

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

In the Matter of the Estates of Thelma Ailene Sarge
and Edwin John Sarge.

ESTATE OF THELMA AILENE SARGE;
ESTATE OF EDWIN JOHN SARGE; AND BY AND
THROUGH THE PROPOSED EXECUTRIX, JILL
SARGE,
Appellants,
vs.
QUALITY LOAN SERVICE CORPORATION; AND
ROSE HILL, LLC,
Respondents.

No. 73286

Electronically Filed
Aug 08 2017 08:08 a.m.

DOCKETING Elizabeth A. Brown
CIVIL APPEALS Clerk of Supreme Court

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

1. Judicial District FIRST Department I
County CARSON CITY Judge JAMES T. RUSSELL
District Ct. Case No. 16 RP 00009 1B

2. Attorney filing this docketing statement:

Attorney TORY M. PANKOPF Telephone (775) 384-6956
Firm TORY M. PANKOPF LTD.
Address 9450 DOUBLE R BL STE B
RENO, NV 89521

Client(s) ESTATES OF THELMA A SARGE and EDWIN J SARGE; JILL SARGE

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 KRISTIN A. SCHULER-HINTZ Telephone (702) 685-0326
Firm MCCARTHY & HOLTHUS LLP
Address 9510 W SAHARA STE 200
LAS VEGAS, NV 89117

Client(s) QUALITY LOAN SERVICE CORP ("QLSC")

Attorney WILLIAM A. BAKER Telephone (775) 685-0329
Firm WALSH BAKER & ROSEVEAR
Address 9468 DOUBLE R BL STE A
RENO, NV 89521

Client(s) ROSEHILL, LLC

(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 checked="" 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 checked="" type="checkbox"/> Other (specify): <u>MOTION TO DISMISS</u> |
| <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 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:

N/A

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:

N/A

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

Action for violation of NRS 107.080 where Respondent QLSC failed to give the required notice to the Estates or the heirs to the Estates prior to conducting foreclosure sale.

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

Did the trustee of the deed of trust have to give notice to the Estates and the heirs where it had constructive knowledge given the servicer/beneficiary of the deed of trust had been sending correspondence to the estates at the home address of an heir, Jill Sarge?

Does the NRS require heirs to an estate to record a notice in the county where the real property is situated to impart notice to a trustee and beneficiary of their interest claimed in it?

Whether the holding in "Rose v. First Fed. Sav. & Loan Ass'n (1989) 105 Nev. 454" re the notice requirements of NRS 107.080 is no longer applicable given amendments made to the statute since the case had been decided?

Whether NRS 111.699 requires an affidavit of death and death certificate to be recorded in the county where the real property is situated in order to effectuate a transfer of the title to the beneficiaries of a recorded deed upon death?

Whether the district court erred ordering the notice of pendency of action canceled and expunged where NRS 107.080 explicitly requires a plaintiff to timely file a notice of pendency of action when filing an action for failing to give the required notices proscribed in the statute?

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:

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?

☐ N/A

☐ Yes

☒ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☒ 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: Rose v. First Fed. Sav. & Loan Ass'n (1989) 105 Nev. 454; District Court explicitly stated the case was no longer applicable to the notice of requirements of NRS 107.080 given the amendments to the statute following the decision.

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:

Assigned to the Court of Appeals.

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

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.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from May 12, 2017

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 May 18, 2017

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)

(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 Jun 15, 2017

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)

- | | |
|---------------------------------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:
Respondent's filed motion to dismiss case and court entered order dismissing case without leave to amend.

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

(a) Parties:

Appellants: Estates of Thelma A. Sarge and Edwin J Sarge; Jill Sarge.

Respondents: QLSC and Rosehill.

(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:

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.

Appellants: Foreclosed without giving required notice.

QLSC: Asserts it was not required to serve estates or heirs because a notice had not been recorded in the county. Asserts the estates were no longer on title given a deed upon death had been recorded.

Rosehill: Asserts the real property was purchased at a valid foreclosure sale.

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:

(b) Specify the parties remaining below:

(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)):

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.

