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Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**
2 **DARREN T. BRENNER, ESQ.**
3 Nevada Bar No. 8386
4 **WILLIAM S. HABDAS, ESQ.**
5 Nevada Bar No. 13138
6 **AKERMAN LLP**
7 1160 Town Center Drive, Suite 330
8 Las Vegas, Nevada 89144
9 Telephone: (702) 634-5000
10 Facsimile: (702) 380-8572
11 Email: darren.brenner@akerman.com
12 Email: william.habdas@akerman.com

13 *Attorneys for Defendants Bank of America, N.A., The Bank of New York Mellon fka The Bank of New*
14 *York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series*
15 *2005-17, and Mortgage Electronic Systems, Inc.*

16 **DISTRICT COURT**
17 **CLARK COUNTY, NEVADA**

18 **THOMAS JESSUP, LLC SERIES VII,**
19
20 **Plaintiff,**

21 **v.**

22 **LENA COOK, an individual; BNY MELLON,**
23 **N.A.; SFG MORTGAGE, a revoked Arizona**
24 **corporation; BANK OF AMERICA, N.A.;**
25 **MORTGAGE ELECTRONIC REGISTRATION**
26 **SYSTEMS, INC., a Delaware corporation;**
27 **HEIRS OF THE ESTATE OF LENA COOK;**
28 **and any and all other persons unknown claiming**
any right, title, estate, lien or interest in the
Property adverse to the Plaintiff's ownership, or
any cloud upon Plaintiff's title thereto (DOES 1
through 10, inclusive);

Defendants.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC; BNY
MELLON, N.A.

Counterclaimants,

vs.

Case No.: A-13-693205-C
Dept.: VII

DEFENDANTS THE BANK OF NEW
YORK MELLON FKA THE BANK OF
NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE
CWABS, INC., ASSET-BACKED
CERTIFICATES, SERIES 2005-17, BANK
OF AMERICA N.A., AND MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.'S NOTICE OF APPEAL

AKERMAN LLP
1160 TOWN CENTER DRIVE, SUITE 330
LAS VEGAS, NEVADA 89144
TEL.: (702) 634-5000 – FAX: (702) 380-8572

1 THOMAS JESSUP, LLC SERIES VII;
2 FOXFIELD COMMUNITY
3 ASSOCIATION; ABSOLUTE
4 COLLECTION SERVICES, LLC, (ROES 1
5 through 10, inclusive);

Counterdefendants.

6 Defendants Bank of America, N.A., The Bank of New York Mellon fka The Bank of New
7 York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series
8 2005-17, and Mortgage Electronic Systems, Inc. appeal the Decision and Order entered on July 14,
9 2017, and for which a Notice of Entry of Decision and Order was entered on July 20, 2017, and all
10 interlocutory orders incorporated therein. The Court found in favor of Plaintiff Thomas Jessup, LLC,
11 ruling that Plaintiff purchased the subject property at the HOA foreclosure sale subject to no prior
12 interest.

13 Dated: August 15, 2017

14
15 **AKERMAN LLP**

16 /s/ William S. Habdas

17 DARREN T. BRENNER, ESQ.

18 Nevada Bar No. 8386

19 WILLIAM S. HABDAS, ESQ.

20 Nevada Bar No. 13138

21 1160 Town Center Drive, Suite 330

22 Las Vegas, Nevada 89144

23 *Attorneys for Defendants Bank of America, N.A., The*
24 *Bank of New York Mellon fka The Bank of New York*
25 *as Trustee for the Certificateholders of the CWABS,*
26 *Inc., Asset-Backed Certificates, Series 2005-17, and*
27 *Mortgage Electronic Systems, Inc.*
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 15th day of August, 2017, I caused to be served a true and correct copy of the foregoing **DEFENDANTS THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2005-17, BANK OF AMERICA N.A., AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.'S NOTICE OF APPEAL**, in the following manner:

(**ELECTRONIC SERVICE**) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

Absolute Collection Services, LLC**Contact**

Shane D. Cox, Esq.

EmailShane@absolute-collection.com**Brooks Hubley LLP****Contact**

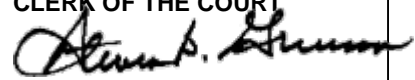
Efile desk at Brooks Hubley

Emailefile@brookshubley.com**Brooks Hubley, LLP****Contact**Jessica Perlick
Michael R. Brooks, Esq.**Email**jperlick@brookshubley.com
mbrooks@brookshubley.com**GERRARD COX & LARSEN****Contact**Douglas D. Gerrard, Esq.
John Langeveld
Kanani Gonzales**Email**dgerrard@gerrard-cox.com
JLangeveld@Gerrard-cox.com
KGonzales@Gerrard-cox.com**Richard L. Tobler, Ltd.****Contact**

Richard Tobler

Emailrltldck@hotmail.com/s/ Carla Llarena

An employee of AKERMAN LLP



1 **ASTA**
2 **DARREN T. BRENNER, ESQ.**
3 Nevada Bar No. 8386
4 **WILLIAM S. HABDAS, ESQ.**
5 Nevada Bar No. 13138
6 **AKERMAN LLP**
7 1160 Town Center Drive, Suite 330
8 Las Vegas, Nevada 89144
9 Telephone: (702) 634-5000
10 Facsimile: (702) 380-8572
11 Email: darren.brenner@akerman.com
12 Email: william.habdas@akerman.com

13 *Attorneys for Defendants Bank of America, N.A., The Bank of New York Mellon fka The Bank of New*
14 *York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series*
15 *2005-17, and Mortgage Electronic Systems, Inc.*

16 **DISTRICT COURT**
17 **CLARK COUNTY, NEVADA**

18 **THOMAS JESSUP, LLC SERIES VII,**
19
20 **Plaintiff,**

21 **v.**

22 **LENA COOK, an individual; BNY MELLON,**
23 **N.A.; SFG MORTGAGE, a revoked Arizona**
24 **corporation; BANK OF AMERICA, N.A.;**
25 **MORTGAGE ELECTRONIC REGISTRATION**
26 **SYSTEMS, INC., a Delaware corporation;**
27 **HEIRS OF THE ESTATE OF LENA COOK;**
28 **and any and all other persons unknown claiming**
any right, title, estate, lien or interest in the
Property adverse to the Plaintiff's ownership, or
any cloud upon Plaintiff's title thereto (DOES 1
through 10, inclusive);

Defendants.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC; BNY
MELLON, N.A.

Counterclaimants,

vs.

Case No.: A-13-693205-C
Dept.: VII

DEFENDANTS THE BANK OF NEW
YORK MELLON FKA THE BANK OF
NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE
CWABS, INC., ASSET-BACKED
CERTIFICATES, SERIES 2005-17, BANK
OF AMERICA N.A., AND MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC. CASE APPEAL
STATEMENT

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330
LAS VEGAS, NEVADA 89144
TEL.: (702) 634-5000 – FAX: (702) 380-8572

1 THOMAS JESSUP, LLC SERIES VII;
2 FOXFIELD COMMUNITY
3 ASSOCIATION; ABSOLUTE
4 COLLECTION SERVICES, LLC, (ROES 1
5 through 10, inclusive);

6 Counterdefendants.

7 Defendants Bank of America, N.A., The Bank of New York Mellon fka The Bank of New
8 York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series
9 2005-17, and Mortgage Electronic Systems, Inc. (collectively, **Defendants**) appeal the Decision and
10 Order entered on July 14, 2017, and for which a Notice of Entry of Decision and Order was entered
11 on July 20, 2017, and all interlocutory orders incorporated therein. The Court found in favor of
12 Plaintiff Thomas Jessup, LLC, ruling that Plaintiff purchased the subject property at the HOA
13 foreclosure sale subject to no prior interest.

14 Defendants submit this Case Appeal Statement pursuant to NRAP 3(f)(3).

15 1. The appellants filing this case appeal statement are Defendants Bank of America, N.A., The
16 Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of the
17 CWABS, Inc., Asset-Backed Certificates, Series 2005-17, and Mortgage Electronic Systems, Inc.
(**Appellants**).

18 2. Notice of Entry of Decision and Order was entered on July 20, 2017, and all interlocutory
19 orders incorporated therein. The Court found in favor of Plaintiff Thomas Jessup, LLC, ruling that
20 Plaintiff (**Respondent**) purchased the subject property at the HOA foreclosure sale subject to no
21 prior interest.

22 3. Counsel for Appellants are Darren T. Brenner and William Habdas of Akerman LLP, 1160
23 N. Town Center Drive, Suite 330, Las Vegas, Nevada 89144.

24 4. Trial counsel for Respondent is Richard Tobler, Esq., RICHARD L. TOBLER, LTD., 3654 N.
25 Rancho, Drive, Suite 102, Las Vegas, NV 89130. Appellants are not aware whether trial counsel
26 will also act as appellate counsel for Respondent.

27 8. Counsel for Appellants are licensed to practice law in Nevada. Counsel for Respondent is
28 licensed to practice law in Nevada.

1 9. Appellants are represented by retained counsel in the district court.

2 10. Appellants are represented by retained counsel on appeal.

3 11. Appellants were not granted leave to proceed in forma pauperis by the district court.

