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CLERK OF THE COURT
Dec 13 2016 08:17 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 **ASTA**
2 **ROGER P. CROTEAU, ESQ.**
3 Nevada Bar No. 4958
4 **TIMOTHY E. RHODA, ESQ.**
5 Nevada Bar No. 7878
6 **ROGER P. CROTEAU & ASSOCIATES, LTD.**
7 9120 West Post Road, Suite 100
8 Las Vegas, Nevada 89148
9 (702) 254-7775
10 (702) 228-7719 (facsimile)
11 croteaulaw@croteaulaw.com
12 **Attorney for Plaintiff**
13 **LAS VEGAS DEVELOPMENT GROUP, LLC**

8
9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 ***

12 LAS VEGAS DEVELOPMENT GROUP, LLC,)
13 a Nevada limited liability company,)

14 Plaintiff,)

Case No. A-15-715532-C
Dept. No. XXX

15 vs.)

16 JAMES R. BLAHA, an individual; BANK OF)
17 AMERICA, NA, a National Banking)
18 Association, as successor by merger to BAC)
19 HOME LOANS SERVICING, LP;)
20 RECONTRUST COMPANY NA, a Texas)
21 corporation; JOSE PEREZ, JR. an individual;)
22 EZ PROPERTIES, LLC, a Nevada limited)
23 liability company; K&L BAXTER FAMILY)
24 LIMITED PARTNERSHIP, a Nevada limited)
25 partnership; FCH FUNDING, INC, an unknown)
26 corporate entity; DOE individuals I through)
27 XX; and ROE CORPORATIONS I through)
28 XX,)

Defendants.)

23 **CASE APPEAL STATEMENT**

24 COMES NOW, Plaintiff, LAS VEGAS DEVELOPMENT GROUP, LLC, by and through
25 its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., and hereby submits its Case
26 Appeal Statement.

ROGER P. CROTEAU & ASSOCIATES, LTD.

• 9120 W. Post Road, Suite 100 • Las Vegas, Nevada 89148 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

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1. **Name of appellant filing this case appeal statement:**
LAS VEGAS DEVELOPMENT GROUP, LLC
2. **Identify the judge issuing the decision, judgment, or order appealed from:**
The Honorable Jerry A. Wiese II
3. **Set forth the name, law firm, address, and telephone number of all counsel on appeal and identify the party or parties whom they represent:**
 - a. LAS VEGAS DEVELOPMENT GROUP, LLC

Roger P. Croteau, Esq.
Timothy E. Rhoda, Esq.
Roger P. Croteau & Associates, Ltd.
9120 West Post Road, Suite 100
Las Vegas, Nevada 89148
(702) 254-7775
4. **Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):**
 - a. JAMES R. BLAHA and NOBLE HOME LOANS f/k/a FCH FUNDING

Respondents' appellate counsel is unknown at this time but will presumably be Respondents' trial counsel:

Aaron A. Maurice, Esq.
Brittany Wood, Esq.
Kolesar & Leatham
400 Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
(702) 362-7800
 - b. BANK OF AMERICA, NA, as successor by merger to BAC HOME
LOANS SERVICING, LP and RECONTRUST COMPANY NA

Respondents' appellate counsel is unknown at this time but will presumably be Respondents' trial counsel:

Darren T. Brenner, Esq.
William S. Habdas, Esq.
Akerman, LLP
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
(702) 634-5000

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c. EZ PROPERTIES, LLC and K&L BAXTER FAMILY LIMITED
PARTNERSHIP

Respondents' appellate counsel is unknown at this time but will presumably be Respondents' trial counsel:

Kevin R. Hansen, Esq.
Law Offices of Kevin R. Hansen
5440 West Sahara Avenue, Suite 206
Las Vegas, Nevada 89146
(702) 478-7777

d. JOSE PEREZ, JR.

Defendant, Jose Perez, Jr., is not a party to this appeal because he had neither appeared nor answered at the time of the Order appealed from. A default was entered against said Defendant on or about July 8, 2015.

