

ORIGINAL

REC'D & FILED

2017 JUN 15 AM 11:30

SUSAN A. BROWN

Electronically Filed
Jun 20 2017 03:00 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

TORY M. PANKOPF (SBN 7477)
TORY M. PANKOPF, LTD.
9450 Double R Boulevard, Suite B
Reno, Nevada 89521
tory@pankopfuslaw.com
Telephone: (775) 384-6956
Facsimile: (775) 384-6958
Attorney for the Estate and Petitioner

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE CARSON CITY

ESTATE OF THELMA AILENE SARGE and
ESTATE OF EDWIN JOHN SARGE,

Plaintiffs,

v.

QUALITY LOAN SERVICE CORPORATION
and DOES I – X, inclusive,

Defendant(s).

CASE NO: 16 RP 00009 1B
DEPT NO: I

Consolidated With Case Nos.:

16 PBT 00107 1B and
16 PBT 00108 1B

In the Matter of the Estate Of:

THELMA AILENE SARGE,

Decedent.

In The Matter Of The Estate Of:

EDWIN JOHN SARGE,

Decedent.

NOTICE OF APPEAL

PLEASE TAKE NOTICE that the Estates of Edwin John Sarge and Thelma Ailene Sarge

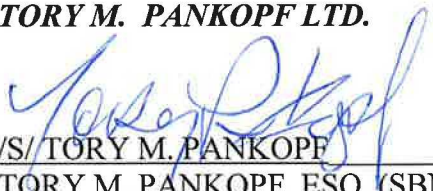
1 (“Executrix”), by and through her attorney, Tory M. Pankopf of the Law Offices of Tory M.
2 Pankopf, Ltd., appeal the order dismissing their complaint.

3
4 **AFFIRMATION Pursuant to NRS 239B.030**

5 The undersigned does hereby affirm that this document does not contain the social
6 security number of any person.

7 DATED: This 14th day of June, 2017.

8 ***TORY M. PANKOPF LTD.***

9
10
11 By: 
12 /S/ TORY M. PANKOPF
13 TORY M. PANKOPF, ESQ. (SBN 7477)
14 9450 Double R Blvd., Suite
15 Reno, NV 89521
16 *Attorney for the Estate and Petitioner*
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5, I hereby certify that on the 14th day of June, 2017, I mailed a true and correct copy of the following document(s):

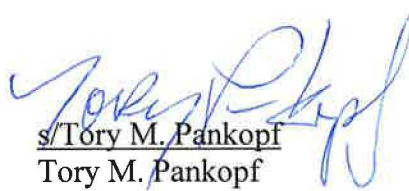
1. Notice of Appeal.

By depositing in the U.S. Mail, first class postage prepaid thereon, addressed to the following:

Quality Loan Services Corporation
c/o Kristion A. Schuler-Hintz, Esq.
MCCARTHY HOLTHUS LLP
9510 W Sahara Ave, Suite 200
Las Vegas, NV 89117
Fax (866) 339-5691
khintz@McCarthyHolthus.com

William A. Baker, Esq.
WALSH BAKER & ROSEVEAR
9468 Double R Bl., Ste A
Reno, NV 89521
Fax (775) 853-0860
wbaker@wbrl.net

DATED on this 14th day of June, 2017.


s/Tory M. Pankopf
Tory M. Pankopf

ORIGINAL

REC'D & FILED
2017 JUN 15 AM 11:31

SUSAN L. HARRIS
[Signature]

TORY M. PANKOPF (SBN 7477)
TORY M. PANKOPF, LTD.
9450 Double R Boulevard, Suite B
Reno, Nevada 89521
tory@pankopfuslaw.com
Telephone: (775) 384-6956
Facsimile: (775) 384-6958
Attorney for the Estate and Petitioner

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE CARSON CITY

ESTATE OF THELMA AILENE SARGE and
ESTATE OF EDWIN JOHN SARGE,

Plaintiffs,

v.

QUALITY LOAN SERVICE CORPORATION
and DOES I – X, inclusive,

Defendant(s).

CASE NO: 16 RP 00009 1B
DEPT NO: I

Consolidated With Case Nos.:

16 PBT 00107 1B and
16 PBT 00108 1B

In the Matter of the Estate Of:

THELMA AILENE SARGE,

Decedent.

In The Matter Of The Estate Of:

EDWIN JOHN SARGE,

Decedent.

CASE APPEAL STATEMENT

(1) The Estates of Edwin John Sarge and Thelma Ailene Sarge (collectively “Estates” or “Decedents”), by and through the proposed executrix, Jill Sarge (“Executrix”), by and through

1 her attorney, Tory M. Pankopf of the Law Offices of Tory M. Pankopf, Ltd. submit their case
2 appeal statement;

3 (2) Hon. JAMES T. RUSSELL entered the order being appealed;

4 (3) The name of each appellant and the name and address of counsel for each appellant
5 are:

6

7

8 Appellant: ESTATES OF EDWIN JOHN	Counsel for Appellants is:
9 SARGE AND THELMA AILENE SARGE,	Tory M. Pankopf (SBN 7477)
10 AND PROPOSED EXECUTRIX JILL	TORY M. PANKOPF LTD.
11 SARGE	9450 Double R Boulevard, Suite B
	Reno, Nevada 89521

12

(4) The name of each respondent and the name and address of appellate counsel is:

13 Respondent: QUALITY LOAN SERVICE	Counsel for Respondent are:
14 CORPORATION	Kristin A. Schuler-Hintz (SBN 7171)
	McCARTHY & HOLTHUS, LLP
	9510 W. Sahara, Suite 200
	Las Vegas, Nevada 89117
	(702) 685-0329
	Fax (866) 339-5691
	khintz@McCarthyHolthus.com