4 12. The date proceedings commenced in the district court was June 16, 2013.

5 13. In this action, Respondent alleges that it owns the property located at 588 Bugle Bluff Road,
6 Henderson, Nevada 89015 (**Property**) free and clear of all liens as a result of an HOA foreclosure
7 sale. Respondent filed a complaint for quiet title to have the court declare that Respondent bought
8 the Property free and clear of Appellants' interests, including the deeds of trust held by Bank of
9 America, N.A. and The Bank of New York Mellon fka The Bank of New York as Trustee for the
10 Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17 (**BONY as**
11 **Trustee**) (**Deeds of Trust**). Appellants alleged that BONY as Trustee's Deed of Trust was not
12 extinguished by the foreclosure sale by Foxfield Community Association (**HOA**) because Bank of
13 America satisfied the tender doctrine by offering to pay the super-priority portion of the HOA's lien
14 prior to the HOA's foreclosure sale through the HOA's trustee, Absolute Collection Services, LLC
15 (**ACS or HOA Trustee**). ACS refused to provide Bank of America with that information.
16 Moreover, the HOA sale was commercially unreasonable, and Respondent was not a bona fide
17 purchaser. Defendants' motion for summary judgment was denied, and trial began April 3, 2017.
18 After trial concluded in this case, the Court found in favor of Plaintiff Thomas Jessup, LLC, ruling
19 that Plaintiff purchased the subject property at the HOA foreclosure sale subject to no prior interest.

20 14. This appeal does not involve child custody or visitation.

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

15. This appeal does not involve the possibility of settlement.

Dated: August 15, 2017

AKERMAN LLP

/s/ William S. Haldas

DARREN T. BRENNER, ESQ.

Nevada Bar No. 8386

WILLIAM S. HABDAS, ESQ.

Nevada Bar No. 13138

1160 Town Center Drive, Suite 330

Las Vegas, Nevada 89144

Attorneys for Defendants Bank of America, N.A., The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17, and Mortgage Electronic Systems, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 15th day of August, 2017, I caused to be served a true and correct copy of the foregoing **DEFENDANTS THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2005-17, BANK OF AMERICA N.A., AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. CASE APPEAL STATEMENT**, in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

Absolute Collection Services, LLC**Contact**

Shane D. Cox, Esq.

EmailShane@absolute-collection.com**Brooks Hubley LLP****Contact**

Efile desk at Brooks Hubley

Emailefile@brookshubley.com**Brooks Hubley, LLP****Contact**Jessica Perlick
Michael R. Brooks, Esq.**Email**jperlick@brookshubley.com
mbrooks@brookshubley.com**GERRARD COX & LARSEN****Contact**Douglas D. Gerrard, Esq.
John Langeveld
Kanani Gonzales**Email**dgerrard@gerrard-cox.com
JLangeveld@Gerrard-cox.com
KGonzales@Gerrard-cox.com**Richard L. Tobler, Ltd.****Contact**

Richard Tobler

Emailrltldck@hotmail.com/s/ Carla Llarena

An employee of AKERMAN LLP

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C

Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

§
§
§
§
§

Location: **Department 7**
Judicial Officer: **Bell, Linda Marie**
Filed on: **12/16/2013**
Case Number History:
Cross-Reference Case Number: **A693205**

CASE INFORMATION

Statistical Closures

07/14/2017 Other Manner of Disposition - Criminal

Case Type: **Title to Property**
Subtype: **Quiet Title**

Case Flags: **Appealed to Supreme Court**
Automatically Exempt from Arbitration

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-13-693205-C
Court	Department 7
Date Assigned	03/02/2015
Judicial Officer	Bell, Linda Marie

PARTY INFORMATION












		<i>Lead Attorneys</i>
Plaintiff	Thomas Jessup LLC Series VII	Tobler, Richard L <i>Retained</i> 702-256-6000(W)
Defendant	Bank of America	Brenner, Darren <i>Retained</i> 702-634-5000(W)
	BNY Mellon	Habdas, William S. <i>Retained</i> 702-671-4354(W)
	Cook, Lena	
	Heirs of the Estate of Lena Cook	
	Mortgage Electronic Registration Systems Inc	Habdas, William S. <i>Retained</i> 702-671-4354(W)
	SFG Mortgage Corp	
Counter Claimant	BNY Mellon	Habdas, William S. <i>Retained</i> 702-671-4354(W)
	Mortgage Electronic Registration Systems Inc	Habdas, William S. <i>Retained</i> 702-671-4354(W)
Counter Defendant	Absolute Collection Services LLC	Cox, Shane <i>Retained</i> 702-531-3394(W)
	Foxfield Community Association	

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C














Cox, Shane
Retained
702-531-3394(W)

Thomas Jessup LLC Series VII

Tobler, Richard L
Retained
702-256-6000(W)














DATE	EVENTS & ORDERS OF THE COURT	INDEX
12/16/2013	 Complaint Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Complaint for Quiet Title and Declaratory Relief</i>	
12/16/2013	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Initial Appearance Fee Disclosure</i>	
12/16/2013	Case Opened	
12/17/2013	 Notice of Lis Pendens Filed by: Counter Defendant Thomas Jessup LLC Series VII <i>Notice of Lis Pendens</i>	
12/23/2013	 Temporary Restraining Order Filed by: Counter Defendant Thomas Jessup LLC Series VII <i>Temporary Restraining Order</i>	
12/23/2013	 Application Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Palintiff's Application for Temporary Restraining Order and Application for Preliminary Injunction; Ex Parte Motion for Order Shortening Time</i>	
12/23/2013	 Affidavit in Support Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Michael V. Infuso, Esq. in Support of Request for Temporary Restraining Order Without Notice</i>	
12/26/2013	 Notice of Entry of Order Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Notice of Entry of Temporary Restraining Order</i>	
12/26/2013	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - Bank of New York Mellon N A</i>	
12/26/2013	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - Bank of America N A</i>	
12/26/2013	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - SFG Mortgage</i>	
12/30/2013	 Affidavit of Attempted Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Attempts - Lena Cook</i>	

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C

12/31/2013	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - Mortgage Electronic Registration Systems Inc</i>
01/02/2014	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Process Server - Mortgage Electronic Registration Systems Inc</i>
01/06/2014	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - Bank of New York Mellon N A</i>
01/07/2014	 Motion for Temporary Restraining Order (10:00 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiff's Application for Temporary Restraining Order and Application for Preliminary Injunction; Ex Parte Motion for OST</i>
01/08/2014	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Process Server - Mortgage Electronic Registration Systems Inc</i>
01/08/2014	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - Bank of New York Mellon N A</i>
01/08/2014	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - Bank of America N A</i>
01/08/2014	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - SFG Mortgage</i>
01/10/2014	 Order Granting Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Order Granting Plaintiff's Application for Preliminary Injunction</i>
01/13/2014	 Notice of Entry of Order Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Notice of Entry of Order Granting Plaintiff's Application for Preliminary Injunction</i>
01/13/2014	 Application Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Application for Order Authorizing Plaintiff to Serve Summons and Complaint on All Unknown Claimants by Publication</i>
01/16/2014	 Notice of Posting Bond Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Notice of Posting Cash Bond in Compliance with the Order Granting Plaintiff's Application for Preliminary Injunction</i>
01/22/2014	 Affidavit of Attempted Service Filed By: Counter Defendant Thomas Jessup LLC Series VII














DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C

Affidavit of Attempted Service - Lena Cook













01/23/2014	 Order Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Order Authorizing Plaintiff to Serve Summons and Complaint on All Unknown Claimants by Publication</i>
01/28/2014	 Notice of Entry of Order Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Notice of Entry of Order Authorizing Plaintiff to Serve the Summons and Complaint on all Unknown Claimants by Publication</i>
02/28/2014	 Notice of Entry of Order Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Notice of Entry of Order to Partially Stay Case</i>
02/28/2014	 Stipulation and Order Filed by: Counter Defendant Thomas Jessup LLC Series VII <i>Stipulation and Order to Partially Stay Case</i>
03/03/2014	 Affidavit of Publication of Summons Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Publication of Summons</i>
03/28/2014	 Initial Appearance Fee Disclosure Filed By: Defendant Bank of America <i>Initial Appearance Fee Disclosure</i>
03/28/2014	 Notice of Association of Counsel Filed By: Defendant Bank of America <i>Notice of Association of Counsel</i>
04/09/2014	 Amended Complaint Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Verified Amended Complaint for Quiet Title and Declaratory Relief</i>
04/10/2014	 Affidavit of Due Diligence Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Due Diligence - Lena Cook</i>
04/10/2014	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - SFG Mortgage</i>
04/10/2014	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service - SFG Mortgage</i>
04/11/2014	 Ex Parte Application to Extend Time for Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Ex Parte Applicaiton for an Order Extending Time to Serve Summons and Complaint and Allowing Service by Publication</i>
04/29/2014	 Certificate of Service

