

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

RICARDO B. PASQUA,  
APPELLANT  
VS.  
BAYVIEW LOAN SERVICING, LLC;  
SEASIDE TRUSTEE, INC; AND  
BANK OF NEW YORK MELLON,  
RESPONDENTS,

No. 71770

DOCKETING STATEMENT  
CIVIL APPEALS

FILED

DEC 28 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY J. Hendrick  
DEPUTY CLERK

GENERAL INFORMATION

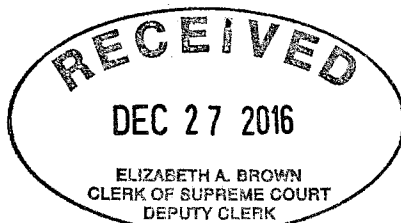
Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

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 27 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 Sullivan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.



16-40256

1. Judicial District EIGHTH Department XXV  
County CLARK Judge KATHLEEN E. DELANEY  
District Ct. Case No. A-16-741223-J

2. Attorney filing this docketing statement:

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Client(s) \_\_\_\_\_

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 AARON M. WAITE, ESA Telephone 844-640-5411

Firm 6784 S. EASTERN AVE., SUITE 4, LAS VEGAS, NEVADA 89119

Address \_\_\_\_\_

Client(s) BAYVIEW LOAN SERVICING, LLC; SEASIDE TRUSTEE, INC AND BANK OF NEW YORK MELLON.

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

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

- |  |   |
|--|---|
| <input type="checkbox"/> Judgment after bench trial                | <input 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 type="checkbox"/> Other (specify): _____                         |
| <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 checked="" 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:

**BK CASE NO. 16-16566-LED  
RICARDO BARTOLOME PASCUA, PETITIONER**

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

THIS IS A PETITION FOR REVIEW OF THE MEDIATOR'S STATEMENT. THE PETITION FOR REVIEW WAS DENIED BY THE LOWER COURT PRINCIPALLY ON THE GROUND THAT "PETITIONER IS NOT AN OWNER OF OR ON TITLE TO OF THE PROPERTY."

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

WHETHER OR NOT PETITIONER AS THE DECEASED SPOUSE OF MYRNA PASCUA, THE RECORDED OWNER OF SUBJECT PROPERTY, AND AS DULY APPOINTED SPECIAL ADMINISTRATOR OF THE ESTATE OF SAID DECEASED MYRNA PASCUA, AND AS DULY APPOINTED GUARDIAN OF HIS CHILDREN, IS ENTITLED TO REQUEST FOR LOAN MODIFICATION, <sup>OR MEDIATION</sup> RELATIVE TO SUBJECT PROPERTY SITUATED AT 500 HAUNTS WALK AVE., LAS VEGAS, NEVADA 89178 THAT WAS LEFT BY HIS DECEASED WIFE.

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:

UNKNOWN

**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? **NO CONSTITUTIONAL ISSUE**

N/A

Yes

No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues? **NONE**

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:

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

COURT OF APPEALS  
UNDER NRAP 17 (B) (10)

**14. Trial.** If this action proceeded to trial, how many days did the trial last? NO TRIAL

Was it a bench or jury trial? N/A

**15. 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? NO, NONE

**TIMELINESS OF NOTICE OF APPEAL**

16. Date of entry of written judgment or order appealed from OCTOBER 24, 2016

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

17. Date written notice of entry of judgment or order was served \_\_\_\_\_

Was service by:

Delivery

~~Mail~~/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59) NONE

(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

19. Date notice of appeal filed NOVEMBER 15, 2016

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.

20. 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

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

(a)

NRAP 3A(b)(1)

NRS 38.205

NRAP 3A(b)(2)

NRS 233B.150

NRAP 3A(b)(3)

NRS 703.376

Other (specify)

NRAP 3(a)(i)

(b) Explain how each authority provides a basis for appeal from the judgment or order:

AN APPEAL PERMITTED BY LAW AS OF RIGHT FROM A DISTRICT COURT TO A COURT OF APPEALS MAY BE TAKEN ONLY BY FILING A NOTICE OF APPEAL WITH THE DISTRICT CLERK WITH THE TIME ALLOWED BY RULE 4.



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

(a) Parties: PLAINTIFF - RICARDO PASOIA  
RESPONDENTS - BAYVIEW LOAN CERVIRING, LLC  
SEASIDE TRUSTEE, INC.  
BANK OF NEW YORK MELLON  
MEDIATION ADMINISTRATOR

(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:

ALL ARE PARTIES IN THIS APPEAL

23. 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.

RICARDO PASOIA - CLAIMS RIGHT TO ASK LOAN MODI -  
FICATION / MEDIATION  
ALL RESPONDENTS - CLAIM RICARDO PASOIA HAS NO  
SUCH RIGHT

24. 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

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

(a) Specify the claims remaining pending below: NONE

(b) Specify the parties remaining below: **NONE**

(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

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

**ORDER IS INDEPENDENTLY APPEALABLE UNDER  
NRAP 3A(D)**

27. 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.

RICARDO B. PASCUA  
Name of appellant

\_\_\_\_\_  
Name of counsel of record

DECEMBER 22, 2016  
Date

\_\_\_\_\_  
Signature of counsel of record

NEVADA - CLARK COUNTY  
State and county where signed

CERTIFICATE OF SERVICE

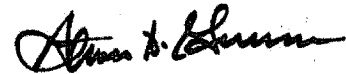
I certify that on the 22nd day of DECEMBER, 2016, I served a copy of this completed docketing statement upon all counsel of record:

- 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.)

AARON M. WAITE, ESA,  
6784 S. EASTERN AVE, SUITE 4  
LAS VEGAS, NV 89119

Dated this 22nd day of DECEMBER, 2016

Ricardo B. Pascua  
Signature



CLERK OF THE COURT

1 Aaron M. Waite, Esq.  
Nevada Bar No.: 7947  
2 Charles L. Kennon, III, Esq.  
Nevada Bar No.: 7772  
3 WEINSTEIN & RILEY, P.S.  
6785 South Eastern Avenue, Suite 4  
4 Las Vegas, Nevada 89119  
Telephone: 844-640-5411  
5 E-Mail: [aaronw@w-legal.com](mailto:aaronw@w-legal.com)  
*Attorneys for Respondents*  
6 Bayview Loan Servicing, LLC,  
Seaside Trustee, Inc., and  
7 Bank of New York Mellon

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 RICARDO PASCUA,

11 Petitioner,

12 v.

13 BAYVIEW LOAN SERVICING, LLC;  
SEASIDE TRUSTEE, INC.; BANK OF  
14 NEW YORK MELLON; MEDIATION  
ADMINISTRATOR,

15 Respondents.

Case No.: A-16-741223-J

Department No.: XXV

**NOTICE OF ENTRY OF ORDER ON**  
**PETITION FOR JUDICIAL REVIEW**

16  
17  
18 Notice is hereby given that the Order on Petition for Judicial Review was entered in the  
19 above captioned case on October 24, 2016. A true and correct copy is attached hereto as  
20 Exhibit "1".