18

19 Respondent: ROSEHILL, LLC	Counsel for Respondent are:
20	William A. Baker, Esq.
21	WALSH BAKER & ROSEVEAR
22	9468 Double R Bl., Ste A
23	Reno, NV 89521
	Fax (775) 853-0860
	wbaker@wburl.net

24

25 (5) All attorneys listed above are licensed to practice law in Nevada;

26 (6) Appellants were represented by retained counsel in the district court;

27 (7) Appellants are represented by retained counsel on appeal;

28 (8) The district court did not grant Appellant leave to proceed in forma pauperis;

- 1 (9) The proceedings commenced in the district court on October 31, 2016;
- 2 (10) Appellants filed a complaint for violation of NRS 107.080 for failing to give the
- 3 required notices and respondents filed a motion to dismiss the complaint. The district court
- 4 granted their motion and issued an order dismissing the complaint.
- 5 (11) This case has not previously been subject of an appeal to or original writ proceeding
- 6 in the Supreme Court;
- 7 (12) The appeal does not involve child custody or visitation; and
- 8 (13) There is a possibility of settlement.
- 9

10 **AFFIRMATION Pursuant to NRS 239B.030**

11 The undersigned does hereby affirm that this document does not contain the social


12 security number of any person.

13 DATED: This 14th day of June, 2017.

14 ***TORY M. PANKOPF LTD.***

15

16

17 By:  /S/ TORY M. PANKOPF

18 TORY M. PANKOPF, ESQ. (SBN 7477)

19 9450 Double R Blvd., Suite

20 Reno, NV 89521

21 *Attorney for the Estate and Petitioner*

22

23

24

25

26

27

28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5, I hereby certify that on the 14th day of June, 2017, I mailed a true and correct copy of the following document(s):


1. Case Appeal Statement.

By depositing in the U.S. Mail, first class postage prepaid thereon, addressed to the following:

Quality Loan Services Corporation
c/o Kristion A. Schuler-Hintz, Esq.
MCCARTHY HOLTHUS LLP
9510 W Sahara Ave, Suite 200
Las Vegas, NV 89117
Fax (866) 339-5691
khintz@McCarthyHolthus.com

William A. Baker, Esq.
WALSH BAKER & ROSEVEAR
9468 Double R Bl., Ste A
Reno, NV 89521
Fax (775) 853-0860
wbaker@wbri.net

DATED on this 14th day of June, 2017.


s/Tory M. Pankopf
Tory M. Pankopf

Judge: RUSSELL, JUDGE JAMES
TODD

Case No. 16 RP 00009 1B

Ticket No.
CTN:

SARGE, THELMA AILENE

By:

QUALITY LOAN SERVICE DRSPND
CORPORATION

By: SCHULER-HINTZ, KRISTIN

9510 W. SAHARA, SUITE 110
LAS VEGAS, NV 89117Dob: Sex:
Lic: Sid:Plate#:
Make:
Year: Accident:
Type:
Venue:
Location:

SARGE, THELMA AILENE PLNTPET

Bond: Set:
Type: Posted:

Charges:

Ct. Offense Dt: Cvr:
Arrest Dt:
Comments:

Sentencing:


No.	Filed	Action	Operator	Fine/Cost	Due
1	06/15/17	RECEIPT	1BCGRIBBLE	0.00	0.00
2	06/15/17	APPEAL BOND DEPOSIT Receipt: 50106 Date: 06/15/2017	1BCGRIBBLE	500.00	0.00
3	06/15/17	CASE APPEAL STATEMENT	1BCGRIBBLE	0.00	0.00
4	06/15/17	NOTICE OF APPEAL FILED Receipt: 50106 Date: 06/15/2017	1BCGRIBBLE	24.00	0.00
5	06/12/17	NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS	1BCGRIBBLE	0.00	0.00
6	05/22/17	NOTICE OF ENTRY OF ORDER GRANTING MOTION TO DISMISS	1BCCOOPER	0.00	0.00
7	05/15/17	MOTION TO DISMISS BY DEFENDANT	1BCCOOPER	0.00	0.00
8	05/12/17	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
9	05/12/17	ORDER GRANTING MOTION TO DISMISS	1BCCOOPER	0.00	0.00
10	04/10/17	NOTICE OF CHANGE OF ADDRESS	1BVANESSA	0.00	0.00
11	04/10/17	CERTIFICATE OF SERVICE	1BVANESSA	0.00	0.00
12	04/10/17	OPPOSITION TO RULE 11 MOTION FOR SANCTIONS	1BVANESSA	0.00	0.00
13	03/28/17	MOTION FOR SANCTIONS	1BCCOOPER	0.00	0.00
14	03/10/17	HEARING HELD: The following event: MOTION HEARING - CIVIL scheduled for 03/10/2017 at 10:00 am has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BCFRANZ	0.00	0.00
15	03/02/17	CERTIFICATE OF MAILING	1BCCOOPER	0.00	0.00
16	02/28/17	DEFENDANT QULITY LOAN SERVICE CORPORATIONS OPPOSITION TO JILL ARGES MOTION TO INTERVENE	1BCCOOPER	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
17	02/23/17	OPPOSITION TO EX PARTE APPLICATION TO AMEND	1BVANESSA	0.00	0.00
18	02/23/17	MOTION TO DISMISS	1BVANESSA	0.00	0.00
19	02/23/17	TRIAL DATE MEMO	1BCCOOPER	0.00	0.00
20	02/08/17	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BVANESSA	0.00	0.00
21	02/08/17	ORDER DENYING REQUEST FOR SUBMISSION	1BVANESSA	0.00	0.00
22	02/07/17	NOTICE TO SET	1BCGRIBBLE	0.00	0.00
23	02/07/17	REQUEST FOR SUBMISSION MOTION TO DISMISS COMPLAINT	1BCGRIBBLE	0.00	0.00
24	02/07/17	REQUEST FOR HEARING ON MOTION TO DISMISS COMPLAINT	1BCGRIBBLE	0.00	0.00
25	02/07/17	REQUEST FOR SUBMISSION	1BCGRIBBLE	0.00	0.00
26	02/07/17	DECLARATION OF TORY M PANKOPF	1BCGRIBBLE	0.00	0.00
27	02/07/17	EX PARTE APPLICATION FOR DOE II, III, IV AMENDMENTS TO COMPLAINT	1BCGRIBBLE	0.00	0.00
28	02/07/17	MOTION TO INTERVENE	1BCGRIBBLE	0.00	0.00
29	01/09/17	DEFENDANT QUALITY LOAN SERVICE CORPORATION'S REPLY TO THE OPPOSITION TO THE MOTION TO DISMISS THE COMPLAINT AS WELL AS MOTION TO EXPUNGE LIS PENDENS	1BJULIEH	0.00	0.00
30	01/06/17	CERTIFICATE OF SERVICE	1BJULIEH	0.00	0.00
31	01/06/17	SUPPLEMENT TO DECLARATION OF JILL SARGE	1BJULIEH	0.00	0.00
32	01/06/17	SUPPLEMENT TO OPPOSITION TO MOTION TO DISMISS COMPLAINT	1BJULIEH	0.00	0.00
33	12/30/16	CERTIFICATE OF SERVICE	1BJULIEH	0.00	0.00
34	12/30/16	DECLARATION OF TORY M. PANKOPE	1BJULIEH	0.00	0.00
35	12/30/16	DECLARATION OF JILL A. SARGE	1BJULIEH	0.00	0.00
36	12/30/16	OPPOSITION TO MOTION TO DISMISS COMPLAINT	1BJULIEH	0.00	0.00
37	12/30/16	CORRECTION TO PARAGRAPH VIII OF PETITION TO SET ASIDE ESTATE WITHOUT ADMINISTRATION (2)	1BJULIEH	265.00	0.00
38	12/12/16	CERTIFICATE OF MAILING	1BJULIEH	0.00	0.00
39	12/06/16	ORDER TO CONSOLIDATE	1BJULIEH	0.00	0.00
40	12/06/16	ORDER CANCELLING NOTICES RECORDED AGAINST 1636 SONOMA STREET, CARSON CITY, NEVADA	1BJULIEH	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
41	12/05/16	HEARING HELD: The following event: MOTION HEARING - CIVIL scheduled for 12/05/2016 at 2:30 pm has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BCFRANZ	0.00	0.00
42	12/02/16	ORDER ON DOE 1 AMENDMENT	1BVANESSA	0.00	0.00
43	11/28/16	INITIAL APPEARANCE FEE DISCLOSURE	1BVANESSA	0.00	0.00
44	11/28/16	ANSWER - (QUALITY LOAN SERVICE CORPORATION) Receipt: 47182 Date: 11/28/2016	1BVANESSA	218.00	0.00
45	11/21/16	REQUEST FOR SUBMISSION	1BJULIEH	0.00	0.00
46	11/21/16	CERTIFICATE OF SERVICE	1BJULIEH	0.00	0.00
47	11/21/16	EX-PARTE APPLICATION FOR DOE 1 AMENDMENT TO COMPLAINT	1BJULIEH	0.00	0.00
48	11/18/16	TRIAL DATE MEMO	1BJULIEH	0.00	0.00
49	11/10/16	REQUEST FOR PLEADINGS AND NOTICE	1BCCOOPER	0.00	0.00
50	11/10/16	NOTICE TO SET HEARING ON MOTION TO EXPUNGE LIS PENDENS	1BCCOOPER	0.00	0.00
51	11/01/16	ISSUING SUMMONS	1BVANESSA	0.00	0.00
52	10/31/16	NOTICE OF PENDENCY OF ACTION	1BVANESSA	0.00	0.00
53	10/31/16	COMPLAINT FOR REENTRY	1BCCOOPER	265.00	0.00
Total:				1,272.00	0.00
Totals By: COST				772.00	0.00
HOLDING				500.00	0.00
INFORMATION				0.00	0.00
*** End of Report ***					

Kristin A. Schuler-Hintz, Esq., (NSB# 7171)
Thomas N. Beckom, Esq., (NSB#12554)
McCarthy & Holthus, LLP
9510 W. Sahara, Suite 200
Las Vegas, NV 89117
Phone (702) 685-0329
Fax (866) 339-5691
Attorneys for Defendant *Quality Loan Service Corporation*

REC'D & FILED
2017 MAY 12 PM 3:20

SUSAN MERRIWETHER
CLERK
BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR CARSON CITY

In the matter of the estate of:

THELMA AILENE SARGE,

Deceased.

Case No. 16RP000091B

Dept.: I

Order Granting Motion to Dismiss

ESTATE OF THELMA AILENE SARGE and
ESTATE OF EDWIN JOHN SARGE,

Plaintiffs,

v.

QUALITY LOAN SERVICE CORPORATION
and DOES I- X, inclusive,

Defendants.

Defendant Quality Loan Service Corporation's Motion to Dismiss and Defendant Rosehill, LLC's Motion to Dismiss having come on for hearing on the 10th day of March, 2017, in Department 1 of First Judicial District Court in and for Carson City, Defendant, Quality Loan Service Corporation appearing by and through its Counsel Kristin A. Schuler-Hintz, Esq., of McCarthy & Holthus, LLP., Defendant Rosehill, LLC., appearing by and through its counsel William A. Baker, Esq., of Walsh, Baker & Rosevear; and Plaintiffs' the Estates of Thelma and Edwin Sarge, appearing by and through its counsel Tory Pankopf, Esq., of Tory Pankopf, Ltd.

