

CLERK OF THE COURT

Electronically Filed
Jun 13 2016 10:00 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

1 **NOAS**
2 ARIEL E. STERN, ESQ.
3 Nevada Bar No. 8276
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13 *Attorneys for Carrington Mortgage Holdings, LLC*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 R VENTURES VIII, LLC, a Nevada series
17 limited liability company of the container R
18 VENTURES, LLC under NRS § 86.296,

19 Plaintiff,

20 v.

21 TAYLOR, BEAN & WHITAKER MORTGAGE
22 CORP., a Florida corporation; WELLS Fargo
23 BANK, N.A., a national association; BANK OF
24 AMERICA, N.A., a national association;
25 SOUTHERN TERRACE HOMEOWNERS'
26 ASSOCIATION, a Nevada domestic non-profit
27 coop corporation; JOYCE PIERCE, an
28 individual; CARRINGTON MORTGAGE
HOLDINGS, LLC; DOES I through X; and ROE
CORPORATIONS I through X, inclusive;

Defendants.

Case No.: A-13-684151-C

Dept.: VI

**CARRINGTON MORTGAGE
HOLDINGS, LLC'S NOTICE OF APPEAL**

AKERMAN LLP

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

CARRINGTON MORTGAGE HOLDINGS,
LLC,

Counterclaimant,

v.

R VENTURES VIII, LLC,

Counterdefendant

CARRINGTON MORTGAGE HOLDINGS,
LLC,

Crossclaimant,

v.

TERRACE HOMEOWNERS' ASSOCIATION,

Crossdefendant.

Carrington Mortgage Holdings, LLC by and through its attorneys of record at Akerman LLP, submits its notice of appeal to the Nevada Supreme Court of the order granting plaintiff R Ventures VIII, LLC's motion for summary judgment that was entered in this matter on April 27, 2016.

DATED this 1st day of June 2016.

AKERMAN LLP

/s/ Christine M. Parvan, Esq.
ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
CHRISTINE M. PARVAN, ESQ.
Nevada Bar No. 10711
AKERMAN LLP
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Attorneys for Carrington Mortgage Holdings, LLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on this 1st day of June, 2016 and pursuant to NRCP 5, I caused to be served a true and correct copy of the foregoing **CARRINGTON MORTGAGE HOLDINGS, LLC'S NOTICE OF APPEAL**, in the following manner:

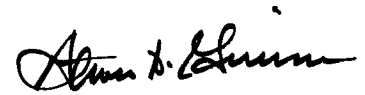
(**ELECTRONIC SERVICE**) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof & served through the Notice Of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.

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Attorneys for Plaintiff R Ventures VIII, LLC

/s/ Allen G. Stephens

An employee of AKERMAN LLP



CLERK OF THE COURT

1 **ASTA**
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3 Nevada Bar No. 8276
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13 *Attorneys for Carrington Mortgage Holdings, LLC*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 **R VENTURES VIII, LLC**, a Nevada series
17 limited liability company of the container R
18 **VENTURES, LLC** under NRS § 86.296,

19 Plaintiff,

20 v.

21 **TAYLOR, BEAN & WHITAKER MORTGAGE**
22 **CORP.**, a Florida corporation; **WELLS Fargo**
23 **BANK, N.A.**, a national association; **BANK OF**
24 **AMERICA, N.A.**, a national association;
25 **SOUTHERN TERRACE HOMEOWNERS'**
26 **ASSOCIATION**, a Nevada domestic non-profit
27 coop corporation; **JOYCE PIERCE**, an
28 individual; **CARRINGTON MORTGAGE**
HOLDINGS, LLC; **DOES I through X**; and **ROE**
CORPORATIONS I through X, inclusive;

Defendants.

Case No.: A-13-684151-C

Dept.: VI

CARRINGTON MORTGAGE
HOLDINGS, LLC'S CASE APPEAL
STATEMENT

CARRINGTON MORTGAGE HOLDINGS,
LLC,

Counterclaimant,

v.

R VENTURES VIII, LLC,

Counterdefendant

CARRINGTON MORTGAGE HOLDINGS,
LLC,

Crossclaimant,

v.

TERRACE HOMEOWNERS' ASSOCIATION,

Crossdefendant.

Carrington Mortgage Holdings, LLC by and through its attorneys of record at Akerman LLP, submits its Case Appeal Statement pursuant to NRAP 3(f)(3).

1. The appellant filing this case appeal statement is Carrington Mortgage Holdings, LLC **(Appellant)**.
2. The order appealed is the Final Judgment for Plaintiff entered April 27, 2016. A Notice of Entry of Final Judgment was entered on May 2, 2016 by the Honorable Judge Elissa Cadish.
3. Counsel for Appellants are Ariel E. Stern, Esq. and Christine M. Parvan, Esq. of Akerman LLP, 1160 N. Town Center Drive, Suite 330, Las Vegas, Nevada 89144.
4. Trial counsel for Respondent R Ventures VIII, LLC is J. Charles Coons, Esq. and Thomas Miskey, Esq., of Cooper Coons, Ltd., 10655 Park run Drive, Suite 130, Las Vegas, NV 89144. Appellant is unaware of whether trial counsel will also act as appellate counsel for Respondent.
5. Counsel for appellant are licensed to practice law in Nevada. Trial counsel for Respondent is licensed to practice law in Nevada.
6. Appellant is represented by retained counsel in the district court.
7. Appellant is represented by retained counsel on appeal.

- 1 8. Appellant was not granted leave to proceed in forma pauperis by the district court.
- 2 9. The date proceedings commenced in the district court was June 26, 2013.
- 3 10. In this action, Respondent alleges that it owns the property located at 6175 Novelty Street,
- 4 Las Vegas, Nevada 89148, Assessor Parcel No. 163-31-713-027 (**Property**) free and clear of
- 5 all liens as a result of an HOA foreclosure sale. Respondent filed an Answer, Counterclaim
- 6 and Cross-Claim for Quiet Title/Declaratory Judgment to have the court declare that
- 7 Respondent bought the Property free and clear of Appellant's interests, including the deed of
- 8 trust held by Carrington Mortgage Holdings, LLC (**Deed of Trust**). Appellants alleged that
- 9 the Deed of Trust was not extinguished by the foreclosure sale because its attempted tender
- 10 satisfied the tender rule, the foreclosure sale was not commercially reasonable, and NRS
- 11 116.1113 is unconstitutional. The district court granted Respondent's motion for summary
- 12 judgment over Appellants' opposition to motion for summary judgment. Appellants now
- 13 appeal the order granting Respondent summary judgment.
- 14 11. This case has not previously been the subject of an appeal to or original writ proceeding in
- 15 the Supreme Court.
- 16 12. This appeal does not involve child custody or visitation.
- 17 13. This appeal does not involve the possibility of settlement.

18 DATED this 1st day of June 2016.

19

20 **AKERMAN LLP**

21 /s/ Christine M. Parvan, Esq.

22 ARIEL E. STERN, ESQ.

23 Nevada Bar No. 8276

24 CHRISTINE M. PARVAN, ESQ.

25 Nevada Bar No. 10711

26 AKERMAN LLP

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Facsimile: (702) 380-8572

Email: ariel.stern@akerman.com

Email: christine.parvan@akerman.com

Attorneys for Carrington Mortgage Holdings, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on this 1st day of June, 2016 and pursuant to NRCP 5, I caused to be served a true and correct copy of the foregoing **CARRINGTON MORTGAGE HOLDINGS, LLC'S CASE APPEAL STATEMENT**, in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof & served through the Notice Of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.