21 DATED this 24<sup>th</sup> day of October, 2016.

22 WEINSTEIN & RILEY, PS

23 /s/ Aaron Waite

24 Aaron M. Waite, Esq. (7947)  
6785 South Eastern Avenue, Suite 4  
Las Vegas, Nevada 89119  
*Attorneys for Respondents*  
25 Bayview Loan Servicing, LLC, Seaside Trustee,  
Inc., and Bank of New York Mellon

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**CERTIFICATE OF SERVICE**

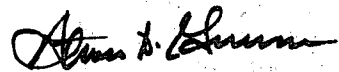
I hereby certify that on the 24<sup>th</sup> day of October, 2016, I served a true and correct copy  
of the foregoing NOTICE OF ENTRY OF ORDER ON PETITION FOR JUDICIAL REVIEW  
via First Class U.S. Mail to:

Ricardo Pascua  
560 Haunts Walk Ave  
Las Vegas, Nevada 89178

/s/ Jessica Van Tilburg  
An Employee of  
WEINSTEIN & RILEY, P.S.

Exhibit "1"

Exhibit "1"

  
CLERK OF THE COURT

1 Aaron M. Waite, Esq.  
Nevada Bar No.: 7947  
2 Charles L. Kennon, III, Esq.  
Nevada Bar No.: 7772  
3 WEINSTEIN & RILEY, P.S.  
6785 South Eastern Avenue, Suite 4  
4 Las Vegas, Nevada 89119  
Telephone: 844-640-5411  
5 E-Mail: [aaronw@w-legal.com](mailto:aaronw@w-legal.com)  
*Attorneys for Respondents*  
6 Bayview Loan Servicing, LLC,  
Seaside Trustee, Inc., and  
7 Bank Of New York Mellon

8  
9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11 **RICARDO PASCUA,**  
12  
13 **Petitioner,**

Case No. A-16-741223-J  
Department No. XXV

14 **v.**  
15 **BAYVIEW LOAN SERVICING, LLC;**  
16 **SEASIDE TRUSTEE, INC.; BANK OF**  
17 **NEW YORK MELLON; MEDIATION**  
18 **ADMINISTRATOR,**  
19  
20 **Respondents.**

21 **ORDER ON PETITION FOR JUDICIAL REVIEW**

22 Petitioner's Petition for Judicial Review ("Petition") came before the Court on September  
23 22, 2016. The Petitioner RICARDO PASCUA ("Petitioner") did not appear. Respondents  
24 BAYVIEW LOAN SERVICING, LLC ("Bayview"), SEASIDE TRUSTEE, INC. ("Seaside"),  
25 and BANK OF NEW YORK MELLON ("BNYM") (hereinafter collectively "Respondents"),  
appeared through counsel.

The Court makes the following findings of fact:

<input type="checkbox"/> Voluntary Dismissal	<input checked="" 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 type="checkbox"/> Motion to Dismiss by Defect	<input type="checkbox"/> Judgment of Arbitration

OCT 17 2016

1           1.       On or about December 29, 2005, Myrna Pascua obtained a \$345,500.00 loan for  
2 the purchase of the real property at 560 Haunts Walk Avenue, Las Vegas, Nevada 89178  
3 ("Property"), and executed an Interest Only Fixed Rate Note ("Note") for the loan.

4           2.       On or about December 29, 2005, Myrna Pascua executed a deed of trust ("Trust  
5 Deed") to secure the Note.

6           3.       The Trust Deed was recorded against the Property on or about January 6, 2006.

7           4.       The Note is endorsed in blank.

8           5.       The Trust Deed was assigned to The Bank of New York Mellon FKA The Bank  
9 of New York, as Trustee for the Certificateholders CWALT, Inc., Alternative Loan Trust 2006-  
10 7CB, Mortgage Pass-Through Certificates, Series 2006-7CB ("Beneficiary").

11          6.       Respondent Bayview services the loan for the Beneficiary.

12          7.       Bayview holds the original Note as the custodian of records for Beneficiary.

13          8.       Petitioner is not a title owner of the Property.

14          9.       Myrna Pascua is deceased.

15          10.       On or about February 16, 2011, Petitioner filed a Petition for Special Letters of  
16 Administration in the Eight District Court, Clark County, Nevada, Case P-11-070593  
17 ("Probate"), regarding the estate of Myrna Pascua.

18          11.       On or about February 18, 2011, Petitioner filed an Amended Petition for Special  
19 Letters of Administration in the Probate.

20          12.       On or about February 18, 2011, the court in the Probate entered the Order  
21 Appointing Special Administrator ("Probate Order").

22          13.       The Probate Order appointed Petitioner to be a special administrator of Myrna  
23 Pascua's estate.  
24  
25



1           14.     The Probate Order states that Petitioner must “administer the estate in  
2 accordance with Nevada Revised Statute Chapter 104.040.”

3           15.     A copy of NRS 104.040 was attached to the Probate Order.

4           16.     The Probate Order also states that “proof of the blocked account shall be filed  
5 with the court within thirty (30) days from the date of entry of this court order.

6           17.     After the Probate Order was entered in the Probate, five creditor’s claims were  
7 filed in the Probate.

8           18.     Petitioner also filed a notice of lis pendens regarding the Property in the Probate.

9           19.     Petitioner did not file proof of a blocked account or anything else in the Probate  
10 Case.

11           20.     The Property was not distributed or otherwise conveyed to Petitioner by Myrna  
12 Pascua or as part of the Probate.

13           21.     On or about February 9, 2016, Beneficiary commenced a foreclosure of the  
14 Property, with Seaside as foreclosure trustee.

15           22.     Petitioner requested foreclosure mediation.

16           23.     John Boyer was appointed the mediator.

17           24.     The Mediator issued the Notice to Appear on April 26, 2016, which scheduled  
18 the mediation for June 22, 2016.

19           25.     On May 3, 2016, counsel for Bayview sent Bayview’s initial document requests  
20 to Petitioner via email.

21           26.     When the email to Petitioner was returned undelivered, counsel for Bayview  
22 mailed the initial document requests to Petitioner on May 10, 2016.  
23  
24  
25

1           27.     On June 10, 2016, Bayview sent its disclosure of documents to the Petitioner  
2 and mediator.

3           28.     Bayview's disclosure included the Note, all three allonges to the Note, the Trust  
4 Deed, the Assignment, an appraisal dated May 23, 2016, a power of attorney from BNYM to  
5 Bayview, and an authorization from Bayview to its counsel.

6           29.     On June 22, 2016, Bayview and its counsel participated in the foreclosure  
7 mediation, and brought to the mediation certified copies of the Note, all three allonges to the  
8 Note, the Trust Deed, and the Assignment, together with copies of the May 23, 2016, appraisal,  
9 power of attorney from BNYM to Bayview, and authorization from Bayview to its counsel.

10          30.     Petitioner appeared at the mediation with a realtor.

11          31.     Petitioner presented the Probate Order to the mediator.

12          32.     The mediator found that the Property was not eligible for mediation because the  
13 borrower is deceased, and that the Probate Order did not appoint Petitioner as special  
14 administrator for the mediation (among other things).

15          33.     The Mediator recommended that a certificate issue to Bayview.

16          34.     On July 7, 2016, the Foreclosure Mediation Program issued a notice that a  
18 certificate would issue to Bayview.

19          35.     Petitioner filed his Petition for Judicial Review on August 5, 2016.

