

Date: 05/17/2012

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10/19/2009, 11:04:08, by Ivy Le

SPOKE TO BORROWER: SAID HE WILL BE SENDING IN THE SEPT, OCT AND NOVEMBER PAYMENTS TOMORROW: HE WILL FAX US A COPY OF THE CHECK AND A TRACKING NUMBER AS WELL. WAITING FOR NATALIE TO VERIFY IF BOA HAD CASHED THE GOOD FAITH DEPOSIT OF 8300 SENT IN AUGUST. NEED TO FIND OUT WHERE THAT CHECK IS.

10/19/2009, 10:40:57, by Ivy Le

BOA RETURNED BORROWER'S PAYMENT BACK TO HIM.. FILE STAYS ON HOLD DUE TO REPAYMENT: PER BORROWER HIS 8300 WAS NOT RETURNED TO HIM. NEED TO VERIFY W/ NATALIE TO SEE WHERE THE FUNDS ARE.
NEED TO VERIFY HIS SEPT AND OCT PAYMENT..

10/19/2009, 10:36:29, by Amy Lemus

Per Ivy borrower has been making payments take off calendar. She is going to place back on hold.

10/19/2009, 10:32:08, by Michelle Diggs

From: B I J A N [mailto:]
Sent: Saturday, October 17, 2009 3:07 AM
To: Michelle Diggs
Subject: Re: LOAN NO [] BIJAN LAGHAEI

MICHELLE:

WHERE IN THE FORBEARANCE AGREEMENT DOES IT SAY THAT PERSONAL CHECK IS NOT ACCEPTED.....

CALL ME AND LET ME KNOW WHAT IS GOING ON.....

I-THINK THE PROBLEM IS WITH THE \$ 700.00 ISSUE.....

PLEASE ADVISE ACCORDINGLY.....

MY CELL... []

THANKS

BIJAN

----- Original Message -----

From: Michelle Diggs
To: 'B I J A N'
Sent: Friday, October 16, 2009 8:21 AM
Subject: RE: LOAN NO [] BIJAN LAGHAEI

Bijan,

MTC000129

Date: 05/17/2012

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The fax you sent in looks like it might have been a personal check. They do not accept personal checks for forbearance agreements. Do you want to get on another repayment plan? This would have to be done all over again and the figures would have to be re-requested. Please advise Thank you!

Michelle Diggs
Loss Mitigation
Trustee Corps/Harmony Escrow (Company)
2112 Business Center Dr. Ste #120
Irvine, CA 92612
949-252-8300 Ext 220
949-752-0320 Fax
MDiggs@trusteecorps.com
Hours of Operation (8am-5pm PST)

Offices in California Nevada Arizona

Trustee Corps (Freddie Mac and Fannie Mae Processing Office)
30 Corporate Park, Ste 400
Irvine, CA 92606

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From: B I J A N [mailto:]
Sent: Friday, October 16, 2009 1:08 AM
To: Michelle Diggs
Subject: Re: LOAN NO [] BIJAN LAGHAEI

I-HAVE RE-FAXED IT.....AROUND 6:30 PM

----- Original Message -----

From: Michelle Diggs
To: 'B I J A N'

MTC000130

Date: 05/17/2012

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Sent: Thursday, October 15, 2009 6:24 PM
Subject: RE: LOAN NO [REDACTED] BIJAN LAGHAEI

It's the same number. Please fax and call me right after. We get faxes ALL DAY. It's hard for me to find one paper in between thousands of documents. Please call me and go through to anybody here when you re-fax. Thank you!

Michelle Diggs
Loss Mitigation
Trustee Corps/Harmony Escrow (Company)
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From: B I J A N (mailto:[REDACTED])
Sent: Thursday, October 15, 2009 5:35 PM
To: Michelle Diggs
Subject: Re: LOAN NO [REDACTED] BIJAN LAGHAEI

I-HAVE FAXED IT TWICE TO 949-752-0320.....I-HAVE PROOF (VERIFICATION) THAT FAX WAS SENT

MTC000131

Date: 05/17/2012

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DO YOU WANT ME TO FAX IT AGAIN.....

WHAT IS YOUR NEW FAX NUMBER ????????

----- Original Message -----

From: Michelle Diggs

To: 'B I J A N'

Sent: Wednesday, October 14, 2009 6:36 PM

Subject: RE: LOAN NO [REDACTED] BIJAN LAGHAEI

BiJan ,

As stated to you before I have not rec'd your fax. Will you be able to send the proof that your funds were rejected asap. do you want to continue with a new forbearance agreement? Please advise. Thank you.

Michelle Diggs

Loss Mitigation

Trustee Corps/Harmony Escrow (Company)

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Irvine, CA 92612

949-252-8300 Ext 220

949-752-0320 Fax

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notify the sender by e-mail and immediately delete this message from your system.

From: B I J A N (mailto: [REDACTED])
Sent: Monday, October 05, 2009 4:44 PM
To: Michelle Diggs
Subject: Re: LOAN NO [REDACTED] BIJAN LAGHAEI

I-HAVE FAXED IT

----- Original Message -----

From: Michelle Diggs
To: 'B I J A N'
Sent: Monday, October 05, 2009 9:10 AM
Subject: RE: LOAN NO [REDACTED] BIJAN LAGHAEI

Yes,

Would you be able to scan it over to me?

Michelle Diggs
Loss Mitigation
Trustee Corps/Harmony Escrow (Company)
2112 Business Center Dr. Ste #120
Irvine, CA 92612
949-252-8300 Ext 220
949-752-0320 Fax

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From: B I J A N [mailto: [REDACTED]]
 Sent: Monday, October 05, 2009 9:12 AM
 To: Michelle Diggs
 Subject: Re: LOAN NO [REDACTED] BIJAN LAGHAEI

I-AM RE-FAXING IT.....

YOUR OFFICE IS TELLING ME THAT YOUR FAX # IS 949-752-0320

----- Original Message -----

From: Michelle Diggs
 To: 'B I J A N'
 Sent: Friday, October 02, 2009 8:43 AM
 Subject: RE: LOAN NO [REDACTED] BIJAN LAGHAEI

Can you please resend it. I have not rec'd it. Thank you!

Michelle Diggs
 Loss Mitigation
 Trustee Corps/Harmony Escrow (Company)
 2112 Business Center Dr. Ste #120
 Irvine, CA 92612
 949-252-8300 Ext 220
 949-752-0320 Fax
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From: B I J A N [mailto: [REDACTED]]
Sent: Thursday, October 01, 2009 12:47 PM
To: Michelle Diggs
Subject: Fw: LOAN NO [REDACTED] BIJAN LAGHAEI

MICHELLE:

YESTERDAY, I-FAXED A COPY OF BANK OF AMERICA'S LETTER + MY CK THAT I-HAVE SENT TO THEM, TO YOU ...

I-FAXED IT TO 949-252-8330.....

THANKS

----- Original Message -----

From: B I J A N
To: Michelle Diggs
Sent: Sunday, September 27, 2009 1:51 PM
Subject: Re: LOAN NO [REDACTED] BIJAN LAGHAEI

THANKS

BIJAN

----- Original Message -----

From: Michelle Diggs
To: 'B I J A N'
Sent: Thursday, September 24, 2009 7:47 PM
Subject: RE: LOAN NO [REDACTED] BIJAN LAGHAEI

Bijan,

I will look into this and get back to you.

Michelle Diggs
Loss Mitigation
Trustee Corps/Harmony Escrow (Company)
2112 Business Center Dr. Ste #120
Irvine, CA 92612
949-252-8300 Ext 220
949-752-0320 Fax
MDiggs@trusteecorps.com
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From: B I J A N [mailto:]
Sent: Thursday, September 24, 2009 2:15 PM
To: Michelle Diggs
Subject: Fw: LOAN NO [] BIJAN LAGHAEI

MICHELLE:

MY CELL []

----- Original Message -----

From: B I J A N
To: Michelle Diggs
Sent: Thursday, September 24, 2009 2:10 PM
Subject: LOAN NO [] BIJAN LAGHAEI

MICHELLE:

PER OUR CONTRACT AGREEMENT I-HAVE SENT A CK FOR THE AMOUNT OF \$ 3769.71 TO BANK OF AMERICA

I-JUST RCVD. THE CK BACK AND A LETTER DATED SEPT. 14, 2009

MTC000136

Date: 05/17/2012

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IN THE LETTER IT SAYS: " THE AMOUNT REMITTED DOES NOT REPRESENT THE TOTAL DUE. "

IN THE FORBEARANCE AGREEMENT ON PAGE - 2 (TOP OF THE PAGE ITEM - 2) THE AGREERED AMOUNT IS \$ 3769.71

WHAT IS GOING ON.....WHAT DO-YOU WANT ME TO DO...?????

10/19/2009, 10:16:42, by Michelle Diggs

10531.00

10/19/2009, 08:50:08, by Pamela Hodge

REINSTATEMENT DEMAND SENT OUT

DATE: 10/19/2009

BE ADVISED A SALE DATE HAS BEEN SET FOR THIS PROPERTY-PLEASE CONTACT OUR OFFICE 1 DAY IN ADVANCE BEFORE OVERNIGHTING A CASHIER'S CHECK TO OUR OFFICE.

BIJAN LAGHAEI
25 SNOWBERRY CIRCLE
RENO, NV 89511

EMAIL: [REDACTED]

Reinstatement / Pay Off Demand

TRUSTEE SALE #: NV0938405-1

LOAN #: [REDACTED]

PROPERTY: 25 SNOWBERRY CIRCLE, RENO, NV 89511,

Date: 10/19/2009 T.S. #: NV0938405-1 Loan #: [REDACTED] Beneficiary: Bank Of America Home Loans Trustor(s):

BIJAN LAGHAEI, AN UNMARRIED MAN

REINSTATEMENT DEMAND

Payments	\$ 26,387.46
Late charges	\$ 224.46
Property inspections	\$ 135.00
Suspense/Partial payment	\$ (700.00)
Sub-Total fees due Beneficiary:	\$ 26,046.92

Sub-Total foreclosure fees/costs due Trustee: \$ 3,889.00

TOTAL amount due to REINSTATE loan: \$ 29,935.92

**** IMPORTANT ****

THESE FIGURES ARE SUBJECT TO FINAL VERIFICATION UPON RECEIPT OF FUNDS

[Please note the following:]

THIS STATEMENT EXPIRES ON: 10/19/09 @ 3:00p.m.

MTC000137

Date: 05/17/2012

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10/17/2009, 15:32:15, by Michelle Diggs

SALES TEAM

PLEASE DO NOT SELL PROPERTY BORROWER WITHOUT CONTACTING LOSS MIT -THANK YOU

10/16/2009, 08:29:57, by Michelle Diggs

E-MAILED BORROWER ASKED HIM IF HE WANTS US TO PREPARE FORBEARANCE AGREEMENT AGAING. WAITING FOR HIM TO GET BACK TO ME.

From: Michelle Diggs

Sent: Friday, October 16, 2009 8:22 AM

To: 'BIJAN'

Subject: RE: LOAN NO [REDACTED] BIJAN LAGHAEI

Bijan,

The fax you sent in looks like it might have been a personal check. They do not accept personal checks for forbearance agreements. Do you want to get on another repayment plan? This would have to be done all over again and the figures would have to be re-requested. Please advise Thank you!

Michelle Diggs

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Sent: Friday, October 16, 2009 1:08 AM
To: Michelle Diggs
Subject: Re: LOAN NO [REDACTED] BIJAN LAGHAEI

I-HAVE RE-FAXED IT.....AROUND 6:30 PM

----- Original Message -----

From: Michelle Diggs
To: 'B I J A N'
Sent: Thursday, October 15, 2009 6:24 PM
Subject: RE: LOAN NO [REDACTED] BIJAN LAGHAEI

It's the same number. Please fax and call me right after. We get faxes ALL DAY. It's hard for me to find one paper in between thousands of documents. Please call me and gge through to anybody here when you re-fax. Thank you!

Michelle Diggs
Loss Mitigation
Trustee Corps/Harmony Escrow (Company)
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From: B I J A N [mailto: [REDACTED]]
 Sent: Thursday, October 15, 2009 5:35 PM
 To: Michelle Diggs
 Subject: Re: LOAN NO [REDACTED] BIJAN LAGHAEI

I-HAVE FAXED IT TWICE TO 949-752-0320.....I-HAVE PROOF (VERIFICATION) THAT FAX WAS SENT

DO YOU WANT ME TO FAX IT AGAIN.....

WHAT IS YOUR NEW FAX NUMBER ????????

----- Original Message -----

From: Michelle Diggs
 To: 'B I J A N'
 Sent: Wednesday, October 14, 2009 6:36 PM
 Subject: RE: LOAN NO [REDACTED] BIJAN LAGHAEI

Bijan ,

As stated to you before I have not rec'd your fax. Will you be able to send the proof that your funds were rejected asap. do you want to continue with a new forbearance agreement? Please advise. Thank you.

Michelle Diggs
 Loss Mitigation
 Trustee Corps/Harmony Escrow (Company)
 2112 Business Center Dr. Ste #120
 Irvine, CA 92612
 949-252-8300 Ext 220
 949-752-0320 Fax
 MDiggs@trusteecorps.com
 Hours of Operation (8am-5pm PST)

 Offices in California Nevada Arizona

Trustee Corps (Freddie Mac and Fannie Mae Processing Office)
 30 Corporate Park, Ste 400
 Irvine, CA 92606

Fannie Mae Retained Counsel in CA & AZ Freddie Mac Designated Counsel in AZ,CA & NV
 Default services in CA, NV, AK, AZ, CA, ID, MT, NV, OR, HI, TX & WA

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 Supervisor: Ivy Le (949) 252-8300 ext 285 e-mail ile@trusteecorps.com
 Back up Associate: Jessica Juarez (949) 252-8300 Ext 275 jjuares@trusteecorps.com
 Default Manager: Juan Carrillo (jcarrillo@trusteecorps.com)
 Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com
 Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com
 David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com
 Audrey Bryan, Escrow Manager (Harmony Escrow) abryan@harmonyescrow.com
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From: B I J A N [mailto:]
 Sent: Monday, October 05, 2009 4:44 PM
 To: Michelle Diggs
 Subject: Re: LOAN NO [] BIJAN LAGHAEI

I-HAVE FAXED IT

----- Original Message -----

From: Michelle Diggs
 To: 'B I J A N'
 Sent: Monday, October 05, 2009 9:10 AM
 Subject: RE: LOAN NO [] BIJAN LAGHAEI

Yes,

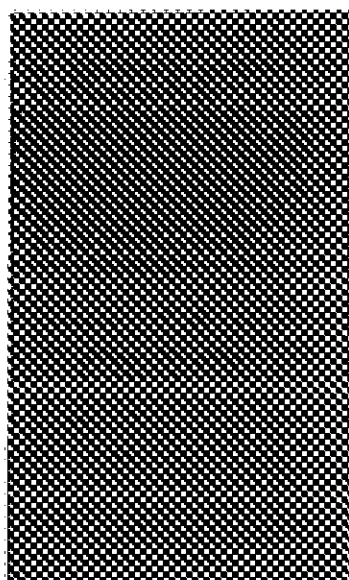
Would you be able to scan it over to me?

09/29/2009, 18:47:00, by Michelle Diggs

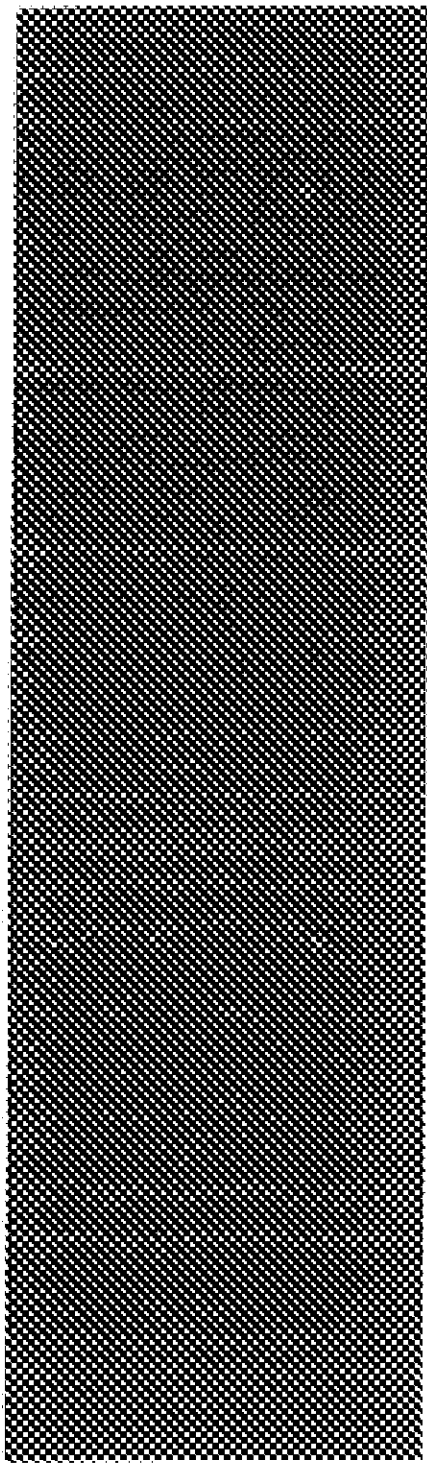
BIJAN STATED THAT B OF A SENT HIS PAYMENTS BACK TO DUE TO INSUFFICIENT FUNDS. ASKED HIM TO SEND ALL CORRESPONDENCE TO ME HE WILL CALL TO MAKE SURE THAT I REC'D IT TOMORROW

09/14/2009, 09:40:15, by Nichole Papadopoulos

From: Green, Anita - 2 [mailto:anita2.green@bankofamerica.com]
 Sent: Friday, September 11, 2009 9:17 AM
 To: Bill Malcolm
 Subject: Immediate Confirmation is required/ Malcom cisneros



MTC000141



The following loans have been placed on the House Financial Services Hold. Due to this we ask that you postpone the FCL sale and set a new sale date no earlier than 30 days from the previous sale date. We approve the fees/costs involved to postpone and reset the sale.

Should you have any questions or require additional information, please advise. s

Immediate confirmation of this request is required for management reporting.

I receivedt he email with the www.malcolmcisneros.com but it does not allow me to email just to visit the site.

Anita Green
FREM Specialist
5401 N Beach
Fort Worth, Texas 76137
817-321-3104

anita2.green@@bankofamerica.com

PLEASE MAKE NOTE, GOING FORWARD USE THE BELOW DISTRIBUTION GROUPS AS STATED:

FREM_AG_MHA_ESCALATIONS@BANKOFAMERICA.COM Handles postponements, reinstatements, payoffs, affidavits, sale date removals and rescission requests for FREM AG loans, processes HOA, Sewer, Tax and other liens for AG review loans

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose

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08/17/2009, 16:38:03, by Ivy Le

From: Rachel Rivas
Sent: Monday, August 17, 2009 10:49 AM
To: Ivy Le
Cc: Clarisa Gastelum
Subject: RE: [REDACTED] LAGHAEI-SALE TODAY @ 10AM

Right, that's what I did, and Alan from BOA called me and asked me why I was asking if it was our FB plan, so that's when I emailed you.

Thank you,

Rachel Rivas
Foreclosure Support Rep.
Trustee Corps./ Harmony Escrow Company
30 Corporate Parkway, Suite 400
Irvine, CA 92626
949-252-8300
949-252-8330 fax
Hours of Operation (8am-5pm PST)
rivas@trusteecorps.com
Offices in California Nevada Arizona
Trustee Corps (Freddie Mac and Fannie Mae Processing Office)
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2nd Floor - Suite 201
Irvine, CA 92612
Fannie Mae Retained Counsel in CA & AZ Freddie Mac Designated Counsel in AZ, CA & NV
Default services in CA, NV, AK, AZ, CA, ID, MT, NV, OR, HI, TX & WA

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Supervisor: Clarisa Gastelum 949-252-8300 ext. 235 email: cglastelum@trusteecorps.com

Default Manager: Juan Camillo jcarrillo@trusteecorps.com

Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com

Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com

David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com

Audrey Bryan, Escrow Manager (Harmony Escrow) abryan@harmonyescrow.com

Rande Johnsen, Director (rjohnsen@trusteecorps.com)

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From: Ivy Le
Sent: Monday, August 17, 2009 10:47 AM
To: Rachel Rivas
Cc: Clarisa Gastelum
Subject: RE: [REDACTED]-LAGHAEI-SALE TODAY @ 10AM

Hi there Rachel,

Once I put the forbearance through and the terms and conditions are inputted in the system your department must follow up with the client on currently forbearance payments.

From: Rachel Rivas
Sent: Monday, August 17, 2009 10:32 AM
To: Ivy Le
Cc: Clarisa Gastelum
Subject: RE: [REDACTED]-LAGHAEI-SALE TODAY @ 10AM

This has been taken care of already and the sale has been postponed.
I don't believe I go to my supervisor on these; I actually have correspond with the client on how to proceed, but since I wasn't aware that this was our FB plan, there was a bit of confusion.

Thank you,

Rachel Rivas
Foreclosure Support Rep.
Trustee Corps./ Harmony Escrow Company
30 Corporate Parkway, Suite 400
Irvine, CA 92626
949-252-8300
949-252-8330 fax
Hours of Operation (8am-5pm PST)
rivas@trusteecorps.com
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Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com

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From: Ivy Le
Sent: Monday, August 17, 2009 10:29 AM
To: Rachel Rivas
Subject: RE: [REDACTED]-LAGHAEI-SALE TODAY @ 10AM

Should you go to your supervisor for this?

From: Rachel Rivas
Sent: Monday, August 17, 2009 10:28 AM
To: Ivy Le
Subject: RE: [REDACTED]-LAGHAEI-SALE TODAY @ 10AM

I never asked BOA to proceed with the sale? I was asking for instructions whether to postpone or proceed.

Thank you,

Rachel Rivas
Foreclosure Support Rep.
Trustee Corps / Harmony Escrow Company
30 Corporate Parkway, Suite 400
Irvine, CA 92626
949-252-8300
949-252-8330 fax
Hours of Operation (8am-5pm PST)
rrivas@trusteecorps.com
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2112 Business Center Drive

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2nd Floor - Suite 201

Irvine, CA 92612

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From: Ivy Le

Sent: Monday, August 17, 2009 10:26 AM

To: Rachel Rivas; Horacio Montoya

Cc: Michelle Diggs

Subject: RE: [REDACTED] LAGHAEI-SALE TODAY @ 10AM

Rachel,

This is our forbearance... why are you asking BOA to proceed... with sale...?

We had already sent the agreement to BOA as well.

From: Rachel Rivas

Sent: Monday, August 17, 2009 8:02 AM

To: Ivy Le; Horacio Montoya

Subject: FW: [REDACTED] LAGHAEI-SALE TODAY @ 10AM

Importance: High

Hi guys, I was asking Alan @ BOA how to proceed on this sale set for today. He states that this is our FB plan, please advise.

Thank you,

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Rachel Rivas
Foreclosure Support Rep.
Trustee Corps./ Harmony Escrow Company
30 Corporate Parkway, Suite 400
Irvine, CA 92626
949-252-8300
949-252-8330 fax
Hours of Operation (8am-5pm PST)
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Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com
David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com
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From: Rachel Rivas
Sent: Monday, August 17, 2009 7:39 AM
To: 'alan.m.simon@bankofamerica.com'
Cc: 'Jennifer2.wall@bankofamerica.com'; Amy Lemus
Subject: FW: [REDACTED]-LAGHAEI-SALE TODAY @ 10AM
Importance: High

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Date: 05/17/2012

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From: Rachel Rivas
Sent: Friday, August 14, 2009 1:41 PM
To: 'alan.m.simon@bankofamerica.com'
Cc: 'Jennifer2.wall@bankofamerica.com'
Subject: [REDACTED] LAGHAEI

Hello,

We have a sale scheduled for 8/17/09. This loan is on hold for FB. Please provide status of plan and instructions for the sale.

Thank you,

Rachel Rivas
Foreclosure Support Rep.
Trustee Corps./ Harmony Escrow Company
30 Corporate Parkway, Suite 400
Irvine, CA 92626
949-252-8300
949-252-8330 fax
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Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com

Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com

David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com

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08/17/2009, 08:44:59, by Amy Lemus

From: Amy Lemus
Sent: Monday, August 17, 2009 8:45 AM
To: Rachel Rivas
Subject: RE: [REDACTED]-LAGHAEI-SALE TODAY @ 10AM

Yes It is probably on the hamp. I will postpone. Thanks Rachel

From: Rachel Rivas
Sent: Monday, August 17, 2009 8:41 AM
To: Amy Lemus
Subject: FW: [REDACTED]-LAGHAEI-SALE TODAY @ 10AM
Importance: High

Hi Amy, Alan called and said that this was our FB plan, is that correct?

08/12/2009, 19:59:46, by Natalie Resendiz

file back to grace for filing

08/12/2009, 19:59:30, by Natalie Resendiz

funds sent to bank of america

fed ex tracking 7968-5707-1640

Date: 8/12/09

Bank Of America Home Loans
400 COUNTRY WIDE MS SV 35
SIMI VALLEY, CA 93065

Trustee Sale #: NV0938405-1
Loan #: [REDACTED]
Trustor(s): BIJAN LAGHAEI, AN UNMARRIED MAN
Property: 25 SNOWBERRY CIRCLE, RENO, NV 89511,

Dear Client:

Attached is a Forbearance Agreement our office prepared in which the borrower has entered into agreement. Our check # 39989 in the amount of \$8,500.00, representing funds being paid towards the defaulted amount as part of the enclosed agreement. Please note we have not retained our foreclosure fees and costs. An invoice has been submitted for our fees and costs.

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Date: 05/17/2012

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We sincerely appreciate the opportunity to work with you and look forward to doing so in the future. If you have any questions please do not hesitate to call our office.

Sincerely,

Natalie Resendiz
Accounting Department
xt.151

08/12/2009, 09:53:59, by Horacio Montoya
uploaded forbear agreement in dcs.

08/11/2009, 18:31:50, by Michelle Diggs
FORBEARANCE AGREEMENT TERMS AND CONDITIONS

12 MONTHS
PAYMENT AMOUNT \$3,769.71
COMMENCING 9/1/2009 AND ENDING 9/1/2010

08/11/2009, 18:30:05, by Michelle Diggs
NOTIFIED LENDER OF FORBEARANCE AGREEMENT

From: Michelle Diggs
Sent: Tuesday, August 11, 2009 6:29 PM
To: 'Angie.davidson@bankofamerica.com'
Subject: FORBEARANCE AGREEMENT FOR LOAN# [REDACTED] NV0938405-1

Hello,

Funds are being sent to B of A in the amount of \$8500.00 we are the Freddie Mac designate counsel therefore we are able to issue 12 month forbearance/repayment plan. Please see a copy of signed agreement, original demand and copy of checks enclosed and notify us if any issue should arise. I was unable to upload this agreement in Clairfire being that it is not in the system. Please advise if I need to direct this to someone else. Thank you for your help!

08/11/2009, 13:10:27, by Michelle Diggs
From: Michelle Diggs
Sent: Tuesday, August 11, 2009 10:37 AM
To: Natalie Resendiz
Subject: RE: nv0938405-1/ loan [REDACTED]

Hey Natalie,

The borrower stated that the forbearance agreement was enclosed in the envelope along with the \$200 check. Can you please confirm? If it is there please send us a copy and send the total of \$8500 to the servicer. This is due by tomorrow. Thanks

08/10/2009, 14:49:13, by Ivy Le

From: Natalie Resendiz
Sent: Friday, August 07, 2009 7:34 AM
To: Ivy Le
Cc: Michelle Diggs; Horacio Montoya; Carol Sanchez

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Date: 05/17/2012

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Subject: nv0938405-1/ loan [REDACTED]

Funds returned in the amount of \$8300.00

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

Offices in California Nevada Arizona

Trustee Corps (Freddie Mac and Fannie Mae Processing Office)

2112 Business Center Drive

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** Please send all Bid Instructions to salebids@trusteecorps.com **

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To reach an operator call 949-252-8300 and press 0

Ryan Newman, Sales and Postponments: rnnewman@trusteecorps.com

Clarisa Gastelum, Support: cgastelum@trusteecorps.com

Ivy Le, Loss Mitigation: ile@trusteecorps.com

Juan Camillo, VP, Default Operations (Trustee Corps) (jcarrillo@trusteecorps.com)

Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com

Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com

David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com

Audrey Bryan, Escrow Manager (Harmony Escrow) abryan@harmonyescrow.com

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08/04/2009, 10:38:06, by Michelle Diggs

LOSS MIT PROCESS [REDACTED]

BORROWER WILL SEND IN \$200 FOR THE F/B AGREEMENT. FAXED HIM AGREEMENT TO [REDACTED]

MTC000151

Date: 05/17/2012

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08/04/2009, 10:19:14, by Michelle Diggs

LOSS MIT PROCESS [REDACTED]

BORROWER CALLED IN AND STATED THAT B OF A REC'D THE FUNDS TOO LATE.

08/04/2009, 10:18:34, by Michelle Diggs

From: Michelle Diggs

Sent: Friday, July 31, 2009 3:08 PM

To: 'bijan'

Subject: RE: Requested Reinstatement Demand NV0938405-1

Hello Bijan,

We would need an additional \$200 there is now another payment due with this agreement. When can you sent his? Please advise thank you

07/29/2009, 17:05:15, by Michelle Diggs

reinstatement demand ent out

DATE: 07/28/09

BE ADVISED A SALE DATE HAS BEEN SET FOR THIS PROPERTY-PLEASE CONTACT OUR OFFICE 1 DAY IN ADVANCE BEFORE OVERNIGHTING A CASHIER'S CHECK TO OUR OFFICE.

BIJAN LAGHAEI
25 SNOWBERRY CIRCLE
RENO, NV 89511

EMAIL: [REDACTED]

Reinstatement / Pay Off Demand

TRUSTEE SALE #: NV0938405-1

LOAN #: [REDACTED]

PROPERTY: 25 SNOWBERRY CIRCLE, RENO, NV 89511,

To Whom It May Concern:

With regards to the above referenced file our office is handling, enclosed please find our REINSTATMENT and/or PAY OFF Demand, which you have requested.

Please be advised that this loan is currently in foreclosure and/or bankruptcy and the figures provided herewith are subject to change at any time due to additional fees and costs relating to the foreclosure/bankruptcy proceeding may accrue before the "good through/expiration date" of the Demand.

Please note that by providing this Demand to you with a "good through/expiration date", no deadlines are waived, postponed and/or tolled, including, but not limited to, Trustee's sale dates and statutory reinstatement/pay off dates.

You must pay the total amount due stated in the Demand (in the form of a cashier's check only) on or before 08/12/2009 in order to REINSTATE and/or PAY OFF this loan. Please review the attached document(s) for specific payment instructions.

Date: 7/29/2009 T.S. #: NV0938405-1 Loan #: [REDACTED] Beneficiary: Bank Of America Home Loans Trustor(s):
BIJAN LAGHAEI, AN UNMARRIED MAN

MTC000152

Date: 05/17/2012

Page: 55

REINSTATEMENT DEMAND

Payments	\$ 21,589.74
Late charges	\$ 224.46
Property inspections	\$ 105.00
Suspense/Partial payment	\$ (700.00)
Sub-Total fees due Beneficiary:	\$ 21,219.20

Sub-Total foreclosure fees/costs due Trustee: \$ 3,731.00

TOTAL amount due to REINSTATE loan: \$ 24,950.20

**** IMPORTANT ****

THESE FIGURES ARE SUBJECT TO FINAL VERIFICATION UPON RECEIPT OF FUNDS

[Please note the following:]

THIS STATEMENT EXPIRES ON: 8/12/2009 @ 3:00p.m.

07/16/2009, 15:06:05, by Natalie Resendiz

file given to grace for filing

07/16/2009, 14:51:47, by Natalie Resendiz

FORBEARANCE AGREEMENT AND FUNDS SENT TO LENDER

FED EX TRACKING 7977-7049-4193

Date: 7/16/09

Bank Of America Home Loans
400 Countrywide Way
MS-SV 35
SIMI VALLEY, CA 93065

Trustee Sale #: NV0938405-1

Loan #: [REDACTED]

Trustor(s): BIJAN LAGHAEI, AN UNMARRIED MAN

Property: 25 SNOWBERRY CIRCLE, RENO, NV 89511,

Dear Client:

Attached is a Forbearance Agreement our office prepared in which the borrower has entered into agreement. Our check #39802 in the amount of \$8,300.00, representing funds being paid towards the defaulted amount as part of the enclosed agreement. Please note we have not retained our fees and costs portion in the amount of \$2771.69. Our office will be submitting an invoice.

We sincerely appreciate the opportunity to work with you and look forward to doing so in the future. If you have any questions

MTC000153

Date: 05/17/2012

Page: 56

please do not hesitate to call our office.

Sincerely,

Natalie Resendiz
Accounting Department
xt.151

07/11/2009, 08:31:28, by Horacio Montoya
uploaded forbear. agreement in dcs.

07/10/2009, 14:27:12, by Natalie Resendiz
ACCOUNTING BILL OUR FEES AND COSTS PER FORBEARANCE

07/09/2009, 19:19:31, by Ivy Le

From: Ivy Le
Sent: Thursday, July 09, 2009 7:19 PM
To: Horacio Montoya
Subject: FW: NV0938405-1/ LOAN [REDACTED] BIJAN LAGHEAL

Please upload in dcs.

Thank you!

From: Natalie Resendiz
Sent: Thursday, July 09, 2009 7:15 PM
To: Ivy Le
Subject: NV0938405-1/ LOAN [REDACTED] BIJAN LAGHEAL

FUNDS RECEIVED AND FORBEARANCE AGREEMENT SIGNED
Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

Fannie Mae Retained Counsel in CA & AZ
Freddie Mac Designated Counsel in CA & NV
Default Services in AK, AZ, CA,
ID, MT, NV, OR, TX and WA

MTC000154

Date: 05/17/2012

Page: 57

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07/09/2009, 19:18:42, by Ivy Le

From: Natalie Resendiz
Sent: Thursday, July 09, 2009 7:15 PM
To: Ivy Le
Subject: NV0938405-1/ LOAN [REDACTED] BIJAN LAGHEAL

FUNDS RECEIVED AND FORBEARANCE AGREEMENT SIGNED

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

Fannie Mae Retained Counsel in CA & AZ
Freddie Mac Designated Counsel in CA & NV
Default Services in AK, AZ, CA,
ID, MT, NV, OR, TX and WA

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07/09/2009, 19:15:10, by Natalie Resendiz

From: Natalie Resendiz
Sent: Thursday, July 09, 2009 7:15 PM
To: Ivy Le
Subject: NV0938405-1/ LOAN [REDACTED] BIJAN LAGHEAL

FUNDS RECEIVED AND FORBEARANCE AGREEMENT SIGNED

MTC000155

Date: 05/17/2012

Page: 58

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

07/08/2009, 10:00:38, by Ivy Le

spoke to borrower : said he does not agree to our forbearance agreement .. told him that the agreement was written by an attorney and there will be no changes. Advised for him to call BoA because per the agreement our fees and costs and reinstatement figures will expire on July 10th.. and whatever fees accrued will be added by the bank : he wants to know what fees and how much.. told him i cannot predict what will happen in the next 12 months.

07/08/2009, 07:57:03, by Norma Rodriguez

SUB REC'D
SENT TO RECORD

07/07/2009, 16:10:28, by Michelle Diggs

SENT F/B AGREEMENT TO BORROWER HE WILL OVERNIGHT TOMORROW.

07/07/2009, 11:06:13, by Ivy Le

FORBEARANCE AGREEMENT PREPARED:

07/06/2009, 13:44:43, by Michelle Diggs

REC'D COPY OF CHECK IN THE AMONUT OF \$8300 FOR REPAYMENT PLAN WHICH INCLEDED THE \$150 FEE FOR AGREEMENT. WILL FORWARD TO IVEY FOR REPAYMENT PLAN.

07/06/2009, 11:23:03, by Michelle Diggs

LOSS MIT PROCESS

BORROWER WANTS TO REINSTATE LOAN. HE WILL GET ON A REPAYMENT PLAN FOR 35% DOWN. HE WILL SEND IN CHECK FOR \$8,300. HE STATES THAT THE PROPERTY TAXES HAVE BEEN PAID ASKED HIM TO SEND A COPY OF HIS PAYMNET HE PAYS IT QUARTERLY. HIS INSURANCE IS PAID THROUGH THE LENDER HE WILL SEND THE FUNDS TO US TODAY HE WILL FA X COPY OF CHECK TO DRAFT UP AGREEMENT.

07/01/2009, 18:56:29, by Trish Sacco

Emailed Reinstatement Demand to BWR

From: Trish Sacco

Sent: Wednesday, July 01, 2009 6:55 PM

To: [REDACTED]

Subject: Requested Reinstatement Demand NV0938405-1

Hi,

Here is the attached Reinstatement demand requested. If you have any questions please contact our office at

(949) 252-8300

Thank you,

MTC000156

Date: 05/17/2012

Page: 59

07/01/2009, 12:04:08, by Jessica Juarez

REINSTATEMENT DEMAND SENT OUT

DATE: 07/01/09

BE ADVISED A SALE DATE HAS BEEN SET FOR THIS PROPERTY-PLEASE CONTACT OUR OFFICE 1 DAY IN ADVANCE BEFORE OVERNIGHTING A CASHIER'S CHECK TO OUR OFFICE.

BIJAN LAGHAEI
25 SNOWBERRY CIRCLE
RENO, NV 89511

EMAIL: [REDACTED]

Reinstatement / Pay Off Demand

TRUSTEE SALE #: NV0938405-1

LOAN #: [REDACTED]

PROPERTY: 25 SNOWBERRY CIRCLE, RENO, NV 89511,

Date: 7/1/2009 T.S. #: NV0938405-1 Loan #: [REDACTED] Beneficiary: Bank Of America Home Loans Trustor(s):

BIJAN LAGHAEI, AN UNMARRIED MAN

REINSTATEMENT DEMAND

Payments	\$ 19,190.88
Late charges	\$ 224.46
Property Inspections	\$ 90.00
Sub-Total fees due Beneficiary:	\$ 19,505.34

Sub-Total foreclosure fees/costs due Trustee: \$ 3,731.00

TOTAL amount due to REINSTATE loan: \$ 23,236.34

**** IMPORTANT ****

THESE FIGURES ARE SUBJECT TO FINAL VERIFICATION UPON RECEIPT OF FUNDS

[Please note the following:]

THIS STATEMENT EXPIRES ON: 07/10/09 @ 3:00p.m.

06/25/2009, 14:57:41, by Michelle Diggs

LOSS MIT PROCESS [REDACTED]

PLEASE E-MAIL TO [REDACTED]

BORROWER CALLED IN REGARDING THE REINSTATEMENT. HE WANTS TO GET ON A repayment plan for 35% down, ADVISED HIM TO GIVE US A CALL ONCE HE RECEIVES THE REINSTATEMENT DEMAND.

MTC000157

Date: 05/17/2012

Page: 60

06/17/2009, 17:48:35, by Marc Uy

To: Carlos
Company: Trustee Corps

From: Stephanie Clark
Company: Priority Posting and Publishing

Phone: (602)285-0114
Fax: (602)274-7413

Date: 06/17/2009

Sale Date: 07/13/2009 @ 11:00AM

Comments: Thank you for your order!

Your TS#/Client Ref.NV0938405-1
Priority #586136

County: Washoe
Newspaper: Daily Sparks Tribune
Run Dates: 6/22, 6/29, 07/06/2009
Posting: We will post according to state requirements.

06/08/2009, 15:43:36, by Carlos Romero

From: Ernie Aguilar
Sent: Monday, June 08, 2009 3:41 PM
To: 'FCL_Assignment_Requests@countrywide.com'
Cc: Carlos Romero
Subject: NV0938405-1 - [REDACTED]

Hello,

Please be advised that we have set a tentative sale date on the above file for 7/13/2009 with a 1st pub date of 6/22/2009. Please note that we have not received the executed Assignment for this file. These documents must be executed and returned asap in order for us to keep the above sale date. I have attached copies of these documents for your convenience.

If you have any questions please contact:

For sales: Ryan Newman - rnewman@trusteecorps.com
For publications: Carlos Quezada: cquezada@trusteecorps.com

Thank you,

06/08/2009, 15:43:12, by Carlos Romero

From: Ernie Aguilar
Sent: Monday, June 08, 2009 3:40 PM
To: 'documentexecution@countrywide.com'
Cc: Carlos Romero
Subject: NV0938405-1

MTC000158

Date: 05/17/2012

Page: 61

Hello,

Please be advised that we have set a tentative sale date on the above file for 7/13/2009 with a 1st pub date of 6/22/2009. Please note that we have not received the executed Substitution of Trustee for this file. These documents must be executed and returned asap in order for us to keep the above sale date. I have attached copies of these documents for your convenience.

If you have any questions please contact:

For sales: Ryan Newman - rnewman@trusteecorps.com
For publications: Carlos Quezada: cquezada@trusteecorps.com

Thank you,

06/08/2009, 15:36:48, by Carlos Romero

Ad Due deadline changed from 07/08/2009 to 06/16/2009.

06/08/2009, 15:36:43, by Carlos Romero

SetSaleProcess deadline changed from 06/10/2009 to 06/16/2009.

06/08/2009, 15:36:33, by Carlos Romero

OrderPubDateDown deadline changed from 07/23/2009 to 06/15/2009.

06/08/2009, 15:31:38, by Carlos Romero

Daily Sparks Tribune - Ranking: ****

Deadline 06/17/2009 05:00PM

1st Run 06/22/2009

2nd Run 06/29/2009

3rd Run 07/06/2009

Sale 07/13/2009

Days of Publication Mon,Tue,Wed,Thu,Fri,Sat

06/01/2009, 19:34:26, by Ivy Le

a copy filed w/ 30 corp park

From: Ivy Le

Sent: Monday, June 01, 2009 7:34 PM

To: Robert Padilla; Sinuon Seng

Cc: Robert Ruelas; Brent Alban

Subject: LAGHAEI: NV0938405-1

Please see attachment... per homeowner his street address has been changed.

Thank you!

Ivy Le

MTC000159

Date: 05/17/2012

Page: 62

Loss Mitigation Department
Trustee Corps
2112 Business Center Dr. Ste 120
Irvine, CA 92612
Tel: (949) 252-8300
Fax: (949) 752-0320

06/01/2009, 19:29:47, by Ivy Le

rec'd faxes from homeowner stating he is interested in a loan mod. CALLED HM OWNER 775-232-0390: LEFT MSG
APPLICATION SENT.
FREDDIE MAC APPLICATION SENT TO HOMEOWNER : also stated that his street name has been changed by the city :
forward a copy to Robert and Senoun :

05/08/2009, 13:05:54, by Mimi Mar

From: Mimi Mar
Sent: Friday, May 08, 2009 1:06 PM
To: 'Alan M Simon'
Subject: FW: National TSG for Ref #: NV0938405-1, Loan #: [REDACTED], LPS #:090206783-NV-GTO (25 WINTERBERRY
COURT RENO NV)

Hello Alan --

Attached, please find an amended TSG for this file. The title issue is cleared.

Thanks,

Mimi Mar

05/08/2009, 13:00:50, by Mimi Mar

Received revised TSG removing item #7. Title issue is cleared.

From: Eric Patten [mailto:epatten@fnds.com]
Sent: Friday, May 08, 2009 7:50 AM
To: Mimi Mar
Subject: National TSG for Ref #: NV0938405-1, Loan #: [REDACTED], LPS #:090206783-NV-GTO (25 WINTERBERRY COURT
RENO NV)

LPS has attached a National TSG for the following order:

Your Reference Number: NV0938405-1
Loan Number [REDACTED]
LPS Reference Number: 090206783-NV-GTO

Borrower: LAGHAEI, BIJAN
Property Address: 25 WINTERBERRY COURT
RENO NV, 89511

Comments: Mimi,
Here is a National Endorsement removing the senior item in question.

MTC000160

Date: 05/17/2012

Page: 63

Thank you,
Eric Patten

Transmit Date/Time: 5/8/2009 at 7:50:12 AM
Number of Attached Documents: 1

We appreciate your business,
LPS Default Title & Closing

04/22/2009, 20:42:23, by Kelly Goodman
RETURN MAIL ADD TO ADDITIONAL MAILINGS

LEGAL RECOVERY LAW OFFICES
5030 CAMINO DE LA SIESTA STE 340
SAN DIEGO CA 92108-3118

04/22/2009, 18:47:43, by Mimi Mar
SUBJECT: Re: *** HUD 1 and title policy ***
FROM: mmarr@trusteecorps.com
TO: Alan_M_Simon@Countrywide.Com
SENT: Wed 22 Apr 2009 18:52:39 CDT
EXPIRES: Wed 06 May 2009 18:52:39 CDT
TRACKING: Sent

> Hello Alan --

I was able to retrieve the HUD 1 but there is no title policy here. There is a Preliminary title report but I cannot submit a title claim with this. Please see if you can locate the title policy.

Thank you,

Mimi Mar

04/21/2009, 15:06:45, by Ivy Le
per fax : street name been changed by the City: forward to Robert:
& Nivin for review. hard copy filed.

From: Robert Padilla
Sent: Tuesday, April 21, 2009 3:04 PM
To: Claudio Martinez
Cc: Ivy Le; Nivin Youssef
Subject: FW: NV0938405-1:

Claudio,

We need to reference what is on the Deed of Trust. However, make sure we mail to both street names. Thanks

MTC000161

Date: 05/17/2012

Page: 64

From: Ivy Le
Sent: Tuesday, April 21, 2009 3:01 PM
To: Robert Padilla
Cc: Nivin Youssef
Subject: NV0938405-1:

Hi,

Rec'd a fax stating that the street name has been changed by the city. Please advise.

Thank you!

Ivy Le

Loss Mitigation Department
Trustee Corps
2112 Business Center Dr. Ste 120
Irvine, CA 92612
Tel: (949) 252-8300
Fax: (949) 752-0320

04/20/2009, 10:06:40, by Mimi Mar

From: Alan M Simon [mailto:alan_m_simon@countrywide.com]
Sent: Thursday, April 16, 2009 11:24 AM
To: Mimi Mar
Subject: HUD 1 and title Policy
Importance: High

Re: FW: FW: NV0938405-1 / loan # [REDACTED] / laghaei

I am working on the HUD 1 and title Policy.

Alan M. Simon
Sr. Foreclosure Specialist
Pre-Sale Foreclosure
805-955-7305 Direct
805-577-3499 Fax
alan_m_simon@countrywide.com

04/17/2009, 16:28:47, by Aleksandra Bogdan
NON-MIL REC'D SENT TO FILING

04/16/2009, 12:46:40, by Ivy Le
reinstatement requested:

From: Ivy Le
Sent: Thursday, April 16, 2009 12:46 PM

MTC000162

Date: 05/17/2012

Page: 66

Outstanding Fees: \$500.00

Outstanding Cost:\$2753.00

***Total Fees & Costs:\$3353.00 g/t 4/30/2009

04/02/2009, 07:19:32, by Claudio Martinez

TITLE SUMMARY

CURRENT LIEN HOLDER: countrywide

IS ASSIGN NEEDED *Assignment needed from countrywide current lien holder to fhmc

LIEN POSITION: 2nd

Title Grade: UNKNOWN

PRIOR LIENS SHOWING ON TITLE: yes

WARNING! THERE MAY BE A TITLE ISSUE ON THIS LOAN--FURTHER INVESTIGATION IS REQUIRED. PLEASE SEND A COPY OF YOUR TITLE POLICY AND HUD1. IF YOU WISH TO HAVE US FILE A TITLE CLAIM ON YOUR BEHALF, PLEASE AUTHORIZE AN ADDITIONAL \$150 FEE.

DOT (s):

1st in the amount of \$105000.00[ours]

2nd in the amount of \$325000.00[jr]

Judgment (s):

\$7884.95 crown asset management

\$5060.45 american express centurion bank

\$5749.30 hudson & keyse

Wanderer law pc no amount

\$6460.52 unifund ccr partners

DELINQUENT PROPERTY TAXES:yes

2008-2009 \$871.98+\$915.95

Not eligible for tax sale

IRS LIENS: none

LIS PENDENS AND/OR FORFEITURE ACTIONS:none

Copy of TSG Imaged/Attached for your reference

Documents Imaged/Attached for execution: Substitution, Assignment, and Military Affidavit

Trustee Corps is providing you with above referenced information based upon a review of the Trustee Sale Guaranty (TSG)

MTC000164

supplied by a licensed title company. Please review the information provided and compare it against your original title insurance policy. TSG's are not policies of title insurance, nor do they provide guaranties as to the condition of title or positions of liens. A TSG only provides a Trustee vesting information, the names and addresses of persons who have recorded requests as provided by the states where the property is located, the names and addresses of the persons entitled to receive copies of foreclosure notices, taxing agencies, and publication information.

For title position and title questions, one should review the original policy of title insurance obtained at the time of origination. Trustee Corps assumes no liability as to the comments or representations in the report, position of liens, condition of title or insurability.

03/19/2009, 20:56:41, by Kellie Ann Vollendorff

From: kellie vollendorff

Sent: Thursday, March 19, 2009 8:56 PM

To: 'Mark Volpe'

Subject: NOD---NV0938405-1

RECORD

Alert: Yes

Report: Yes

Client View: Yes

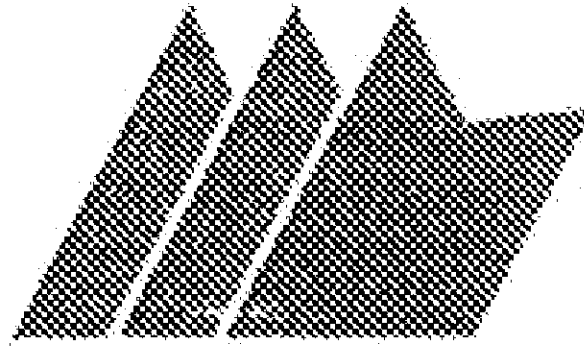
Quote: Yes

Popup Warning: Yes

Others: Yes

MTC000165

EXHIBIT “4”



TRUSTEE CORPS

Experience. Trust. Integrity.

17100 Gillette Ave. Irvine, CA 92614
Office: 949.252.8300 Fax: 949.252.8330

March 31, 2016

Borrower:	MARION BEETCH FRIES (A SINGLE PERSON)
Property Address:	1209 S 17TH ST, LAS VEGAS, NV 89104
Name of Creditor:	CIT Bank, N.A.
Total Debt as of March 31, 2016:	\$193,165.66
Next Payment Due Date:	October 26, 2015

IMPORTANT INFORMATION – PLEASE READ FIRST

Dear MARION BEETCH FRIES,

You are being provided this notice because of a search of the public records or from information provided by the Servicer of your loan.

