit owner. SFR Investments Pool 1, LLC v. U.S. Bank, N.A., 130 Nev., Adv.
21 Op. 75, 334 P.3d 408, 411 (2014) (“**To initiate foreclosure** under NRS 116.31162
22 through NRS 116.31168, a Nevada HOA must notify the owner of the delinquent
23 assessments. NRS 116.31162(1)(a)”) (emphasis added)

24 On the other hand, the district court adopted Chase’s argument that the
25 nonjudicial foreclosure proceeding is not “instituted” until the date that the HOA
26 foreclosure sale is held.

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DATED this 1st day of October, 2015.

By: / s / Michael F. Bohn, Esq. /
Michael F. Bohn, Esq.
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Attorney for plaintiff/appellant

In accordance with N.R.A.P. 25, I hereby certify that I am an employee of The Law Offices of Michael F. Bohn, Esq. LLC., and that on the 1st day of October 2015, a copy of the foregoing RESPONSE TO MOTION FOR RECONSIDERATION OF ORDER GRANTING MOTION FOR RECONSIDERATION AND REINSTATING APPEAL was served electronically through the Court's electronic filing system to the following individual:

/s/ /Marc Sameroff/
An Employee of the LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.