Jill Sarge et. al.
Name of appellant

Tory M. Pankopf
Name of counsel of record

8/4/2017
Date

s/Tory M. Pankopf
Signature of counsel of record

Washoe, NV
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 4th day of August, 2017, 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.)

Kristin A. Schuler-Hintz
McCarthy & Holthus LLP
9510 W Sahara Ste 200
Las Vegas, NV 89117

William A. Baker
Walsh Baker & Rsoevear
9468 Double R Bl Ste A
Reno, NV 89521

Janet L. Chubb
Settlement Judge
Kaempfer Crowell
50 W Liberty St Ste 700
Reno, NV 89501

Dated this 7th day of August, 2017

s/Tory M. Pankopf
Signature

1 TORY M. PANKOPF (SBN 7477)
2 **T M PANKOPF, PLLC**
3 9460 Double R Boulevard, Suite 104
4 Reno, Nevada 89521
5 Telephone: (775) 384-6956
6 Facsimile: (775) 384-6958
7 Attorney for the Estate and Petitioner

REC'D & FILED
2016 OCT 31 AM 11:09
SUSAN HERMETHEN
CLERK
BY G. J. JONES DEPUTY

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

10 In the matter of the estate of:

11 THELMA AILENE SARGE,
12
13 Deceased.

CASE NO: 16-21-000918
DEPT NO: F

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

17 Plaintiffs,

18 v.

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

21 Defendant(s).

22 **COMPLAINT FOR REENTRY**

23 COMES NOW plaintiffs, Estates of Thelma Ailene Sarge and Edwin John Sarge, by and
24 through the proposed executor, Jill Sarge, by and through her attorney, Tory M. Pankopf, of the
25 Law Offices of T M Pankopf PLLC, alleges and complain against defendants, QUALITY
26 LOAN SERVICE CORPORATION, and Does 1-10 Inclusive (collectively "Defendants") as
27 follows:
28

469424

PARTIES

1. A petition to set aside the estate of Plaintiff, Estate of Thelma Ailene Sarge ("Estate" or "Plaintiff"), has been filed on its behalf by the proposed executor of the Estate, Jill Sarge, in Carson City, Nevada.

2. A petition to set aside the estate of Plaintiff, Estate of Edwin John Sarge ("Estate" or "Plaintiff"), has been filed on its behalf by the proposed executor of the Estate, Jill Sarge, in Carson City, Nevada.

3. Defendant, Quality Loan Service Corporation ("Quality" or "Defendant"), is a California Corporation doing business in the City of Carson, Nevada.

4. Plaintiffs are informed and believe, and upon such information and belief allege, that each Defendant designated herein as fictitiously named DOES I through X, inclusive, claims and interest in, occupies or utilizes the real property described herein, claims to be the landlord, or is responsible in some manner for the events and happenings herein referred to and causes damage proximately hereby to Plaintiff as hereafter alleged. When the true names of Defendants are discovered, Plaintiff will seek leave to amend this Counterclaim and proceedings herein to substitute the true names of Defendants. Plaintiff believes each Defendant designated herein as DOE claim an interest in the Property adverse to Plaintiff.

5. Plaintiff is informed and believes and thereon allege that at all times herein mentioned each Defendant was the agent, employee, joint venture or partner with each of the remaining Defendants and was at all times herein mentioned acting within the course and scope of their employment relationship and/or in the course and scope of their agency, joint venture or partner relationship with each of the other.

CAUSE OF ACTION

(Violation of NRS 107.080)

6. At the time of the deaths of the decedents each of them were the legal owners of real property situated in Carson City, Nevada, and described as:

1
2 All that certain real property situated in the Carson City, State of Nevada,
3 described as follows:

4 That portion of the Northwest 1/4 of the Northwest 1/4 of Section 28,
5 Township 15 North, Range 20 East, M.D.B.&M., further described as
6 follows:

7 Parcel 86 as shown of the Parcel Map for M. G. Stafford, Inc., filed for
8 record in the office of the Recorder of Carson City, Nevada, on August 22,
9 1989, in Book 6, page 1714, as Document No. 89571.

10 APN 010-513-07

11 1636 Sonoma Street, Carson City, Nevada.