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

N/A

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

Retained counsel

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

Retained counsel

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

N/A

9. Indicate the date the proceedings commenced in the district court, e.g., date complaint, indictment, information, or petition was filed:

The original Complaint in this matter was filed on March 19, 2015, in the Eighth Judicial District Court of the State of Nevada in and for Clark County, Nevada.

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10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

The action is a primarily a quiet title action related to real property that was the subject of a HOA lien foreclosure sale pursuant to NRS Chapter 116. Plaintiff alleges that the HOA lien foreclosure sale served to extinguish any and all deeds of trust previously secured by the property. Notwithstanding the extinguishment of the deed of trust, the applicable Defendants thereafter caused a foreclosure sale based upon the deed of trust to take place, purportedly divesting the Plaintiff of ownership of the property. Plaintiff contends that because the deed of trust was extinguished as a matter of law, the bank’s foreclosure sale and all transfers of the property that occurred thereafter were void and ineffective. As a result, Plaintiff asserts that it remains the owner of the property free and clear of any interests of the Defendants.

On August 9, 2016, Defendants, James Blaha and Noble Home Loans, Inc., filed a Motion for Summary Judgment, asserting that Plaintiff’s claims are barred by the statute of limitations of NRS 107.080(5)-(6). The remaining Defendants joined in said Motion. Plaintiff asserted the statute of limitations is inapplicable because the bank’s foreclosure sale was void and therefore could not have effected a valid change of title as a matter of law. To the extent that any statute of limitations is applicable, the proper statute of limitations is that of NRS 11.080, which specifically provides a party with a period of 5 years from the time that it last held possession in which to recover real property.

The Motion for Summary Judgment and Joinders were granted by the district court by way of Order dated November 28, 2016, with the district court finding that NRS 107.080(5)-(6) is applicable to this action and that the Plaintiff’s claims are therefore time-barred. This is the Order from which Plaintiff appeals.

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11. Indicate whether the case has previously been the subject of an appeal or an original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

N/A

12. Indicate whether this appeal involves child custody or visitation:

N/A

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

Plaintiff does not believe there is a significant possibility of settlement given the positions of the various parties and the current state of the law surrounding NRS Chapter 116.

DATED this 8th day of December, 2016.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Timothy E. Rhoda
ROGER P. CROTEAU, ESQ.
Nevada Bar No. 4958
TIMOTHY E. RHODA, ESQ.
Nevada Bar No. 7878
9120 West Post Road, Suite 100
Las Vegas, Nevada 89148
(702) 254-7775
Attorney for Plaintiff
LAS VEGAS DEVELOPMENT GROUP, LLC

CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of ROGER P. CROTEAU & ASSOCIATES, LTD. and that on the 8th day of December, 2016, I caused a true and correct copy of the foregoing document to be served on all parties as follows:

X VIA ELECTRONIC SERVICE: through the Eighth Judicial District Court's Odyssey e-file and serve system.

Akerman LLP	
Contact	Email
Akerman Las Vegas Office	akermanlas@akerman.com
Brienne Siriwan	brienne.siriwan@akerman.com
Darren T. Brenner, Esq.	darren.brenner@akerman.com
William S. Habdas, Esq.	William.Habdas@akerman.com

Kolesar and Leatham	
Contact	Email
Aaron R. Maurice	amaurice@klnevada.com
Brittany Wood	bwood@klnevada.com
Ryan T. Gormley, Esq.	rgormley@klnevada.com
Susan A. Owens	sowens@klnevada.com

Law Offices of Kevin R. Hansen	
Contact	Email
Amanda Harmon	amandah@kevinrhansen.com
Amy M. Wilson, Esq	amy@kevinrhansen.com
Kevin R. Hansen, Esq	kevin@kevinrhansen.com

____ VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on service list below in the United States mail at Las Vegas, Nevada.

____ VIA FACSIMILE: by causing a true copy thereof to be telecopied to the number indicated on the service list below.

____ VIA PERSONAL DELIVERY: by causing a true copy hereof to be hand delivered on this date to the addressee(s) at the address(es) set forth on the service list below.

/s/ Timothy E. Rhoda
An employee of ROGER P. CROTEAU & ASSOCIATES, LTD.