The Court having reviewed the papers and pleadings on file herein, and hearing the arguments of counsel and good cause appearing, finds as follows.

- 1 1. The Court finds that N.R.S. § 107.080(3) requires the Notice of Default and
2 Election to Sell to be recorded in the office of the County Recorder in which the
3 real property is located, and the Notice of Default at issue herein was recorded in
4 the official records of Carson City County..
- 5 2. The Court further finds, N.R.S. § 107.080(3) requires the Notice of Default and
6 Election to Sell be mailed by registered or certified mail, return receipt requested,
7 with postage prepaid to the grantor or, to the person who holds the title of record
8 on the date the notice of default and election to sell is recorded, . . . at their
9 respective addresses, if known, otherwise to the address of the trust property and
10 the Notice of Default and Election to Sell was mailed via registered or certified
11 mail, return receipt requested to the grantors of the deed of trust, to wit, Thelma
12 Ailene Sarge and Edwin John Sarge at the property address.
- 13 3. The Court further finds the Notice of Default and Election to Sell was mailed via
14 registered or certified mail, return receipt requested to the title holders based upon
15 the recorded Deed Upon Death, to wit, Jill Sarge, Jack Sarge, and Sharon Hesla,
16 at the address provided in the Dead Upon Death, and to the address of the real
17 property.
- 18 4. The Court further finds all required statutory notices of the Notice of Default and
19 Election to Sell were provided in accordance with NRS 107.080 et. seq.
- 20 5. The court further finds, NRS 107.080(4) requires that notice of any pending
21 foreclosure sale be given by providing the notice to each trustor, any other person
22 entitled to notice pursuant to this section, by personal service or by mailing the
23 notice by registered or certified mail to the last known address of the trustor and
24 any other person entitled to such notice pursuant to this section and the notice of
25 the pending foreclosure sale was mailed by registered or certified notice to the
26 grantors of the deed of trust, to wit, Thelma Ailene Sarge and Edwin John Sarge
27 at the property address which was their last known address.

28 ///

- 1 6. The Court further finds notice of the pending foreclosure sale was mailed by
2 registered or certified mail to the titleholders based upon the recorded Deed Upon
3 Death, to wit, Jill Sarge, Jack Sarge, and Sharon Hesla, at the address provided in
4 the Dead Upon Death, and to the address of the real property.
- 5 7. The Court further finds that all parties entitled to notice of the pending foreclosure
6 received notice via mail.
- 7 8. The Court further finds the Notice of Sale was posted pursuant to NRS §
8 107.080(4)(b) for 20 days successively, in a public place in the county where the
9 property is situated;
- 10 9. The Court further finds the Notice of Sale was published three times, once each
11 week for 3 consecutive weeks, in a newspaper of general circulation in the county
12 where the property is situated.
- 13 10. The Court further finds that pursuant to NRS 107.087 the Notice of Default and
14 Election to Sell, Notice of Sale, and Notice to Tenants were timely posted at the
15 subject property and mailed.
- 16 11. The Court further finds that no probate for the estate of either Thelma Airlene
17 Sarge or Edwin John Sarge was filed and no request for foreclosure notices was
18 made by either estate.
- 19 12. The Court further finds that none of the titleholders, based upon the Deed Upon
20 Death recorded a request for notice in the records of the County Recorder in
21 which the property was located.
- 22 13. The Court further finds based on the affidavits filed herein, and the arguments and
23 testimony in open Court that the subject real property was vacant and not
24 occupied by Trustors of the Deed of Trust, or the titleholders of the property
25 based upon the Dead Upon Death.
- 26 14. The Court further finds that *Rose v. First Fed. Sav. & Loan Ass'n* (1989) 105
27 Nev. 454, is not applicable to the instant action as the decision therein was based
28 on a previous version of NRS 107.080(3) which required that notices be mailed to

1 the grantor or *his successor in interest* and NRS 107.080(3) was amended
2 thereafter and now NRS 107.080(3) specifically provides that notices are to be
3 mailed to the *grantor or, to the person who holds title of record on the date the*
4 *notice of default and election to sell is recorded*, thereby removing any ambiguity
5 as to whom the Trustee is required to give notices to.

6 Accordingly it is hereby ORDERED, ADJUDGED AND DECREED that pursuant to
7 NRS 107.080(5) the Trustee actually and substantially complied with the provision of NRS
8 107.080 and NRS 170.087.

9 It is further ORDERED, ADJUDGED AND DECREED, that at the foreclosure sale,
10 Rosehill, LLC acquired title to the subject property and the grantor or its successor in interest
11 have no equity or right of redemption.

12 It is further ORDERED, ADJUDGED AND DECREED that the Motion to Dismiss
13 filed by Quality Loan Service Corporation is hereby granted in its entirety.

14 It is further ORDERED, ADJUDGED AND DECREED, that the Motion to Dismiss
15 filed by Rosehill, LLC., is hereby granted in its entirety.

16 IT IS SO ORDERED.

Dated: May 12, 2017

Jim T. Phuse
DISTRICT COURT JUDGE

17
18
19
20 Submitted by:
21 McCarthy & Holthus, LLP

22
23 By: Kristin A. Schuler-Hintz, Esq.
24 9510 W. Sahara Ave., Suite 200
25 Las Vegas, NV 89117
(702) 685-0329

Walsh, Baker & Rosevear

26 Submitted – no response received
27 By: James Walsh, Esq
28 9468 Double R Blvd., Suite A
Reno, NV 89521
(775) 853-0883

Approved as to Form by:
Tory Pankopf, Ltd

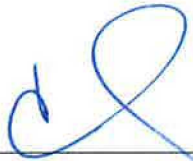
Submitted – no response received
By: Tory Pankopf, Esq.
9450 Double R. Blvd. Suite B
Reno, NV 89521
(775) 384-6956

AFFIRMATION

Pursuant to NRS 239B.030/603A.040

The undersigned does hereby affirm that the attached document entitled Order on Motion to Dismiss

Does NOT contain the personal information of any party



(Date)

4/24/17

Kristin A. Schuler-Hintz, Esq.