To obtain a payoff or reinstatement to cure the default, you will need to contact our office. In order to assist you, please use the contact information noted below.

Contact information:

Email correspondence:	support@trusteecorps.com
Facsimile correspondence:	(949) 252-8330
Written correspondence:	Trustee Corps (Foreclosure Department) 17100 Gillette Avenue Irvine, CA 92614

Please include the following information on all correspondence:

- | | |
|--|-----------------------------------|
| * The information you are requesting | * Your Phone Number |
| * Your Name | * Your Loan Number 3000067389 |
| * Your Mailing Address | * Our File Number NV07000106-16-1 |
| * Your relationship to the property in foreclosure (Example: property owner, junior lien holder, escrow company, etc.) | |

Please make your request as soon as possible.
Information will be made available only to those authorized to obtain the information.

In compliance with the Fair Debt Collection Practices Act, the enclosed notice(s) is(are) being provided. We are attempting to collect a debt and any information we obtain will be used for that purpose. The debt being collected is assumed to be valid unless the Debtor disputes this within 30 days. If disputed, the debt collector will obtain and furnish to the Debtor verification of the debt. If a request is made within 30 days by the Debtor, the name of the original Creditor will be given if different than the current Creditor. The amount of the debt is contained on the enclosed notice. The name of the Creditor is contained on the enclosed notice.

To dispute the debt or obtain information, please contact our office at:

Email correspondence: support@trusteecorps.com
Facsimile correspondence: (949) 252-8330
Written correspondence: Trustee Corps (Foreclosure Department)
17100 Gillette Avenue
Irvine, CA 92614

With your correspondence, please include:

The information you are requesting, your name, mailing address, phone number, loan number, and our file number and your relationship to the property in foreclosure (Example: property owner, junior lien holder, escrow company, etc.).

If you should have any questions, please feel free to contact our office at 949-252-8300 during our normal business hours, Monday-Friday, 8:00 AM To 5:00 PM Pacific Time.

To the extent your original obligation was discharged, or is subject to an automatic stay of bankruptcy under Title 11 of the United States Code, this notice is for compliance and/or informational purposes only and does not constitute an attempt to collect a debt or to impose personal liability for such obligation. However, a secured party retains rights under its security instrument, including the right to foreclose its lien.

EXHIBIT “5”

Case NV09003798-10-1 - Notes

File: NV09003798-10, Client: Wells Fargo Bank, N.A., Loan: REDACTED, Property: 1559 WARD FRONTIER LANE, HENDERSON, NV 89015, Clark
Module: Default Servicing, File Type: Default Servicing
Case: NV09003798-10-1, Ref Num: 100427843-NV-LPI, Type: Foreclosure, Seq: NV - TC, User: Lemus, Amy
Case Vendors: Agency Sales and Posting, LSI Title Company, as Agent, Sale Date: 03/09/2011
Summary View Add Note Category: All

User: Gomez, John
2 New Messages, 0 Calendar, 0 To Do
Set Available - Yes Export Logout

Redacted

Redacted

File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10			General	Quezada, Carlos	03/14/2011 11:01:35	N/A
Note						Action
DEED GENERATED AND SENT OUT						Edit Delete
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	General	Diaz, Maria	03/14/2011 08:48:18	Yes
Note						Action
FUNDS WIRED TO WELLS FARGO						Edit Delete
AMOUNT: \$1,000.00						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	03/08/2011 14:24:47	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 03/08/2011						
Transaction Type: SaleScheduling - ResultOfSale						
Order Number: NV09003798101						
Reference Number: 3805217						
Sale Date: 03/08/2011						
Sale Result: SOLDTOTHIRDPARTY						
Sale Amt: \$51000.00						
Purchaser Name: THE PREM DEFERRED TRUST						
Purchaser Vending: THE PREM DEFERRED TRUST						
Purchaser Address: 8260 W. SAHARA AVE. #150						
Purchaser City: LAS VEGAS						
Purchaser State: NV						
Purchaser Zip: 89117						
Purchaser Phone: 7028652507						
Purchaser Rep: FEGIEL LOPEZ-ARREOLA						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	General	Velasquez, Rosa	03/08/2011 12:34:45	Yes
Note						Action
BID RELEASED / 90% NPV						Edit Delete
10:00 AM 3805217 NV09003798101 NV Clark (NV) Clerk \$50,814.20 SPECIFIED						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 880. Pre-sale	Anderson, Bokaka	03/08/2011 15:15:22	N/A

				Audit, List: Pre Sale Audit - NV, Item: Confirm Correct Bid		
Note						Action
NO ML- 80% NPV- \$50,814.20						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 880, Presale Audit, List: Pre Sale Audit - NV, Item: Sub Recorded	Anderson, Bukaka	03/08/2011 15:48:51	N/A
Note						Action
10/7/10						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 880, Presale Audit, List: Pre Sale Audit - NV, Item: Notice of Sale Recorded Date	Anderson, Bukaka	03/08/2011 15:48:51	N/A
Note						Action
2/8/11						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 880, Presale Audit, List: Pre Sale Audit - NV, Item: Note of Sale Posted	Anderson, Bukaka	03/08/2011 15:48:51	N/A
Note						Action
3/7/11						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 880, Presale Audit, List: Pre Sale Audit - NV, Item: IRS Lien (Year 4)	Anderson, Bukaka	03/08/2011 15:48:51	N/A
Note						Action
NO						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 880, Presale Audit, List: Pre Sale Audit - NV, Item: Certificate Recorded	Anderson, Bukaka	03/08/2011 15:48:51	N/A
Note						Action
2/8/11						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 880, Presale Audit, List: Pre Sale Audit - NV, Item: Confirm First Assignment Recorded	Anderson, Bukaka	03/08/2011 15:48:51	N/A
Note						Action
10/7/10						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 880, Presale Audit, List: Pre Sale Audit - NV, Item: NCS Mailings Sent	Anderson, Bukaka	03/08/2011 15:48:51	N/A
Note						Action
2/8/11						
File	Case	Sequence	Category	Created by	Date	Private

NV09003798-10	NV09003798-10-1	NV - TC	Pop Up Alert	Papadopoulos, Nicholas	02/28/2011 09:03:58	No
Note						Action
<p>From: Rebecca Denise Faubla [mailto:rebecca_faubla@freddiemac.com] On Behalf Of External FCP Sent: Monday, February 28, 2011 4:51 AM To: Brandon.V.Snyder@wellsfargo.com Cc: Post Foreclosure Request Subject: Re: FM# 365243529 Sale Date: 03/07/2011</p> <p>Postponement request denied. FC timelines are severely aged and have been exhausted with no successful loss mtg. Proceed to sale.</p> <p>Thank you</p> <p>Freddie Mac Servicer Postponement Requirements:</p> <p>Please make sure that all postponement requests are sent to External_FCP at least 5 business days prior to foreclosure sale date.</p> <p>In the subject line please include the following:</p> <ol style="list-style-type: none"> 1) The 9 digit Freddie Mac loan number ex. FM #123456789 2) The foreclosure sale date in the following format (mm/dd/yyyy) 3) If the sale date is within 5 days from the request please include the word URGENT in the subject line. <p>Please ensure the following template is filled out when submitting a request:</p> <p>Freddie Mac Loan #: Servicer Loan #: Borrower's Last Name: OOLP: Foreclosure Sale Date: (mm/dd/yyyy) Attorney Name: Attorney Phone#: Complete Workout Package received (Y/N): Shortsale closing date (if app.): Reason for Postponement Request:</p> <p>For Emergency Requests (those within 24 hours of sale) the following team members may be contacted by phone in addition to a written request to External_FCP@freddiemac.com:</p> <p>Rebecca Faubla 703-762-4046 Benjamin Gotthelm 703-762-4114 Ingrid Robinson 703-388-7507</p> <p>If the sale is occurring in the state of "Florida" please include the word "Florida" in the subject line. Please note some jurisdictions require up to 14 days prior notification.</p> <p>Loans that are being reviewed or qualify under HAMP are to be directed to the Attorney Firms to establish the appropriate amount of time to postpone the foreclosure sales. Do not send HAMP/MHA requests to Freddie Mac, for we encourage the Servicers to work directly with the Attorney/Trustee Firms. Please provide the explanation of HAMP Review (only a 60 day period will be granted), or HAMP Trial Period, reporting the 1st date of the payment applied and when the next expected payment is to be made under the plan.</p> <p><Brandon.V.Snyder@wellsfargo.com> 02/25/2011 08:30 AM To: <External_FCP@freddiemac.com> cc: <postponementrequest@trustee.com> Subject: FM# 365243529 Sale Date: 03/07/2011</p>						Edit Delete

Requesting investor approval to postpone this foreclosure sale date to allow for short sale reviews. Thank You.
 Freddie Mac Loan #: REDACTED
 Servicer Loan #: REDACTED
 Borrower's Last Name: SANSOTA
 DDLP: 11/2009
 Foreclosure Sale Date: 03/07/2011
 Attorney Name: Malcolm Cisneros
 Attorney Phone#: 848-252-8400
 Complete Workout Package received (Y/N): Y
 Shortsale closing date (if app.):
 Reason for Postponement Request: SS REVIEWS

Brandon Snyder
 Loan Servicing Specialist
 Loss Mitigation
 Wells Fargo Home Mortgage | 3476 Stateview Blvd | Fort Mill, SC 29715
 MAC: X7801-01K
 Tel: 803-835-9121 | Fax: 803-812-6547
 Brandon.W.Snyder@wellsfargo.com

This transmission may contain information which is confidential, proprietary and privileged. If you are not the individual or entity to which it is addressed, note that any review, disclosure, copying, retransmission or other use is strictly prohibited. If you received this transmission in error, please notify the sender immediately and delete the material from your system. Please note that this email does not constitute an approval nor do any statements within it guarantee an approval of a short sale of the referenced property. It is our mission to provide excellent customer service. Please contact my manager directly if I have not met your servicing expectations at Gloria.Johnson@wellsfargo.com.

File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	02/24/2011 10:57:01	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 02/24/2011 Transaction Type: Publication Order Number: NV09003798101 Reference Number: 3905217						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	02/16/2011 05:10:12	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 02/16/2011 Transaction Type: Publication Order Number: NV09003798101 Reference Number: 3905217 Pub Order: 3905217 Fee: \$348.75 Setup Fee: \$45.00 Newspaper: Nevada Legal News (NV) Pub Date: 02/09/2011 Pub Date: 02/16/2011 Pub Date: 02/23/2011						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	02/11/2011 13:21:51	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 02/11/2011 Transaction Type: NOLPosting Order Number: NV09003798101 Reference Number: 3905217 Pub Order: 3905217 Fee: \$0.00 Posting Date: 02/07/2011						
File	Case	Sequence	Category	Created by	Date	Private

NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	02/11/2011 13:21:51	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 02/11/2011 Transaction Type: NOSPosting Order Number: NV09003798101 Reference Number: 3906217 Pub Order: 3906217 Fee: \$120.00 Posting Date: 02/07/2011						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step 820: NOS RECORDED	KMICS, Support	02/08/2011 16:19:58	N/A
Note						Action
Completed via FKDS TSG Integration						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	02/08/2011 08:52:38	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 02/08/2011 Transaction Type: Publication Order Number: NV09003798101 Reference Number: 3906217						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	02/04/2011 13:39:36	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 02/04/2011 Transaction Type: SalesSchulung - Confirmation Order Number: NV09003798101 Reference Number: 3906217 Sale Location: At the front entrance to Nevada Legal News located at 930 S. 4TH Street, Las Vegas, NV 89101 Pub Date: 02/08/2011 Pub Date: 02/16/2011 Pub Date: 02/23/2011						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	02/04/2011 13:39:36	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 02/04/2011 Transaction Type: Publication Order Number: NV09003798101 Reference Number: 3906217 Pub Order: 3906217 Fee: \$0.00 Setup Fee: \$0.00 Newspaper: Nevada Legal News (NV) Pub Date: 02/08/2011 Pub Date: 02/16/2011 Pub Date: 02/23/2011						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICS, Support	02/04/2011 13:39:35	No
Note						Action
ASAP Update Received						Edit Delete
Transaction Date: 02/04/2011 Transaction Type: NOSPosting Order Number: NV09003798101 Reference Number: 3906217 Pub Order: 3906217 Fee: \$0.00 Posting Date: 02/09/2011 Pub Date: 02/09/2011 Pub Date: 02/16/2011 Pub Date: 02/23/2011						

File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Client	Pomero, Estaban	02/04/2011 13:11:35	Yes
Note						Action
Step Prepare and Proof Sale Notice (Step) triggered charge Publication (Cost) for \$1500.00.						Edit Delete
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 680. Prepare and Proof Sale Notice, List: Assignment, Item: Confirm First Assignment Read	System	01/27/2011 11:50:25	N/A
Note						Action
N/A						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step 150: Military Check	Padilla, Bobby	01/24/2011 08:18:55	N/A
Note						Action
Completed via batch text file upload by Padilla, Bobby						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	General	Gonzalez, Jorge	01/23/2011 15:12:56	Yes
Note						Action
NV Cert placed in Cert folder						Edit Delete
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step 800: CONFIRM IF MEDIATION REQUIRED	Gonzalez, Jorge	11/09/2010 09:54:48	N/A
Note						Action
PREPARED MEDIATION TRUSTEE AFFIDAVIT.						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 800. CONFIRM IF MEDIATION REQUIRED, List: Mediation, Item: Borrower Returned Election to Mediate Form	Gonzalez, Jorge	11/09/2010 09:54:48	N/A
Note						Action
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Mediation	Gonzalez, Jorge	11/09/2010 09:51:33	Yes
Note						Action
PREPARED MEDIATION TRUSTEE AFFIDAVIT.						Edit Delete
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step 690: Receive Sub	Muro, Sandy	10/05/2010 12:53:15	N/A
Note						Action
NOT RECEIVED SENT TO RECORD.						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	Step Check List Item: 680. Receive Assignment, List: Docs, Item: Military Aff Received	Salazar, Bonita	08/26/2010 16:19:30	N/A
Note						Action
NON MIL RECEIVED SENT TO FILING						
File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	General	Cardenas, Kimberly	08/20/2010 09:44:57	Yes

Note	Action														
<p>ASSIGNMENT (MERS to WELLS FARGO) RECORDED JULY 28, 2010</p> <p>TITLE SUMMARY NV09003798-10</p> <p>CURRENT LIEN HOLDER: WELLS FARGO BANK*</p> <p>IS ASSIGN NEEDED *Assignment needed from WELLS current lien holder to FHLMC</p> <p>Other Assignment from N/A to N/A</p> <p>LIEN POSITION: FIRST</p> <p>Tru's Grade: UNKNOWN</p> <p>PRIOR LIENS SHOWING ON TITLE: None</p> <p>OGT (s): 1st in the amount of \$125,900.00 (WELLS - OURS) 2nd in the amount of \$104,800.00 (MERS - JR)</p> <p>Judgment (s): Lien position: JR (judgments/figures/plaintiff)</p> <p>DELINQUENT PROPERTY TAXES:</p> <p>Year: Amt:</p> <p>IRS LIENS: Yes or None Amt:</p> <p>LIS PENDENS AND/OR FORFEITURE ACTIONS:</p> <p>Filed by Respondent/Defendant</p> <p>Copy of TSG Imaged/Attached for your reference</p> <p>Documents Imaged/Attached for execution: Substitution, Assignment(s) and Military Affidavit</p> <p>ASSIGNMENT (MERS to WELLS FARGO) RECORDED JULY 28, 2010</p> <p>** A HOMESTEAD DECLARATION RECORDED APRIL 10, 2007</p> <p>From: Kimberly Cortopassi Sent: Friday, August 20, 2010 9:44 AM To: 'affidavitsdoc@wellsfargo.com' Subject: NV09003798-10 ----- REDACTED ----- FHLMC ----- NEED BY 8/3/2010</p>	<p>Edit Delete</p>														
<table border="1"> <thead> <tr> <th>File</th> <th>Case</th> <th>Sequence</th> <th>Category</th> <th>Created by</th> <th>Date</th> <th>Private</th> </tr> </thead> <tbody> <tr> <td>NV09003798-10</td> <td>NV09003798-10-1</td> <td>NV - TC</td> <td>Client</td> <td>KMICCS, Support</td> <td>07/28/2010 17:02:55</td> <td>Yes</td> </tr> </tbody> </table> <p>Note</p> <p>Step FIRST LEGAL RECORDED (End) triggered charge PACER (Cost) for \$0.00.</p>	File	Case	Sequence	Category	Created by	Date	Private	NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICCS, Support	07/28/2010 17:02:55	Yes	<p>Edit Delete</p>
File	Case	Sequence	Category	Created by	Date	Private									
NV09003798-10	NV09003798-10-1	NV - TC	Client	KMICCS, Support	07/28/2010 17:02:55	Yes									
<table border="1"> <thead> <tr> <th>File</th> <th>Case</th> <th>Sequence</th> <th>Category</th> <th>Created by</th> <th>Date</th> <th>Private</th> </tr> </thead> <tbody> <tr> <td>NV09003798-10</td> <td>NV09003798-10-1</td> <td>NV - TC</td> <td>Step 300: FIRST LEGAL RECORDED</td> <td>KMICCS, Support</td> <td>07/28/2010 17:02:55</td> <td>N/A</td> </tr> </tbody> </table> <p>Note</p> <p>Completed via FND's TSG integration</p>	File	Case	Sequence	Category	Created by	Date	Private	NV09003798-10	NV09003798-10-1	NV - TC	Step 300: FIRST LEGAL RECORDED	KMICCS, Support	07/28/2010 17:02:55	N/A	<p>Edit Delete</p>
File	Case	Sequence	Category	Created by	Date	Private									
NV09003798-10	NV09003798-10-1	NV - TC	Step 300: FIRST LEGAL RECORDED	KMICCS, Support	07/28/2010 17:02:55	N/A									
<table border="1"> <thead> <tr> <th>File</th> <th>Case</th> <th>Sequence</th> <th>Category</th> <th>Created by</th> <th>Date</th> <th>Private</th> </tr> </thead> <tbody> <tr> <td>NV09003798-10</td> <td>NV09003798-10-1</td> <td>NV - TC</td> <td>General</td> <td>Yamami, Allison</td> <td>07/28/2010 13:48:48</td> <td>Yes</td> </tr> </tbody> </table> <p>Note</p> <p>From: Allison Yamami Sent: Wednesday, July 28, 2010 1:48 PM To: FIDELITY Subject: NOD NV09003798-10-1 CLARK</p>	File	Case	Sequence	Category	Created by	Date	Private	NV09003798-10	NV09003798-10-1	NV - TC	General	Yamami, Allison	07/28/2010 13:48:48	Yes	<p>Edit Delete</p>
File	Case	Sequence	Category	Created by	Date	Private									
NV09003798-10	NV09003798-10-1	NV - TC	General	Yamami, Allison	07/28/2010 13:48:48	Yes									

File	Case	Sequence	Category	Created by	Date	Private
NV09003798-10	NV09003798-10-1	NV - TC	General	Del Rio, Lixith	07/28/2010 13:28:10	Yes
PLEASE RECORD NOD Note: Pending Order#: 1597703 Client: (TCORPS) - Trustee Corps Client Reference#: NV09003798101 Loan Number: REDACTED Trustee/Borrower Name: SANSOTA State: NV Post On Date: 07/28/10 Service(s) requested: Post Instructions: Documents attached: DNOR (doc) LEGAL (pdf) NOD (doc) NOTE (pdf)						Action Edit Delete
NV09003798-10	NV09003798-10-1	NV - TC	General	Tapia, Enrique	07/27/2010 10:03:37	Yes
EXECUTED ASSIGNMENT RECEIVED. SENT TO RECORD. OK TO PROCEED						Action Edit Delete
NV09003798-10	NV09003798-10-1	NV - TC	General	Cregon, Adrian	07/27/2010 08:21:32	Yes
Note: assl received mers to w/1 sent to notify						Action Edit Delete
NV09003798-10	NV09003798-10-1	NV - TC	Pop Up Alert	Aragon, Gina	07/19/2010 12:11:40	Yes
PLEASE BRING EXECUTED ASSIGNMENT TO FIRST LEGAL DEPT. Dismissed by Tapia, Enrique on 07/27/2010 at 10:03 AM						Action Edit Delete
NV09003798-10	NV09003798-10-1	NV - TC	General	Aragon, Gina	07/16/2010 12:11:15	Yes
WAITING FOR MERS ASSIGNMENT TO BE SIGNED AND RETURN BEFORE WE ARE ABLE TO RECORD THE FIRST LEGAL ACTION						Action Edit Delete
NV09003798-10	NV09003798-10-1	NV - TC	Client	Sagrera, Marilene	07/16/2010 08:32:05	Yes
Note: Step Complete Case Setup/Order Bone check/Title (End) triggered charge Trustee's Sale Guarantee (Cost) for \$0.						Action Edit Delete
NV09003798-10	NV09003798-10-1	NV - TC	Client	KNICS, Support	07/14/2010 08:44:13	No
Note: VendorScope Referral Lead.						Action Edit Delete
Referral Info: Type: FC Process: Foreclosure Client: Wells Fargo Home Mortgage File Type: Default Servicing VendorScope Id: REDACTED Loan Info:						

Loan Number: REDACTED
Type: FHLMC
Vendor Type: Conventional-No PMI
Portfolio: 706
Lien Position: 1
Orig Amount: 126900
Loan Balance: 116358.87
Late Charge Amount: 38.64
Origination Date: 01/27/2004
Maturity Date: 02/01/2034
Duration: 0
Interest Rate: 6
Interest Method: Fixed
Per Diem: 18.46
Last Payment Date: 12/01/2009
Next Payment Date: 12/01/2009
Default Date: 12/01/2009
Current Payment: 956.52

Property Info:

Type: Condo/Townhouse
Units: 0
Legal Description: Client: SEE ATTACHED
Tax id: REDACTED
Addr1: 1559 WARD FRONTIER LANE
City: HENDERSON
State: NV
Zip: 89016
County: CLARK

Party Info:

Type: Borrower
Ssn: REDACTED
First Name: RAYMOND
Last Name: SANSOTA
Military: N
Deceased: N
Home Ph: 9999999999
Addr1: 1559 WARD FRONTIER LN
City: HENDERSON
State: NV
Zip: 89002-9392

Type: Borrower
Ssn: REDACTED
First Name: FRANCINE
Last Name: SANSOTA
Military: N
Deceased: N
Home Ph: 9999999999
Addr1: 1559 WARD FRONTIER LANE
City: HENDERSON
State: NV
Zip: 89016
County: CLARK

Type: Investor
Co Name: FHLMC
Ref Number: REDACTED

Foreclosure Info:

Case Info:

Arrears Info:

Type: Late Charges
Start Date: 01/20/2009
Amount: 38.64

Type: Late Charges

Start Date: 01/26/2009 Amount: -38.84
Type: Late Charges Start Date: 08/16/2009 Amount: 38.84
Type: Late Charges Start Date: 07/16/2009 Amount: 38.84
Type: Late Charges Start Date: 08/17/2009 Amount: 38.84
Type: Late Charges Start Date: 12/16/2009 Amount: 38.84
Type: Late Charges Start Date: 03/16/2010 Amount: 38.84
Type: Late Charges Start Date: 04/16/2010 Amount: 38.84
Type: Late Charges Start Date: 05/17/2010 Amount: 38.84
Type: Late Charges Start Date: 06/14/2010 Amount: -270.48
Type: Late Charges Start Date: 08/16/2010 Amount: 38.84
Type: Escrow Advance Amount: 319.48
Type: Inspection Fee Start Date: 06/25/2010 Amount: 18
Type: LATE PAYMENT Start Date: 12/01/2009 Amount: 856.52
Type: LATE PAYMENT Start Date: 01/01/2010 Amount: 856.52
Type: LATE PAYMENT Start Date: 02/01/2010 Amount: 856.52
Type: LATE PAYMENT Start Date: 03/01/2010 Amount: 854.73
Type: LATE PAYMENT Start Date: 04/01/2010 Amount: 854.73
Type: LATE PAYMENT Start Date: 05/01/2010 Amount: 854.73
Type: LATE PAYMENT Start Date: 06/01/2010 Amount: 854.73
Type: LATE PAYMENT

Start Date: 07/01/2010 Amount: 854.75	
Status Info:	
Date: 07/14/2010 Val: Open	
Event Info:	
Src Event Id: 1 Name: Accept Referral Due Date: 07/14/2010 Comp Date: 07/14/2010	
Src Event Id: 41 Name: FIRST LEGAL ACTION Due Date: 07/21/2010	
Src Event Id: 488 Name: Title Received Due Date: 08/28/2010	
Src Event Id: 95 Name: Pre-sale Redemption Expires Due Date: 10/21/2010	
Src Event Id: 7 Name: First Pub Date Plan Due Date: 10/28/2010	
Src Event Id: 8 Name: Sale Date Due Date: 11/20/2010	
Src Event Id: 382 Name: Accept Referral Due Date: 07/14/2010 Comp Date: 07/14/2010	
File: NV09003798-10, Client: Wells Fargo Bank, N.A., Loan: REOACTED, Property: 1659 WARD FRONTIER LANE, HENDERSON, NV 89015, Clark	

Module: Default Servicing, File Type: Default Servicing
Case: NV09003798-10-1, Ref Num: 100427843-NV-LPI, Type: Foreclosure, Seq: NV - TC, User: Lemus, Amy
Case Vendors: Agency Sales and Posting, LSI Title Company, as Agent, Sale Date: 03/09/2011

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EXHIBIT “6”

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3
4 JEFFREY BANKO, et al.,)
5 Plaintiffs,)
6 vs.) Case No.
7) A-11-649857-C
8 QUALITY LOAN SERVICE)
CORPORATION, a California)
9 Corporation, et al.,)
Defendants.)
10
11
12
13

14 DEPOSITION OF
15 TERRY JOHNSEN
16 SANTA ANA, CALIFORNIA
17 JULY 7, 2016
18
19
20

21 ATKINSON-BAKER, INC.
22 COURT REPORTERS
23 (800) 288-3376
www.depo.com

24 REPORTED BY: ROSHEEN SHEEHY, CSR 13710
25 FILE NO: AA0747F

<div>1 DISTRICT COURT 2 CLARK COUNTY, NEVADA 3 4 JEFFREY BANKO, et al.,) 5) 6 Plaintiffs,) 7) Case No. 8 vs.) A-11-649857-C 9) 10 QUALITY LOAN SERVICE) 11 CORPORATION, a California) 12 Corporation, et al.,) 13) 14 Defendants.) 15 16 Deposition of TERRY JOHNSEN, taken on behalf of 17 PLAINTIFFS, at 1851 East First Street, Suite 1550, Santa 18 Ana, California 92705, commencing at 11:00 a.m., Thursday, 19 July 7, 2016, before Rosheen Sheehy, CSR. 20 21 22 23 24 25</div> <div>Page 2</div>	<div>1 INDEX 2 WITNESS: TERRY JOHNSEN 3 EXAMINATION: PAGE 4 By MR. BOYLAN 5 5 6 EXHIBITS 7 NUMBER DESCRIPTION PAGE 8 9 1 Outgoing Wire Transfer, Domestic 42 10 or International US Funds Only 11 12 2 Declaration of Bijan Laghaci 91 13 14 3 Document dated March 31, 2016 108 15 16 4 Initial Disclosures Pursuant to 114 17 NRCP 16.1 of Defendant MTC 18 Financial, Inc. dba Trustee 19 Corps 20 21 5 Defendant MTC Financial, Inc.'s 136 22 Responses to Raymond Sansota 23 and Francine Sansota's Requests 24 for Production of Documents 25 Set One INSTRUCTED NOT TO ANSWER PAGE LINE 23 12 48 17 110 3</div> <div>Page 4</div>
<div>1 APPEARANCES 2 FOR PLAINTIFFS: 3 LAW OFFICES OF NICHOLAS A. BOYLAN, A.P.C. 4 BY: NICHOLAS A. BOYLAN, ESQ. 5 444 West C Street 6 Suite 405 7 San Diego, California 92101 8 (619) 695-6344 9 nablawfirm@gmail.com 10 FOR DEFENDANTS: 11 BURKE, WILLIAMS & SORESENSEN, LLP 12 BY: RICHARD J. REYNOLDS, ESQ. 13 1851 East First Street 14 Suite 1550 15 Santa Ana, California 92705 16 (949) 863-3363 17 rreynolds@bwsllaw.com 18 FOR CALIFORNIA RECONVEYANCE: 19 BRYAN CAVE, LLP 20 BY: JESSICA R. MAZIARZ, LLP 21 2 North Central Avenue 22 Suite 2200 23 Phoenix, Arizona 85004-4406 24 (602) 364-7019 25 jessica.maziarz@bryancave.com ALSO PRESENT: Rande D. Johnson</div> <div>Page 3</div>	<div>1 SANTA ANA, CALIFORNIA; JULY 7, 2016; 11:00 a.m. 2 TERRY JOHNSEN, 3 having first been duly sworn, was 4 examined and testified as follows: 5 6 EXAMINATION 7 BY MR. BOYLAN: 8 Q Good morning, ma'am. Could you state your full 9 name, please. 10 A Terry Johnson. 11 Q What is your current business address? 12 A 17100 Gillette Avenue, city is Irvine, state is 13 California, ZIP code is 92614. 14 Q How are you currently employed? 15 A As co-owner. 16 Q Of what business, ma'am? 17 A It's going to be MTC Financial dba Trustee Corps. 18 Q It is a limited liability company in the state of 19 California; is that correct? 20 A No. 21 Q What is it? 22 A I'm not quite sure. 23 Q May I ask in a different way? Is -- do you know 24 if it's a corporate entity? 25 A Yes.</div> <div>Page 5</div>

2 (Pages 2 to 5)

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1 Q And are you a shareholder?
2 A Yes.
3 Q Do you also hold officer positions?
4 A Yes.
5 Q What are they?
6 A Vice president.
7 Q Any others?
8 A No.
9 Q In the course of your work for the company, do
10 you have any other titles other than vice president?
11 A No.
12 Q How long have you held that position?
13 A 20-plus years.
14 Q Did you have any prior positions in the company
15 or have you always been the vice president?
16 A Always vice president.
17 Q Were you an owner of the company from its
18 inception?
19 A No.
20 Q What year did you become an owner of the company?
21 A Probably 1993.
22 Q Are you an owner by reason of separate share
23 holdings or by reason of community property or both?
24 A Both.
25 Q What are your share holdings, then, in -- in both

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1 capacities, please?
2 A Majority shareholder.
3 Q Do you know the percentage that you own or
4 control, both shares?
5 A Not offhand.
6 (Reporter clarification.)
7 THE WITNESS: Not offhand.
8 BY MR. BOYLAN:
9 Q Is there anything in writing with the company
10 which either now or historically has described your job
11 responsibilities?
12 A No.
13 Q Is there anything in writing that would describe
14 your scope of authority at the company in terms of
15 day-to-day business operations?
16 A Just co-owner.
17 Q But nothing in writing?
18 A No.
19 Q Is it a fair statement to say that as the
20 co-owner and the majority shareholder, that you have
21 overall responsibility for everything at the company?
22 A No.
23 Q How would you, then, describe your overall
24 responsibility for the company as the majority owner and
25 the majority shareholder?

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1 A Limited.
2 Q Can you be more specific?
3 A Maybe just going over it, banking maybe, going
4 over human resources department.
5 Q And is it your sworn testimony that that has been
6 the limit of your authority for over 20 years?
7 A That is, yes.
8 Q Do you go to work every day?
9 A Yes.
10 Q And do you work a full day every day?
11 A No.
12 Q How many hours do you typically work per day?
13 A Several.
14 Q Four to six?
15 A Less.
16 Q Do you keep track of your time that you're there?
17 A No.
18 Q So is it fair to say you work, on average, four
19 hours a day, five days a week?
20 A On average, yes.
21 Q And do you have a physical office of your own at
22 the company?
23 A Yes.
24 Q How many employees does the company have?
25 A Over 200.

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1 Q You're the ultimate human resources authority at
2 the company?
3 A No. I have management teams.
4 Q But they report to you or you report to them?
5 A Both.
6 Q What is your HR responsibility at the company
7 today?
8 A To just oversee and make sure that we are keeping
9 up with the integrity of what we're required to do as far
10 as human resources concerns.
11 Q And that includes compliance work, legal
12 compliance?
13 A No.
14 Q All right. Who's in charge of legal compliance?
15 A That would be our human resources manager.
16 Q And who is that?
17 A Gloria Juarez.
18 Q How long has she held that position?
19 A 14-plus years.
20 Q Who is in charge of legal compliance with respect
21 to state laws governing business operations in Nevada?
22 A That would be -- can you repeat that in a
23 different way?
24 Q Please. I'll -- I'll let her restate it. If you
25 don't understand it, I'll try to rephrase.

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3 (Pages 6 to 9)

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1 A Okay. Okay.
2 (Whereupon the record was read back.)
3 THE WITNESS: That would be our legal team.
4 BY MR. BOYLAN:
5 Q What -- is that a lawyer or you have an in-house
6 lawyer?
7 A Yes.
8 Q Okay. Who does the lawyer report to, your
9 husband?
10 A Yes.
11 Q Your husband is Rande Johnsen who's sitting with
12 us here today?
13 A Correct.
14 Q And Rande Johnsen is ultimately in charge of
15 legal compliance with respect to state laws that -- that
16 govern the business; is that true?
17 A No.
18 Q Who -- who has that ultimate authority?
19 A Our management team.
20 Q Is there one person, ma'am, or several?
21 A Several.
22 Q So it's done by committee?
23 A By our management team.
24 Q Does your management team report to you and your
25 husband as the owners?

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1 A Yes.
2 Q Do you have the power to hire and fire them?
3 A No.
4 Q Who has the power to hire and fire your
5 management team?
6 A We do it together as a team.
7 Q You and your husband?
8 A That's correct.
9 Q All right. So you and your husband, together,
10 have the power to hire and fire your management team,
11 correct?
12 A Correct.
13 Q And together you and your husband have the power
14 to overrule the decisions of what you're referring to as
15 your management team, correct?
16 A Not always.
17 Q So the owners of the company don't have the power
18 to overrule the management team; is that your testimony?
19 A Depending on the situation.
20 Q What situation would the owners not have control?
21 A It's outside advice. Let's see. I'm not quite
22 sure how to word this.
23 Q Do your best.
24 MR. REYNOLDS: Do you understand the question?
25 THE WITNESS: Not really.

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1 MR. REYNOLDS: It's a little beyond the scope of this
2 deposition.
3 MR. BOYLAN: No. It really isn't because we're trying
4 to figure out who's in charge of legal compliance. And
5 personally, I mean no disrespect, ma'am, but I feel she's
6 being invasive. It's a very simple question.
7 BY MR. BOYLAN:
8 Q Who are the people that have legal compliance
9 authority?
10 MR. REYNOLDS: But that's not the scope of this
11 deposition.
12 MR. BOYLAN: Oh, it -- it's -- it is -- there's
13 nothing -- there's no limit on the scope of this
14 deposition.
15 MR. REYNOLDS: Actually there is, if you keep going.
16 MR. BOYLAN: Okay. Well, if there's an order, you can
17 show me the order. But if you want to instruct the
18 witness not to answer, do so --
19 MR. REYNOLDS: No.
20 MR. BOYLAN: -- because --
21 MR. REYNOLDS: Ask your question, and she'll see what
22 -- because you're getting to the point of badgering the
23 witness.
24 MR. BOYLAN: Oh, that's -- that's completely false.
25 MR. REYNOLDS: The only thing she was identified was

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1 -- the only thing she was identified was that she signed
2 the one document.
3 MR. BOYLAN: That's --
4 MR. REYNOLDS: If there's something else that you want
5 to talk about, then you can talk about it. But you still
6 have your motions that are pending as to what you're going
7 to be allowed to talk about.
8 MR. BOYLAN: Okay. Well, then you can make decisions
9 and bear the consequences --
10 MR. REYNOLDS: That is fine.
11 MR. BOYLAN: -- if you instruct her not to answer.
12 MR. REYNOLDS: That's fine.
13 BY MR. BOYLAN:
14 Q Who's in charge of legal compliance in Nevada,
15 ma'am, today?
16 A I don't want to answer that question.
17 MR. BOYLAN: That's actually right. She doesn't; and
18 you're compelled to do so under the law, ma'am.
19 MR. REYNOLDS: If you know the answer, answer. If you
20 don't know the answer, then the answer is, "I don't know."
21 MR. BOYLAN: Don't coach her just to falsely say she
22 doesn't know.
23 MR. REYNOLDS: Counsel --
24 MR. BOYLAN: Please.
25 MR. REYNOLDS: -- we can stop now if you want to do

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4 (Pages 10 to 13)

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1 that.
2 BY MR. BOYLAN:
3 Q What is the answer, ma'am?
4 MR. REYNOLDS: You came up here and we're
5 accommodating you and we're accommodating everybody.
6 Okay?
7 MR. BOYLAN: And I can do it at another place if this
8 is --
9 MR. REYNOLDS: Okay.
10 MR. BOYLAN: -- part of the accommodation.
11 MR. REYNOLDS: Well, if you want to.
12 BY MR. BOYLAN:
13 Q Can you answer the question, ma'am?
14 A No.
15 Q Why not? Just don't want to?
16 A Don't feel it's necessary.
17 Q All right. Well, I'm going to ask the judge to
18 compel you to do so. So I'm going to give you one more
19 opportunity to answer the question because I will also ask
20 the judge to sanction the company.
21 Who is in charge of legal compliance with respect
22 to the name -- state of Nevada?
23 THE WITNESS: Excuse me? Can we go outside for a
24 second?
25 MR. BOYLAN: Not with a question pending.

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1 MR. REYNOLDS: If you don't want to -- I can't help
2 you with your answer. If you don't want to --
3 MR. BOYLAN: You should tell her just to answer on the
4 record.
5 MR. REYNOLDS: Counsel, if she knows the answer,
6 she'll answer it.
7 BY MR. BOYLAN:
8 Q Please answer, ma'am.
9 A I don't want to answer.
10 Q This is a legal proceeding, ma'am. I'm sorry.
11 I'm not trying to be your lawyer, but --
12 A Yes, you are.
13 Q -- it's not -- it's not up to you to decide which
14 questions you like and which questions you want to answer.
15 I'm going to ask you again, respectfully, please answer
16 the question.
17 A And the question is?
18 Q Who is in charge of legal compliance for the
19 company in the state of Nevada?
20 A Our attorneys.
21 (Reporter clarification.)
22 THE WITNESS: Our attorneys.
23 BY MR. BOYLAN:
24 Q No. Who is the nonattorney person ultimately
25 responsible at the company?

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1 THE WITNESS: Where's he going with this?
2 MR. REYNOLDS: It's not --
3 BY MR. BOYLAN:
4 Q For example, are the owners responsible? Is the
5 president responsible? Is the vice president responsible?
6 Is there a committee of people responsible? Is there one
7 individual to whom the lawyers report? I'm going to ask
8 you again with that clarification. Please tell me who is
9 responsible for legal compliance in the state of Nevada?
10 THE WITNESS: Our attorney.
11 BY MR. BOYLAN:
12 Q And who does the attorney report to at the
13 company, Rande Johnson, your husband?
14 A Both of us.
15 Q I see. Okay. Very good.
16 So you and your husband together have the
17 ultimate authority over legal compliance in the state of
18 Nevada; true?
19 A Yes.
20 Q All right. Has that been true since 2007?
21 A Yes.
22 Q Okay. Why did the company and/or you and your
23 husband decide, in 2011, to obtain a collection agency
24 license from the financial institutions division of the
25 state of Nevada?

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1 A Just to have.
2 Q Any other reason, ma'am?
3 A No.
4 Q Did it have something to do with your business
5 activities in Nevada?
6 A No.
7 Q What were your business activities in Nevada at
8 that time, when you first applied for a license to be a
9 collection agency in Nevada?
10 A May I speak to --
11 Q Not with a question pending, ma'am. No, I'm
12 sorry. We don't want coaching. We want your honest
13 answer --
14 A I don't want coaching. I need to excuse myself
15 for a second.
16 Q Well, I apologize, ma'am, but with a question
17 pending, it's not proper.
18 Can you please answer and then take a break?
19 MR. REYNOLDS: You might want to reread the question.
20 MR. BOYLAN: Please.
21 (Whereupon the record was read back.)
22 THE WITNESS: Foreclosure trustee work.
23 BY MR. BOYLAN:
24 Q Can you be more specific?
25 A Trustee work; that's what we do.

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5 (Pages 14 to 17)

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1 Q Anything beyond that? You didn't need a
2 collection agency license for that, though, did you,
3 ma'am?
4 MR. REYNOLDS: Objection. You're calling for a legal
5 conclusion.
6 BY MR. BOYLAN:
7 Q According to your understanding at the time you
8 applied for the collecting agency license?
9 A Can you repeat that?
10 Q I'll do it for you.
11 Your understanding, your personal understanding
12 in 2011, was that your company was only doing trustee work
13 and, therefore, you didn't need a collection agency
14 license in Nevada, correct?
15 A No.
16 Q Oh, you thought you did need one?
17 A No.
18 MR. REYNOLDS: That's not her testimony.
19 BY MR. BOYLAN:
20 Q Okay. Can you clarify it for us, ma'am?
21 A Just to have.
22 Q Did anyone other than a lawyer suggest to you
23 that you needed to have it?
24 A No. Just trying to do good business practice.
25 Q Whose idea was it to get a collection agency

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1 license in Nevada?
2 A I don't recall.
3 Q How much did it cost?
4 A I have no idea.
5 Q How much did it cost when you renewed it
6 recently?
7 A I wouldn't know.
8 Q Didn't you want to just have one like in 2007
9 also?
10 A No.
11 Q Why all of a sudden in 2011 did you want to have
12 one?
13 A Just expanding our business.
14 Q When did you start doing work in Nevada?
15 A 2000.
16 Q What was the nature of the work in 2000?
17 A Just doing business in Nevada.
18 Q What kind of business, ma'am? That's what we're
19 here to talk about. What specifics? What kind of
20 business?
21 A We're not here to talk about that.
22 Q All right. Well, the judge will decide that.
23 Can you answer the question, please?
24 A We're here to talk about my signature on a piece
25 of paper.

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1 Q That is not true, ma'am. That's what -- with due
2 respect, that's what your lawyers would like. That's not
3 the rules; that's not the law. There's no limit unless he
4 wants to --
5 MR. REYNOLDS: Counsel --
6 MR. BOYLAN: -- instruct you not to answer.
7 MR. REYNOLDS: If you want to ask a question, ask a
8 question.
9 MR. BOYLAN: Question's pending, Counsel.
10 MR. REYNOLDS: Why don't you reread it instead of
11 narrating the rest of it?
12 MR. BOYLAN: Well, frankly, at this point I need you
13 to tell your witness she needs to answer the questions
14 consistent with the law. She thinks that she only needs
15 to answer a couple of questions about --
16 MR. REYNOLDS: She's answering the questions to the
17 best of her ability.
18 MR. BOYLAN: No, she's not.
19 MR. REYNOLDS: You haven't even asked her if she knows
20 any of this stuff.
21 MR. BOYLAN: Oh, she knows.
22 MR. REYNOLDS: That's your opinion.
23 BY MR. BOYLAN:
24 Q What were your business activities in Nevada in
25 the year 2000, ma'am, specifically? And by "you," I mean

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1 your company.
2 A Trustee work.
3 Q Can you be more specific?
4 A I am being specific.
5 Q What does trustee work include, ma'am?
6 A Foreclosure.
7 Q What else?
8 A Whatever else goes with it.
9 Q You tell me. It's your business for over 20
10 years. Can you tell me please what else goes with it?
11 A We do eviction work.
12 (Reporter clarification.)
13 THE WITNESS: No. I don't remember. I don't recall.
14 MR. JOHNSEN: I'm going to take a break. Excuse me.
15 MR. BOYLAN: If I may, counsel, I'd just like to
16 observe for the record, she's been looking over at her
17 husband a lot for cues on how to answer.
18 MR. REYNOLDS: Why don't you ask her what her
19 knowledge is of the business as opposed to telling her
20 what it is, and she might give an answer?
21 MR. BOYLAN: She's an owner. She's been there every
22 day for over 20 years.
23 MR. REYNOLDS: That doesn't mean that she's active in
24 the day-to-day operations. And I'm trying not to coach
25 her.

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6 (Pages 18 to 21)

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1 MR. BOYLAN: Okay.
2 MR. REYNOLDS: But you haven't asked her what she
3 really does or did do at any particular point in time.
4 MR. BOYLAN: Well, I'm just, you know -- fine, but we
5 will ask other employees, too, and unless they're all
6 going to lie, then she's going to be at risk for being
7 untruthful, so --
8 MR. REYNOLDS: I don't think --
9 MR. BOYLAN: All right.
10 MR. REYNOLDS: -- If you're trying to impress
11 somebody, it's not happening.
12 MR. BOYLAN:
13 Q I'm just trying to get answers, ma'am. Let's
14 talk about what you mean by foreclosure activities.
15 Does that include trying to work out agreements
16 with respect to the loans on the debt?
17 A I'm not answering that because you're asking me
18 and you're putting words in my mouth.
19 Q Can you answer yes or no?
20 A I won't answer the question.
21 Q Okay. Can you answer yes or no?
22 A I won't answer the question.
23 Q All right. Is there a reason you won't answer
24 it?
25 A Because that's not why I'm here.

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1 Q Actually, well, counsel might have to ask you --
2 MR. BOYLAN: Can you instruct her to answer the
3 question, please?
4 MR. REYNOLDS: Can you reread the question.
5 (Whereupon the record was read back.)
6 THE WITNESS: I wouldn't know.
7 BY MR. BOYLAN:
8 Q You never had any involvement in that kind of
9 work over the last 20-plus years, ma'am; is that your
10 sworn testimony?
11 A Yes.
12 Q And you don't know what employees do that? You
13 have no supervisory authority over those for 20 years?
14 MR. REYNOLDS: That's -- objection. Compound
15 question. Instruct the witness not to answer.
16 MR. BOYLAN: Can't do that under Nevada rules --
17 MR. REYNOLDS: I'm doing it right there.
18 MR. BOYLAN: -- based on that type of objection.
19 MR. REYNOLDS: I just did.
20 MR. BOYLAN: Have you read what the discovery
21 commissioner herself has written on that?
22 MR. REYNOLDS: I just did it. You have two questions.
23 Break it down.
24 MR. BOYLAN: It's still not appropriate for
25 instruction.

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1 MR. REYNOLDS: Go ahead.
2 MR. BOYLAN: And it's sanctionable.
3 MR. REYNOLDS: Go ahead.
4 BY MR. BOYLAN:
5 Q Do you have authority over those individuals who
6 are involved in loan modifications or loan workouts,
7 ma'am?
8 A I have a management team.
9 Q Who has authority over that particular type of
10 work?
11 A My management team.
12 Q Who by name?
13 A Whoever my management team is.
14 Q What are their names?
15 MR. REYNOLDS: You're asking for who currently is on
16 the management team?
17 MR. BOYLAN:
18 Q Who currently has that responsibility that I
19 described, ma'am? What is their names?
20 A Cathy Cole Sherborn.
21 (Reporter clarification.)
22 THE WITNESS: I'm sorry. Cathy Cole Sherborn.
23 BY MR. BOYLAN:
24 Q What is her title?
25 A She is the manager over operations.

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1 Q All operations?
2 A Whatever she's -- does as our manager.
3 Q What operations is she the manager over, ma'am?
4 A Operations of Trustee Corps.
5 Q What specific functions?
6 A Management over the work.
7 Q Can you describe the specific functions, ma'am?
8 A Not quite sure.
9 Q Did you at any time in 2011 or before have
10 discussions with your husband about whether the company
11 should obtain a collection agency license in Nevada?
12 A No.
13 Q Who did you discuss that with?
14 A Just came up in a conversation, management.
15 Q With who? Can I have the names, please?
16 A All of our management team.
17 Q Very good. What are the names?
18 A Cathy Cole Sherborn.
19 Q Any others?
20 A Gloria Juarez.
21 Q Who else, ma'am?
22 A I can't remember offhand.
23 Q And your husband was involved?
24 A I believe he was in the meeting.
25 Q Okay. Where was the meeting?

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7 (Pages 22 to 25)

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1 A In an office.
2 Q Where ma'am?
3 A In Irvine.
4 Q At your current office location?
5 A Yes.
6 Q What was discussed at the meeting?
7 A Whatever was on the agenda, and I don't remember.
8 Q There was a written agenda, correct?
9 A No. It's more like a verbal, just kind of
10 like --
11 Q Do you deny, under oath, ma'am -- just for
12 clarity, do you deny, under oath that there was a written
13 agenda?
14 A There could have been, but I don't remember.
15 This was several years ago, sir.
16 Q What was on the agenda with respect to debt
17 collection license?
18 A I don't remember.
19 Q What was said at the meeting about the debt
20 collection license?
21 A I don't remember.
22 Q Who said that they wanted to obtain a debt
23 collection license in Nevada, which participants at the
24 meeting?
25 A There was just whoever was there participate --

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1 just talking about it.
2 Q And everyone agreed to do that?
3 A I don't remember. I may have stepped out of the
4 room.
5 Q What were some of the reasons given at that time
6 to obtain a debt collection license in Nevada at that
7 meeting?
8 A I don't recall.
9 Q Was there, at that meeting, a review or any
10 discussion of the activities, the actual business
11 activities that MYC was performing in Nevada at that time?
12 A I don't remember.
13 Q Was there any major expense of the business that
14 occurred in Nevada at that time?
15 A I don't remember.
16 Q When was the last major expense of the scope of
17 the business performed in Nevada by the company?
18 MR. REYNOLDS: Assumes -- objection. Assumes facts
19 not in evidence.
20 You can answer.
21 THE WITNESS: I don't know. I don't remember.
22 BY MR. BOYLAN:
23 Q Has there been any such major expense or has the
24 business essentially been the same in Nevada since you
25 began in 2000?

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1 MR. REYNOLDS: Objection. Vague as to what you mean
2 by expansion or "expanse," I guess is the word. I don't
3 know whether it's more of the same work or in a different
4 area. If you understand the question, you can answer it.
5 THE WITNESS: I don't understand the question.
6 BY MR. BOYLAN:
7 Q Has there been any change in the scope of
8 business activities that the company performs in Nevada
9 since the year 2000?
10 A I don't remember.
11 Q Is the business, a scope of the business
12 activities performed today, different than what they were
13 when you began in 2000 in Nevada?
14 A I don't remember.
15 Q No. I'm asking about today.
16 A I don't remember.
17 Q Have you had any responsibility for the company's
18 website at any time?
19 A No.
20 Q Who has responsibility for the company's website?
21 A I don't know.
22 Q When is the last time you were aware of who had
23 responsibility for the company's website?
24 A I have no idea.
25 Q Have you ever reviewed the website yourself?