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C










Filed by: Counter Defendant Thomas Jessup LLC Series VII
Certificate of Service

04/29/2014	 Order Extending Time to Serve Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Order Extending Time to Serve Summons and Complaint and Authorizing Plaintiff to Serve Summons and Complaint by Publication</i>
04/30/2014	 Notice of Entry of Order Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Notice of Entry of Order Extending Time to Serve Summons and Complaint and Authorizing Plaintiff to Serve the Summons and Complaint by Publication</i>
06/05/2014	 Affidavit of Publication of Summons Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Publication of Summons</i>
06/05/2014	 Affidavit of Publication of Summons Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Publication of Summons</i>
08/05/2014	 Substitution of Attorney Filed by: Defendant Bank of America <i>Substitution of Counsel</i>
08/27/2014	 Substitution of Attorney Filed by: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Substitution of Counsel</i>
11/13/2014	 Status Check: Status of Case (9:00 AM) (Judicial Officer: Escobar, Adriana) <i>Per Stipulation and Order to Partially Stay Case signed 2/25/14</i>
12/12/2014	 Answer to Amended Complaint Filed By: Defendant Bank of America <i>Defendant Bank of America, N.A.'s Answer to Plaintiff's Amended Complaint</i>
12/17/2014	 Order Filed By: Defendant Bank of America <i>Order Lifting Stay of Case and Setting Deadline For Defendant Bank of America, N.A.'s Response To Plaintiff's Complaint</i>
12/18/2014	 Notice of Entry of Order Filed By: Defendant Bank of America <i>Notice of Entry of Order</i>
01/06/2015	 Three Day Notice of Intent to Default Filed by: Counter Defendant Thomas Jessup LLC Series VII <i>Three Day Notice of Intent to Take Default</i>
02/17/2015	 Joint Case Conference Report Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Joint Case Conference Report</i>
02/20/2015	 Answer to Amended Complaint

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C











	Filed By: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Mortgage Electronic Systems, Inc. and BNY Mellon, N.A.'s Answer to Verified Amended Complaint for Quiet Title and Declaratory Relief and Counter-Claim</i>
02/20/2015	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Initial Appearance fee Disclosure</i>
02/20/2015	 Certificate of Service Filed by: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Certificate of Service</i>
02/25/2015	 Scheduling Order <i>Scheduling Order</i>
03/02/2015	Case Reassigned to Department 7 <i>District Court Case Reassignment 2015</i>
03/06/2015	 Substitution of Attorney Filed by: Counter Defendant Thomas Jessup LLC Series VII <i>Substitution of Attorney</i>
03/23/2015	 Reply to Counterclaim Filed by: Counter Defendant Thomas Jessup LLC Series VII <i>Plaintiff/Counterdefendants Reply to Mortgage Electronic Registration Systems Inc and BNY Mellon NAs Counterclaim</i>
03/23/2015	 Affidavit of Service Filed By: Defendant Cook, Lena <i>Affidavit of Service</i>
03/23/2015	 Summons Filed by: Defendant Cook, Lena <i>Summons (FoxField Community Association)</i>
04/01/2015	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service</i>
04/01/2015	 Summons Filed by: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Summons (Absolute Collections Services, LLC)</i>
04/08/2015	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Absolute Collection Services LLC <i>Initial Appearance Fee Disclosure</i>
04/08/2015	 Answer Filed By: Counter Defendant Absolute Collection Services LLC <i>Absolute Collection Services, LLC and Foxfield Community Association's Answer to Counter-Claim</i>
05/28/2015	 Order Setting Civil Bench Trial <i>Order Setting Civil Bench Trial</i>

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C














09/10/2015	 Demand Filed By: Counter Defendant Absolute Collection Services LLC <i>Absolute Collection Services, LLC and Foxfield Community Association's Demand for Prior Discovery</i>
09/28/2015	 Stipulation and Order to Extend Discovery Deadlines Filed By: Counter Defendant Absolute Collection Services LLC <i>Stipulation and Order to Extend Discovery Deadline Dates and Trial (First Request)</i>
10/08/2015	 Order Setting Civil Bench Trial <i>Second Order Setting Civil Bench Trial</i>
10/20/2015	CANCELED Status Conference (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated - per Commissioner</i>
10/22/2015	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit of Service</i>
12/11/2015	 Motion to Amend Filed By: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Mortgage Electronic Registration Systems, Inc. And The Bank Of New York Mellon fka The Bank Of New York As Trustee For The Certificateholders Of The Cwabs, Inc., Asset-Backed Certificates, Series 2005-17, Incorrectly Named As BNY Mellon, N.A.'S Motion For Leave To Amend Pleadings (First Request)</i>
12/11/2015	 Motion for Leave to File Party: Defendant Bank of America <i>Defendant Bank of America, N.A.'s Motion For Leave To Amend Answer To Add Affirmative Defenses</i>
12/29/2015	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated - per Commissioner</i>
01/04/2016	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated - per Commissioner</i>
01/12/2016	Motion for Leave (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Defendant Bank of America, N.A.'s Motion For Leave To Amend Answer To Add Affirmative Defenses</i>
01/12/2016	Motion for Leave (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Mortgage Electronic Registration Systems, Inc. And The Bank Of New York Mellon fka The Bank Of New York As Trustee For The Certificateholders Of The Cwabs, Inc., Asset-Backed Certificates, Series 2005-17, Incorrectly Named As BNY Mellon, N.A.'S Motion For Leave To Amend Pleadings (First Request)</i>
01/12/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Bell, Linda Marie)
01/15/2016	 Notice of Entry of Order Filed By: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Notice of Entry of Order Granting Mortgage Electronic Registration Systems, Inc. and the Bank Of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17, Incorrectly Named as BNY Mellon, N.A.'S Motion for Leave to Amend Pleadings (First Request)</i>
01/15/2016	 Order Granting Motion

CASE SUMMARY

CASE NO. A-13-693205-C










	<p>Filed By: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Order Granting Mortgage Electronic Registration Systems, Inc. and the Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of the Cwabs, Inc., Asset-Backed Certificates, Series 2005-17, Incorrectly Named as BNY Mellon, N.A.'S Motion for Leave to Amend Pleadings (First Request)</i></p>
01/25/2016	<p> Substitution of Attorney Filed by: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Substitution of Counsel</i></p>
01/29/2016	<p> Amended Answer Filed By: Defendant Bank of America <i>Defendant Bank Of America, N.A.'s Amended Answer To Plaintiff's Amended Complaint</i></p>
02/09/2016	<p> Substitution of Attorney Filed by: Counter Defendant Absolute Collection Services LLC <i>Foxfield Community Association and Absolute Collection Services, LLC's Substitution of Attorney</i></p>
02/29/2016	<p> Order Granting Filed By: Defendant Bank of America <i>Order Granting Defendant Bank of America, N.A.'s Motion For Leave To Amend Answer To Add Affirmative Defenses</i></p>
03/01/2016	<p> Stipulation and Order Filed by: Defendant Bank of America <i>Stipulation and Order To Extend Discovery Deadlines (Second Request)</i></p>
03/05/2016	<p> Notice of Entry of Stipulation and Order Filed By: Defendant Bank of America <i>Notice of Entry of Stipulation and Order</i></p>
03/15/2016	<p>CANCELED Status Conference (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated - per Stipulation and Order</i></p>
03/16/2016	<p> Order Setting Civil Bench Trial <i>Third Order Setting Civil Bench Trial</i></p>
05/04/2016	<p> Notice Filed By: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Mortgage Electronic Registration Systems, Inc. and the Bank of New York Mellon fka the Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17, Incorrectly Named As BNY Mellon, N.A.'s Notice to Attorney General of Constitutional Challenge to State Statute NRS 116.31162-116.31168</i></p>
05/04/2016	<p> Answer and Counterclaim Filed By: Counter Claimant Mortgage Electronic Registration Systems Inc <i>Mortgage Electronic Registration Systems, Inc. and the Bank of New York Mellon fka the Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17's First Amended Answer, Counter-Claims, and Cross-Claims Against Absolute Collection Services, LLC and Foxfield Community Association</i></p>
05/04/2016	<p> Notice of Association of Counsel Filed By: Defendant Bank of America <i>Notice of Association of Counsel</i></p>
05/17/2016	<p>CANCELED Calendar Call (9:00 AM) (Judicial Officer: Bell, Linda Marie)</p>

