

CLERK OF THE COURT

Richard C. Gordon  
Nevada Bar No. 9036  
Paul W. Shakespear  
Nevada Bar No. 10752  
SNELL & WILMER L.L.P.  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, NV 89169  
Telephone: (702) 784-5200  
Facsimile: (702) 784-5252  
Email: [rgordon@swlaw.com](mailto:rgordon@swlaw.com)  
Email: [pshakespear@swlaw.com](mailto:pshakespear@swlaw.com)

Attorneys for Defendant  
WELLS FARGO HOME MORTGAGE, A DIVISION OF  
WELLS FARGO BANK, N.A.

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SATICOY BAY LLC SERIES 350  
DURANGO 104

Plaintiff,

vs.

WELLS FARGO HOME MORTGAGE A  
DIVISION OF WELLS FARGO BANK, N.A.;  
MTC FINANCIAL dba TRUSTEE CORPS;  
RON N. SENHOLTZ and SHIRLEY P.  
SENHOLTZ as trustees for the Senholtz  
Family Trust

Defendants.

CASE NO.: A-13-688410-C  
DEPT. NO.: XXVIII

**NOTICE OF ENTRY OF ORDER  
GRANTING DEFENDANT WELLS  
FARGO HOME MORTGAGE, A  
DIVISION OF WELLS FARGO BANK,  
N.A.'S RENEWED MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

///

///

///

///

///

///

///

///

///

PLEASE TAKE NOTICE that the ORDER GRANTING DEFENDANT WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS FARGO BANK, N.A.'S RENEWED MOTION TO DISMISS PLAINTIFF'S COMPLAINT was entered this this Court on July 10, 2015, a copy of which is attached hereto.

DATED this 13<sup>th</sup> day of July, 2015.

SNELL & WILMER L.L.P.

By: /s/ Paul W. Shakespear  
Richard C. Gordon, Nevada Bar No. 9036  
Paul W. Shakespear, Nevada Bar No. 10752  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, NV 89169  
Attorneys for Defendant  
WELLS FARGO BANK, N.A.

**CERTIFICATE OF SERVICE**

I hereby declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER GRANTING DEFENDANT WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS FARGO BANK, N.A.'S RENEWED MOTION TO DISMISS PLAINTIFF'S COMPLAINT by the method indicated below:

_____	U.S. Mail	_____	Federal Express
_____	U.S. Certified Mail	<u>XXXXXX</u>	Electronic Service
_____	Facsimile Transmission	_____	Hand Delivery
_____	Overnight Mail		

and addressed to the following:

Michael F. Bohn, Esq.  
BOHN LAW FIRM  
376 E. Warm Springs, Suite 140  
Las Vegas, NV 89119  
Telephone: (702) 642-3113  
Facsimile: (702) 642-9766  
E-mail: mbohn@bohnlawfirm.com

Attorneys for Plaintiff  
*Saticoy Bay LLC Series 6915 Silver State*

DATED this 13<sup>th</sup> day of July, 2015.

/s/ Mindi Mordue  
An Employee of Snell & Wilmer L.L.P.



CLERK OF THE COURT

1 Richard C. Gordon  
Nevada Bar No. 9036  
2 Paul W. Shakespear  
Nevada Bar No. 10752  
3 SNELL & WILMER LLP.  
3883 Howard Hughes Parkway, Suite 1100  
4 Las Vegas, NV 89169  
Telephone: (702) 784-5200  
5 Facsimile: (702) 784-5252  
Email: [rgordon@swlaw.com](mailto:rgordon@swlaw.com)  
6 Email: [pshakespear@swlaw.com](mailto:pshakespear@swlaw.com)

7 Attorneys for Defendant  
WELLS FARGO HOME MORTGAGE, A DIVISION OF  
8 WELLS FARGO BANK, N.A.

9  
10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 SATICOY BAY LLC SERIES 350 DURANGO  
104

13 Plaintiff,

14 vs.