20          36.     Respondents filed a brief in response to the Petition.

21          37.     Petitioner did not file a reply.

22          38.     Respondents, through counsel, appeared at the September 22, 2016, hearing in  
23 this matter.  
24  
25

1 NOW THEREFORE, good cause appearing therefore, the Court concludes and orders as  
2 follows:

- 3 1. The Petition is denied.
- 4 2. Petitioner is not an owner of or on title to/of the Property.
- 5 3. Petitioner is not entitled to be an owner of or on title to/of the Property.
- 6 4. The Probate Order neither subrogates Petitioner to the rights of Myrna Pascua  
7 under the Note and Trust Deed, nor authorized Petitioner to modify the Note, nor makes  
8 Petitioner the owner of the Property.
- 9 5. The Foreclosure Mediation Program will issue a mediation certificate to  
10 Respondents.
- 11 6. Each side shall bear their own court costs incurred in this case.
- 12 7. The findings of fact shall be considered conclusions of law, and vice versa, to the  
13 fullest extent necessary to effectuate the intent of this order.
- 14 8. Respondent's Motion to Enlarge Time to File Response to Order to Show Cause  
15 and to Petition for Judicial Review ("Motion") is <sup>MOOT</sup>~~granted~~ and the October 4, 2016, hearing on  
16 the Motion is vacated. (R&O)

17 DATED this 20<sup>th</sup> day of October, 2016.

18  
19  
20  
21   
DISTRICT COURT JUDGE

22 Submitted By:  
WEINSTEIN & RILEY, PS

23  
24 Aaron M. Waite, Esq. (7947)  
6785 South Eastern Avenue, Suite 4  
Las Vegas, Nevada 89119  
25 Attorneys for Respondents  
Bayview Loan Servicing, LLC  
Seaside Trustee, Inc.,  
and Bank of New York Mellon

*Howard J. Smith*  
CLERK OF THE COURT

*RMG  
270*

PTFM  
RICARDO PASCUA  
560 Haunts Walk Ave  
Las Vegas, NV 89178  
Tel.: (702) 401-3569  
Petitioner – PRO SE

DISTRICT COURT  
CLARK COUNTY, NEVADA

RICARDO PASCUA,  
Petitioner  
  
vs.  
  
BAYVIEW LOAN SERVICING LLC;  
SEASIDE TRUSTEE, INC.;  
BANK OF NEW YORK MELLON;  
MEDIATION ADMINISTRATOR,  
Respondents.

CASE NO. *A-16-741223-J*  
DEPT. NO. *XXV*  
PETITION FOR REVIEW

PETITIONER, RICARDO PASCUA (hereinafter "Petitioner"), petitions this Court, pursuant to NRS 107, as amended, and Nevada Supreme Court Foreclosure Mediation Rule for sanctions, and in support thereof, respectfully states:

1. NRS 107, as amended, Nevada Supreme Court Foreclosure Mediation Rules, NRS 30.040 and NRS 33.010 vests this Court with jurisdiction over the instant case.

2. Petitioner is a co-owner and/or successor-in-interest of the subject owner-occupied residential property situated at 560 Haunts Walk Avenue, Las Vegas, Nevada 89178. He is also the Special Administrator of the estate of his deceased spouse, Myrna Pascua, who was the original mortgagor of said property which is a part of her estate.

3. Upon information and belief, respondent Bank of New York Mellon is the beneficiary of the Deed of Trust of subject property, and respondents Bayview Loan Servicing LLC and/or Seaside Trustee, Inc. are the servicers and/or co-beneficiaries thereof.

RECEIVED  
AUG 05 2016

CLERK OF THE COURT

4. NRS 107, as amended, establishes certain restrictions on the trustee's power of sale with respect to owner-occupied housing by providing a grantor of deed of trust or its owner the right to request a mediation under which he/she may seek a loan modification.

5. Once mediation is requested, no further action may be taken to exercise the power of sale until the completion of the mediation.

6. If any party fails to attend the mediation, fails to participate in the mediation in good faith, does not bring to the mediation each document required by the act, or does not have the authority or access to a person with authority as required by the act, the mediation may recommend sanctions.

7. The Court may issue an order imposing such sanctions against any party to the mediation proceedings as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

8. Under NRS 107.080(5)(a), the trustee or other person authorized to make a foreclosure sale must substantially comply with that section.

9. The Nevada Supreme Court has adopted the Foreclosure Mediation Rules, as amended.

10. Rule 5(6)(e) states that "a party to the mediation" may file a "petition for judicial review" in district court seeking a determination of bad faith participation and sanctions.

11. Petitioner is the present owner and/or representative of the grantor or the person who holds the title of record for the subject property situated at 560 Haunts Walk Avenue, Las Vegas, Nevada 89178.

12. Petitioner and his children occupy and reside at the property at aforesaid address as their primary residence.

13. Petitioner received a notice of default and election to sell at the subject property.

14. Petitioner has not surrendered the said subject property situated at 560 Haunts Walk Avenue, Las Vegas, Nevada 89178.

15. Petitioner has not filed a petition in bankruptcy.

16. Petitioner seasonably filed an election of mediation pursuant to NRS 107, as amended.

17. The respondents Bayview Loan Servicing LLC and/or Seaside Trustee, Inc. and Bank of New York Mellon failed to participate in the mediation in good faith in that:

a. They failed to comply with the required notices and other requirements of the Borrowers Bill of Rights (S.B. 321). They violated the law against dual tracking in that they were foreclosing while there is still an ongoing loan modification between petitioner and respondents.

b. They did not bring or present copy of the documents required by law, nor give copy thereof to petitioner.

c. They did not present their authority to enter into loan modification and they did not show access to a person with such authority as required by NRS 107, as amended.

d. They did not exchange information with petitioner 7 days in advance as required by the Nevada Supreme Court Foreclosure Mediation Rules.

19. The mediator committed an error in that he made a ruling against one Roberto Pascua, while herein petitioner is Ricardo Pascua. (Pls. see p. 3 of Mediation Statement and Agreement).

20. Herein petitioner is the surviving spouse of Myrna Pascua, the title holder of subject property who died of cancer in May 2010, living herein petitioner and their two minor children as her heirs. This is evidenced by petitioner's Certificate of Marriage, copy attached as Exhibit "1," and by the "Certificate of Death" of Myrna Pascua, copy of which is attached as Exhibit "2." As an heir, petitioner automatically becomes the owner or co-owner of subject property upon the death of her spouse.

21. Petitioner is also the Special Administrator of subject property pursuant to the "Order Appointing Special Administrator," certified copy of which is attached as Exhibit "3."

22. The mediator committed a serious error when he refused to honor and give effect to the said Order (Exh. "3") appointing herein petitioner as Special Administrator in violation of the NRS 140.040 which provides for the Powers, duties and immunity from liability for certain claims of the Special Administration. Said law provides, among other things, that a special administrator shall:

"Take charge and management of the real property and enter upon and preserve it from damage, waste and injury." (NRS 140.040(1)(b))

It also provides, that a Special Administrator may:

"For all necessary purposes, commence, maintain or defend actions and other legal proceedings as a personal representative." (NRS 140.040(2)(a))

23. It is respectfully submitted that the respondents did not mediate with petitioner in good faith because they violated petitioner's rights under the Borrowers' Bill of Rights (SB 321); petitioner's rights as an heir, and, now, as an owner or co-owner; petitioner's rights and duties as Special Administrator for subject property; and for not following the rules as provided for in the Rules of Mediation as issued by the Supreme Court.