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C









	<i>Vacated - per Stipulation and Order</i>
05/23/2016	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated - per Stipulation and Order</i>
05/25/2016	 Answer to Crossclaim Filed By: Counter Defendant Foxfield Community Association <i>Absolute Collection Services, LLC's Answer to First Amended Crossclaim</i>
06/02/2016	 Association of Counsel Filed By: Defendant Bank of America <i>Notice of Association of Counsel with Brooks Hubley, LLP</i>
12/13/2016	 Status Conference (9:00 AM) (Judicial Officer: Bell, Linda Marie)
01/13/2017	 Motion to Withdraw As Counsel Filed By: Defendant Bank of America <i>Motion to Withdraw as Counsel on Order Shortening Time</i>
01/26/2017	 Motion to Withdraw as Counsel (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Gerrard, Cox & Larsen's Motion to Withdraw as Counsel on Order Shortening Time</i>
02/06/2017	 Motion for Summary Judgment Filed By: Counter Claimant BNY Mellon <i>Defendants' Motion For Summary Judgment Against Plaintiff Thomas Jessup, LLC Series VII</i>
02/15/2017	 Stipulation and Order Filed by: Defendant Bank of America <i>Stipulation and Order to Continue Calendar Call and Trial</i>
02/16/2017	 Notice of Entry Filed By: Defendant Bank of America <i>Notice Of Entry Of Stipulation And Order To Continue Calendar Call And Trial</i>
02/16/2017	 Affidavit of Service Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Affidavit Of Service-Attorney General</i>
02/21/2017	 Opposition and Countermotion Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Plaintiff Thomas Jessup LLC Series VII's Opposition to Bank of New York Mellons Motion for Summary Judgment and Countermotion for Summary Judgment</i>
02/22/2017	 Initial Appearance Fee Disclosure Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Initial Appearance Fee Disclosure</i>
02/24/2017	 Stipulation and Order Filed by: Counter Defendant Thomas Jessup LLC Series VII <i>Stipulation and Order to Continue Hearing on Defendants Motion for Summary Judgment</i>
02/24/2017	 Reply in Support Filed By: Counter Claimant BNY Mellon <i>Defendants' Reply in Support of Its Motion for Summary Judgment Against Plaintiff Thomas</i>

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C

Jessup, LLC Series VII and Opposition to Plaintiff's Countermotion for Summary Judgment

02/27/2017	 Notice of Entry of Stipulation and Order Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Notice of Entry of Stipulation and Order to Continue Hearing on Defendants Motion for Summary Judgment</i>
03/07/2017	Calendar Call (9:00 AM) (Judicial Officer: Bell, Linda Marie)
03/07/2017	Motion for Summary Judgment (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Defendants' Motion For Summary Judgment Against Plaintiff Thomas Jessup, LLC Series VII</i>
03/07/2017	Opposition and Countermotion (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Plaintiff Thomas Jessup LLC Series VIIs Opposition to Bank of New York Mellons Motion for Summary Judgment and Countermotion for Summary Judgment</i>
03/07/2017	 All Pending Motions (9:00 AM) (Judicial Officer: Bell, Linda Marie)
03/08/2017	 Order Granting Motion Filed By: Counter Claimant BNY Mellon <i>Order granting Motion to Withdraw as Counsel</i>
03/13/2017	CANCELED Bench Trial (9:00 AM) (Judicial Officer: Bell, Linda Marie) <i>Vacated</i>
03/13/2017	 Notice of Entry of Order Filed By: Defendant Bank of America <i>Notice of Entry of Order Granting Motion to Withdraw as Counsel</i>
03/17/2017	 Pre-Trial Disclosure Party: Defendant Bank of America <i>Defendants Bank of America, N.A., The Bank of New York Mellon fka The Bank of New York as Trustees for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17, and Mortgage Electronic Systems, Inc.'s Second Supplemental Pretrial Disclosures</i>
03/20/2017	 Joint Pre-Trial Memorandum Filed By: Defendant Bank of America <i>Joint Pretrial Memorandum</i>
03/28/2017	 Order Denying Motion Filed By: Counter Claimant BNY Mellon <i>Order Denying Defendants the Bank of New York Mellon fka the Bank of New York as Trustee for the Certificateholders of the CWAB, Inc., Asset-Backed Certificates, Series 2005-17, Bank of America, N.A., and Mortgage Electronic Registration Systems, Inc.'s and Plaintiff Thomas Jessup, LLC Series VII's Motions for Summary Judgment</i>
03/29/2017	 Notice of Entry Filed By: Defendant Bank of America <i>Notice of Entry of Order Denying Defendants the Bank of New York Mellon FKA the Bank of New York as Trustee for the Certificate Holders of the CWABS, Inc, Asset-Backed Certificates, Series 2005-17, Bank of America NA, and Mortgage Electronic Registration Systems, Inc'S and Plaintiff Thomas Jessup, LLC Series VII's Motions for Summary Judgment</i>
04/01/2017	 Trial Memorandum Filed by: Counter Defendant Absolute Collection Services LLC <i>Foxfield Community Association and Absolute Collection Services, LLC's Civil Trial Memorandum</i>

DEPARTMENT 7
CASE SUMMARY
CASE NO. A-13-693205-C

04/03/2017	 Proof of Service Filed by: Counter Defendant Thomas Jessup LLC Series VII <i>Proof of Service</i>
04/03/2017	 Bench Trial (9:00 AM) (Judicial Officer: Bell, Linda Marie)
05/02/2017	 Status Check (9:00 AM) (Judicial Officer: Bell, Linda Marie) 05/02/2017, 05/30/2017, 06/27/2017, 07/11/2017 <i>Status Check: Decision</i>
07/14/2017	 Decision and Order Filed By: Counter Defendant Thomas Jessup LLC Series VII <i>Decision and Order</i>
07/20/2017	 Notice of Entry of Order Filed By: Defendant Bank of America <i>Notice of Entry of Decision and Order</i>
07/20/2017	 Reporters Transcript <i>Recorder's Transcript of Bench Trial April 3, 2017</i>
08/15/2017	 Notice of Appeal Filed By: Counter Claimant BNY Mellon; Defendant Bank of America; Counter Claimant Mortgage Electronic Registration Systems Inc <i>Defendants The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17, Bank of America, N.A. and Mortgage Electronic Registration Systems, Inc.'s Notice of Appeal</i>
08/15/2017	 Case Appeal Statement Filed By: Counter Claimant BNY Mellon; Defendant Bank of America; Counter Claimant Mortgage Electronic Registration Systems Inc <i>Defendants The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-17, Bank of America, N.A. and Mortgage Electronic Registration Systems, Inc.'s Case Appeal Statement</i>

CIVIL COVER SHEET

CLARK County, Nevada

Case No. _____

(Assigned by Clerk's Office)

A-13-693205-C
Xi V**I. Party Information**

Plaintiff(s) (name/address/phone): THOMAS JESSUP, LLC,
SERIES VII
c/o Michael V. Infuso, Esq.
Greene Infuso, LLP
Attorney (name/address/phone): 3030 S. Jones Blvd., #101
Las Vegas, Nevada 89146
(702) 570-6000

Defendant(s) (name/address/phone): LENA COOK, et al.
Attorney (name/address/phone): UNKNOWN

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input checked="" type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition

Probate**Other Civil Filing Types**

Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters
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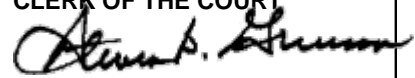
III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

<input type="checkbox"/> NRS Chapters 78-88	<input type="checkbox"/> Investments (NRS 104 Art. 8)	<input type="checkbox"/> Enhanced Case Mgmt/Business
<input type="checkbox"/> Commodities (NRS 90)	<input type="checkbox"/> Deceptive Trade Practices (NRS 598)	<input type="checkbox"/> Other Business Court Matters
<input type="checkbox"/> Securities (NRS 90)	<input type="checkbox"/> Trademarks (NRS 600A)	

12/16/13
Date

Signature of initiating party or representative

See other side for family-related case filings.



1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 THOMAS JESSUP, LLC SERIES VII,

5 Plaintiff,

6 vs.

7 LENA COOK, an individual; BNY MELLON, N.A.;
8 SFG MORTGAGE ELECTRONIC REGISTRATION
9 SYSTEMS, INC., a Delaware corporation; Heirs of
10 the Estate of LENA COOK; and any and all other
11 persons unknown claiming any right, title, estate, lien
12 or interest in the Property adverse to the Plaintiff's
ownership or any cloud upon Plaintiff's title thereto,
DOES 1 through 10, inclusive,

12 Defendants.

Case No. A-13-693205-C

Dep't No. VII

13 MORTGAGE ELECTRONIC REGISTRATION
14 SYSTEMS, INC.; BNY MELON, N.A.,

15 Counterclaimant,

16 vs.

17 THOMAS JESSUP, LLC SERIES VII; FOXFEILD
18 COMMUNITY ASSOCAITION; ABSOLUTE
COLLECTION SERVICES, LLC,

19 Cross/Counter-defendants.

20
21 **DECISION AND ORDER**

22 This case involves a dispute concerning title priority to the real property located at 558 Bugle
23 Bluff Road, Henderson, Nevada, under a non-judicial homeowners association foreclosure. Plaintiff
24 Thomas Jessup, LLC ("Jessup LLC") filed a complaint asserting quiet title, declaratory relief, and
25 injunctive relief claims. Defendants Bank of New York Mellon ("BONY") and Mortgage Electronic
26 Registration Systems, Inc. ("MERS") brought counterclaims for quiet title, declatory relief, unjust
27 enrichment, tortious interference with contract and breach of the duty of good faith against the
28

<input type="checkbox"/> Non-Jury Disposed After Trial Start	<input type="checkbox"/> Jury Disposed After Trial Start
<input checked="" type="checkbox"/> Non-Jury Judgment Reached	<input type="checkbox"/> Jury Verdict Reached
<input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Other - _____

1 Foxfield Community Homeowner's Association ("Foxfield HOA") and Absolute Collection
2 Services ("ACS"). This matter came before the Court for a bench trial on April 3, 2017. The Court
3 finds that Bank of America failed to tender the superpriority lien amount to Foxfield HOA to
4 preserve Bank of America's interest in the property. Accordingly, the NRS 116 foreclosure sale
5 extinguished Bank of America's interest in the property. The Court finds in favor of Plaintiff
6 Thomas Jessup, LLC.

