

CLERK OF THE COURT

**FILED**

NOV 18 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
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**ORDR**

LUIS A. AYON, Esq.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, Esq.  
Nevada Bar No. 12489  
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[mes@mgalaw.com](mailto:mes@mgalaw.com)

*Attorneys for Plaintiff/Counter-Defendant  
West Sunset 2050 Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

No. 70754

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

vs.

WEST SUNSET 2050 TRUST,

Counter-Defendant.

Case No.: A-13-691323-C  
Dept. No.: XXI

**ORDER GRANTING MOTION FOR  
FINAL JUDGMENT PURSUANT TO RULE  
54(B) AND TO STAY REMAINING  
CLAIMS PENDING CONCLUSION OF  
APPEAL**

Hearing Date: October 26, 2016  
Hearing Time: 9:30 a.m.

1 NATIONSTAR MORTGAGE, LLC,

2 Cross-Claimant,

3 vs.

4 STEPHANIE TABLANTE,

5 Cross-Defendant.  
6

7 This matter came on for hearing before the Court on October, 2016 at 9:30 a.m., on  
8 plaintiff/counter-defendant West Sunset 2050 Trust's ("West Sunset") motion for final judgment  
9 pursuant to Rule 54(b) and to stay remaining claims pending conclusion of appeal on an order  
10 shortening time. West Sunset was represented at the hearing by Margaret E. Schmidt, Esq., of the  
11 law firm MAIER GUTIERREZ AYON. The Court, having reviewed the papers and pleadings on file  
12 herein, and there being no opposition filed pursuant to EDCR 2.20 and 2.23, makes the following  
13 findings of facts and conclusions of law:

14 1. This lawsuit involves disputed title to real property, which was purchased at the non-  
15 judicial foreclosure of an HOA's lien for delinquent assessments pursuant to NRS 116.3116 *et seq.*

16 2. On November 6, 2013, West Sunset initiated this litigation, naming New Freedom  
17 Mortgage Corporation ("New Freedom"), Nationstar Mortgage, LLC ("Nationstar"), Bank of  
18 America, N.A., The Cooper Castle Law Firm, LLP ("Cooper Castle"), and Stephanie Tablante  
19 ("Tablante") as defendants. The specific causes of action alleged therein were for: (1) declaratory  
20 relief/quiet title against all the defendants; and (2) preliminary and permanent injunction against  
21 Nationstar and Cooper Castle only.

22 3. On May 20, 2014, Nationstar answered West Sunset's complaint and alleged  
23 counterclaims and cross-claims for: (1) quiet title against West Sunset and Tablante; (2) declaratory  
24 relief against West Sunset and Tablante; (3) slander of title against Tablante; (4) breach of contract  
25 against Tablante; (5) breach of implied covenant of good faith and fair dealing against Tablante; and  
26 (6) unjust enrichment against West Sunset.

27 4. On July 29, 2015, defaults were entered against Tablante and New Freedom on West  
28 Sunset's claims for relief; however, default judgments have not been entered.

1           5.     Cooper Castle was dismissed from the case via an order entered on February 3, 2014.

2           6.     On May 22, 2015, West Sunset filed its motion for summary judgment, arguing that  
3 West Sunset holds superior title to the defendants and requested that summary judgment be entered  
4 in its favor on all causes of action as well as all of Nationstar's counterclaims.

5           7.     On June 10, 2015, Nationstar and BANA filed their opposition to West Sunset's  
6 motion and counter-moved for entry of summary judgment in favor of Nationstar, arguing in part  
7 that the HOA foreclosure sale was void for being unconstitutional and commercially unreasonable.

8           8.     Following a hearing on the matter, on February 8, 2016, the Court entered its order  
9 denying West Sunset's motion for summary judgment and granting Nationstar's countermotion for  
10 summary judgment (the "Order"), which was noticed on February 16, 2016.

11          9.     The Court's Order was based in part on its finding that the HOA's agent failed to  
12 provide the requisite notices of foreclosure; therefore, BANA and Nationstar's security interest was  
13 not extinguished by the HOA foreclosure sale.

14          10.    On March 4, 2016, West Sunset filed a motion for reconsideration pursuant to NRCP  
15 59(e), which was denied by an order entered on May 31, 2016 and noticed on June 3, 2016.

16          11.    On July 1, 2016, West Sunset noticed its appeal of the Order.