J. Charles Coons, Esq.
Thomas Miskey, Esq.
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liz@coopercoons.com
thomas@coopercoons.com

Attorneys for Plaintiff R Ventures VIII, LLC

/s/ Allen G. Stephens

An employee of AKERMAN LLP

DEPARTMENT 6
CASE SUMMARY
CASE NO. A-13-684151-C

R Ventures VIII, LLC., Plaintiff(s)
vs.
Taylor, Bean & Whitaker Mortgage Corp., Defendant
(s)

§
§
§
§
§

Location: **Department 6**
Judicial Officer: **Cadish, Elissa F.**
Filed on: **06/26/2013**
Cross-Reference Case Number: **A684151**

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-13-684151-C |
| Court | Department 6 |
| Date Assigned | 06/26/2013 |
| Judicial Officer | Cadish, Elissa F. |

PARTY INFORMATION














| | | |
|--------------------------|---|--|
| Plaintiff | R Ventures VIII, LLC. | Coons, J. Charles <i>Retained</i> 702-998-1500(W) |
| Defendant | Bank Of America Removed: 04/28/2016 Dismissed Carrington Mortgage Holdings LLC Pierce, Joyce Southern Terrace Homeowners Association Removed: 12/12/2013 Dismissed Taylor, Bean & Whitaker Mortgage Corp. Wells Fargo Bank Removed: 11/06/2013 Dismissed | Parvan, Christine <i>Retained</i> 702-634-5000(W) |
| Counter Claimant | Carrington Mortgage Holdings LLC | Parvan, Christine <i>Retained</i> 702-634-5000(W) |
| Counter Defendant | R Ventures VIII, LLC. | Coons, J. Charles <i>Retained</i> 702-998-1500(W) |
| Cross Claimant | Carrington Mortgage Holdings LLC | Parvan, Christine <i>Retained</i> 702-634-5000(W) |
| Cross Defendant | Terrace Homeowners' Association | |

DATE













EVENTS & ORDERS OF THE COURT

INDEX














DEPARTMENT 6
CASE SUMMARY
CASE NO. A-13-684151-C

| | |
|------------|--|
| 06/26/2013 |  Initial Appearance Fee Disclosure Filed By: Counter Defendant R Ventures VIII, LLC. <i>Initial Appearance Fee Disclosure</i> |
| 06/26/2013 |  Complaint Filed By: Counter Defendant R Ventures VIII, LLC. <i>Complaint for Quiet Title and Injunctive Relief</i> |
| 06/26/2013 | Case Opened |
| 07/01/2013 |  Notice of Lis Pendens Filed by: Counter Defendant R Ventures VIII, LLC. <i>Notice of Lis Pendens</i> |
| 07/08/2013 |  Summons Filed by: Counter Defendant R Ventures VIII, LLC. <i>Summons</i> |
| 07/08/2013 |  Summons Filed by: Counter Defendant R Ventures VIII, LLC. <i>Summons</i> |
| 07/08/2013 |  Summons Filed by: Counter Defendant R Ventures VIII, LLC. <i>Summons</i> |
| 07/08/2013 |  Summons Filed by: Counter Defendant R Ventures VIII, LLC. <i>Summons</i> |
| 07/08/2013 |  Summons Filed by: Counter Defendant R Ventures VIII, LLC. <i>Summons</i> |
| 10/04/2013 |  Affidavit of Service Filed By: Counter Defendant R Ventures VIII, LLC. <i>Affidavit of Service</i> |
| 10/04/2013 |  Affidavit of Service Filed By: Counter Defendant R Ventures VIII, LLC. <i>Affidavit of Service</i> |
| 10/04/2013 |  Affidavit of Service Filed By: Counter Defendant R Ventures VIII, LLC. <i>Affidavit of Service</i> |
| 10/04/2013 |  Motion for Preliminary Injunction Filed By: Counter Defendant R Ventures VIII, LLC. <i>Plaintiff's Motion for Preliminary Injunction</i> |
| 10/21/2013 |  Initial Appearance Fee Disclosure Filed By: Defendant Bank Of America <i>Initial Appearance Fee Disclosure</i> |

DEPARTMENT 6
CASE SUMMARY
CASE NO. A-13-684151-C












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|------------|--|
| 10/21/2013 |  Motion to Dismiss Filed By: Defendant Bank Of America <i>Bank of America, N.A.'s Motion to Dismiss</i> |
| 10/21/2013 |  Request for Judicial Notice Filed By: Defendant Bank Of America <i>Defendant's Request for Judicial Notice</i> |
| 10/21/2013 |  Opposition Filed By: Defendant Bank Of America <i>Bank of America, N.A.'s Opposition to Plaintiff's Motion for Preliminary Injunction</i> |
| 11/05/2013 |  Motion for Preliminary Injunction (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 10/04/2013 Motion for Preliminary Injunction <i>Plaintiff's Motion for Preliminary Injunction</i> |
| 11/06/2013 |  Voluntary Dismissal Filed by: Counter Defendant R Ventures VIII, LLC. <i>Voluntary Dismissal of Defendant Wells Fargo Bank NA With Prejudice</i> |
| 11/06/2013 | Voluntary Dismissal (Judicial Officer: Cadish, Elissa F.) Debtors: Wells Fargo Bank (Defendant) Creditors: R Ventures VIII, LLC. (Plaintiff) Judgment: 11/06/2013, Docketed: 11/14/2013 |
| 11/08/2013 |  Opposition to Motion to Dismiss Filed By: Counter Defendant R Ventures VIII, LLC. <i>Opposition to Bank of America, N.A.'s Motion to Dismiss</i> |
| 11/13/2013 |  Notice of Bankruptcy Filed By: Counter Defendant R Ventures VIII, LLC. <i>Notice of Case Under Chapter 11 of United States Bankruptcy Code and Notice of Automatic Stay</i> |
| 11/14/2013 |  Stipulation Filed by: Counter Defendant R Ventures VIII, LLC. <i>Stipulation to Continue Hearing on Motion to Dismiss</i> |
| 11/21/2013 |  Stipulation and Order Filed by: Counter Defendant R Ventures VIII, LLC. <i>Stipulation and Order to Continue Hearing on Motion to Dismiss</i> |
| 11/22/2013 |  Reply Filed by: Defendant Bank Of America <i>Bank of America, N.A.'s Reply in Support of Motion to Dismiss</i> |
| 11/27/2013 |  Order Denying Motion Filed By: Defendant Bank Of America <i>Order</i> |
| 12/02/2013 |  Notice of Entry of Order Filed By: Defendant Bank Of America <i>Notice of Entry of Order</i> |