Kristin A. Schuler-Hintz, Esq., (NSB# 7171)
Thomas N. Beckom, Esq., (NSB#12554)
McCarthy & Holthus, LLP
9510 W. Sahara, Suite 200
Las Vegas, NV 89117
Phone (702) 685-0329
Fax (866) 339-5691
Attorneys for Defendant *Quality Loan Service Corporation*

REC'D & FILED

2017 JUN 12 AM 10:52

SUSAN MERRIWETHER
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR CARSON CITY

In the matter of the estate of:

THELMA AILENE SARGE,

Deceased.

ESTATE OF THELMA AILENE SARGE and
ESTATE OF EDWIN JOHN SARGE,

Plaintiffs,

v.

QUALITY LOAN SERVICE CORPORATION
and DOES I- X, inclusive,

Defendants.

Case No. 16RP000091B

Dept.: I

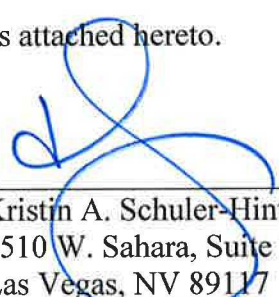
**NOTICE OF ENTRY OF ORDER
GRANTING MOTION TO DISMISS**

YOU AND ALL OF YOU PLEASE TAKE NOTICE that the following Notice of
Entry of Order Granting Motion to Dismiss was entered on May 12, 2017 for the above
matter.

A true and correct copy of said Order is attached hereto.

Dated: June 7, 2017.

By:



Kristin A. Schuler-Hintz, Esq.
9510 W. Sahara, Suite 200
Las Vegas, NV 89117
Quality Loan Service Corporation

1 **AFFIRMATION**

2 Pursuant to NRS 239B.030/603A.040

3 The undersigned does hereby affirm that the attached document entitled Notice of Entry of
4 Order on Motion to Dismiss

5 Does NOT contain the personal information of any party.

6
7 By:

8 
9 Kristin A. Schuler-Hintz, Esq.

10 **CERTIFICATE OF SERVICE**

11
12 On June 7, 2017, I served the foregoing documents described as **NOTICE OF ENTRY**
13 **OF ORDER GRANTING MOTION TO DISMISS** on the following individuals by
14 depositing true copies thereof in the United States mail at Las Vegas, Nevada, enclosed in a
15 sealed envelope, with postage paid, addressed as follows:

16 James Walsh, Esq.
17 9468 Double R. Blvd., Suite A.
18 Reno, NV 89521
19

20 **I declare under penalty of perjury under the laws of the United States of**
21 **America that the foregoing is true and correct.**

22 
23 An Employee of McCarthy & Holthus, LLP.
24
25
26
27
28

1 Kristin A. Schuler-Hintz, Esq., (NSB# 7171)
2 Thomas N. Beckom, Esq., (NSB#12554)
3 McCarthy & Holthus, LLP
4 9510 W. Sahara, Suite 200
5 Las Vegas, NV 89117
6 Phone (702) 685-0329
7 Fax (866) 339-5691
8 Attorneys for Defendant *Quality Loan Service Corporation*

REC'D & FILED
2017 MAY 12 PM 3:20
SUSAN MERRIWETHER
BY **C. GRIBBLE** CLERK
DEPUTY

9 **IN THE FIRST JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA**
10 **IN AND FOR CARSON CITY**

11 In the matter of the estate of:

12 THELMA AILENE SARGE,

13 Deceased.

14 ESTATE OF THELMA AILENE SARGE and
15 ESTATE OF EDWIN JOHN SARGE,

16 Plaintiffs,

17 v.

18 QUALITY LOAN SERVICE CORPORATION
19 and DOES I- X, inclusive,

20 Defendants.

Case No. 16RP000091B

Dept.: I

Order Granting Motion to Dismiss

21 Defendant Quality Loan Service Corporation's Motion to Dismiss and Defendant
22 Rosehill, LLC's Motion to Dismiss having come on for hearing on the 10th day of March,
23 2017, in Department 1 of First Judicial District Court in and for Carson City, Defendant,
24 Quality Loan Service Corporation appearing by and through its Counsel Kristin A. Schuler-
25 Hintz, Esq., of McCarthy & Holthus, LLP., Defendant Rosehill, LLC., appearing by and
26 through its counsel William A. Baker, Esq., of Walsh, Baker & Rosevear; and Plaintiffs' the
27 Estates of Thelma and Edwin Sarge, appearing by and through its counsel Tory Pankopf,
28 Esq., of Tory Pankopf, Ltd.

The Court having reviewed the papers and pleadings on file herein, and hearing the arguments of counsel and good cause appearing, finds as follows.