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1 A No.
2 Q What kind of computer software does the company
3 utilize today for its data?
4 A I have no idea.
5 Q Who has responsibility for that?
6 A Management team.
7 Q What person by name?
8 A I wouldn't know. It's group of them.
9 Q What are all their names, then?
10 A Cathy Cole Sherborn, Gloria Juarez, Victor
11 Hutchins.
12 Q Victor did you say?
13 A Uh-huh.
14 Q What are each of their titles, please?
15 A They're all vice presidents of the company.
16 Q Are there any other vice presidents other than
17 those you named and yourself?
18 A Robert Ruelas.
19 Q Spell the last name, please.
20 A R-u-e-l-a-s.
21 Q And what is his responsibility?
22 A He does all of our marketing.
23 Q What else, anything?
24 A No.
25 Q And what about Victor, what is his

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8 (Pages 26 to 29)

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1 responsibility?
2 A I'm not quite sure.
3 Q What would you estimate it to be, based on your
4 observations?
5 A I don't know. Maybe mailings or something. I
6 don't really know.
7 Q You have a vice president in charge of mailings?
8 A Well, I'm not quite sure what his title is.
9 Q And Gloria Juarez, what is her responsibility
10 area?
11 A She has human resources.
12 Q And what else?
13 A And some of our accounting.
14 Q And Cathy, what -- what's her areas of
15 responsibility? Kathy --
16 A She is our oper- -- she takes care of the
17 operations.
18 Q And what else?
19 A That's all I know.
20 Q Is she in charge of operations for Nevada as
21 well?
22 A I don't know.
23 Q Is there a limit on her authority with respect to
24 operations, that you know of?
25 A No.

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1 Q How many states are you doing business in, ma'am,
2 your company?
3 A Six.
4 Q And how many states do you hold collection agency
5 licenses?
6 A I have no idea.
7 Q Who would be in charge of obtaining those
8 licenses at the company, nonlawyer person?
9 A I wouldn't know.
10 Q What -- if I may, just for -- I'm not asking for
11 a legal conclusion, but I need some foundation to of your
12 knowledge to ask you questions.
13 What is your understanding of what it means to be
14 a collection agency?
15 A I have no idea.
16 Q None whatsoever?
17 A No.
18 Q What is your understanding of what it means to be
19 a foreclosure trustee?
20 A No idea.
21 Q None whatsoever?
22 A No.
23 Q You said earlier that the business that you did
24 in Nevada was, I think, trustee work; is that the phrase
25 you used?

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1 A Yes.
2 Q What does that mean?
3 A Whatever that word means.
4 Q I'm asking you, your understanding, under oath,
5 could you tell me your understanding of what that means?
6 A Whatever a trustee does.
7 Q What do they do, ma'am?
8 A I have no idea.
9 Q Is your -- does your company hold any type of
10 collection agency designation in California?
11 A I have no idea.
12 Q Does your company hold any other licenses in the
13 state of Nevada other than the collection agency license?
14 A I have no idea.
15 Q Have you had any interaction with the financial
16 institutions division of the state of Nevada?
17 A Not that I'm aware of.
18 Q Do you know whether your husband has?
19 A I have no idea.
20 Q Do you know whether anyone on behalf of your
21 company has had any type of communication or interaction
22 with the financial institution division in the state of
23 Nevada?
24 A I don't know.
25 Q Who do you think would most likely be aware of

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1 that at the company?
2 A No clue.
3 Q What individuals at the company currently report
4 to you and/or you and your husband?
5 A Just the management team.
6 Q And those are the four people you've already
7 identified by name?
8 A Yes.
9 Q Are there any other individuals at the company
10 that currently report to you and/or your husband?
11 A I have no idea.
12 Q And how often -- you said there was a meeting with
13 your management team regarding the collection agency
14 license in Nevada. That was back in 2011, correct?
15 A I never said that.
16 Q I'm asking, was it in 2011?
17 A I don't remember.
18 Q Can you estimate the year it was?
19 A No.
20 Q How often does the company have management
21 meetings?
22 A I don't know.
23 Q What would be your estimate?
24 A I have no idea.
25 Q How many have you attended in 2016?

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1 A None. I don't know.
2 Q Well, those are different answers. Have you
3 attended any management meetings for the company in the
4 year 2016?
5 A No.
6 Q What about in the year 2015?
7 A Not that I recall.
8 Q Did there come a time when you stopped attending
9 management meetings at the company after 2011?
10 A I don't remember.
11 Q Between 2007 and 2012, was your company in the
12 business of acting as a collecting agency in the state of
13 Nevada?
14 MR. REYNOLDS: Objection. Calls for a legal
15 conclusion.
16 MS. MAZIARZ: Vague.
17 MR. REYNOLDS: And vague.
18 BY MR. BOYLAN:
19 Q Yes or no, ma'am, under oath, can you answer,
20 please?
21 A I don't recall.
22 Q That's your best answer?
23 A Yes, it is.
24 Q Forgive me; and I don't mean to insult you by
25 this in any way. But based on your answers, it's my

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1 obligation to ask you this: Have you been diagnosed with
2 any memory or recollection problems by any medical
3 professional?
4 A No.
5 MR. REYNOLDS: Objection. Badgering the witness.
6 BY MR. BOYLAN:
7 Q Are you under the influence of any medication
8 that you understand might affect your memory or your
9 ability to recall and relate historical events?
10 A No.
11 Q Is there any personal trauma or events in your
12 life, currently or recently, that you believe would affect
13 your ability to remember events and relate them here under
14 oath today?
15 A No.
16 Q Have you observed yourself having any memory
17 problems or deficits or difficulties in recent years?
18 A No.
19 Q Do you have an e-mail address at the company?
20 A Yes.
21 Q The company has its own server; is that true?
22 A I -- I don't know.
23 Q What is your e-mail address, ma'am?
24 A Whatever my name is @trustecorps.com.
25 Q What is your name, do you know?

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1 A Terry Johnsen.
2 Q So your e-mail address is terryjohnsen@ --
3 A Trustecorps.com.
4 Q How long have you had that e-mail?
5 A I have no idea.
6 Q What would be your estimate?
7 A I don't know, 20 years. Not quite sure; don't
8 have an idea.
9 Q Have you erased or deleted any of your e-mails
10 recently?
11 A That has nothing to do with why I'm here, at all.
12 Q Can you answer, can you answer yes-or-no please?
13 A No.
14 Q No; you won't answer or --
15 A No, I won't answer.
16 Q I see. Have you erased or deleted any e-mails
17 that relate to MTC's business in the state of Nevada?
18 A I don't remember.
19 Q When is the last time you did such a deletion?
20 MR. REYNOLDS: Objection.
21 BY MR. BOYLAN:
22 Q If you did.
23 MR. REYNOLDS: Assumes facts not in evidence. Okay.
24 THE WITNESS: I don't recall.
25 BY MR. BOYLAN:

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1 Q Did you recently conduct a search for documents
2 related to this lawsuit?
3 A No.
4 Q No search whatsoever?
5 A I don't know.
6 Q Ma'am, I'm asking if you, personally, conducted
7 any search for documents or records?
8 A I don't remember.
9 Q Well, let's say within the last 60 days, have you
10 done so?
11 A No.
12 Q Did you do so prior to 60 days, say, in 2016?
13 A No. Am I going somewhere with this? I mean, I
14 don't understand.
15 Q For example, did you -- I think your answer's
16 clear, but I want a better record.
17 Did you search your e-mail for any documents that
18 were related to this lawsuit and/or MTC's business in the
19 state of Nevada?
20 A I don't remember.
21 Q No; did you do so within the last 60 days?
22 A That, I don't remember.
23 Q You don't remember whether you conducted a
24 search?
25 A No.

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10 (Pages 34 to 37)

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1 Q Did you instruct anyone else to do so?
2 A No.
3 Q Do you know if anyone else did so?
4 A I wouldn't have a clue.
5 Q Who has access to your e-mail at the company?
6 A I do.
7 Q Does anyone else have your password?
8 A No.
9 Q So no one else has searched your e-mail for
10 records related to this case in the last 60 days, right?
11 A No.
12 Q Correct? I don't want a double negative. Is it
13 correct, ma'am, that no one else at the company has
14 utilized your password or otherwise accessed your e-mail
15 to searched for records related to this case in the last
16 60 days?
17 A (Inaudible.)
18 Q Is that correct?
19 MR. REYNOLDS: Objection. Compound; and a bit vague,
20 but you can answer it.
21 THE WITNESS: No.
22 BY MR. BOYLAN:
23 Q Do you know whether other individuals at the
24 company had within the last 60 to 90 days search for
25 records related to this lawsuit?

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1 A I wouldn't know.
2 Q Have you talked to anyone about that?
3 A No.
4 Q What about your husband, talk to him about that?
5 A No.
6 Q Do you know whether he conducted any search for
7 records related to this lawsuit?
8 A I don't know.
9 Q Did your company have a license with the mortgage
10 division in the state of Nevada?
11 A I don't know.
12 Q Have you reviewed the file in this case related
13 to this Sansotas?
14 A Who?
15 Q The Sansotas?
16 MR. REYNOLDS: You can answer.
17 THE WITNESS: No.
18 BY MR. BOYLAN:
19 Q Do you know who the Sansotas are?
20 A No.
21 Q I don't want you to tell me anything that is
22 exclusively from conversations with your attorney. But if
23 I'm asking you, please, what is your understanding of why
24 the company, your company, that you own, is being sued in
25 this case?

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1 A I don't know.
2 Q Do you have any understanding at all?
3 A No.
4 Q Have you tried to gain an understanding?
5 A No.
6 Q Have you read the lawsuit?
7 A No.
8 Q Of the 200 employees, approximately 200 employees
9 that you mentioned, how many of those are involved in
10 phone bank or phone communications for the company?
11 A I don't know.
12 Q What's your estimate?
13 A I don't have one.
14 Q Is it more than ten?
15 MR. REYNOLDS: She answered the question.
16 MR. BOYLAN: I'm being more specific, counsel.
17 BY MR. BOYLAN:
18 Q Is it more than ten?
19 A Don't know.
20 Q Is it less than a hundred?
21 A I have no idea.
22 Q Is it less than 200?
23 A Wouldn't know.
24 Q The people that do the phone work for your
25 company, are they all in one location or several

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1 locations?
2 MS. MAZIARZ: Foundation.
3 THE WITNESS: Where is he going with this?
4 MR. REYNOLDS: You can answer the question if you know
5 it.
6 THE WITNESS: I don't know the answer.
7 BY MR. BOYLAN:
8 Q Then why are you concerned where I'm going?
9 A Because I feel like you're badgering me.
10 Q I see.
11 What kind of phone work does your company do as
12 part of this business?
13 A I don't know.
14 Q Do you pay the phone bills?
15 A No.
16 Q You're involved in some bill paying, though; is
17 that true, ma'am, or not?
18 A No. Not at all.
19 Q Do you handle cash for the company incoming and
20 outgoing cash?
21 A No. We don't have cash.
22 (Reporter clarification.)
23 THE WITNESS: No cash.
24 BY MR. BOYLAN:
25 Q Do you handle incoming and outgoing payments of

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11 (Pages 38 to 41)

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1 money for the company?
2 A No.
3 Q Have you ever done so?
4 A No.
5 Q I'll hand you what's been marked as Exhibit 1,
6 your counsel provided to me this morning and indicated to
7 me it's a corrected version of a document previously
8 produced to us.
9 (Exhibit 1 was so marked.)
10 BY MR. BOYLAN:
11 Q Take a look at Exhibit 1, please, ma'am, and tell
12 us, is that your signature on the document?
13 A Yes.
14 Q Now, you just said that you have any involvement
15 with outgoing or incoming money for the company and never
16 have; do you recall that testimony?
17 MR. REYNOLDS: Objection. That misstates her
18 testimony.
19 BY MR. BOYLAN:
20 Q Do you recall that testimony, ma'am?
21 A Okay.
22 Q Would you like to correct that testimony?
23 MR. REYNOLDS: Objection. Mischaracterizes what she
24 said.
25 You can answer.

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1 THE WITNESS: What was the question?
2 BY MR. BOYLAN:
3 Q Would you like to change your earlier testimony
4 now that you see that document with your signature?
5 A I guess.
6 Q So what's your testimony now? What is -- tell me
7 again, what has been your responsibility for incoming and
8 outgoing payments of money at the company?
9 A Limited.
10 Q Can you be more specific?
11 A Just limited.
12 Q How many hours a week are you involved in that
13 function?
14 A I really don't know.
15 Q What's your --
16 A I don't keep track.
17 Q What's your estimate?
18 A Maybe two hours; maybe less.
19 Q Approximately two hours a day every day?
20 A Or as needed.
21 Q For over 20 years?
22 A Yes.
23 Q So when money comes in from individuals who are
24 in default on their loans. Does that always pass through
25 you?

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1 MS. MAZIARZ: Foundation.
2 MR. REYNOLDS: I'm sorry. Money coming in from who?
3 BY MR. BOYLAN:
4 Q Individuals who have defaulted on their loans.
5 MR. REYNOLDS: Objection. Assumes facts not in
6 evidence that money does come in from people who default
7 on their loans.
8 MR. BOYLAN: Well, maybe you need to look at our
9 papers.
10 MR. REYNOLDS: I have because your client didn't pay
11 anything.
12 BY MR. BOYLAN:
13 Q Okay. Can you answer, ma'am?
14 A Don't know.
15 Q We'll give you another opportunity.
16 MR. BOYLAN: Can you read that question back, please.
17 (Whereupon the record was read back.)
18 BY MR. BOYLAN:
19 Q Do you understand the question, ma'am?
20 A No.
21 Q All right. Let's say you're involved in
22 foreclosure or other business activities related to
23 individuals who have defaulted on their loans.
24 You with me so far?
25 A Okay.

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1 Q If those individuals send in money to MTC
2 corporation, for various reasons, reinstatement,
3 forbearance, whatever the reason may be or to pay off the
4 loan, that money -- you're involved with that for
5 approximately two hours a day that you spend on that
6 activity?
7 MS. MAZIARZ: Form.
8 (Reporter clarification.)
9 MS. MAZIARZ: Form.
10 MR. REYNOLDS: Objection to the form of the question.
11 Vague and ambiguous. Compound.
12 You can answer.
13 THE WITNESS: Not necessarily.
14 BY MR. BOYLAN:
15 Q Sometimes, though?
16 A Maybe.
17 Q How often?
18 A As needed.
19 Q Well, how often on average per week?
20 A I thought I answered before.
21 Q You said hours per day. But you didn't say how
22 often you handle the money that's coming in as I
23 described.
24 A I don't handle the money that comes in.
25 Q All right. Let's say, this is handling money.

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12 (Pages 42 to 45)

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1 See where you put your signature on that, you were wire
2 transferring money that came in, correct?

3 A Yes.

4 Q Okay. Well, how often, do you do that?

5 A As needed.

6 Q How often give me your best estimate, under your
7 oath, to swear to tell the truth?

8 MR. REYNOLDS: Objection. You're badgering the
9 witness. Keep it up. We'll stop now.

10 BY MR. BOYLAN:

11 Q Okay. How often do you do it, ma'am?

12 A As needed.

13 Q Give me an estimate of the number of times per
14 day?

15 A Maybe once.

16 Q All right. Let's try to make it easy for your
17 memory function. How about --

18 MR. REYNOLDS: Objection. Now you're badgering again.

19 BY MR. BOYLAN:

20 Q Okay. How about yesterday? How many times were
21 you involved in handling receiving or transferring money
22 yesterday?

23 A None.

24 Q And the day before?

25 A Maybe once.

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1 Q Okay. And how did that money come in?

2 A Don't know.

3 Q What did you do with it? How were you involved?

4 A I just signed the wires. I just wire. That was
5 it. Just signed it. My scope is as good as my
6 penmanship. That's it.

7 Q Then why is your signature needed, then?

8 A As a -- because as an owner, I sign.

9 Q I see. Does anyone else other than you or your
10 husband have signature authority over the bank accounts?

11 A No.

12 Q Has that always been true?

13 A Yes.

14 Q So -- pardon me, I don't mean this to be
15 repetitive, but you're saying that has not prompted me.

16 So on average -- let's say on a weekly basis, on
17 average, how many times do you and/or your husband sign
18 papers for the transfer of money that has come in from
19 debtors?

20 MR. REYNOLDS: If you know.

21 THE WITNESS: If I know, maybe once, twice. I
22 don't --

23 BY MR. BOYLAN:

24 Q You and your husband together?

25 A Depends on the day of the week.

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1 Q I'm asking you to estimate an average.

2 A I don't have an estimate for an average.

3 Q Okay. Just to be clear, do you know what an
4 average is?

5 A No.

6 Q Okay. Well thank you for that.

7 Let's say that over a two-week period, one week
8 there were ten occasions where you and your husband had to
9 sign involving the transfer of money that came in and/or
10 needs to go out related to a debt for a client and you
11 were servicing or handling. One week there were ten such
12 incidents and the next week there were 20. So the average
13 for those two weeks would be 15 because you add the number
14 together and divide by two to get the average.

15 Do you understand?

16 A Uh-huh.

17 Q All right. So let's just go for your best
18 estimate of the last four weeks. How many times on
19 average over the last four weeks have you or your husband
20 signed to effect the transfer of money related to the
21 underlying debt for a client?

22 MR. REYNOLDS: I'm going to object on the grounds it's
23 irrelevant to the subject matter of this litigation; and
24 not likely to lead to discovery of admissible evidence
25 because no one cares about what happened in 2016.

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1 MS. MAZIARZ: And vague.

2 MR. REYNOLDS: I instruct the witness not to answer.

3 MR. BOYLAN: I need that answer as a foundation just
4 so she understands me and then I'm going to go back over
5 time, but I -- I -- and once she --

6 MR. REYNOLDS: Actually you don't because the only
7 thing you need is who signs the wires or signs any checks
8 at the company. And then you can depose all those people,
9 which happened to be two people, and then we're done with
10 it; she doesn't have any knowledge. She's -- you've asked
11 her what her knowledge is as to the day-to-day operations
12 and she's answered which is -- the answer which we told
13 you about before you started.

14 MR. BOYLAN: Are you instructing her not to answer,
15 because I will seek sanctions, counsel. You're really off
16 the reels.

17 MR. REYNOLDS: I'm instructing her not to answer a
18 question about 2016.

19 BY MR. BOYLAN:

20 Q Same question, ma'am, with respect to 2007
21 through 2012. Can you answer, please?

22 A I don't remember.

23 Q How many times would you estimate on an annual
24 basis back between 2007 and 2012, that you or your husband
25 signed documents perhaps similar to Exhibit 1, to effect

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13 (Pages 46 to 49)

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1 the transfer of receipt of money that came in from debtors
2 with respect to your client lenders?

3 MR. REYNOLDS: Well, I'm going to object only because
4 it's vague and it misstates, because what you're saying
5 is, this Exhibit 1, reflects money that came from a debtor
6 and it didn't. This money is -- came from a third-party
7 bid at a foreclosure sale. If that's what you're at --
8 she's -- you need to say -- you need to define "monies,"
9 that she knows of that came in from a debtor and
10 distinguish that from monies that come in from a
11 foreclosure bidder. Because there's two different things
12 and one of them has nothing to do with your lawsuit.

13 MR. BOYLAN: I believe that is clearly sanctionable
14 speaking objection leading the witness in Nevada. So,
15 counsel, I'm going to you ask you not to do it.

16 MR. REYNOLDS: You can keep asking, but it's going to
17 -- if you keep asking vague questions or try to badger the
18 witness, then that's what you're going to get. You're the
19 one that said you didn't want -- you thought this was
20 going to be an hour and we're accommodating you.

21 MR. BOYLAN: No. You're wrong about everything you
22 just said. But you're instructing her not to answer
23 again?

24 MR. REYNOLDS: I don't even know what your question
25 is.

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1 MR. BOYLAN: That's because you've been talking too
2 much.

3 MR. REYNOLDS: Actually you have.

4 MR. BOYLAN: That's because I'm taking the deposition.

5 MR. REYNOLDS: Well you're not going to take it
6 exactly the way you want.

7 MR. BOYLAN: Well, the judge is going to have to
8 decide that, so...

9 MR. REYNOLDS: That's right.

10 BY MR. BOYLAN:

11 Q All right. So let's go back, ma'am. With
12 respect to money paid, related to an underlying debt,
13 regardless of the source of the money, back between 2007
14 and 2012, on average, how many times did you or your
15 husband sign documents similar to Exhibit 1, for the
16 transfer or receipt of money?

17 A I don't remember.

18 Q What's your best estimate, under oath?

19 A I don't have an estimate. I don't remember.

20 Q Was it about the same during those years as what
21 you described, more recently?

22 A Don't know.

23 Q Did it change at any time?

24 A I'm not -- don't know.

25 Q What is Exhibit 1?

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1 A Piece of paper.

2 Q Can you be more specific?

3 A It's a piece of paper that just says, domestic or
4 international U.S. funds only. That's what it says.

5 Q That is your signature?

6 A Yes.

7 Q Why did you sign it?

8 A Because it's my job as an owner. I signed that
9 piece of paper.

10 Q What was the purpose of your signature?

11 A So this could -- this piece of paper could be
12 given to the bank.

13 Q And then what was going to happen?

14 A Whatever the bank does.

15 Q You have no understanding of the document beyond
16 what you've sworn to just now?

17 A Well, it says who it's from, who it's going to,
18 and that's all -- and the amount, that's it.

19 Q And this is money that your company collected and
20 was forwarding to the bank, Wells Fargo, correct?

21 A Well, that's what the paper says.

22 Q And that's correct, right?

23 A Well that's what it says on paper.

24 Q Well, when you signed it, you weren't doing
25 anything false or criminal or untrue; were you?

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1 A No.

2 Q And you see there where it says, "apply funds to
3 the loan of Raymond Sansota," do you see that?

4 A Okay.

5 Q Did you put that there?

6 A No.

7 Q Did you read that before you signed it?

8 A I looked at the document.

9 Q What does that phrase mean, can you explain?

10 A That just tells me that that's what Wells Fargo
11 put on the piece of paper and that's what's on the piece
12 of paper.

13 Q You're claiming that Wells Fargo created it,
14 rather than MTC; is that your --

15 A No.

16 Q -- sworn testimony?

17 A What I'm saying is that, it just -- like what it
18 says right there, it says "beneficiary's bank," which says
19 the name and that's what they're supposed to do it with
20 it. I don't know. That's what it says on the piece of
21 paper. That's it.

22 Q This document was created by MTC, correct,
23 Exhibit 1?

24 A Yeah.

25 Q Okay. So what's your understanding of what that

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14 (Pages 50 to 53)

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1 means when it says, "apply the funds to the loan of the
2 Sansota's"?
3 A I guess that's what Wells Fargo does. I don't
4 know.
5 Q But this was written by an MTC employee; wasn't
6 it?
7 A If that was on the paperwork, that's all it --
8 that's everybody was just following a paperwork trail.
9 That's it.
10 Q Is that "yes," ma'am? Was that a "yes"?
11 A Yes.
12 Q Very good. Now, the money that's being
13 transferred to Wells Fargo, your company had collected
14 from a third party, correct?
15 A Collected? No. We don't collect it.
16 Q The money was in your company account, wasn't it,
17 ma'am?
18 A Whatever the -- we're instructed to do.
19 Q No, no, no. Simple question: The money was in
20 your company account, correct?
21 A Okay. All right.
22 Q Is that a "yes"?
23 A Okay.
24 Q Is that a "yes"?
25 A I just answered okay.

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1 Q Okay. But I need a yes or no, so I can go to the
2 judge. Is it yes or no?
3 A The question was --
4 Q The money that you were transferring to Wells
5 Fargo to apply to the Sansota loan, was in your company's
6 bank account, correct?
7 MS. MAZIARZ: Form.
8 THE WITNESS: Was in trust account.
9 BY MR. BOYLAN:
10 Q Held by your company, correct, ma'am?
11 A That's where it goes.
12 Q So is that a "yes"?
13 A Well, I just answered you. That's where it goes.
14 Q Okay. Did you put it there?
15 A I didn't, personally, put it in there.
16 Q Did you have to sign a deposit slip or authority
17 of any kind?
18 A I don't remember, maybe.
19 Q That's within the scope of your authority at the
20 time of Exhibit 1?
21 A I don't recall.
22 MR. REYNOLDS: I don't know what, "within the scope of
23 your authority --"
24 MR. BOYLAN: Signing deposit slips to deposit money
25 that's been collected by the company.

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1 BY MR. BOYLAN:
2 Q Did you understand that, ma'am?
3 A No.
4 Q No what?
5 A Nobody signed a deposit slip.
6 Q Okay. When money comes in from a third party,
7 such as reflected on Exhibit 1, how does it get deposited
8 into your company's trust account?
9 A With whatever instructions were given.
10 Q How does it get deposited? Let's say it comes in
11 by check, how does it get deposited into your account's
12 account?
13 A If it's a third party, it's up to the third-party
14 person who did it.
15 Q No. I'm saying if they give your company a
16 check, how do you effect -- how does your company effect a
17 deposit of those monies into your company's account?
18 A They put it in deposit.
19 Q Who's "they"?
20 A Whoever at the company gets the depo- -- the
21 deposit, fills it out.
22 Q Whoever at MTC, correct?
23 A It's whoever's in accounting, yes. I don't
24 remember.
25 Q Okay. Well who would have been in the accounting

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1 department at the time of Exhibit 1?
2 A I don't remember.
3 Q Can you remember any names?
4 A It was several years ago. I wouldn't know.
5 Q Can you remember a single name of any person that
6 was in accounting at that time?
7 A Except for Gloria, I don't remember.
8 Q Gloria Juarez?
9 A Yes.
10 Q At the time of Exhibit 1, did Gloria Juarez have
11 responsibility for depositing monies collected by your
12 company?
13 A I don't remember.
14 Q At the time of Exhibit 1, what was the average
15 annual amount of money that your company collected from --
16 and deposited into a trust account?
17 A That doesn't pertain to why I'm here.
18 Q Oh, believe me it does. Can you answer the
19 question?
20 A No.
21 Q Is it over a million dollars?
22 MR. REYNOLDS: I'm sorry. What was the question?
23 BY MR. BOYLAN:
24 Q Can you answer, please, ma'am?
25 MR. REYNOLDS: I'm sorry. I didn't hear the question.

Page 57

15 (Pages 54 to 57)

Terry Johnsen
July 7, 2016

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Shawn Christopher, Esq.
Christopher Legal Group
2520 Saint Rose Parkway, Suite 316
Henderson, NV 89074

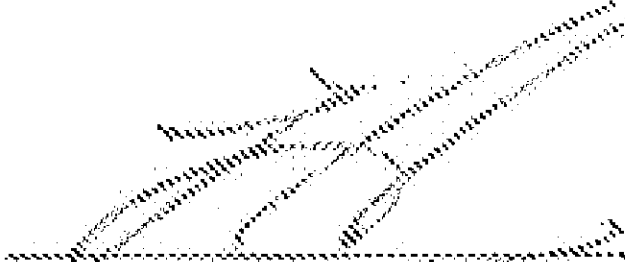

An employee of GREENSPOON MARDER

EXHIBIT “2”

1 AFFT
2 Nicholas A. Boylan, Esq.
3 Nevada Bar No. 5878
4 LAW OFFICE OF NICHOLAS A. BOYLAN, APC
5 444 West "C" Street, Suite 405
6 San Diego, CA 92101
7 Phone: (619) 696-6344
8 Fax: (619) 696-0478
9 nablawfirm@gmail.com

6 Shawn Christopher, Esq.
7 Nevada Bar No. 6252
8 Christopher Legal Group
9 2520 Saint Rose Parkway, Suite 316
10 Henderson, NV 89074
11 Phone: (702) 737-3125
12 Fax: (702) 458-5412

11 Attorneys for Plaintiffs, except for Antoinette Gill

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 JEFFREY BENKO, a Nevada resident;
15 CAMILO MARTINEZ, a California
16 resident;
17 ANA MARTINEZ, a California resident;
18 FRANK SCINTA, a Nevada resident;
19 JACQUELINE SCINTA, a Nevada
20 resident; SUSAN HJORTH, a Nevada
21 resident; RAYMOND SANSOTA, a Ohio
22 resident; FRANCINE SANSOTA, a Ohio
23 resident;
24 SANDRA KUHN, a Nevada resident;
25 JESUS GOMEZ, a Nevada resident;
26 SILVIA GOMEZ, a Nevada resident;
27 DONNA HERRERA, a Nevada resident;
28 ANTOINETTE GILL, a Nevada resident;
JESSE HENNIGAN, a Nevada resident;
KIM MOORE, a Nevada resident;
THOMAS MOORE, a Nevada resident;
SUSAN KALLEN, a Nevada resident;
ROBERT MANDARICH, a Nevada
resident, JAMES NICO, a Nevada resident
and PATRICIA TAGLIAMONTE, a
Nevada resident

CASE NO: A-11-649857-C

Honorable Susan W. Scann
Dept. 29

**DECLARATION OF BIJAN
LAGHAEI IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' JOINT MOTION
TO BIFURCATE AND LIMIT
DISCOVERY TO NAMED
PLAINTIFFS IN INITIAL PHASE
OF DISCOVERY AND TO
VACATE DEPOSITION NOTICES**

1 Defendants,
2 v.
3 QUALITY LOAN SERVICE
4 CORPORATION, a California
5 Corporation; APPLETON PROPERTIES,
6 LLC, a Nevada Limited Liability
7 Company; MTC FINANCIAL, INC. dba
8 TRUSTEE CORPS, a California
9 Corporation; MERIDIAN
10 FORECLOSURE SERVICE, a California
11 and Nevada Corporation dba MTDS, Inc.,
12 dba MERIDIAN TRUST DEED
13 SERVICE; NATIONAL DEFAULT
14 SERVICING CORPORATION, a Arizona
15 Corporation; CALIFORNIA
16 RECONVEYANCE COMPANY, a
17 California Corporation; and DOES 1
18 through 100, inclusive,

19 Defendants.

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**DECLARATION OF BIJAN LAGHAEI IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANTS' JOINT MOTION TO BIFURCATE AND
LIMIT DISCOVERY TO NAMED PLAINTIFFS IN INITIAL PHASE OF
DISCOVERY AND TO VACATE DEPOSITION NOTICES**

**Date of Hearing: July 20, 2016
Time of Hearing: 9:00 a.m.**

I, Bijan Laghaei, declare:

1. I have personal knowledge of each fact stated in this declaration. I make this declaration in support of Plaintiffs' Opposition to Defendants' Joint Motion to Bifurcate and Limit Discovery to Named Plaintiffs in Initial Phase of Discovery.

2. I am a resident of Washoe County, Nevada. I own real property located at 25 Winterberry Ct., Reno, NV 89511. The property was subject to a mortgage loan. On or about March 20, 2009, MTC Financial, dba Trustee Corps, ("MTC") as purported trustee of the Deed of Trust for my home, was seeking to collect on the

**DECLARATION OF BIJAN LAGHAEI IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS'
JOINT MOTION TO BIFURCATE AND LIMIT DISCOVERY TO NAMED PLAINTIFFS IN INITIAL
PHASE OF DISCOVERY AND TO VACATE DEPOSITION NOTICES**

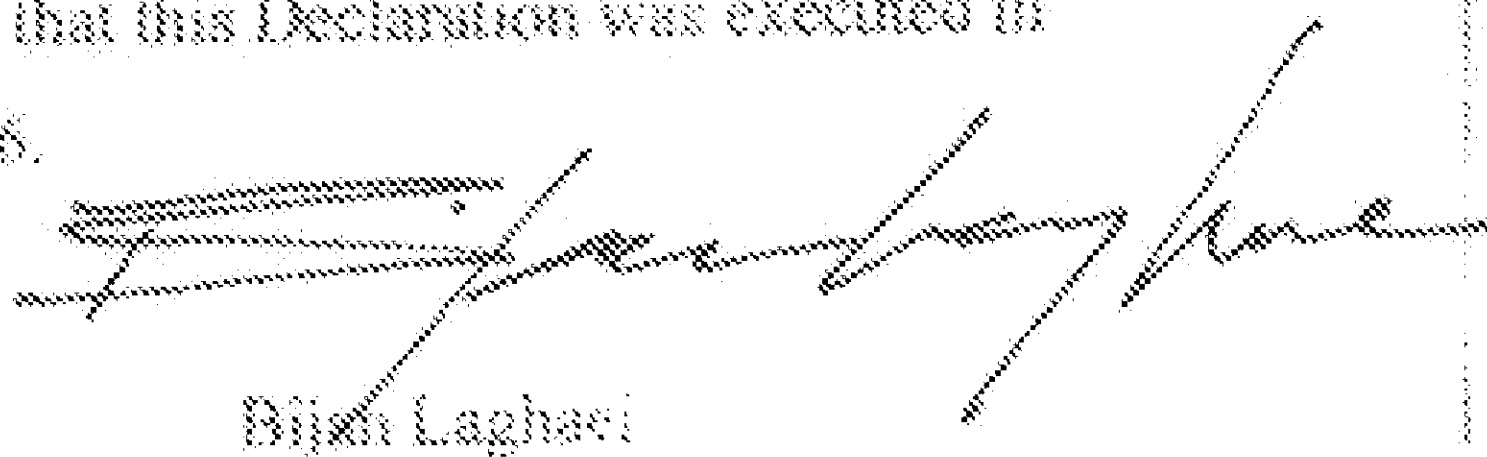
1 loan, including by taking the security, i.e. my home, and recorded a Notice of Default
2 and Election to Sell under Deed of Trust. A true and correct copy of this notice is
3 attached as Exhibit "1". As shown on the face of this Notice of Default, MTC
4 identified itself as a debt collector: "TRUSTEE CORPS IS A DEBT COLLECTOR.
5 ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE."

6 3. In approximately July 2009, I sought to negotiate on my mortgage loan,
7 so that I could stay in my home, after I became in default under the Note. To that end,
8 I sought a forbearance agreement on the loan with Bank of America ("BAC"),
9 formerly known as Countrywide Home Loans. A true and correct copy of this
10 forbearance agreement is attached as Exhibit "2".

11 4. In negotiating this loan forbearance agreement, I communicated with
12 MTC, as the collection agent for BAC. I was told by MTC representatives that a
13 modification would be worked out for my loan and not to be concerned with MTC's
14 Notice of Default and Notice of Trustee's Sale. I therefore believed that a loan
15 modification was to be worked out.

16 5. As part of and pursuant to the agreement, MTC collected from me on
17 the loan and I paid MTC a total of \$19,810.00, to be passed on to BAC, through its
18 collection agent MTC, as Trustee Corps, through a series of three cashier's checks
19 dated July 6, 2009, August 5, 2009, and October 2, 2009. True and correct copies of
20 these checks to MTC are attached as Exhibit "3". These checks were made out to
21 Trustee Corps (MTC), for the BAC loan.

22 I declare under penalty of perjury under the laws of the State of Nevada that
23 the foregoing is true and correct and that this Declaration was executed in
24 Reno, Nevada, on June 24, 2015.

25 
26 Bijan Laghaci
27
28

DECLARATION OF BIJAN LAGHACI IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS'
JOINT MOTION TO BIFURCATE AND LIMIT DISCOVERY TO NAMED PLAINTIFFS IN INITIAL
PHASE OF DISCOVERY AND TO VACATE DEPOSITION NOTICES

EXHIBIT “1”

DOC #3741278

03/20/2009 03:09:34 PM

Electronic Recording Requested By

TICOR TITLE - RENO

Washoe County Recorder

Kathryn L. Burke - Recorder

Fee: \$16.00 RPTT: \$0

Page 1 of 3

[RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO]Trustee Corps
2112 Business Center Drive
2nd floor
Irvine, CA 92612

APN # 047-413-12

The undersigned hereby affirms that there is no
Social Security number contained in this document.

[SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY]

Trustee Sale No. NV0908405-1 Loan No. 8945389 Title Order No. 090208783

0942686

IMPORTANT NOTICE NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account (which is normally up to thirty-five business days after the recording date or mailing of this Notice, whichever is later). No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your Note and Deed of Trust or Mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the Note and Deed of Trust or Mortgage, the Beneficiary or Mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the Beneficiary or Mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the Beneficiary or Mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your Beneficiary or Mortgagee may mutually agree in writing prior to the time the Notice of Trustee's Sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in this paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of property by paying the entire amount demanded by your creditor.

3741278 Page 2 of 3 03/20/2009 03:09:34 PM

Trustee Sale No. NV0938426-1 Loan No. 8845398 Title Order No. 089208783
ATO CONTROL # 08283AZNCZBU

To find out the amount you must pay, to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

COUNTRYWIDE HOME LOANS SERVICING, LP
c/o TRUSTEE CORPS
2112 BUSINESS CENTER DRIVE
2ND FLOOR
IRVINE, CA 92612
(848) 252-8300

If you have any questions, you should contact a lawyer or the governmental agency, which may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, **YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.**

NOTICE IS HEREBY GIVEN THAT: MTC FINANCIAL, INC. d/b/a TRUSTEE CORPS is the original Trustee, the duly appointed Substituted Trustee or acting as Agent for the Trustee or Beneficiary under a Deed of Trust dated 11/13/2001, executed by BLAN LAGHAEL AN UNMARRIED MAN as Trustor, to secure certain obligations in favor of SOUTH COUNTY BANK, A CALIFORNIA CORPORATION under a Deed of Trust Recorded on 04/09/2002 as Document No. 2074114 of Official Records in the Office of the Recorder of Washoe County, State of Nevada, describing land therein, AS MORE FULLY DESCRIBED IN SAID DEED OF TRUST. Said obligations including one Note for the sum of \$338,000.00 that the beneficial interest under such Deed of Trust and the obligations secured thereby are presently held by the undersigned.

That a breach of the obligations for which said Deed of Trust is security has occurred in that payment has not been made of: **THE INSTALLMENT OF PRINCIPAL AND INTEREST WHICH BECAME DUE ON 11/01/2008 AND ALL SUBSEQUENT INSTALLMENTS OF PRINCIPAL AND INTEREST, ALONG WITH LATE CHARGES, PLUS FORECLOSURE COSTS AND LEGAL FEES.**

That by reason thereof, the present Beneficiary under such Deed of Trust, has executed and delivered to TRUSTEE CORPS, said Trustee, a written Declaration of Default and Demand for Sale, and has surrendered to said Trustee such Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

3741278 Page 3 of 3 03/20/2009 03:09:34 PM

Trustee Sale No. NV0938405-1 Loan No. 8845392 Title Order No 080209783
ATO CONTROL # 86263AZNC2BU

DATED: 3/20/09

LPS TITLE COMPANY, AS TRUSTEE FOR
TRUSTEE CORPS, as Agent for COUNTRYWIDE HOME LOANS SERVICING, LP

BY:

State of

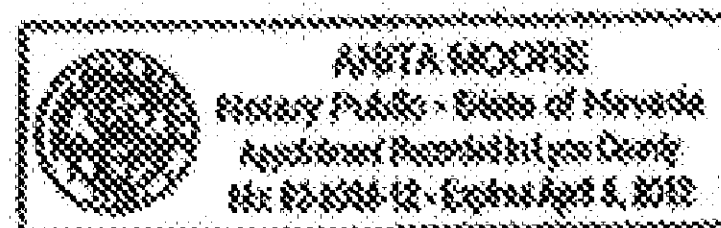
County of

On 3-20-09 before me TPC ANDERSON, a notary public,
personally appeared DAVID S. HUNTER 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.

Notary Public



TRUSTEE CORPS IS A DEBT
COLLECTOR. ANY INFORMATION
OBTAINED WILL BE USED FOR THAT
PURPOSE.

EXHIBIT “2”

FORBEARANCE AGREEMENT

Loan No. 8945292

Foreclosure No. NV0238405-1

THIS AGREEMENT is dated this 21 day of JULY 2009 and is made by and between BRIAN LAGHARL (hereinafter "BORROWER") and BANK OF AMERICA HOME LOANS (hereinafter "Lender") and provides that:

RECITALS

Whereas BORROWER HAS executed that certain LOAN REPAYMENT AND SECURITY AGREEMENT dated NOVEMBER 12, 2001, in the original principal face amount of THREE HUNDRED TWENTY FIVE THOUSAND AND 00/100 (\$325,000.00) (the "Note"); and

Whereas the Note is secured by that certain deed of trust dated NOVEMBER 12, 2001, and executed by BORROWER in favor of Lender which Deed of Trust was recorded on 04/09/2002 in the Office of the County Recorder in the County of WASHOE as Instrument # 2001-55283, (the "Deed of Trust"); and

Whereas the Deed of Trust encumbers the real property as described therein (the "Property") (commonly known as 25 SNOWBERRY CIRCLE, RENO, NV 89511); and

Whereas BORROWER IS in default under the Note and Deed of Trust by having failed to make payments as required under the Note; and

Whereas BORROWER admit(s) that BORROWER defaulted under the terms of the Note and Deed of Trust by failing to make payments in the proper amounts when due in accordance with the terms of the Note and Deed of Trust; and

Whereas BORROWER acknowledges(s) that BORROWER default under the Note and Deed of Trust caused Lender to institute a mortgage foreclosure action against BORROWER; and

Whereas based on BORROWER'S default, Lender has elected to exercise its rights and remedies under the Note and Deed of Trust and has commenced foreclosure proceedings through TRUSTEE CORPS, the trustee under the Deed of Trust ("Trustee"); and

Whereas Trustee has scheduled or will schedule a trustee's sale of the Property, which has been assigned trustee sale number NV0238405-1, to take place three weeks from the date of the first publication of the notice of trustee's sale ("Trustee's Sale"); and

Whereas the BORROWER presently OWES Lender arrearages including, but not limited to, principal, interest, advances and fees and costs, in the aggregate amount of

Loan No. 8945292
Foreclosure No. NV0238405-1

1

TWENTY FOUR THOUSAND NINE HUNDRED FIFTY DOLLARS AND 20/100
(\$24,950.10) as of the date of this Agreement (the "Default Amount"); and

Whereas the BORROWER HAS requested that the Lender forbear and postpone the Trustee's Sale in exchange for

- (1) BORROWER'S payment to Lender of EIGHT THOUSAND FIVE HUNDRED DOLLARS AND 00/100 (\$8,500.00) on or before AUGUST 12, 2002, (this total amount to be applied towards the Default Amount);
- (2) BORROWER'S payment to Lender of the reduced monthly principal and interest of ONE THOUSAND THREE HUNDRED SEVENTY DOLLARS AND 85/100 (\$1,370.85) for a period of TWELVE MONTHS (12) months (which payment shall be applied towards the Default Amount); for a total monthly payment of THREE THOUSAND SEVEN HUNDRED SIXTY NINE DOLLARS AND 71/100 (\$3,769.71) commencing SEPTEMBER 1, 2002 and ending: AUGUST 31, 2010 (the above payment schedule, if adhered to, will NOT result in payment in full of the entire Default Amount at the termination of this Agreement);
- (3) BORROWER'S Agreement that the balance of the Default Amount will be RESTRUCTURED OR OTHER PAYMENT ARRANGEMENTS MADE at or prior to the termination of this agreement;

Whereas based on the covenants and conditions set forth herein, the Lender has agreed to forbear and postpone the Trustee's Sale; and

Whereas the BORROWER and the Lender have reached an agreement concerning the terms of forbearance and wish to memorialize said agreement into writing so as to avoid any future misunderstandings or disputes;

AGREEMENT

NOW, THEREFORE, the BORROWER and the Lender do hereby agree as follows:

- 1) BORROWER hereby AGREES to pay Lender EIGHT THOUSAND FIVE HUNDRED DOLLARS AND 00/100 (\$8,500.00) on or before AUGUST 12, 2002, (this total amount to be applied towards the Default Amount);
- 2) BORROWER further AGREES to pay to Lender ONE THOUSAND THREE HUNDRED SEVENTY DOLLARS AND 85/100 (\$1,370.85) for a period of TWELVE (12) months (which payment shall be applied towards the Default Amount); for a total monthly payment of THREE THOUSAND SEVEN HUNDRED SIXTY NINE DOLLARS AND 71/100 (\$3,769.71) commencing SEPTEMBER 1, 2002 and

3) BORROWER further acknowledge(s) and agree(s) that the note and Deed of Trust will NOT be current at the end of this Agreement and that the balance of the Default Amount will RESTRUCTURED OR OTHER PAYMENT ARRANGEMENTS MADE at or prior to the termination of this Agreement;

4) BORROWER further AGREES that there shall be NO GRACE PERIOD for making the above payments; any payments not received by the end of business on the date due shall be considered late; late payments shall be considered a material breach of this Agreement allowing Lender to exercise any or all of its rights and remedies pursuant to this Agreement, the Note and/or the Deed of Trust;

5) BORROWER further AGREES that all payments set forth above shall be made directly to: BANK OF AMERICA HOME LOANS
MARKOS HANNAN
400 COUNTRYWIDE WAY
MS 5V-35
SIMI VALLEY, CA 93065

6) BORROWER further AGREES that BORROWER shall pay and keep current all property taxes and insurance premiums due on the property and that Borrower's failure to do so shall be considered a material breach of this Agreement allowing Lender to exercise any or all of its rights and remedies pursuant to this agreement, the Note and /or the Deed of Trust without the necessity of formal notice to the Borrower

7) BORROWER further AGREES and understand(s) that Lender will not cancel the pending foreclosure action and /or scheduled Trustee's sale but will, in accordance with accepted business practices in the foreclosure industry, either place the foreclosure on hold or postpone the Trustee Sale every 30 days for approximately 30 days, whichever is appropriate, until any and all defaults under the Note, the Deed of Trust and this Agreement are cured (at which time Lender will provide Trustee written instructions to cancel the Trustee's Sale);

8) BORROWER further AGREES that if any installment specified in paragraphs 1,2 OR 3 above is missed, Lender shall have the right to immediately instruct Trustee to sell the Property on the next postponement sale date or as soon thereafter as possible;

9) BORROWER further agree(s) and understand(s) that should Borrower convey(s) title to the subject property or move there from, then this Agreement shall be immediately

nullified, rendered void and canceled. Lender, without necessity of formal notice to BORROWER, shall be deemed to have elected to exercise its contractual rights to proceed with a foreclosure action and/or its rights under this Agreement, the Note and/or the Deed of Trust;

- 10) BORROWER further AGREES that the Lender may accept partial payment of the installment payment specified above without a written modification of this Agreement and the acceptance of such payment shall not be considered a reinstatement of the Note or Deed of Trust and shall not effect the pending foreclosure or Trustee Sale;
- 11) BORROWER further AGREES that only payment in full of the Default Amount will constitute a reinstatement under the Note and Deed of Trust so as to result in cancellation of the pending foreclosure and Trustee Sale;
- 12) BORROWER further AGREES that in the event that Borrowers fail to fulfill any requirement contained within this Agreement, the Note, or the Deed of Trust then Lender may immediately thereupon cause Trustee to sell the Property at a trustee sale;
- 13) BORROWER and Lender hereby acknowledge and agree that this Agreement is not a modification of the Note or Deed of Trust and shall not be construed as such and shall not constitute a waiver or estoppel with respect to any future breach or default;
- 14) BORROWER and Lender hereby acknowledge and agree that, notwithstanding this Agreement, the Note and Deed of Trust continue to be and shall remain unchanged and in full force and effect in accordance with their terms;
- 15) BORROWER hereby acknowledge(s) that this Agreement has been freely negotiated and that Borrowers have been represented by counsel herein or have had the opportunity to seek advice of competent counsel, and are not acting under any material disability or duress; and
- 16) Foreclosure No. # NV0238401-1 remains in full force and effect until the above default is cured and said arrearages are brought current.


MISCELLANEOUS PROVISIONS

- 1) Headings - The headings used herein are for convenience of reference only and shall not be used in the interpretation or construction hereof.
- 2) Governing Law - This Agreement shall be governed, interpreted and construed by, through and under the laws of the State of NEVADA.

Loan No. 3941397
Foreclosure No. NV0238401-1

- 3) **Time of the Essence** - It is expressly understood and agreed that time shall be of the essence as to each payment required to be made by BORROWER pursuant to this Agreement.
- 4) **Binding Effect** - This Agreement shall inure to the benefit of and be binding upon the parties hereto as well as their successors and assigns, heirs and personal representatives.
- 5) **Counterparts** - This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by telecopy), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by the parties hereto shall be delivered to each Borrower and the Lender.
- 6) **Limitation of Trustee Liability** - It is expressly understood and agreed by the parties that nothing contained in this Agreement shall be construed as creating any liability on Trustee to perform any covenant either expressed or implied contained herein; all such liability, if any, being expressly waived by the parties hereto and by any person claiming by, through or under the parties hereto.
- 7) **Survivor ability** - The provisions of this Agreement shall survive any discontinuance of the pending mortgage foreclosure action.

Dated: 8/11/09


BRIAN LACHAEL

Dated: _____

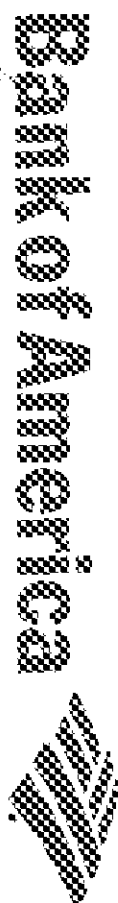
BANK OF AMERICA HOME LOANS

By _____

Its: _____

EXHIBIT “3”

28-14-3774B 09-2005



Cashier's Check

No. 003108367

Bank of America
Center

000001 0001

00000000

00000000

00000000

00000000

00000000

\$ 8300.00

00000000

00000000

Bank of America, N.A.
Phoenix, AZ

VOID AFTER 90 DAYS

Authorized Signature

⑈003108367⑈ ⑈122101706⑈ 25256358⑈

THIS CHECK IS VOID IF ANY OF THE FOLLOWING INFORMATION IS NOT PRESENTED AS SHOWN ON THE CHECK



Cashier's Check

No. 003108899

Please be forewarned: In the event this check is lost, destroyed or stolen, a stop payment and 90-day waiting period will be required before the check can be cashed or redeems for cash.

Date **OCTOBER 19, 2008**

94-6783221

Banking Center **SCOTT WING BRANCH**

0000014 00001 000108899

Routing Number **081000021**

\$ **11,310.00**

Pay ***ELEVEN THOUSAND THREE HUNDRED TEN DOLLARS AND 00 CENTS***

To the Order of

PROSTHE CORP.