12 ("Property")

13 7. The Property is an asset of their estates.

14 8. On or about October 13, 2016, Quality foreclosed on the Property.

15 9. Quality and Does I - X had a duty mandated by NRS 107.080 to provide the notice of
16 default and election to sell ("NOD") and the notice of sale ("NOS") to the Estates.

17 10. Quality was notified for the Estates prior to the foreclosure sale that the Estates had not
18 been served with the NOD and NOS, and that Quality had a duty to serve the NOD and NOS on
19 the Estates prior to foreclosing on the Property.

20 11. Quality's advised Estates it did not have to provide notice to the Estates and the
21 foreclosure sale would proceed as scheduled.

22 12. As a direct and proximate cause of Quality's violation of NRS 107.080, the Estates have
23 been damaged.

24
25 **PRAYER FOR RELIEF**

26 WHEREFORE, Estates pray for judgment as follows:

27 1. Judgment against Quality Loan Services Corporation and Does I - X;

2. An order declaring the foreclosure sale void to restore title in the Property to Estates;
3. Mandatory statutory damages in the amount of \$5000 for each Estate or treble the amount of actual damages, whichever is greater;
4. An injunction enjoining the beneficiary, its agents or successors in interest from executing the power of sale under the deed of trust until it complies with section 2, 3, or 4 of Section 107.080;
5. Reasonable Attorney fees and costs pursuant to statute; and
6. For any other relief the Court deems proper.

AFFIRMATION Pursuant to NRS 239B.030

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

DATED: This 26th day of October, 2016.

T M PANKOPF PLLC

By:



/S/ TORY M. PANKOPF
TORY M. PANKOPF, ESQ. (SBN 7477)
9460 Double R Blvd., Suite 104
Reno, NV 89521
Attorney for the Estate and Petitioner

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

Date

October 2, 2011

Susan Merriwether, City Clerk and Clerk of the First Judicial District Court of the State of Nevada, in and for Carson City.

By

Deputy

Per NRS 239, Sec. 6 the SSN may be redacted, but in no way affects the legality of the document.

469424

REC'D & FILED

2016 NOV 21 AM 11:36

SUSAN MORRISON
CLERK

BY: _____
DEPUTY

TORY M. PANKOPF (SBN 7477)
T M PANKOPF, PLLC
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Reno, Nevada 89521
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

In the matter of the estate of:

THELMA AILENE SARGE,

Deceased.

LEAD CASE NO: 16 PBT 00107 1B
DEPT NO: II

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

EX PARTE APPLICATION
FOR DOE 1 AMENDMENT TO COMPLAINT

Estates of Thelma Ailene Sarge and Edwin John Sarge (“Estates” or “Plaintiffs”), by and through their proposed executor, Jill Sarge, by and through her attorney, Tory M. Pankopf move this court ex parte for an order to amend the complaint to include Rosehill, LLC, as DOE I defendant.

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”

APN# : 010-513-07

Recording Requested By:

Western Title Company, Inc.

Escrow No.: 084561-DJA

When Recorded Mail To:

Rosehill, LLC

6770 S. McCarran Blvd. #202

Reno, Nv. 89509

RECORDED AT THE REQUEST OF
ETRCO, LLC

11/02/2016 02:03PM

FILE NO.469496

SUSAN MERRIWETHER
CARSON CITY RECORDER
FEE \$16.00 DEP RMH

Mail Tax Statements to: (deeds only)

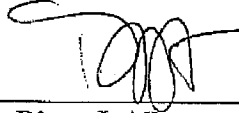
same as above

(space above for Recorder's use only)

I the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording does not contain the social security number of any person or persons.

(Per NRS 239B.030)

Signature



Diane J. Allen

Escrow Officer

This document is being
recorded as an
accommodation only.

Trustee's Deed Upon Sale

This page added to provide additional information required by NRS 111.312
(additional recording fee applies)

469496

APN No.: 010-513-07
Recording Requested by:

When Recorded Mail to:

Rosehill, LLC
6770 S. Mccarran Blvd. #202
Reno, NV 89509

Forward tax statements to the address given above

TS No.: NV-15-679709-HL
Order No.: 733-1501111-70

Space above this line for recorders use only

It is hereby affirmed that this document submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030).