15 WELLS FARGO HOME MORTGAGE A  
DIVISION OF WELLS FARGO BANK, N.A.;  
16 MTC FINANCIAL dba TRUSTEE CORPS;  
RON N. SENHOLTZ and SHIRLEY P.  
17 SENHOLTZ as trustees for the Senholtz Family  
Trust

18 Defendants.  
19

20 And all related actions.  
21

CASE NO.: A-13-688410-C  
DEPT. NO.: XXVIII

**ORDER GRANTING DEFENDANT  
WELLS FARGO HOME  
MORTGAGE, A DIVISION OF  
WELLS FARGO BANK, N.A.'S  
RENEWED MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

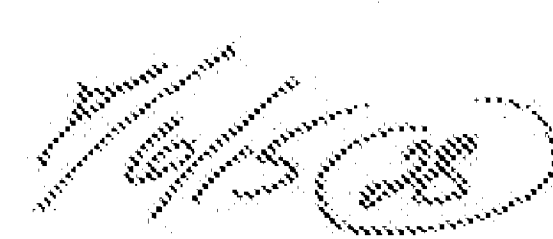
22 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

23 This matter concerning Defendant Wells Fargo Home Mortgage, a Division of Wells  
24 Fargo Bank, N.A.'s ("Wells Fargo"), Renewed Motion to Dismiss Plaintiff's Complaint, filed  
25 April 13, 2015, came on for hearing on the 9<sup>th</sup> day of June, 2015 at the hour of 9:00 a.m. before  
26 Department XXVIII of the Eighth Judicial District Court, in and for Clark County, Nevada, with  
27 JUDGE RONALD J. ISRAEL presiding; Plaintiff SATICOY BAY LLC SERIES 350  
28 DURANGO 104 appeared by and through its attorney, ARTHUR P. TAN, ESQ. of the BOHN

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

Snell & Wilmer

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



1 LAW FIRM; Defendant WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS  
2 FARGO BANK, N.A. appeared by and through its attorney, CHARLES E. GIANELLONI, ESQ.  
3 of the law firm SNELL & WILMER LLP. Having reviewed the papers and pleadings on file  
4 herein and heard oral arguments of counsel, this Court makes the following Findings of Fact and  
5 Conclusions of Law:

#### 6 FINDINGS OF FACT

7 1. This lawsuit involves real property located at 350 S. Durango Drive, #104, Las  
8 Vegas, Nevada 89128 (the "Property"). The Property is located within a common-interest  
9 community governed by Angel Point Condominiums (the "HOA").

10 2. On July 1, 2003, the Senholtzes obtained a loan in the amount of \$81,370.00  
11 from Wells Fargo Home Mortgage, Inc. to refinance their original loan for the purchase of the  
12 Property.

13 3. The HOA recorded a Notice of Delinquent Assessment Lien on November 15,  
14 2012.

15 4. On January 18, 2013, the HOA recorded a Notice of Default and Election to Sell  
16 Under Homeowners Association Lien.

17 5. On April 4, 2013, a Notice of Breach and Default and Election to Cause Sale of  
18 Real Property under Deed of Trust was recorded.

19 6. The HOA then recorded a Notice of Trustee's Sale on May 20, 2013.

20 7. On or about June 14, 2013, the HOA held a non-judicial foreclosure sale and the  
21 Property was sold to Saticoy Bay LLC Series for the total amount of \$6,900.00.

22 8. On August 29, 2013, a Certificate from the Nevada Foreclosure Mediation  
23 Program was recorded.

24 9. Plaintiff filed a Complaint for Quiet Title and Declaratory Relief against the  
25 Senholtzes and Wells Fargo on September 12, 2013.

26 10. On June 9, 2015, at the hearing on Defendant's Motion to Dismiss Plaintiff's  
27 Complaint, Defendant's counsel argued that the statute upon which Plaintiff's claims for quiet  
28 title and declaratory relief necessary rely, NRS 116.3116 *et seq.* (the "Statute"), does not satisfy

1 constitutional due process principles. Defendants contend that the Statute is facially  
2 unconstitutional because the burden shifting "opt-in" provisions first require lenders to give  
3 notice in order to receive notice of the operative steps in the HOA foreclosure process. As such,  
4 the Statute does not require the foreclosing party to take reasonable steps to ensure that actual  
5 notice is provided to interested parties who are reasonably ascertainable. Plaintiff's counsel  
6 argued that in *SFR Investments Pool 1 v. U.S. Bank*, 334 P.3d 408 (2014), *reh'g denied* (Oct. 16,  
7 2014) ("*SFR*"), the Nevada Supreme Court resolved this issue in favor of Plaintiff because the  
8 Supreme Court considered, and ruled on, an as-applied constitutional challenge. The crux of this  
9 matter hinges upon whether the Statute at issue is facially unconstitutional.