24. The mediator prepared and submitted a Mediator Statement, copy of which was received by Petitioner on July 9, 2016.

WHEREFORE, petitioner respectfully prays for the following relief:

1. For the Court to accept jurisdiction over this matter.
2. For the Court to review the record and to hold a hearing to determine the appropriateness of imposing sanctions against the respondents pursuant to NRS 107, as amended.
3. For the Court to declare that:
  - a. Respondents violated the Borrowers' Bill of Rights (SB 321) by not following its requisites on notices and other requirements.
  - b. Respondents violated the Borrowers' Bill of Rights (SB 321) by violating the law against dual tracking and by foreclosing subject property when there is an ongoing loan modification.
  - b. Respondents violated its responsibilities under NRS 107 as amended.
  - c. Respondents did not comply with the requirements in NRS 107.080, as amended.



d. Respondents did not act in good faith as required by NRS 107.080 as amended.

e. Respondents did not mediate with petitioner in good faith because they violated petitioner's rights as an heir, and, now, as an owner or co-owner of subject property (due to automatic inheritance or succession upon death of petitioner's spouse); petitioner's rights and duties as Special Administrator for subject property; and for not following the rules as provided for in the Rules of Mediation as issued by the Supreme Court.

4. For the Court to impose sanctions, as the Court sees proper pursuant to NRS 107, as amended by AB 149 including:

a. Modification of the terms of the loan, including principal reduction up to what respondents expect to receive in a foreclosure sale.

b. Fines against respondents.

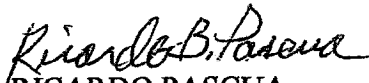
c. To remand case for a new mediation.

d. Such other sanctions as the Court deems proper.

5. For such other just and equitable relief and remedies in favor of petitioner.

DATED: August 4, 2016.

Respectfully submitted:

  
RICARDO PASCUA  
560 Haunts Walk Ave  
Las Vegas, NV 89178  
Tel.: (702) 401-3569  
Petitioner – PRO SE

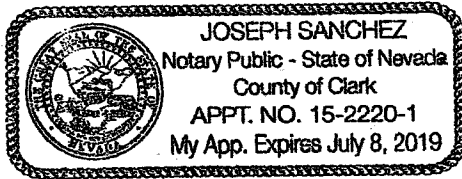
VERIFICATION

I, RICARDO PASCUA, am the Petitioner in the above-entitled action; I have read the foregoing document and am competent to testify that the contents are true of my own knowledge except for those matters stated thereon on information and belief; and, as to those matters, I believe them to be true.

DATED: August 4<sup>th</sup>, 2016.

*Ricardo Pascua*  
RICARDO PASCUA  
Petitioner

SIGNED and SWORN TO (or affirmed) before me on 08/04/2016 by RICARDO PASCUA.



Notary Public *Joseph Sanchez*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that today I have served copy of the foregoing PETITION FOR REVIEW by placing a copy thereof in an envelope and send it by U. S. mail with postage prepaid to the following:

BAYVIEW LOAN SERVICING LLC  
4425 Ponce de Leon Blvd., 5<sup>th</sup> Floor  
Coral Gables, FL 33146

BANK OF NEW YORK MELLON  
c/o Bayview Loan Servicing LLC  
4425 Ponce de Leon Blvd., 5<sup>th</sup> Floor  
Coral Gables, FL 33146

SEASIDE TRUSTEE, INC.  
3670 N. Rancho Dr., Ste 101  
Las Vegas, NV 89130

MEDIATION ADMINISTRATOR  
Foreclosure Mediation Program  
200 Lewis Avenue, 17<sup>th</sup> Floor  
Las Vegas, NV 89101

Dated: August 5, 2016.

*Ricardo Pascua*  
RICARDO PASCUA  
Petitioner - Pro Se

**CERTIFICATION OF VITAL RECORD**

**COUNTY OF LOS ANGELES • REGISTRAR-RECORDER/COUNTY CLERK**

*Exhibit 7*

**LICENSE AND CERTIFICATE OF CONFIDENTIAL MARRIAGE**

**59419021482**

**C-N C005785**

STATE FILE NUMBER	LOCAL REGISTRATION NUMBER		LICENSE NUMBER
<b>HUSBAND PERSONAL DATA</b>	1A. NAME OF HUSBAND—First (Given)	1B. MIDDLE	1C. LAST (FAMILY)
	2. DATE OF BIRTH—Month, Day, Year		
	3. STATE OF BIRTH	4. NUMBER OF PREVIOUS MARRIAGES	5A. LAST MARRIAGE ENDED BY:
	6A. USUAL OCCUPATION	6B. USUAL KIND OF BUSINESS OR INDUSTRY	7. EDUCATION—Years Completed
	8A. FULL NAME OF FATHER	8B. STATE OF BIRTH	8A. FULL MAIDEN NAME OF MOTHER
<b>WIFE PERSONAL DATA</b>	10A. NAME OF WIFE—First (Given)	10B. MIDDLE	10C. CURRENT LAST (FAMILY)
	11. DATE OF BIRTH—Month, Day, Year	12. STATE OF BIRTH	11. NUMBER OF PREVIOUS MARRIAGES
	14A. LAST MARRIAGE ENDED BY:	14B. DATE—Month, Day, Year	
	15A. USUAL OCCUPATION	15B. USUAL KIND OF BUSINESS OR INDUSTRY	16. EDUCATION—Years Completed
	17A. FULL NAME OF FATHER	17B. STATE OF BIRTH	17A. FULL MAIDEN NAME OF MOTHER
<b>RESIDENCE OF HUSBAND AND WIFE</b>	19A. RESIDENCE—Street and Number	19B. CITY	19C. ZIP CODE
	20A. MAILING ADDRESS—If Different	20B. CITY	20C. ZIP CODE
	19D. COUNTY—Outside California, Enter State		19E. COUNTY—Outside California, Enter State
	20D. COUNTY—Outside California, Enter State		20E. COUNTY—Outside California, Enter State

**AFFIDAVIT**  
 We the undersigned declare that we are an unmarried man and an unmarried woman, not minors, and have been living together as husband and wife and that the foregoing information is true and correct to the best of our knowledge and belief, that no legal objection to the marriage nor to the issuance of a license is known to us, and hereby apply for a License and Certificate of Confidential Marriage.

21. SIGNATURE OF HUSBAND: *Ricardo B. Pascua*  
 22. SIGNATURE OF WIFE: *Myrna A. Baello*

The undersigned, empowered by the laws of the State of California, do hereby certify that the above-named parties to be married have personally appeared before me, proved to me on the basis of satisfactory evidence, have declared or affirmed that they meet all the requirements of the law, and the fees prescribed by law having been paid, do hereby authorize said parties to be married pursuant to Section 4213, Civil Code of that this license was issued in the person performing the ceremony upon that person's presentation of an affidavit signed by the parties and the parties to be married due to the inability of one or both of the parties to be married to physically appear. The affidavit explains the reason for inability to appear in accordance with Section 4213.1, Civil Code.