DEPARTMENT 6
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|------------|---|
| 12/03/2013 |  Motion to Dismiss (8:30 AM) (Judicial Officer: Cadish, Elissa F.) Events: 10/21/2013 Motion to Dismiss <i>Bank of America, N.A.'s Motion to Dismiss</i> |
| 12/12/2013 |  Stipulation and Order for Dismissal With Prejudice Filed By: Counter Defendant R Ventures VIII, LLC. <i>Stipulation and Order</i> |
| 12/12/2013 | Order of Dismissal With Prejudice (Judicial Officer: Cadish, Elissa F.) Debtors: Southern Terrace Homeowners Association (Defendant) Creditors: R Ventures VIII, LLC. (Plaintiff) Judgment: 12/12/2013, Docketed: 12/23/2013 |
| 01/13/2014 |  Notice of Entry of Order Filed By: Counter Defendant R Ventures VIII, LLC. <i>Notice of Entry of Order</i> |
| 01/14/2014 |  Notice of Entry of Order Filed By: Defendant Bank Of America <i>Notice of Entry of Order</i> |
| 01/14/2014 |  Order Filed By: Defendant Bank Of America <i>Order</i> |
| 04/29/2014 |  Substitution of Attorney Filed by: Defendant Bank Of America <i>Substitution of Counsel</i> |
| 06/24/2014 |  Minute Order (3:00 AM) (Judicial Officer: Cadish, Elissa F.) |
| 07/29/2014 |  Status Check (8:30 AM) (Judicial Officer: Cadish, Elissa F.) 07/29/2014, 01/27/2015 |
| 01/23/2015 |  Motion for Summary Judgment Filed By: Counter Defendant R Ventures VIII, LLC. <i>Plaintiff's Motion for Summary Judgment</i> |
| 02/17/2015 |  Initial Appearance Fee Disclosure Filed By: Defendant Bank Of America <i>Initial Appearance Fee Disclosure</i> |
| 02/17/2015 |  Opposition to Motion For Summary Judgment Filed By: Defendant Bank Of America <i>Defendant Bank of America, N.A.'s Opposition to Motion for Summary Judgment, Request for Rule 56(f) Relief and Cross-Motion for Summary Judgment</i> |
| 02/20/2015 |  Stipulation and Order Filed by: Defendant Bank Of America <i>Stipulation and Order to Extend Deadline to File Opposition to Plaintiff's Motion for Summary Judgment, Request for Rule 56(F) Relief, and Cross-Motion for Summary Judgment</i> |
| 02/23/2015 |  Reply in Support Filed By: Counter Defendant R Ventures VIII, LLC. |














DEPARTMENT 6
CASE SUMMARY
CASE NO. A-13-684151-C

Reply In Support of Plaintiff's Motion for Summary Judgment and Opposition to Defendant Bank of America, N.A.'s Cross Motion For Summary Judgment






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|------------|---|
| 02/27/2015 |  Reply in Support Filed By: Defendant Bank Of America <i>Bank of America's Reply in Support of its Countermotion for Summary Judgment</i> |
| 03/02/2015 |  Countermotion For Summary Judgment Filed By: Defendant Bank Of America <i>Affidavit in Support of Opposition To Motion For Summary Judgment and Bank of America's Cross-Motion For Summary Judgment and Request For Rule 56(f) Relief</i> |
| 03/03/2015 | Motion for Summary Judgment (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Plaintiff's Motion for Summary Judgment</i> |
| 03/03/2015 | Opposition and Countermotion (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Defendant Bank of America, N.A.'s Opposition to Motion for Summary Judgment, Request for Rule 56(f) Relief and Cross-Motion for Summary Judgment</i> |
| 03/03/2015 |  All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.) |
| 05/11/2015 |  Stipulation and Order Filed by: Defendant Bank Of America <i>Stipulation and Order To Add Carrington Mortgage Holdings, LLC as a Defendant</i> |
| 05/14/2015 |  Order Granting Motion Filed By: Counter Defendant R Ventures VIII, LLC. <i>Order</i> |
| 05/14/2015 | Partial Summary Judgment (Judicial Officer: Cadish, Elissa F.) Debtors: Bank Of America (Defendant) Creditors: R Ventures VIII, LLC. (Plaintiff) Judgment: 05/14/2015, Docketed: 05/21/2015 |
| 05/19/2015 |  Notice of Entry of Order Filed By: Counter Defendant R Ventures VIII, LLC. <i>Notice of Entry of Order</i> |
| 06/18/2015 |  Notice of Entry Filed By: Counter Defendant R Ventures VIII, LLC. <i>Notice of Entry</i> |
| 07/22/2015 |  Disclaimer of Interest Filed By: Defendant Bank Of America <i>Disclaimer of Interest of Bank of America, N.A. and Request for Dismissal</i> |
| 07/22/2015 |  Notice of Intent to Take Default Party: Counter Defendant R Ventures VIII, LLC. <i>Notice of Intent to Take Default</i> |
| 07/27/2015 |  Initial Appearance Fee Disclosure Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Initial Appearance Fee Disclosure</i> |
| 07/27/2015 |  Answer and Counterclaim |

DEPARTMENT 6
CASE SUMMARY
CASE NO. A-13-684151-C






Filed By: Cross Claimant Carrington Mortgage Holdings LLC
Carrington Mortgage Holdings, LLC's Answer, Counterclaim and Crossclaim

| | |
|------------|---|
| 08/06/2015 |  Affidavit of Service Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Affidavit of Service</i> |
| 08/11/2015 |  Notice of Posting Bond Filed By: Counter Defendant R Ventures VIII, LLC. <i>Notice of Posting Bond</i> |
| 09/02/2015 |  Reply to Counterclaim Filed by: Counter Defendant R Ventures VIII, LLC. <i>Plaintiff/Counter Defendant R Ventures VII, LLC Reply to Defendant/Counterclaimant Carrington Mortgage Holdings, LLC's Counterclaims</i> |
| 10/12/2015 |  Joint Case Conference Report Filed By: Counter Defendant R Ventures VIII, LLC. <i>Joint Case Conference Report</i> |
| 10/29/2015 |  Scheduling Order <i>Scheduling Order</i> |
| 11/17/2015 |  Order Setting Civil Non-Jury Trial <i>Order Setting Civil Non-Jury and Calendar Call</i> |
| 01/11/2016 |  Motion to Dismiss Filed By: Defendant Bank Of America <i>Bank of America's Motion To Dismiss</i> |
| 01/25/2016 |  Opposition Filed By: Counter Defendant R Ventures VIII, LLC. <i>Plaintiff's Opposition to Bank of America's Motion to Dismiss</i> |
| 02/09/2016 |  Reply in Support Filed By: Defendant Bank Of America <i>Bank of America's Reply in Support of its Motion To Dismiss</i> |
| 02/10/2016 |  Errata Filed By: Defendant Bank Of America <i>Errata To Bank of America's Motion To Dismiss</i> |
| 02/16/2016 |  Motion to Dismiss (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Bank of America's Motion To Dismiss</i> |
| 02/24/2016 |  Motion for Summary Judgment Filed By: Counter Defendant R Ventures VIII, LLC. <i>Plaintiff's Renewed Motion for Summary Judgment</i> |
| 02/24/2016 |  Motion for Summary Judgment Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Carrington Mortgage Holdings, LLC's Motion for Summary Judgment</i> |
| 03/08/2016 | |