#### 10 CONCLUSIONS OF LAW

#### 11 **THE COURT HEREBY FINDS AS FOLLOWS AS A MATTER OF LAW:**

- 12 1. The Nevada Supreme Court, in *SFR*, did not address any facial challenge,  
13 including the facial challenge to the constitutionality of the Statute's notice provisions raised in  
14 the instant Motion to Dismiss.
- 15 2. The Statute violates the Due Process Clauses of the Fifth and Fourteenth  
16 Amendments of the United States Constitution because its "opt-in" notice provisions do not  
17 mandate that reasonable and affirmative steps be taken to provide actual notice to lenders and  
18 other holders of recorded security interests prior to the deprivation of their property rights.  
19 Because the Statute does not require the foreclosing party to take reasonable steps to ensure that  
20 actual notice is provided to interested parties who are reasonably ascertainable (unless the  
21 interested party first requests notice) it does not comport with long standing principles of  
22 constitutional due process. *See Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 799–800  
23 (1983); *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *Small Engine*  
24 *Shop, Inc. v. Cascio*, 878 F.2d 883, 893 (5th Cir. 1989).
- 25 3. The Statute violates the Due Process Clause of the Nevada Constitution, Nevada  
26 Const., art. I, sec. 8(5), for the same reasons as articulated in Paragraph 2.
- 27 4. Moreover, reference to NRS 107.090 does not salvage the federal or state  
28 constitutionality of the Statute because Plaintiff's construction of NRS 107.090 as mandating

1 notice to lenders before foreclosure would render superfluous the express "opt-in" notice  
2 provisions contained in NRS 116.3116, in violation of rules of statutory construction. See  
3 *S. Nev. Homebuilders Ass'n v. Clark Cnty.*, 117 P.3d 171, 173 (Nev. 2005) ("When interpreting a  
4 statute, this Court must give its terms their plain meaning, considering its provisions as a whole  
5 so as to read them in a way that would not render words or phrases superfluous or make a  
6 provision nugatory.") (internal quotations omitted).

7 5. For these reasons, this Court finds that the Statute is facially unconstitutional in  
8 violation of the Due Process Clauses of both the United States and the Nevada Constitutions.

9 Based upon the foregoing Findings of Fact and Conclusions of Law,

10 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant's Motion  
11 to Dismiss, filed April 13, 2015, is **GRANTED**.


12 **IT IS FURTHER ORDERED** that because multiple parties are involved, this Court  
13 expressly directs the entry of a final judgment with respect to Wells Fargo, but not all defendants,  
14 pursuant to NRCP 54(b) due to the express determination that there is no just reason for delay.

15 **IT IS SO ORDERED.**

16 DATED: June 7, 2015

  
DISTRICT COURT JUDGE

17  
18  
19  
20 Submitted by:

21   
22 Richard C. Gordon  
23 Nevada Bar No. 9036  
24 Paul W. Shakespear  
25 Nevada Bar No. 10752  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, NV 89169

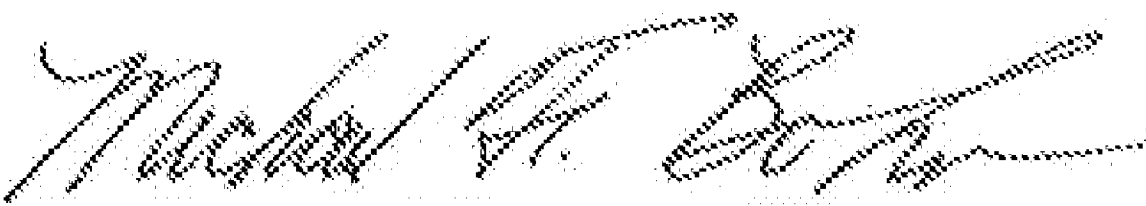
26 *Attorneys for Wells Fargo Home Mortgage,*  
27 *a Division of Wells Fargo Bank, N.A.*