23A. SIGNATURE AND TITLE OF ISSUING CLERK: *[Signature]* **DEPUTY**  
 24A. AFFIX NOTARY SEAL—(If Applicable)

23B. COUNTY OF ISSUE: **LOS ANGELES**  
 23C. MAILING ADDRESS AND ZIP CODE: **P.O. BOX 120, L.A. CA. 90053-0120**  
 23D. ISSUE DATE—Month, Day, Year: **08/16/1994**  
 23E. LICENSE EXPIRES AFTER—Month, Day, Year: **11/14/1994**

24B. SUBSCRIBED AND SWORN TO BEFORE ME ON: \_\_\_\_\_  
 24C. SIGNATURE OF NOTARY: \_\_\_\_\_  
 24D. TYPED NAME OF NOTARY: \_\_\_\_\_

**CERTIFICATION OF PERSON SOLEMNIZING MARRIAGE**

25. I hereby certify that the above named man and woman were joined by me in marriage in accordance with the laws of the State of California.  
 ON **AUGUST 18** 19**94**  
 AT **NORWALK, LOS ANGELES**  
 CITY OR TOWN COUNTY CALIFORNIA

26A. SIGNATURE OF PERSON SOLEMNIZING MARRIAGE: *[Signature]*  
 26B. NAME OF PERSON SOLEMNIZING MARRIAGE (TYPE OR PRINT): **T. DARDEN**  
 26C. RELIGIOUS DENOMINATION (IF CLERGY):  
 26D. OFFICIAL TITLE: **DEPUTY COMM'R**  
 26E. MAILING ADDRESS (Include City and State): **12400 E. IMPERIAL HWY., NORWALK, CA**  
 26F. ZIP CODE: **90650**

**COUNTY CLERK**  
 27A. SIGNATURE OF COUNTY CLERK: *[Signature]*  
 27B. SIGNATURE OF DEPUTY CLERK (If Applicable): *[Signature]*  
 28. DATE ACCEPTED FOR REGISTRATION: **AUG 19 1994**

MUST BE LEGIBLE/MAKE NO ERASURES, WHITEOUTS OR OTHER ALTERATIONS—SEE REVERSE SIDE FOR FURTHER INSTRUCTIONS

This is to certify that this document is a true copy of the official record filed with the Registrar-Recorder/County Clerk.

*Beatriz Valdez*  
 BEATRIZ VALDEZ  
 Registrar-Recorder/County Clerk

**SEP 19 1994**

**19-102543**

This copy not valid unless prepared on engraved border displaying the Seal and Signature of the Registrar-Recorder/County Clerk.



ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

STATE OF NEVADA — DEPARTMENT OF HUMAN RESOURCES  
DIVISION OF HEALTH — VITAL STATISTICS

Exhibit 2

CERTIFICATE OF DEATH

2010007806

STATE FILE NUMBER

TYPE OR PRINT IN PERMANENT BLACK INK  
DECEDENT  
IF DEATH OCCURRED IN INSTITUTION SEE HANDBOOK REGARDING COMPLETION OF RESIDENCE ITEMS  
PARENTS  
DISPOSITION  
TRADE CALL  
CERTIFIER  
REGISTRAR  
CAUSE OF DEATH  
CONDITIONS IF ANY WHICH AVE RISE TO IMMEDIATE CAUSE STATING THE PRECEDING CAUSE LAST

1a. DECEASED-NAME (FIRST,MIDDLE,LAST,SUFFIX) <b>Myma B PASCUA</b>		2. DATE OF DEATH (Mo/Day/Year) <b>May 23, 2010</b>		3a. COUNTY OF DEATH <b>Clark</b>	
3b. CITY, TOWN, OR LOCATION OF DEATH <b>Las Vegas</b>		3c. HOSPITAL OR OTHER INSTITUTION -Name(if not either, give street and number) <b>Creekside Inpatient Unit</b>		3d. Hosp. or Inst. Indicate DOA,OP/Emr. Rm. Inpatient,Specify) <b>Hospice Facility (HFS)</b>	
4. SEX <b>Female</b>		5. RACE (Specify) <b>Filipino</b>		6. DATE OF BIRTH (Mo/Day/Yr) <b>May 05, 1955</b>	
7a. AGE-Last birthday (Years) <b>55</b>		7b. UNDER 1 YEAR MOS DAYS HOURS MINS		7c. UNDER 1 DAY HOURS MINS	
8. HISPANIC ORIGIN? Specify No - Non-Hispanic		9a. STATE OF BIRTH (If not U.S.A., name country) <b>Philippines</b>		9b. CITIZEN OF WHAT COUNTRY <b>United States</b>	
9c. EDUCATION <b>14</b>		11. MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify) Married		12. SURVIVING SPOUSE OR DOMESTIC PARTNER <b>Ricardo B PASCUA</b>	
13. SOCIAL SECURITY NUMBER <b>606-58-8799</b>		14a. USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life, Even if Retired) <b>Caregiver</b>		14b. KIND OF BUSINESS OR INDUSTRY <b>Medical</b>	
15a. RESIDENCE - STATE <b>Nevada</b>		15b. COUNTY <b>Clark</b>		15c. CITY, TOWN OR LOCATION <b>Las Vegas</b>	
15d. STREET AND NUMBER <b>560 Haunts Walk Avenue</b>		15e. RESIDE CITY LIMITS (Specify Yes or No) Yes		15f. EVER IN US Armed Forces? No	
16. FATHER - NAME (First Middle Last Suffix) <b>Pedro D BAELO</b>			17. MOTHER - NAME (First Middle Last Suffix) <b>Lucresia A</b>		
18a. INFORMANT - NAME (Type or Print) <b>Ricardo B PASCUA</b>		18b. MAILING ADDRESS (Street or R.F.D. No, City or Town, State, Zip) <b>560 Haunts Walk Avenue Las Vegas, Nevada 89178</b>			
19a. BURIAL, CREMATION, REMOVAL, OTHER (Specify) <b>Cremation</b>		19b. CEMETERY OR CREMATORY - NAME <b>Desert Crematory</b>		19c. LOCATION City or Town State <b>Las Vegas Nevada 89101</b>	
20a. FUNERAL DIRECTOR - SIGNATURE (Or Person Acting as Such) <b>CHRIS WALTERS</b>		20b. FUNERAL DIRECTOR LICENSE <b>64</b>		20c. NAME AND ADDRESS OF FACILITY <b>Desert Memorial Cremation and Burial 1111 Las Vegas Blvd N Las Vegas NV 89101</b>	
21a. TRADE CALL - NAME AND ADDRESS		21b. SIGNATURE AUTHENTICATED			
21a. To the best of my knowledge, death occurred at the time, date and place and due to the cause(s) stated. (Signature & Title) <b>UPINDER SINGH MD</b>		21b. SIGNATURE AUTHENTICATED			
21b. DATE SIGNED (Mo/Day/Yr) <b>May 27, 2010</b>		21c. HOUR OF DEATH <b>20:25</b>			
21c. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)		22a. DATE SIGNED (Mo/Day/Yr)		22b. HOUR OF DEATH	
22a. NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print) <b>UPINDER SINGH MD 8374 W. Capovilla Avenue Las Vegas, NV 89113</b>		22c. LICENSE NUMBER <b>10815</b>		22d. PRONOUNCED DEAD (Mo/Day/Yr)	
24a. REGISTRAR (Signature) <b>NINETTE HARRINGTON</b>		24b. DATE RECEIVED BY REGISTRAR (Mo/Day/Yr) <b>May 28, 2010</b>		24c. DEATH DUE TO COMMUNICABLE DISEASE YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
25. IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c).) PART I (a) <b>Carcinoma breast</b>		Interval between onset and death			
DUE TO, OR AS A CONSEQUENCE OF:		Interval between onset and death			
(b)		Interval between onset and death			
DUE TO, OR AS A CONSEQUENCE OF:		Interval between onset and death			
(c)		Interval between onset and death			
DUE TO, OR AS A CONSEQUENCE OF:		Interval between onset and death			
PART II					
26a. ACC. SUICIDE, HOMICIDE, OR PENDING INVEST. (Specify)		26b. DATE OF INJURY (Mo/Day/Yr)		26c. HOUR OF INJURY	
26d. DESCRIBE HOW INJURY OCCURRED		26e. PLACE OF INJURY - At home, farm, street, factory, office building, etc (Specify)		26f. LOCATION STREET OR R.F.D. No. CITY OR TOWN STATE	
26g. INJURY AT WORK (Specify Yes or No)		26h. PLACE OF INJURY - At home, farm, street, factory, office building, etc (Specify)		26i. LOCATION STREET OR R.F.D. No. CITY OR TOWN STATE	