LOAN # 0945399 SURRENDER OF PAYMENT

Bank of America N.A.
Phoenix, AZ

VOID AFTER 90 DAYS

Authorized Signature

Devin Young

⑈003108899⑈ 1222101706⑈ 25256358⑈

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

Bank of America

Cashier's Check

No. 003161

Notice to Purchaser: In the event this check is lost, misplaced or stolen, a stop payment and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Date AUGUST 05, 2009

9-1764221

Banking Center

GALENA BANKING CENTER

0008557 00001 003168367

BIJAN LAGHARI

Remitter (Purchased By)

\$ **200.00**

Pay **TWO HUNDRED DOLLARS AND 00 CENTS**

To

The

Order

Of

TRUSTEE CORP

Authorized Signature

Stephanie Hoof

Bank of America, N.A.
Phoenix, AZ

VOID AFTER 90 DAYS

003168367 122101706 252563581*

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EXHIBIT “3”

Date: 05/17/2012

Page: 1

05/17/2012, 12:12:01, by Johnelle Gomez

[NOTIFICATION OF LITIGATION ACTION SENT TO LENDER VIA LPS AND EMAIL]

From: Johnelle Gomez
Sent: Thursday, May 17, 2012 12:19 PM
To: 'mortgage.resolution.escalated.intake@bankofamerica.com'
Cc: 'Rebecca Kern'; 'Cindy Stock'; Matthew Tokarz
Subject: NV0938405-1 / New Litigation Filing

Borrower: Laghaei
Loan #: [REDACTED]

Good Afternoon,

Please find attached the Complaint naming BAC filed by the borrower (also uploaded into LPS). Per FHLMC Guidelines please provide authorization for our Attorney to represent BAC in the litigation action as our Attorney is Designated FHLMC Litigation counsel.

Thank you,

Providing Default Services in AZ, CA, ID, MT, NV, OR, TX & WA

Johnelle Gomez
Paralegal
17100 Gillette Ave. Irvine, CA 92614
Tel: 949-252-8300 ext. 255
Fax: 949-752-7326
JGomez@TrusteeCorps.com

05/17/2012, 12:11:34, by Johnelle Gomez

[MC-NV'S PRIOR EMAIL ADVISES THEY WILL BE NOTIFYING FHLMC OF THE LITIGATION ACTION]

05/17/2012, 12:02:38, by Johnelle Gomez

[LITIGATION DOCS ESCALATED TO MATT TOKARZ FOR REVIEW]

05/17/2012, 11:48:26, by Johnelle Gomez

[EMT MC REQUESTING UD STATUS]

From: Johnelle Gomez
Sent: Thursday, May 17, 2012 11:45 AM
To: 'Rebecca Kern'; Erin Allinder; Matthew Tokarz
Cc: Cindy Stock; Debbie Paice; Brandon Johnson; Audrey Bryan
Subject: RE: Bijan Laghaei Litigation

Hi Rebecca,

Thank you for the courtesy notification. TC has not been served and was not aware of the filing. Is this the same Terry Thomas we previously dealt with? Matt is out of the office today. After he's had a chance to review the Complaint we will be sending this over to Rick Reynolds to represent TC. Can you tell us the status of your eviction action? Rick will ask that we

MTC000099

Date: 05/17/2012

Page: 2

include this information in our referral to his office.

Harmony: Please note there is now a litigation action affecting the property.

Thank you.

Providing Default Services in AZ, CA, ID, MT, NV, OR, TX & WA

Johnnelle Gomez
Paralegal
17100 Gillette Ave. Irvine, CA 92614
Tel: 949-252-8300 ext. 255
Fax: 949-752-7326
JGomez@TrusteeCorps.com

05/17/2012, 11:43:16, by Johnnelle Gomez

[COURTESY NOTIFICATION FROM MC OF LITIGATION FILING BY BORROWER]

From: Rebecca Kern [mailto:RKern@mcclaw.org]
Sent: Thursday, May 17, 2012 11:26 AM
To: Erin Allinder; Johnnelle Gomez; Matthew Tokarz
Cc: Cindy Stock; Debbie Paica
Subject: Bijan Laghaei Litigation
Importance: High

Good morning Trustee Corps.,

Our office is handing the eviction for the property located at 25 Winterberry Court, Reno, NV, f/k/a 25 Snowberry Circle, Reno, NV. Mr. Bijan filed an Answer and Counterclaim in the justice court eviction action. He has now filed Terry Thomas to represent him. Terry mail served me a Motion to Transfer case to District Court. Attached as an exhibit is a copy of the Complaint he filed in Nevada State District Court. He has named several defendants including TC. See attached. He has also filed a Motion to Consolidate.

I am not sure if any of the defendants have been properly served with the Complaint, but I wanted to get it to you just in case.

We will be forwarding a copy of it to our Freddie Mac litigation paralegal contact to see if she wants us to accept service and remove the district court action to federal court and oppose the motion to consolidate.

In the meantime, I will be filing an Opposition to the Motion to Transfer in Justice Court.

Thanks,

Rebecca

FYI: I found the County Commissioner's minutes, wherein the commission formally changed the street name from Snowberry to Winterberry. See attached Minutes: page 28, entry 05-868.

MTC000100

Date: 05/17/2012

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12/20/2011, 17:43:57, by Amy Lemus

From: Amy Lemus

Sent: Tuesday, December 20, 2011 5:43 PM

To: Brandon Johnson; Lucy McCord; 'Teddy Francisco'

Cc: Support HE

Subject: RE: 2ND REQUEST RE: CORRECTIVE TDUS NEEDED ASAP! NV0938405-1 / 891888 25 SNOBERRY CIRCLE
RENO NV 89511

NV0938405-1 090206786

Do you have record of receiving my corrective TDUS

Amy Lemus

Trustee Sale Officer- Supervisor

NV Freddie Mac Unit

Trustee Corps/Malcolm Cisneros

17100 Gillette Avenue

Irvine, CA 92614

Phone: 949-252-8300 x 104

Fax: 949-752-0320

alemus@trusteecorps.com

Providing Default Services in AZ, CA, ID, MT, NV,OR, TX & WA

From: Brandon Johnson

Sent: Tuesday, December 20, 2011 3:02 PM

To: Amy Lemus

Cc: Support HE

Subject: RE: 2ND REQUEST RE: CORRECTIVE TDUS NEEDED ASAP! NV0938405-1 / 891888 25 SNOBERRY CIRCLE
RENO NV 89511

Hi Amy,

I know we talked about this one in passing the other day. I think you said you sent the corrective deed to be recorded. Have you received a conformed copy as of yet? I don't see one on the title company's website.

Thank you,

Brandon Johnson

Title Curative Department

Harmony Escrow, Inc. | 17100 Gillette Avenue | Irvine, CA 92614

Tel: 949-660-0050 ext 108 | Fax: 949-660-1051

For faster service, please email

bjohnson@harmonyescrow.com

For escalated matters contact:

Audrey Bryan(Escrow Manager) abryan@harmonyescrow.com

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From: Brandon Johnson
Sent: Wednesday, December 07, 2011 11:32 AM
To: Amy Lemus
Cc: Support HE
Subject: 2ND REQUEST RE: CORRECTIVE TDUS NEEDED ASAP! NV0938405-1 / 891888 25 SNOBERRY CIRCLE RENO NV 89511

Hello Amy,

Please have a corrective TDUS recorded to correct the vesting. The current vesting on the TDUS reads as Federal Home Loan Mortgage Company. Correct vesting should be Federal Home Loan Mortgage Corporation.

Thank you.

Brandon Johnson
Title Curative Department

10/12/2011, 13:25:38, by Johnelle Gomez
[NO ACTIVE LITIGATION AT THIS TIME]

10/06/2011, 13:36:43, by Douglas Nunez
LITIGATION CASE OPENED IN CASE AWARE NV09002945-11

07/13/2011, 14:06:04, by Jim Reynolds
asadt attached, tdus sent to record

06/17/2011, 16:27:47, by Amy Lemus
From: Amy Lemus
Sent: Friday, June 17, 2011 4:27 PM
To: 'tadamson@greenrivercap.com'
Cc: Omar Reynosa
Subject: RE: Legal Description Needed NV NV0938405-1

See TSG, it looks like it was Snowberry on DOT but is now Winterberry.

Amy Lemus
Trustee Sale Officer- Supervisor
NV Freddie Mac Unit
Trustee Corps/Malcolm Cisneros
17100 Gillette Avenue
Irvine, CA 92614
Phone: 949-252-8300 x 104
Fax: 949-752-7245
alemus@trusteecorps.com

Freddie Mac Designated Counsel in AZ, CA & NV
Fannie Mae Designated Counsel in AZ & CA
Providing Default Services in AZ, CA, ID, MT, NV, OR, TX & WA

MTC000102

Comments for NV0938405-1 - LAGHAEI, BIJAN

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From: Omar Reynosa
Sent: Friday, June 17, 2011 12:33 PM
To: Amy Lemus
Subject: Legal Description Needed

Tammy called in to verify Address and requested a copy of the legal description. Thanks!

tadamson@greenrivercap.com - (801) 466-3215 : Tammy Adamson

Omar Reynosa

06/14/2011, 12:24:38, by Rosa Velasquez

Trustee Corps
Re: Sale Results
Priority No.: 816652

Attn: Foreclosure Department
Your T.S. Number NV0938405-1 reverted back to the beneficiary on 06/14/2011 in the county of Washoe, NV at 11:00AM

Sale Conducted at: 12:15 PM

for the amount of \$288,325.00.

No. of Witnesses Present: 15

06/14/2011, 11:49:19, by Rosa Velasquez

BID RELEASED / MI
NV0938405-1 816652 BID LOW \$273,304.12 HIGH \$341,375.15 (\$1,000.00 INCREMENTS) ----- CLEAR W
ashoe, NV 11:00 AM 11:00 AM

TOTAL DEBT \$341,375.15

05/11/2011, 08:44:00, by Bukaka Anderson

FC_Postponement_Notification : DDF : Melissa Ason, Bank of America : 5/10/2011 11:00:00 AM
User has completed the Post_Dtl data form with the following entries:
Instructions: : Postpone as Borrower is in the 2nd Look process
Timeframe: : 30 days

04/27/2011, 09:25:16, by Cecillia Lara

ATTY'S FEE 700.00
TSG 1,325.89
MAILINGS & RECORDINGS COST 905.50

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POSTING & PUBLICATION COST 1,615.00

TOTAL 4,546.39

GOOD THROUGH DATE 5/10/2011

**** Please note that this is an estimate of the fees and costs and may be subject to change. ****

04/26/2011, 09:41:13, by Bukeka Anderson

FC_Postponement_Notification : DDF : Victoria Buencamino, Bank of America : 4/19/2011 5:48:00 PM

User has edited the Post_Dtl Data Form with the following entries:

- Timeframe: Please postpone the 4/26/2011 for 15 days as we do not have information that all Loss Mit efforts have been exhausted. Please be sure to update the new sale date and re-launch the HAMP Sale process as previously instructed.

04/18/2011, 12:40:47, by Vini Amezcua

hamp sale process was not completed

03/23/2011, 12:22:58, by Ernie Aguilar

OrderPubDateDown deadline changed from 06/15/2009 to 03/23/2011.

03/23/2011, 12:22:45, by Ernie Aguilar

SetSaleProcess deadline changed from 06/16/2009 to 03/23/2011.

01/19/2011, 09:45:11, by Jessica Juarez

NO HOLD IN LPS RELEASED HOLD.

07/09/2010, 08:09:53, by James Matthews

BPI Notification

[REDACTED] DELAY - Other OK / follow up 7/23/2010.

06/04/2010, 10:06:04, by Kelly Schnell

DATE: 6/4/2010

BIJAN LAGHAEI

25 SNOWBERRY CIRCLE

RENO, NV 89511

Reinstatement / Pay Off Demand

TRUSTEE SALE #: NV0938405-1

LOAN #: [REDACTED]

PROPERTY: 25 SNOWBERRY CIRCLE, RENO, NV 89511,

REINSTATEMENT DEMAND

Payments \$ 47,977.20

Late charges \$ 224.46

Inspections \$ 255.00

Suspense Balance \$ (20,510.00)

Sub-Total fees due Beneficiary: \$ 27,946.66

Sub-Total foreclosure fees/costs due Trustee: \$ 3,299.89

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TOTAL amount due to REINSTATE loan: \$31,246.55

**** IMPORTANT ****

THESE FIGURES ARE SUBJECT TO FINAL VERIFICATION UPON RECEIPT OF FUNDS

[Please note the following:]

THIS STATEMENT EXPIRES ON: 7/2/2010 @ 3:00p.m.

06/03/2010, 10:38:24, by Dominic Barrera

Billed & Paid:

Billed not paid:

Outstanding Fees: 550.00

Outstanding Costs: 2,749.89

TOTAL FEES & COSTS: 3,299.89

Good through date: 7/2/2010

**** Please note that this is an estimate of the fees and costs and may be subject to change. ****

05/04/2010, 11:30:36, by Pedro Garza

[REDACTED] DELAY - Other OK

04/22/2010, 13:11:47, by Kelly Schnell

DATE: 4/22/2010

BIJAN LAGHAEI

25 SNOWBERRY CIRCLE

RENO, NV 89511

Reinstatement / Pay Off Demand

TRUSTEE SALE #: NV0938405-1

LOAN #: [REDACTED]

PROPERTY: 25 SNOWBERRY CIRCLE, RENO, NV 89511,

REINSTATEMENT DEMAND

Payments	\$ 43,179.48
Late charges	\$ 224.46
Inspections	\$ 240.00
Suspense Balance	\$ (20,510.00)

Sub-Total fees due Beneficiary: \$ 23,133.94

Sub-Total foreclosure fees/costs due Trustee: \$ 3,299.89

TOTAL amount due to REINSTATE loan: \$26,433.83

**** IMPORTANT ****

THESE FIGURES ARE SUBJECT TO FINAL VERIFICATION UPON RECEIPT OF FUNDS

MTC000105

[Please note the following:]

THIS STATEMENT EXPIRES ON: 5/14/2010 @ 3:00p.m.

04/19/2010, 08:17:52, by Israel Cervantes

ATTY'S FEE 550.00
TSG 1,325.89
MAILINGS & RECORDINGS COST 595.00
POSTING & PUBLICATION COST 829.00
TOTAL 3,299.89
GOOD THROUGH DATE 5/14/2010

**** Please note that this is an estimate of the fees and costs and may be subject to change. ****

02/01/2010, 11:01:08, by Natalie Resendiz

From: Natalie Resendiz
Sent: Monday, February 01, 2010 11:01 AM
To: 'Simon, Alan M'; Carey, Stephen M
Cc: Thomas, Rachel V
Subject: RE: nv0938405-1/ loan /25 SNOWBERRY CIRCLE RENO, NV 89511/laghaei

Rachel,

Forbearance funds in the amount of \$19,810.00 have been resent to the Newark office through fed ex tracking # 7983-5140-0167. Please advise your cashiering department to accept funds. Thank you!

Alan:

Thank you for assisting me with this forbearance issue.
Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

02/01/2010, 10:52:43, by Natalie Resendiz

Per bank of americas instructions resend funds attached copy of forbearance agreement

fed ex 798351400167

check 40798

amount \$ 19810.00

02/01/2010, 10:50:14, by Natalie Resendiz

From: Simon, Alan M [mailto:alan.m.simon@bankofamerica.com]
Sent: Monday, February 01, 2010 10:45 AM
To: Natalie Resendiz; Carey, Stephen M

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Cc: Thomas, Rachel V

Subject: FW: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

To: Stephen M Carey,

Thank you for taking the time and speaking with about this loan. Per our conversation, You are going to assign this loan to Thomas, Rachel V. I have enclosed copy of the the forbearance agreement with the law firm. I have also enclosed a copy of the check that the law firm will re-mail to the Newark payment dept.

To: Thomas, Rachel V

If you have question about this laon please feel free to contact the law firm.

To: Natalie Resendiz,

For all future loans with Forbearance agreements Stephen M Carey is point of contact. Also contact the foreclosure tech.

Alan M Simon

MLO-Sr Foreclosure Specialist

Pre-Sale Foreclosure

805-955-3857 Direct

alan.m.simon@bankofamerica.com

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From: Natalie Resendiz [mailto:nresendiz@trusteecorps.com]

Sent: Thursday, January 28, 2010 1:55 PM

To: Simon, Alan M

Cc: Horacio Montoya

Subject: RE: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

Alan,

Please see attached Forbearance agreement and check in the amount of \$19,810.00 that was forwarded to bank of America on behalf of the borrower. Thanks

Thanks,

Natalie Resendiz

Accounting Department

TRUSTEE CORPS

Tel (949) 252-8300

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01/28/2010, 17:33:09, by Horacio Montoya

From: Natalie Resendiz
 Sent: Thursday, January 28, 2010 1:55 PM
 To: Simon, Alan M
 Cc: Horacio Montoya
 Subject: RE: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

Alan,

Please see attached Forbearance agreement and check in the amount of \$19,810.00 that was forwarded to bank of America on behalf of the borrower. Thanks

Thanks,

Natalie Resendiz
 Accounting Department
 TRUSTEE CORPS
 Tel (949) 252-8300
 Fax (949) 252-8330
 nresendiz@trusteecorps.com

Offices in California Nevada Arizona
 Trustee Corps (Freddie Mac and Fannie Mae Processing Office)
 2112 Business Center Drive
 2nd Floor - Suite 201
 Irvine, CA 92612
 Fannie Mae Retained Counsel in CA & AZ Freddie Mac Designated Counsel in AZ,CA & NV
 Default services in CA, NV, AK, AZ, CA, ID, MT, NV, OR, HI, TX & WA

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 ** Please send all Cancellation, Stop Foreclosure & Close & Bill Requests to stopforeclosure@trusteecorps.com **
 ** Please send all Bid Instructions to salebids@trusteecorps.com **

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 To reach an operator call 949-252-8300 and press 0

Ryan Newman, Sales and Postponements: rnewman@trusteecorps.com
 Clarisa Gastelum, Support: cgastelum@trusteecorps.com
 Ivy Le, Loss Mitigation: ila@trusteecorps.com
 Juan Carrillo, VP, Default Operations (Trustee Corps) (jcarrillo@trusteecorps.com)
 Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com
 Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com
 David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com
 Audrey Bryan, Escrow Manager (Harmony Escrow) abryan@harmonyescrow.com
 Rande Johnsen: Director (rjohnsen@trusteecorps.com)

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From: Simon, Alan M [mailto:alan.m.simon@bankofamerica.com]
Sent: Thursday, January 28, 2010 12:02 PM
To: Natalie Resendiz
Subject: RE: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

Per our conversation, you are going to send me a new e-mail with the customers forbearance agreement.

Alan M Simon
MLO-Sr Foreclosure Specialist
Pre-Sale Foreclosure
805-955-3857 Direct
alan.m.simon@bankofamerica.com

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From: Natalie Resendiz [mailto:nresendiz@trusteecorps.com]
Sent: Thursday, January 28, 2010 11:36 AM
To: Luna, Teresa; Simon, Alan M
Subject: RE: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghael
Alan,

Is there any update on funds that were returned to us in the amount of \$19810.00. we need to get this issue resolved borrower is calling in regarding funds. Please advise as soon as possible thank you!

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

Offices in California Nevada Arizona
Trustee Corps (Freddie Mac and Fannie Mae Processing Office)
2112 Business Center Drive
2nd Floor - Suite 201
Irvine, CA 92612

MTC000109

Fannie Mae Retained Counsel in CA & AZ Freddie Mac Designated Counsel in AZ, CA & NV
Default services in CA, NV, AK, AZ, CA, ID, MT, NV, OR, HI, TX & WA

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** Please send all Cancellation, Stop Foreclosure & Close & Bill Requests to stopforeclosure@trusteecorps.com **

** Please send all Bid Instructions to salebids@trusteecorps.com **

Additional contact people and escalation for contacts:

To reach an operator call 949-252-8300 and press 0

Ryan Newman, Sales and Postponments: mewman@trusteecorps.com

Clarisa Gastelum, Support: cgastelum@trusteecorps.com

Ivy Le, Loss Mitigation: ile@trusteecorps.com

Juan Carrillo, VP, Default Operations (Trustee Corps) (jcarrillo@trusteecorps.com)

Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com

Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com

David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com

Audrey Bryan, Escrow Manager (Harmony Escrow) abryan@harmonyescrow.com

Rande Johnsen, Director (rjohnsen@trusteecorps.com)

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From: Luna, Teresa [<mailto:teresa.luna@bankofamerica.com>]

Sent: Monday, January 25, 2010 10:09 AM

To: Simon, Alan M

Cc: Natalie Resendiz

Subject: FW: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

Importance: High

Alan,

This appears to have been your file before it went into MHA review. Please see email below from attorneys office.

Have a beautiful day,

~Teresa Luna~

MLO-Loan Svcs Specialist

LP-FC PRESALE PL

805-955-3884 Office 1757 TapoCanyon Road

Mail stop: CA6-919-01-17

Simi Valley, CA, 93065

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From: Natalie Resendiz [mailto:nresendiz@trusteecorps.com]
Sent: Monday, January 25, 2010 9:38 AM
To: Luna, Teresa
Subject: RE: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghaei
Importance: High

Teresa,

Can you please help me with the issue below regarding funds returned to us from bank of America? Nobody has responded the below email and we need to resolve this issue can you please forward to the correct contact. Thank you!
Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

Offices in California Nevada Arizona

Trustee Corps (Freddie Mac and Fannie Mae Processing Office)

2112 Business Center Drive

2nd Floor - Suite 201

Irvine, CA 92612

Fannie Mae Retained Counsel in CA & AZ Freddie Mac Designated Counsel in AZ, CA & NV

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Ryan Newman, Sales and Postponments: rnewman@trusteecorps.com

Clarisa Gastelum, Support: cgastelum@trusteecorps.com

Ivy Le, Loss Mitigation: ile@trusteecorps.com

Juan Carrillo, VP, Default Operations (Trustee Corps) (jcarrillo@trusteecorps.com)

Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com

Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com

David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com

Audrey Bryan, Escrow Manager (Harmony Escrow) abryan@harmonyescrow.com

Rande Johnsen: Director (rjohnsen@trusteecorps.com)

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Date: 05/17/2012

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From: Horacio Montoya
Sent: Thursday, January 21, 2010 3:11 PM
To: 'Porter, Jennifer'; Simon, Alan M; jennifer.wall@bankofamerica.com
Cc: Michelle Diggs; Jessica Juarez; Natalie Resendiz
Subject: RE: nv0938405-1/ loan [REDACTED]/25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

Can you please provide me email contact for Jennifer Porter?

Please advise.

Thank you!

From: Porter, Jennifer [mailto:jennifer.porter@bankofamerica.com]
Sent: Thursday, January 21, 2010 11:58 AM
To: Horacio Montoya; Simon, Alan M; jennifer.wall@bankofamerica.com
Cc: Michelle Diggs; Jessica Juarez; Natalie Resendiz
Subject: RE: nv0938405-1/ loan [REDACTED]/25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

This email was sent to me in error. Not sure if you need to send it to another Jennifer Porter.

Thank you.
Jennifer Porter
Bank of America Home Loans
MLO - Senior Loan Service Specialist
Home Retention Department
P: 866-788-8495 x 8989
F: 972-498-5687
jennifer.porter@bankofamerica.com

From: Horacio Montoya [mailto:hmontoya@trusteekorps.com]
Sent: Thursday, January 21, 2010 10:14 AM
To: Simon, Alan M; Porter, Jennifer; jennifer.wall@bankofamerica.com
Cc: Michelle Diggs; Jessica Juarez; Natalie Resendiz
Subject: RE: nv0938405-1/ loan [REDACTED] 25 SNOWBERRY CIRCLE RENO, NV 89511/laghael
Hello- This is the 3rd time that funds are returned to our office.

Can anyone assist me on this file? Attached is borrowers executed forbearance agreement and attached returned funds in the amount of \$19,810.00 on 1/20/10

MTC000112

Date: 05/17/2012

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Please see below and advise.

Please note that we are Freddie Mac Designated Counsel, we are authorized on behalf of Freddie Mac to delegate forbearance plans for all Freddie Mac loans. If you have any questions please let me know. Please accept the funds and apply to borrowers account.

Thank you

Have a great day!

From: Ivy Le
Sent: Tuesday, October 20, 2009 6:17 PM
To: 'Wall, Jennifer - 2'
Cc: Alan M Simon; Amy Lemus; Natalie Resendiz; Michelle Diggs
Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Hi there,

Trustee Corps had placed borrower in a forbearance agreement back in August with a good faith deposit of \$8,500.00. Funds and the original forbearance agreement were sent to your office via fed ex tracking 7968-5707-1640 in the amount of \$8,500.00 - per our accounting department, the \$8,500.00 check was never cashed and applied. Besides, borrower's September payment was returned to him.

Please note that we are Freddie Mac Designated Counsel, we are authorized on behalf of Freddie Mac to delegate forbearance plans for all Freddie Mac loans. Furthermore, Funds in the amount of \$8,500.00 and borrower's September, October and November will be forwarded to your office as well along with a copy of the agreement.

Natalie, please stop payment on the original check in the amount of \$8,500.00 sent on 8/12/2009 tracking number 7968-5707-1640 and reissue a check for the same amount of \$8,500.00 + \$11,310.00 (September, October, and November payments, \$3,769.71 per payments) to Bank of America. Please include a copy of the signed agreement as well.

Thank you!

Ivy

From: Natalie Resendiz
Sent: Tuesday, October 20, 2009 11:40 AM
To: Ivy Le
Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Funds received in the amount of \$11310.00

I have the file please advise what to do from here. The stop payment was placed on the check that was never returned to us from bank of America.

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300

MTC000113

Date: 05/17/2012

Page: 16

Fax (949) 252-8330
nresendiz@trusteecorps.com

From: Natalie Resendiz
Sent: Wednesday, January 20, 2010 2:26 PM
To: Horacio Montoya; Michelle Diggs; Jessica Juarez
Subject: nv0938405-1/ loan [REDACTED]

Funds Returned in the amount of \$19810.00
Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

Offices in California Nevada Arizona

Trustee Corps (Freddie Mac and Fannie Mae Processing Office)

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Rande Johnsen, Director rjohnsen@trusteecorps.com

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MTC000114

01/28/2010, 15:24:23, by Natalie Resendiz

CALLED TO FOLLOW UP WITH ALAN SIMON FROM BANK OF AMERICA AFTER FORWARDING HIM COPY OF FORBEARANCE AGREEMENT AND COPY OF CHECK THAT WAS RETURNED TO US IN THE AMOUNT OF \$19,810.00. HE IS GOING TO REQUEST ASSISTANCE FROM HIS MANAGER AND HE IS GOING TO GET BACK WITH A RESPONSE FOR ME REGARDING WHERE I HAVE TO FORWARD CHECK TO AND HE WILL NOTIFY THEM WE SET UP ORIG FORBEARANCE AGREEMENT AND FUNDS NEED TO BE ACCEPTED.

01/28/2010, 14:59:18, by Horacio Montoya

From: Horacio Montoya

Sent: Thursday, January 28, 2010 2:59 PM

To: Natalie Resendiz

Subject: RE: nv0938405-1/ loan [REDACTED]/25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

Did you still want me to follow up since you spoke to Alan. I see this in fps notes.

Please advise.

Thank you.

From: Natalie Resendiz

Sent: Thursday, January 28, 2010 11:34 AM

To: Horacio Montoya

Subject: RE: nv0938405-1/ loan [REDACTED]/25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

I am still holding funds in the amount of \$19810.00

Thanks,

Natalie Resendiz

Accounting Department

TRUSTEE CORPS

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Fax (949) 252-8330

nresendiz@trusteecorps.com

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MTC000115

Date: 05/17/2012

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From: Horacio Montoya
Sent: Thursday, January 21, 2010 8:14 AM
To: 'alan.m.simon@bankofamerica.com'; 'jennifer.porter@bankofamerica.com'; 'jennifer.wall@bankofamerica.com'
Cc: Michelle Diggs; Jessica Juarez; Natalie Resendiz
Subject: RE: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghaei

Hello- This is the 3rd time that funds are returned to our office.

Can anyone assist me on this file? Attached is borrowers executed forbearance agreement and attached returned funds in the amount of \$19,810.00 on 1/20/10

Please see below and advise.

Please note that we are Freddie Mac Designated Counsel, we are authorized on behalf of Freddie Mac to delegate forbearance plans for all Freddie Mac loans. If you have any questions please let me know. Please accept the funds and apply to borrowers account.

Thank you

Have a great day!

From: Ivy Le
Sent: Tuesday, October 20, 2009 6:17 PM
To: 'Wall, Jennifer - 2'
Cc: Alan M Simon; Amy Lemus; Natalie Resendiz; Michelle Diggs
Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

MTC000116

Date: 05/17/2012

Page: 19

Hi there,

Trustee Corps had placed borrower in a forbearance agreement back in August with a good faith deposit of \$8,500.00. Funds and the original forbearance agreement were sent to your office via fed ex tracking 7968-5707-1640 in the amount of \$8,500.00 - per our accounting department, the \$8,500.00 check was never cashed and applied. Besides, borrower's September payment was returned to him.

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Natalie, please stop payment on the original check in the amount of \$8,500.00 sent on 8/12/2009 tracking number 7968-5707-1640 and reissue a check for the same amount of \$8,500.00 + \$11,310.00 (September, October, and November payments, \$3,769.71 per payments) to Bank of America. Please include a copy of the signed agreement as well.

Thank you!

Ivy

From: Natalie Resendiz

Sent: Tuesday, October 20, 2009 11:40 AM

To: Ivy Le

Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Funds received in the amount of \$11310.00

I have the file please advise what to do from here. The stop payment was placed on the check that was never returned to us from bank of America.

Thanks,

Natalie Resendiz

Accounting Department

TRUSTEE CORPS

Tel (949) 252-8300

Fax (949) 252-8330

nresendiz@trusteecorps.com

From: Natalie Resendiz

Sent: Wednesday, January 20, 2010 2:26 PM

To: Horacio Montoya; Michelle Diggs; Jessica Juarez

Subject: nv0938405-1/ loan [REDACTED]

Funds Returned in the amount of \$19810.00

Thanks,

Natalie Resendiz

Accounting Department

TRUSTEE CORPS

Tel (949) 252-8300

MTC000117

Date: 05/17/2012

Page: 20

Fax (949) 252-8330
nresendiz@trusteecorps.com

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01/28/2010, 11:37:46, by Natalie Resendiz

Called alan simon from bank of america to follow up why funds were returned in the amount of \$19810.00 check # 40798. He is researching to see why the funds are returned. Only information he has was that the customer was on a mha review program. alan asked me to send him a copy of the forbearance agreement and the amount that was returned from bank of america he is going to research the issue.

01/26/2010, 13:57:44, by Horacio Montoya

From: Natalie Resendiz

Sent: Tuesday, January 26, 2010 10:23 AM

To: Simon, Alan M

Cc: Horacio Montoya

Subject: FW: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghael * 2nd request**

MTC000118

Date: 05/17/2012

Page: 21

Alan,

Can you please advise status of funds that were returned to us? Thank you!

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

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From: Horacio Montoya

Sent: Thursday, January 21, 2010 8:14 AM

To: 'alan.m.simon@bankofamerica.com'; 'jennifer.porter@bankofamerica.com'; 'jennifer.wall@bankofamerica.com'

MTC000119

Comments for NV0938405-1 - LAGHAEI, BIJAN

Date: 05/17/2012

Page: 22

Cc: Michelle Diggs; Jessica Juarez; Natalie Resendiz

Subject: RE: nv0938405-1/ loan [REDACTED] /25 SNOWBERRY CIRCLE RENO, NV 89511/laghaei

Hello- This is the 3rd time that funds are returned to our office.

Can anyone assist me on this file? Attached is borrowers executed forbearance agreement and attached returned funds in the amount of \$19,810.00 on 1/20/10

Please see below and advise.

Please note that we are Freddie Mac Designated Counsel, we are authorized on behalf of Freddie Mac to delegate forbearance plans for all Freddie Mac loans. If you have any questions please let me know. Please accept the funds and apply to borrowers account.

Thank you

Have a great day!

From: Ivy Le

Sent: Tuesday, October 20, 2009 6:17 PM

To: 'Wall, Jennifer - 2'

Cc: Alan M Simon; Amy Lemus; Natalie Resendiz; Michelle Diggs

Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Hi there,

Trustee Corps had placed borrower in a forbearance agreement back in August with a good faith deposit of \$8,500.00. Funds and the original forbearance agreement were sent to your office via fed ex tracking 7968-5707-1640 in the amount of \$8,500.00 - per our accounting department, the \$8,500.00 check was never cashed and applied. Besides, borrower's September payment was returned to him.

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Natalie, please stop payment on the original check in the amount of \$8,500.00 sent on 8/12/2009 tracking number 7968-5707-1640 and reissue a check for the same amount of \$8,500.00 + \$11,310.00 (September, October, and November payments, \$3,769.71 per payments) to Bank of America. Please include a copy of the signed agreement as well.

Thank you!

Ivy

From: Natalie Resendiz

Sent: Tuesday, October 20, 2009 11:40 AM

To: Ivy Le

Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Funds received in the amount of \$11310.00

I have the file please advise what to do from here. The stop payment was placed on the check that was never returned to us

MTC000120

Date: 05/17/2012

Page: 23

from bank of America.

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

From: Natalie Resendiz
Sent: Wednesday, January 20, 2010 2:26 PM
To: Horacio Montoya; Michelle Diggs; Jessica Juarez
Subject: nv0938405-1/ loan [REDACTED]

Funds Returned in the amount of \$19810.00

Thanks,

Natalie Resendiz
Accounting Department
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MTC000121

Date: 05/17/2012

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01/21/2010, 08:14:32, by Horacio Montoya

received return funds in the amount of \$19810.00 and requested servicer to accept forbear. funds.

From: Horacio Montoya

Sent: Thursday, January 21, 2010 8:14 AM

To: 'alan.m.simon@bankofamerica.com'; 'jennifer.porter@bankofamerica.com'; 'jennifer.wall@bankofamerica.com'

Cc: Michelle Diggs; Jessica Juarez; Natalie Resendiz

Subject: RE: nv0938405-1/ loan [REDACTED]/25 SNOWBERRY CIRCLE RENO, NV 89511/laghael

Hello- This is the 3rd time that funds are returned to our office.

Can anyone assist me on this file? Attached is borrowers executed forbearance agreement and attached returned funds in the amount of \$19,810.00 on 1/20/10

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Thank you

Have a great day!

From: Ivy Le

Sent: Tuesday, October 20, 2009 6:17 PM

To: 'Wall, Jennifer - 2'

Cc: Alan M Simon; Amy Lemus; Natalie Resendiz; Michelle Diggs

Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Hi there,

Trustee Corps had placed borrower in a forbearance agreement back in August with a good faith deposit of \$8,500.00. Funds and the original forbearance agreement were sent to your office via fed ex tracking 7968-5707-1640 in the amount of \$8,500.00 - per our accounting department, the \$8,500.00 check was never cashed and applied. Besides, borrower's September payment was returned to him.

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MTC000122

Date: 05/17/2012

Page: 25

Natalie, please stop payment on the original check in the amount of \$8,500.00 sent on 8/12/2009 tracking number 7968-5707-1640 and reissue a check for the same amount of \$8,500.00 + \$11,310.00 (September, October, and November payments, \$3,769.71 per payments) to Bank of America. Please include a copy of the signed agreement as well.

Thank you!

Ivy

From: Natalie Resendiz
Sent: Tuesday, October 20, 2009 11:40 AM
To: Ivy Le
Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Funds received in the amount of \$11310.00

I have the file please advise what to do from here. The stop payment was placed on the check that was never returned to us from bank of America.

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

From: Natalie Resendiz
Sent: Wednesday, January 20, 2010 2:26 PM
To: Horacio Montoya; Michelle Diggs; Jessica Juarez
Subject: nv0938405-1/ loan [REDACTED]

Funds Returned in the amount of \$19810.00

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

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MTC000123

Date: 05/17/2012

Page: 28

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01/04/2010, 12:38:14, by Michelle Diggs

LOSS MIT PROCESS

BiJan stated that his funds are bein returned again. he has not rec'd any funds back. he will contact the lender to see where the funds are. I let him know that he needs to find out wehere the funds were sent because this needs t get sent to the lender to get resolved. he will contact me.

11/03/2009, 14:07:14, by Dominic Barrera

11/16/2009 700.00 2,849.89 3,549.89

10/21/2009, 17:07:01, by Ivy Le

From: Natalie Resendiz

Sent: Wednesday, October 21, 2009 4:15 PM

To: Ivy Le; 'Wall, Jennifer - 2'

Cc: Alan M Simon; Amy Lemus; Michelle Diggs

Subject: RE: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

FUNDS SENT TO LENDER

FED EX TRACKING 797040850274

MTC000124

Date: 05/17/2012

Page: 27

Date: 10/21/09

Bank Of America Home Loans
400 Countrywide Way
MS SV-35
Simi Valley, CA 93065

Trustee Sale #: NV0938405-1
Loan #: XXXXXXXXXX
Trustor(s): BIJAN LAGHAEI, AN UNMARRIED MAN
Property: 25 SNOWBERRY CIRCLE, RENO, NV 89511.

Dear Client:

Attached is a Forbearance Agreement our office prepared in which the borrower has entered into agreement. Our check #40798 in the amount of \$19,810.00 representing funds being paid towards the defaulted amount as part of the enclosed agreement. An invoice has been submitted through newinvoice.

We sincerely appreciate the opportunity to work with you and look forward to doing so in the future. If you have any questions please do not hesitate to call.

Sincerely,

Natalie Resendiz
Accounting Department

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

Offices in California Nevada Arizona
Trustee Corps (Freddie Mac and Fannie Mae Processing Office)
2112 Business Center Drive
2nd Floor - Suite 201
Irvine, CA 92612
Fannie Mae Retained Counsel in CA & AZ Freddie Mac Designated Counsel in AZ, CA & NV
Default services in CA, NV, AK, AZ, CA, ID, MT, NV, OR, HI, TX & WA

** Please send all Postponement Requests to postponementrequest@trusteecorps.com **

** Please send all Cancellation, Stop Foreclosure & Close & Bill Requests to stopforeclosure@trusteecorps.com **

MTC000125

Comments for NV0938405-1 - LAGHAEI, BIJAN

Date: 05/17/2012

Page: 28

** Please send all Bid Instructions to salebids@trusteecorps.com **

Additional contact people and escalation for contacts:

To reach an operator call 949-252-8300 and press 0

Ryan Newman, Sales and Postponments: newman@trusteecorps.com

Clarisa Gastelum, Support: cgastelum@trusteecorps.com

Ivy Le, Loss Mitigation: ile@trusteecorps.com

Juan Carrillo, VP, Default Operations (Trustee Corps) (jcarrillo@trusteecorps.com)

Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com

10/21/2009, 15:34:23, by Natalie Resendiz

FUNDS SENT TO LENDER

FED EX TRACKING 797040850274

Date: 10/21/09

Bank Of America Home Loans

400 Countrywide Way

MS SV-35

Simi Valley, CA 93065

Trustee Sale #: NV0938405-1

Loan #: [REDACTED]

Trustor(s): BIJAN LAGHAEI, AN UNMARRIED MAN

Property: 25 SNOWBERRY CIRCLE, RENO, NV 89511,

Dear Client:

Attached is a Forbearance Agreement our office prepared in which the borrower has entered into agreement. Our check #40798 in the amount of \$19,810.00 representing funds being paid towards the defaulted amount as part of the enclosed agreement. An invoice has been submitted through newinvoice.

We sincerely appreciate the opportunity to work with you and look forward to doing so in the future. If you have any questions please do not hesitate to call.

Sincerely,

Natalie Resendiz

Accounting Department

10/20/2009, 18:17:28, by Ivy Le

From: Ivy Le

MTC000126

Date: 05/17/2012

Page: 29

Sent: Tuesday, October 20, 2009 6:17 PM
To: 'Wall, Jennifer - 2'
Cc: Alan M Simon; Amy Lemus; Natalie Resendiz; Michelle Diggs
Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Hi there,

Trustee Corps had placed borrower in a forbearance agreement back in August with a good faith deposit of \$8,500.00. Funds and the original forbearance agreement were sent to your office via fed ex tracking 7968-5707-1640 in the amount of \$8,500.00 - per our accounting department, the \$8,500.00 check was never cashed and applied. Besides, borrower's September payment was returned to him.

Please note that we are Freddie Mac Designated Counsel, we are authorized on behalf of Freddie Mac to delegate forbearance plans for all Freddie Mac loans. Furthermore, Funds in the amount of \$8,500.00 and borrower's September, October and November will be forwarded to your office as well along with a copy of the agreement.

Natalie, please stop payment on the original check in the amount of \$8,500.00 sent on 8/12/2009 tracking number 7968-5707-1640 and reissue a check for the same amount of \$8,500.00 + \$11,310.00 (September, October, and November payments, \$3,769.71 per payments) to Bank of America. Please include a copy of the signed agreement as well.

Thank you!

Ivy

From: Natalie Resendiz
Sent: Tuesday, October 20, 2009 11:40 AM
To: Ivy Le
Subject: NV0938405-1/ LOAN [REDACTED] LAGHAIN, BIJAN

Funds received in the amount of \$11310.00

I have the file please advise what to do from here. The stop payment was placed on the check that was never returned to us from bank of America.

Thanks,

Natalie Resendiz
Accounting Department
TRUSTEE CORPS
Tel (949) 252-8300
Fax (949) 252-8330
nresendiz@trusteecorps.com

10/19/2009, 11:12:00, by Ivy Le

need to verify where borrower's good faith deposit is in the amount of \$8300.00

From: Ivy Le
Sent: Monday, October 19, 2009 11:14 AM
To: 'Wall, Jennifer - 2'
Cc: 'Wilson, Michael J'
Subject: FW: LAGHAEL; [REDACTED] NV0938405-1

Hi there,

MTC000127

Date: 05/17/2012

Page: 30

I am unable to reach Alejandra... can someone assist?

Thank you!

Ivy

From: Ivy Le
Sent: Monday, October 19, 2009 11:12 AM
To: 'alejandra_aidana@countrywide.com'
Subject: LAGHAEL: [REDACTED] NV0938405-1

Hi there Alejandra,

Please advise if your office had rec'd a check from Trustee Corps in the amount of \$8300 and if funds were applied?

Please advise,

Thank you!

Ivy

Ivy Le
Loss Mitigation Supervisor
Trustee Corps/Harmony Escrow
30 Corporate Park, Ste 400
Irvine, CA 92606
949-252-8300 ext 285
949-752-0320 Fax
ile@trusteecorps.com
Hours of Operation (8am-5pm PST)

Offices in California Nevada Arizona

Trustee Corps (Freddie Mac and Fannie Mae Processing Office)
2112 Business Center Drive
2nd Floor - Suite 201
Irvine, CA 92612

Fannie Mae Retained Counsel in CA & AZ Freddie Mac Designated Counsel in AZ, CA & NV

Default services in CA, NV, AK, AZ, CA, ID, MT, NV, OR, HI, TX & WA

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** Please send all Cancellation, Stop Foreclosure & Close & Bill Requests to stopforeclosure@trusteecorps.com **

** Please send all Bid Instructions to salebids@trusteecorps.com **

To reach an operator call 949-252-8300 and press option #1 for loss mit department.

Back up Associate: Publication Supervisor, Carlos Quezada 949-252-8300 cquezada@trusteecorps.com

Sales Supervisor: Ryan Newman mewman@trusteecorps.com

Supervisor: VP.Default Operations: Juan Carrillo 949-252-8300 ext 170 jcarrillo@trusteecorps.com

Gloria Juarez, Accounting Manager (Trustee Corps and Harmony Escrow) gjuarez@trusteecorps.com

Robert Ruelas, Marketing and Client Manager (Trustee Corps and Harmony Escrow) ruelas@trusteecorps.com

David King, Associate General Counsel (Trustee Corps and Harmony Escrow) dking@trusteecorps.com

Audrey Bryan, Escrow Manager (Harmony Escrow) abryan@harmonyescrow.com

Notice of Confidentiality

MTC000128

1 Under the NRCP, a party “may obtain discovery regarding *any* matter, not
2 privileged, which is *relevant to the subject matter* involved in the pending action,
3 whether it relates to the claim or defense of the party seeking discovery or to the
4 claim or defense of any other party, including the existence, description, nature,
5 custody, condition and location of any books, documents, or other tangible things and
6 the identity and location of persons having knowledge of any discoverable matter.”
7 NRCP 26(b)(1) [emphasis added].

8 Rule 23 of the NRCP provides that as “*soon as practicable* after the
9 commencement of an action brought as a class action, the court *shall determine* by
10 order whether it is to be so maintained.” NRCP 23(c)(1) [emphasis added]. It has
11 long been the case that federal “district courts *generally do not* grant summary
12 judgment on the merits of a class action *until* the class has been *properly certified* and
13 notified.” *Schwarzschild v. Tse* (9th Cir. 1995) 69 F.3d 293, 295 [emphasis added];
14 *see also Bautista-Perez v. Keisler* (N.D. Cal. August 21, 2008) 2008 U.S. Dist.
15 LEXIS 63985, at *2-3, 4-6 [citing *Schwarzschild* and concluding that dispositive
16 motions in the case should be heard only after class certification decision was made
17 because class certification would not be expensive and burdensome while
18 discovery—including “not only about Defendant’s stated policies but about its actual
19 practices”—would be needed to make decision on merits].

20 **1. Discovery Is Absolutely Necessary Before the Court Makes Its Class**
21 **Certification Decision**

22 “District courts have broad discretion to control the class certification process,
23 and ‘[w]hether or not discovery will be permitted . . . lies within the sound discretion
24 of the trial court.’” *Vinole v. Countrywide Home Loans, Inc.* (9th Cir. 2009) 571 F.3d
25 935, 942 [quoting *Kamm v. Cal. City Dev. Co.* (9th Cir. 1975) 509 F.2d 205,
26 209][alterations in original]. Generally, an “extensive evidentiary showing is not
27 required” of the party seeking class certification, because, in “analyzing whether it
28 should certify a class, the court should generally accept the allegations of the

1 complaint as true.” *Meyer, supra*, 110 Nev. at 1363, 885 P.2d at 625 [citing *Blackie*
2 *v. Barrack* (9th Cir. 1975) 524 F.2d 891, 901]; *see also High Noon at Arlington*
3 *Ranch Homeowners Ass’n v. Eighth Judicial Dist. Court* (2013) 2013 Nev. Unpub.
4 LEXIS 128, at *3 [“In determining whether to certify a class, a court should accept
5 the allegations contained within a complaint as true.”][citing *Meyer, supra*, 110 Nev.
6 at 1363-64, 885 P.2d at 626].

7 The Ninth Circuit has “previously held that ‘[t]he propriety of a class action
8 cannot be determined in some cases without discovery’ and that ‘[t]o deny discovery
9 in [such cases] would be an abuse of discretion.” *Pitts v. Terrible Herbst, Inc.* (9th
10 Cir. 2011) 653 F.3d 1081, 1093 n.5 [quoting *Kamm, supra*, 509 F.2d at 210]
11 [alterations in original]. Similarly, the United States Supreme Court has noted that
12 “discovery often has been used to illuminate issues upon which a district court must
13 pass in deciding whether a suit should proceed as a class action under Rule 23, such
14 as numerosity, common questions, and adequacy of representation.” *Oppenheimer*
15 *Fund v. Sanders* (1978) 437 U.S. 340, 351 n.13.

16 The *Pitts* Court of Appeals went on to note “that ‘the *better and more*
17 *advisable practice* for a District Court to follow is to *afford the litigants an*
18 *opportunity to present evidence* as to whether a class action was maintainable’ and
19 that such an opportunity *requires* ‘enough discovery to obtain the material.’” *Id.*
20 [quoting *Doninger v. Pac. Nw. Bell, Inc.* (9th Cir. 1977) 564 F.2d 1304,
21 1313][emphasis added]. Thus, in proposed class actions, since “often the pleadings
22 alone will not resolve the question of class certification . . . some discovery will be
23 warranted.” *Vinole, supra*, 571 F.3d at 942 [finding no abuse of discretion because
24 the “Plaintiffs were provided with adequate time in which to conduct discovery
25 related to the question of class certification” and significant discovery had already
26 been completed]. A plaintiff who makes a “prima facie showing” that the
27 requirements of NRCP 23 are met or that discovery is “likely to produce
28 substantiation of the class allegations” should be given an adequate opportunity to

1 conduct classwide discovery. *See Mantolete v. Bolger* (9th Cir. 1985) 767 F.2d 1416,
2 1424. “Once that showing is made, *it is an abuse of discretion to deny*
3 *precertification discovery.*” *Perez v. Safelite Group Inc.* (9th Cir. 2014) 553
4 Fed.Appx. 667, 669 [emphasis added]; *see also Edwards v. First Am. Corp.* (9th Cir.
5 2010) 385 Fed.Appx. 629, 631 [“The district court abused its discretion in denying
6 nationwide [class] discovery. . . . Plaintiff should be allowed to conduct nationwide
7 discovery and, following that discovery, Plaintiff may renew her motion for
8 certification of a nationwide class.”].

9 In *Pitts*, the Ninth Circuit Court of Appeals concluded that the district court
10 abused its discretion by committing a “clear error of judgment” when it ruled that a
11 plaintiff was untimely in seeking class certification; there, the plaintiff’s delay in
12 seeking class certification was due to the district court’s failure to allow discovery
13 needed for the motion to certify a class. *Pitts, supra*, 653 F.3d at 1092-1093. The
14 Ninth Circuit noted that it was “certainly reasonable for Pitts to await a ruling on his
15 motion to compel the production of documents allegedly crucial to class certification
16 before filing a motion to certify a class.” *Id.* at 1093 n.5.

17 Decisions from other federal circuit courts and California law are to similar
18 effect. *See, e.g., Krim v. BancTexas Group* (5th Cir. 1996) 99 F.3d 775, 776-777 n.2
19 [discovery of facts relevant to class certification, including identities of putative class
20 members, permitted]; *Damasco v. Clearwire Corp.* (7th Cir. 2011) 662 F.3d 891,
21 [“Although discovery may in some cases be unnecessary to resolve class issues, *see* 3
22 ALBA CONTE & HERBERT B. NEWBERG, NEWBERG ON CLASS ACTIONS § 7.8, at 25
23 (4th ed. 2002), in other cases *a court may abuse its discretion by not allowing for*
24 *appropriate discovery before deciding whether to certify a class*” [citing *Pitts, supra*,
25 653 F.3d at 1093 n.5; *Mills v. Foremost Ins. Co.* (11th Cir. 2008) 511 F.3d 1300,
26 1311; *Duke v. Univ. of Tex. at El Paso* (5th Cir. 1984) 729 F.2d 994, 996-
27 97][emphasis added]; MANUAL FOR COMPLEX LITIGATION, FOURTH (2004) § 21.14
28 [“Some [precertification] discovery may be *necessary*, however, when the facts

1 relevant to *any* of the certification requirements are disputed . . . or when the
2 opposing party contends that proof of the claims or defenses unavoidably raises
3 individual issues.”][emphasis added].