7 **I. Findings of Fact**

8 On October 31, 2005, Lena Cook purchased the property at 588 Bugle Bluff Road,
9 Henderson, Nevada 89015. Ms. Cook obtained a mortgage through SFG Mortgage for \$235,000.
10 The First Deed of Trust securing the mortgage was recorded on November 7, 2005. On August 16,
11 2006, Ms. Cook entered into a second deed of trust with Bank of America. The Second Deed of
12 Trust was recorded on October 6, 2006. The First Deed of Trust was assigned to the Bank of New
13 York Mellon via an assignment of Deed of Trust, recorded on July 21, 2011.

14 On April 12, 2011, Absolute Collection Services, as an agent for the Homeowner's
15 Association, recorded a Notice of Delinquent Assessment Lien against the property. Foxfield HOA
16 stated in the lien that the total amount due was \$793.63. On July 18, 2011, ACS recorded a Notice of
17 Default and Election to Sell Under Homeowners Association Lien against the property. Foxfield
18 HOA now represented the amount due had increased to \$1,642.66.

19 In response to the Notice of Default, on August 18, 2011, Bank of America hired Miles
20 Bauer as counsel. Miles Bauer sent correspondence to ACS requesting calculation of the
21 superpriority amount. In that request, the Miles Bauer representative, Rock Jung, stated, "It is
22 unclear, based upon the information known to date, what amount the nine months' of common
23 assessments pre-dating the NOD actually are. That amount, whatever it is, is the amount Bank of
24 America should be required to rightful pay to discharge its obligations to the HOA per NRS
25 116.3102 and my client hereby offers to pay that sum upon presentation of adequate proof of the
26 same by the HOA."

27 ACS received Miles Bauer's August 18, 2011 letter. ACS claims to have submitted a
28 response letter to Miles Bauer dated September 13, 2011. ACS's records show the letter was faxed

1 on September 14, 2011. It is not clear, however, that Miles Bauer received the response sent by
2 ACS. The response by ACS explained ACS's position at the time on the issues raised about the
3 superpriority amount in the Miles Bauer letter. ACS stated that Miles Bauer could order a "statement
4 of account" if the firm submitted a fifty dollar fee for furnishing the statement. Miles Bauer nor
5 Bank of America paid the fifty dollar fee and ACS did not provide Miles Bauer with a nine-month
6 superpriority calculation.

7 ACS subsequently recorded a Notice of Trustee's Sale against the property on October 26,
8 2011. The notice stated the total amount due was \$3,097.60 and set a sale date for December 6,
9 2011. On April 25, 2012, ACS recorded a second Notice of Trustee's Sale against the property,
10 stating the sale would be held on June 12, 2012. The notice stated the total amount due was now
11 \$4,783.29.

12 ACS non-judicially foreclosed on the property and recorded and recorded a Trustee's Deed
13 Upon Sale on June 13, 2012. The Deed Upon Sale states that ACS sold Foxfield HOA's interest in
14 the property to CSC Investment Group for \$5,401.00. On August 17, 2012, CSC Investment Group
15 conveyed its interest via quitclaim deed to Thomas Jessup LLC.

16 II. Conclusions of Law

17 Jessup LLC brought claims for quiet title and declaratory relief. BONY, Bank of America, and
18 MERS brought counterclaims against Jessup LLC, Absolute Collection Services, and Foxfield HOA
19 for relief. Each party's claims center on the Court's determination of whether Foxfield HOA's
20 foreclosure sale was validly conducted, and whether BONY, Bank of America, and MERS's deed of
21 trust survived the foreclosure sale.

22 BONY, Bank of America, and MERS's deed of trust did not survive foreclosure sale. Bank
23 of America failed to protect its interest in the property by failing to tender the superpriority lien
24 amount on the property to Foxfield HOA. Moreover, Foxfield HOA lawfully exercised its right to
25 foreclose on the property under NRS 116 and properly conducted the sale to extinguish the bank's
26 interest in the property. As a result, Thomas Jessup LLC lawfully purchased the property at the
27 foreclosure sale subject to no prior interest. Thus, the Court quiets title in Jessup LLC's favor.

28 //

A. Bank of America Did Not Make a Valid Tender of the Superpriority Lien Amount

Nevada Revised Statute Chapter 116 provides the procedural requirements for HOAs seeking to secure a lien for unpaid assessments and fees. “NRS 116.3116(2)... splits an HOA lien into two pieces, a superpriority piece and a sub priority piece. The superpriority piece, consisting of the last nine months of unpaid HOA dues and maintenance and nuisance-abatement charges, is ‘prior to’ a first deed of trust.” SFR Investments Pool 1 v. U.S. Bank, 334 P.3d 408, 411 (Nev. 2014). That superpriority portion of the lien was held by the Nevada Supreme Court to be a true superpriority lien, which will extinguish a first deed of trust if foreclosed upon pursuant to Chapter 116’s requirements. (*Id.* at 419.) Specifically, “[t]he sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption.” NRS 116.31166(3); *see also SFR v. U.S. Bank*, 334 P.3d at 412.

A junior lienholder can pay off an HOA’s lien to avoid the loss of its security. SFR Investments Pool 1 v. U.S. Bank, 334 P.3d 408, 414 (2014). The common law definition of tender is “an offer of payment that is coupled either with no conditions or only with conditions upon which the tendering party has a right to insist.” Fresk v. Kraemer, 99 P.3d 282, 286-7 (Or. 2004). Tender is satisfied where there is “an offer to perform a condition or obligation, coupled with the present ability of immediate performance, so that if it were not for the refusal of cooperation by the party to whom tender is made, the condition or obligation would be immediately satisfied.” 15 Williston, A Treatise on the Law of Contracts, § 1808 (3d. ed. 1972). The Nevada Supreme Court has recently held that such tender extinguishes the superpriority lien, even if the tender is unjustifiably rejected, and results in a sale of the property subject to a prior-recorded deed of trust. Stone Hollow Avenue Trust v. Bank of America Nat’l Ass’n, No 64955, 2016 WL 4542303 (Nev. Aug. 11, 2016). “[T]he superpriority lien granted by NRS 116.3116(2) does not include an amount for collection fees and foreclosure costs incurred; rather it is limited to an amount equal to the common expense assessments due during the nine months before foreclosure.” Horizons at Seven Hills v. Ikon Holdings, 132 Nev. Adv. Op. 35 at *6 (2016).

The Court finds Bank of America failed to tender the superpriority portion of the lien amount to Foxfield HOA. Miles Bauer, counsel for Bank of America, sent correspondence to ACS vaguely

1 requesting a superpriority amount. Mr. Jung, on behalf of Miles Bauer, stated in his request, "It is
2 unclear, based upon the information known to date, what amount the nine months' of common
3 assessments pre-dating the NOD actually are. That amount, whatever it is, is the amount Bank of
4 America should be required to rightful pay to discharge its obligations to the HOA per NRS
5 116.3102 and my client hereby offers to pay that sum upon presentation of adequate proof of the
6 same by the HOA." Although Mr. Jung understood that failure to pay the superpriority portion of the
7 lien would result in the loss of his client's interest in the property, nothing further was done to
8 pursue a resolution after the fact. Bank of America did not go back to the notice of lien and look at
9 minimum amounts. If Bank of America consulted the notice of lien to assess the minimum amounts,
10 and then paid that amount, that tender would have rescinded sale. Moreover, Bank of America
11 failed to pay a fifty dollar fee to obtain the association statement ledger Mr. Jung needed to assess
12 the amount due under the lien. Ultimately, fifty dollars became the impediment to Bank of America
13 losing its priority interest on its first deed of trust. As such, the Court cannot implement an equitable
14 remedy to a party that sat on their rights. Accordingly, Foxfield HOA's foreclosure sale extinguished
15 Bank of America's interest due to Bank of America's inaction.

16 Alternatively, Bank of America seeks to void the foreclosure sale based on Foxfield HOA's
17 failure to abide by the commercial reasonableness standard each foreclosure must adhere to. Bank of
18 America cannot establish the required elements of a commercially unreasonable sale. Thus, the sale,
19 which extinguished Bank of America's interest, was lawfully conducted. Accordingly, Bank of
20 America is unable to reclaim its interest by voiding the sale.

21 **B. Commercial Unreasonableness**

22 BONY, Bank of America, and MERS argue that the foreclosure sale for the property was
23 commercially unreasonable because the property was only sold for \$5,400. Inadequacy of price
24 alone however, cannot justify the court to set aside a sale. Price inadequacy alone falls short of
25 "showing of fraud, unfairness, or oppression," required by law to set aside a foreclosure sale.
26 Shadow Wood HOA v. N.Y. Cmty. Bancorp., 132 Nev. Adv. Op. 5 at *6 (2016). Thus, Bank of
27 America's reliance on price inadequacy alone falls short of this standard. Absent any allegations of
28 fraud, oppression or unfairness, Bank of America's arguments as to the sale being commercially

1 unreasonable fail. No evidence of fraud, unfairness or oppression have been produced and any
2 evidence of collusion on price is nonexistent. Evidence established that there were nearly eighteen
3 foreclosures that day. Some particular sales had bidders while other particular sales did not. This
4 particular sale was a customary sale in accordance with the statute. As such, the sale conducted
5 fairly and properly. Consequently, the foreclosure sale extinguished Bank of America's interest in
6 the property.