Trustee's Deed Upon Sale

Transfer Tax:

The undersigned grantor declares:

The grantee herein WASN'T the foreclosing beneficiary.

The amount of the unpaid debt together with costs was: \$316,960.37

The amount paid by the grantee at the trustee sale was: \$255,100.00

The documentary transfer tax is: \$494.45

Said property is in the City of: **CARSON CITY**, County of **CARSON CITY**

QUALITY LOAN SERVICE CORPORATION, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby **GRANT** and **CONVEY** to

Rosehill, LLC

(herein called Grantee) but without covenant or warranty, expressed or implied, all right title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of **CARSON CITY**, State of Nevada, described as follows:

That portion of the Northwest 1/4 of the Northwest 1/4 of Section 28, Township 15 North, Range 20 East, M.D.B. & M., further described as follows: Parcel 86 as shown on the parcel map for M.G. Stafford, Inc., filed for record in the Office of the Recorder of Carson City, Nevada on August 22, 1989, Book 6, Page 1714, as Document No. 89571.

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by **Edwin J. Sarge and Thelma A. Sarge, Trustees of the Sarge Trust dated March 28, 1988**, as trustor, dated 3/4/2006, and recorded on 4/26/2006 as Instrument No. 352840 of Official Records in the office of the Recorder of **CARSON CITY**, Nevada, under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed trustee, default having occurred under the Deed of Trust pursuant to the Notice of Breach and Election to Sell under the Deed of Trust recorded on 9/3/2015, instrument no 457307, Book, Page, of Official

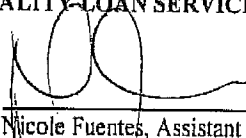
records. The Trustee of record at the relevant time having complied with all applicable statutory requirements of the State of Nevada and performed all duties required by the Deed of Trust including sending a Notice of Default and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified mail, postage pre-paid to each person entitled to notice in compliance with Nevada Revised Statute 107.090.

All requirements per Nevada Statutes regarding the mailing, personal delivery and publication of copies of Notice of Breach and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in Exercise of its powers under said Deed of Trust sold said real property at public auction on 10/13/2016. Grantee, being the highest bidder at said sale became the purchaser of said property for the amount bid, being \$255,100.00, in lawful money of the United States, in pro per, receipt thereof is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

QUALITY MAY BE CONSIDERED A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

TS No.: NV-15-679709-HL

Date: 10/21/2016 QUALITY-LOAN SERVICE CORPORATION

By:  Nicole Fuentes, Assistant Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of: California

County of: San Diego

On OCT 21 2016 before me, Brenda A. Gonzalez a notary public, personally appeared Nicole Fuentes, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under *PENALTY OF PERJURY* under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Seal)

Signature


Brenda A. Gonzalez



REC'D & FILED

2016 DEC -2 AM 8:28

SUSAN MERRIWETHER
CLERK

BY W. J. [Signature]
DEPUTY

TORY M. PANKOPF (SBN 7477)
T M PANKOPF, PLLC
9460 Double R Boulevard, Suite 104
Reno, Nevada 89521
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

In the matter of the estate of:

THELMA AILENE SARGE,

Deceased.

~~LEAD CASE NO: 16 PBT~~
~~00107 1B DEPT NO: II~~

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

ORDER ON DOE 1 AMENDMENT

The court having considered Plaintiffs' ex parte application for an order amending the FICTITIOUS NAME DOE I as ROSEHILL, LLC, and having found Plaintiffs were ignorant of the true name of defendant ROSEHILL, LLC, when the complaint in the above-named case was filed, and having designated said defendant in the complaint by fictitious name of DOE I and having discovered the true name of the said defendant to be ROSEHILL, LLC, orders the

1 complaint amended by inserting such true name in place and stead of such fictitious name
2 wherever it appears in said complaint.