4 In *Duke*, the 5th Circuit Court of Appeals noted that if a trial court “fails to
5 adhere to the liberal spirit of the Rules [of Civil Procedure], we must reverse.” *Duke*,
6 *supra*, 729 F.2d at 997. Similarly, in *Mills*, the Eleventh Circuit Court of Appeals
7 stated that “precedent also counsels that the parties’ pleadings alone are often not
8 sufficient to establish whether class certification is proper, and the district court will
9 need to go beyond the pleadings and permit some discovery and/or an evidentiary
10 hearing to determine whether a class may be certified.” *Mills, supra*, 511 F.3d at
11 1309. The *Mills* Court of Appeals ruled that the “parties’ disputes as to issues and
12 proof cannot be resolved simply by reviewing the face of the . . . complaint but
13 warrant, at a minimum, production and examination of a representative sample of the
14 estimates of the [Defendant’s] adjusters.” *Id.* at 1310. The *Mills* Court of Appeals
15 expressly noted that “[s]everal of our sister circuits have *reversed denials of class*
16 *certification* that were made *without opportunity for discovery*, when the pleadings
17 on their faces did not show non-compliance with Rule 23 or when the satisfaction of
18 the Rule 23 requirements may have *depended on factual matters within the*
19 *knowledge or possession of the defendant.*” *Id.* at 1309 n. 14 [citing *Parker v. Time*
20 *Warner Entm’t Co.* (2d Cir. 2003) 331 F.3d 13, 21-22; *Goodman v. Schlesinger* (4th
21 Cir. 1978) 584 F.2d 1325, 1332; *Yaffee v. Powers* (1st Cir. 1972) 454 F.2d 1362,
22 1366] [emphasis added].

23 In *Parker*, the Second Circuit Court of Appeals reversed the trial court’s
24 decision to deny class certification in part because it was “*likely that at least minimal*
25 *discovery must* be conducted in order to provide the court with the factual
26 information *necessary* to decide whether or not to certify a Rule 23(b)(2) class” but
27 the trial court improperly “precluded *any* class discovery and even the filing of a
28 motion for class certification.” *Parker, supra*, 331 F.3d at 21-22 [emphasis added].

1 California courts have also long recognized that “due process requires ‘an
2 opportunity to conduct discovery on class action issues before . . . documents in
3 support of or in opposition to the motion must be filed,’ and ‘a full opportunity to
4 brief the issues and present evidence.’” *Bartold v. Glendale Federal Bank* (2000) 81
5 Cal.App.4th 816, 827 [quoting *Carabini v. Superior Court* (1994) 26 Cal.App.4th
6 239, 243-244][ellipses in original]. Moreover, a “party is entitled to such discovery
7 *before* the class is certified, not *after*.” *Id.* at 836 [citing *Carabini*, *supra*, 26 Cal.
8 App. 4th at p. 244]. Thus, “[e]ven if plaintiffs’ discovery requests were overbroad,
9 the trial court should have restricted discovery rather than prohibiting it because a
10 class had not yet been certified.” *Id.*

11 In *Bartold*, the Court of Appeal accordingly reversed the trial court’s denial of
12 class certification and “directed [it] to allow reasonable discovery on issues relating
13 to the nationwide class.” *Id.* Such discovery included the contact information and
14 identities of potential class members. *See id.* at 820-821, 836; *see also Pioneer*
15 *Electronics (USA), Inc. v. Superior Court* (2007) 150 P.3d 198, 205-206, 40 Cal.4th
16 360, 373 [“Contact information regarding the identity of potential class members is
17 *generally discoverable*, so that the *lead plaintiff may learn the names of other*
18 *persons who might assist in prosecuting the case.*”][emphasis added].

19 2. If Discovery Is Phased, Class Discovery Should Proceed First

20 Plaintiffs’ sensible proposal is that, consistent with general practice in most class
21 actions, discovery begin with issues relating to class certification, including
22 discovery as to the merits of the claims and defenses in this case to the extent they
23 overlap with issues relevant to class certification. *See, e.g., Schwarzschild, supra*, 69
24 F.3d at 295 [district courts *generally do not* grant summary judgment on the merits of
25 a class action *until* the class has been *properly certified* and notified.”][emphasis
26 added]; *see also Bautista-Perez, supra*, 2008 U.S. Dist. LEXIS 63985, at *2-3, 4-6
27 [citing *Schwarzschild* and concluding that dispositive motions in the case should be
28 heard only after class certification decision was made because class certification

1 would not be expensive and burdensome while discovery—including “not only about
2 Defendant’s stated policies but about its actual practices”——would be needed to make
3 decision on merits]. Allowing such discovery would be consistent with NRCP 23’s
4 requirement that courts rule on the propriety of class certification by order “as soon
5 as practicable” after cases brought as class actions commence. NRCP 23(c)(1).

6 After the parties are given a reasonable opportunity to conduct pre-certification
7 classwide discovery on issues bearing on the propriety of certification and present
8 appropriate evidence to the Court, the Court, generally accepting the allegations in
9 Plaintiffs’ SAC as true, can make its decision on class certification relatively early in
10 this case. *See Meyer, supra*, 118 Nev. at 1363-64, 885 P.2d at 626. If the Court finds
11 class certification appropriate at that time, the parties could proceed to discovery
12 bearing on the merits of the parties’ claims and defenses (to the extent classwide
13 discovery has not already overlapped in whole or in part with merits discovery). If
14 the Court finds class certification not appropriate at that time, however, the parties
15 could turn to discovery narrowed only to N.R.S. 649.020(1) proof, and the merits of
16 the named Plaintiffs’ claims and Defendants’ defenses. Such an approach would be
17 consistent with NRCP 23’s mandate that the class certification decision be made as
18 soon as practicable as well as efficient, economical, and sensible.

19 3. No Narrow Legal Issue Exists Here

20 No narrow, likely dispositive issue exists in this case that can be resolved
21 without extensive discovery, not only as to Defendants’ dealings with the named
22 Plaintiffs themselves but also as to Defendants’ business activities as a collection
23 agent throughout the State of Nevada, per N.R.S. 649.020(1), and their dealings with
24 Nevada members of the putative class. Whether Defendants’ conduct constituted
25 collection agency activities under N.R.S. 649.020(1) and whether Plaintiffs have
26 sustained damages—the two issues identified by Defendants in their prior moving
27 papers—are not narrow legal issues. Both issues will require extensive discovery that
28 will not be “totally distinct from class issues” but rather will overlap with merits

1 discovery as to the putative class and class certification discovery. *See, e.g., True*
2 *Health Chiropractic, Inc. v. McKesson Corp.* (N.D. Cal. Jan. 20, 2015) 2015 U.S.
3 Dist. LEXIS 7015, at *4-8 [finding bifurcation of discovery unwarranted for many
4 reasons, especially given significant overlap between individual and class discovery
5 and the “slew of issues as to what discovery relates to the class, as opposed to the
6 named plaintiffs, thereby causing additional litigation regarding the distinction
7 between the two” that would result, the delays that would be entailed, and noting that
8 judicial economy would not be served as even if named Plaintiffs were “found to not
9 meet the class definition, Plaintiffs will likely proceed with the case by finding other,
10 adequate representatives”]; *Munoz v. PHH Corp.* (E.D. Cal. Feb. 11, 2016) 2016 U.S.
11 Dist. LEXIS 17254, at *11-14 [“Critically, the Court finds no practical or meaningful
12 method for limiting the scope of Plaintiffs’ depositions given the substantial overlap
13 between merits discovery and class certification discovery at this juncture in the case.
14 Courts have repeatedly acknowledged that there is no clear-cut division between
15 discovery that relates to class certification and discovery that relates to the merits. . . .
16 In other words, issues involving class certification are relevant at all stages in the
17 proceedings. Relevant evidence is discoverable.”]; *Charvat, supra*, 2016 U.S. Dist.
18 LEXIS 6778, at *3-7 [denying motion to bifurcate discovery and noting that the
19 “contours of [permissible] discovery” under the defendant’s proposal would require
20 “future motion practice and resolution by the Court, neither of which promotes
21 judicial efficiency or a prompt resolution of the case”——especially as “[m]uch of the
22 discovery sought appears relevant to both the class and individual claims”——and
23 pointing out that “even if the named Plaintiff’s claim were defeated, there is no
24 reason to think that this case would likely end” as other individuals “could replace
25 Plaintiff as a class representative”].

26 As part of proving their claims here, Plaintiffs will need to show that
27 Defendants’ various business activities in the State of Nevada during the pertinent
28 period rendered Defendants collection agencies under Nevada law such that they

1 required an appropriate license or certificate from the FID to carry out their collection
2 businesses in Nevada. In order to be able to make this showing, however, Plaintiffs
3 will need a fair opportunity to conduct the typical broad discovery regarding the
4 nature and scope of Defendants' business activities in Nevada, not just with respect
5 to the named Plaintiffs but also as they bear on other Nevada victims. While such
6 discovery is necessary to show the validity of the named Plaintiffs' individual claims,
7 Defendants no doubt will contend—as they have thus far—that Plaintiffs seek to
8 engage in improper class discovery. The potential for discovery disputes as to the
9 proper boundaries of “merits” as opposed to “class” discovery—always a danger
10 when courts attempt to arbitrarily distinguish discovery into such categories when
11 significant overlap between them in fact exists—is even greater here given the nature
12 of the legal and factual issues in this matter and the discovery that will be necessary
13 for the named Plaintiffs to prove the merits of their individual claims.

14 **4. Defendants' Phasing Plan Will Create Hugely Wasteful and Expensive**
15 **Duplication, and Months of Delay**

16 Defendants' proposed three discovery phases also guarantee duplicative
17 discovery and the unnecessary costs associated with litigating whether particular
18 discovery requests are proper in a particular phase. Various items of desired evidence
19 broadly showing that Defendants are in the business of debt collection in Nevada will
20 provide circumstantial indication that Defendants acted in the course of that debt
21 collection business with respect to their proceedings against the named Plaintiffs.
22 Defendants' various contracts and communications with their client lenders will
23 show the scope of their Nevada services, to include various debt collection functions,
24 and at least indirectly prove the debt collection business included the named
25 Plaintiffs. All of this is true for members of the putative class as well, as there is no
26 need for massive delay and duplication on that issue.

27 Defendants' NRCP 30(b)(6) deponents regarding ESI, including content and
28 accessibility of their databases with respect to information of the named Plaintiffs,

1 would have to be deposed 2-3 times later, to include the broader class and matters
2 related to class certification, according to Defendants' plan. All of these depositions
3 would be duplicated, with multiple out-of-state lawyers attending repeatedly.

4 Plaintiffs expect that likely as many as 20 to 30 people will have to be deposed
5 at least twice should the phasing plan proposed by Defendants be adopted. The waste
6 entailed by such unnecessary duplication will be only compounded by the fact that
7 many of these witnesses are scattered in different states and will require counsel for
8 the parties to travel from at least three different states as well (including California,
9 Nevada, and Arizona).

10 Moreover, under the plain language of N.R.S. 649.020(1), by proving that
11 Defendants were generally conducting a debt collection business in Nevada with
12 respect to thousands of Nevadans, Defendants are proven culpable and liable as to the
13 named Plaintiffs, even if their particular actions against the named Plaintiffs involved
14 only and strictly non-judicial foreclosure filings, because such activity is debt
15 collection as a matter of law. *See Glazer, supra; Wilson, supra; Alaska Trustee, LLC,*
16 *supra.*⁷

17 Although Defendants suggested in their papers seeking phasing that the initial
18 discovery they propose should take only one or two months, the dates proposed in
19 their joint case conference report would require far greater delays—and thus
20 prejudice to Plaintiffs—in class certification and merits discovery as to the class.
21 Under Defendants' proposed schedule, for instance, discovery relating to class
22 certification might not begin—if at all—until as late as early next year (since some
23 purportedly dispositive motions might not be filed until mid-October 2016). The
24 scheduling order currently adopted by the Commissioner for this case provides that
25 Plaintiffs are not allowed to proceed with class discovery until after the Court rules
26

27 ⁷ Even with defective disclosures and complete discovery obstruction by Defendants, Plaintiffs
28 have already gathered evidence to show that Defendants' collection agency activities against the
named Plaintiffs went beyond the simple filing of a statutory notice of default. *See Boylan*
Declaration, at ¶¶ 2-28, and Exhibits thereto.

1 on Defendants' purportedly dispositive challenges to the merits of the named
2 Plaintiffs' claims (which motions Defendants are not required to file until as late as
3 November 30, 2016). Most recently, the Commissioner has also suggested that the
4 deadline for Phase I discovery may need to be extended so that Plaintiffs will have
5 enough opportunity to obtain the evidence they need for Phase I discovery. Exhibit
6 "25" at 123:15-19.

7 During Plaintiffs' diligent pursuit of Phase I discovery so far, significant and
8 costly disputes have already arisen between the parties as to the proper scope of
9 discovery in Phase I, and, in particular, whether discovery sought by Plaintiffs is
10 properly within Phase I or constitutes Phase II class discovery. At significant cost in
11 time and money, Plaintiffs have been forced to move to repeatedly (about ten
12 motions so far filed) compel proper discovery responses from each of the Defendants
13 because of these disputes. Thus, the phasing plan adopted by the Commissioner has
14 already entailed months of delay and heavy costs for Plaintiffs. Plaintiffs expect to
15 suffer similar delays and expense in the months ahead. Throughout this time,
16 Plaintiffs will be denied the opportunity to pursue discovery needed for them to move
17 for class certification.

18 Given the already powerful evidence Plaintiffs have assembled thus far in
19 support of their claims, Plaintiffs fully expect they will defeat Defendants'
20 purportedly dispositive challenges to their claims and the case will proceed to Phase
21 II. The Commissioner herself stated at the September 21, 2016 hearing that she now
22 believes there will be a Phase II in this case. *See* Exhibit "25" at 25:6-8
23 [DISCOVERY COMMISSIONER: "I suspect at some point we'll be in Phase 2, but I
24 don't know that for certain because you'll have to make your motions after Phase
25 I."]. Plaintiffs can only surmise that the Commissioner reached this conclusion in
26 light of the powerful evidence submitted to her by Plaintiffs in support of their claims
27 thus far. Why then should phasing, with all the burdens and delays entailed, be done
28 at all?

1 To the extent that there should be any staggering or phasing of discovery, the
2 logical and efficient course would be to conduct class certification-related discovery
3 first, followed by a determination as to the propriety of class certification. Once the
4 Court has made that determination, the parties would then proceed to discovery on
5 the merits of Plaintiffs' claims (to the extent class discovery has not already
6 overlapped with merits discovery). If the Court concludes class certification is not
7 appropriate, such discovery would be limited to N.R.S. 649.020(1) and the named
8 Plaintiffs' claims; if class certification occurs, discovery would be on the merits of
9 both the named Plaintiffs' claims and those of the class. This course would avoid
10 unnecessary duplication and waste and would comply with the requirement of NRCP
11 26(c)(1) that the Court make the class certification decision as "soon as practicable
12 after the commencement" of the case.

13 **5. Limiting Discovery To The "Validity" Of ONLY The Named Plaintiffs'**
14 **Claims—As Defendants Proposed and the Commissioner Has Generally**
15 **Recommended—Would Be Inefficient, Wasteful, And May Result In A**
16 **Multiplicity of Actions**

17 Defendants' proposed "three phases" of discovery would be inefficient and
18 would unnecessarily—and improperly—delay the Court's determination as to
19 whether class certification is proper here and complicate the Court's rulings on the
20 merits of the claims and defenses in this case. Indeed, the Commissioner herself has
21 apparently recognized that phasing discovery in the way Defendants propose is not
22 an efficient approach here. *See, e.g.,* Exhibit "25" at 100:24-101:3 [DISCOVERY
23 COMMISSIONER: "Well, I'll tell you how we could really be efficient, but you
24 don't want to hear it. . . . *We just don't phase discovery.* That's how we be
efficient."][emphasis added].

25 As a preliminary matter, even assuming *arguendo* that Defendants' challenges
26 to the merits of the named Plaintiffs' claims were successful, the Court's ruling on
27 those challenges would "bind only the *named* parties." *See* MANUAL FOR COMPLEX
28 LITIGATION, FOURTH (2004) § 21.133 [emphasis added][*"The Court may rule on*

1 motions pursuant to Rule 12, Rule 56, or other threshold issues before deciding on
2 certification; however, such rulings bind only the named parties.”]; *see also Wright v.*
3 *Schock* (9th Cir. 1984) 742 F.2d 541, 544 [summary judgment on named plaintiffs’
4 claims *before* class certification is *res judicata* only as to the named plaintiffs, but *not*
5 members of the putative class]; *Schwarzschild, supra*, 69 F.3d at 297 [noting also that
6 “district courts generally do not grant summary judgment on the merits of a class
7 action until the class has been properly certified and notified. The purpose of Rule
8 23(c)(2) is to ensure that the plaintiff class receives notice of the action well *before*
9 the merits of the case are adjudicated.”][emphasis in original][both cited by MANUAL
10 FOR COMPLEX LITIGATION, FOURTH at § 21.133 n.768]. Thus, even if the Court found
11 in favor of Defendants on the merits of the named Plaintiffs’ claims, members of the
12 putative class would not be bound by that decision and could continue with their
13 claims. There would thus be no savings in time and expense—and likely only greater
14 costs in time and expense—for the parties and the Court here even if Defendants
15 prevailed on their motions on the named Plaintiffs’ claims.

16 In *Wright*, the Ninth Circuit concluded that under the “proper circumstances—
17 where it is more practicable to do so and *where the parties will not suffer significant*
18 *prejudice*—the district court has discretion to rule on a motion for summary
19 judgment before it decides the certification issues.” *Wright, supra*, 742 F.2d at 543-
20 544. The Ninth Circuit expressly noted, however, that in the case before it—unlike
21 the case here—“extensive discovery might be necessary on the class certification
22 issue” while the “threshold issues” relating to the merits of the named plaintiffs’
23 claims could be “resolved on motions for summary judgment after quite limited
24 discovery.” *Id.* at 544. The “approach” adopted therefore “held the promise of saving
25 all of the parties considerable time and expense.” *Id.* In contrast, here extensive
26 discovery on the merits of the claims of the named Plaintiffs and putative class
27 members would be likely while only fairly limited discovery would be necessary for
28 the class certification issue.

1 The Ninth Circuit in *Wright* ruled that the named plaintiffs were not prejudiced
2 by consideration of the summary judgment motion before the class certification
3 motion in part because the named plaintiffs “were free to communicate with potential
4 class members and that they did communicate” and so had an opportunity to
5 “gather[] sufficient evidence to overcome the summary judgment motion” from
6 potential class members as witnesses. *Id.* at 545. The Ninth Circuit expressly noted
7 that the trial court “did not restrict them [from communicating with potential class
8 members], and the Wrights did not complain at the time about their inability to talk
9 with the putative class.” *Id.* Here, however, the Commissioner, in denying Plaintiffs
10 discovery of the names and contact information of putative class members in Phase I,
11 has effectively restricted—and, indeed, all but barred—Plaintiffs from
12 communicating with these crucial percipient witnesses in order to gather sufficient
13 information to overcome Defendants’ anticipated purportedly dispositive motions.
14 Plaintiffs, both in prior briefs and at oral argument, have complained repeatedly of
15 this restriction and the resulting unfair prejudice to Plaintiffs’ efforts to gather
16 necessary evidence of Defendants’ collection activities in Nevada during the relevant
17 period of time. Such evidence would include evidence of communications—by
18 phone, e-mail, letter, fax, or other written means—between Defendants and Nevada
19 debtors regarding payment of their debts; evidence of payments on such debts—by
20 check, wire transfer, or other means—sent by Nevada debtors to Defendants during
21 the relevant period; and evidence of other efforts by Defendants to collect on debts
22 owed by members of the putative class, including through negotiation, preparation,
23 and execution of forbearance agreements and participation in loan modification
24 mediations.

25 Extensive discovery on the merits of the named Plaintiffs’ claims is especially
26 necessary here—despite any arguments from Defendants to the contrary—because a
27 clear line cannot be drawn between discovery relevant only to the merits of the
28 named Plaintiffs’ claims and discovery relevant as well to the claims of the putative

1 class members, and N.R.S. 649.020(1) must be established. Many authorities
2 highlight the frequent overlap of evidence on the merits and the certification
3 decision: *See* Part II.F.6 below and authorities cited therein. Pursuant to NRCP
4 26(b)(1), the named Plaintiffs “may obtain discovery regarding *any matter*, not
5 privileged, which is *relevant to the subject matter* involved in the pending action,
6 whether it relates to the claim or defense of the party seeking discovery or to the
7 claim or defense of any other party It is *not* ground for objection that the
8 information sought will be inadmissible at the trial if the information sought *appears*
9 *reasonably calculated* to lead to the discovery of admissible evidence.” [emphasis
10 added]. In order to prove that Defendants were required to obtain a license from the
11 FID, Plaintiffs will need to show that Defendants’ various business activities in
12 Nevada during the relevant period rendered Defendants’ collection agencies under
13 Nevada law. To make this showing—and thereby prove the validity of the named
14 Plaintiffs’ claims—Plaintiffs will need to show Defendants’ conduct not only as it
15 relates to the named Plaintiffs but other Nevada debtors (i.e., putative class members)
16 as well. Many authorities highlight the frequent overlap of evidence on the merits and
17 the certification decision *See* Part II.F.6 below and authorities cited therein.

18 Thus, even under the approach proposed by Defendants, the named Plaintiffs
19 should be entitled to, among other matters, broad discovery relating to Defendants’
20 letters, notices, collections, loan reinstatements, loan pay-offs, loan modifications,
21 phone calls regarding the debts, and their practices and procedures and dealings with
22 those thousands of Nevadans similarly situated to the named Plaintiffs (such as
23 members of the putative class), because such matters would be plainly relevant to the
24 subject matter of this action (including the merits of the named Plaintiffs’ claims).
25 After all, evidence that Defendants had engaged in debt collection activities,
26 including, for instance, making telephone calls, sending debt collection letters, or
27 receiving payments on debts, with others similarly situated would be relevant to the
28 named Plaintiffs’ allegations that Defendants did such things to them, particularly

1 given the passage of time and the resulting loss of documents and memory by
2 Plaintiffs. *See, e.g.*, Boylan Declaration, at ¶¶ 2-28 and exhibits discussed therein.
3 Just as there is often no bright line between merits discovery and class certification
4 discovery, there is no bright line here between the merits discovery for the named
5 Plaintiffs and for the members of the putative class.

6 Even if discovery were limited to the named Plaintiffs' claims, discovery
7 regarding the putative class, including the identities and contact information of its
8 members, would be relevant to those claims, as putative class members may assist in
9 prosecuting the case by providing relevant evidence. *See, e.g.*, Boylan Declaration, at
10 ¶¶ 5-6 and exhibits thereto. The California Supreme Court and both federal and
11 California state cases have recognized this important point. *Pioneer Electronics,*
12 *supra*, 40 Cal.4th at 373; *Bartold, supra*, 81 Cal.App.4th at 8200821, 836; *Doyon v.*
13 *Rite Aid Corp.* (D. Me. 2011) 279 F.R.D. 43, 46-47; *Pirjada v. Superior Court* (Ct.
14 App. 2011) 201 Cal.App.4th 1074, 1088 ["precertification discovery may be allowed
15 . . . to identify a substitute class representative in place of one who is not able to serve
16 in that capacity, as well as to assist the lead plaintiff in learning the names of other
17 individuals who might assist in prosecuting the action"]; *Hernandez v. Best Buy Co.*
18 (S.D. Cal. Oct. 15, 2014) 2014 U.S. Dist. LEXIS 147630, at *24 ["In the context of a
19 class action, disclosure of basic contact information for putative class members is
20 'common practice' and does not constitute a serious invasion of privacy, particularly
21 when the Court determines that they may possess relevant discoverable information
22 about class certification issues and the other allegations in plaintiff's
23 Complaint."][quoting *Artis v. Deere & Co.* (N.D. Cal. 2011) 276 F.R.D. 348, 353];
24 *Minns v. Advanced Clinical Empl. Staffing LLC* (N.D. Cal. May 9, 2014) 2014 U.S.
25 Dist. LEXIS 65198, at *4-5 [allowing pre-certification discovery of putative class
26 members' contact information because "[c]lass members are percipient witnesses
27 who can provide anecdotal evidence about their experiences that likely is not
28 captured in the written discovery produced by defendant and that may differ from the

1 evidence available from defendant's witnesses"]; *see also Oppenheimer Fund, Inc.*,
2 *supra*, 437 U.S. at 354 n.20 ["There may be instances where [class members' names
3 and addresses] could be relevant to issues that arise under Rule 23 . . . or where a
4 party has reason to believe that communication with some members of the class
5 could yield information bearing on these *or other issues*."][emphasis added].

6 Under these circumstances—and unlike those in *Wright*—resolution of the
7 named Plaintiffs' claims before the Court's decision on the propriety of class
8 certification would be an abuse of the Court's discretion because "early resolution"
9 by way of motions directed at the named Plaintiffs' claims would not be "likely to
10 protect both the parties and the court from needless and costly further litigation." *See*
11 *Wright, supra*, 742 F.2d at 544. Such an abuse of discretion would only be
12 compounded if the Court were to do as Defendants propose—and have unilaterally
13 done already—and stay all discovery on the class and class certification issues until
14 the merits of the named Plaintiffs' claims are ruled on. Here—and, again, unlike in
15 *Wright*—such an approach would prejudice the named Plaintiffs' ability to gather
16 evidence to defeat Defendants' dispositive motions as to the named Plaintiffs' claims.
17 *See id.* at 545. Without the ability to discover, for instance, the identities of putative
18 class members through discovery, the named Plaintiffs will be effectively barred by
19 the Court from communicating with potential class members and gathering evidence
20 from them to support the named Plaintiffs' claims. *Id.* Such a denial would be
21 especially inappropriate as the named Plaintiffs are entitled to seek the identities and
22 locations of persons—such as putative class members—having knowledge of any
23 discoverable matter. NRCP 26(b)(1).

24 It also would allow Defendants, in defiance of the Nevada Rules of Civil
25 Procedure, to dictate the order and scope of Plaintiffs' discovery in ways tantamount
26 to improper "self-selecting discovery." *Buycks-Roberson v. Citibank Fed. Sav. Bank*
27 (N.D. Ill. June 30, 1995) 162 F.R.D. 338, 343 ["The Federal Rules [of Civil
28 Procedure] and this Court do not countenance self-selecting discovery by either

1 party.”]; *see also Patel v. New York Life Ins. Co.* (W.D. Ark. Dec. 1, 2014) 2014 U.S.
2 Dist. LEXIS 167017, at *3 [citing *Buycks-Roberson* and noting “New York Life’s
3 discovery responses attempted to limit the scope of its discovery obligation, and are
4 against the spirit and letter of the Rules and this Court’s prior orders.”].

5 The inefficiencies that Defendants’ proposed discovery plan would entail
6 would only be greater if and when the named Plaintiffs’ claims survive Defendants’
7 purportedly dispositive motions. (Even the limited evidence collected here shows
8 such motions should be denied). Having gone through one round of expensive
9 discovery on the named Plaintiffs’ claims, the parties would be required to engage in
10 a subsequent round of class wide discovery on issues bearing on class certification.
11 Assuming that a class is certified (as Plaintiffs contend is appropriate here), the
12 parties would be forced to go through yet another round of discovery on the merits of
13 the class claims. As reflected in the Commissioner’s scheduling order, Plaintiffs
14 presumably would also have to face a second round of purportedly dispositive
15 motions challenging the merits of their claims (as to the class generally this time
16 instead of as limited to the named Plaintiffs). (If the NRCP 12(b)(5) motions denied
17 in pertinent part by Judge Scann are counted, this would be in fact the third challenge
18 to the merits of the Plaintiffs’ claims.) There will necessarily be significant and
19 unnecessary duplication between these rounds of challenges to the merits of the
20 Plaintiffs’ claims. Even with the best good-faith between the parties, at each stage
21 there would inevitably be time-consuming and costly disputes between the parties as
22 to whether discovery requests were properly within the scope of discovery for a
23 particular phase. *See, e.g.,* MANUAL FOR COMPLEX LITIGATION, FOURTH (2004) §
24 21.14.

25 6. Discovery Relevant Both to Class Certification and to Merits

26 Although it is Plaintiffs’ position that the initial focus of discovery should be
27 on class issues bearing on class certification, Plaintiffs recognize what is often true in
28 these cases, that there is often significant overlap here between discovery relevant to

1 class certification and to the merits. *See, e.g.,* MANUAL FOR COMPLEX LITIGATION,
2 FOURTH (2004) § 21.14 [“Discovery relevant *only* to the merits *delays* the
3 certification decision and may ultimately be *unnecessary*. . . . There is not always a
4 bright line between the two [certification issues and merits of allegations]. *Courts*
5 *have recognized that information about the nature of the claims on the merits and the*
6 *proof that they require is important to deciding certification.* Arbitrary insistence on
7 the merits/class distinction sometimes *thwarts* the *informed judicial assessment* that
8 current class certification practice emphasizes.”][emphasis added]; *Brinker*
9 *Restaurant Corp. v. Superior Court* (Cal. 2012) 273 P.3d 513, 525, 53 Cal.4th 1004,
10 1023-1024 [“The certification question is essentially a procedural one that does not
11 ask whether an action is legally or factually meritorious. . . . We have recognized,
12 however, that issues affecting the merits of a case may be enmeshed with class action
13 requirements When evidence or legal issues germane to the certification
14 question bear as well on aspects of the merits, a court may properly evaluate them. . .
15 . The rule is that a court may consider[] how various claims and defenses relate and
16 may affect the course of the litigation even though such considerations . . . may
17 overlap the case’s merits. . . . In particular, whether common or individual questions
18 predominate will often depend upon resolution of issues closely tied to the merits.”
19 [alteration and fourth ellipsis in original]][internal quotation marks and citations
20 omitted]. Under such circumstances, it would be unwise to arbitrarily insist on
21 distinctions between discovery relevant to the merits and that relevant to class
22 certification. Moreover, “[a]s the Seventh Circuit has correctly explained, any ‘peek’
23 a court takes into the merits at the certification stage ‘must be limited to those aspects
24 of the merits that affect the decisions essential’ to class certification.” *Brinker, supra*,
25 53 Cal.4th at 1024, 273 P.3d at 526 [quoting *Schleicher v. Wendt* (7th Cir. 2010) 618
26 F.3d 679, 685]. Thus, to the “extent the propriety of certification depends upon
27 disputed threshold legal or factual questions, a court may, and indeed must, resolve
28

1 them. . . . [A] court generally should eschew resolution of such issues *unless*
2 *necessary*” to the class certification decision. *Id.* at 1025, 526 [emphasis added].

3 Defendants’ proposed limitations would not only attempt to impose such
4 distinctions but also further distinguish between merits discovery relevant to the
5 named Plaintiffs and that relevant to the putative class, thereby only further
6 unnecessarily and improperly complicating matters—at considerable expense to the
7 parties and the Court. The Court, accordingly, should reject Defendants’ scheme,
8 and, without imposing arbitrary distinctions, allow Plaintiffs to proceed with the
9 discovery they are entitled to in the order they have sought.

10 7. Witness Information Is Critical

11 The California Supreme Court and both federal and California state cases have
12 long recognized the important point that discovery of putative class members’ names
13 and addresses is proper so that potential class members—who are also percipient
14 witnesses—can assist the named plaintiffs and their counsel in prosecuting the case.
15 *Pioneer Electronics, supra*, 40 Cal.4th at 373; *Bartold, supra*, 81 Cal.App.4th at
16 8200821, 836; *Doyon v. Rite Aid Corp.* (D. Me. 2011) 279 F.R.D. 43, 46-47; *Pirjada*
17 *v. Superior Court* (Ct. App. 2011) 201 Cal.App.4th 1074, 1088 [“precertification
18 discovery may be allowed . . . to identify a substitute class representative in place of
19 one who is not able to serve in that capacity, as well as to assist the lead plaintiff in
20 learning the names of other individuals who might assist in prosecuting the action”];
21 *Hernandez v. Best Buy Co.* (S.D. Cal. Oct. 15, 2014) 2014 U.S. Dist. LEXIS 147630,
22 at *24 [“In the context of a class action, disclosure of basic contact information for
23 putative class members is ‘common practice’ and does not constitute a serious
24 invasion of privacy, particularly when the Court determines that they may possess
25 relevant discoverable information about class certification issues and the other
26 allegations in plaintiff’s Complaint.”][quoting *Artis v. Deere & Co.* (N.D. Cal. 2011)
27 276 F.R.D. 348, 353]; *Minns v. Advanced Clinical Empl. Staffing LLC* (N.D. Cal.
28 May 9, 2014) 2014 U.S. Dist. LEXIS 65198, at *4-5 [allowing pre-certification

1 discovery of putative class members' contact information because "[c]lass members
2 are percipient witnesses who can provide anecdotal evidence about their experiences
3 that likely is not captured in the written discovery produced by defendant and that
4 may differ from the evidence available from defendant's witnesses"]; *see also*
5 *Oppenheimer Fund, Inc., supra*, 437 U.S. at 354 n.20 ["There may be instances
6 where [class members' names and addresses] could be relevant to issues that arise
7 under Rule 23 . . . or where a party has reason to believe that communication with
8 some members of the class could yield information bearing on these *or other*
9 *issues.*"] [emphasis added]; *Knaupf v. Unite Here Local 100* (D.N.J. Nov. 23, 2015)
10 2015 U.S. Dist. LEXIS 157710, at *15-16 [denying motion to limit discovery to
11 named plaintiff's claims and noting that "both the Supreme Court and the Court of
12 Appeals for the Third Circuit have held that the names and addresses of putative class
13 members are discoverable"] [citing *Hoffmann-La Roche Inc. v. Sperling* (1989) 493
14 U.S. 165, 170, and *Oppenheimer Fund, Inc., supra*, 437 U.S. at 354 n.20]. Indeed,
15 partly for these reasons, "[m]ost judges are reluctant to restrict communications
16 between the parties or their counsel and potential class members, except when
17 necessary to prevent serious misconduct." MANUAL FOR COMPLEX LITIGATION,
18 FOURTH (2004) § 21.12 [citing *Gulf Oil co. v. Bernard* (1981) 452 U.S. 89, 101-02].

19 Concern that counsel may seek to identify additional class representatives is
20 not a legitimate ground for limiting discovery. *See, e.g., Pirjada, supra*, 201
21 Cal.App.4th at 1088. There may be a number of legitimate reasons why it may be
22 necessary or in the best interests of the putative or certified class to identify
23 additional or substitute class representatives. "Generally, as pointed out by a federal
24 appeals court, when a class representative is unable or unwilling to continue as the
25 class representative, the court should permit class members an opportunity 'to
26 substitute themselves as the class representative.'" *Dancer v. Golden Coin, Ltd.*
27 (2008) 124 Nev. 28, 34, 176 P.3d 271, 275 [quoting *Birmingham Steel v. Tennessee*
28 *Valley Authority* (11th Cir. 2003) 353 F.3d 1331, 1339]; *see also Shapell Industries,*

1 *Inc. v. Superior Court* (Ct. App. 2005) 132 Cal.App.4th 1101, 1108-1110 [noting that
2 “California courts recognize and preserve the rights of absent class members, even
3 before the issue of certification has been determined” and affirming amendment to
4 add new representative plaintiff appropriate where existing named plaintiff sought to
5 be dismissed as a representative]; *La Sala v. American Sav. & Loan Ass’n* (1971) 5
6 Cal. 3d 864, 872, 489 P.2d 1113, 1117 [“If, however, the court concludes that the
7 named plaintiffs can no longer suitably represent the class, it should at least afford
8 plaintiffs the *opportunity to amend their complaint*, to redefine the class, *or to add*
9 *new individual plaintiffs*, or both, in order to *establish a suitable*
10 *representative.*”][emphasis added]. Nevada’s rules of civil procedure “involve a
11 presumption class members are participants in the case *until* they ‘opt out’ *following*
12 *class notice.*” *Montag v. Venetian Casino Resort* (1st Jud. Dist. Ct. June 10, 2013)
13 2013 Nev. Dist. LEXIS 32, at *13 [emphasis added]; *see also Dancer, supra*, 124
14 Nev. at 31 n.2, 176 P.3d at 273 n.2 [“Nevada class action procedures under NRCP
15 23 . . . involve a presumption that class members are participants in the class action
16 *unless* they ‘opt-out’ *following class notice.*”][emphasis added].

17 The phasing of discovery adopted by the Commissioner here is particularly
18 wrong and unfairly prejudicial given the circumstances of this case. To date,
19 Plaintiffs have been barred by the Commissioner from obtaining the names and
20 contact information of other Nevada debtors from Defendants, so that Plaintiffs can
21 get crucial testimony and documentary evidence from these percipient witnesses.
22 Since there are only one, two, or a handful of named Plaintiffs here with claims
23 against each Defendant—indeed, there are currently only 1 or 2 named Plaintiffs with
24 claims against CRC and against MTC—the named Plaintiffs may not be fully
25 representative of the putative class in all respects. For instance, while some of the
26 named Plaintiffs may have received phone calls from the relevant Defendants, others
27 may not have (or may no longer recall whether they did). Similarly, some named
28 Plaintiffs communicated with Defendants by e-mail, while others did not; some had

1 their homes sold in foreclosure sales, while others for various reasons have not. After
2 Plaintiffs' counsel discovered the existence of Plaintiff Laghaei and sought to include
3 him as a named Plaintiff and putative class representative with claims against MTC,
4 to date MTC has opposed Plaintiffs' pending motion to amend to add Plaintiff
5 Laghaei. The discovery and addition of such plaintiffs, however, whose testimony
6 and evidence would undoubtedly be germane to Plaintiffs' existing allegations, will
7 add substance to the other Plaintiffs' claims and further diversity to the class
8 representatives. *See In re Norplant Contraceptive Prods. Liab. Litig. v. Wyeth Labs.,*
9 *Inc.* (E.D. Tex. 1995) 163 F.R.D. 255, 257 ["In the case at bar, because the additional
10 plaintiffs complain of the same side effects as those listed in the original complaint,
11 granting leave to amend in order to add these plaintiffs will cause neither undue delay
12 nor undue prejudice, and the amendment is certainly germane to the original
13 complaint. Additionally, there is no evidence to suggest that Plaintiffs are acting in
14 bad faith in seeking to add these new plaintiffs. Finally, although a denial of the
15 amendment may not result in prejudice against the Plaintiffs, because this case
16 appears to still be in its infant stages, Defendants also will not be unfairly prejudiced
17 by the addition of these three new plaintiffs."].

18 Plaintiffs are confident that the claims of the existing named Plaintiffs will
19 survive Defendants' purportedly dispositive challenges to them. However, Plaintiffs
20 must be allowed the opportunity to add substitute or additional class representatives
21 if needed or appropriate despite any suggestions from Defendants to the contrary.
22 Plaintiffs should not be barred from conducting appropriate discovery—including
23 interviewing putative class members as percipient witnesses—on the ground that it
24 may lead to the discovery and addition of new class representatives.

25 III. CONCLUSION

26 For the reasons explained above, Plaintiffs respectfully request that the Court
27 grant their motion and clarify and enter an appropriate order regarding the February
28

1 2016 hearing in this matter on Defendants' joint NRCP 12(b)(5) motions and the
2 proper scope of discovery.

3 DATED: October 7, 2016

LAW OFFICE OF NICHOLAS A. BOYLAN,
APC

By: /s/ Nicholas A. Boylan
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15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 JEFFREY BENKO, a Nevada resident;
18 CAMILO MARTINEZ, a California
19 resident;
20 ANA MARTINEZ, a California resident;
21 FRANK SCINTA, a Nevada resident;
22 JACQUELINE SCINTA, a Nevada
23 resident; SUSAN HJORTH, a Nevada
24 resident; RAYMOND SANSOTA, a Ohio
25 resident; FRANCINE SANSOTA, a Ohio
26 resident;
27 SANDRA KUHN, a Nevada resident;
28 JESUS GOMEZ, a Nevada resident;
SILVIA GOMEZ, a Nevada resident;
DONNA HERRERA, a Nevada resident;
ANTOINETTE GILL, a Nevada resident;
JESSE HENNIGAN, a Nevada resident;
KIM MOORE, a Nevada resident;
THOMAS MOORE, a Nevada resident;
SUSAN KALLEN, a Nevada resident;
ROBERT MANDARICH, a Nevada
resident, JAMES NICO, a Nevada resident
and PATRICIA TAGLIAMONTE, a

CASE NO: A-11-649857-C

Dept. 29

**DECLARATION OF NICHOLAS A.
BOYLAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR
CLARIFICATION AND ENTRY OF
ORDER RE FEBRUARY 2016
HEARING ON DEFENDANTS'
JOINT NRCP 12(B)(5) MOTIONS**

Date:

Time:

DECLARATION OF NICHOLAS A. BOYLAN IN SUPPORT OF PLAINTIFFS' MOTION FOR
CLARIFICATION PLAINTIFFS' MOTION FOR CLARIFICATION AND ENTRY OF ORDER RE
FEBRUARY 2016 HEARING ON DEFENDANTS' JOINT NRCP 12(B)(5) MOTIONS

1 Nevada resident

2 Plaintiffs,

3 v.

4 QUALITY LOAN SERVICE
5 CORPORATION, a California
6 Corporation; MTC FINANCIAL, INC.
7 dba TRUSTEE CORPS, a California
8 Corporation; MERIDIAN
9 FORECLOSURE SERVICE, a California
10 and Nevada Corporation dba MTDS, Inc.,
11 dba MERIDIAN TRUST DEED
12 SERVICE; NATIONAL DEFAULT
13 SERVICING CORPORATION, a Arizona
14 Corporation; CALIFORNIA
15 RECONVEYANCE COMPANY, a
16 California Corporation; and DOES 1
17 through 100, inclusive,

18 Defendants.

19 I, Nicholas A. Boylan, declare:

20 1. I am an attorney licensed to practice before all courts of the State of
21 Nevada. I have been the lead Plaintiffs' attorney in this case since it was filed in
22 2011. Matters set forth herein are true of my personal knowledge and, if called as a
23 witness and sworn, I would and could testify competently thereto. The primary
24 purpose of this declaration is to summarize some of the evidence gathered so far
25 showing the liability of Defendants.

26 2. In their Second Amended Complaint ("SAC"), Plaintiffs allege that
27 Defendants were involved only when debt was past due and needed to be collected;
28 that they solicited information from their clients (lenders) to find out the payoff
amounts; that they sent notices that admitted "this is an attempt to collect a debt";
that they asked debtors to send cashier's checks to their accounting office to pay off
debt; that they periodically provided wire instructions to debtors, so that they would

-- 2 --

DECLARATION OF NICHOLAS A. BOYLAN IN SUPPORT OF PLAINTIFFS' MOTION FOR
CLARIFICATION PLAINTIFFS' MOTION FOR CLARIFICATION AND ENTRY OF ORDER RE
FEBRUARY 2016 HEARING ON DEFENDANTS' JOINT NRCP 12(B)(5) MOTIONS

1 be able to make payments; that they sent debt validation notices to debtors; and that
2 they forwarded the payment amounts, or the amounts they obtained from selling
3 properties at auctions, to the lender. *See, e.g.*, SAC, ¶ 23. These allegations indicate
4 that Defendants engaged in more than default recordation, including by actually
5 collecting and handling money on behalf of their client lenders and, therefore, were
6 subject to the license requirement under NRS 649.075.

7 3. As alleged in the SAC and shown by the documents uncovered by
8 Plaintiffs thus far, Defendants represented to Plaintiffs in the notices that Defendants
9 were “ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION
10 OBTAINED WILL BE USED FOR THAT PURPOSE” (or words substantially to
11 that effect). *See, e.g.*, SAC, ¶¶ 1-4, 6-15, 23(f)-(g). Defendants admitted to Plaintiffs
12 that Defendants were “DEBT COLLECTOR[S] ATTEMPTING TO COLLECT A
13 DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT
14 PURPOSE.” *See, e.g.*, SAC, ¶¶ 6-9, 11-13.

15 4. I believe and observe that the real purpose of the phased discovery
16 sought by Defendants is not to avoid undue burden and expense. It is to improperly
17 withhold and/or to actively prevent disclosure of inculpatory evidence that
18 demonstrates their liability. For example, in its withdrawn summary judgment
19 motion, and like all Defendants throughout this case, MTC claims and represents to
20 the Court that it has never acted as a collection agency. In its withdrawn motion for
21 summary judgment, cleverly, MTC also suggests to the Court that it never engaged in
22 collection actions such as any type of loan modification work or forbearance
23 agreements. This is false. In its summary judgment brief, and in paragraph 19 of the
24 supporting Declaration of Rande Johnsen (whom MTC refused to make available for
25 deposition until after Plaintiffs moved to compel his deposition), MTC is quite coy,
26 admitting that it collected money on the Sansotas’ debt (from the sale) and forwarded
27 the money to its client/lender, Wells Fargo, but saying that it did not “collect money
28

1 or property directly from Sansota.” A true and correct copy of Mr. Johnsen’s
2 declaration is attached as Exhibit “1” hereto. (To ease the burden on the Court, the
3 exhibits filed with Mr. Johnsen’s declaration are omitted.)

4 MTC

5 5. So far, facing almost complete discovery obstruction by MTC and the
6 other Defendants at this time, Plaintiffs have had to do their best to gather evidence
7 from other sources. For example, the previously submitted declaration of Bijan
8 Laghaei, a member of the putative class, prepared in support of Plaintiffs’ prior
9 papers in this matter, together with the exhibits attached thereto, indicate that MTC
10 was a collection agency in Nevada, that MTC did negotiate loan modifications and/or
11 forbearance agreements as part of its collection agency activity in Nevada, and that
12 MTC did collect monies owed on the defaulted debts from class members, on behalf
13 of their client-lenders. A true and correct copy of this Laghaei declaration and
14 supporting exhibits is attached as Exhibit “2” hereto. MTC’s notice to Mr. Laghaei
15 dated March 20, 2009, for instance, states in pertinent part: **“TRUSTEE CORPS IS**
16 **A DEBT COLLECTOR. ANY INFORMATION OBTAINED WILL BE USED**
17 **FOR THAT PURPOSE.”** *Id.* These documents also show that Mr. Laghaei made
18 several payments on his defaulted debt by check to MTC directly, which payments
19 MTC was to pass on to the lender after MTC collected them. *Id.* These documents
20 also show the forbearance agreement that MTC prepared and negotiated with Mr.
21 Laghaei regarding his defaulted debt. *Id.*

22 6. Documents begrudgingly produced recently by MTC in discovery
23 substantiate Plaintiffs’ allegations and Mr. Laghaei’s testimony, showing repeated
24 telephone communications between MTC and Mr. Laghaei regarding the debt -----
25 including at least one call initiated by MTC-----as well as repeated correspondence
26 between them by e-mail and fax regarding Mr. Laghaei’s defaulted debt and payment
27 of same. A true and correct copy of MTC’s internal file for Mr. Laghaei is attached
28

1 as Exhibit "3" hereto. It is also shown that MTC negotiated the forbearance
2 agreement regarding the defaulted debt with Mr. Laghaei directly and even charged
3 him a fee for MTC's services in doing so. *Id.* Consistent with Mr. Laghaei's
4 declaration and supporting exhibits, MTC's own internal documents show that MTC
5 received several payments on Mr. Laghaei's debt from Mr. Laghaei by check and
6 forwarded those monies to Mr. Laghaei's lender. *Id.*

7 7. Also, it is odd that MTC claims that it has never been in the debt
8 collection business in Nevada, given that it is undisputed that MTC obtained its
9 Nevada collection agency license in 2012, and the MTC letter dated March 31, 2016,
10 a true and correct copy of which is submitted herewith as Exhibit "4", states: "In
11 compliance with the Fair Debt Collection Practices Act, the enclosed notice(s) is(are)
12 being provided. We are attempting to collect a debt and any information we obtain
13 will be used for that purpose. The debt being collected is assumed to be valid unless
14 the Debtor disputes this within 30 days." [emphasis added]. The letter also provides
15 detailed instructions for the debtor recipient to contact MTC directly by phone, e-
16 mail, fax, or regular mail, regarding pay-off or reinstatement information: "To obtain
17 a payoff or reinstatement to cure the default, you will need to contact our office." *Id.*
18 [emphasis added].

19 8. There are some useful, partial disclosures in the declaration of MTC's
20 owner, Rande Johnsen, that are also illuminating here. Specifically, in paragraph 20
21 of his declaration, Mr. Johnsen describes what is undoubtedly a computer, software
22 and/or other electronic recordation system, which he refers to as a "comment log for
23 the Sansota transaction file." Exhibit "1" at ¶ 20. Mr. Johnsen explains that it
24 reflects all of the dealings between MTC/Trustee Corp and the named Plaintiff
25 Sansotas. Undoubtedly, and his deposition will surely demonstrate, such electronic
26 files exist for all Nevadans that were targeted, including all of the putative class
27 members. All of Defendants have comparable software and/or computer/data systems
28

1 with comprehensive and easily accessible electronic records and search and reporting
2 capabilities applicable to all class members.

3 9. Another example is provided by MTC. Documents obtained regarding
4 MTC, such as Exhibit “5” attached hereto, show that with respect to the named
5 Plaintiff Sansotas’ debt, that was in default, MTC itself, on behalf of its lender-client,
6 collected the money owed on the debt and passed on that money to its client, Wells
7 Fargo Bank, after conducting the foreclosure sale of the debtors’ home.¹ N.R.S.
8 649.020(1) is dead on point. This is debt collection! *See, e.g., Reese v. Ellis, Painter,*
9 *Ratterree & Adams LLP* (11th Cir. 2012) 678 F.3d 1211; *Wilson v. Draper &*
10 *Goldberg PLLC* (4th Cir. 2006) 443 F.3d 373; *Glazer v. Chase Home Fin. LLC* (6th
11 Cir. 2013) 704 F.3d 453, 455.

12 10. Attached hereto as Exhibit “6” is a true and correct certified copy the
13 transcript from the deposition of Terry Johnsen, one of MTC’s two owners, on July
14 7, 2016. I took the deposition. As shown in the transcript, both Ms. Johnsen and
15 MTC counsel, Richard Reynolds, engaged in evasive and obstructive misconduct
16 throughout Ms. Johnsen’s deposition, in violation of Nevada rules. The obstruction
17 and strange testimony that occurred during Ms. Johnsen’s deposition, which was the
18 subject of a successful motion to compel by Plaintiffs, was followed by the
19 undersigned’s receipt of “corrections” to the Terry Johnsen deposition. Attached
20 hereto as Exhibit “7” is a true and correct copy of the deposition “corrections”
21 received from Terry Johnsen, and these “corrections” further demonstrate the
22 improper gamesmanship conducted here by MTC. The “corrections” submitted by
23 Terry Johnsen are indeed remarkable, and I am not sure if I have ever seen a greater
24 volume of substantive changes to a deposition transcript in my over 32 years of
25

26
27 ¹ MTC has made the legally irrelevant contention that the money came from the sale and therefore
28 was not collected “directly” from the Sansotas. But N.R.S. 649.020(1) expressly includes collecting
the money directly or indirectly, and even as a secondary business objective, and obtaining that
money in any manner, with respect to the claim owed to another (here, Wells Fargo).