STATE REGISTRAR

"CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE WITH THE REGISTRAR OF VITAL STATISTICS, STATE OF NEVADA." This copy was issued by the Southern Nevada Health District from State certified documents as authorized by the State Board of Health pursuant to NRS 440.175.

NOT VALID WITHOUT THE RAISED SEAL OF THE SOUTHERN NEVADA HEALTH DISTRICT

Lawrence K. Sands, D.O., M.P.H.  
Registrar of Vital Statistics

By: *[Signature]*

Date Issued: JUN 07 2010

Exh 13

*Alvin D. Quinn*  
CLERK OF THE COURT

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ORDER  
RICARDO PASCUA  
Name  
560 HAWTHORNE WALK AVE  
Address  
LAS VEGAS, NV 89178  
City, State, Zip Code  
702-401-3569  
Telephone number/E-mail Address  
IN PROPER PERSON

DISTRICT COURT  
CLARK COUNTY, NEVADA

In the Matter of the Estate of: )  
MYRNA PASCUA ) Case No. P 11-070593-E  
) Dept. No. PC-1  
)  
)  
)  
)  
Deceased. )

ORDER APPOINTING SPECIAL ADMINISTRATOR

Upon submission of a verified Ex Parte Petition for  
Appointment of Special Administrator and for Issuance of Special  
Letters of Administration, representing as follows:

1. That Decedent, MYRNA PASCUA,  
died intestate on the 23 day of May, 2010, in the  
County of Clark, State of Nevada.
2. That Decedent was a resident of Clark County, Nevada,  
at the time of their death.

NOW, THEREFORE, IT IS HEREBY ORDERED that RICARDO  
PASCUA is appointed as Special Administrator  
and that Special Letters of Administration be issued, without  
bond, to the Petitioner, RICARDO PASCUA.

1 upon taking the oath of office, for the purpose of administering  
2 the estate in accordance with Nevada Revised Statutes Chapter  
3 140.040 (see Exhibit A attached)  
4

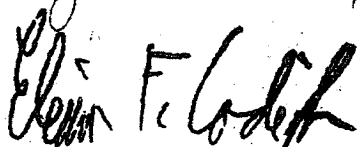
5  
6 IT IS FURTHER ORDERED: (You must ✓ one box)

7  <sup>SLC</sup> All moneys received by this estate will be placed in a  
8 blocked account until further order by the court and proof  
9 of the blocked account shall be filed with the court within  
10 thirty (30) days from the date of entry of this court  
11 order.  
12


13  ~~All moneys received by this estate will be placed in the~~  
14 ~~attorney's trust account until further order by the court~~  
15

16 IT IS FURTHER ORDERED that the settlement of the decedent's  
17 lawsuit is subject to this court's approval.

18 DATED this 18<sup>th</sup> day of February, 2011.

19  
20   
21 \_\_\_\_\_  
22 District Court Judge *SLC*

23 Submitted by:

24   
25 \_\_\_\_\_  
26 Signature

27  
28  
AUG 04 2010

CERTIFIED COPY  
DOCUMENT ATTACHED IS A  
TRUE AND CORRECT COPY  
OF THE DOCUMENT ON FILE

EXHIBIT A

**NRS 140.040 Powers, duties and immunity from liability for certain claims.**

1. A special administrator shall:

(a) Collect and preserve for the executor or administrator when appointed all the goods, chattels and receivables of the decedent, and all incomes, rents, issues, profits, claims and demands of the estate.

(b) Take charge and management of the real property and enter upon and preserve it from damage, waste and injury.

2. A special administrator may:

(a) For all necessary purposes, commence, maintain or defend actions and other legal proceedings as a personal representative.

(b) Without prior order of the court, sell any perishable property of the estate, as provided in NRS 148.170.

(c) Exercise such other powers as have been conferred by the order of appointment.

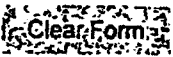
(d) Obtain leave of the court to borrow money or to lease or mortgage real property in the same manner as an executor or administrator.

3. A special administrator is not liable:

(a) To any creditor on any claim against the estate; or

(b) For any claim against the decedent except a claim involving wrongful death, personal injury or property damage if the estate contains no assets other than a policy of liability insurance.

[Part 86:107:1941; 1931 NCL § 9882.86]—(NRS A 1971, 647; 1983, 668; 1999, 2276)



STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID #	400034
APN	176-18-610-004
TS#	1507759NV
County	CLARK

**PART 1: SIGN-IN SHEET**    DATE: 6-22-16

<u>Mediator:</u>	Name: <u>JOHN W. BOYER</u>	Print	
	Contact Info.: <u>boyeresq@yahoo.com</u>		<u>702.349.3934</u>
		Email	Telephone #
<u>Homeowner(s) (Grantor):</u>	Name: <u>RICARDO PASCUA</u>	Print	Signature
	Contact Info.: _____	Email	Telephone #
	Participated: <input type="checkbox"/> In Person		<input type="checkbox"/> By Telephone
<u>Homeowner(s) (Grantor):</u>	Name: <u>MYRNA PASCUA</u>	Print	Signature
	Contact Info.: _____	Email	Telephone #
	Participated: <input type="checkbox"/> In Person		<input type="checkbox"/> By Telephone
<u>Homeowner Atty. or Rep:</u>	Name: _____	Print	Signature
<u>NV Bar/NRS 645F License #</u>	Contact Info.: _____	Email	Telephone #
	Participated: <input type="checkbox"/> In Person		<input type="checkbox"/> By Telephone
<u>Beneficiary (Person With Authority):</u>	Name: <u>Charles L. Kennon</u>	Print	Signature <u>Charles L. Kennon</u>
<u># 7772</u>	Contact Info.: <u>charlesk@w-legal.com</u>	Email	Telephone # <u>702-503-6405</u>
	Participated: <input checked="" type="checkbox"/> In Person		<input type="checkbox"/> By Telephone
<u>Lender Atty. or Rep:</u>	Name: <u>Gerardo Trucha</u>	Print	Signature
<u>NV Bar/NRS 645F License #</u>	Contact Info.: <u>gerardo.trucha@bayviewloanservice.com</u>	Email	Telephone #
	Participated: <input type="checkbox"/> In Person		<input checked="" type="checkbox"/> By Telephone <u>305-989-6777</u>
<u>Other:</u>	Name: <u>RICARDO PASCUA</u>	Print	Signature <u>Ricardo B. Pasena</u>
	Contact Info.: _____	Email	Telephone # <u>(702) 401-3569</u>
	Participated: <input checked="" type="checkbox"/> In Person		<input type="checkbox"/> By Telephone

If needed, a separate sheet may be utilized for additional attendees.