28 DATED June \_\_, 2015

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Approved as to form and content:

BOHN LAW FIRM



Michael F. Bohn, Esq.  
Nevada Bar No. 1641  
376 E. Warm Springs, Suite 140  
Las Vegas, NV 89119

Attorneys for Plaintiff  
*Saticoy Bay LLC Series 350 Durango 104*

DATED June \_\_, 2015

21864058



CLERK OF THE COURT

1 Richard C. Gordon  
Nevada Bar No. 9036  
2 Paul W. Shakespear  
Nevada Bar No. 10752  
3 SNELL & WILMER L.L.P.  
3883 Howard Hughes Parkway, Suite 1100  
4 Las Vegas, NV 89169  
Telephone: (702) 784-5200  
5 Facsimile: (702) 784-5252  
Email: [rgordon@swlaw.com](mailto:rgordon@swlaw.com)  
6 Email: [pshakespear@swlaw.com](mailto:pshakespear@swlaw.com)

7 Attorneys for Defendant  
WELLS FARGO HOME MORTGAGE, A DIVISION OF  
8 WELLS FARGO BANK, N.A.

9  
10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 SATICOY BAY LLC SERIES 350 DURANGO  
104

13 Plaintiff,

14 vs.

15 WELLS FARGO HOME MORTGAGE A  
DIVISION OF WELLS FARGO BANK, N.A.;  
16 MTC FINANCIAL dba TRUSTEE CORPS;  
RON N. SENHOLTZ and SHIRLEY P.  
17 SENHOLTZ as trustees for the Senholtz Family  
Trust

18 Defendants.  
19

20 And all related actions.  
21

CASE NO.: A-13-688410-C  
DEPT. NO.: XXVIII

**ORDER GRANTING DEFENDANT  
WELLS FARGO HOME  
MORTGAGE, A DIVISION OF  
WELLS FARGO BANK, N.A.'S  
RENEWED MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

22 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

23 This matter concerning Defendant Wells Fargo Home Mortgage, a Division of Wells  
24 Fargo Bank, N.A.'s ("Wells Fargo"), Renewed Motion to Dismiss Plaintiff's Complaint, filed  
25 April 13, 2015, came on for hearing on the 9<sup>th</sup> day of June, 2015 at the hour of 9:00 a.m. before  
26 Department XXVIII of the Eighth Judicial District Court, in and for Clark County, Nevada, with  
27 JUDGE RONALD J. ISRAEL presiding; Plaintiff SATICOY BAY LLC SERIES 350  
28 DURANGO 104 appeared by and through its attorney, ARTHUR P. TAN, ESQ. of the BOHN

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

1 LAW FIRM; Defendant WELLS FARGO HOME MORTGAGE, A DIVISION OF WELLS  
2 FARGO BANK, N.A. appeared by and through its attorney, CHARLES E. GIANELLONI, ESQ.  
3 of the law firm SNELL & WILMER LLP. Having reviewed the papers and pleadings on file  
4 herein and heard oral arguments of counsel, this Court makes the following Findings of Fact and  
5 Conclusions of Law:

6 FINDINGS OF FACT

7 1. This lawsuit involves real property located at 350 S. Durango Drive, #104, Las  
8 Vegas, Nevada 89128 (the "Property"). The Property is located within a common-interest  
9 community governed by Angel Point Condominiums (the "HOA").

10 2. On July 1, 2003, the Senholtzes obtained a loan in the amount of \$81,370.00  
11 from Wells Fargo Home Mortgage, Inc. to refinance their original loan for the purchase of the  
12 Property.

13 3. The HOA recorded a Notice of Delinquent Assessment Lien on November 15,  
14 2012.

15 4. On January 18, 2013, the HOA recorded a Notice of Default and Election to Sell  
16 Under Homeowners Association Lien.

17 5. On April 4, 2013, a Notice of Breach and Default and Election to Cause Sale of  
18 Real Property under Deed of Trust was recorded.

19 6. The HOA then recorded a Notice of Trustee's Sale on May 20, 2013.

20 7. On or about June 14, 2013, the HOA held a non-judicial foreclosure sale and the  
21 Property was sold to Saticoy Bay LLC Series for the total amount of \$6,900.00.