1 practicing law.

2 11. Nevertheless, with persistent questioning, some testimony was extracted
3 that is highly damaging to MTC in this case. For example, although her testimony
4 was often convoluted and tentative, and she frequently looked across the table at her
5 husband, Rande Johnsen for signals regarding what to do or say, Ms. Johnsen's
6 testimony fairly well indicated the following:

7 a) MTC has conducted its business in Nevada since 2000. Exhibit "6" at
8 77:18-19; 78:22-24. For each of the years between 2007 until 2012, MTC collected
9 from defaulted debtors on behalf of its lender clients not less than \$7 million dollars.
10 *Id.* at 66:16-18. (In reality, when the documents are obtained and/or an honest
11 witness deposed, it is likely that the figure will be much higher).

12 b) With respect to the Plaintiffs Sansotas, MTC, on behalf of its client
13 Wells Fargo Bank, collected the money owed on the Sansotas' defaulted debt, held
14 the money itself, in its trust account for a matter of days, and then passed on the
15 collected funds to its collection client, Wells Fargo Bank. *Id.* at 88:17-25. MTC was
16 paid for these services by the lender. *Id.* at 73:17-22.

17 c) MTC's fees and costs for its work were added to the debtors' obligation
18 on the loan and became a part of a lender's claim against the debtor Sansotas. *Id.* at
19 75:25-76:13.

20 d) MTC, which has over 200 employees, maintains a phone bank of phone
21 operators in each of its offices, including Nevada. *Id.* at 8:24-25. The Nevada office
22 has more than 10 people in the phone bank. *Id.* at 78:5-14.

23 e) The MTC employees handling the Nevada phone work make more than
24 a hundred calls a month to defaulted debtors. *Id.* at 81:13-16; 84:2-7.

25 f) Similar to with respect to the collection of money on the Sansotas' debt
26 and remittance to Wells Fargo Bank, as part of this business, MTC has regularly
27 collected money from defaulted debtors by various means and for various purposes,
28

1 including loan reinstatement and loan pay-off, etc., and has a specific form it uses to
2 identify the monies collected in each of these categories.

3 12. The scope of the sweeping changes to Ms. Johnsen's testimony made by
4 MTC can only be appreciated by comparing some of those changes with Ms.
5 Johnsen's deposition testimony. To illustrate the substantive natures of those
6 changes, however, Plaintiffs provide the following examples. At her deposition, Ms.
7 Johnsen testified that she and her husband, Rande Johnsen, have ultimate authority
8 over MTC's legal compliance in the State of Nevada and have since 2007. Exhibit
9 "6" at p. 16:16-21. Ms. Johnsen "corrected" this testimony such that only her
10 husband and MTC's "management team" have such authority. Exhibit "7" at 1. Ms.
11 Johnsen testified at her deposition that MTC subsequently obtained a collection
12 agency license in Nevada in 2011 "[j]ust to have" it; this testimony was "corrected"
13 to state that Ms. Johnsen *did not know* why MTC obtained a license. *Compare*
14 Exhibit "6" at pp. 16:22-17:1, *with* Exhibit "7" at 1. When describing MTC's
15 activities in Nevada, Ms. Johnsen admitted that MTC also does "eviction work" as
16 part of its trustee activities, but this testimony was subsequently "corrected" to state
17 that MTC only does "[n]onjudicial foreclosure work." *Compare* Exhibit "6" at p.
18 21:1-13, *with* Exhibit "7" at 2. Ms. Johnsen's deposition testimony referred to a
19 meeting she was at with MTC's management team at some point in 2011 or earlier
20 during which they discussed whether MTC should obtain a collection agency license
21 in Nevada. Exhibit "6" at pp. 24:14-27:12. Her subsequently "corrected" testimony
22 states that she never at—and is not aware of—any such meeting! Exhibit "7" at 2.
23 Ms. Johnsen estimated at her deposition that MTC collected more than \$7 million on
24 behalf of lender clients and related to defaulted debtors in Nevada during each or any
25 one of the years from 2007 to 2012. Exhibit "6" at pp. 64:17-67:10. Ms. Johnsen's
26 "corrected" testimony now is that she doesn't know specific numbers as to Nevada.
27 Exhibit "7" at 5. Finally, Ms. Johnsen testified that MTC has a phone bank in each
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1 of its 4 offices, including the one in Nevada, and estimates that more than 10 MTC
2 employees work in its Nevada phone bank. Exhibit "6" at pp. 77:6-78:24. Her
3 "corrected" testimony is that "[p]hone work is not done in Nevada" by MTC. Exhibit
4 "7" at 5.

5 13. Before MTC counsel subsequently decided to represent her, I personally
6 conducted a brief telephonic interview of a former clerical employee of MTC. Her
7 name is Maria Diaz, whose contact information was belatedly disclosed by MTC in
8 the NRCP 16.1 process.

9 14. Based on what Ms. Diaz told me in my very brief telephonic interview
10 of her, it was my expectation that when deposed, and without improper interference
11 by MTC's counsel, Ms. Diaz's sworn testimony would include evidence to the
12 following effect: Ms. Diaz worked for MTC until 2011. Her primary work
13 responsibilities included loan reinstatements and accounting. She made and/or
14 participated in telephone calls with Nevada debtors on a daily basis, often throughout
15 the entire day, often regarding the reinstatement of loans that were in default. By the
16 time she appeared for her deposition, this clerical employee was suddenly
17 represented by MTC's counsel, and her statements regarding phone calls with debtors
18 had changed. Her entire demeanor had changed markedly, and she indicated only
19 about three telephone communications with Nevada debtors per day, via inbound
20 calls from the debtors. Although the transcript of Ms. Diaz's deposition has not yet
21 been received, based on my recollection, her testimony included significant proof of
22 MTC's business activity as a collection agency in Nevada. For example, Ms. Diaz
23 indicated that one of her clerical duties was to go through all of the checks received
24 from debtors and make out a deposit slip for each. She indicated that on some
25 occasions, she would spend her full eight hour day performing this work, and she
26 confirmed that on such days approximately 840 checks were received, reflecting
27 collections of payments on the defaulted loans from the debtors, typically payments
28

1 on the loans made to reinstate the loans or to pay off the loans that were owed to
2 MTC's lender-clients. Her work also included the same activity with respect to
3 money collected by means of checks MTC received from third party payors, typically
4 following the sale of the debtor's home. None of this critical collection information
5 was previously disclosed by MTC pursuant to NRCP 16.1 or otherwise. In fact, I
6 believe it was intentionally concealed and, still to this day, MTC has never produced
7 any of the checks or other documentation showing MTC's massive collection of
8 millions of dollars from Nevada debtors with respect to their defaulted loans.

9 15. Ms. Diaz's testimony also showed MTC's collection activity on behalf
10 of its lender-clients with respect to seeking and pursuing reinstatement of the
11 defaulted loans and the payments necessary therefore. Ms. Diaz indicated that she
12 worked in MTC's reinstatement department for about three months. She would spend
13 many hours during her workday pulling the reinstatement and/or payoff information
14 from MTC's computer system, printing the necessary reinstatement documentation,
15 and stuffing the envelopes with the documentation for purposes of mailing to the
16 debtors.

17 QLS

18 16. Turning to Defendant QLS, attached hereto as Exhibit "8" is a QLS
19 letter regarding the loan of Plaintiffs Martinez. Under N.R.S. 649.020(1), this is a
20 straight-up, slam-dunk collection letter from a collection agency, as a matter of law,
21 under all applicable authorities and any proper reading of N.R.S. 649.² The letter
22 shows that the debt was in default and QLS had been hired by the lender to act as its
23 agent with respect to pursuing the debt. *Id.* QLS outlined a variety of debt collection
24 alternatives, and the avoidance of foreclosure. *Id.* QLS called for payment of the total
25 amount necessary to bring the loan current, among other options. *Id.* QLS gave notice
26

27
28 ² *Gburek, supra*, 614 F.3d at 384-387; *see also McLaughlin v. Phelan Hallinan & Schmieg, LLP*
(3rd Cir. 2014) 756 F.3d 240, 245-246.

1 of the threat of damages to Plaintiffs by indicating that they could be responsible for
2 all of the fees and expenses if collection proceeded. *Id.* QLS stated in the letter,
3 unequivocally: "We are a debt collector." *Id.*

4 17. Another straight-up collection letter from QLS dated May 7, 2009 is
5 attached as Exhibit "9" hereto. Plaintiff Hjorth's loan obligation to EMC Mortgage
6 Corporation was in default and QLS was representing the lender. *Id.* QLS sought
7 payment of the total delinquency at that time, \$12,423.55, and asked to be contacted
8 by phone or mail before payment was forwarded. *Id.* Unequivocally, the QLS debt
9 validation notice is a part of the collection agency process, and QLS concluded its
10 communication by declaring in large bold type: "We are attempting to collect a debt,
11 and any information we obtain will be used for that purpose." *Id.* That statement is an
12 admission which is sufficient to create a genuine issue of material fact, and requires
13 denial of summary judgment.³ In their numerous writings to Plaintiffs, in their own
14 words, Defendants have expressly, flatly and unequivocally admitted that the non-
15 judicial foreclosure process is inherently a form of debt collection and that they are
16 debt collectors in performing that business service. See Exhibits attached to the SAC.

17 18. Another straight-up collection letter from QLS to Plaintiffs Scinta dated
18 May 12, 2010 is attached as Exhibit "10" hereto. As with the letter to Plaintiffs
19 Martinez, the letter to the Scintas is, on its face, a debt collection letter. *Id.*

20 19. For years in this case, QLS has also adamantly sworn and denied to all
21 state and federal courts that it had any debt collection phone communications to
22 pursue the lenders' claims against members of the putative class. Attached hereto as
23 Exhibit "11" is an internal QLS document that suggests the likely untruth of QLS'
24 representations to the state and federal courts. It shows a telephonic contact between
25

26 ³ See, e.g., *Estes v. Love, Beal & Nixon, P.C.*, (N.D. Okl. July 24, 2015) 2015 U.S. Dist. LEXIS
27 96715 [denying summary judgment on FDCPA claim in part because mini-Miranda warning in
28 connection with other evidence supported inference that defendant was a debt collector under the
FDCPA].

1 QLS and Plaintiff Jeffrey Benko. QLS, at a minimum, told him the collection was to
2 proceed: "EMC has not advised us to close of this file." *Id.* Likely, all of Defendants
3 internal records of telephone communications contain major omissions. The
4 previously submitted declaration of Plaintiff Jeffrey Benko, attached as Exhibit "12"
5 hereto, shows that there were in fact numerous and harassing debt collection phone
6 calls placed to him by QLS. Notably, even though no depositions of QLS—pursuant
7 to NRCP 30(b)(6)—or of its current or former employees have occurred yet,
8 Plaintiffs have already amassed powerful evidence showing that QLS acted as a debt
9 collector during the relevant period.

10 NDSC

11 20. Next, let's take some examples from Defendant NDSC. As with QLS,
12 no depositions of NDSC or of its current or former employees have occurred yet.
13 Nonetheless, Plaintiffs have already uncovered significant evidence in support of
14 their claims against NDSC. Under the plain text of NRS 649, NDSC's February 3,
15 2010 letter to Plaintiff Nico is a slam-dunk collection agency letter that shows NDSC
16 required a license from the FID. A true and correct copy of this letter is attached as
17 Exhibit "13" hereto. As seen therein, NDSC was communicating with Plaintiff Nico
18 regarding payment on the debt, including the payoff figure. *Id.* NDSC indicated that
19 the quoted amount could be paid in certified funds payable to NDSC. *Id.* NDSC
20 indicated that the certified funds should be delivered to its office no later than
21 February 26, 2010. *Id.* NDSC attached a loan "Reinstatement Quote," which
22 provided the details of the loan payoff, and it also provides evidence that the fees
23 charged by Defendants for their illicit collection agency activities in violation of
24 Nevada law damaged Plaintiffs, because they were added to Plaintiffs' loan balances.
25 *Id.*

26 21. Exhibit "14" is NDSC's November 19, 2009 letter to Plaintiff Nico,
27 referencing the loan and confirming that it was retained by the lender to enforce the
28

1 terms of the loan. The amount of the debt was stated to be in excess of \$170,000.00,
2 and NDSC stated that it was acting on behalf of the lender, EMC Mortgage Corp. *Id.*
3 In the letter, NDSC flatly admitted: "This firm is attempting to collect a debt on
4 behalf of its client, and any information obtained will be used for that purpose."
5 [emphasis added]. *Id.* Attached as Exhibit "15" is a true and correct copy of NDSC's
6 similar debt validation letter to Plaintiff Nico's wife, Terry, who was not a debtor on
7 Plaintiff Nico's debt. As shown by Exhibit "16" hereto, a true and correct copy of
8 NDSC's June 17, 2011 letter to Terry Monoson, NDSC continued to try to collect on
9 this debt from Plaintiff Nico's wife even after it was told in writing—and the lender
10 confirmed—that Plaintiff Nico's wife was not liable for the debt.

11 22. Attached as Exhibits "17" and "18" are true and correct copies of
12 similar debt collection letters from NDSC to Plaintiffs Hennigan and Mandarich
13 respectively.

14 23. Attached as Exhibit "19" are true and correct copies of documents
15 relating to NDSC's sale of Plaintiff Mandarich's home to collect on the debt owed by
16 Plaintiff Mandarich. These documents show conclusively that NDSC was instructed
17 by the lender to add NDSC's unlawful fees and costs to Plaintiff Mandarich's debt
18 before conducting the sale, that NDSC did so in the amount of \$2,324.63, and that
19 Plaintiff Mandarich's home was sold to the lender in a credit bid for the full amount
20 of Plaintiff Mandarich's debt, including the amount of unlawful fees and costs
21 improperly added by NDSC to the debt. Attached as Exhibit "20" is a true and
22 correct copy of bidding instructions from Plaintiff Nico's lender to NDSC regarding
23 the anticipated foreclosure sale of Plaintiff Nico's home, which shows similar
24 instructions from the lender to NDSC to add NDSC's fees and costs to Plaintiff
25 Nico's debt before conducting the sale.

26 24. Moreover, although they have not been deposed by NDSC yet, I expect
27 that the named Plaintiffs with claims against NDSC—that is, Plaintiffs Mandarich,
28

1 Nico, and Hennigan—will offer powerful corroborating testimony at their
2 depositions. For instance, I expect Plaintiff Mandarich to testify to the effect that he
3 and his wife made repeated telephone calls to NDSC regarding their debt and
4 payment or modification of it, and that improper and unlawful fees and costs—in an
5 amount at least as high as \$2,324.63—were added by NDSC to Plaintiff Mandarich's
6 debt for NDSC's unlawful collection services. I similarly expect Plaintiff Nico to
7 testify to the effect that NDSC appeared in loan modification mediation on behalf of
8 the lender Plaintiff Nico owed the debt to, that NDSC attempted—through repeated
9 debt-validation letters to Plaintiff Nico's wife—to collect on the debt related to
10 Plaintiff Nico's home (but not owed by Plaintiff Nico's wife) even after been told in
11 writing by the lender that Plaintiff Nico's wife was not liable for the debt, that
12 Plaintiff Nico communicated with NDSC on several occasions—both at the loan
13 modification mediation and by e-mail—with NDSC regarding mediation related to
14 Plaintiff Nico's debt, and that Plaintiff Nico (and his wife) may have received phone
15 calls from NDSC during the relevant period. I also expect Plaintiff Hennigan to
16 testify to the effect that he made payments directly to NDSC by check at NDSC's
17 instruction on approximately 3 to 4 separate occasions in an approximate amount
18 each time of \$1,400 (for an approximate total of \$4,200 to \$5,600), that Plaintiff
19 Hennigan expected each time that NDSC would apply these payments to his debt, but
20 believes NDSC did not do so, that Plaintiff Hennigan communicated with NDSC by
21 telephone no less than approximately 50 times during the relevant period, and that
22 these telephone conversations included instructions by NDSC to pay specific
23 amounts by check to NDSC, and questioning by Plaintiff Hennigan to NDSC
24 regarding his debt.

25 CRC

26 25. Defendant CRC has been among the most vocal and strident in
27 representing to the Courts that it did nothing more than file a statutory notice of
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1 default and that it is absolutely did not ever engage in any debt collection or
2 collection agency activities. The evidence shows otherwise, rather dramatically.
3 Exhibit "21" is an exemplary collection of CRC's documents received by Plaintiffs.
4 It begins with 4 pages of what on its face appears to be a computer stored and easily
5 computer generated "FILE HISTORY". Despite improper redactions by Defendant,
6 the file history shows CRC engaged in debt validation and dispute communications,
7 requesting and providing payment and reinstatement information on the debt etc.
8 These and other acts of collection agency and debt collection activities by CRC are
9 expressly illustrated in the CRC correspondence with Plaintiffs that is also included
10 in Exhibit "16" hereto. For example, CRC's November 1, 2011 letter to Plaintiff
11 Thomas Moore begins with this statement: "WE ARE A DEBT COLLECTOR.
12 THIS IS AN ATTEMPT TO COLLECT A DEBT." *Id.* CRC references the loan
13 number and provides pay-off information, including an estimate of all the pay-off
14 related charges, fees and expenses. *Id.* CRC explains that the additional expenses
15 include those imposed by CRC, which are added to the loan balance. *Id.* CRC asked
16 to be contacted using its address and phone number regarding the exact pay-off
17 amount on the loan and provides specific payment instructions, by cashier's check.
18 *Id.*

19 26. On September 9, 2016, I took the deposition of a NRCP 30(b)(6)
20 witness selected and presented by Defendant CRC. A true and correct copy of the
21 transcript of this deposition is attached as Exhibit "22" hereto. Deborah Brignac, the
22 woman chosen and presented by CRC, was clearly a professional witness, and
23 extremely prepared and coached, yet admitted to having no knowledge whatsoever
24 regarding numerous categories in the NRCP 30(b)(6) notice. She swore that she had
25 given testimony so many times that she could not estimate the number. She swore
26 that she had been sued so many times she could not estimate the number. She was
27 exceptionally evasive and claimed a lack of knowledge of fundamental information
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1 that she must have known, particularly given that she claimed on her LinkedIn profile
2 to have been the President of CRC in or around 2011. Preliminary research by my
3 firm has found about 23 lawsuits where she was sued, apparently in connection with
4 her 22 years of work with CRC. So far, we have also found approximately 293
5 previous lawsuits against CRC, where we believe Ms. Brignac was likely also a
6 testifying witness. Despite the difficulties that I encountered in examining this
7 professional and evasive witness, significant evidence was obtained that will show,
8 both directly and circumstantially, that CRC was actively engaged in the business of
9 debt collection in Nevada, and communicating with Nevada debtors regarding the
10 defaulted loans, reinstatement of the loans, pay-offs of the loans etc., and was also
11 collecting money from Nevada debtors on these defaulted loans (likely millions of
12 dollars, but CRC refuses to produce the information and documentation showing the
13 amounts collected from Nevada debtors, despite my repeated request).

14 27. Among other things, Ms. Brignac testified to the effect that CRC's
15 conduct included CRC soliciting and/or demanding, in writing (including e-mails)
16 and by phone, payments on behalf of lenders from Nevada debtors on debts to those
17 lenders; accepting payments from borrowers and forwarding them to the lenders
18 hiring CRC; communicating with debtors by telephone regarding payment of their
19 debts (i.e., mortgage loans in default); sending written payoff statements and
20 reinstatement letters, along with specific payment instructions, to debtors; requesting
21 Nevada debtors contact CRC, including by phone or mail, regarding their debts and
22 payment of same; soliciting and contracting with Chase and other lenders to pursue
23 its collection business on defaulted loans in Nevada; and obtaining payments on
24 debts owed to Chase and/or other lenders, including by carrying out non-judicial
25 foreclosure sales, obtaining proceeds from such sales, and forwarding those proceeds
26 to Chase and/or other lenders. Ms. Brignac's sworn testimony included a candid,
27 direct admission that the purpose of CRC's foreclosure activities was to collect on the
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1 defaulted loans, by obtaining the security (property), or achieving payoff or
2 reinstatement of the delinquent debt.

3 28. Ms. Brignac also testified to the effect that CRC solicited and contracted
4 from lenders and with lenders, specifically to include Chase, to perform collection
5 agency services and activities in the State of Nevada. With respect to the defaulted
6 debts in Nevada, CRC solicited and/or communicated with Nevada debtors for
7 collection purposes with respect to reinstatement of the debt and obtaining pay-off of
8 the debt. At all times, CRC utilized over 100 employees to conduct these collection
9 activities and had a minimum of 4 dedicated employees working to collect on the
10 defaulted debts through reinstatement and/or pay-off. *Id.* at 45:1-16; 49:10-50:4.
11 With respect to homes that were sold, CRC collected the sales proceeds for purposes
12 of application to the defaulted debt and collected the money on behalf of the lender.
13 CRC would then transfer the money collected on the defaulted loans to the lender,
14 and CRC maintained Trust Accounts for these purposes. *Id.* at 74:7-19. With respect
15 to the defaulted Nevada loans, CRC engaged in various telephonic communications
16 with Nevada debtors to pursue the collection. The lender, Chase, directly and/or
17 indirectly paid the phone bills for the collection agent's, i.e., CRC, telephonic
18 communications with debtors regarding the defaulted loans in Nevada. *Id.* at 117:4-9.
19 CRC received and/or collected checks for money applicable to the defaulted loans in
20 connection with reinstatement and/or pay-off. If the checks were made payable to the
21 lender, CRC would forward the collected funds to the lender. *Id.* at 119:21-23. If the
22 checks were made payable by the borrower to CRC, CRC, after endorsing the check,
23 would forward the payment to the lender. *Id.* at 122:2-9. CRC employees would
24 respond to e-mails from debtors, with respect to the defaulted loan, and CRC
25 employees were required to respond to the borrowers regarding the debt in that way.
26 *Id.* at 137:4-16. CRC provided borrowers with specific payment instructions, and
27 detailed payment information, for purposes of collecting on the defaulted Nevada
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1 loans. *Id.* at 181:4-182:8. CRC was paid by the lender to provide this variety of
2 collection services. *Id.* at 182:18-25. For all of its unlicensed and therefore illegal
3 collection agency services in Nevada, CRC collected and was paid various fees and
4 costs by the lender. CRC would solicit debtors to contact CRC to discuss information
5 related to the debt collection, including reinstatement amounts and pay-off
6 requirements. For purposes of debt collection, CRC would respond to borrower
7 inquiries regarding debt validation, on behalf of the lender. *Id.* at 209:23-210:2.

8 29. Attached hereto as Exhibit "23" is a true and correct copy of the
9 February 22, 2016 hearing transcript before Judge Scann on Defendants' NRCP
10 12(b)(5) motions. July 20, 2016 hearing transcript.

11 30. Attached hereto as Exhibit "24" is a true and correct copy of the July
12 20, 2016 hearing transcript before the Discovery Commissioner.

13 31. Attached hereto as Exhibit "25" is a true and correct copy of the
14 September 21, 2016 hearing transcript before the Discovery Commissioner.

15 32. True and correct copies of the parties' previously submitted proposed
16 orders following the February 22, 2016 hearing before Judge Scann are attached as
17 Exhibit "26" hereto.

18 33. A true and correct copy of Plaintiffs' main opposition brief to the
19 Defendants' NRCP 12(b)(5) motion is attached as Exhibit "27" hereto. Plaintiffs
20 have omitted the exhibits to the brief to ease the burden on the Court, but such
21 exhibits should be in the Court's files in this case.

22
23 I declare under penalty of perjury under the laws of the State of Nevada that
24 the foregoing is true and correct. Executed on October 7, 2016, at San Diego,
25 California.

26
27 
28 Nicholas A. Boylan

EXHIBIT “1”



CLERK OF THE COURT

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Attorneys for DEFENDANT MTC FINANCIAL
INC. dba TRUSTEE CORPS

DISTRICT COURT

CLARK COUNTY, NEVADA

JEFFREY BENKO, a Nevada resident;
CAMILO MARTINEZ, a California
resident; ANA MARTINEZ, a California
resident; FRANK SCINTA, a Nevada
resident; JACQUELINE SCINTA, a Nevada
resident; SUSAN HIORTH, a Nevada
resident; RAYMOND SANSOTA, a Ohio
resident; FRANCINE SANSOTA, a Ohio
resident; SANDRA KUHN, a Nevada
resident; JESUS GOMEZ, a Nevada
resident; SILVIA GOMEZ, a Nevada
resident; DONNA HERRERA, a Nevada
resident; ANTOINETTE GILL, a Nevada
resident; JESSE HENNIGAN, a Nevada
resident; KIM MOORE, a Nevada resident;
THOMAS MOORE, a Nevada resident;
SUS KALLEN, a Nevada resident;
ROBERT MANDARICH, a Nevada
resident; JAMES NICO, a Nevada resident
and PATRICIA TAGLIAMONTE, a
Nevada resident

Plaintiffs,

vs.

QUALITY LOAN SERVICE

Case No. A-11-649857-C

Dept. No.: XXIX

(ELECTRONIC FILING CASE)

DECLARATION OF RANDE JOHNSEN
IN SUPPORT OF DEFENDANT MTC
FINANCIAL INC. dba TRUSTEE CORPS'
MOTION FOR SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE, PARTIAL
SUMMARY JUDGMENT AGAINST
PLAINTIFFS RAYMOND SANSOTA AND
FRANCINE SANSOTA

DECLARATION OF RANDE JOHNSEN IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT

1 CORPORATION, a California Corporation;
2 APPLETON PROPERTIES, LLC, a Nevada
3 Limited Liability Company; MTC
4 FINANCIAL, INC. dba TRUSTEE CORPS,
5 a California Corporation; MERIDIAN
6 FORECLOSURE SERVICE, a California
7 and Nevada Corporation dba MTDS, Inc.,
8 dba MERIDIAN TRUST DEED SERVICE;
9 NATIONAL DEFAULT SERVICING
10 CORPORATION, a Arizona Corporation;
11 CALIFORNIA RECONVEYANCE
12 COMPANY, a California Corporation; and
13 DOES 1 through 100, inclusive,

14 Defendants.

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DECLARATION OF RANDE JOHNSEN IN SUPPORT OF DEFENDANT MTC
FINANCIAL INC. dba TRUSTEE CORPS' MOTION FOR SUMMARY JUDGMENT OR,
IN THE ALTERNATIVE, PARTIAL SUMMARY JUDGMENT AGAINST PLAINTIFFS
RAYMOND SANSOTA AND FRANCINE SANSOTA

I, Rande Johnsen, declare:

1. The following facts are personally known to me, and I have first-hand knowledge of the same, or are matters of which the Court may take judicial notice. If called as a witness, I could and would competently testify thereto under oath.

2 I am the Chief Executive Officer and founder of MTC Financial Inc., dba Trustee Corps ("Trustee Corps"). My duties with Trustee Corps include, but are not limited to, acting as its Custodian of Records. At all material times referenced in the Second Amended Complaint, Trustee Corps has had its principal place of business in Irvine, California.

3. Trustee Corps has been, and at all times mentioned in the above-entitled case was, acting solely in the capacity of a foreclosure trustee under a deed of trust with a power of sale to sell the property in issue at a duly conducted foreclosure sale in the State of Nevada. In this capacity, Trustee Corps published, mailed, and recorded foreclosure notices, and conducted a public, non-judicial foreclosure sale in the State of Nevada. I, together with other employees of Trustee Corps, am in charge of managing and/or overseeing foreclosure sales for Trustee Corps' client lenders and trust deed beneficiaries who refer us properties to initiate non-judicial foreclosure proceedings. Trustee Corps sends foreclosure notices only upon express written authority and direction to do so from a deed of trust lender or beneficiary, or from their agents.

1 4. Because of my executive management experience and many years of working at
2 Trustee Corps since the 1990's, I am personally familiar with Trustee Corps' policies, procedures,
3 and practices in conducting its non-judicial foreclosure services. I am also personally familiar
4 with the types or kinds of records prepared in Trustee Corps' regular course of conducting a non-
5 judicial foreclosure, when such records are prepared, how the records are prepared, and the
6 information and methods of preparation of those records.

7 5. Trustee Corps is not, and at all times mentioned in the above-entitled case was
8 never, a lender, trust deed beneficiary, or loan servicer. It neither makes nor negotiates, and has
9 neither made nor negotiated, loans, trial loan modifications, permanent loan modifications, or
10 agreements of forbearance. In my experience working for Trustee Corps, the foregoing tasks are
11 conducted by lenders, trust deed beneficiaries, or loan servicers.

12 6. One of the properties under my supervision has been that of plaintiffs Raymond
13 Sansota and Francine Sansota (jointly, "Sansota"), 1559 Ward Frontier Lane, Henderson, Nevada
14 (the "Property"). I have carefully reviewed the file for the non-judicial foreclosure services
15 Trustee Corps rendered with respect to the Property [Trustee Sale No. NV09003798-10-1] (the
16 "Sansota transaction file") that is the subject matter of this action.

17 7. The Sansota transaction file includes business records of Trustee Corps, that is,
18 records that are made in the ordinary course of its business by an employee(s) or representative(s)
19 of Trustee Corps who (1) has personal knowledge of the information being entered into the
20 business records; (2) has a duty to commit the information into the record; and (3) makes such
21 entries at or near the time of the event he or she purports to record.

22 8. The Sansota transaction file also includes documents that are provided to Trustee
23 Corps by others who customarily provide documents related to Trustee Corps' non-judicial
24 foreclosure services. Such documents, even if they are not created by Trustee Corps in the
25 ordinary course of its business, are kept and maintained in the ordinary course of Trustee Corps'
26 business. All of the documents attached hereto as exhibits are business records of Trustee Corps
27 from the above-mentioned Sansota transaction file.

28 ///

1 9. According to the documents that Trustee Corps obtained when it opened the
2 Sansota transaction file, on January 27, 2004, Sansota signed a promissory note for \$128,900 (the
3 "Note") in favor of CH Mortgage Company I, Ltd. ("CH Mortgage").

4 10. According to officially-recorded documents that Trustee Corps obtained when it
5 opened the Sansota transaction file, Sansota signed a Deed of Trust securing his obligations under
6 the Note. The Deed of Trust, which references the Note, was recorded in the Official Records of
7 Clark County, Nevada, on January 30, 2004. A true and correct copy of the recorded Deed of
8 Trust is attached hereto as Exhibit A and incorporated by reference herein.

9 11. On July 28, 2010, an Assignment of Deed of Trust, granting Wells Fargo Bank,
10 N.A. the beneficial interest under the Deed of Trust was recorded in the Official Records of Clark
11 County, Nevada. A true and correct copy of the recorded Assignment of Deed of Trust is
12 attached hereto as Exhibit B and incorporated by reference herein.

13 12. On July 28, 2010, Trustee Corps, as agent for Wells Fargo Bank, recorded in the
14 Official Records of Clark County, Nevada, a Notice of Breach and Default and of Election to
15 Cause Sale of Real Property Under Deed of Trust (the "Notice of Default"), alleging the failure to
16 pay the principal and interest installments due. A true and correct copy of the recorded Notice of
17 Default is attached hereto as Exhibit C and incorporated by reference herein. The Sansota
18 transaction file also includes Affidavits of Service, attached hereto as Exhibits D and E and
19 incorporated by reference herein, which indicate that, on July 30, 2010, Sansota was served with
20 the Notice of Default, a Danger Notice, and a copy of the Note by posting the same in a
21 conspicuous place at the Property. A true and correct copy of the Danger Notice is attached
22 hereto as Exhibit F and incorporated by reference herein. Trustee Corps also served Sansota with
23 the required mediation forms around that time. The Declaration of Mailing, a true and correct
24 copy of which is attached hereto as Exhibit G and incorporated by reference herein, evidences
25 that, on August 4, 2010, Trustee Corps sent to Sansota by certified mail a copy of the Notice of
26 Default.

27 13. The Sansota transaction file includes a Declaration of Non-Military Service, dated
28 August 24, 2010, and completed by Wells Fargo Bank. A true and correct copy of the

1 Declaration of Non-Military Service is attached hereto as Exhibit H and incorporated by reference
2 herein.

3 14. On July 27, 2010, Wells Fargo Bank executed a Substitution of Trustee whereby
4 Trustee Corps was substituted in as trustee under the Deed of Trust. The Substitution of Trustee
5 was recorded in the Official Records of Clark County, Nevada, on October 7, 2010. A true and
6 correct copy of the recorded Substitution of Trustee is attached hereto as Exhibit I and
7 incorporated by reference herein.

8 15. On February 8, 2011, a Notice of Trustee's Sale with respect to the Property was
9 recorded by Trustee Corps, as trustee, in the Official Records of Clark County, Nevada, a true and
10 correct of which is attached hereto as Exhibit J and incorporated by reference herein. A copy of
11 the Notice of Trustee's Sale was mailed by Trustee Corps to Sansota on February 9, 2011, as
12 shown by the Declaration of Mailing, a true and correct copy of which is attached hereto as
13 Exhibit K and incorporated by reference herein.

14 16. The Sansota transaction file further reflects that, on February 7, 2011, the Notice
15 of Trustee's Sale was posted on the Property in a conspicuous place, in the manner prescribed by
16 the Nevada Revised Statutes. A true and correct copy of the Affidavit of Posting, with a
17 photograph taken of the posting, is attached hereto as Exhibit L and incorporated by reference
18 herein.

19 17. Trustee Corps also arranged for publication of the Notice of Trustee's Sale on
20 three separate occasions, February 9, 16, and 23, 2011. A true and correct copy of the Affidavit
21 of Publication is attached hereto as Exhibit M and incorporated by reference herein.

22 18. On March 9, 2011, in compliance with the Notice of Trustee's Sale and in exercise
23 of the power of sale under the Deed of Trust, Sansota's Property was sold at public auction to a
24 third party, Prem Deferred Trust, for \$51,000. A true and correct copy of the Trustee's Deed
25 Upon Sale, recorded on March 31, 2011 in the Official Records of Clark County, Nevada is
26 attached hereto as Exhibit N and incorporated by reference herein.

27 19. The Sansota transaction file indicates that, at the time of the foreclosure sale, the
28 amount of the debt secured by the Property was \$133,586.50. Trustee Corps forwarded to Wells

1 Fargo Bank the \$51,000 that it received from the purchaser at the foreclosure sale. A true and
2 correct copy of the Outgoing Wire Transfer form from the Sansota transaction file, reflecting the
3 wire transfer of \$51,000 to Wells Fargo Bank, is attached hereto as Exhibit O and incorporated by
4 reference herein.

5 20. In discharging its duties as trustee under the Deed of Trust, Trustee Corps acted in
6 accordance with the terms of the Deed of Trust. Trustee Corps' comment log for the Sansota
7 Transaction File reflects all of the dealings between Trustee Corps and Sansota during the
8 foreclosure process. It is attached hereto as Exhibit P and incorporated by reference herein. The
9 comment log entries are chronologically set up so the earliest are last and the latest are first.
10 Material that consists of attorney-client communications and work product and non-relevant
11 portions has been redacted. As a matter of company policy, procedure, and practice, employees
12 of Trustee Corps place all written and electronic communications sent or received and all actions
13 taken in furtherance of foreclosure services with respect to a particular trustee's sale on a
14 comment log designated for the specific real property. When a Trustee Corps' employee places
15 his or her entries into the comment log, the entries are not removed. Trustee Corps' employees
16 who place their communications in the comment log have personal knowledge of the information
17 being entered into this business record; they have a duty to commit the information into the
18 record; and they have made such entries at or near the time of the event they purport to record.

19 21. In reviewing the entries found in the comment log, it can be seen that there is an
20 absence of any indication that Trustee Corps received any money or property from Sansota and of
21 any indication that Trustee Corps retained in connection with the foreclosure of the Property any
22 benefit that belonged to Sansota. In fact, Trustee Corps never received any money or property of
23 Sansota, and it never received any benefit that belonged to Sansota. The comment log also
24 reflects that, between the recordation of the Notice of Default and the sale of the Property at
25 foreclosure, Trustee Corps did not contact Sansota to attempt to collect any monies from him
26 whether by telephone, personal contact, or letter. The communications to Sansota were limited to
27 those actions that were required to be taken by foreclosure trustees under the Nevada Revised
28 Statutes. The only substantive communication from Sansota during the foreclosure process

1 appears to have been a belated request to Wells Fargo Bank by Sansota to postpone the
2 foreclosure sale. The comment log indicates that Wells Fargo Bank did not agree to postpone the
3 foreclosure sale.

4 22. As the Chief Executive Officer and founder of Trustee Corps, neither Trustee
5 Corps nor I knew, believed, or understood, during the time period beginning with the Notice of
6 Default and continuing through the foreclosure sale of Sansota's property, that Trustee Corps was
7 obligated to obtain a collection agency license from the State of Nevada in order to conduct
8 foreclosures in Nevada. In fact, my understanding was that no such license was required, based
9 on the fact that Trustee Corps' efforts in Nevada were confined to conducting foreclosure sales
10 pursuant to the provisions of deeds of trust and Nevada Revised Statutes, Chapter 107. In that
11 capacity, Trustee Corps did not engage in efforts to cause Sansota to pay any money to the holder
12 of the deed of trust. Trustee Corps' job was to sell in accordance with law the Property that
13 Sansota had posted as security for the loan taken out from his lender; Trustee Corps' client did
14 not hire Trustee Corps to negotiate a loan extension or collect money or property directly from
15 Sansota.

16 23. Attached hereto as Exhibit Q and incorporated by reference herein is a true and
17 correct copy of Trustee Corps' invoice to Wells Fargo Bank for services that Trustee Corps
18 performed in connection with the foreclosure of the Sansota's property. It reflects that Trustee
19 Corps merely completed the various steps of the foreclosure process set forth in the Nevada
20 Revised Statutes. Absent from the invoice (just as it was absent from the comment log) is any
21 indication that Trustee Corps contacted Sansota to attempt to collect from Sansota directly any
22 money that Sansota may have owed Wells Fargo Bank.

23 I declare under penalty of perjury under the laws of the State of California and the State of
24 Nevada that the foregoing is true and correct and that this declaration is executed on June 10,
25 2016 at Irvine, California.

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27
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Rande Johnsen

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of GREENSPOON MARDER, and that on June 27, 2016, that a true copy of the DECLARATION OF RANDE JOHNSEN IN SUPPORT OF DEFENDANT MTC FINANCIAL INC. dba TRUSTEE CORPS' MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, PARTIAL SUMMARY JUDGMENT AGAINST PLAINTIFFS RAYMOND SANSOTA AND FRANCINE SANSOTA was E-Served, e-mailed and/or by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Las Vegas, addressed to:

- Christopher Legal Group - Shawn Christopher, Esq.
- McCarthy & Holthus - Kristin A. Schuler-Hintz, Esq., Melissa Robbins Coutts, Esq.
- Brooks Hubley LLP - I-Che Lai, Esq., Michael R. Brooks, Esq.
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IN THE SUPREME COURT OF THE STATE OF NEVADA

JEFFREY BENKO, A NEVADA
RESIDENT; ET AL.,
Appellants,
v.
QUALITY LOAN SERVICE
CORPORATION, A CALIFORNIA
CORPORATION; ET AL.,
Respondents

Supreme Court No. 73484

District Court Case No. A-11-619857
Electronically Filed
Mar 01 2018 10:08 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANTS' APPENDIX

VOLUME 5

**Appeal from Eighth Judicial District Court
Clark County, Nevada**

The Honorable William Kephart

Law Office of Nicholas A. Boylan, APC

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1 motion, which it ended up granting. So I think that's a
2 mitigating factor.

3 And if Mr. Boylan, who by the way has not indicated
4 anything in his papers about what he didn't find out that he
5 still needs to find out, if Mr. Boylan, he's --

6 THE DISCOVERY COMMISSIONER: I'm really confused, and
7 I apologize, and I don't mean to interrupt.

8 MR. CERAN: No, I apologize.

9 THE DISCOVERY COMMISSIONER: You said you were not at
10 this deposition?

11 MR. CERAN: No, Mr. Reynolds was.

12 THE DISCOVERY COMMISSIONER: I'm sorry. I thought
13 you were Mr. Reynolds. I apologize to you, sir.

14 MR. CERAN: I picked up on that, Your Honor. That's
15 why I mentioned it.

16 THE DISCOVERY COMMISSIONER: Okay.

17 MR. BOYLAN: I don't think it would have happened if
18 Mr. Ceran were there, but --

19 THE DISCOVERY COMMISSIONER: Okay. Because I'm,
20 like, Mr. Ceran does not sound like he would've done something.

21 MR. CERAN: I'm a lot meaner than I sound, Your
22 Honor.

23 THE DISCOVERY COMMISSIONER: Okay. So where's
24 Mr. Reynolds?

25 MR. CERAN: Mr. Reynolds is back in --

1 THE DISCOVERY COMMISSIONER: Mr. Reynolds has a
2 Nevada bar number.

3 MR. CERAN: Yes.

4 THE DISCOVERY COMMISSIONER: Mr. Reynolds is going to
5 be in trouble with this Court. This is not acceptable.

6 MR. CERAN: Well, again I was trying to explain the
7 mitigating factors.

8 THE DISCOVERY COMMISSIONER: It's not a mitigating
9 factor, Counsel. Here's the problem. That doesn't mean you
10 throw deposition conduct out the window. Number one, you did
11 not have a protective order. Number two, the proper way to
12 handle it is under Rule 30(d), and number three, that doesn't
13 excuse the coaching and speaking objections.

14 MR. BOYLAN: And there's another --

15 MR. CERAN: I understand, Your Honor.

16 THE DISCOVERY COMMISSIONER: So I apologize to you,
17 sir.

18 MR. CERAN: And that's not going to happen again.

19 THE DISCOVERY COMMISSIONER: I thought you were
20 Mr. Reynolds.

21 MR. BOYLAN: There is another factor, if I may
22 respond.

23 MR. CERAN: And I'm still talking, Your Honor, and if
24 I can continue.

25 THE DISCOVERY COMMISSIONER: You may finish.

1 MR. CERAN: And in his moving papers, Mr. Boylan does
2 not list one single area that he still needs to ask questions
3 of this witness about. So he has a 147-page deposition
4 transcript. The deposition lasted all day. He got the answers
5 to his questions except for the three admittedly improper
6 instructions not to answer, which were about completely --
7 well, let's just say minimally important questions, if
8 important at all. So I'm not quite sure.

9 I understand the Court's chagrin with Mr. Reynolds
10 and with us in the first deposition, but at the same time there
11 is nothing in the record that indicates there is any more
12 information that needs to be gotten. So it seems a little bit
13 unfair that we would have to pay for a deposition that's
14 unnecessary.

15 THE DISCOVERY COMMISSIONER: Okay. Well, I was going
16 to make you make a nice contribution to Barbara Buckley's group
17 at the Legal Aid. So I might stop while I was ahead because
18 you do not want me to go through this and make a record. I'll
19 be happy to.

20 MR. CERAN: I'm not --

21 THE DISCOVERY COMMISSIONER: There are multiple
22 questions.

23 What does trustee work include, ma'am?

24 Answer, Foreclosure.

25 What else?

1 Whatever goes with it.

2 Question, You tell me. It's your business over 20
3 years. Can you tell me, please, what goes with it.

4 Answer, We do eviction work.

5 And then there's a report of clarification, and the
6 witness says, I don't remember. I don't recall, which I'm
7 assuming goes with, What work did you do.

8 I'm not answering that because you're asking me, and
9 you're putting words in my mouth.

10 Can you answer the question, yes or no?

11 Answer, I won't answer the question.

12 Okay. Can you answer it?

13 I won't answer it.

14 Where's the lawyer? And that's the problem. Somehow
15 this deponent got the message that it was okay not to answer
16 plaintiff counsel's questions.

17 Have you erased or deleted any of your e-mails
18 recently?

19 That has nothing to do with why I'm here at all.

20 Can you answer, yes or no?

21 No, I won't answer. No, I won't answer.

22 Okay. I've might have asked the question a little
23 bit differently, like, do you have e-mail retention policies.
24 I might have had the foundation first, but having said that,
25 you know, again this is not helpful.

1 Okay. I'm going to ask you again. As an owner of
2 the company and as one of only two signatories on the trust
3 account, on an annual basis, in or about 2011, 2010, what's
4 your best estimate in the amount of money your company
5 collected on behalf of clients and deposited into its trust
6 account?

7 Objection. Form.

8 Witness, That's to me. That's private information,
9 and I'm not answering it.

10 By plaintiffs' counsel, Is it more --

11 Objection. It's also irrelevant to this case and
12 beyond the scope of admissible evidence.

13 Well, that's not exactly correct.

14 Is it more or less than 50 million?

15 Not answering.

16 Same objection.

17 Witness, Sorry.

18 Where are your banking records located?

19 Answer, I believe at the office.

20 Question, In a file cabinet?

21 Oh, no.

22 Where?

23 It's irrelevant to why I'm here.

24 Well, it's not irrelevant. I'm going to go after
25 those records, ma'am, and I'm entitled to know. So I'm going

1 to ask you again.

2 Mr. Reynolds, Actually or probably not, but if you
3 can, you can still do whatever you need to do, and she's not
4 going to answer the question.

5 Mr. Boylan, Where are those records held, please,
6 ma'am, the banking records?

7 In a safe.

8 Are those paper records for the trust account?

9 Maybe.

10 And what else, whatever else?

11 Do you want me to go on?

12 MR. CERAN: No, Your Honor.

13 THE DISCOVERY COMMISSIONER: I'm ordering a second
14 30(b)(6) deposition of your witnesses. You have an obligation
15 under Nevada law to educate your witnesses. I better not see
16 any more deposition conduct like this --

17 MR. CERAN: Understood.

18 THE DISCOVERY COMMISSIONER: -- in terms of
19 objections, instructing witnesses not to answer improperly
20 because if I do it will be a hefty sanction that will be paid
21 to the Clark County Legal Aid.

22 MR. CERAN: Understood.

23 THE DISCOVERY COMMISSIONER: All right. The cost
24 will be -- the cost will -- it will be borne by the defendant.
25 What does that mean? It means all the court reporter's fees

1 and all the deposition transcript costs.

2 I don't know where -- where is the witness located or
3 witnesses?

4 MR. CERAN: In Orange County, Your Honor, in Los
5 Angeles.

6 THE DISCOVERY COMMISSIONER: Okay. So you'll pay for
7 the plaintiffs' travel costs. Alternatively, you can bring the
8 witness to the jurisdiction if you prefer, but the plaintiff
9 will not have to pay travel costs.

10 Do not go on high-expense airline first class. Do a
11 reasonable -- if you live there, that's perfectly fine.

12 MR. BOYLAN: I drive. I'd just drive my car to
13 Mr. Ceran's office. It's not a problem, Your Honor.

14 THE DISCOVERY COMMISSIONER: Okay. I'm so happy to
15 hear that. Maybe you can have a cup --

16 MR. CERAN: I see we're getting along better already.

17 THE DISCOVERY COMMISSIONER: I know. Maybe you can
18 have a cup of coffee for him when he gets there.

19 MR. BOYLAN: Mr. Ceran and I get along fine.
20 Mr. Reynolds was a different question.

21 THE DISCOVERY COMMISSIONER: Okay. Well,
22 Mr. Reynolds --

23 MR. CERAN: I'll talk to Mr. Reynolds, Your Honor.
24 I'll share.

25 THE DISCOVERY COMMISSIONER: Okay. Mr. Ceran, I

1 would like you to be at this deposition.

2 MR. CERAN: Yes, Your Honor.

3 MR. BOYLAN: So then, Your Honor, we have the three
4 other depositions of the managers, none of which they would
5 produce after they repeatedly promised to do so.

6 THE DISCOVERY COMMISSIONER: Right.

7 MR. BOYLAN: And, Mr. Ceran, he was not involved at
8 all. So I don't fault him, but some of the things he said to
9 the Court are just not accurate because I was dealing with an
10 associate who had to go to speak to Mr. Reynolds every time,
11 like he had to go -- but they promised us multiple depositions,
12 and then they canceled them. We had an agreement in writing.
13 There's lots of e-mails.

14 THE DISCOVERY COMMISSIONER: So set the depositions.
15 It's Mr. Johnson, Ms. Sherburne [phonetic], who I guess -- you
16 know, I'm not really sure exactly --

17 MR. BOYLAN: Overall Operations Manager according to
18 Terry Johnsen.

19 THE DISCOVERY COMMISSIONER: Ms. Juarez [phonetic]?

20 MR. BOYLAN: Juarez involved money, collections, and
21 I can't remember what else. I think it's in our papers.

22 THE DISCOVERY COMMISSIONER: As long as these
23 depositions are set and taken in the parameter of Phase
24 1 discovery, no problem with it. Get them set.

25 MR. CERAN: Understood, Your Honor.

1 THE DISCOVERY COMMISSIONER: All right. So that
2 motion to compel is granted.

3 In terms of the sanctions, I'm going to require the
4 30(b)(6) deposition to be retaken at the cost of the defendant.
5 I want those questions answered. I want somebody who is
6 educated to be able to respond to them, and I better not see
7 any attitude by the next witness.

8 MR. CERAN: Your Honor, just to be clear,
9 Mrs. Johnsen's deposition was not a 30(b)(6) deposition. It
10 was an individual deposition, I believe.

11 Isn't that right, Counsel?

12 THE DISCOVERY COMMISSIONER: I thought I saw
13 30(b)(6), but I could've been wrong on that.

14 MR. BOYLAN: Well, it started out that way, and then
15 with all the e-mail and stuff, we went back and forth, and we
16 just --

17 THE DISCOVERY COMMISSIONER: You just took an
18 individual?

19 MR. BOYLAN: Well, we put her name on it. The notice
20 may have originally said 30(b)(6) and then it changed to --

21 MR. CERAN: It was an individual.

22 THE DISCOVERY COMMISSIONER: All right.

23 MR. BOYLAN: It changed to Terry Johnsen at some
24 point.

25 THE DISCOVERY COMMISSIONER: So if that was my

1 mistake, I apologize.

2 MR. CERAN: It's fine.

3 THE DISCOVERY COMMISSIONER: What you need to do then
4 is to decide how you're going to proceed.

5 If I were you, Plaintiffs' Counsel, I would do the
6 30(b)(6) deposition with the different topic areas. If you
7 want to take -- I'm not sure it's worth taking Ms. Johnsen
8 again.