DEPARTMENT 6
CASE SUMMARY
CASE NO. A-13-684151-C

| | |
|------------|---|
| |  Opposition to Motion For Summary Judgment Filed By: Counter Defendant R Ventures VIII, LLC. <i>Plaintiff's Opposition to Carrington Mortgage Holdings, LLC's Motion For Summary Judgment</i> |
| 03/08/2016 |  Status Check (8:30 AM) (Judicial Officer: Cadish, Elissa F.) |
| 03/14/2016 |  Opposition to Motion For Summary Judgment Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Carrington Mortgage Holdings, LLC's Opposition to Plaintiff R Ventures VIII, LLC's Motion for Summary Judgment</i> |
| 03/22/2016 |  Reply in Support Filed By: Counter Defendant R Ventures VIII, LLC. <i>Reply in Support of Plaintiff's Motion for Summary Judgment</i> |
| 03/22/2016 |  Reply in Support Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Carrington's Reply in Support of Motion for Summary Judgment</i> |
| 03/25/2016 |  Errata Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Errata To Carrington Mortgage Holdings, Llc's Motion For Summary Judgment</i> |
| 03/29/2016 | Motion for Summary Judgment (8:30 AM) (Judicial Officer: Cadish, Elissa F.) 03/29/2016, 04/05/2016 <i>Plaintiff's Renewed Motion for Summary Judgment</i> |
| 03/29/2016 | Motion for Summary Judgment (8:30 AM) (Judicial Officer: Cadish, Elissa F.) 03/29/2016, 04/05/2016 <i>Carrington Mortgage Holdings, LLC's Motion for Summary Judgment</i> |
| 03/29/2016 |  All Pending Motions (8:30 AM) (Judicial Officer: Gonzalez, Elizabeth) |
| 04/05/2016 |  All Pending Motions (8:30 AM) (Judicial Officer: Cadish, Elissa F.) |
| 04/27/2016 |  Order Granting Motion Filed By: Counter Defendant R Ventures VIII, LLC. <i>Order Granting Plaintiffs Motion for Summary Judgment</i> |
| 04/27/2016 | Summary Judgment (Judicial Officer: Cadish, Elissa F.) Debtors: Bank Of America (Defendant), Carrington Mortgage Holdings LLC (Defendant) Creditors: R Ventures VIII, LLC. (Plaintiff) Judgment: 04/27/2016, Docketed: 05/04/2016 |
| 04/28/2016 |  Order Granting Motion Filed By: Defendant Bank Of America <i>Order Granting Bank of America, N.A.' Motion to Dismiss</i> |
| 04/28/2016 | Order of Dismissal (Judicial Officer: Cadish, Elissa F.) Debtors: R Ventures VIII, LLC. (Plaintiff) Creditors: Bank Of America (Defendant) Judgment: 04/28/2016, Docketed: 05/05/2016 |
| 05/02/2016 |  Notice of Entry of Order |

DEPARTMENT 6
CASE SUMMARY
CASE NO. A-13-684151-C

| | |
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| | Filed By: Counter Defendant R Ventures VIII, LLC. <i>Notice of Entry of Order</i> |
| 05/03/2016 |  Notice of Entry of Order Filed By: Defendant Bank Of America <i>Notice of entry of Order Granting Bank of America, N.A. Motion to Dismiss</i> |
| 05/17/2016 | CANCELED Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated</i> |
| 05/19/2016 |  Motion to Reconsider Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Carrington Mortgage Holdings, LLC's Motion for Reconsideration of Orders on Summary Judgment</i> |
| 05/23/2016 | CANCELED Bench Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated</i> |
| 06/01/2016 |  Notice of Appeal Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Carrington Mortgage Holdings, LLC's Notice Of Appeal</i> |
| 06/01/2016 |  Opposition Filed By: Counter Defendant R Ventures VIII, LLC. <i>Opposition to Motion to Carrington Mortgage Holdings, LLC's Motion for Reconsideration of Orders on Summary Judgment</i> |
| 06/01/2016 |  Case Appeal Statement Filed By: Cross Claimant Carrington Mortgage Holdings LLC <i>Carrington Mortgage Holdings, LLC's Case Appeal Statement</i> |
| 06/21/2016 | Motion For Reconsideration (3:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Carrington Mortgage Holdings, LLC's Motion for Reconsideration of Orders on Summary Judgment</i> |

Clark County, Nevada

Case No. _____

VI

(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone): R VENTURES VIII, LLC.
4815 W RUSSELL #8H
LAS VEGAS NV 89118-6241

Attorney (name/address/phone):

J. Charles Coons, Esq., Cooper Coons Ltd., 10655 Park Run
Drive, Suite 130, Las Vegas, Nevada 89144; Ph: (702) 998-
1500

Defendant(s) (name/address/phone): TAYLOR, BEAN &
WHITAKER MORTGAGE CORP., a Florida corporation, 311 S.
Division St., Carson City, NV 89703; WELLS FARGO BANK,
N.A., a national association, 2215 B Renaissance Dr., Las Vegas,
NV 89119; et seq;

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) | |

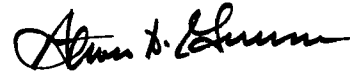
6/26/2013

/s/ J. Charles Coons

Date

Signature of initiating party or representative

J. CHARLES COONS, ESQ.
Nevada Bar No. 10553
Charles@coopercoons.com
Nevada Bar No. 13540
Thomas@coopercoons.com
COOPER COONS, LTD.
10655 Park Run Drive, Suite 130
Las Vegas, Nevada 89144
(702) 998-1500
Attorneys for Plaintiff



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

R VENTURES VIII, LLC, a Nevada series
limited liability company of the container R
VENUTERS, LLC under NRS § 86.296,

Plaintiff,

v.

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP., a Florida corporation;
WELLS FARGO BANK, N.A., a national
association; BANK OF AMERICA, N.A., a
national association; SOUTHERN TERRACE
HOMEOWNERS' ASSOCIATION, a
Nevada domestic non-profit coop corporation;
JOYCE PIERCE, an individual;
CARRINGTON MORTGAGE HOLDINGS,
LLC; DOES I through X; and ROE
CORPORATIONS II through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-684151-C

Dept. No.: VI

**ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

THIS MATTER having come on for hearing at the date and time set forth above,
THOMAS MISKEY, Esq., of COOPER COONS, LTD, appearing as counsel for the Plaintiff R
VENTURES VIII, LLC, DONNA M. WITTIG, ESQ., of AKERMAN, LLP, appearing for
Defendant CARRINGTON MORTGAGE HOLDINGS, LLC, and the Court having heard the
representations of counsel and after having examined the records and documents on file in the
above-entitled matter and being fully advised;

///

1 THE COURT HEREBY FINDS:

2 1. There is no genuine issue of material fact and Plaintiff is entitled to judgment as a
3 matter of law.

4 2. NRS 116.3116 gives a homeowner's association a super priority lien.

5 3. Pursuant to NRS 116.3116(2), this lien is prior to all other liens and
6 encumbrances on the homeowner's property, even a first deed of trust recorded before the dues
7 became delinquent.

8 4. The Notice of Delinquent Assessment Lien, Instrument No. 201209100001428, is
9 a super priority lien pursuant to NRS 116.3116(2) based on delinquent assessments.

10 5. A prior recorded Notice of Delinquent Assessments which was satisfied over two
11 years prior does not preclude the HOA from recording a subsequent Notice of Delinquent
12 Assessments which includes the full super-priority amount.

13 6. Even if satisfaction of the prior HOA lien extinguished the super-priority amount
14 existing at that time, it was limited to at most seven months of assessments, leaving a minimum
15 of two months of the super-priority lien available sufficient to extinguish all junior interests.

16 7. The Notice of Delinquent Assessment Lien, Notice of Default and Election to
17 Sell, Instrument No. 201211140000905, and the Notice of Trustee's Sale, Instrument No.
18 201305090001356 were recorded with the Clark County Recorder's Office.

19 8. The amount of the lien listed in the Notice of Delinquent Assessment Lien, Notice
20 of Default and Election to Sell, Notice of Trustee's Sale was proper to the extent the super-
21 priority amount is not required to be specifically set forth.

22 9. The HOA Foreclosure sale was conducted on the Notice of Delinquent
23 Assessment Lien resulting in the Foreclosure Deed Upon Sale, Instrument No.
24 201306030002860.

25 10. The recitals in the Foreclosure Deed Upon Sale are conclusive proof^{of} the mailing
26 and recording of the notice of default and election to sell, the elapsing of 90 days, and the giving
27 of notice of sale pursuant to NRS 116.31166.