22 8. On August 29, 2013, a Certificate from the Nevada Foreclosure Mediation  
23 Program was recorded.

24 9. Plaintiff filed a Complaint for Quiet Title and Declaratory Relief against the  
25 Senholtzes and Wells Fargo on September 12, 2013.

26 10. On June 9, 2015, at the hearing on Defendant's Motion to Dismiss Plaintiff's  
27 Complaint, Defendant's counsel argued that the statute upon which Plaintiff's claims for quiet  
28 title and declaratory relief necessary rely, NRS 116.3116 *et seq.* (the "Statute"), does not satisfy

1 constitutional due process principles. Defendants contend that the Statute is facially  
2 unconstitutional because the burden shifting "opt-in" provisions first require lenders to give  
3 notice in order to receive notice of the operative steps in the HOA foreclosure process. As such,  
4 the Statute does not require the foreclosing party to take reasonable steps to ensure that actual  
5 notice is provided to interested parties who are reasonably ascertainable. Plaintiff's counsel  
6 argued that in *SFR Investments Pool 1 v. U.S. Bank*, 334 P.3d 408 (2014), *reh'g denied* (Oct. 16,  
7 2014) ("*SFR*"), the Nevada Supreme Court resolved this issue in favor of Plaintiff because the  
8 Supreme Court considered, and ruled on, an as-applied constitutional challenge. The crux of this  
9 matter hinges upon whether the Statute at issue is facially unconstitutional.

#### 10 CONCLUSIONS OF LAW

#### 11 **THE COURT HEREBY FINDS AS FOLLOWS AS A MATTER OF LAW:**

12 1. The Nevada Supreme Court, in *SFR*, did not address any facial challenge,  
13 including the facial challenge to the constitutionality of the Statute's notice provisions raised in  
14 the instant Motion to Dismiss.

15 2. The Statute violates the Due Process Clauses of the Fifth and Fourteenth  
16 Amendments of the United States Constitution because its "opt-in" notice provisions do not  
17 mandate that reasonable and affirmative steps be taken to provide actual notice to lenders and  
18 other holders of recorded security interests prior to the deprivation of their property rights.  
19 Because the Statute does not require the foreclosing party to take reasonable steps to ensure that  
20 actual notice is provided to interested parties who are reasonably ascertainable (unless the  
21 interested party first requests notice) it does not comport with long standing principles of  
22 constitutional due process. *See Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 799--800  
23 (1983); *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); *Small Engine*  
24 *Shop, Inc. v. Cascio*, 878 F.2d 883, 893 (5th Cir. 1989).

25 3. The Statute violates the Due Process Clause of the Nevada Constitution, Nevada  
26 Const., art. I, sec. 8(5), for the same reasons as articulated in Paragraph 2.

27 4. Moreover, reference to NRS 107.090 does not salvage the federal or state  
28 constitutionality of the Statute because Plaintiff's construction of NRS 107.090 as mandating

notice to lenders before foreclosure would render superfluous the express "opt-in" notice provisions contained in NRS 116.3116, in violation of rules of statutory construction. See *S. Nev. Homebuilders Ass'n v. Clark Cnty.*, 117 P.3d 171, 173 (Nev. 2005) ("When interpreting a statute, this Court must give its terms their plain meaning, considering its provisions as a whole so as to read them in a way that would not render words or phrases superfluous or make a provision nugatory.") (internal quotations omitted).

5. For these reasons, this Court finds that the Statute is facially unconstitutional in violation of the Due Process Clauses of both the United States and the Nevada Constitutions.

Based upon the foregoing Findings of Fact and Conclusions of Law,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant's Motion to Dismiss, filed April 13, 2015, is **GRANTED**.

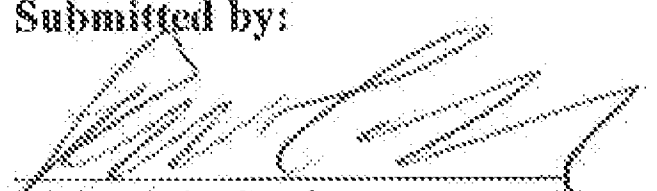
**IT IS FURTHER ORDERED** that because multiple parties are involved, this Court expressly directs the entry of a final judgment with respect to Wells Fargo, but not all defendants, pursuant to NRCP 54(b) due to the express determination that there is no just reason for delay.