9 MR. BOYLAN: Well, with this -- with this defendant,
10 unlike the others, we actually know who the key players are.
11 So I'm not sure we need any 30(b)(6) at this point because
12 Sherburne, Johnson --

13 THE DISCOVERY COMMISSIONER: They were all like --
14 they owned the company?

15 MR. BOYLAN: They're the key players now.

16 THE DISCOVERY COMMISSIONER: They're -- okay.

17 MR. BOYLAN: The only other thing we need is to get
18 to -- and I interviewed one on the phone. It's in my
19 declaration. We need to get to the line people. That's where
20 all the truth is, the phone calls, the correspondence. For
21 example, Maria --

22 THE DISCOVERY COMMISSIONER: Well, I think those
23 should be answered in the discovery that we've already
24 discussed.

25 MR. CERAN: We've already been provided -- that's how

1 he knows who the people are.

2 THE DISCOVERY COMMISSIONER: Do you want to take
3 Ms. Johnsen's deposition again?

4 MR. BOYLAN: I think I'm going to need to to clean up
5 some things, yes.

6 THE DISCOVERY COMMISSIONER: So that -- and again,
7 here's my concern. I'm not real excited about having people
8 deposed two or three or four times. So I like -- I follow the
9 Ninth Circuit to the extent that I can; I look to the Ninth
10 Circuit. So if you want to do her in her individual capacity
11 and representative capacity, do that in one deposition.
12 There's different ways to do it. I don't know if there's one
13 way that's more effective than the other. If you want to
14 start, you know -- I don't even know if she would be your
15 30(b)(6) witness on any topic area.

16 MR. BOYLAN: We'll just do her individually and
17 finish it up that way, Your Honor.

18 THE DISCOVERY COMMISSIONER: If it turns out she is,
19 we can always -- you can always reach an agreement that she'll
20 bind the corporation on certain questions.

21 MR. CERAN: My biggest concern is that we try to be
22 efficient in terms of scheduling. Maybe we can have her in a
23 half a day and use the other half day for somebody else.

24 THE DISCOVERY COMMISSIONER: Well, I'll tell you how
25 we could really be efficient, but you don't want to hear it.

1 So you don't want to hear it. All right. Which would be --
2 just so I said that and it sounds a little ominous, let me say.
3 We just don't phase discovery. That's how we be efficient.

4 MR. BOYLAN: I heard you mention this in the prior --
5 on a prior matter, and I just -- I'm curious, Your Honor. When
6 you say Ninth Circuit, do you mean the Ninth Circuit Court of
7 Appeal, or do you mean Washington, Oregon, California?

8 THE DISCOVERY COMMISSIONER: I mean all the states
9 that are in the Ninth Circuit. I know it's federal court. I
10 know it's not binding on state court.

11 MR. BOYLAN: Okay.

12 THE DISCOVERY COMMISSIONER: But understand, without
13 a lot of the persuasive opinions I received from my colleagues
14 in federal court on discovery issues, I have some limitations.

15 MR. BOYLAN: Okay.

16 THE DISCOVERY COMMISSIONER: They do not bind --
17 well, although -- okay. So the Ninth Circuit recently ruled
18 that part of our HOA collection law may be unconstitutional.
19 Now, we are in a debate on whether or not that binds the Nevada
20 Supreme Court or our state. So, listen --

21 MR. BOYLAN: I read that.

22 THE DISCOVERY COMMISSIONER: -- it's all very
23 interesting. Let me just say, it's all very interesting.
24 We'll see how it all plays out. I don't have an answer for you
25 today, but that's what I mean. I don't look at the Tenth

1 Circuit. Utah's in the Tenth Circuit. Sometimes I read the
2 Utah decisions, but I just tell you that for the most part I'm
3 looking at some of the analysis out of the federal court here
4 and out of the Ninth Circuit. I do look at the federal court
5 decisions. Obviously the states are --

6 MR. BOYLAN: Did you read the ones I left for you --
7 gave you last time, Your Honor?

8 THE DISCOVERY COMMISSIONER: You know what, I have
9 not, but I still have them. I do understand though that I'm
10 bound by Nevada law, and I do do my best to follow it. So you
11 all do your best to follow it when you're in depositions.

12 All right. That's all I'm going to do on the
13 sanctions today. So the motion to compel and for sanctions
14 against MTC is granted within the parameters that we've
15 discussed.

16 MR. CERAN: Thank you, Your Honor.

17 THE DISCOVERY COMMISSIONER: You'll pay for all the
18 transcripts. If there's any other costs associated with the
19 deposition, just make sure, Plaintiffs' Counsel, you so
20 advised, but if I see the conduct again, I just want you to
21 know that --

22 MR. CERAN: I hear you, Your Honor.

23 THE DISCOVERY COMMISSIONER: -- it will be a
24 different scenario.

25 MR. CERAN: Understood.

1 THE DISCOVERY COMMISSIONER: The last motion I have
2 is defendants' joint motion for a confidentiality order. I was
3 somewhat -- one of my questions was: Do we have a
4 confidentiality order in place in this case just generically?
5 Do we have one in place?

6 MR. SCARBOROUGH: No. We're contending for one, and
7 that's what's in front of Your Honor.

8 THE DISCOVERY COMMISSIONER: Okay.

9 MR. SCARBOROUGH: Some of us have taken the risk to
10 try to meet Phase 1 parameters of getting information out and
11 in the hands of plaintiffs even though we don't have such an
12 order. I heard Your Honor earlier who said quite clearly to
13 two other lawyers -- I wasn't in the room. I don't know if
14 there was an agreement or not. We've attached some documents,
15 but suffice it to say we thought we were proceeding down a path
16 to an agreed order toward the end, meaning the end before
17 productions were being made, and we were about to produce our
18 30(b)(6) witness who is on videotape.

19 Mr. Boylan told us he wouldn't stipulate to anything
20 being confidential. We had -- and I'll say this lovingly -- a
21 bit of a stare down in the deposition on, well, are you at
22 least going to promise not to publish anything in the
23 deposition until we can get the motion up or down? The answer
24 to that, thankfully, by Mr. Boylan was, yes, and then we -- and
25 I will use this word intentionally -- rushed this motion in

1 front of Your Honor. I know it was returned because we didn't
2 do enough to show the emergent nature of it.

3 But I will cut to the quick because I know it's been
4 a long morning for Your Honor, and we appreciate everything
5 that's been done here. This is about practicality. All we
6 want to do is be able to produce information without defense
7 costs soaring by having to sit down and deal with the fine
8 points of whether something is or isn't confidential.

9 Mr. Boylan in what was filed last night -- I don't
10 even know if Your Honor's read it -- talks about blank pages --

11 THE DISCOVERY COMMISSIONER: Yeah, I did --

12 MR. SCARBOROUGH: -- and about other pages. Well, I
13 can answer that. I mean, clearly everything that looks like it
14 may also have been a public record came out of a borrower's
15 file. That's Graham-Leach-Bliley material. The blank pages,
16 that's what happens when somebody hits a double-sided copy on a
17 document that's only printed on one side and you employ a
18 system where if one page has confidential information in a
19 document all the pages get labeled.

20 We urge the Court to go to practicality rather than
21 cause the defense -- we're in asymmetric discovery. We all
22 know that in this room. We've got all the information --
23 Mr. Boylan's clients have little -- where we can simply
24 designate, get the information in plaintiffs' hands, and if
25 there's a legitimate fight about something later on or we're --

1 we're going to be amenable to releasing, but I just don't want
2 us to have to go hire the squadron of document reviewers to do
3 this page by page. By definition it slows down the very access
4 to information that Mr. Boylan vehemently tells this Court
5 we're fighting to withhold from him.

6 THE DISCOVERY COMMISSIONER: Well, and part --

7 MR. SCARBOROUGH: That's all I have to say.

8 THE DISCOVERY COMMISSIONER: Yeah. Part of the
9 problem in Nevada is we don't have a clawback provision. They
10 do in federal court, but not in state court. So once
11 something's inadvertently disclosed, it's out there.

12 MR. SCARBOROUGH: Well, I appreciate that very much.
13 I've been litigating up here for a decade, and I did not know
14 that.

15 THE DISCOVERY COMMISSIONER: No, we don't. We do not
16 have a clawback provision.

17 MR. SCARBOROUGH: Okay.

18 THE DISCOVERY COMMISSIONER: When I have some more
19 spare time, I'm going to be working on that.

20 What I am concerned about in this case are all the
21 financial information and not just on the defense side. I'm
22 concerned about it on the plaintiffs' side as well. We have a
23 law in Nevada that you can't disclose Social Security numbers.

24 Everybody familiar with that?

25 So that type of information probably, except for the

1 last four digits which are not confidential, would need to be
2 redacted. I think it makes a lot of sense to have a protective
3 order in this case.

4 Now, what does that really mean? It certainly means
5 you can share it with your clients, with your experts, with the
6 lawyers in your firm, with your paralegals, paraprofessionals.
7 You should be able to do all that without a problem. Can you
8 post it on your favorite Facebook page? No. Can you post it
9 on YouTube? No. I don't even know how you post things on
10 YouTube. You can't do it.

11 If you file documents to a dispositive motion, they
12 lose their confidentiality or until otherwise ordered by the
13 District Court Judge. You enter them into evidence at trial;
14 they lose their confidentiality, but for purposes of discovery,
15 ensuring that the documents are exchanged timely, I have no
16 problem granting this motion.

17 And, honestly, Plaintiffs' Counsel, I don't think you
18 should have a problem with it either.

19 If you have to file a document to a motion, you just
20 take your motion for protective order -- it's under NRCP
21 26(c) -- because otherwise we have to have a full-blown hearing
22 on sealing of records, which we're not doing. I'm not sealing
23 the record. I am simply putting it under a protective order
24 until otherwise ordered by the District Court Judge. This does
25 not require any one party to do anything special. So you don't

1 have to do anything special.

2 If you get into a dispute -- and I would certainly
3 say you should be able to show witnesses documents as well
4 during deposition. If there is some critical document you are
5 worried about, put it under seal in the deposition. That's
6 easy enough and the questions. I'm assuming the court
7 reporters still know how to do that, but having said that, I
8 just don't think that this as a practical matter does anything,
9 but make sure that all the information is disclosed right away.

10 If a document turns out to be one that's already in
11 the public eye or public record, then it's technically lost its
12 confidentiality, although there may be rules that still
13 protect.

14 And I guess the best example I can give you is
15 something totally off, outside of your case, but when we are
16 looking at medical records of other experts, and they identify
17 other plaintiffs who are not plaintiffs in the case at issue,
18 those plaintiffs don't expect their medical treatment and care
19 to be discussed in this nonrelated case. HIPPA applies. So
20 you have to think through the problem.

21 There is no reason in my mind we can't grant a
22 protective order in this case as long as it doesn't require
23 additional work of the plaintiff. If it is a situation where
24 you start arguing about we really have to have this out in the
25 open, then the party who wants it to remain confidential has

1 the burden of proof of bringing the motion to continue the
2 protective order, but other than that I don't think it's a
3 problem.

4 MR. BOYLAN: Let me comment on that if I may. First
5 of all, I don't see -- I haven't seen any reason or basis that
6 we'd want to post information on a website or anything like
7 that. That's so -- I mean, that's not even an issue here.

8 THE DISCOVERY COMMISSIONER: I'm just trying to
9 preempt everything I've seen.

10 MR. BOYLAN: Well, yes. But what I'm saying is,
11 here's the way it is. We don't want the confidential stamp
12 placed on documents that are not sensitive or trade secrets
13 because it burdens us with respect to our use of those
14 documents, unless you're saying there's no burdens whatsoever,
15 except publication on YouTube or Facebook --

16 THE DISCOVERY COMMISSIONER: Well --

17 MR. BOYLAN: -- because we don't --

18 THE DISCOVERY COMMISSIONER: -- and attaching them to
19 a motion, you have to --

20 MR. BOYLAN: We have to be able to do that.

21 That's --

22 THE DISCOVERY COMMISSIONER: Yes, but you just --

23 MR. BOYLAN: -- that's why I'm opposing this.

24 THE DISCOVERY COMMISSIONER: -- do it under seal.

25 You seal it.

1 MR. BOYLAN: That is a significant burden, and they
2 want to --

3 THE DISCOVERY COMMISSIONER: Do you even know how you
4 do it in Nevada?

5 MR. BOYLAN: May I finish, please? They wanted, for
6 example, to designate --

7 THE DISCOVERY COMMISSIONER: I want you to answer my
8 question. Do you know how to do it?

9 MR. BOYLAN: Not exactly, I don't, Your Honor.

10 THE DISCOVERY COMMISSIONER: Okay. Then don't say --

11 MR. BOYLAN: -- but I've been -- I've been around a
12 while.

13 THE DISCOVERY COMMISSIONER: -- it's a burden until
14 you know.

15 MR. BOYLAN: Well, because I know my staff, and I
16 know we're operating remotely, and I know we're already
17 struggling to get everything hand-delivered to you, and now
18 we're going to be dealing with stuff under seal that's not --
19 it's no trade secret here. Let me give you --

20 THE DISCOVERY COMMISSIONER: Financial information.

21 MR. BOYLAN: What, for example? There's none here.

22 THE DISCOVERY COMMISSIONER: Personal financial
23 information, the earnings of the defendant, which you have
24 asked for. How much money they make, you've asked for that.
25 If you asked for supporting documentation of that, that's going

1 to be under seal. Bank records, personal financial records of
2 your client, which I would think you would want to be very
3 careful about.

4 MR. BOYLAN: My clients don't have any that are even
5 asked for I don't think in this case, but in any event, they
6 submitted a highly restrictive order with all kinds of layers
7 of burdens, and they want to designate entire deposition
8 transcripts confidential. They want to designate public
9 records, blank records, blank forms. That is going to be a
10 cumbersome burden that is not justified under the law.

11 My understanding of the law is if you want a
12 confidentiality order, which are disfavored generally in the
13 law because this is a public forum, if you want that, you've
14 got to submit evidence in the form of declarations identifying
15 the trade secret or sensitive information. Typically
16 defendants will submit in camera.

17 For example, if there is a financial record -- they
18 haven't given us any, by the way -- but if there were such a
19 thing, they would submit that in camera, and they would prove
20 to you that, yes, there is sensitive information here, and they
21 haven't done that.

22 THE DISCOVERY COMMISSIONER: I'm not doing that. I'm
23 going to require that all financial information be maintained
24 confidentially within the confines of this litigation. Any
25 information that is protected under public law and not to be

1 disseminated will remain confidentially under the -- in the
2 confines of this litigation until otherwise ordered by the
3 District Court Judge. That's it, financial information.

4 Now, I don't know what trade secret information would
5 even be part of this case. So --

6 MR. SCARBOROUGH: Nor do we.

7 THE DISCOVERY COMMISSIONER: I'm not even sure --

8 MR. BOYLAN: Nor do I.

9 MR. SCARBOROUGH: And that's why we --

10 THE DISCOVERY COMMISSIONER: I'm not even sure that's
11 an issue here.

12 MR. SCARBOROUGH: No. The kinds of other documents
13 that have been produced that we've stamped confidential, just
14 to continue the conversation, are the manuals that our clients
15 cause us to operate under. They wouldn't want that disclosed.

16 THE DISCOVERY COMMISSIONER: That's proprietary
17 information. I typically protect that.

18 MR. SCARBOROUGH: Second, the contracts that we've
19 already produced with confidentiality stamps between ourselves,
20 CRC, and our clients, those are confidential business records.
21 There's no trade secret here, Your Honor. That's a red
22 herring.

23 THE DISCOVERY COMMISSIONER: It's a confidential
24 proprietary record under 26(c).

25 MR. SCARBOROUGH: Exactly.

1 MR. BOYLAN: Yeah, but remember he mentioned, Your
2 Honor, they went out of business five years ago.

3 THE DISCOVERY COMMISSIONER: So?

4 MR. BOYLAN: I don't know why it would be
5 confidential, a five-year-old contract for a company that's out
6 of business, but I --

7 THE DISCOVERY COMMISSIONER: Well, I don't know that
8 it wouldn't be. That's the problem.

9 MR. BOYLAN: That's why they're supposed to submit it
10 to you and explain it in a declaration.

11 THE DISCOVERY COMMISSIONER: I'm not going to do it.

12 MR. SCARBOROUGH: Thank you.

13 THE DISCOVERY COMMISSIONER: If I had to do that in
14 every single case for every single document, I could not
15 physically do it. I'm not going to do it.

16 Now, what does this protective order mean, Defense
17 Counsel? It means that they -- the plaintiffs can share the
18 inner information within their office with their clients, with
19 their experts without having them sign off on anything once I
20 put the protective order in place.

21 Number two, if we are filing a motion that has a
22 manual -- a piece of a manual attached, then this is typically
23 what I would do. I would probably call up plaintiffs' counsel,
24 I'd call defense counsel and say, I've got our motion on our,
25 you know, dispositive motion on Phase 1. I want to attach this

1 part of the manual. I'd rather not have to file it under seal.
2 Are you okay with it? I'm not attaching the whole manual. I'm
3 attaching this page or this paragraph. Have that conversation.
4 Get it in writing if it's okay. Otherwise, put it in an
5 envelope, attach it under seal, make sure a Judge gets a copy
6 of it.

7 And how you do it is you just take the, either, you
8 know, electronically -- and I do apologize to you because I'm
9 not exactly sure how it works, but I know that if you take the
10 26 -- in this case it'll be the motion granting the
11 confidentiality order. It'll be signed by the Judge. It'll be
12 an order saying it can be filed under seal. He'll take that to
13 the clerk's office, or send it in with the motion -- I hope
14 that's how it works -- and they'll put it under seal.

15 MS. SCHULER-HINTZ: I think there's a box on Wiznet,
16 Your Honor.

17 THE DISCOVERY COMMISSIONER: A box on Wiznet.

18 MS. SCHULER-HINTZ: That you actually check that says
19 it's being filed. I know in federal court it says --

20 THE DISCOVERY COMMISSIONER: Filed under seal and
21 then you reference the order. I don't think it's a significant
22 burden on plaintiffs' counsel, but I think you can have that
23 discussion. If it's one page of a manual, maybe you live with
24 that and be Exhibit A, but you do have to talk about things.
25 If you're in a deposition, have a dialogue.

1 If there's a group of documents that you're concerned
2 about being part of the public record because the depositions
3 are public record, then you put that line of questioning and
4 those documents -- just ask the court reporter to put it under
5 seal, and the seal or the protection remains in place until
6 otherwise ordered by the District Court Judge.

7 And the confidentiality may lose its -- the documents
8 may lose their confidentiality if they are attached to a
9 dispositive motion and/or entered into exhibits, into evidence
10 at the time of trial. They likely will, but that can all go
11 into the parameters of the protective order.

12 Other than financial information or proprietary
13 manuals, operating procedures of the different defendants,
14 that's it; I'm not going to protect anything else. So stock
15 letters that you send to people, e-mails, I'm just not going to
16 protect it, but your operating manuals, your procedures to the
17 extent that they are -- they do involve proprietary
18 information, I would protect, but anything that's basically an
19 industry standard, people do it a little bit differently. I'm
20 not going to worry about it.

21 If there's a dispute over a document, have your 2.34
22 conference. If you want me -- if it's one or two documents you
23 need me to look at, I'll be happy to do that. I say one or
24 two. I had a law firm deliver 15 boxes of documents. So I can
25 review. I'm a quick reader, but I would want you to really

1 narrow the issues on the document production. So I'm going to
2 grant that motion within those parameters.

3 Now, I would like to get one report and
4 recommendations done off of this hearing with all motions. I'm
5 not confident it is going to happen, and I am going to appoint
6 a person on each side to work with each other. Can I do that?

7 MR. SCARBOROUGH: Absolutely.

8 THE DISCOVERY COMMISSIONER: Mr. Boylan, you're it on
9 the plaintiffs' side.

10 MR. BOYLAN: Thank you.

11 THE DISCOVERY COMMISSIONER: Counsel for the
12 defendant, can I ask you to select someone that will work with
13 Mr. Boylan on the report and recommendations, because by my
14 account there are eight motions.

15 MR. BOYLAN: Mr. Scarborough is typically my liaison
16 contact, but he has no motions today I don't believe other than
17 the confidentiality one. So maybe myself and Mr. Ceran.

18 MR. CERAN: That's fine, Your Honor.

19 MR. SCARBOROUGH: Sounds like I got fired, but I'll
20 accept that for purposes of --

21 THE DISCOVERY COMMISSIONER: You know what --

22 MS. SCHULER-HINTZ: Mr. Scarborough is --

23 THE DISCOVERY COMMISSIONER: -- I think in this case
24 that's a good thing. I would be okay with that.

25 All right. But you might want to look over the

1 protective order.

2 MR. SCARBOROUGH: Yes. Absolutely.

3 MR. CERAN: I'm sorry. Who's taking the laboring on
4 the report?

5 MS. SCHULER-HINTZ: I think Mr. Scarborough
6 volunteered.

7 THE DISCOVERY COMMISSIONER: You both.

8 MR. CERAN: (Unintelligible).

9 MR. SCARBOROUGH: Yeah, I did volunteer.

10 MR. CERAN: Well, if Mr. Scarborough has volunteered,
11 I'll cede to him. That's fine, Your Honor.

12 MR. SCARBOROUGH: I'm back in business, Your Honor,
13 unless that's a problem for you.

14 THE DISCOVERY COMMISSIONER: It's not a problem for
15 me. I just need one person on the defense side, and when I say
16 that, don't delegate this issue.

17 MR. SCARBOROUGH: I got it.

18 THE DISCOVERY COMMISSIONER: Work with Mr. Boylan.
19 It'll be a nice experience for both of you.

20 MR. SCARBOROUGH: We dialogue perfectly well. Do you
21 want one of us to be assigned the task of first draft?

22 THE DISCOVERY COMMISSIONER: Yes, that would be nice,
23 and then you can share it, or you both can draft one and
24 exchange it, whatever you want to do.

25 MR. SCARBOROUGH: Most of the motions were -- I'll

1 just turn to Mr. Boylan and ask if he'd like to do that, or if
2 he'd like me to. I'm happy to serve at his pleasure.

3 MR. BOYLAN: I failed the last time. So I would
4 rather Mr. Scarborough take the opening shot.

5 THE DISCOVERY COMMISSIONER: Okay. That's fine. I
6 wouldn't say a complete failure at all. I just think that the
7 defense reflects what I want it to, and you'll be able to
8 object to it then. Once I get it done, if you want to object,
9 you can. Just make sure you do it timely.

10 All right. Is there anything else I have not
11 covered?

12 MR. SODERSTROM: Your Honor, just very briefly for my
13 own clarification in my notes.

14 THE DISCOVERY COMMISSIONER: Yes.

15 MR. SODERSTROM: Interrogatory No. 18, I just want to
16 confirm that that was limited to the named --

17 THE DISCOVERY COMMISSIONER: I'm sorry. I can't hear
18 you.

19 MR. SODERSTROM: I'm sorry. Interrogatory No. 18 --

20 THE DISCOVERY COMMISSIONER: Yes.

21 MR. SODERSTROM: -- I have in my notes that that is
22 confined to the named plaintiffs. I just want to confirm it.

23 THE DISCOVERY COMMISSIONER: Can you just read it for
24 me.

25 MR. SODERSTROM: Interrogatory No. 18 states: Your

1 best estimate of the total amount of dollars received by you as
2 payment of fees and/or costs related to foreclosure-related
3 and/or collection-agency services provided by you as to the
4 entirety of the putative class as stated against you in the
5 operative complaint in this matter.

6 THE DISCOVERY COMMISSIONER: Okay. No, I didn't
7 intend it just to be the plaintiffs. I intended it to be the
8 amount of money that your client received from the services it
9 performed in Nevada for whatever the years were.

10 MR. SODERSTROM: Thank you.

11 THE DISCOVERY COMMISSIONER: You're welcome.
12 Anything further?

13 MR. SCARBOROUGH: Not from us, Your Honor.

14 MR. CERAN: Not from us, Your Honor.

15 THE DISCOVERY COMMISSIONER: Okay. Well, good luck.

16 MR. BOYLAN: Thank you, Your Honor.

17 MR. CHRISTOPHER: Thank you, Your Honor.

18 THE DISCOVERY COMMISSIONER: I'm going to give
19 counsel 20 days to get the report and recommendation to me, and
20 I will set it for status check at the same time we're meeting
21 in October.

22 MR. SCARBOROUGH: October 12th.

23 THE DISCOVERY COMMISSIONER: No, that's not -- when
24 is the next time? Didn't I set another hearing?

25 THE CLERK: It is October --

1 MR. SCARBOROUGH: In this case, Your Honor, no. Our
2 next time to meet is October 12th.

3 MR. CERAN: We have a motion for a protective order
4 that we filed recently. I don't think we've received a hearing
5 date back to the best of my knowledge.

6 THE DISCOVERY COMMISSIONER: I thought I set
7 something.

8 THE CLERK: There's October 7th.

9 THE DISCOVERY COMMISSIONER: I made that one motion.

10 THE CLERK: Motion to quash.

11 THE DISCOVERY COMMISSIONER: Maybe I'm confused.

12 MR. CERAN: It had to do with a subpoena for
13 financial records.

14 THE DISCOVERY COMMISSIONER: Right. That's the
15 motion to quash, but I don't think we have a date on that yet.

16 MR. CERAN: Right.

17 THE DISCOVERY COMMISSIONER: Is that right?

18 MR. CERAN: Right. That's what I was saying.

19 MR. BOYLAN: I think MTC has two motions to quash
20 pending, one with respect to those witnesses, but I'm not sure
21 now if counsel --

22 Allan, if you're going to withdraw that one.

23 The one for financial records we should probably talk
24 about that again in light of the Court's ruling.

25 THE CLERK: They also have October 19th.

1 MR. BOYLAN: The other one relates to witnesses.

2 MR. CERAN: Right. And I mean I --

3 THE DISCOVERY COMMISSIONER: I think it was October
4 19th that I continued something to.

5 MR. CERAN: Well, we'll talk and see if we can
6 resolve that, Your Honor.

7 THE CLERK: It's the motion to quash.

8 MR. SCARBOROUGH: I actually think that's --

9 THE DISCOVERY COMMISSIONER: Is that the motion to
10 quash?

11 MR. SCARBOROUGH: I think that's Mr. Ceran's motion
12 to quash on the 19th.

13 THE DISCOVERY COMMISSIONER: Okay. So I'll put the
14 status check on the report and recommendations hearing to
15 October 19th, and I know we have one on October 12th --

16 MR. SCARBOROUGH: Correct.

17 THE DISCOVERY COMMISSIONER: -- to status on the
18 Phase 1 discovery. I still would like you to be here for that.
19 I could move the status check to the 19th if that would be
20 easier. Would it be easier for everyone?

21 MR. BOYLAN: I think so, Your Honor.

22 MR. CERAN: Probably easier for less travel.

23 THE DISCOVERY COMMISSIONER: All right. So let's
24 move the October 12th status on Phase 1 discovery to the
25 October 19th hearing date.

1 THE CLERK: And then the October 7th, there's also
2 something. Do you want that --

3 THE DISCOVERY COMMISSIONER: October 7th, what is
4 on October 7th?

5 THE CLERK: That's also motion to quash, quash motion
6 for a protective order regarding depositions, subpoenas to
7 nonparties.

8 MR. BOYLAN: Former employees of MTC, yeah, that's a
9 big deal.

10 THE DISCOVERY COMMISSIONER: Okay. Do you want to
11 just leave that on the 7th then?

12 MR. BOYLAN: I think your rulings today effectively
13 indicate those depositions should go forward. So --

14 MR. CERAN: Yeah, let's leave those on calendar, and
15 I would need to talk to my colleague who actually prepared --

16 THE DISCOVERY COMMISSIONER: But you think that
17 you'll be able to work that out maybe?

18 MR. CERAN: I'm hopeful, Your Honor.

19 THE DISCOVERY COMMISSIONER: Okay. If it's former
20 employees, if you're going to be representing them at their
21 deposition, you need to work on producing them.

22 MR. CERAN: I'm sorry. We need to what?

23 THE DISCOVERY COMMISSIONER: If they're former
24 employees that you're representing at a deposition, then you
25 will need to coordinate a deposition time for them with

1 counsel.

2 MR. CERAN: Right.

3 MR. BOYLAN: And so far --

4 THE DISCOVERY COMMISSIONER: If you're not
5 representing them, they need to be subpoenaed, in which case
6 you're going to have to give the contact information.

7 MR. CERAN: Right.

8 MR. BOYLAN: And so far both the witness and
9 Mr. Ceran's partner have said they're not representing them.

10 MR. CERAN: That's not true. We're representing
11 Ms. Diaz, Maria Diaz.

12 THE DISCOVERY COMMISSIONER: Okay. Listen.

13 MR. CERAN: Okay.

14 THE DISCOVERY COMMISSIONER: Let's work together on
15 it. If you are not representing them, you need to give the
16 contact information --

17 MR. CERAN: Yes.

18 THE DISCOVERY COMMISSIONER: -- so they can be
19 subpoenaed.

20 Don't forget to subpoena.

21 MR. CERAN: And not only that --

22 MR. BOYLAN: We already did subpoena her.

23 MR. CERAN: They have the contact information.

24 THE DISCOVERY COMMISSIONER: Okay.

25 MR. BOYLAN: We already subpoenaed her.

1 THE DISCOVERY COMMISSIONER: Oh.

2 MR. BOYLAN: And they filed a motion.

3 THE DISCOVERY COMMISSIONER: Okay.

4 MR. BOYLAN: One other thing, final note, Your Honor,
5 and I think this applies to NDSC's counsel as well who
6 mentioned to me they've got a trial in October, I've got to set
7 in October.

8 THE DISCOVERY COMMISSIONER: Okay.

9 MR. BOYLAN: And so I may have to call counsel and
10 your department as well if I'm completely jammed. In fact,
11 another reason why I was going to mention that perhaps we
12 should talk about Phase 1 is I do have two trials in October.

13 THE DISCOVERY COMMISSIONER: I promise you --

14 MR. BOYLAN: It's going to be ugly.

15 THE DISCOVERY COMMISSIONER: -- we will talk about
16 it. I promise you I will make sure if we need to extend it we
17 will so that everybody can get the discovery done, and the
18 proper motion work will go to the Court, and I'm going to see
19 what I can do on that.

20 All right. In terms of that one deposition on the
21 motion to quash, if it's a nonparty, you can still take the
22 deposition if they have information. So if that was the
23 purpose of the motion to quash, it's probably moot.

24 MR. CERAN: Right.

25 THE DISCOVERY COMMISSIONER: But why don't you take a

1 look at it.

2 MR. CERAN: I just need to look at it. I don't want
3 to --

4 THE DISCOVERY COMMISSIONER: And I'll leave it on the
5 7th, and it can always -- you can just send a letter asking it
6 to be taken off.

7 MR. CERAN: Okay.

8 THE DISCOVERY COMMISSIONER: But the person who files
9 the motion has to do that.

10 MR. CERAN: Okay.

11 THE DISCOVERY COMMISSIONER: Okay.

12 MR. BOYLAN: And, Allan, if I may, we need to know
13 real soon because I think our opposition is due Friday.

14 MR. CERAN: Okay.

15 MR. BOYLAN: Thank you.

16 THE DISCOVERY COMMISSIONER: Thank you all very much.
17 Safe travels.

18 MR. SCARBOROUGH: Thank you, Your Honor.

19 MR. CERAN: Thank you. Thank you for your time, Your
20 Honor.

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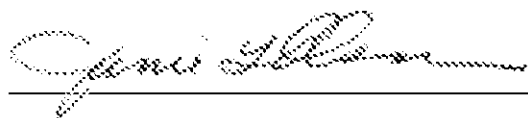
MS. SCHULER-HINTZ: Thank you, Your Honor.

THE DISCOVERY COMMISSIONER: You're welcome.

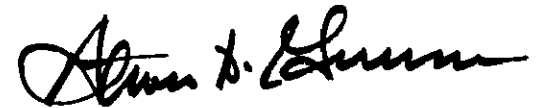
(Proceedings concluded 1:06 p.m.)

-oOo-

ATTEST: I do hereby certify that I have truly and correctly
transcribed the audio/video proceedings in the above-entitled
case.



Janie L. Olsen
Transcriber



CLERK OF THE COURT

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9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 JEFFREY BENKO, a Nevada resident; CAMILO
12 MARTINEZ, a Nevada resident; ANA MARTINEZ,
a Nevada resident; FRANK SCINTA, a Nevada
13 resident; JACQUELINE SCINTA, a Nevada
resident; SUSAN HJORTH, a Nevada resident;
14 RAYMOND SANSOTA, a Ohio resident;
FRANCINE SANSOTA, a Ohio resident; SANDRA
15 KUHN, a Nevada resident; JESUS GOMEZ, a
Nevada resident; SILVIA GOMEZ, a Nevada
16 resident; DONNA HERRERA, a Nevada resident;
ANTOINETTE GILL, a Nevada resident; JESSE
17 HENNIGAN, a Nevada resident; KIM MOORE, a
Nevada resident; THOMAS MOORE, a Nevada
18 resident; SUSAN KALLEN, a Nevada resident;
ROBERT MANDARICH, a Nevada resident;
19 JAMES NICO, a Nevada resident; and PATRICIA
TAGLIAMONTE, a Nevada resident,

20 Plaintiffs,

21 vs.

22 QUALITY LOAN SERVICE CORPORATION, a
California Corporation; MTC FINANCIAL, INC.
23 dba TRUSTEE CORPS, a California Corporation;
MERIDIAN FORECLOSURE SERVICE, a
24 California and Nevada Corporation dba MTDS, Inc.,
dba MERIDIAN TRUST DEED SERVICE;
25 NATIONAL DEFAULT SERVICING
CORPORATION; a Arizona Corporation,
26 CALIFORNIA RECONVEYANCE COMPANY, a
California Corporation; and DOES 1 through 100,
27 inclusive,

28 Defendants.

Case No.: A-11-649857-C
Dept. No.: XXIX

**DEFENDANT CALIFORNIA
RECONVEYANCE COMPANY'S
ANSWER TO SECOND AMENDED
COMPLAINT OF PLAINTIFFS
JEFFREY BENKO, CAMILO
MARTINEZ, ANA MARTINEZ,
FRANK SCINTA, JACQUELINE
SCINTA, SUSAN HJORTH,
RAYMOND SANSOTA,
FRANCINE SANSOTA, SANDRA
KUHN, JESUS GOMEZ, SILVIA
GOMEZ, DONNA HERRERA,
JESSE HENNIGAN, KIM MOORE,
THOMAS MOORE, SUSAN
KALLEN, ROBERT MANDARICH
AND JAMES NICO**

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TEL (702) 252-5002 • FAX (702) 252-6007

For its Answer to Second Amended Complaint of Plaintiffs Jeffrey Benko, Camilo Martinez, Ana Martinez, Frank Scinta, Jacqueline Scinta, Susan Hjorth, Raymond Sansota, Francine Sansota, Sandra Kuhn, Jesus Gomez, Silvia Gomez, Donna Herrera, Jesse Hennigan, Kim Moore, Thomas Moore, Susan Kallen, Robert Mandarich and James Nico (11/25/15) (“SAC”), defendant California Reconveyance Company (“CRC”) admits, denies, and avers as follows. All allegations not specifically and expressly admitted are denied. CRC denies any allegation of illegal conduct or other wrongdoing wherever pled in the SAC. CRC denies any allegation of conducting collection agency activities or debt collection wherever pled in the SAC, pursuant to the findings and conclusions of law in *Quality Loan Service Corp. v. State of Nevada, Department of Business & Industry, Financial Institutions Division*, No. 12A657580, 2013 WL 6911859 (Nev. Dist. Ct. Jan. 3, 2013). CRC did not and does not engage in collection agency activities or debt collection in Nevada, and CRC was not and is not required to hold a Nevada collection agency license or register as a foreign collection agency with the Commissioner of the Nevada Financial Institutions Division.

PARTIES

1. The allegations contained in paragraph 1 of the SAC do not relate to CRC and, accordingly, no response is required. To the extent a response is required, CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 1 of the SAC and, accordingly, denies the same.

2. The allegations contained in paragraph 2 of the SAC do not relate to CRC and, accordingly, no response is required. To the extent a response is required, CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 2 of the SAC and, accordingly, denies the same.

3. The allegations contained in paragraph 3 of the SAC do not relate to CRC and, accordingly, no response is required. To the extent a response is required, CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 3 of the SAC and, accordingly, denies the same.

1 4. The allegations contained in paragraph 4 of the SAC do not relate to CRC and,
2 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
3 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
4 paragraph 4 of the SAC and, accordingly, denies the same.

5 5. The allegations contained in paragraph 5 of the SAC do not relate to CRC and,
6 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
7 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
8 paragraph 5 of the SAC and, accordingly, denies the same.

9 6. The allegations contained in paragraph 6 of the SAC do not relate to CRC and,
10 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
11 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
12 paragraph 6 of the SAC and, accordingly, denies the same.

13 7. The allegations contained in paragraph 7 of the SAC do not relate to CRC and,
14 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
15 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
16 paragraph 7 of the SAC and, accordingly, denies the same.

17 8. The allegations contained in paragraph 8 of the SAC do not relate to CRC and,
18 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
19 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
20 paragraph 8 of the SAC and, accordingly, denies the same.

21 9. The allegations contained in paragraph 9 of the SAC do not relate to CRC and,
22 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
23 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
24 paragraph 9 of the SAC and, accordingly, denies the same.

25 10. The allegations contained in paragraph 10 of the SAC do not relate to CRC and,
26 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
27 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
28 paragraph 10 of the SAC and, accordingly, denies the same.

11. CRC admits that it recorded documents, the contents of which speak for themselves. CRC avers it engaged in non-judicial foreclosure activities and denies it engaged in illegal collection agency activities and communications. CRC further denies that it is required to have a collection agency license. CRC admits it has not foreclosed on the real property but denies the remainder of the last sentence of paragraph 11 of the SAC. CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remainder of the allegations contained in paragraph 11 of the SAC and, accordingly, denies the same.

12. CRC admits that it recorded a document, the contents of which speak for itself. CRC avers it engaged in non-judicial foreclosure activities and denies it engaged in illegal collection agency activities and communications. CRC further denies that it is required to have a collection agency license. CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remainder of the allegations contained in paragraph 12 of the SAC and, accordingly, denies the same.

13. The allegations contained in paragraph 13 of the SAC do not relate to CRC and, accordingly, no response is required. To the extent a response is required, CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 13 of the SAC and, accordingly, denies the same.

14. The allegations contained in paragraph 14 of the SAC do not relate to CRC and, accordingly, no response is required. To the extent a response is required, CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 14 of the SAC and, accordingly, denies the same.

15. The allegations contained in paragraph 15 of the SAC do not relate to CRC and, accordingly, no response is required. To the extent a response is required, CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 15 of the SAC and, accordingly, denies the same.

16. The allegations contained in paragraph 16 of the SAC do not relate to CRC and, accordingly, no response is required. To the extent a response is required, CRC lacks knowledge

1 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
2 paragraph 16 of the SAC and, accordingly, denies the same.

3 17. The allegations contained in paragraph 17 of the SAC do not relate to CRC and,
4 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
5 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
6 paragraph 17 of the SAC and, accordingly, denies the same.

7 18. The allegations contained in paragraph 18 of the SAC do not relate to CRC and,
8 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
9 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
10 paragraph 18 of the SAC and, accordingly, denies the same.

11 19. The allegations contained in paragraph 19 of the SAC do not relate to CRC and,
12 accordingly, no response is required. To the extent a response is required, CRC lacks knowledge
13 or information sufficient to form a belief as to the truth or falsity of the allegations contained in
14 paragraph 19 of the SAC and, accordingly, denies the same.

15 20. CRC admits that it is a California corporation. CRC admits it did not hold a
16 Nevada collection agency license or register as a foreign collection agency with the
17 Commissioner of the Nevada Financial Institutions Division and avers it was not and is not
18 required to do so. CRC avers its non-judicial foreclosure activities were lawful. CRC avers that
19 it is a foreign entity that holds and has held a current state business license issued by the Secretary
20 of State pursuant to Chapter 76 of the Nevada Revised Statutes. CRC denies it is doing extensive
21 business in Nevada. CRC denies the remaining allegations of paragraph 20 of the SAC.

22 21. CRC denies paragraph 21 of the SAC as it relates to CRC. CRC lacks knowledge
23 or information sufficient to form a belief as to the truth or falsity of the remaining allegations
24 contained in paragraph 21 of the SAC and, accordingly, denies the same.

25 22. The SAC does not contain a paragraph 22 and, accordingly, no response is
26 required.

27 23. CRC denies it engaged in illegal collection agency activities. CRC lacks
28 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining

1 allegations contained in the first two sentences of paragraph 23 of the SAC as they relate to CRC
2 and, accordingly, denies the same.

3 a. CRC admits that the loans of Kim and Thomas Moore and Susan Kallen
4 were in default. CRC denies it engaged in illegal collection agency activities. CRC lacks
5 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
6 allegations contained in paragraph 23(a) of the SAC as they relate to CRC and, accordingly,
7 denies the same. To the extent paragraph 23(a) of the SAC concerns documents recorded by
8 CRC as alleged in paragraphs 11 and 12 of the SAC, the contents of those documents speak for
9 themselves.

10 b. CRC admits that the loans of Kim and Thomas Moore and Susan Kallen
11 were in default. CRC denies it engaged in illegal collection agency activities. CRC lacks
12 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
13 allegations contained in paragraph 23(b) of the SAC as they relate to CRC and, accordingly,
14 denies the same. To the extent paragraph 23(b) of the SAC concerns documents recorded by
15 CRC as alleged in paragraphs 11 and 12 of the SAC, the contents of those documents speak for
16 themselves.

17 c. CRC lacks knowledge or information sufficient to form a belief as to the
18 truth or falsity of the allegations contained in paragraph 23(c) of the SAC as they relate to CRC
19 and, accordingly, denies the same. To the extent paragraph 23(c) of the SAC concerns documents
20 recorded by CRC as alleged in paragraphs 11 and 12 of the SAC, the contents of those documents
21 speak for themselves.

22 d. CRC denies paragraph 23(d) of the SAC as it relates to CRC.

23 e. CRC denies paragraph 23(e) of the SAC as it relates to CRC.

24 f. CRC denies it engaged in illegal collection agency activities. CRC denies
25 the last sentence of paragraph 23(f) of the SAC as it relates to CRC. CRC lacks knowledge or
26 information sufficient to form a belief as to the truth or falsity of the remainder of the allegations
27 contained in paragraph 23(f) of the SAC as they relate to CRC and, accordingly, denies the same.
28

1 To the extent paragraph 23(f) of the SAC concerns documents recorded by CRC as alleged in
2 paragraphs 11 and 12 of the SAC, the contents of those documents speak for themselves.

3 g. CRC denies the last sentence of paragraph 23(g) of the SAC as it relates to
4 CRC. CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of
5 the remaining allegations contained in paragraph 23(g) of the SAC as they relate to CRC and,
6 accordingly, denies the same. To the extent paragraph 23(g) of the SAC concerns documents
7 recorded by CRC as alleged in paragraphs 11 and 12 of the SAC, the contents of those documents
8 speak for themselves.

9 h. CRC denies it engaged in illegal collection agency activities. CRC lacks
10 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
11 allegations contained in paragraph 23(h) of the SAC as they relate to CRC and, accordingly,
12 denies the same.

13 i. CRC denies it engaged in illegal collection agency activities. CRC lacks
14 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
15 allegations contained in paragraph 23(i) of the SAC as it relate to CRC and, accordingly, denies
16 the same.

17 **CLASS ACTION ALLEGATIONS**
18 **(Against ALL DEFENDANTS)**

19 24. CRC avers that paragraph 24 of the SAC states a legal conclusion to which no
20 response is required or appropriate. To the extent that a response is required, CRC denies the
21 allegations contained in paragraph 24 of the SAC as they relate to CRC.

22 25. CRC admits that Plaintiffs purport to set forth a class definition in paragraphs 25
23 and 25(a) of the SAC. CRC denies the remaining allegations contained in paragraphs 25 and
24 25(a) of the SAC as they relate to CRC.

25 26. CRC admits Plaintiffs purport to set forth a sub-class definition in paragraphs 26
26 and 26(b). The SAC does not contain a paragraph 26(a) and, accordingly, no response is
27 required. CRC denies the remaining allegations contained in paragraphs 26 and 26(b) of the SAC
28 as they relate to CRC.

27. CRC avers that paragraph 27 of the SAC contains legal conclusions to which no response is required or appropriate. To the extent that a response is required, CRC denies the allegations contained in paragraph 27 of the SAC as they relate to CRC.

28. CRC avers that paragraph 28 and paragraphs 28(a) to 28(e) of the SAC contain legal conclusions to which no response is required or appropriate. To the extent that a response is required, CRC denies the allegations contained in paragraph 28 and paragraphs 28(a) to 28(e) of the SAC as they relate to CRC.

29. CRC states that paragraph 29 of the SAC contains legal conclusions to which no response is required or appropriate. To the extent that a response is required, CRC denies the allegations contained in paragraph 29 of the SAC as they relate to CRC.

30. CRC states that paragraph 30 of the SAC contains legal conclusions to which no response is required or appropriate. To the extent that a response is required, CRC denies the allegations contained in paragraph 30 of the SAC as they relate to CRC.

31. CRC states that paragraph 31 of the SAC contains legal conclusions to which no response is required or appropriate. To the extent that a response is required, CRC denies the allegations contained in paragraph 31 of the SAC as they relate to CRC.

**FIRST CAUSE OF ACTION
(STATUTORY CONSUMER FRAUD)**

32. CRC incorporates its responses to paragraphs 1 through 31 of the SAC as though fully set forth herein.

33. CRC lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 33 of the SAC as they relate to CRC, and accordingly, CRC denies the same.

34. CRC admits it did not hold a Nevada collection agency license or register as a foreign collection agency in Nevada and avers it was not and is not required to do so. CRC denies the remaining allegations contained in paragraph 34 of the SAC as they relate to CRC.

35. CRC denies the allegations contained in paragraph 35 of the SAC as they relate to CRC.

1 36. CRC denies the allegations contained in paragraph 36 of the SAC as they relate to
2 CRC.

3 37. CRC denies the allegations contained in paragraph 37 of the SAC as they relate to
4 CRC.

5 38. CRC denies the allegations contained in paragraph 38 of the SAC as they relate to
6 CRC.

7 39. CRC denies the allegations contained in paragraph 39 of the SAC as they relate to
8 CRC.

9 40. CRC denies the allegations contained in paragraph 40 of the SAC as they relate to
10 CRC.

11 **SECOND CAUSE OF ACTION**
12 **(UNJUST ENRICHMENT)**

13 41. CRC incorporates its responses to paragraphs 1 through 40 of the SAC as though
14 fully set forth herein. CRC lacks knowledge or information sufficient to form a belief as to the
15 truth or falsity of the remaining allegations contained in paragraph 41 of the SAC as they relate to
16 CRC and, accordingly, denies the same.

17 42. CRC admits it did not hold a Nevada collection agency license or register as a
18 foreign collection agency with the Commissioner of the Nevada Financial Institutions Division
19 and avers it was not required to do so. CRC denies the remaining allegations contained in
20 paragraph 42 of the SAC as they relate to CRC.

21 43. CRC denies the allegations contained in paragraph 43 of the SAC as they relate to
22 CRC.

23 44. CRC denies the allegations contained in paragraph 44 of the SAC as they relate to
24 CRC.

25 45. CRC denies the allegations contained in paragraph 45 of the SAC as they relate to
26 CRC.

27 46. CRC denies the allegations contained in paragraph 46 of the SAC as they relate to
28 CRC.

1 47. CRC denies the allegations contained in paragraph 47 of the SAC as they relate to
2 CRC.

3
4 **THIRD CAUSE OF ACTION**
5 **(ELDER ABUSE)**

6 48. Plaintiffs' Third Cause of Action (paragraphs 48 through 54 of the SAC) was
7 dismissed by the Court with prejudice during the February 22, 2016 hearing on Defendants' Joint
8 Motion to Dismiss Plaintiffs' Second Amended Complaint (12/18/15) and, as a result, paragraphs
9 48 through 54 require no response.

10 **PRAYER FOR RELIEF**

11 49. CRC denies that Plaintiffs and members of the putative class are entitled to any of
12 the relief sought in the Prayer for Relief, paragraphs 1 through 5, inclusive.

13 **AFFIRMATIVE DEFENSES**

14 1. The SAC fails to state a claim upon which relief can be granted.

15 2. CRC's non-judicial foreclosure activities were lawful. CRC is a foreign entity that
16 holds and has held a state business license issued by the Secretary of State pursuant to Chapter 76
17 of the Nevada Revised Statutes.

18 3. Some or all of the claims of Kim Moore, Thomas Moore, Susan Kallen and/or
19 members of the putative class are barred by the applicable statute(s) of limitation(s).

20 4. Some or all of the claims of Kim Moore, Thomas Moore, Susan Kallen and/or
21 members of the putative class are barred by the doctrine of laches.

22 5. The claims of Kim Moore, Thomas Moore, Susan Kallen and members of the
23 putative class are barred by the doctrine of collateral estoppel. This includes, but is not limited to,
24 the findings and conclusions of law in *Quality Loan Service Corp. v. State of Nevada*,
25 *Department of Business & Industry, Financial Institutions Division*, No. 12A657580, 2013 WL
26 6911859 (Nev. Dist. Ct. Jan. 3, 2013).

27 6. The claims of Kim Moore, Thomas Moore, Susan Kallen and/or members of the
28 putative class are barred by the doctrine of res judicata.

1 7. The SAC is barred, in whole or in part, because any award to Kim Moore, Thomas
2 Moore, Susan Kallen and members of the putative class would constitute unjust enrichment.

3 8. The claims of Kim Moore, Thomas Moore, Susan Kallen and/or members of the
4 putative class are barred by the doctrine of judicial estoppel.

5 9. The claims of Kim Moore, Thomas Moore, Susan Kallen and/or members of the
6 putative class are barred, in whole or in part, by discharge in bankruptcy.

7 10. The claims of Kim Moore, Thomas Moore, Susan Kallen and/or members of the
8 putative class are barred by the voluntary payment doctrine.

9 11. The claims of Kim Moore, Thomas Moore, Susan Kallen and/or members of the
10 putative class are barred by the doctrine of unclean hands.

11 12. Kim Moore, Thomas Moore, Susan Kallen and/or members of the putative class
12 are estopped from asserting any cause of action against CRC.

13 13. Kim Moore, Thomas Moore, Susan Kallen and/or members of the putative class
14 are barred from recovery by the doctrine of waiver.

15 14. Kim Moore, Thomas Moore, Susan Kallen and/or members of the putative class
16 approved and ratified the alleged acts of CRC for which Kim Moore, Thomas Moore, Susan
17 Kallen and/or members of the putative class now complain.