17          12.    On August 29, 2016, the Nevada Supreme Court issued an order to show cause as to  
18 why the appeal should not be dismissed for lack of jurisdiction, stating that "it appears that the  
19 district court has not entered a final written judgment adjudicating all the rights and liabilities of all  
20 the parties, and the district court did not certify its order as final pursuant to NRCP 54(b)."

21          13.    In light of the Nevada Supreme Court's order to show cause, West Sunset filed the  
22 instant motion, seeking a final judgment as to all of its claims and a stay of any remaining claims.

23          14.    Rule 54(b) of the Nevada Rules of Civil Procedure provides that "[w]hen multiple  
24 parties are involved, the court may direct the entry of a final judgment as to one or more but fewer  
25 than all of the parties only upon an express determination that there is no just reason for delay and  
26 upon an express direction for the entry of judgment." NRCP 54(b).

27          15.    Upon considering a request to certify a judgment based on the elimination of a party,  
28 the district court should weigh: (1) the prejudice to that party in being forced to wait to bring its

1 appeal; and (2) any prejudice to the parties remaining if the judgment is certified as final. *Mallin v.*  
2 *Farmers Ins. Exch.*, 106 Nev. 606, 611, 797 P.2d 978, 981 (1990). If the prejudice to the eliminated  
3 party would be greater than the prejudice to the parties remaining below, the court should certify the  
4 judgment as final. *Id.*

5 16. In this matter, the Court entered judgment on all of Nationstar's counterclaims/cross-  
6 claims as well as West Sunset's claims against Nationstar, thereby completely removing Nationstar  
7 from the litigation.

8 17. Moreover, the conclusions arrived at by the Court in denying West Sunset's motion  
9 for summary judgment effectively resolved the remaining claim for declaratory relief/quiet title  
10 against BANA, New Freedom and Tablante.

11 18. No important issues remain below that must be resolved prior to the Nevada Supreme  
12 Court's consideration of the issues on appeal, nor would piecemeal litigation result by certifying the  
13 Order as final.

14 19. On the other hand, requiring the parties to continue litigation on such claims whose  
15 resolution has already been determined by reasonable inference of the Court's Order would be an  
16 inefficient use of judicial resources.

17 20. Thus, taking into account the equities involved, no prejudice will result to the  
18 remaining parties if the Order is certified as final, and there exists no reason to make West Sunset  
19 wait until the conclusion of the entire case to file an appeal.

20 Accordingly, for good cause appearing, the Court hereby rules as follows:

21 IT IS HEREBY ORDERED that West Sunset's Motion is GRANTED.

22 IT IS FURTHER ORDERED that the Order is amended to include a certification of final  
23 judgment pursuant to NRCP 54(b).

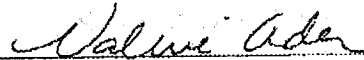
24 IT IS FURTHER ORDERED that the Court expressly determines that there is no just reason  
25 to delay appellate review and directs that the Order constitute a final judgment pursuant to NRCP  
26 54(b) with respect to fewer than all of the parties in this case.

27 ///

28 ///

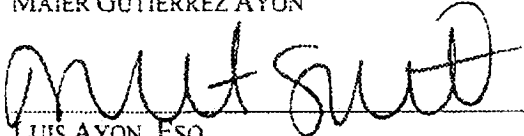
1 IT IS FINALLY ORDERED that West Sunset's remaining claim for declaratory relief/quiet  
2 title against BANA, New Freedom and Tablante be stayed pending the conclusion of West Sunset's  
3 appeal.

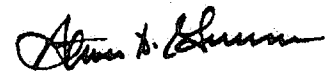
4 DATED this 1st day of November, 2016.

5   
6 DISTRICT COURT JUDGE AV

7  
8 Respectfully submitted,

9 MAIER GUTIERREZ AYON

10   
11 LUIS AYON, ESQ.  
12 Nevada Bar No. 9752  
13 MARGARET E. SCHMIDT, ESQ.  
14 Nevada Bar No. 12489  
15 8816 Spanish Ridge Avenue  
16 Las Vegas, Nevada 89148  
17 Attorneys for Plaintiff/Counter-Defendant  
18 West Sunset 2050 Trust  
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CLERK OF THE COURT

1 NEOJ

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3 Nevada Bar No. 9752

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5 Nevada Bar No. 12489

6 MAIER GUTIERREZ AYON

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11 E-mail: [laa@mgalaw.com](mailto:laa@mgalaw.com)

12 [mes@mgalaw.com](mailto:mes@mgalaw.com)

13 *Attorneys for Plaintiff/Counter-Defendant*

14 *West Sunset 2050 Trust*

15 DISTRICT COURT

16 CLARK COUNTY, NEVADA

17 WEST SUNSET 2050 TRUST, a Nevada Trust

18 Plaintiff,

19 vs.