7 **C. MERS and BONY's Counterclaim of Wrongful Foreclosure**

8 By properly conducting a sale pursuant to a valid statute, Foxfield HOA and ACS are free
9 from inability under a wrongful foreclosure theory. The foreclosure sale extinguished Bank of
10 America's interest in the property because the sale was conducted fairly and properly. Consequently,
11 MERS and BONY's Counterclaims for wrongful foreclosure do not survive.

12 **D. MERS and BONY's Counterclaim for Unjust Enrichment**

13 MERS and BONY bring claims against Foxfield HOA and ACS separately for unjust
14 enrichment. Unjust enrichment is the "unjust retention of money or property of another against the
15 fundamental principle of justice or equity and good conscience." Topaz Mutual Co. v. Marsh, 839
16 P.2d 606, 613 (Nev. 1992). MERS and BONY argue that ACS and Foxfield HOA were unjustly
17 enriched because the amount Foxfield HOA actually recovered from the foreclosure proceeds
18 exceeded the amount of the true super-priority portion of Foxfield HOA's lien.

19 This cause of action fails because Foxfield HOA foreclosed on its lien under its authority
20 pursuant to NRS 116. Pursuant to statute, the property did not belong to another lienholder.
21 Consequently, Foxfield HOA's statutory right to foreclose on the property did not unjustly take a
22 benefit from MERS or BONY. Therefore, MERS and BONY's claim that Foxfield HOA and ACS
23 were unjustly enriched by the sale fail.

24 **E. MERS and BONY's Counterclaim of Tortious Interference with Contractual Relations**

25 MERS and BONY assert that ACS and Foxfield HOA are liable for the tort of intentional
26 interference with contract. In an action for intentional interference with contractual relations, a party
27 must establish: 1) a valid and existing contract; 2) the defendant's knowledge of the contract; 3)
28 intentional acts intended or designed to disrupt the contractual relationship; 4) actual disruption of

1 the contract; and 5) resulting damage. J.J Industries, LLC, v. Bennett, 71 P.3d 1264, 1267 (Nev.
2 2003). A party must establish that the tortfeasor had a motive to induce breach of the contract worth
3 the third party. Id.

4 Here MERS and BONY cannot establish that neither Foxfield HOA nor ACS had any motive
5 to disrupt the contract under the Deed of Trust with the former homeowner. Foxfield HOA and
6 ACS's actions were to solely initiated to recover assessments the two entities had a legal right to
7 collect under the statute. Thus, MERS and BONY have failed to prove the required element of
8 intentional acts designed to disrupt the contractual relationship. Id. As such, MERS and BONY's
9 claim for tortious interference with contractual relations fails.

10 **F. MERS and BONY's Counterclaims for Breach of the Duty of Good Faith**

11 Section 116.1113 of the Nevada Revised Statutes states: "Every contract or duty governed by
12 this chapter imposes an obligation of good faith in its performance or enforcement." MERS and
13 BONY assert that ACS violated this duty of good faith by refusing to provide information regarding
14 the lien without payment of a fifty dollar fee for the information. This claim fails because Nevada
15 statute allows a fee to be charged to prepare and furnish a statement of demand. Under section
16 107.310 of the Nevada Revised Statutes, a beneficiary "may charge a fee of not more than \$60 for
17 each statement furnished pursuant to NRS 107.200 or 107.210." Bank of America knew about the
18 fee and failed to pay the fifty-dollar fee to obtain the association statement ledger Mr. Jung needed
19 to assess the amount due under the lien. Notably, the fee charged in this instance was lower than the
20 statutory minimum prescribed in section 107.310 of the Nevada Revised Statutes. Consequently,
21 MERS and BONY cannot point to any duty or contract that Foxfield HOA or ACS violated. As
22 such, MERS and BONY'S counterclaims for breach of the duty of good faith fail.

23 In sum, Bank of America failed to tender the superpriority lien amount to Foxfield HOA to
24 discharge Foxfield HOA's superpriority lien. Foxfield HOA lawfully exercised its right to foreclose
25 on the property under NRS 116 and properly conducted the sale to extinguish the bank's interest in
26 the property. By properly conducting a sale pursuant to a valid statute, Foxfield HOA and ACS are
27 free from liability under a wrongful foreclosure theory. As a result, Thomas Jessup LLC lawfully
28

1 purchased the property at the foreclosure sale subject to no prior interest. Therefore, the Court quiets
2 title in Jessup LLC's favor.

3 Additionally, MERS and BONY's counterclaims for relief fail as well. MERS and BONY's
4 claim that Foxfield HOA and ACS were unjustly enriched by the sale fails because the property did
5 not did not belong to another lienholder under the statute. Thus, Foxfield HOA's exercise of its'
6 statutory right to foreclose on the property did not unjustly take a benefit from MERS or BONY.
7 MERS and BONY's claim for tortious interference fails because Foxfield HOA and ACS conducted
8 the foreclosure only to recover assessments the two entities had a legal right to collect under the
9 statute. As such, MERS and BONY cannot establish that neither Foxfield HOA nor ACS had any
10 motive to intentionally disrupt as the Deed of Trust with the former homeowner. Lastly, MERS and
11 BONY cannot point to any duty or contract that Foxfield HOA or ACS violated to establish their
12 breach of the duty of good faith claim.

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III. Conclusion

The Court finds that Bank of America failed to tender the superpriority lien amount to Foxfield HOA to preserve Bank of America's interest in the property. Accordingly, the NRS 116 foreclosure sale extinguished Bank of America's interest in the property. The Court finds in favor of Plaintiff Thomas Jessup, LLC. Thomas Jessup LLC lawfully purchased the property at the foreclosure sale subject to no prior interest. Thus, the Court quiets title in Jessup LLC's favor.

DATED this 11th day of July 2017.



LINDA MARIE BELL
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
Richard L. Tobler, Esq. Richard L. Tobler, Ltd.	Counsel for Plaintiff
Darren T. Brenner, Esq. Akerman LLP	Counsel for Defendants Bank of America
Shane D. Cox, Esq. Absolute Collection Services	Counsel for Absolute Collection Services

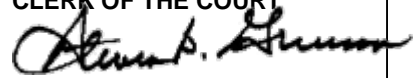

TINA HURD
JUDICIAL EXECUTIVE ASSISTANT, DEPARTMENT VII

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A693205 **DOES NOT** contain the social security number of any person.

/s/ Linda Marie Bell Date 7/11/2017
District Court Judge



1 **NEO**

2 **DARREN T. BRENNER, ESQ.**

3 Nevada Bar No. 8386

4 **WILLIAM S. HABDAS, ESQ.**

5 Nevada Bar No. 13138

6 **AKERMAN LLP**

7 1160 Town Center Drive, Suite 330

8 Las Vegas, Nevada 89144

9 Telephone: (702) 634-5000

10 Facsimile: (702) 380-8572

11 Email: darren.brenner@akerman.com

12 Email: william.habdas@akerman.com

13 *Attorneys for Defendants Bank of America, N.A.,*
14 *The Bank of New York Mellon fka The Bank of New*
15 *York as Trustee for the Certificateholders of the*
16 *CWABS, Inc., Asset-Backed Certificates, Series*
17 *2005-17, and Mortgage Electronic Systems, Inc.*

18 **EIGHTH JUDICIAL DISTRICT COURT**

19 **CLARK COUNTY, NEVADA**

20 **THOMAS JESSUP, LLC SERIES VII,**

21 **Plaintiff,**

22 **v.**

23 **LENA COOK, an individual; BNY MELLON,**
24 **N.A.; SFG MORTGAGE, a revoked Arizona**
25 **corporation; BANK OF AMERICA, N.A.;**
26 **MORTGAGE ELECTRONIC REGISTRATION**
27 **SYSTEMS, INC., a Delaware corporation;**
28 **HEIRS OF THE ESTATE OF LENA COOK;**
and any and all other persons unknown claiming
any right, title, estate, lien or interest in the
Property adverse to the Plaintiff's ownership, or
any cloud upon Plaintiff's title thereto (DOES 1
through 10, inclusive);

Defendants.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC; BNY
MELLON, N.A.

Counterclaimants,

vs.

Case No.: A-13-693205-C

Dept.No.: VII

NOTICE OF ENTRY OF DECISION AND ORDER

1 THOMAS JESSUP, LLC SERIES VII;
2 FOXFIELD COMMUNITY
3 ASSOCIATION; ABSOLUTE
4 COLLECTION SERVICES, LLC, (ROES 1
5 through 10, inclusive);

6 Counterdefendants.

7 TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

8 PLEASE TAKE NOTICE that a **DECISION AND ORDER** has been entered on the 11th day
9 of July, 2017, in the above-captioned matter. A copy of said Decision and Order is attached hereto
10 as **Exhibit A**.