18 15. The Court lacks jurisdiction over the claims of Kim Moore, Thomas Moore, Susan
19 Kallen and/or members of the putative class pursuant to the Financial Institutions Reform,
20 Recovery and Enforcement Act.

21 16. Federal preemption bars the claims of Kim Moore, Thomas Moore, Susan Kallen
22 and/or members of the putative class.

23 17. CRC did not assume any liability related to certain members of the putative class.

24 18. Kim Moore, Thomas Moore, Susan Kallen and members of the putative class lack
25 damages, injury-in-fact, and concrete injury.

26 19. To the extent Kim Moore, Thomas Moore, Susan Kallen and members of the
27 putative class seek punitive damages, Kim Moore, Thomas Moore, Susan Kallen and members of
28 the putative class are not entitled to punitive damages. In any event, any such damages are

1 subject to the due process requirements of Articles 1 and 6, and by the First, Fifth, Eighth, and
2 Fourteenth Amendments to the United States Constitution and other constitutional limitations,
3 including, but not limited to, those set forth in *State Farm Mutual Automobile Insurance Co. v.*
4 *Campbell*, 538 U.S. 408 (2003), and *BMW of North America v. Gore*, 517 U.S. 559 (1996).

5 20. NRS 42.005 limits any punitive damages award in the circumstances of this case.

6 21. CRC reserves the right to supplement this Answer and its Affirmative Defenses in
7 accordance with the Nevada Rules of Civil Procedure and the governing procedural orders in this
8 case.

9 DEMAND FOR RELIEF

10 CRC requests the following relief:

11 a. Judgment in favor of CRC and against Kim Moore, Thomas, Moore, Susan Kallen
12 and members of the putative class;

13 b. To the extent that an award of attorneys' fees is permissible under Nevada law,
14 that CRC be awarded its reasonable attorneys' fees and costs of suit incurred herein; and

15 c. For such other relief as the Court deems just and appropriate.

16 DATED this 28 day of September, 2016.

17 SMITH LARSEN & WIXOM

18 By: 

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20 Nevada Bar No. 3463
21 Katie M. Weber
22 Nevada Bar No. 11736
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24 Las Vegas, Nevada 89134

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Attorneys for Defendant California
Reconveyance Company

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2016, I served a true and correct copy of the foregoing **DEFENDANT CALIFORNIA RECONVEYANCE COMPANY'S ANSWER TO SECOND AMENDED COMPLAINT OF PLAINTIFFS JEFFREY BENKO, CAMILO MARTINEZ, ANA MARTINEZ, FRANK SCINTA, JACQUELINE SCINTA, SUSAN HJORTH, RAYMOND SANSOTA, FRANCINE SANSOTA, SANDRA KUHN, JESUS GOMEZ, SILVIA GOMEZ, DONNA HERRERA, JESSE HENNIGAN, KIM MOORE, THOMAS MOORE, SUSAN KALLEN, ROBERT MANDARICH AND JAMES NICO** on counsel by e-mail transmission to the persons listed below, pursuant to EDCR 8.05(a):

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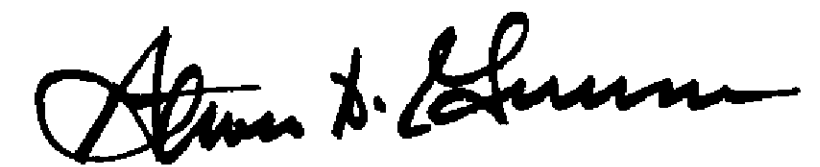
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DISTRICT COURT

CLARK COUNTY, NEVADA

JEFFREY BENKO, a Nevada resident;
CAMILO MARTINEZ, a California
resident;
ANA MARTINEZ, a California resident;
FRANK SCINTA, a Nevada resident;
JACQUELINE SCINTA, a Nevada
resident; SUSAN HJORTH, a Nevada
resident; RAYMOND SANSOTA, a Ohio
resident; FRANCINE SANSOTA, a Ohio
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ANTOINETTE GILL, a Nevada resident;
JESSE HENNIGAN, a Nevada resident;
KIM MOORE, a Nevada resident;
THOMAS MOORE, a Nevada resident;
SUSAN KALLEN, a Nevada resident;
ROBERT MANDARICH, a Nevada
resident, JAMES NICO, a Nevada resident
and PATRICIA TAGLIAMONTE, a
Nevada resident

Plaintiffs,

v.

CASE NO: A-11-649857-C

Dept. 29

**PLAINTIFFS' MOTION FOR
CLARIFICATION AND ENTRY OF
ORDER RE FEBRUARY 2016
HEARING ON DEFENDANTS'
JOINT NRCP 12(b)(5) MOTIONS**

**ARBITRATION EXEMPTION
CLAIMED:**

Pursuant to NAR 3(A)-

1. Action Concerning Title to Real Property;
2. Class Action; and
3. Action Seeking Equitable and/or Extraordinary Relief

Jury Trial Demanded

Hearing Date:

Hearing Time:

1 QUALITY LOAN SERVICE
2 CORPORATION, a California
3 Corporation; MTC FINANCIAL, INC.
4 dba TRUSTEE CORPS, a California
5 Corporation; MERIDIAN
6 FORECLOSURE SERVICE, a California
7 and Nevada Corporation dba MTDS, Inc.,
8 dba MERIDIAN TRUST DEED
9 SERVICE; NATIONAL DEFAULT
SERVICING CORPORATION, a Arizona
Corporation; CALIFORNIA
RECONVEYANCE COMPANY, a
California Corporation; and DOES 1
through 100, inclusive,

10 Defendants.

11
12 Plaintiffs, by and through their counsel of record, the Law Office of Nicholas
13 A. Boylan, APC, hereby move this Court for clarification and entry of an appropriate
14 order regarding the February 2016 hearing in this matter on Defendants' joint Nevada
15 Rule of Civil Procedure 12(b)(5) motions.

16 This Motion is based on the attached Memorandum of Points and Authorities,
17 declarations, and all other exhibits included herewith, the papers and pleadings on
18 file herein, and any oral argument this Court may entertain.

19
20 Dated: October 7, 2016

LAW OFFICE OF NICHOLAS A. BOYLAN,
APC

21
22 By: /s/ Nicholas A. Boylan
23 Nicholas A. Boylan, Esq.
24 Shawn Christopher, Esq.
Attorneys for Plaintiffs, except
Antoinette Gill

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RULES

NRCP 12(b)(5)	<i>passim</i>
NRCP 16.1	<i>passim</i>
NRCP 23	<i>passim</i>
NRCP 26	<i>passim</i>
NRCP 30(b)(6)	16, 29

1 parties to the Court following the February 2016 hearing, but no written order has
2 been entered to date. Properly, neither draft order purported to rule on discovery
3 issues. True and correct copies of the parties' previously submitted proposed orders
4 are attached to the undersigned's supporting declaration as Exhibit "26" thereto. A
5 true and correct copy of the transcript from the February 2016 hearing is attached as
6 Exhibit "23" the undersigned's declaration as well. The Court should also clarify in
7 its order that discovery is according to the Nevada statutes, without "phasing" or
8 other limitations imposed by the Commissioner. The order should also schedule
9 Plaintiffs' class certification motion for about April 15, 2017 (if needed class
10 discovery is then complete). Defendants' motions for summary judgment can occur
11 thereafter, around May 30, 2017.

12 A proper written order on Defendants' joint NRCP 12(b)(5) motions should be
13 entered in any case, but the need for one is especially acute here for several reasons.
14 First, the Commissioner believes that she must follow Judge Scann's phantom order
15 (i.e., the Court's oral musings at the end of the February 2016 hearing) in making her
16 own recommendations on discovery in this case. In considering Defendants' motions
17 to bifurcate or phase discovery at the July 20, 2016 hearing, for instance, the
18 Commissioner referred repeatedly to Judge Scann's oral comments at the February
19 2016 hearing and her own desire to follow Judge Scann's purported intent (or the
20 Commissioner's interpretation of that intent) by phasing discovery.

21 While doing so, however, the Commissioner repeatedly expressed considerable
22 concern that phasing discovery as the Defendants sought would be inefficient and
23 unfair to Plaintiffs (as Plaintiffs have argued in their papers and at the July 20, 2016
24 hearing). As recently as September 21, 2016, the Commissioner continued to express
25 her apparent reluctance to phase discovery but appeared to believe that she must
26 nonetheless recommend that discovery be phased because of Judge Scann's phantom
27 order. Thus, it appears that the purported existence of this phantom order has dictated
28 the Commissioner's recommendations as to discovery in this matter in important

1 ways (to the detriment of Plaintiffs and their pursuit of discovery). We do not fault
2 the Commissioner in this respect. In fact, the Commissioner recommended at the
3 September 21, 2016 hearing that the instant motion be filed in the Court to obtain
4 clarification. Exhibit “25” at 21:10-22. As the Commissioner feels bound by the
5 Court’s spontaneous comments at the February 2016 hearing, clarification from the
6 Court is much needed.

7 Phasing as the Commissioner recommends should not occur in this case for
8 several important reasons. First, the priority according to Nevada law—as reflected in
9 NRCP 23(c)(1)——is to proceed expeditiously to a determination on class certification.
10 Judge Scann has already denied Defendants’ NRCP 12(b)(5) motions challenging the
11 merits of Plaintiffs’ claims. In order to make the class certification determination,
12 class discovery is absolutely necessary in this case. Thus, to the extent there should
13 be any phasing at all, class discovery should occur first. Second, if Judge Scann had
14 any real doubts as to the validity of Plaintiffs’ claims, she should have granted
15 Defendants’ NRCP 12(b)(5) motion, but she correctly declined to do so. Given the
16 powerful evidence Plaintiffs have already uncovered in support of their claims, there
17 can be no credible doubt now that Plaintiffs’ claims have merit. Third, the phasing
18 recommended by Commissioner here will lead to incredible delay, waste and
19 duplication for the parties and the Court (as it has already). Fourth, the particular
20 phasing limitations imposed by the Commissioner thus far are erroneous and highly
21 prejudicial to Plaintiffs.

22 A second reason for granting Plaintiffs’ motion is that at least two Defendants,
23 relying on the absence of a written order on Defendants’ NRCP 12(b)(5) motions,
24 failed to file their answers to the Plaintiffs’ Second Amended Complaint (“SAC”).
25 Defendant CRC belatedly filed an answer to the SAC on September 28, 2016. To
26 date, however, Defendant NDSC has not filed an answer to the SAC, and, it seems,
27 will not do so until a written order is entered on Defendants’ NRCP 12(b)(5)
28 motions. The delay in entering a written order has thus prejudiced Plaintiffs’ ability

1 to learn Defendants' positions on the SAC—including alleged affirmative defenses to
2 it—and discover the grounds—or lack thereof—for those positions and defenses
3 through propounded discovery. The sooner a proper written order is entered, the
4 sooner Plaintiffs can pursue proper discovery on these important subjects.

5 In part because the Commissioner herself invited Plaintiffs to file the instant
6 motion at the hearing before her on September 21, 2016, the importance of this
7 motion cannot be overstated. In order to define the correct scope of discovery and the
8 correct process toward prompt class certification, Plaintiffs therefore move at this
9 time for clarification from the Court and entry of a written order on Defendants'
10 NRCP 12(b)(5) motions.

11 II. ARGUMENT

12 A. JUDGE SCANN DID NOT PREDETERMINE THE SCOPE OF 13 DISCOVERY OR PREJUDGE THE CLASS CERTIFICATION 14 DETERMINATION; SHE DENIED DEFENDANTS' NRCP 12(b)(5) 15 MOTION²

16 At the February 2016 hearing, Judge Scann did not see the evidence,
17 testimony, case authorities, arguments and discovery items presented in support of
18 Plaintiffs' subsequent briefs to the Commissioner regarding the scope of discovery.
19 When the parties appeared before Judge Scann for the denial of Defendants' NRCP
20 12(b)(5) motions on February 22, 2016, there was no motion to limit the scope of
21 discovery before the Court. Nor was there a motion pending to certify the class. No
22 authorities, no briefing, no evidence and no analysis had been submitted to the Court
23 on either of those issues. Instead, at the end of a long calendar of cases and near the
24 conclusion of a lengthy argument by multiple lawyers on the NRCP 12(b)(5)
25 motions, there was a brief and disjointed discussion regarding potential discovery.
26 Understandably, Judge Scann was tired. She acknowledged that she had not been
27 able to read all the authorities cited by the parties. *See, e.g.*, Exhibit "23" at 20:24-
28 21:5. There was no prior notice regarding consideration of the scope of discovery

² With the exception of elimination of Plaintiffs' third cause of action for elder abuse.

1 and, at that point, everyone was tired and eager to leave the courtroom. Judge Scann
2 may have felt bewildered by the huge volume of paper, as she was not well. But she
3 spoke casually about potential discovery limitations, at Defendants' invitation, to
4 briefly play the devil's advocate before departing the bench. No discovery order was
5 made. To date, no written order regarding Defendants' NRCP 12(b)(5) motions—or
6 the February 2016 hearing more generally—has been entered by this Court.

7 It is long settled under Nevada law that “an order is not effective until the
8 district court enters it” by filing a “signed *written* order with the court clerk.” *Div. of*
9 *Child & Family Servs. v. Eighth Judicial Dist. Court* (2004) 120 Nev. 445, 451, 92
10 P.2d 1239, 1243 [emphasis in original; citation omitted]. “Before the court reduces its
11 decision to writing, signs it, and files it with the clerk, the nature of the judicial
12 decision is impermanent.” *Id.* [citing *Rust v. Clark Cty. School District* (1987) 103
13 Nev. 686, 688, 747 P.2d 1380, 1382]; *see also, e.g., K.P.D. v. Eighth Judicial Dist.*
14 *Court* (2014) 2014 Nev. Unpub. LEXIS 1083, at *2. A Court’s “oral pronouncement
15 from the bench, the clerk’s minute order, and even an unfiled written order are
16 ineffective for *any purpose*.” *Div. of Child & Family Servs., supra*, 120 Nev. at 451,
17 92 P.2d at 1243 [quoting *Rust, supra*, at 689, 747 P.2d at 1382][emphasis added in
18 original]. Thus, “*dispositional* court orders that are not administrative in nature, but
19 deal with the procedural posture or merits of the underlying controversy, *must be*
20 *written, signed, and filed before they become effective*.” *Id.* at 454, 92 P.3d at 1245
21 [emphasis added].

22 Even assuming arguendo that the Court’s oral pronouncements could be
23 effective, there is nothing to suggest that the Court intended to actually rule on
24 discovery issues, including the possible limited scope or phasing of discovery, not
25 properly before it at the February 2016 hearing. The scope of discovery was not
26 raised by the NRCP 12(b)(5) motions then before the Court. It is a certainty that no
27 relevant case authorities on point had been submitted to or read by the Court. In fact,
28 the Court acknowledged on the record that she had not even had the opportunity to

1 read all of the case authorities submitted on the NRCp 12(b)(5) issues. *See, e.g.,*
2 Exhibit “23” at 20:24-21:5. Nevertheless, the Commissioner has treated random
3 comments as an “order,” based on her belief about Judge Scann’s intent, and
4 designed a discovery protocol that is improper, unwarranted, and burdensome.

5 Class action procedure and class action jurisprudence are complicated and the
6 relevant authorities voluminous, and it is a specialized practice area. We share and
7 join in the Commissioner’s respect for Judge Scann. Judge Scann was an excellent
8 jurist. These Plaintiffs do not believe that she intended to pre-judge and rule on
9 sophisticated issues that were not before her, not the subject of any noticed motion,
10 and not aided by a presentation of authorities, evidence, argument, and analysis
11 submitted by attorneys with class action experience. Furthermore, there were no
12 specific discovery requests before Judge Scann that would have informed her
13 regarding exactly what volume and scope of class discovery was desired by
14 Plaintiffs, and the relative ease and lack of undue burden for Defendants to produce
15 the requested ESI, information and documentation, in the context of a Nevada state-
16 wide class action with a probable value of approximately 80 million dollars. State-
17 wide injunctive relief is also at issue. (Even if Judge Scann did intend to rule on the
18 scope of discovery at the February 2016 hearing, the Court, until a written order is
19 entered, remains wholly free to reconsider those oral pronouncements and issue a
20 different written ruling. *Div. of Child & Family Servs., supra*, 120 Nev. at 451, 92
21 P.2d at 1243 [“Before the court reduces its decision to writing, signs it, and files it
22 with the clerk, the nature of the judicial decision is impermanent” and the Court
23 “remains free to reconsider the decision and issue a different written judgment.”]; *see*
24 *also, e.g., K.P.D., supra*, 2014 Nev. Unpub. LEXIS 1083, at *2.

25 There is therefore no legitimate ground for Defendants or the Commissioner to
26 rely on Judge Scann’s oral comments at the February 2016 hearing regarding the
27 possible scope of discovery. It is similarly erroneous for the Commissioner to make
28 rulings on the scope of discovery and other matters based exclusively and directly on

1 or in deference to this phantom, non-existent order from Judge Scann. *See, e.g., Div.*
2 *of Child & Family Servs., supra*, 120 Nev. at 451, 92 P.2d at 1243 [oral rulings on
3 procedural posture or merits of case are ineffective for any purpose].

4 It is notable in this regard that, as the Commissioner recognized, even
5 Defendants' proposed order following the February 22, 2016 hearing, which was
6 submitted to the Court by Defendants on March 7, 2016, wholly omitted any
7 reference to the scope of discovery and did not suggest in any way that the Court
8 ruled on the scope of discovery. *See* Exhibit "26" to the undersigned's declaration.
9 Indeed, in their March 7, 2016 cover letter, Defendants merely suggested that the
10 Court at the hearing had "indicated discovery should be limited to the named
11 Plaintiffs." *Id.* Defendants' proposed order made no reference to discovery or its
12 scope. *Id.* Thus, even if Defendants' own proposed order had been adopted in whole
13 by the Court, there still would be no Court order regarding the scope of discovery for
14 the parties or the Commissioner to follow or be bound by.

15 In order to correct this erroneous application of a non-existent phantom order
16 or ineffective oral pronouncements, the Court should enter an appropriate written
17 order on Defendants' NRCP 12(b)(5) motions and in doing so clarify that no rulings
18 on the scope of discovery were made by the Court to date, and discovery should
19 accordingly proceed per NRCP. Alternatively, the Court should indicate that
20 discovery to determine class certification should occur first.

21
22 **B. DESPITE THE NONEXISTENCE OF A WRITTEN ORDER, THE**
23 **COMMISSIONER'S RECOMMENDATIONS HAVE BEEN**
24 **CONSTRAINED BY HER BELIEF THAT SHE MUST FOLLOW HER**
25 **INTERPRETATION OF JUDGE SCANN'S ORAL COMMENTS AT**
26 **THE FEBRUARY 22, 2016 HEARING**

27 Despite the non-existence of any order from the Court on the scope of
28 discovery, the Commissioner apparently believes that she must follow Judge Scann's
phantom order (or the Court's oral statements at the February 2016 hearing) in

1 making her own recommendations on discovery in this case. At the July 20, 2016
2 hearing on Defendants' motions to bifurcate or phase discovery, for instance, the
3 Commissioner recognized that no written order on Defendants' NRCP 12(b)(5)
4 motions was ever signed—let alone entered—by the Court. *See* Exhibit “24” at 9:12-
5 24. Nonetheless, the Commissioner, in an attempt to channel or interpret Judge
6 Scann's intentions from her oral statements at the February 2016 hearing, has
7 allowed those ineffective oral statements to guide or constrain her recommendations
8 on the scope of discovery and the propriety of phased discovery in this case. *See, e.g.,*
9 *id.* [DISCOVERY COMMISSIONER: “I know the parameters that the judge [Judge
10 Scann] wanted to put in place in discovery.”]; *id.* at 14:4-5, 12-14 [DISCOVERY
11 COMMISSIONER: “I understand what the judge [Judge Scann] meant by looking at
12 the individual plaintiff's cases because she was thinking of the liability issue. . . . She
13 contemplated discovery on that issue.”]; 24:5-6 [DISCOVERY COMMISSIONER:
14 “I was trying to honor what I believe was prudent on Judge Scann's part to address
15 the legal issues first.”]; Exhibit “25” at 4:17-18 [DISCOVERY COMMISSIONER:
16 “I did try to articulate [at the July 20, 2016 hearing] what I thought the Judge [Scann]
17 intended.”]; *id.* at 14:22-15:2 [DISCOVERY COMMISSIONER: “But the Court *has*
18 *already ruled* on the issue from the February 22 hearing, and *the Court has said* that
19 we are only doing discovery on the named plaintiffs. I extended that to include the
20 legal validity of the plaintiffs' claims, but I included the plaintiffs'
21 claims.”][emphasis added]. Indeed, during the September 21, 2016 hearing, the
22 following colloquy on this issue occurred between the undersigned and the
23 Commissioner:

24 THE DISCOVERY COMMISSIONER: But I said that was going to be part of
25 Class [Phase] 2, the class certification. You have to determine if there a legally
valid claim first —

26 MR. BOYLAN: And what I'm suggesting to you —

27 THE DISCOVERY COMMISSIONER: — and if you disagree with that, and if
28 you disagree with what the Court or *my interpretation of what Judge Scann*
decided to do and how she decided to do it, then you need to file the

1 appropriate motion with the department. An order has not yet been signed.
2 And so why not file your motion to reconsider or for clarification with the
3 District Court Judge?

4 MR. BOYLAN: Thank [you], Your Honor.

5 THE DISCOVERY COMMISSIONER: *Because I can't overrule the District*
6 *Court Judge.*

7 MR. BOYLAN: And I don't think there's an order. So you're not overruling
8 anyone, but we can --

9 THE DISCOVERY COMMISSIONER: Well, I disagree with you on that in
10 principle *because the Court has spoken.*

11 Exhibit "25" at 17:15-18:3 [emphasis added].

12 The approach adopted by the Commissioner is especially troubling here
13 because the Commissioner has also indicated that she would not recommend phasing
14 discovery *if she were not constrained by Judge Scann's phantom rulings. See, e.g.,*
15 *Exhibit "24" at 14:12-24; 24:3-11 [DISCOVERY COMMISSIONER: "Maybe this*
16 *case doesn't lend itself to that [i.e., phasing of discovery]. Maybe I just need to give*
17 *you one set of deadlines and you do whatever you feel is best. But I was trying to be*
18 *prudent. I was trying to honor what I believe was prudent on Judge Scann's part to*
19 *address the legal issues first."]*; Exhibit "25" at 100:24-101:3 [DISCOVERY
20 COMMISSIONER: "Well, I'll tell you how we could really be efficient, but you
21 don't want to hear it. . . . *We just don't phase discovery. That's how we be*
22 *efficient.*"] [emphasis added]. At the hearing on July 20, 2016, after the undersigned
23 explained why Judge Scann's oral statements at the February 2016 hearing should
24 not dictate the scope of discovery, the Commissioner stated:

25 DISCOVERY COMMISSIONER: Oh, I agree with you [i.e., Plaintiffs'
26 counsel]. Believe it or not, plaintiffs' counsel, I actually am persuaded by your
27 perspective of the case. *Had I seen you all initially, I might have done*
28 *something a little bit differently [than phase discovery].* But having said that, I
understand where the court [i.e., Judge Scann] was coming from and I want to
be able to make sure that we do this in a fashion that makes sense -- for your
clients as well.

Exhibit "24" at 14:20-24 [emphasis added].

1 More recently, at the September 21, 2016 hearing, the Commissioner also
2 expressly invited Plaintiffs to file the instant motion with the Court, explaining that it
3 was necessary to do that because the Commissioner would otherwise be bound to
4 follow Judge Scann's oral statements at the February 2016 hearing. Exhibit "25" at
5 21:10-22 [DISCOVERY COMMISSIONER: "Now, I am inviting you to file an
6 appropriate motion with the Court if you feel that that [i.e., Judge Scann's phantom
7 order] was an inappropriate decision, but you [i.e., Plaintiffs] need to do that because
8 I am not going to overrule Judge Scann in her thought process" at the February 2016
9 hearing and instructing Plaintiffs to "[s]eek clarification" from the Court].

10 Plaintiffs therefore have brought this motion to seek clarification from the Court,
11 through entry of an appropriate written order on Defendants' NRCP 12(b)(5)
12 motions, that no binding order on the scope of discovery has been entered by the
13 Court thus far. For reasons explained in Plaintiffs' prior papers on Defendants'
14 discovery motions, Plaintiffs' oral arguments at the February 22, 2016, July 20, 2016,
15 and September 21, 2016 hearings, and in Plaintiffs' papers here, phasing of discovery
16 is not appropriate in this case. To the extent that any phasing is appropriate,
17 discovery should be phased so that class certification discovery (along with merits
18 discovery where there is overlap between the two) should precede merits discovery.
19 Such an approach would allow the Court to make the class certification decision as
20 soon as practicable before the parties turn to the merits of Plaintiffs' claims.

21
22 **C. THE PARTICULARS OF THE PHASING LIMITATIONS**
23 **RECOMMENDED BY THE COMMISSIONER ARE ERRONEOUS**
24 **AND HIGHLY PREJUDICIAL TO PLAINTIFFS**

25 Example One: Repeatedly, in connection with both NRCP 16.1 disclosures and
26 Defendants' responses to multiple items of Plaintiffs discovery (e.g., interrogatories
27 and requests for production), based on her phasing protocol, the Commissioner has
28 declared that the Defendants are not to provide Plaintiffs the names and the contact
information of any other Nevada debtors involved in the collection/foreclosure

1 activities of each of the Defendants.³ The undersigned has repeatedly stated to the
2 Commissioner that the other individuals in Nevada who were also victims of illicit
3 collection agency activity are important witnesses, and the information is not sought
4 for purposes of “class discovery” at this time.⁴ Plaintiffs have made clear to the
5 Discovery Commissioner, repeatedly, that these witnesses have critical information
6 and documentation, i.e., important evidence, that is needed to defeat the numerous
7 summary judgment motions anticipated from each of the Defendants. *See, e.g.*,
8 Exhibit “24” at 19:20-20:20; 21:9-15; 32:11-19; 36:6-9; 41:22-42:18; 44:5-10;
9 Exhibit “25” at 20:8-21:22; 60:4-61:7 These witnesses have evidence that Defendants
10 were engaged in business activities as a collection agency in Nevada, per N.R.S.
11 649.020(1).

12 The protocol designed by the Commissioner specifically sets up Defendants’
13 near-term and premature summary judgment motions, and at the same time blocks
14 Plaintiffs’ discovery of these important witnesses and their relevant documentation
15 and testimony. These other Nevada debtors/witnesses are expected to present
16 evidence of specific collection actions undertaken against each of them by each of the
17 several Defendants, including debt validation correspondence, requests for payment
18 on the defaulted loans, directions for how and where to submit payments to
19 Defendants with respect to the defaulted loans, telephone communications of the
20 Defendants regarding the defaulted loans, debt-reinstatement communications, pay-
21 off communications with Nevada debtors regarding the defaulted loans, checks
22 delivered to the Defendants with respect to the defaulted loans, including pay-off
23 checks etc. Such evidence establishes the validity of Plaintiffs’ claims under the
24 N.R.S. 649 020(1). These are among the many examples of collection agency
25 activities these witnesses will show were in fact performed by the Defendants. It will

26 ³ The only exception apparent from the Commissioners’ declaration would apply to debtors who made some form of
27 complaint regarding Defendants’ activities.

28 ⁴ Incorrectly, the Commissioner seems to have the impression that Plaintiffs desire to improperly sneak through the
“back door” in order to obtain the information for class discovery and/or the class certification motion. This is flatly
wrong. (See Exhibit “25” at 50:15 for the back-dooring reference by the Commissioner.)

1 be proven for a broad range of additional people who can submit evidence in
2 opposition to the anticipated summary judgment motions. But Plaintiffs must have
3 their names, in order to contact the witnesses. *See, e.g., Pioneer Electronics (USA),*
4 *Inc. v. Superior Court* (2007) 150 P.3d 198, 205-206, 40 Cal.4th 360, 373; *Bartold v.*
5 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 836; *Doyon v. Rite Aid Corp.* (D.
6 Me. 2011) 279 F.R.D. 43, 46-47; *Pirjada v. Superior Court* (Ct. App. 2011) 201
7 Cal.App.4th 1074, 1088 [“precertification discovery may be allowed . . . to identify a
8 substitute class representative in place of one who is not able to serve in that
9 capacity, as well as to assist the lead plaintiff in learning the names of other
10 individuals who might assist in prosecuting the action”]; *Hernandez v. Best Buy Co.*
11 (S.D. Cal. Oct. 15, 2014) 2014 U.S. Dist. LEXIS 147630, at *24 [“In the context of a
12 class action, disclosure of basic contact information for putative class members is
13 ‘common practice’ and does not constitute a serious invasion of privacy, particularly
14 when the Court determines that they may possess relevant discoverable information
15 about class certification issues and the other allegations in plaintiff’s
16 Complaint.”][quoting *Artis v. Deere & Co.* (N.D. Cal. 2011) 276 F.R.D. 348, 353];
17 *Minns v. Advanced Clinical Empl. Staffing LLC* (N.D. Cal. May 9, 2014) 2014 U.S.
18 Dist. LEXIS 65198, at *4-5 [allowing pre-certification discovery of putative class
19 members’ contact information because “[c]lass members are percipient witnesses
20 who can provide anecdotal evidence about their experiences that likely is not
21 captured in the written discovery produced by defendant and that may differ from the
22 evidence available from defendant’s witnesses”]; *see also Oppenheimer Fund, Inc.,*
23 *supra*, 437 U.S. at 354 n.20 [“There may be instances where [class members’ names
24 and addresses] could be relevant to issues that arise under Rule 23 . . . or where a
25 party has reason to believe that communication with some members of the class
26 could yield information bearing on these *or other issues*.”][emphasis added]; *Knaupf*
27 *v. Unite Here Local 100* (D.N.J. Nov. 23, 2015) 2015 U.S. Dist. LEXIS 157710, at
28 *15-16 [denying motion to limit discovery to named plaintiff’s claims and noting that

1 “both the Supreme Court and the Court of Appeals for the Third Circuit have held
2 that the names and addresses of putative class members are discoverable”][citing
3 *Hoffmann-La Roche Inc. v. Sperling* (1989) 493 U.S. 165, 170, and *Oppenheimer*
4 *Fund v. Sanders* (1978) 437 U.S. 340, 354 n.20]. Indeed, partly for these reasons,
5 “[m]ost judges are reluctant to restrict communications between the parties or their
6 counsel and potential class members, except when necessary to prevent serious
7 misconduct.” MANUAL FOR COMPLEX LITIGATION, FOURTH (2004) § 21.12 [citing
8 *Gulf Oil Co. v. Bernard* (1981) 452 U.S. 89, 101-02].

9 Example Two: Furthermore, as a part of her phasing protocol, the
10 Commissioner has seemingly declared that Plaintiffs are barred from any direct and
11 specific discovery of the specific banking information and the total dollar amounts
12 each of the Defendants collected, directly and/or indirectly, from all of the Nevada
13 debtors. Again, this has nothing to do with class certification, but relates directly to
14 proving that each of the Defendants was conducting business as a collection agency,
15 consistent with the keystone definition stated in N.R.S. 649.020(1).

16 Drawing on her interpretation of casual comments made by Judge Scann, the
17 Commissioner has ordained that the first priority in this case is to “determine the
18 validity of Plaintiffs’ claim,” notwithstanding that Judge Scann denied the 12(b)(5)
19 motion which tested exactly that issue. More specifically, the Commissioner has
20 stated the need to first examine and adjudicate whether each of the Defendants was
21 acting as a collection agent in the state of Nevada. As argued unsuccessfully to the
22 Commissioner, Plaintiffs cannot envision any evidence more compelling on her
23 defined issue than specific and direct proof of the total dollar amounts actually
24 collected by each of the Defendants from Nevada debtors on behalf of their lender
25 clients! This evidence will be compelling, if not dispositive of the Commissioner’s
26 targeted issue, and this point seems remarkably obvious. Nevertheless, somehow

1 based on the phasing concept, the Commissioner has refused to allow Plaintiffs to
2 directly discover this compelling evidence.⁵

3
4 **D. THE LIMITED EVIDENCE AVAILABLE AT THIS TIME SHOWS**
5 **THAT DEFENDANTS ARE CULPABLE AND THAT DEFENDANTS**
6 **HAVE NOT BEEN HONEST WITH THE COURTS, PROVIDING**
7 **ANOTHER REASON WHY DISCOVERY SHOULD NOT BE LIMITED**
8 **TO SET UP PREMATURE SUMMARY JUDGMENT MOTIONS**

9 In their various and several motions submitted to the federal and state courts
10 after this lawsuit was filed in 2011, Defendants have adamantly sworn to the courts
11 that they did nothing or little more than file a statutory notice of default, and
12 therefore they did not require a collection agency license from the State of Nevada,
13 Department of Business and Industry, Financial Institutions Division ("FID").⁶

14 ⁵ See, e.g., Exhibit "25" at 60:4-61:7, and at 69:3-10.

15 ⁶ By itself, even under the less stringent federal law, the business of processing non-judicial
16 foreclosures, admittedly done by Defendants here, constitutes debt collection as a matter of law,
17 according to numerous and uniform published federal circuit court decisions. According to all the
18 federal appellate courts, which issue the binding decisions that set the legal precedents which must
19 be followed by federal trial courts, under the less stringent federal law (the FDCPA, not at issue
20 here, but relevant in the unpublished trial court orders relied upon by Defendants), trustees
21 conducting foreclosure activities are debt collectors. See *Glazer v. Chase Home Fin. LLC* (6th Cir.
22 2013) 704 F.3d 453, 455; *Wilson v. Draper & Goldberg PLLC* (4th Cir. 2006) 443 F.3d 373; *Piper*
23 *v. Portnoff Law Assocs.* (3rd Cir. 2005) 396 F.3d 227; *Reese v. Ellis, Painter, Ratterree & Adams*
24 *LLP* (11th Cir. 2012) 678 F.3d 1211; *Romea v. Heiberger & Assocs.* (2nd Cir. 1998) 163 F.3d 111,
25 117; *Gburek v. Litton Loan Servicing LP* (7th Cir. 2010) 614 F.3d 380, 386; *Kaltenbach v.*
26 *Richards* (5th Cir. 2006) 464 F.3d 524; *Glazer v. Chase Home Fin. LLC* (6th Cir. 2013) 704 F.3d
27 453; see also *Rowe v. Educ. Credit Mgmt. Corp.* (9th Cir. 2009) 559 F.3d 1028; *Carter v. Deutsche*
28 *Bank Nat'l Trust Co.* (N.D. Cal. May 7, 2010) 2010 U.S. Dist. LEXIS 44984 [declining to dismiss
FDCPA claim at pleading stage]. The *Wilson* and *Piper* holdings have also been recognized as
sources of authority by a trial court in the 1st Circuit. *Moore v. Mortgage Elec. Registration Sys.*
(D.N.H. Jan. 27, 2012) 848 F. Supp. 2d 107 [holding claims could not be dismissed on basis of
activities not falling within FDCPA]; *Alaska Trustee LLC v. Ambridge* (Alas. 2016) 2016 Alas.
LEXIS 23; *Porada v. Monroe* (Minn. App. July 28, 2014) No. A-13-1615, 2014 WL 3700820
[unpublished].

24 The decision in *Wilson* is also on all fours. Like Defendants here, the defendants in *Wilson*
25 relied on various unreported district court decisions. *Wilson, supra*, 443 F.3d at 374. The Fourth
26 Circuit unambiguously rejected the defense contention that they could not be "debt collectors"
27 under the FDCPA because they were substitute trustees foreclosing on a deed of trust. *Id.* As here,
28 Defendant had engaged in a variety of debt collection activities, including sending letters and/or
notices expressly admitting that they were attempting to collect a debt. *Id.* at 374-375; see also
Glazer, supra.

The Ninth Circuit has cited the *Wilson* decision without reservation or restriction. *Rowe,*
supra, 559 F.3d 1028. Another trial court in the Ninth Circuit refused to dismiss a FDCPA case at
the pleading stage, recognizing the authority for finding the FDCPA applies. *Carter, supra*, 2010

1 Defendants denied any collection letters, money collection, debt validations process,
2 loan reinstatements, loan modifications, loan pay-offs, loan foreclosure work, or
3 phone contacts, for example. As demonstrated in part in the undersigned's
4 declaration in support of this motion and Plaintiffs' prior briefing to the
5 Commissioner, these unequivocal and strident representations to the Courts by
6 Defendants are false. The evidence is beginning to mount.

7 8 1. THE STATES ARE UNIFORM

9 Like Nevada, many states have statutes requiring companies in the debt
10 collection business to obtain a license from the state before pursuing that business
11 within its geographical boundaries and against its citizens. It is a simple fact, and a
12 routine application of those state statutes, that if you pursue collection agency activity
13 on defaulted debts by foreclosure, lawsuit, demands, issuing notices, sending letters,
14 engaging in phone calls, requesting payments, requesting or discussing reinstatement
15 of the defaulted debt, etc., and do so without a license, you have violated the state's
16 law and committed illegal acts. *See Finch v. LVNV Funding LLC* (Maryland App.
17 2013) 212 Md.App. 748 [class action]; *Badeen v. Par, Inc.* (Michigan 2014) 496
18 Mich. 75 [class action]; *Wade v. Regional Credit Association* (9th Cir. 1996) 87 F.3d
19 1098 [Idaho statute]; *Suttell & Assoc. v. Encore Capitol Group* (Wash. 2014) 181
20 Wash. 2d 329; *JHass Group LLC v. Arizona Dept. of Financial Institutions* (Ariz.
21 App. 2015) 238 Ariz. 377; *Simpson v. Cavalry SPV* (Ark. 2014) 440 S.W. 2d 335;
22 *Commercial Service of Perry, Inc. v. Fitzgerald* (Colo.App. 1993) 856 P.2d 58;
23 *Centurion Capital Corp. v. Druce* (N.Y. Slip Op. 26521) 828 N.Y.S. 2d 851; *Smith v.*
24 *LVNV Funding LLC* (E.D. Tenn. 2012) 894 F.Supp.1045 [Tennessee statute]; *Veras*
25 *v. LVNV Funding LLC* (D. N.J. Mar. 17, 2014) 2014 WL 1050512.

26
27 U.S. Dist. LEXIS 44984. Given the consensus among numerous federal circuit courts, any trial
28 court orders to the contrary are without force. They are simply wrong.

And, the evidence presented herewith shows much more than simply filing a NOD by
Defendants. *See* Boylan Declaration and exhibits.

1 E. IF ANYTHING, JUDGE SCANN'S COMMENTS FAVOR AND
2 SUPPORT THE QUICK ACQUISITION OF THE EVIDENCE
3 PLAINTIFFS SEEK, AND WHICH IS READILY AVAILABLE, AT
4 MINIMAL COST, FROM DEFENDANTS' DATABASES

5 As reflected in Plaintiffs' legal briefing in opposition to Defendants' NRCP
6 12(b)(5) motions, Plaintiffs assert two positions here, based on the plain text of
7 N.R.S. 649 and all applicable and persuasive appellate authorities. First, the non-
8 judicial foreclosure business and process involved in Nevada and which Defendants
9 admit executing, is itself a form of debt collection that required Defendants to obtain
10 their collection agency license from the FID (as implicitly acknowledged when QLS
11 obtained its collection agency license in 2011, and when MTC obtained its collection
12 agency license in 2012). *E.g., Glazer, supra*, 704 F.3d at 455; *Wilson, supra*, 443
13 F.3d at 376).

14 Second, and perhaps more important here given Judge Scann's general
15 comments in February 2016, the evidence—as reflected at length in the
16 undersigned's declaration in support of this motion—will also show that, contrary to
17 Defendants' uniform and sworn protestations to multiple courts since this case was
18 filed in 2011, Defendants did far more than simply file a statutory notice of default
19 under N.R.S. 107. Boylan Declaration, at ¶¶ 2-28 and exhibits discussed therein.
20 Plaintiffs have been proceeding diligently to quickly gather all that evidence to
21 present to the Court. However, for 7 months, Plaintiffs have faced massive discovery
22 obstruction by Defendants, and have filed about 10 motions to compel so far.
23 Nevertheless, the powerful evidence Plaintiffs have already amassed on this point is
24 compelling, and is discussed in detail in the undersigned's declaration in support of
25 this motion. Boylan Decl. ¶¶ 2-28, Exhibits "1" through "22" thereto.

26 Although not necessary under N.R.S. 649.020(1), Judge Scann apparently
27 wanted to see evidence indicating the collection letters, notices, calls and related
28 phone communications and correspondence by Defendants with the named Plaintiffs.
Most probably, the NRCP 30(b)(6) and individual depositions will continue to reveal

1 this information with respect to thousands of Nevadans, and it also can be obtained
2 relatively easily and effectively from the databases of Defendants. Unfortunately, per
3 her phrasing rules and interpretations, the Commissioner has barred most all discovery
4 not directly related to the named Plaintiffs. This prohibition by the Commissioner, for
5 example, also applies to all collection correspondence issued to the unnamed
6 Nevadans by Defendants. Exhibit “11” hereto is a document produced by QLS. On
7 its face, the document indicates that all correspondence and telephone
8 communications were the subject of electronic entries logged and/or stored in each
9 Plaintiffs’ file. Copies of all collection letters are also said to be included in QLS’
10 files on Plaintiffs. Surely, this can be easily accessed, copied, or printed for all class
11 members. The same is shown as to MTC. Exhibit “3”. The Commissioner’s
12 prohibition of such key discovery should not be adopted by the Court.

13 **1. Class Certification Is Probable Here**

14 Defendants seek to misdirect the Court regarding how class certification will
15 be accomplished, as reflected by the spontaneous defense commentary at the
16 February 2016 hearing. Defendants suggest, erroneously, that there will be one
17 motion to certify one class against all Defendants. That is incorrect. Each Defendant
18 will be the subject of a distinct class certification motion, brought by the particular
19 class representatives related to each Defendant. If the Court overrules Defendants’
20 refusal to identify other class members in discovery, which identification information
21 is needed as soon as possible, additional witnesses and class representatives will
22 likely be added as to each Defendant, and they will provide additional support for the
23 class certification motion, as is common and usually encouraged by class action
24 courts in these types of proceedings.

25 Plaintiffs already have pending a motion to amend to add Plaintiff Bijan
26 Laghaei, an individual discovered by Plaintiffs’ counsel earlier this year, as a named
27 Plaintiff and putative class representative against MTC. As discussed in the
28

undersigned's declaration, Plaintiff Laghaei and documents produced by MTC relating to him have already provided Plaintiffs with a wealth of evidence in support of their claims against MTC. Boylan Declaration, at ¶¶ 5-6 and exhibits discussed therein. These documents show definitively that MTC communicated repeatedly by telephone and e-mail with Plaintiff Laghaei regarding payment of his defaulted debt, negotiated a forbearance agreement with Plaintiff Laghaei on the lender's behalf, and collected payment from Plaintiff Laghaei on his debt. *Id.* It is also clear from these documents that at least a portion of the money being paid by Plaintiff Laghaei was to go ultimately to MTC as payment of unlawful fees and costs charged by MTC for its debt-collection services. *Id.* When the identities, telephone numbers, and last known addresses of other class members are revealed by Defendants, some of those additional class members will come forward as key witnesses, with additional documentation and testimony that will prohibit summary judgment by Defendants and provide persuasive evidence supporting a judgment against Defendants. The Commissioner's prohibition of such discovery should not be adopted by the Court.

For reasons explained below, Defendants' position on discovery in this matter is misguided and inefficient, and will unnecessarily and improperly delay the Court's determination whether class certification is appropriate here. Accordingly, the Court, exercising its discretion in this matter, should allow Plaintiffs an adequate opportunity to conduct reasonable and normal class discovery, especially as to matters relating to class certification. Under the circumstances presented here, denial of the discovery sought by Plaintiffs would effectively strip the class allegations from the complaint, and deny Plaintiffs the opportunity for prompt certification.

2. The Text of the Law Is Broad and Clear, and Provides the Discovery Framework

The critical differences between the FDCPA and N.R.S. chapter 649 are clear from the stated purpose and scope of each statute. In enacting the FDCPA, Congress' limited purpose was only to eliminate abusive debt collection practices by debt collectors. *See* 15 U.S.C § 1692(e) ["It is the purpose of [the FDCPA] to eliminate

1 abusive debt collection practices by debt collectors, to insure that those debt
2 collectors who refrain from using abusive debt collection practices are not . . .
3 disadvantaged, and . . . to protect consumers against debt collection abuses.”].

4 Quite differently, the Nevada legislature intended more stringent and
5 comprehensive regulatory control over collection agencies through N.R.S. chapter
6 649. In addition to addressing abusive debt collection activities, Nevada also
7 regulates who engages in debt collection activities and who may be qualified to
8 engage in such activities, and imposes additional regulations on those who engage in
9 such activities. *See* N.R.S. 649.045(2) [“It is the purpose of this chapter to: (a) [b]ring
10 licensed collection agencies and their personnel under more stringent public
11 supervision; (b) [e]stablish a system of regulation to ensure that persons using the
12 services of a collection agency are properly represented; and (c) [d]iscourage
13 improper and abusive collection methods.”]; *see also* N.R.S. 649.075 [requiring
14 collection agencies to be licensed]; N.R.S. 649.085 [listing the qualifications to
15 obtain a license]; N.R.S. 649.095 [listing the application requirements for a license];
16 N.R.S. 649.167 [requiring branch offices to obtain a permit from the Commissioner];
17 N.R.S. 649.295 [requiring the payment of a fee for a license].

18 Critical here, the definitions of “debt collector” or “collection agency” stated in
19 the FDCPA and N.R.S. chapter 649 further indicate the great differences in their
20 schemes. In a limited fashion, Congress defined “debt collector” under the FDCPA
21 as, “any person who uses any instrumentality of interstate commerce or the mails in
22 any business the principal purpose of which is the collection of any debts, or who
23 regularly collects or attempt to collect, directly or indirectly, debts owed or due or
24 asserted to be owed or due another.” 15 U.S.C. § 1692a(6). In other words, the
25 FDCPA only regulates any person who performs debt collection activities as the
26 primary purpose of the business.

1 **3. The Governing Statutory Language: N.R.S. 649.020(1)**

2 N.R.S. 649.020(1) is the critical Nevada statute here. It defines collection
3 agency much more broadly than the federal statute as “all persons engaging, directly
4 or indirectly, and as a primary or a secondary object, business or pursuit, in the
5 collection of or in soliciting or obtaining in any manner the payment of a claim owed
6 or due or asserted to be owed or due to another.” N.R.S. 649.020(1)[emphasis added].
7 N.R.S. chapter 649 is not limited to the collection of debts being the primary purpose,
8 and includes the soliciting of payments and obtaining in any manner the payment of a
9 claim, even as a secondary object of their activity, and even if indirectly. Here,
10 according to Plaintiffs’ evidence, including Defendants’ own documents, it is shown
11 that, at an absolute minimum, debt collection was a secondary object of Defendants’
12 business activities. And, in any event, they can do both. *Reese, supra*, 678 F.3d at
13 1217-1218 [“A communication related to debt collection does not become unrelated
14 to debt collection simply because it also relates to the enforcement of a security
15 interest. A ‘debt’ is still a ‘debt’ even if it is secured.”]. As detailed in the
16 undersigned’s declaration in support of this motion, Defendants’ own documents
17 show that Defendants admit they were soliciting and collecting payments on
18 delinquent debt owed to the client-lenders. In fact, even the straight and simple
19 statutory foreclosure process, by itself, constitutes debt collection. *Glazer, supra*, 704
20 F.3d at 455; *Wilson, supra*, 704 F.2d at 455. *Alaska Trustee LLC, supra*, 2016 Alas.
21 LEXIS 23. For an important discussion of the applicable law governing this case, and
22 the law which compelled the denial of Defendants’ NRCP 12(b)(5) motions in
23 pertinent part, Plaintiffs respectfully ask that the Court review Plaintiffs’ main
24 Opposition Brief to the NRCP 12(b)(5) motions, attached as Exhibit “27” hereto.

25 It must be clear that Defendants bear a heavy burden to obtain the discovery
26 phasing they seek here. *See* NRCP 26(c) [“Upon motion by a party . . . accompanied
27 by a certification that the movant has in good faith conferred or attempted to confer
28 with the other affected parties in an effort to resolve the dispute without court action,

1 *and for good cause shown*, the court . . . may make any order which justice requires
2 to protect a party or person from annoyance, embarrassment, oppression ,or undue
3 burden or expense”][emphasis added]; *Okada v. Eighth Judicial Dist. Court*
4 (2015) 131 Nev. Adv. Rep. 83, 359 P.3d 1106, 1112 [“[T]he language in NRCP 26(c)
5 . . . requires the person seeking a protective order from the district court to establish
6 ‘good cause’ for obtaining that protection.”]; *Charvat v. Plymouth Rock Energy, LLC*
7 (E.D.N.Y. Jan. 12, 2016) 2016 U.S. Dist. LEXIS 6778, at *5 [Defendant “Plymouth
8 has failed to carry its burden of establishing that bifurcation is appropriate.”].
9 Notwithstanding the denial of their NRCP 12(b)(5) motions, Defendants desire to
10 strangle and emasculate an approximately 80 million dollar class action before
11 counsel can gather from them and crucial witnesses the evidence needed to
12 conclusively prove the validity of the Plaintiffs’ claims.

13
14 **F. CLASS DISCOVERY IS NECESSARY AND PROPER HERE, AT THIS**
15 **TIME, SO THAT CLASS CERTIFICATION CAN BE DETERMINED**
16 **AS SOON AS POSSIBLE (AND BEFORE PREMATURE SUMMARY**
17 **JUDGMENT AS TO ONLY THE NAMED PLAINTIFFS)**

18 Nevada courts look to decisions of federal and California courts (as well as
19 other jurisdictions) for guidance in class actions. *See, e.g., Shuette v. Beazer Homes*
20 *Holdings Corp.* (2005) 121 Nev. 837, 847-850, 124 P.3d 530, 537-539 [looking to
21 federal and California law in reviewing class action certification decision]. “Federal
22 cases interpreting the Federal Rules of Civil Procedure ‘are strong persuasive
23 authority, because the Nevada Rules of Civil Procedure are based in large part upon
24 their federal counterparts.’” *Exec. Mgmt. v. Ticor Title Ins. Co.* (2002) 118 Nev. 46,
25 53, 38 P.3d 872, 876 [quoting *Las Vegas Novelty v. Fernandez* (1990) 106 Nev. 113,
26 119, 787 P.2d 772, 776]; *see also Meyer v. Eighth Judicial Dist. Court* (1994) 110
27 Nev. 1357, 1363, 885 P.2d 622, 625 [drawing on federal law in interpreting NRCP
28 23 after stating that “NRCP 23, identical to its federal counterpart, governs the
process of class certification.”].