**IT IS SO ORDERED.**

DATED: June 7, 2015

  
DISTRICT COURT JUDGE

Submitted by:

  
Richard C. Gordon  
Nevada Bar No. 9036  
Paul W. Shakespear  
Nevada Bar No. 10752  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, NV 89169

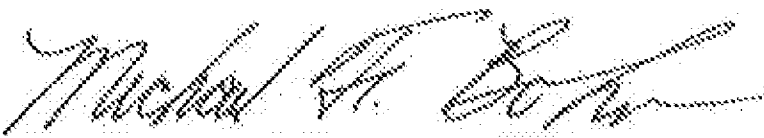
*Attorneys for Wells Fargo Home Mortgage,  
a Division of Wells Fargo Bank, N.A.*

DATED June \_\_, 2015

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Approved as to form and content:

BOHN LAW FIRM



Michael F. Bohn, Esq.  
Nevada Bar No. 1641  
376 E. Warm Springs, Suite 140  
Las Vegas, NV 89119

Attorneys for Plaintiff  
*Saticoy Bay LLC Series 350 Durango 104*

DATED June \_\_, 2015

21864058

CIVIL COVER SHEET **A- 13- 688410- C**

CLARK

County, Nevada

**XXVI I I**

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

**I. Party Information**

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

SATICOY BAY LLC SERIES 350 DURANGO  
104

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

WELLS FARGO HOME MORTGAGE A DIVISION  
OF WELLS FARGO BANK, N.A.; MTC FINANCIAL  
DBA TRUSTEE CORPS; RON N. SENHOLTZ AND  
SHIRLEY P. SENHOLTZ as trustees for the

Attorney (name/address/phone):

MICHAEL F. BOHN, Esq.

376 E. Warm Springs Road Suite 125

Las Vegas, NV 89119

(702) 642-3113

Attorney (name/address/phone):

Senholtz family trust

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

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

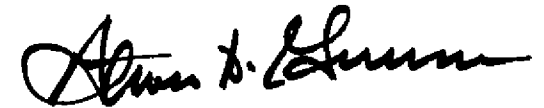
**III. Business Court Requested** (Please check applicable category; for Clark and Washoe Counties only. )☐ NRS Chapters 78-88  
☐ Commodities (NRS 90)  
☐ Securities (NRS 90)☐ Investments (NRS 104 Art. 8)  
☐ Deceptive Trade Practices (NRS 598)  
☐ Trademarks (NRS 600A)☐ Enhanced Case Mgmt/Business  
☐ Other Business Court Matters

September 11, 2013

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

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

DISTRICT COURT  
CLARK COUNTY, NEVADA

11 SATICOY BAY LLC SERIES 350 DURANGO  
12 104

Plaintiff,

13 vs.

14 WELLS FARGO HOME MORTGAGE A  
15 DIVISION OF WELLS FARGO BANK, N.A.;  
16 MTC FINANCIAL dba TRUSTEE CORPS;  
17 RON N. SENHOLTZ and SHIRLEY P.  
18 SENHOLTZ as trustees for the Senholtz Family  
Trust

Defendants.

CASE NO.: **A- 13- 688410- C**  
DEPT NO.: **XXV I I I**

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

**COMPLAINT**

19  
20 Plaintiff, Saticoy Bay LLC Series 350 Durango 104, by and through it's attorney, Michael F.  
21 Bohn, Esq. alleges as follows:

22 1. Plaintiff is the owner of the real property commonly known as 350 South Durango Road  
23 Unit 104, Las Vegas, Nevada.

24 2. Plaintiff obtained title by way of foreclosure deed recorded on June 17, 2013.

25 3. The plaintiff's title stems from a foreclosure deed arising from a delinquency in  
26 assessments due from the former owner to the Angel Point Condominiums pursuant to NRS Chapter  
27

1 116.

2 4. Defendant Wells Fargo is the beneficiary of a deed of trust which was recorded as an  
3 encumbrance to the subject property on August 11, 2003.