The attending parties are signing this sheet only to memorialize their presence at the mediation. If an agreement is reached, the parties will be requested by the mediator to execute the agreement section of this Mediator Statement, which will outline the basic terms agreed upon at mediation. Neither the mediator nor the mediation administrator may be compelled to testify in any subsequent proceedings regarding the contents of an agreement.



Docket # 107183

2016 Doc # 045837

STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # 400034  
APN 176-18-610-004  
TS# 1507759NV  
County CLARK

Homeowner Last Name PASCUA Homeowner First Name RICARDO  
Co-owner Last Name PASCUA Co-owner First Name MYRNA  
Property Street Address 560 Haunts Walk Avenue Las Vegas, NV 89178  
Property City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

RECEIVED  
JUN 24 2016  
STATE OF NEVADA  
FORECLOSURE MEDIATION

INSTRUCTIONS

- **If no mediation is held:** Please ensure the following are completed:
  - PART 2A: SUMMARY
  - PART 2F: MEDIATOR CERTIFICATION and
  - PART 4: MAILING CERTIFICATION
- **If a mediation is held and no agreement is reached:** please ensure the following are completed:
  - PART 1: SIGN-IN SHEET
  - PART 2A: SUMMARY
  - PART 2B: DISPOSITION
  - PART 2C: HOMEOWNER PARTICIPATION (if applicable)
  - PART 2D: LENDER PARTICIPATION (if applicable)
  - PART 2E: RECOMMENDATIONS FOR SANCTIONS (if applicable)
  - PART 2F: MEDIATOR CERTIFICATION and
  - PART 4: MAILING CERTIFICATION
- **If an agreement is reached by the parties:** please ensure all applicable parts of this form are completed, including all sections indicated directly above, as well as PART 3: AGREEMENT (Sections A-G).
- Return completed Mediator Statement and Agreement within 10 days to 200 Lewis Avenue, 17th Floor, Las Vegas, NV 89101

**PART 2A: SUMMARY** (In this section in its entirety (PART 2A-G) the mediator will document the applicable outcomes of the mediation. All appropriate boxes should be checked in this section.)

- A Document Conference was held on 4/26/16. (Attach Completed Document List)
- A Foreclosure Mediation was held on \_\_\_\_\_
- A Foreclosure Mediation was not held (Check All That Apply):
  - Homeowner requested to withdraw from mediation
  - Homeowner in active bankruptcy
  - Non-eligible property
- Parties resolved prior to mediation (Complete Part 3: AGREEMENT SECTION G)

**PART 2B: DISPOSITION (MEDIATOR MUST CHECK ONE BOX BELOW)**

- The parties were unable to agree to a loan modification or make other arrangements and the mediation is terminated.
- The parties resolved this matter. If marked, also complete PART 3: MEDIATION AGREEMENT.

STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # 400034  
APN 176-18-610-004  
TS# 1507759NV  
County CLARK

PART 2C: HOMEOWNER (GRANTOR) PARTICIPATION

- Homeowner (Grantor) failed to attend the mediation. *Home owner is deceased.*
- Homeowner (Grantor) failed to exchange required documents.

COMMENTS

The alleged homeowner Myrna Pasqua is deceased as of May 23, 2010. Robante Pasqua claims to be special administrator but is not owner of the property or grantor. There is nothing in the order appointing him as special administrator to act in this matter and I note his order of appointment is dated Feb 18, 2011. ~~The document is not certified and there is an issue of whether the order has been revoked or the estate closed.~~ Attached is the order of appointment.

PART 2D: BENEFICIARY (LENDER) PARTICIPATION

*If any item is checked below, the mediator may recommend sanctions.  
(Determine specific sanction recommendations with particularity in Part 2E)*

- Beneficiary (Lender), and/or its Representative, failed to attend the mediation. (NRS 107.086(6); FMP Rule 11(1)(a))
- Beneficiary (Lender), and/or its Representative, failed to demonstrate authority, or provide access to a person with authority, to negotiate a loan modification. (NRS 107.086(5); FMP Rule 11(1)(a))
- Beneficiary (Lender), and/or its Representative, failed to participate in good faith. (NRS 107.086(6))
- Beneficiary (Lender), and/or its Representative, failed to bring to mediation each document required. (NRS 107.086(5); FMP Rule 12(7)) (Check All Missing or Incomplete Documents).
- An original or certified copy of the mortgage note, or judicial order pursuant to NRS 104.3309.
- A certification with an original signature of each endorsement and/or assignment of the mortgage note, or judicial order pursuant to NRS 104.3309.
- An original or certified copy of the deed of trust (DOT), or judicial order pursuant to NRS 104.3309.
- A certification with an original signature of each assignment of the deed of trust (DOT), or judicial order pursuant to NRS 104.3309.
- Appraisal or Broker Price Opinion (BPO) in accordance with NRS 645.2515 dated not more than 60 days prior to the date of the scheduled mediation.

STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # 400034  
APN 176-18-610-004  
TS# 1507759NV  
County CLARK

**PART 2E: SPECIFIC RECOMMENDATION(S) FOR SANCTIONS** (In this section mediators must state with particularity the lender's (beneficiary's) conduct and specific reason(s) for recommending sanctions.)

*The certificate of foreclosure should issue forthwith*

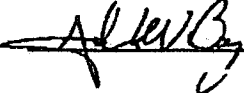
STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # 400034  
APN 176-18-610-004  
TS# 1507759NV  
County CLARK

**PART 2F: MEDIATOR CERTIFICATION**

The Mediator hereby certifies, under the penalty of perjury, that the foregoing is true and accurate record of the proceedings as required by NRS Chapter 107.

DATED this 22 day of June, 2016

Mediator Signature: 

Print Name: JOHN W. BOYER

STATE OF NEVADA  
 FORECLOSURE MEDIATION PROGRAM  
 MEDIATION STATEMENT AND AGREEMENT

Trustee ID # 400034
APN 176-18-610-004
TS# 1507759NV
County CLARK

All documents and discussions presented during the mediation are confidential except in an action for Judicial Review as set forth in the applicable State of Nevada Foreclosure Mediation Rules and NRS Chapter 107.

**PART 3: AGREEMENT (Sections A-G)** This section outlines the detailed agreement between the grantor and the beneficiary. The mediator will complete all sections that apply.