- 1 1. The Court finds that N.R.S. § 107.080(3) requires the Notice of Default and
2 Election to Sell to be recorded in the office of the County Recorder in which the
3 real property is located, and the Notice of Default at issue herein was recorded in
4 the official records of Carson City County..
- 5 2. The Court further finds, N.R.S. § 107.080(3) requires the Notice of Default and
6 Election to Sell be mailed by registered or certified mail, return receipt requested,
7 with postage prepaid to the grantor or, to the person who holds the title of record
8 on the date the notice of default and election to sell is recorded, . . . at their
9 respective addresses, if known, otherwise to the address of the trust property and
10 the Notice of Default and Election to Sell was mailed via registered or certified
11 mail, return receipt requested to the grantors of the deed of trust, to wit, Thelma
12 Ailene Sarge and Edwin John Sarge at the property address.
- 13 3. The Court further finds the Notice of Default and Election to Sell was mailed via
14 registered or certified mail, return receipt requested to the title holders based upon
15 the recorded Deed Upon Death, to wit, Jill Sarge, Jack Sarge, and Sharon Hesla,
16 at the address provided in the Dead Upon Death, and to the address of the real
17 property.
- 18 4. The Court further finds all required statutory notices of the Notice of Default and
19 Election to Sell were provided in accordance with NRS 107.080 et. seq.
- 20 5. The court further finds, NRS 107.080(4) requires that notice of any pending
21 foreclosure sale be given by providing the notice to each trustor, any other person
22 entitled to notice pursuant to this section, by personal service or by mailing the
23 notice by registered or certified mail to the last known address of the trustor and
24 any other person entitled to such notice pursuant to this section and the notice of
25 the pending foreclosure sale was mailed by registered or certified notice to the
26 grantors of the deed of trust, to wit, Thelma Ailene Sarge and Edwin John Sarge
27 at the property address which was their last known address.

28 ///

- 1 6. The Court further finds notice of the pending foreclosure sale was mailed by
2 registered or certified mail to the titleholders based upon the recorded Deed Upon
3 Death, to wit, Jill Sarge, Jack Sarge, and Sharon Hesla, at the address provided in
4 the Dead Upon Death, and to the address of the real property.
- 5 7. The Court further finds that all parties entitled to notice of the pending foreclosure
6 received notice via mail.
- 7 8. The Court further finds the Notice of Sale was posted pursuant to NRS §
8 107.080(4)(b) for 20 days successively, in a public place in the county where the
9 property is situated;
- 10 9. The Court further finds the Notice of Sale was published three times, once each
11 week for 3 consecutive weeks, in a newspaper of general circulation in the county
12 where the property is situated.
- 13 10. The Court further finds that pursuant to NRS 107.087 the Notice of Default and
14 Election to Sell, Notice of Sale, and Notice to Tenants were timely posted at the
15 subject property and mailed.
- 16 11. The Court further finds that no probate for the estate of either Thelma Airlene
17 Sarge or Edwin John Sarge was filed and no request for foreclosure notices was
18 made by either estate.
- 19 12. The Court further finds that none of the titleholders, based upon the Deed Upon
20 Death recorded a request for notice in the records of the County Recorder in
21 which the property was located.
- 22 13. The Court further finds based on the affidavits filed herein, and the arguments and
23 testimony in open Court that the subject real property was vacant and not
24 occupied by Trustors of the Deed of Trust, or the titleholders of the property
25 based upon the Dead Upon Death.
- 26 14. The Court further finds that *Rose v. First Fed. Sav. & Loan Ass'n* (1989) 105
27 Nev. 454, is not applicable to the instant action as the decision therein was based
28 on a previous version of NRS 107.080(3) which required that notices be mailed to

1 the grantor or *his successor in interest* and NRS 107.080(3) was amended
2 thereafter and now NRS 107.080(3) specifically provides that notices are to be
3 mailed to the *grantor or, to the person who holds title of record on the date the*
4 *notice of default and election to sell is recorded*, thereby removing any ambiguity
5 as to whom the Trustee is required to give notices to.

6 Accordingly it is hereby ORDERED, ADJUDGED AND DECREED that pursuant to
7 NRS 107.080(5) the Trustee actually and substantially complied with the provision of NRS
8 107.080 and NRS 170.087.

9 It is further ORDERED, ADJUDGED AND DECREED, that at the foreclosure sale,
10 Rosehill, LLC acquired title to the subject property and the grantor or its successor in interest
11 have no equity or right of redemption.


12 It is further ORDERED, ADJUDGED AND DECREED that the Motion to Dismiss
13 filed by Quality Loan Service Corporation is hereby granted in its entirety.

14 It is further ORDERED, ADJUDGED AND DECREED, that the Motion to Dismiss
15 filed by Rosehill, LLC., is hereby granted in its entirety.

16 IT IS SO ORDERED. *Dated: May 12, 2017*

17 
18 _____
19 DISTRICT COURT JUDGE

20 Submitted by:
21 McCarthy & Holthus, LLP

22 
23 By: Kristin A. Schuler-Hintz, Esq.
24 9510 W. Sahara Ave., Suite 200
25 Las Vegas, NV 89117
(702) 685-0329

26 Walsh, Baker & Rosevear

27 Submitted – no response received
28 By: James Walsh, Esq.
9468 Double R Blvd., Suite A
Reno, NV 89521
(775) 853-0883

Approved as to Form by:
Tory Pankopf, Ltd

Submitted – no response received
By: Tory Pankopf, Esq.
9450 Double R. Blvd. Suite B
Reno, NV 89521
(775) 384-6956

AFFIRMATION

Pursuant to NRS 239B.030/603A.040

The undersigned does hereby affirm that the attached document entitled Order on Motion to Dismiss

Does NOT contain the personal information of any party

 (Date) 4/24/17
Kristin A. Schuler-Hintz, Esq.

ORIGINAL

Kristin A. Schuler-Hintz, Esq., (NSB# 7171)
Thomas N. Beckom, Esq., (NSB#12554)
McCarthy & Holthus, LLP
9510 W. Sahara, Suite 200
Las Vegas, NV 89117
Phone (702) 685-0329
Fax (866) 339-5691
Attorneys for Defendant *Quality Loan Service Corporation*

REC'D & FILED

2017 MAY 22 PM 4:23

SUSAN HEARWETHER
CLERK

BY  DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR CARSON CITY

In the matter of the estate of:

THELMA AILENE SARGE,

Deceased.

Case No. 16RP000091B

Dept.: I

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION TO DISMISS**

ESTATE OF THELMA AILENE SARGE and
ESTATE OF EDWIN JOHN SARGE,

Plaintiffs,

v.