11 DATED this 20th day of July, 2017.

12 **AKERMAN LLP**

13 /s/ William S. Habdas

14 DARREN T. BRENNER, ESQ.

15 Nevada Bar No. 8386

16 WILLIAM S. HABDAS, ESQ.

17 Nevada Bar No. 13138

18 1160 Town Center Drive, Suite 330

19 Las Vegas, Nevada 89144

20 AKERMAN LLP

21 *Attorneys for Defendants Bank of America, N.A., The*
22 *Bank of New York Mellon fka The Bank of New York as*
23 *Trustee for the Certificateholders of the CWABS, Inc.,*
24 *Asset-Backed Certificates, Series 2005-17, and*
25 *Mortgage Electronic Systems, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 20th day of July, 2017, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF DECISION AND ORDER**, in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

Absolute Collection Services, LLC**Contact**

Shane D. Cox, Esq.

EmailShane@absolute-collection.com**Brooks Hubley LLP****Contact**

Efile desk at Brooks Hubley

Emailefile@brookshubley.com**Brooks Hubley, LLP****Contact**Jessica Perlick
Michael R. Brooks, Esq.**Email**jperlick@brookshubley.com
mbrooks@brookshubley.com**GERRARD COX & LARSEN****Contact**Douglas D. Gerrard, Esq.
John Langeveld
Kanani Gonzales**Email**dgerrard@gerrard-cox.com
JLangeveld@Gerrard-cox.com
KGonzales@Gerrard-cox.com**Richard L. Tobler, Ltd.****Contact**

Richard Tobler

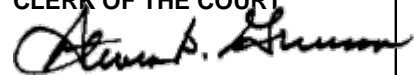
Emailrltldck@hotmail.com

/s/ Carla Llarena

An employee of AKERMAN LLP

EXHIBIT A

EXHIBIT A



1 DAO

2 EIGHTH JUDICIAL DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 THOMAS JESSUP, LLC SERIES VII,

5 Plaintiff,

6 vs.

7 LENA COOK, an individual; BNY MELLON, N.A.;
8 SFG MORTGAGE ELECTRONIC REGISTRATION
9 SYSTEMS, INC., a Delaware corporation; Heirs of
10 the Estate of LENA COOK; and any and all other
11 persons unknown claiming any right, title, estate, lien
12 or interest in the Property adverse to the Plaintiff's
ownership or any cloud upon Plaintiff's title thereto,
DOES 1 through 10, inclusive,

12 Defendants.

Case No. A-13-693205-C

Dep't No. VII

13 MORTGAGE ELECTRONIC REGISTRATION
14 SYSTEMS, INC.; BNY MELON, N.A.,

15 Counterclaimant,

16 vs.

17 THOMAS JESSUP, LLC SERIES VII; FOXFEILD
18 COMMUNITY ASSOCAITION; ABSOLUTE
COLLECTION SERVICES, LLC,

19 Cross/Counter-defendants.

20
21 **DECISION AND ORDER**

22 This case involves a dispute concerning title priority to the real property located at 558 Bugle
23 Bluff Road, Henderson, Nevada, under a non-judicial homeowners association foreclosure. Plaintiff
24 Thomas Jessup, LLC ("Jessup LLC") filed a complaint asserting quiet title, declaratory relief, and
25 injunctive relief claims. Defendants Bank of New York Mellon ("BONY") and Mortgage Electronic
26 Registration Systems, Inc. ("MERS") brought counterclaims for quiet title, declatory relief, unjust
27 enrichment, tortious interference with contract and breach of the duty of good faith against the
28

<input type="checkbox"/> Non-Jury Disposed After Trial Start	<input type="checkbox"/> Jury Disposed After Trial Start
<input checked="" type="checkbox"/> Non-Jury Judgment Reached	<input type="checkbox"/> Jury Verdict Reached
<input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Other - _____

1 Foxfield Community Homeowner's Association ("Foxfield HOA") and Absolute Collection
2 Services ("ACS"). This matter came before the Court for a bench trial on April 3, 2017. The Court
3 finds that Bank of America failed to tender the superpriority lien amount to Foxfield HOA to
4 preserve Bank of America's interest in the property. Accordingly, the NRS 116 foreclosure sale
5 extinguished Bank of America's interest in the property. The Court finds in favor of Plaintiff
6 Thomas Jessup, LLC.

7 **I. Findings of Fact**

8 On October 31, 2005, Lena Cook purchased the property at 588 Bugle Bluff Road,
9 Henderson, Nevada 89015. Ms. Cook obtained a mortgage through SFG Mortgage for \$235,000.
10 The First Deed of Trust securing the mortgage was recorded on November 7, 2005. On August 16,
11 2006, Ms. Cook entered into a second deed of trust with Bank of America. The Second Deed of
12 Trust was recorded on October 6, 2006. The First Deed of Trust was assigned to the Bank of New
13 York Mellon via an assignment of Deed of Trust, recorded on July 21, 2011.

14 On April 12, 2011, Absolute Collection Services, as an agent for the Homeowner's
15 Association, recorded a Notice of Delinquent Assessment Lien against the property. Foxfield HOA
16 stated in the lien that the total amount due was \$793.63. On July 18, 2011, ACS recorded a Notice of
17 Default and Election to Sell Under Homeowners Association Lien against the property. Foxfield
18 HOA now represented the amount due had increased to \$1,642.66.

19 In response to the Notice of Default, on August 18, 2011, Bank of America hired Miles
20 Bauer as counsel. Miles Bauer sent correspondence to ACS requesting calculation of the
21 superpriority amount. In that request, the Miles Bauer representative, Rock Jung, stated, "It is
22 unclear, based upon the information known to date, what amount the nine months' of common
23 assessments pre-dating the NOD actually are. That amount, whatever it is, is the amount Bank of
24 America should be required to rightful pay to discharge its obligations to the HOA per NRS
25 116.3102 and my client hereby offers to pay that sum upon presentation of adequate proof of the
26 same by the HOA."

27 ACS received Miles Bauer's August 18, 2011 letter. ACS claims to have submitted a
28 response letter to Miles Bauer dated September 13, 2011. ACS's records show the letter was faxed

1 on September 14, 2011. It is not clear, however, that Miles Bauer received the response sent by
2 ACS. The response by ACS explained ACS's position at the time on the issues raised about the
3 superpriority amount in the Miles Bauer letter. ACS stated that Miles Bauer could order a "statement
4 of account" if the firm submitted a fifty dollar fee for furnishing the statement. Miles Bauer nor
5 Bank of America paid the fifty dollar fee and ACS did not provide Miles Bauer with a nine-month
6 superpriority calculation.

7 ACS subsequently recorded a Notice of Trustee's Sale against the property on October 26,
8 2011. The notice stated the total amount due was \$3,097.60 and set a sale date for December 6,
9 2011. On April 25, 2012, ACS recorded a second Notice of Trustee's Sale against the property,
10 stating the sale would be held on June 12, 2012. The notice stated the total amount due was now
11 \$4,783.29.

12 ACS non-judicially foreclosed on the property and recorded and recorded a Trustee's Deed
13 Upon Sale on June 13, 2012. The Deed Upon Sale states that ACS sold Foxfield HOA's interest in
14 the property to CSC Investment Group for \$5,401.00. On August 17, 2012, CSC Investment Group
15 conveyed its interest via quitclaim deed to Thomas Jessup LLC.

16 II. Conclusions of Law

17 Jessup LLC brought claims for quiet title and declaratory relief. BONY, Bank of America, and
18 MERS brought counterclaims against Jessup LLC, Absolute Collection Services, and Foxfield HOA
19 for relief. Each party's claims center on the Court's determination of whether Foxfield HOA's
20 foreclosure sale was validly conducted, and whether BONY, Bank of America, and MERS's deed of
21 trust survived the foreclosure sale.

22 BONY, Bank of America, and MERS's deed of trust did not survive foreclosure sale. Bank
23 of America failed to protect its interest in the property by failing to tender the superpriority lien
24 amount on the property to Foxfield HOA. Moreover, Foxfield HOA lawfully exercised its right to
25 foreclose on the property under NRS 116 and properly conducted the sale to extinguish the bank's
26 interest in the property. As a result, Thomas Jessup LLC lawfully purchased the property at the
27 foreclosure sale subject to no prior interest. Thus, the Court quiets title in Jessup LLC's favor.

28 //

A. Bank of America Did Not Make a Valid Tender of the Superpriority Lien Amount

Nevada Revised Statute Chapter 116 provides the procedural requirements for HOAs seeking to secure a lien for unpaid assessments and fees. “NRS 116.3116(2)... splits an HOA lien into two pieces, a superpriority piece and a sub priority piece. The superpriority piece, consisting of the last nine months of unpaid HOA dues and maintenance and nuisance-abatement charges, is ‘prior to’ a first deed of trust.” SFR Investments Pool 1 v. U.S. Bank, 334 P.3d 408, 411 (Nev. 2014). That superpriority portion of the lien was held by the Nevada Supreme Court to be a true superpriority lien, which will extinguish a first deed of trust if foreclosed upon pursuant to Chapter 116’s requirements. (*Id.* at 419.) Specifically, “[t]he sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption.” NRS 116.31166(3); *see also SFR v. U.S. Bank*, 334 P.3d at 412.