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

5 6. Defendants Roy N. Senholtz and Shirley P. Senholtz as trustees of the Senholtz Family  
6 Trust are the former owner of the subject real property.

7 7. The interest of each of the defendants has been extinguished by reason of the foreclosure  
8 sale resulting from a delinquency in assessments due from the former owner, Roy N. Senholtz and  
9 Shirley P. Senholtz to the Angel Point Condominiums , pursuant to NRS Chapter 116.

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

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

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

14 **SECOND CLAIM FOR RELIEF**

15 11. Plaintiff repeats the allegations contained in paragraphs 1 through 10.

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

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

20 **THIRD CLAIM FOR RELIEF**

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

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

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

27

28



WHEREFORE, plaintiff prays for Judgment as follows:

1. For injunctive relief;

2. For a determination and declaration that plaintiff is the rightful holder of title to the

property, free and clear of all liens, encumbrances, and claims of the defendants.

3. For a determination and declaration that the defendants have no estate, right, title, interest

or claim in the property.

4. For a judgment forever enjoining the defendants from asserting any estate, right, title,

interest or claim in the property; and

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

DATED this 11th day of September 2013.

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

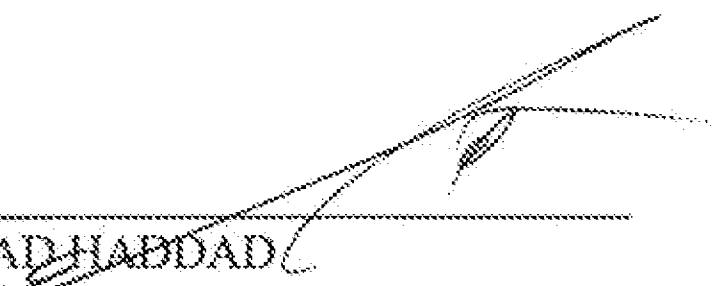
By: / s / Michael F. Bohn, Esq. /  
Michael F. Bohn, Esq.  
376 East Warm Springs Road, Ste. 125  
Las Vegas, Nevada 89119  
Attorney for plaintiff

VERIFICATION


STATE OF NEVADA       )  
                                  ) ss:  
COUNTY OF CLARK     )

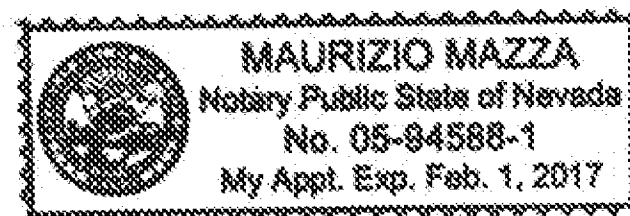
Iyad Haddad, being first duly sworn, deposes and says;

That he is the authorized representative of the plaintiff Limited Liability Company in the above entitled action; that he has read the foregoing complaint and knows the contents thereof; that the same is true of his own knowledge, except as to those matters therein alleged on information and belief, and as to those matters, he believes them to be true.

  
\_\_\_\_\_  
IYAD HADDAD

SUBSCRIBED and SWORN to before me  
this 11th day of September, 2013

  
\_\_\_\_\_  
NOTARY PUBLIC in and for said  
County and State



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

5 Attorney for plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

8 SATICOY BAY LLC SERIES 350 DURANGO  
104

CASE NO.:  
DEPT NO.:

9 Plaintiff,

10 vs.

11 WELLS FARGO HOME MORTGAGE A  
12 DIVISION OF WELLS FARGO BANK, N.A.;  
MTC FINANCIAL dba TRUSTEE CORPS;  
13 RON N. SENHOLTZ and SHIRLEY P.  
SENHOLTZ as trustees for the Senholtz Family  
14 Trust

15 Defendants.

16 **INITIAL APPEARANCE FEE DISCLOSURE**

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

19 SATICOY BAY LLC SERIES 350 DURANGO 104 \$270.00

20 TOTAL REMITTED: \$270.00

21 DATED this 11th day of September 2013.

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

24  
25 By: / s / Michael F. Bohn, Esq. /  
Michael F. Bohn, Esq.  
376 East Warm Springs Road, Ste. 125  
26 Las Vegas, Nevada 89119  
27 Attorney for plaintiff

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

SATICOY BAY LLC SERIES 350 DURANGO  
104

Appellant

vs.