28 ///

1 11. Further, Bank of America, N.A., predecessor in interest to CARRINGTON
2 MORTGAGE HOLDINGS, LLC, received actual notice of the Notice of Default and Election to
3 Sell and Notice of Trustee's Sale.

4 12. Such actual notice is sufficient to overcome any due process constitutional
5 challenge based on a lack of notice.

6 13. With this notice, Bank of America, N.A. offered to pay nine months of
7 assessments upon the condition that the remainder of the HOA lien was extinguished.

8 14. The HOA and its trustee refused this conditional offer of payment. This refusal is
9 insufficient to justify setting aside a sale to a bona fide purchaser for value.

10 15. Even if this offer of payment is deemed a tender, it is an insufficient basis for
11 setting aside the sale in derogation of a bona fide purchaser's interest in the property. The
12 appropriate remedy is for the lender to pursue the HOA and/or its Trustee.

13 16. Plaintiff had no actual, constructive, or inquiry notice of this pre-sale dispute.

14 17. Bank of America, N.A. failed to take any further action with respect to its interest
15 in the property, including but not limited to, filing a civil action and recording a lis pendens or
16 notifying potential buyers at the HOA Foreclosure Sale_[DW1].

17 18. Mere inadequacy of price is insufficient to support a judgment setting aside the
18 sale absent a finding of fraud, oppression, or unfairness.

19 19. Upon examination of all the facts and circumstances, the Court finds no evidence
20 of any fraud, oppression, or unfairness.

21 20. While courts are generally permitted to set aside a sale of a property for less than
22 20% of the fair market value of the subject property, the specific circumstances of the
23 marketplace uncertainty and necessity to engage in a quiet title action to secure title on the
24 property purchased at the HOA Foreclosure Sale combined with the lack of fraud, oppression, or
25 unfairness does not justify the equitable relief of setting aside a sale to the derogation of the
26 rights of a bona fide purchaser for value. *in this particular case.*
27
28

1 21. The HOA Foreclosure Sale that took place on February 26, 2013 at 10:00 am was
2 a publicly advertised auction with multiple bidders conducted in a commercially reasonable
3 manner.

4 22. Plaintiff had no pre-sale communications with the HOA or its Trustee.

5 23. HUD had only an insurance interest in the property, insufficient to justify federal
6 preemption.

7 24. Even if this interest ^{were} sufficient to justify federal preemption, HUD had
8 provided directions to lenders requiring lenders to pay HOA super-priority liens according to
9 state law, expressly subordinating federal law to state law.

10 25. An agreement was entered into by the HOA, First 100, LLC, and United Legal
11 Services, Inc. whereby United Legal Services, Inc. was to foreclose on behalf of the HOA, with
12 collected funds to be sent to the HOA who would then transfer the proceeds to First 100, LLC in
13 exchange for an advanced payment by First 100, LLC.

14 26. This agreement is not in violation of NRS 116, did not divest the HOA of
15 ownership of the HOA lien or the ability to foreclose on the HOA lien, nor did it satisfy the HOA
16 lien prior to the HOA Foreclosure Sale.

17 27. Plaintiff had no knowledge of this agreement.

18 28. Plaintiff is a bona fide purchaser for value because it purchased the property for
19 valuable consideration in the amount of \$10,100.00 without any actual, constructive, or inquiry
20 notice into a potential defect in the HOA Foreclosure Sale.

21 29. Base on the entirety of the circumstances, this Court exercises ^{its} equitable power
22 and awards title to Plaintiff.

23 IT IS HEREBY ORDERED that Plaintiff's Renewed Motion for Summary Judgment is
24 **GRANTED.**

25 IT IS FURTHER ODERED that Defendant Carrington Mortgage Holdings, LLC's
26 Motion for Summary Judgment is **DENIED.**

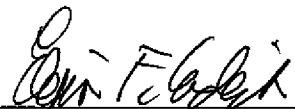
27 IT IS FURTHER ORDERED that Plaintiff R VENTURES VIII, LLC is declared the
28 rightful owner of the title to the Property commonly known as 6175 Novelty Street, Las Vegas,

1 Nevada 89148, Parcel No. 163-31-713-027 and the Defendants be declared to have no right,
2 title, or interest in the Property.

3 IT IS FURTHER ORDERED that Defendants and/or its successors in interest shall be
4 permanently enjoined from foreclosing on and otherwise selling the Property.


5 IT IS FURTHER ORDERED that any bond posted by R Ventures VIII, LLC be refunded
6 to R Ventures VIII, LLC.

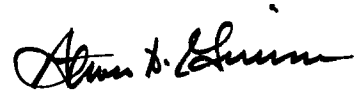
7 DATED this 25 day of April, 2016.

10
11 
12 JUDGE ELISSA F. CADISH

13 Submitted by:

14 COOPER COONS, LTD.
15 *Attorneys at Law*

16
17 By: 
18 J. CHARLES COONS, ESQ.
19 Nevada Bar No. 10553
20 THOMAS MISKEY, ESQ.
21 Nevada Bar No. 13540
22 10655 Park Run Drive, Suite 130
23 Las Vegas, Nevada 89144
24 V: (702) 998-1500
25 F: (702) 998-1503
26 *Attorneys for Plaintiff*



CLERK OF THE COURT

J. CHARLES COONS, ESQ.
Nevada Bar No. 10553
Charles@coopercoons.com
Nevada Bar No. 13540
Thomas@coopercoons.com
COOPER COONS, LTD.
10655 Park Run Drive, Suite 130
Las Vegas, Nevada 89144
(702) 998-1500
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

R VENTURES VIII, LLC, a Nevada series
limited liability company of the container R
VENUTERS, LLC under NRS § 86.296,

Plaintiff,

v.

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP., a Florida corporation;
WELLS FARGO BANK, N.A., a national
association; BANK OF AMERICA, N.A., a
national association; SOUTHERN TERRACE
HOMEOWNERS' ASSOCIATION, a Nevada
domestic non-profit coop corporation; JOYCE
PIERCE, an individual; CARRINGTON
MORTGAGE HOLDINGS, LLC; DOES I
through X; and ROE CORPORATIONS II
through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-684151-C

Dept. No.: VI

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE an Order Granting Plaintiff's Motion for Summary Judgment
was entered in the above captioned matter on April 27, 2016, a copy of which is attached hereto.

///

///

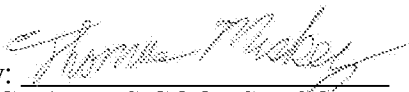
///

///

1 There are no social security numbers contained in this document.

2 Dated this 2nd day of May, 2016.

3 COOPER COONS, LTD.
4 *Attorneys at Law*

5 By: 
6 J. CHARLES COONS, ESQ.
7 Nevada Bar No. 10553
8 THOMAS MISKEY
9 Nevada Bar No. 13540
10 10655 Park Run Drive, Suite 130
11 Las Vegas, Nevada 89144
12 V: (702) 998-1500
13 F: (702) 998-1503
14 *Attorneys for Plaintiff*

CERTIFICATE OF SERVICE

The undersigned hereby certifies on May 2, 2016, a true and correct copy of the above and foregoing was serve to the following at their last known address(es), facsimile numbers and/or e-mail/other electronic means, pursuant to:

_____ **BY MAIL:** N.R.C.P. 5(b), I deposited by first class United States mailing, postage prepaid at Las Vegas, Nevada;

_____ **BY FAX:** E.D.C.R. 7.26(a), I served via facsimile at the telephone number provided for such transmissions;

_____ **BY MAIL AND FAX:** N.R.C.P. 5(b), I deposited by first class United States mail, postage prepaid in Las Vegas, Nevada; and via facsimile pursuant to E.D.C.R. 7.26(a);

 X **BY E-MAIL AND/OR ELECTRONIC MEANS:** N.R.C.P. 5(b)(2)(D) and addressee (s) having consented to electronic service, I via e-mail or other electronic means to the e-mail address(es) of the addressee(s).