**THE PARTIES AGREED TO THE FOLLOWING (Please Choose Either A or B and check all that apply):**

**A. RETAIN THE HOME**

- 1. Reinstatement
- 2. Repayment Plan
- 3. Extension
- 4. ARM to Fixed Rate
- 5. Amortization Extended
- 6. Interest Rate Reduction
- 7. Principal Forbearance
- 8. Other Forbearance
- 9. Principal Reduction
- 10. Refinance
- 11. Temporary Modification  
Expiration Date: \_\_\_\_\_
- 12. Permanent Modification
- 13. Short payoff: \$ \_\_\_\_\_  
When: \_\_\_\_\_  
Conditions: \_\_\_\_\_
- 14. Gov't. Program: \_\_\_\_\_

**B. RELINQUISH THE HOME**

- 1. Deed in Lieu of Foreclosure
- 2. Voluntary Surrender
- 3. Cash for Keys \$ \_\_\_\_\_
- 4. Gov't. Program: \_\_\_\_\_
- 5. Other Forbearance
- 6. Short Sale  
Estimated Short Sale Value: \_\_\_\_\_  
Listed By Date: \_\_\_\_\_  
Listing Period: From \_\_\_\_\_ to \_\_\_\_\_  
Listing Price: \_\_\_\_\_  
Beneficiary Offer Acceptance By Date: \_\_\_\_\_  
Maximum Escrow Period: \_\_\_\_\_
- 7. Waiver of Deficiency:  Yes  No
- 8. Vacate Date: \_\_\_\_\_
- 9. Certificate Date: \_\_\_\_\_

Comments:

**C. DETAILS**

- Beneficiary will report the loan as paid in current status effective as of: \_\_\_\_\_
- Treatment of arrearages: \_\_\_\_\_
- Waiver of Fees and Penalties: \_\_\_\_\_
- Rescind Notice of Default effective as of: \_\_\_\_\_

**D. THE FOLLOWING TERMS REMAIN UNCHANGED (Please check all that apply.)**

- The balance due as shown on beneficiary's books, which is \_\_\_\_\_
- The interest rate stated in the original note, which is \_\_\_\_\_
- The loan term stated in the original note, which is \_\_\_\_\_

STATE OF NEVADA  
 FORECLOSURE MEDIATION PROGRAM  
 MEDIATION STATEMENT AND AGREEMENT

Trustee ID # 400034
APN 176-18-610-004
TS# 1507759NV
County CLARK

**E. LOAN MODIFICATION (Please complete all that apply)**

	Temporary Modification	Permanent Modification
<b>1. Loan Balance</b>	Total loan balance shall be modified to \$ _____ Effective date _____	Total loan balance shall be modified to: \$ _____ Effective date: _____
<b>2. Interest Rate</b>	Period 1 a. Interest rate will be temporarily modified to ___% b. Effective as of _____ c. For the Period of _____ months  Period 2 a. Interest rate will be temporarily modified to ___% b. Effective as of _____ c. For the Period of _____ months*	Period 1 a. Interest rate will be modified to ___% b. Effective as of _____ c. For the Period of _____ months  Period 2 a. Interest rate will be modified to ___% b. Effective as of _____ c. For the Period of _____ months*
<b>3. Loan Term</b>	There are _____ monthly payments remaining as of _____ Begin Date: _____ End Date: _____	There are _____ monthly payments remaining as of _____ Begin Date: _____ End Date: _____
<b>4. Payment</b>	Resulting initial payment: \$ _____ Principal & Interest: \$ _____ Escrow: \$ _____  Total: _____	Resulting initial payment: \$ _____ Principal & Interest: \$ _____ Escrow: \$ _____  Total: _____

**5. Fees & Costs**

The aforementioned loan balance includes fees & costs for temporary and permanent modifications as follows:	
Incurred	Waived
Interest \$ _____	Interest \$ _____
Costs \$ _____	Costs \$ _____
Fees \$ _____	Fees \$ _____
Other \$ _____	Other \$ _____
<b>TOTAL: \$ _____</b>	<b>TOTAL: \$ _____</b>

Comments:

\*If additional Periods agreed upon by the parties, please indicate on a separate sheet and attached hereto.

STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # 400034
APN 176-18-610-004
TS# 1507759NV
County CLARK

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**F. DEFICIENCY & TAX LIABILITY**

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Please be advised that the mediator is not permitted to provide any legal or tax advice to the parties on any issues related to the mediation or the terms of any potential settlement agreement. It is suggested that the parties contact a licensed professional of their choice for legal or tax advice related to this mediation and any potential settlement.

**1. Deficiency:**

- The settlement agreement will include a provision waiving any deficiency resulting from recovery by the Trustee/Beneficiary of less than the full amount the Trustee/Beneficiary claims now to be due on the loan.

Comments:

**2. Other deficiency and/or tax liability terms not mentioned above:**

- Additional terms, details are as follows:

**3. Is this agreement contingent upon the signing of other documents and/or forms (i.e., updated financial information; tax returns, divorce decree, etc.)?**

- If yes, provide a detailed list and/or attach:

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**G. SETTLEMENT/RESOLUTION BEFORE MEDIATION**

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*The parties reached a settlement and/or resolution prior to the scheduled mediation.*

- Copy of signed Settlement/Resolution Agreement attached. (Attach Signed Agreement)
- Settlement/Resolution Agreement memorialized at mediation as reflected in the Mediator Statement.

STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID #	400034
APN	176-18-610-004
TS#	1507759NV
County	CLARK

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**H. SIGNATURE OF PARTIES**

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IN WITNESS WHEREOF, each of the participants in this mediation has executed this mediation agreement on the date set forth. The parties agree to separately prepare and execute the documents necessary to accomplish the terms of this agreement.

Date \_\_\_\_\_

Homeowner (Grantor)

Date \_\_\_\_\_

Homeowner (Grantor)

Date \_\_\_\_\_

Homeowner's Attorney/Representative

Date \_\_\_\_\_

Lender (Beneficiary)

Date \_\_\_\_\_

Lender's Attorney/Representative

Date \_\_\_\_\_

Other (Please specify relationship to Lender or Homeowner)

Date \_\_\_\_\_

Other (Please specify relationship to Lender or Homeowner)



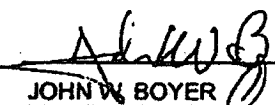
STATE OF NEVADA  
FORECLOSURE MEDIATION PROGRAM  
MEDIATION STATEMENT AND AGREEMENT

Trustee ID # 400034  
APN 176-18-610-004  
TS# 1507759NV  
County CLARK

**PART 4: MAILING/EMAIL/HAND DELIVERY CERTIFICATION (CHECK ONE BOX BELOW TO INDICATE METHOD OF DELIVERY)**

I hereby certify that I delivered this Mediator Statement on the 22 day of June, 2016, by delivering true and correct copies, addressed to the Foreclosure Mediation Program, by  U.S. Mail, postage prepaid, or  Email, or  Hand Delivery:

Foreclosure Mediation Program  
200 Lewis Avenue, 17<sup>th</sup> Floor  
Las Vegas, NV 89101

Signature:   
Print Name: JOHN W. BOYER  
Title: MEDIATOR