WELLS FARGO HOME MORTGAGE, N.A.,

Respondent

No. 68630

Electronically Filed  
Sep 08 2015 04:25 p.m.  
Tara K. Lindeman  
Clerk of Supreme Court  
DOCKETING STATEMENT  
CIVIL APPEALS

## GENERAL INFORMATION

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

## WARNING

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

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

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

1. Judicial District Eighth Department 28  
County Clark Judge Ronald J. Israel  
District Ct. Case No. A688410

**2. Attorney filing this docketing statement:**

Attorney Michael F. Bohn, Esq. Telephone 702-642-3113  
Firm Law Offices of Michael F. Bohn, Esq., Ltd.  
Address 376 E. Warm Springs Road, Suite 140  
Las Vegas, Nevada 89119

Client(s) Saticoy Bay LLC Series 350 Durango 104

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

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

Attorney Charles E. Gianelloni, Esq., Telephone 702-679-1111  
Firm Snell & Wilmer, LLP  
Address 3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, NV 89169  
Client(s) Wells Fargo Home MortgageN.A.

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

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

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

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

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

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

None

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

None

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

Plaintiff filed an action for quiet title and declaratory relief after it purchased a real property at a foreclosure sale conducted pursuant to NRS Chapter 116. It is the plaintiff's position that the foreclosure sale extinguished all outstanding liens on the property. The district court dismissed the complaint finding the statute violates Wells Fargo's due process rights and is therefore facially unconstitutional.

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

The issue is if the foreclosure scheme under NRS Chapter 116 violates due process

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

Saticoy Bay LLC Series 3884 Squirrel v. Wells Fargo Bank, Docket No. 65450

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

☐ N/A

☐ Yes

☒ No

If not, explain: The respondent is the party that is raising the constitutional issue

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

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

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

☒ A substantial issue of first impression

☒ An issue of public policy

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

☐ A ballot question

If so, explain: This court has not determined the construction of NRS 116.3116 regarding the priority of an HOA lien over a first mortgage on the same property.

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

Was it a bench or jury trial? \_\_\_\_\_

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



## TIMELINESS OF NOTICE OF APPEAL

**15. Date of entry of written judgment or order appealed from** Jul 10, 2015

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

**16. Date written notice of entry of judgment or order was served** Jul 13, 2015

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

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

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

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

Was service by:

☐ Delivery

☐ Mail

**18. Date notice of appeal filed** Aug 11, 2015

---

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

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

NRAP 4 (a)

---

**SUBSTANTIVE APPEALABILITY**

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

(a)

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

(b) Explain how each authority provides a basis for appeal from the judgment or order:  
Appeal from an order granting a motion to dismiss the complaint

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

(a) Parties:

Saticoy Bay LLC Series 350 Durango 104, plaintiff

Wells Fargo Home Mortgage, N.A., defendant

MTC Financial dba Trustee Corps, defendant

Ron N. Senholtz and Shirley P. Senholtz as trustees for the Senholtz Family Trust,  
defendant

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

MTC Financial dba Trustee Corps signed a stipulation for non-monetary relief.

Ron N. Senholtz and Shirley P. Senholtz as trustees for the Senholtz Family Trust,  
were defaulted in the district court case

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

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

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

☐ Yes

☒ No

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

(a) Specify the claims remaining pending below:

The quiet title claims against Ron and Shirley Senholtz are still pending.

(b) Specify the parties remaining below:  
Ron and Shirley Senholtz

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

☒ Yes

☐ No

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

☒ Yes

☐ No

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

This is an order which is independently appealable under NRAP 3A(b)(3)

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

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

## VERIFICATION


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

Saticoy Bay LLC Series 350 Durango 10  
Name of appellant

Sep 8, 2015  
Date

Clark County, Nevada  
State and county where signed

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

  
Signature of counsel of record


## CERTIFICATE OF SERVICE

I certify that on the 8th day of September, 2015, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Charles E. Gianelloni, Esq.  
SNELL & WILMER, LLP  
3883 Howard Hughes Parkway  
Suite 1100  
Las Vegas, NV 89169

Dated this 8th day of September, 2015

  
Signature