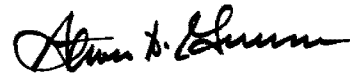
Akerman LLP

| Name | Email | Select | |
|---------------------------|--|-------------------------------------|-------------------------------------|
| Akerman Las Vegas Office | akermanlas@akerman.com | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Ariel E. Stern, Esq. | ariel.stern@akerman.com | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Christine M. Parvan, Esq. | christine.parvan@akerman.com | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Elizabeth Streible | elizabeth.streible@akerman.com | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

/s/ Kim Hexamer

An Employee of COOPER COONS, LTD.

J. CHARLES COONS, ESQ.
Nevada Bar No. 10553
Charles@coopercoons.com
Nevada Bar No. 13540
Thomas@coopercoons.com
COOPER COONS, LTD.
10655 Park Run Drive, Suite 130
Las Vegas, Nevada 89144
(702) 998-1500
Attorneys for Plaintiff



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

R VENTURES VIII, LLC, a Nevada series
limited liability company of the container R
VENUTERS, LLC under NRS § 86.296,

Plaintiff,

v.

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP., a Florida corporation;
WELLS FARGO BANK, N.A., a national
association; BANK OF AMERICA, N.A., a
national association; SOUTHERN TERRACE
HOMEOWNERS' ASSOCIATION, a
Nevada domestic non-profit coop corporation;
JOYCE PIERCE, an individual;
CARRINGTON MORTGAGE HOLDINGS,
LLC; DOES I through X; and ROE
CORPORATIONS II through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-684151-C

Dept. No.: VI

**ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

THIS MATTER having come on for hearing at the date and time set forth above,
THOMAS MISKEY, Esq., of COOPER COONS, LTD, appearing as counsel for the Plaintiff R
VENTURES VIII, LLC, DONNA M. WITTIG, ESQ., of AKERMAN, LLP, appearing for
Defendant CARRINGTON MORTGAGE HOLDINGS, LLC, and the Court having heard the
representations of counsel and after having examined the records and documents on file in the
above-entitled matter and being fully advised;

///

1 THE COURT HEREBY FINDS:

2 1. There is no genuine issue of material fact and Plaintiff is entitled to judgment as a
3 matter of law.

4 2. NRS 116.3116 gives a homeowner's association a super priority lien.

5 3. Pursuant to NRS 116.3116(2), this lien is prior to all other liens and
6 encumbrances on the homeowner's property, even a first deed of trust recorded before the dues
7 became delinquent.

8 4. The Notice of Delinquent Assessment Lien, Instrument No. 201209100001428, is
9 a super priority lien pursuant to NRS 116.3116(2) based on delinquent assessments.

10 5. A prior recorded Notice of Delinquent Assessments which was satisfied over two
11 years prior does not preclude the HOA from recording a subsequent Notice of Delinquent
12 Assessments which includes the full super-priority amount.

13 6. Even if satisfaction of the prior HOA lien extinguished the super-priority amount
14 existing at that time, it was limited to at most seven months of assessments, leaving a minimum
15 of two months of the super-priority lien available sufficient to extinguish all junior interests.

16 7. The Notice of Delinquent Assessment Lien, Notice of Default and Election to
17 Sell, Instrument No. 201211140000905, and the Notice of Trustee's Sale, Instrument No.
18 201305090001356 were recorded with the Clark County Recorder's Office.

19 8. The amount of the lien listed in the Notice of Delinquent Assessment Lien, Notice
20 of Default and Election to Sell, Notice of Trustee's Sale was proper to the extent the super-
21 priority amount is not required to be specifically set forth.

22 9. The HOA Foreclosure sale was conducted on the Notice of Delinquent
23 Assessment Lien resulting in the Foreclosure Deed Upon Sale, Instrument No.
24 201306030002860.

25 10. The recitals in the Foreclosure Deed Upon Sale are conclusive proof of the mailing
26 and recording of the notice of default and election to sell, the elapsing of 90 days, and the giving
27 of notice of sale pursuant to NRS 116.31166.

28 ///

1 11. Further, Bank of America, N.A., predecessor in interest to CARRINGTON
2 MORTGAGE HOLDINGS, LLC, received actual notice of the Notice of Default and Election to
3 Sell and Notice of Trustee's Sale.

4 12. Such actual notice is sufficient to overcome any due process constitutional
5 challenge based on a lack of notice.

6 13. With this notice, Bank of America, N.A. offered to pay nine months of
7 assessments upon the condition that the remainder of the HOA lien was extinguished.

8 14. The HOA and its trustee refused this conditional offer of payment. This refusal is
9 insufficient to justify setting aside a sale to a bona fide purchaser for value.

10 15. Even if this offer of payment is deemed a tender, it is an insufficient basis for
11 setting aside the sale in derogation of a bona fide purchaser's interest in the property. The
12 appropriate remedy is for the lender to pursue the HOA and/or its Trustee.

13 16. Plaintiff had no actual, constructive, or inquiry notice of this pre-sale dispute.

14 17. Bank of America, N.A. failed to take any further action with respect to its interest
15 in the property, including but not limited to, filing a civil action and recording a lis pendens or
16 notifying potential buyers at the HOA Foreclosure Sale_[DW1].

17 18. Mere inadequacy of price is insufficient to support a judgment setting aside the
18 sale absent a finding of fraud, oppression, or unfairness.

19 19. Upon examination of all the facts and circumstances, the Court finds no evidence
20 of any fraud, oppression, or unfairness.

21 20. While courts are generally permitted to set aside a sale of a property for less than
22 20% of the fair market value of the subject property, the specific circumstances of the
23 marketplace uncertainty and necessity to engage in a quiet title action to secure title on the
24 property purchased at the HOA Foreclosure Sale combined with the lack of fraud, oppression, or
25 unfairness does not justify the equitable relief of setting aside a sale to the derogation of the
26 rights of a bona fide purchaser for value. *in this particular case.*
27
28

1 21. The HOA Foreclosure Sale that took place on February 26, 2013 at 10:00 am was
2 a publicly advertised auction with multiple bidders conducted in a commercially reasonable
3 manner.

4 22. Plaintiff had no pre-sale communications with the HOA or its Trustee.

5 23. HUD had only an insurance interest in the property, insufficient to justify federal
6 preemption.

7 24. Even if this interest ^{were} sufficient to justify federal preemption, HUD had
8 provided directions to lenders requiring lenders to pay HOA super-priority liens according to
9 state law, expressly subordinating federal law to state law.

10 25. An agreement was entered into by the HOA, First 100, LLC, and United Legal
11 Services, Inc. whereby United Legal Services, Inc. was to foreclose on behalf of the HOA, with
12 collected funds to be sent to the HOA who would then transfer the proceeds to First 100, LLC in
13 exchange for an advanced payment by First 100, LLC.

14 26. This agreement is not in violation of NRS 116, did not divest the HOA of
15 ownership of the HOA lien or the ability to foreclose on the HOA lien, nor did it satisfy the HOA
16 lien prior to the HOA Foreclosure Sale.