QUALITY LOAN SERVICE CORPORATION
and DOES I- X, inclusive,

Defendants.

YOU AND ALL OF YOU PLEASE TAKE NOTICE that the following Notice of
Entry of Order Granting Motion to Dismiss was entered on May 12, 2017 for the above
matter.

A true and correct copy of said Order is attached hereto.

Dated: May 17, 2017.

By:


Kristin A. Schuler-Hintz, Esq.
9510 W. Sahara, Suite 200
Las Vegas, NV 89117
Quality Loan Service Corporation

1 **AFFIRMATION**

2 Pursuant to NRS 239B.030/603A.040

3 The undersigned does hereby affirm that the attached document entitled Notice of Entry of
4 Order on Motion to Dismiss

5 Does NOT contain the personal information of any party.

6
7 By:

8 
9 Kristin A. Schuler-Hintz, Esq.

10 **CERTIFICATE OF SERVICE**

11
12 On May 18, 2017, I served the foregoing documents described as **NOTICE OF ENTRY**
13 **OF ORDER GRANTING MOTION TO DISMISS** on the following individuals by
14 depositing true copies thereof in the United States mail at Las Vegas, Nevada, enclosed in a
15 sealed envelope, with postage paid, addressed as follows:

16 Tory M. Pankopf
17 TM PANKOPF, PLLC.
18 9460 Double R. Blvd. Suite 104
19 Reno, NV 89521
20 Attorney for the Estate and Petitioner

21 **I declare under penalty of perjury under the laws of the United States of**
22 **America that the foregoing is true and correct.**

23 
24 _____
25 An Employee of McCarthy & Holthus, LLP.

Kristin A. Schuler-Hintz, Esq., (NSB# 7171)
Thomas N. Beckom, Esq., (NSB#12554)
McCarthy & Holthus, LLP
9510 W. Sahara, Suite 200
Las Vegas, NV 89117
Phone (702) 685-0329
Fax (866) 339-5691
Attorneys for Defendant *Quality Loan Service Corporation*

REC'D & FILED
2017 MAY 12 PM 3:20

SUSAN HERRIWETHER
C. CRIBBLE
BY _____ DEPUTY

**IN THE FIRST JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA
IN AND FOR CARSON CITY**

In the matter of the estate of:

THELMA AILENE SARGE,

Deceased.

ESTATE OF THELMA AILENE SARGE and
ESTATE OF EDWIN JOHN SARGE,

Plaintiffs,

v.

QUALITY LOAN SERVICE CORPORATION
and DOES I- X, inclusive,

Defendants.

Case No. 16RP000091B

Dept.: I

Order Granting Motion to Dismiss

S/S

Received in office by:

MAY 17 2017

McCarthy & Holthus LLP

Defendant Quality Loan Service Corporation's Motion to Dismiss and Defendant Rosehill, LLC's Motion to Dismiss having come on for hearing on the 10th day of March, 2017, in Department 1 of First Judicial District Court in and for Carson City, Defendant, Quality Loan Service Corporation appearing by and through its Counsel Kristin A. Schuler-Hintz, Esq., of McCarthy & Holthus, LLP., Defendant Rosehill, LLC., appearing by and through its counsel William A. Baker, Esq., of Walsh, Baker & Rosevear; and Plaintiffs' the Estates of Thelma and Edwin Sarge, appearing by and through its counsel Tory Pankopf, Esq., of Tory Pankopf, Ltd.

The Court having reviewed the papers and pleadings on file herein, and hearing the arguments of counsel and good cause appearing, finds as follows.

- 1 1. The Court finds that N.R.S. § 107.080(3) requires the Notice of Default and
2 Election to Sell to be recorded in the office of the County Recorder in which the
3 real property is located, and the Notice of Default at issue herein was recorded in
4 the official records of Carson City County..
- 5 2. The Court further finds, N.R.S. § 107.080(3) requires the Notice of Default and
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- 20 5. The court further finds, NRS 107.080(4) requires that notice of any pending
21 foreclosure sale be given by providing the notice to each trustor, any other person
22 entitled to notice pursuant to this section, by personal service or by mailing the
23 notice by registered or certified mail to the last known address of the trustor and
24 any other person entitled to such notice pursuant to this section and the notice of
25 the pending foreclosure sale was mailed by registered or certified notice to the
26 grantors of the deed of trust, to wit, Thelma Ailene Sarge and Edwin John Sarge
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- 10 9. The Court further finds the Notice of Sale was published three times, once each
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3 mailed to the *grantor or, to the person who holds title of record on the date the*
4 *notice of default and election to sell is recorded*, thereby removing any ambiguity
5 as to whom the Trustee is required to give notices to.

6 Accordingly it is hereby ORDERED, ADJUDGED AND DECREED that pursuant to
7 NRS 107.080(5) the Trustee actually and substantially complied with the provision of NRS
8 107.080 and NRS 170.087.

9 It is further ORDERED, ADJUDGED AND DECREED, that at the foreclosure sale,
10 Rosehill, LLC acquired title to the subject property and the grantor or its successor in interest
11 have no equity or right of redemption.


12 It is further ORDERED, ADJUDGED AND DECREED that the Motion to Dismiss
13 filed by Quality Loan Service Corporation is hereby granted in its entirety.

14 It is further ORDERED, ADJUDGED AND DECREED, that the Motion to Dismiss
15 filed by Rosehill, LLC., is hereby granted in its entirety.