20 NEW FREEDOM MORTGAGE  
21 CORPORATION, a Foreign Corporation;  
22 BANK OF AMERICA, N.A., a National  
23 Association; NATIONSTAR MORTGAGE  
24 LLC, a Foreign Limited Liability Company,  
25 COOPER CASTLE LAW FIRM, LLP, a  
26 Nevada Limited Liability Partnership  
27 STEPHANIE TABLANTE, an individual,  
28 DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-691323-C

Dept. No.: XXI

**NOTICE OF ENTRY OF ORDER  
GRANTING MOTION FOR FINAL  
JUDGMENT PURSUANT TO RULE 54(B)  
AND TO STAY REMAINING CLAIMS  
PENDING CONCLUSION OF APPEAL**

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

YOU AND EACH OF YOU will please take notice that an ORDER GRANTING  
MOTION FOR FINAL JUDGMENT PURSUANT TO RULE 54(B) AND TO STAY  
REMAINING CLAIMS PENDING CONCLUSION OF APPEAL was hereby entered on the 9<sup>th</sup>

1 day of November, 2016. A copy of which is attached hereto.

2 DATED this 10<sup>th</sup> day of November, 2016.

3 Respectfully submitted,

4 **MAIER GUTIERREZ AYON**

5  
6 /s/ Margaret E. Schmidt

7 LUIS AYON, ESQ.

Nevada Bar No. 9752

MARGARET E. SCHMIDT, ESQ.

Nevada Bar No. 12489

8 8816 Spanish Ridge Avenue

9 Las Vegas, Nevada 89148

*Attorneys for Plaintiff/Counter-Defendant*

*West Sunset 2050 Trust*

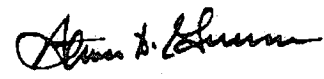
1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of the **NOTICE OF ENTRY OF**  
3 **ORDER GRANTING MOTION FOR FINAL JUDGMENT PURSUANT TO RULE 54(B)**  
4 **AND TO STAY REMAINING CLAIMS PENDING CONCLUSION OF APPEAL** was  
5 electronically filed on the 10<sup>th</sup> day of November, 2016 and served through the Notice of Electronic  
6 Filing automatically generated by the Court's facilities to those parties listed on the Court's  
7 Master Service List and by depositing a true and correct copy of the same, enclosed in a sealed  
8 envelope upon which first class postage was fully prepaid, in the U.S. Mail at Las Vegas, Nevada,  
9 addressed as follows (*Note: All Parties Not Registered Pursuant to Administrative Order 14-2*  
10 *Have Been Served By Mail.*):

11  
12 Ariel E. Stern, Esq.  
13 Allison R. Schmidt, Esq.  
14 AKERMAN LLP  
15 1160 Town Center Drive, Suite 330  
16 Las Vegas, Nevada 89144  
17 *Attorneys for Defendant Bank of America, N.A., and*  
18 *Defendant/Counterclaimant/Cross-Claimant Nationstar Mortgage LLC*  
19

20  
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26  
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28  
/s/ Charity Johnson  
An Employee of MAIER GUTIERREZ AYON





CLERK OF THE COURT

1 **ORDER**

2 LUIS A. AYON, ESQ.  
3 Nevada Bar No. 9752  
4 MARGARET E. SCHMIDT, ESQ.  
5 Nevada Bar No. 12489  
6 **MAIER GUTIERREZ AYON**  
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13 *Attorneys for Plaintiff/Counter-Defendant*  
14 *West Sunset 2050 Trust*

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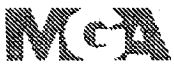
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MAIER GUTIERREZ AYON

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27 ///

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McA COMMERCIAL ADVISOR

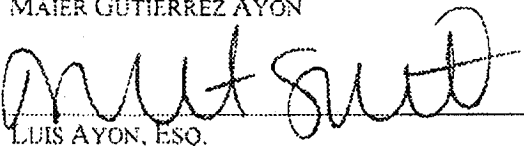
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2 title against BANA, New Freedom and Tablante be stayed pending the conclusion of West Sunset's  
3 appeal.

4 DATED this 1st day of November, 2016.

5   
6 DISTRICT COURT JUDGE 7W

7  
8 Respectfully submitted,

9 MAIER GUTIERREZ AYON

10   
11 LUIS AYON, ESQ.  
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