17 27. Plaintiff had no knowledge of this agreement.

18 28. Plaintiff is a bona fide purchaser for value because it purchased the property for
19 valuable consideration in the amount of \$10,100.00 without any actual, constructive, or inquiry
20 notice into a potential defect in the HOA Foreclosure Sale.

21 29. Base on the entirety of the circumstances, this Court exercises ^{its} equitable power
22 and awards title to Plaintiff.

23 IT IS HEREBY ORDERED that Plaintiff's Renewed Motion for Summary Judgment is
24 **GRANTED.**

25 IT IS FURTHER ORDERED that Defendant Carrington Mortgage Holdings, LLC's
26 Motion for Summary Judgment is **DENIED.**

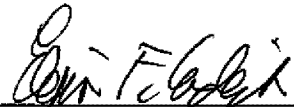
27 IT IS FURTHER ORDERED that Plaintiff R VENTURES VIII, LLC is declared the
28 rightful owner of the title to the Property commonly known as 6175 Novelty Street, Las Vegas,

1 Nevada 89148, Parcel No. 163-31-713-027 and the Defendants be declared to have no right,
2 title, or interest in the Property.

3 IT IS FURTHER ORDERED that Defendants and/or its successors in interest shall be
4 permanently enjoined from foreclosing on and otherwise selling the Property.


5 IT IS FURTHER ORDERED that any bond posted by R Ventures VIII, LLC be refunded
6 to R Ventures VIII, LLC.

7 DATED this 25 day of April, 2016.

10
11 
12 JUDGE ELISSA F. CADISH

13 Submitted by:

14 COOPER COONS, LTD.
15 *Attorneys at Law*

16
17 By: 
18 J. CHARLES COONS, ESQ.
19 Nevada Bar No. 10553
20 THOMAS MISKEY, ESQ.
21 Nevada Bar No. 13540
22 10655 Park Run Drive, Suite 130
23 Las Vegas, Nevada 89144
24 V: (702) 998-1500
25 F: (702) 998-1503
26 *Attorneys for Plaintiff*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

November 05, 2013

A-13-684151-C R Ventures VIII, LLC., Plaintiff(s)
vs.
Taylor, Bean & Whitaker Mortgage Corp., Defendant(s)

November 05, 2013 8:30 AM Motion for Preliminary Injunction

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Jorgensen, J. C. Attorney

JOURNAL ENTRIES

- Also present on behalf of the Plaintiff, Dale Catcha Alanas. Court noted the absence of Plaintiff's counsel after attempts to reach them. Colloquy regarding the showing of immediate irreparable injuries and the status of the alleged mortgage lien. Court stated findings and ORDERED, Plaintiff's Motion For Preliminary Injunction DENIED based upon the fact there has not been a showing of immediate risk of irreparable injury. Mr. Jogensen stated he will prepare the order running it past opposing counsel prior to submission.

11-26-13 8:30 AM BANK OF AMERICA, N.A. MOTION TO DISMISS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

December 03, 2013

| | |
|---------------|--|
| A-13-684151-C | R Ventures VIII, LLC., Plaintiff(s) |
| | vs. |
| | Taylor, Bean & Whitaker Mortgage Corp., Defendant(s) |

December 03, 2013 8:30 AM Motion to Dismiss

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

| | | |
|-----------------|-----------------------|-----------|
| PRESENT: | Bank Of America | Defendant |
| | Coons, J. Charles | Attorney |
| | Jorgensen, J. C. | Attorney |
| | R Ventures VIII, LLC. | Plaintiff |

JOURNAL ENTRIES

- Present on behalf of the Bank of America, Dale Kotchkalanes. Court noted the subject property was bought by the Plaintiff at a foreclosure sale initiated by the Home Owners Association (HOA) for which the Bank of America had a deed of trust on the property; the Plaintiff has initiated the case to stop the Defendant's from foreclosing on the property. Argument in support of Bank of America's N.A.'s Motion to Dismiss by Ms. Kotchkalanes; or in the alternative for a stay of proceedings if the motion is denied. Mr. Coons stated his client is not opposed to a stay pending the ruling from the Nevada Supreme Court and requested the matter be set for a status check. In light of the many cases in this Court and before the Nevada Supreme Court dealing with the same issues COURT ORDERED, proceedings STAYED pending a ruling from the Nevada Supreme Court in regards to the super priority lien and what their position is, or is not with respect to mortgage holders when a HOA forecloses; matter set for status check. Mr. Coons noted an injunction was filed in regards to the foreclosure action on behalf of the Bank of America. Colloquy. Court stated in light of the stay it's expected the stay precludes the scheduling of a foreclosure sale of the property during the stay.

A-13-684151-C

6-3-14 8:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

| | | |
|--------------------------|----------------------|----------------------|
| Title to Property | COURT MINUTES | June 24, 2014 |
|--------------------------|----------------------|----------------------|

| | |
|---------------|--|
| A-13-684151-C | R Ventures VIII, LLC., Plaintiff(s) vs. Taylor, Bean & Whitaker Mortgage Corp., Defendant(s) |
|---------------|--|

| | | |
|----------------------|----------------|---------------------|
| June 24, 2014 | 3:00 AM | Minute Order |
|----------------------|----------------|---------------------|

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Pursuant to the proceedings of December 3, 2013 a Status Check was to be scheduled June 3, 2014 @ 8:30 AM. Erroneously the hearing was not calendared and pursuant to the Judicial Executive Assistant (J.E.A.) has been RESCHEDULED to July 29, 2014 @ 8:30 AM in Department VI.

7-29-14 8:30 AM STATUS CHECK

CLERK'S NOTE: The above minute order has been distributed to: Dale Kotchka-Alanes & J.C. Jorgensen (Lewis R R LLP), J. Charles Coons (Cooper Coons)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

July 29, 2014

A-13-684151-C R Ventures VIII, LLC., Plaintiff(s)
vs.
Taylor, Bean & Whitaker Mortgage Corp., Defendant(s)

July 29, 2014 **8:30 AM** **Status Check**

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Brenner, Darren Attorney
Coons, J. Charles Attorney

JOURNAL ENTRIES

- Mr. Brenner noted the case has been stayed for some time and he would like to make sure the property is being maintained; it's not believed there are any problems. Mr. Brenner requested the property, taxes, HOA fees, and insurance be maintained and any should there be any changes in rent, the excess after payment should be placed in an impound account; there is to be no transfer of the property pending the stay. Mr. Coons stated he is agreeable to the request, all is current and there is no rental agreement on the house; there's no opposition to a continuation of the stay and the property should not be transferred by either parte. COURT ORDERED, matter CONTINUED to determine what is taking place with the Supreme Court. Mr. Mr. Brenner stated an order will be prepared. Court directed the order be run by opposing counsel prior to submission.

1-27-15 8:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

January 27, 2015

| | |
|---------------|--|
| A-13-684151-C | R Ventures VIII, LLC., Plaintiff(s) |
| | vs. |
| | Taylor, Bean & Whitaker Mortgage Corp., Defendant(s) |

January 27, 2015 8:30 AM Status Check

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

| | | |
|-----------------|--------------------|----------|
| PRESENT: | Coons, J. Charles | Attorney |
| | Winslow, Natalie L | Attorney |

JOURNAL ENTRIES

- Mr. Coons noted the summary judgment motion calendared March 3rd, and stated they are happy to review and answer, and move forward with the ECC, or wait until the hearing to see where they go from there; there has not been an opportunity to speak with opposing counsel. Court noted the case was stayed by the agreement of parties. Ms. Winslow stated there is no preference one way or another, an answer can be filed prior to the motion, and it may make sense to wait on the summary judgment motion; amenable either way. COURT ORDERED, the stay is to remain in place until the March 3rd hearing, and at which time it will be determined how to proceed.