16 IT IS SO ORDERED. *Dated: May 12, 2017*

17 
18 _____
19 DISTRICT COURT JUDGE

20 Submitted by:
21 McCarthy & Holthus, LLP

22 
23 By: Kristin A. Schuler-Hintz, Esq.
24 9510 W. Sahara Ave., Suite 200
25 Las Vegas, NV 89117
(702) 685-0329

26 Walsh, Baker & Rosevear

27 Submitted – no response received
28 By: James Walsh, Esq
9468 Double R Blvd., Suite A
Reno, NV 89521
(775) 853-0883

Approved as to Form by:
Tory Pankopf, Ltd

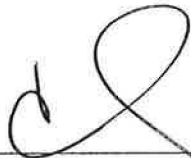
Submitted – no response received
By: Tory Pankopf, Esq.
9450 Double R. Blvd. Suite B
Reno, NV 89521
(775) 384-6956

AFFIRMATION

Pursuant to NRS 239B.030/603A.040

The undersigned does hereby affirm that the attached document entitled Order on Motion to Dismiss

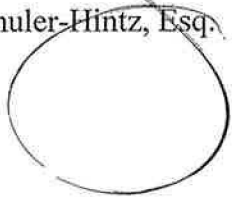
Does NOT contain the personal information of any party



(Date)

4/24/17

Kristin A. Schuler-Hintz, Esq.



DISTRICT COURT CIVIL COVER SHEET

Carson City County, Nevada

Case No. 16-880007-18
(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

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

Estate of Thelma Ailene Sarge

Estate of Edwin John Sarge

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

Quality Loan Service Corporation

411 Ivy Street

San Diego, CA 92101

619-645-7711

Attorney (name/address/phone):

Tory M. Pankopf, Esq.

Law Offices of T M Pankopf PLLC

9460 Double R Bl., #104

Reno, Nevada 89521 775-384-6956

Attorney (name/address/phone):

Unknown

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

<p style="text-align: center;">Real Property</p> <p>Landlord/Tenant</p> <p><input type="checkbox"/> Unlawful Detainer</p> <p><input type="checkbox"/> Other Landlord/Tenant</p> <p>Title to Property</p> <p><input type="checkbox"/> Judicial Foreclosure</p> <p><input checked="" type="checkbox"/> Other Title to Property</p> <p>Other Real Property</p> <p><input type="checkbox"/> Condemnation/Eminent Domain</p> <p><input type="checkbox"/> Other Real Property</p>	<p style="text-align: center;">Negligence</p> <p><input type="checkbox"/> Auto</p> <p><input type="checkbox"/> Premises Liability</p> <p><input type="checkbox"/> Other Negligence</p> <p style="text-align: center;">Malpractice</p> <p><input type="checkbox"/> Medical/Dental</p> <p><input type="checkbox"/> Legal</p> <p><input type="checkbox"/> Accounting</p> <p><input type="checkbox"/> Other Malpractice</p>	<p style="text-align: center;">Torts</p> <p>Other Torts</p> <p><input type="checkbox"/> Product Liability</p> <p><input type="checkbox"/> Intentional Misconduct</p> <p><input type="checkbox"/> Employment Tort</p> <p><input type="checkbox"/> Insurance Tort</p> <p><input type="checkbox"/> Other Tort</p>
<p style="text-align: center;">Probate</p> <p>Probate (select case type and estate value)</p> <p><input type="checkbox"/> Summary Administration</p> <p><input type="checkbox"/> General Administration</p> <p><input type="checkbox"/> Special Administration</p> <p><input type="checkbox"/> Set Aside</p> <p><input type="checkbox"/> Trust/Conservatorship</p> <p><input type="checkbox"/> Other Probate</p> <p>Estate Value</p> <p><input type="checkbox"/> Over \$200,000</p> <p><input type="checkbox"/> Between \$100,000 and \$200,000</p> <p><input type="checkbox"/> Under \$100,000 or Unknown</p> <p><input type="checkbox"/> Under \$2,500</p>	<p style="text-align: center;">Construction Defect & Contract</p> <p>Construction Defect</p> <p><input type="checkbox"/> Chapter 40</p> <p><input type="checkbox"/> Other Construction Defect</p> <p style="text-align: center;">Contract Case</p> <p><input type="checkbox"/> Uniform Commercial Code</p> <p><input type="checkbox"/> Building and Construction</p> <p><input type="checkbox"/> Insurance Carrier</p> <p><input type="checkbox"/> Commercial Instrument</p> <p><input type="checkbox"/> Collection of Accounts</p> <p><input type="checkbox"/> Employment Contract</p> <p><input type="checkbox"/> Other Contract</p>	<p style="text-align: center;">Judicial Review/Appeal</p> <p>Judicial Review</p> <p><input type="checkbox"/> Foreclosure Mediation Case</p> <p><input type="checkbox"/> Petition to Seal Records</p> <p><input type="checkbox"/> Mental Competency</p> <p style="text-align: center;">Nevada State Agency Appeal</p> <p><input type="checkbox"/> Department of Motor Vehicle</p> <p><input type="checkbox"/> Worker's Compensation</p> <p><input type="checkbox"/> Other Nevada State Agency</p> <p style="text-align: center;">Appeal Other</p> <p><input type="checkbox"/> Appeal from Lower Court</p> <p><input type="checkbox"/> Other Judicial Review/Appeal</p>
<p style="text-align: center;">Civil Writ</p> <p>Civil Writ</p> <p><input type="checkbox"/> Writ of Habeas Corpus</p> <p><input type="checkbox"/> Writ of Mandamus</p> <p><input type="checkbox"/> Writ of Quo Warrant</p> <p><input type="checkbox"/> Writ of Prohibition</p> <p><input type="checkbox"/> Other Civil Writ</p>		<p style="text-align: center;">Other Civil Filing</p> <p>Other Civil Filing</p> <p><input type="checkbox"/> Compromise of Minor's Claim</p> <p><input type="checkbox"/> Foreign Judgment</p> <p><input type="checkbox"/> Other Civil Matters</p>

Business Court filings should be filed using the Business Court civil coversheet.

10/27/2016

Date

Signature of initiating party or representative

See other side for family-related case filings.