3 The above amendment to the complaint is allowed.

4 **IT IS SO ORDERED**

5 *November*
6 Dated: November 2, 2016

7 
8 _____
9 First Judicial District Judge

10
11
12 Respectfully submitted by,

13
14 ***T M PANKOPF PLLC***

15
16 By: /S/ TORY M. PANKOPF
17 TORY M. PANKOPF, ESQ. (SBN 7477)
18 *Attorney for Plaintiffs and Petitioner*
19
20
21
22
23
24
25
26
27
28

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. GRIFFIN
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.

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
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

James T. Russell

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

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*

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,

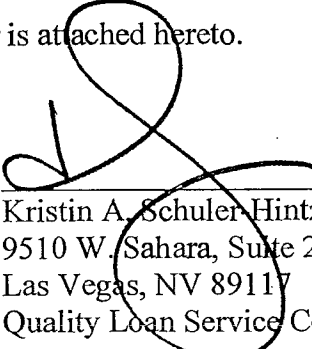
Defendants.

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

AFFIRMATION

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

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

Does NOT contain the personal information of any party.

By:



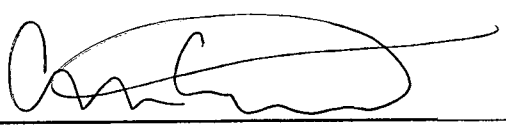
Kristin A. Schuler-Hintz, Esq.

CERTIFICATE OF SERVICE

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

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

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



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. GRIFFIN
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.

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
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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
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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
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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

James T. Russell

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

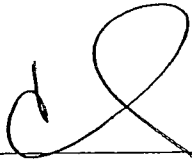
Submitted – no response received
By: Tory Pankopf, Esq.
9450 Double R. Blvd. Suite B
Reno, NV 89521
(775) 384-6956

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.

REC'D & FILED

2016 DEC -6 PM 1:43

SUSAN MERRIWETHER
CLERK

BY DEPUTY

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

IN THE MATTER OF THE ESTATE OF:

EDWIN JOHN SARGE,

THELMA AILENE SARGE,

Deceased.

Case No.:

16 RP00009 1B
~~16PBT001081B-~~

Dept. No: 1

Consolidated with 16PBT001071b and

~~16RP000091B-~~
16PBT001081B

ORDER CANCELLING NOTICES RECORDED AGAINST 1636 SONOMA STREET,
CARSON CITY, NEVADA

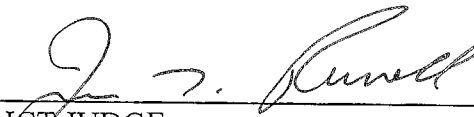
This matter came on regularly before this Court on the 5th day of December, 2016 upon the motion of Rosehill, LLC seeking the cancellation or withdrawal of certain notices of pendency of action that encumber the real property located at 1636 Sonoma Street, Carson City, Nevada pursuant to the provisions of NRS 14.015. The Court, having reviewed the pleadings filed by the parties and having conducted the requested hearing and considered the oral arguments of counsel therein, being fully advised therein, NOW, THEREFORE

IT IS HEREBY ORDERED that the Notice of Pendency of Action recorded on October 31, 2016 as Document Number 469390, Official Records of Carson City County, Nevada, is hereby ordered cancelled pursuant to this order and the provisions of NRS 14.015 (5). This order of cancellation shall have the same effect as an expungement of said recorded notice.

1 IT IS FURTHER ORDERED that the Notice of Pendency of Action recorded on October 31,
2 2016 as Document Number 469423, Official Records of Carson City County, Nevada, is hereby
3 ordered cancelled pursuant to this order and the provisions of NRS 14.015 (5). This order of
4 cancellation shall have the same effect as an expungement of said recorded notice.


5 IT IS FURTHER ORDERED that the document entitled "complaint For Reentry" recorded on
6 October 31, 2016 as Document Number 469424 is hereby expunged and cancelled from the Official
7 Records of Carson City County, Nevada pursuant to this order and the provisions of NRS 14.015 (5).
8 This order of cancellation shall have the same effect as an expungement of said recorded notice.
9

10
11 DATED this 6th day of December, 2016.
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16 _____
17 DISTRICT JUDGE
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William A. Baker, Esq.
9468 Double R. Blvd., Suite A
Reno, NV 89521



Angela Jeffries
Judicial Assistant, Dept. 1