3-3-15 8:30 AM PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

March 03, 2015

A-13-684151-C R Ventures VIII, LLC., Plaintiff(s)
vs.
Taylor, Bean & Whitaker Mortgage Corp., Defendant(s)

March 03, 2015 8:30 AM All Pending Motions

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Billie Jo Craig

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Coons, J. Charles Attorney

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT...

DEFENDANT BANK OF AMERICA, N.A.'S, OPPOSITION TO MOTION FOR SUMMARY JUDGMENT, REQUEST FOR RULE 56(F) RELIEF AND CROSS-MOTION FOR SUMMARY JUDGMENT

Attorney Thomas Miskey present on behalf of Plaintiff. Attorney Ariel Stern present on behalf of Defendant Bank of America.

AS TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT: Arguments by counsel. As the Court believed it was appropriate to allow defendant to conduct some Discovery regarding potential tender and issues that go to good faith and reasonableness of the sale, COURT ORDERED, some Discovery is GRANTED around those issues to address factual circumstances on that issue. Defendant's Countermotion for Rule 56(f) relief on the issues that are not addressed by the recitals is GRANTED. Further clarification of the Court's Order. The Motion for Summary Judgment is DENIED as 56(f) relief being Granted. Defendant to file an Answer and proceed with Discovery and can renew the Motion at a later date. Mr. Stern to prepare the Order and run by opposing counsel before submitting to the Court.

COURT ORDERED, the Stay of the case that was in place is now officially LIFTED. Counsel to file an Answer within 10 days of entry of the Order. Mr. Coons requested a Stipulation for either party to not transfer property in any manner and that the bank not foreclose on the property. Mr. Stern requested counsel to file a Preliminary Injunction Motion and post Bond. The Court stated its findings that it was appropriate to not have the bank to foreclose and found sufficient showing of the likelihood of success on the merits and irreparable injury to warrant a Preliminary Injunction and proceed to foreclosure. COURT ORDERED, a Bond for \$100.00 be posted or a firm check for \$100.00. Plaintiff also has an agreement ordering that neither party dispose or transfer the property.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

February 16, 2016

| | |
|---------------|--|
| A-13-684151-C | R Ventures VIII, LLC., Plaintiff(s) |
| | vs. |
| | Taylor, Bean & Whitaker Mortgage Corp., Defendant(s) |

February 16, 2016 8:30 AM Motion to Dismiss

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

| | | |
|-----------------|-----------------|----------|
| PRESENT: | Brenner, Darren | Attorney |
| | Miskey, Thomas | Attorney |

JOURNAL ENTRIES

- Arguments by counsel regarding attorney fees, and attorney fee provisions. Mr. Brenner stated he is not opposed to an order saying they are dismissed, and if the Plaintiff prevails a motion for fees and cost can be filed, which the defense can argue against on the merits. Court stated findings and ORDERED, Bank of America's Motion To Dismiss is GRANTED; should the Plaintiff prevail in the case and seek attorney fees and cost, a motion can be filed; Mr. Brenner to prepare the order, running it by opposing counsel prior to submission.

3.-8-16 8:30 AM Status Check

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

March 08, 2016

| | |
|---------------|--|
| A-13-684151-C | R Ventures VIII, LLC., Plaintiff(s) |
| | vs. |
| | Taylor, Bean & Whitaker Mortgage Corp., Defendant(s) |

March 08, 2016 8:30 AM Status Check

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed
Billie Jo Craig

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Miskey, Thomas Attorney

JOURNAL ENTRIES

- Attorney Donna Wittig present on behalf of Defendant Bank of America.

Upon inquiry of the Court, counsel advised Discovery was completed. Court noted the Bench Trial was on the 5/23/16 stack for a 2 to 3-day Bench Trial. Motions in Limine are due 4/8/16 pursuant to the Scheduling Order. Court directed counsel to advise the Court if the matter is resolved or they want a Settlement Conference. COURT ORDERED, Trial date STANDS.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

March 29, 2016

| | |
|---------------|--|
| A-13-684151-C | R Ventures VIII, LLC., Plaintiff(s) vs. Taylor, Bean & Whitaker Mortgage Corp., Defendant(s) |
|---------------|--|

March 29, 2016 8:30 AM All Pending Motions

HEARD BY: Gonzalez, Elizabeth **COURTROOM:** RJC Courtroom 14C

COURT CLERK: Billie Jo Craig

RECORDER: Jill Hawkins

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- PLAINTIFF'S RENEWED MOTION FOR SUMMARY JUDGMENT...CARRINGTON MORTGAGE HOLDINGS, LLC'S, MOTION FOR SUMMARY JUDGMENT

Attorney Melanie Morgan present on behalf of Carrington Mortgage Holdings.

Ms. Morgan advised she received a letter that both Motions were CONTINUED. COURT SO ORDERED.

CONTINUED TO: 4/5/16 8:30 AM (BOTH)

DISTRICT COURT

CLARK COUNTY, NEVADA

Title to Property

COURT MINUTES

April 05, 2016

A-13-684151-C R Ventures VIII, LLC., Plaintiff(s)
vs.
Taylor, Bean & Whitaker Mortgage Corp., Defendant(s)

April 05, 2016 8:30 AM All Pending Motions

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Miskey, Thomas Attorney
Wittig, Donna Attorney

JOURNAL ENTRIES

- Plaintiff's Renewed Motion for Summary Judgment...Carrington Mortgage Holdings, LLC's Motion for Summary Judgment

Arguments by counsel regarding tender, commercial reasonableness, HUD issues, whether there was a foreclosure sale, loan splitting. Court stated findings and ORDERED, Plaintiff's Renewed Motion for Summary Judgment GRANTED; Carrington Mortgage Holdings, LLC's Motion for Summary Judgment DENIED; order to be submitted. Mr. Miskey requested the ruling be certified as a final order. Court stated all claims have been addressed, and once entered will be a final order.



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

ARIEL E. STERN, ESQ.
1160 TOWN CENTER DRIVE, SUITE 330
LAS VEGAS, NV 89144

DATE: June 6, 2016
CASE: A-13-684151-C

RE CASE: R VENTURES VIII, LLC vs. TAYLOR, BEAN, & WHITAKER MORTGAGE CORP.;
BANK OF AMERICA, N.A.; JOYCE PIERCE; CARRINGTON MORTGAGE HOLDINGS, LLC

NOTICE OF APPEAL FILED: June 1, 2016

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - 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):

CARRINGTON MORTGAGE HOLDINGS, LLC'S NOTICE OF APPEAL;
CARRINGTON MORTGAGE HOLDINGS, LLC'S CASE APPEAL STATEMENT; DISTRICT
COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES;
NOTICE OF DEFICIENCY

R VENTURES VIII, LLC,

Plaintiff(s),

vs.

TAYLOR, BEAN, & WHITAKER
MORTGAGE CORP.; BANK OF AMERICA,
N.A.; JOYCE PIERCE; CARRINGTON
MORTGAGE HOLDINGS, LLC,

Defendant(s),

Case No: A-13-684151-C

Dept No: VI

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 6 day of June 2016.

Steven D. Grierson, Clerk of the Court


Chaunte Pleasant

Chaunte Pleasant, Deputy Clerk