A junior lienholder can pay off an HOA’s lien to avoid the loss of its security. SFR Investments Pool 1 v. U.S. Bank, 334 P.3d 408, 414 (2014). The common law definition of tender is “an offer of payment that is coupled either with no conditions or only with conditions upon which the tendering party has a right to insist.” Fresk v. Kraemer, 99 P.3d 282, 286-7 (Or. 2004). Tender is satisfied where there is “an offer to perform a condition or obligation, coupled with the present ability of immediate performance, so that if it were not for the refusal of cooperation by the party to whom tender is made, the condition or obligation would be immediately satisfied.” 15 Williston, A Treatise on the Law of Contracts, § 1808 (3d. ed. 1972). The Nevada Supreme Court has recently held that such tender extinguishes the superpriority lien, even if the tender is unjustifiably rejected, and results in a sale of the property subject to a prior-recorded deed of trust. Stone Hollow Avenue Trust v. Bank of America Nat’l Ass’n, No 64955, 2016 WL 4542303 (Nev. Aug. 11, 2016). “[T]he superpriority lien granted by NRS 116.3116(2) does not include an amount for collection fees and foreclosure costs incurred; rather it is limited to an amount equal to the common expense assessments due during the nine months before foreclosure.” Horizons at Seven Hills v. Ikon Holdings, 132 Nev. Adv. Op. 35 at *6 (2016).

The Court finds Bank of America failed to tender the superpriority portion of the lien amount to Foxfield HOA. Miles Bauer, counsel for Bank of America, sent correspondence to ACS vaguely

1 requesting a superpriority amount. Mr. Jung, on behalf of Miles Bauer, stated in his request, "It is
2 unclear, based upon the information known to date, what amount the nine months' of common
3 assessments pre-dating the NOD actually are. That amount, whatever it is, is the amount Bank of
4 America should be required to rightful pay to discharge its obligations to the HOA per NRS
5 116.3102 and my client hereby offers to pay that sum upon presentation of adequate proof of the
6 same by the HOA." Although Mr. Jung understood that failure to pay the superpriority portion of the
7 lien would result in the loss of his client's interest in the property, nothing further was done to
8 pursue a resolution after the fact. Bank of America did not go back to the notice of lien and look at
9 minimum amounts. If Bank of America consulted the notice of lien to assess the minimum amounts,
10 and then paid that amount, that tender would have rescinded sale. Moreover, Bank of America
11 failed to pay a fifty dollar fee to obtain the association statement ledger Mr. Jung needed to assess
12 the amount due under the lien. Ultimately, fifty dollars became the impediment to Bank of America
13 losing its priority interest on its first deed of trust. As such, the Court cannot implement an equitable
14 remedy to a party that sat on their rights. Accordingly, Foxfield HOA's foreclosure sale extinguished
15 Bank of America's interest due to Bank of America's inaction.

16 Alternatively, Bank of America seeks to void the foreclosure sale based on Foxfield HOA's
17 failure to abide by the commercial reasonableness standard each foreclosure must adhere to. Bank of
18 America cannot establish the required elements of a commercially unreasonable sale. Thus, the sale,
19 which extinguished Bank of America's interest, was lawfully conducted. Accordingly, Bank of
20 America is unable to reclaim its interest by voiding the sale.

21 **B. Commercial Unreasonableness**

22 BONY, Bank of America, and MERS argue that the foreclosure sale for the property was
23 commercially unreasonable because the property was only sold for \$5,400. Inadequacy of price
24 alone however, cannot justify the court to set aside a sale. Price inadequacy alone falls short of
25 "showing of fraud, unfairness, or oppression," required by law to set aside a foreclosure sale.
26 Shadow Wood HOA v. N.Y. Cmty. Bancorp., 132 Nev. Adv. Op. 5 at *6 (2016). Thus, Bank of
27 America's reliance on price inadequacy alone falls short of this standard. Absent any allegations of
28 fraud, oppression or unfairness, Bank of America's arguments as to the sale being commercially

1 unreasonable fail. No evidence of fraud, unfairness or oppression have been produced and any
2 evidence of collusion on price is nonexistent. Evidence established that there were nearly eighteen
3 foreclosures that day. Some particular sales had bidders while other particular sales did not. This
4 particular sale was a customary sale in accordance with the statute. As such, the sale conducted
5 fairly and properly. Consequently, the foreclosure sale extinguished Bank of America's interest in
6 the property.

7 **C. MERS and BONY's Counterclaim of Wrongful Foreclosure**

8 By properly conducting a sale pursuant to a valid statute, Foxfield HOA and ACS are free
9 from inability under a wrongful foreclosure theory. The foreclosure sale extinguished Bank of
10 America's interest in the property because the sale was conducted fairly and properly. Consequently,
11 MERS and BONY's Counterclaims for wrongful foreclosure do not survive.

12 **D. MERS and BONY's Counterclaim for Unjust Enrichment**

13 MERS and BONY bring claims against Foxfield HOA and ACS separately for unjust
14 enrichment. Unjust enrichment is the "unjust retention of money or property of another against the
15 fundamental principle of justice or equity and good conscience." Topaz Mutual Co. v. Marsh, 839
16 P.2d 606, 613 (Nev. 1992). MERS and BONY argue that ACS and Foxfield HOA were unjustly
17 enriched because the amount Foxfield HOA actually recovered from the foreclosure proceeds
18 exceeded the amount of the true super-priority portion of Foxfield HOA's lien.

19 This cause of action fails because Foxfield HOA foreclosed on its lien under its authority
20 pursuant to NRS 116. Pursuant to statute, the property did not belong to another lienholder.
21 Consequently, Foxfield HOA's statutory right to foreclose on the property did not unjustly take a
22 benefit from MERS or BONY. Therefore, MERS and BONY's claim that Foxfield HOA and ACS
23 were unjustly enriched by the sale fail.

24 **E. MERS and BONY's Counterclaim of Tortious Interference with Contractual Relations**

25 MERS and BONY assert that ACS and Foxfield HOA are liable for the tort of intentional
26 interference with contract. In an action for intentional interference with contractual relations, a party
27 must establish: 1) a valid and existing contract; 2) the defendant's knowledge of the contract; 3)
28 intentional acts intended or designed to disrupt the contractual relationship; 4) actual disruption of

1 the contract; and 5) resulting damage. J.J Industries, LLC, v. Bennett, 71 P.3d 1264, 1267 (Nev.
2 2003). A party must establish that the tortfeasor had a motive to induce breach of the contract worth
3 the third party. Id.

4 Here MERS and BONY cannot establish that neither Foxfield HOA nor ACS had any motive
5 to disrupt the contract under the Deed of Trust with the former homeowner. Foxfield HOA and
6 ACS's actions were to solely initiated to recover assessments the two entities had a legal right to
7 collect under the statute. Thus, MERS and BONY have failed to prove the required element of
8 intentional acts designed to disrupt the contractual relationship. Id. As such, MERS and BONY's
9 claim for tortious interference with contractual relations fails.

10 **F. MERS and BONY's Counterclaims for Breach of the Duty of Good Faith**

11 Section 116.1113 of the Nevada Revised Statutes states: "Every contract or duty governed by
12 this chapter imposes an obligation of good faith in its performance or enforcement." MERS and
13 BONY assert that ACS violated this duty of good faith by refusing to provide information regarding
14 the lien without payment of a fifty dollar fee for the information. This claim fails because Nevada
15 statute allows a fee to be charged to prepare and furnish a statement of demand. Under section
16 107.310 of the Nevada Revised Statutes, a beneficiary "may charge a fee of not more than \$60 for
17 each statement furnished pursuant to NRS 107.200 or 107.210." Bank of America knew about the
18 fee and failed to pay the fifty-dollar fee to obtain the association statement ledger Mr. Jung needed
19 to assess the amount due under the lien. Notably, the fee charged in this instance was lower than the
20 statutory minimum prescribed in section 107.310 of the Nevada Revised Statutes. Consequently,
21 MERS and BONY cannot point to any duty or contract that Foxfield HOA or ACS violated. As
22 such, MERS and BONY'S counterclaims for breach of the duty of good faith fail.

23 In sum, Bank of America failed to tender the superpriority lien amount to Foxfield HOA to
24 discharge Foxfield HOA's superpriority lien. Foxfield HOA lawfully exercised its right to foreclose
25 on the property under NRS 116 and properly conducted the sale to extinguish the bank's interest in
26 the property. By properly conducting a sale pursuant to a valid statute, Foxfield HOA and ACS are
27 free from liability under a wrongful foreclosure theory. As a result, Thomas Jessup LLC lawfully
28

1 purchased the property at the foreclosure sale subject to no prior interest. Therefore, the Court quiets
2 title in Jessup LLC's favor.

3 Additionally, MERS and BONY's counterclaims for relief fail as well. MERS and BONY's
4 claim that Foxfield HOA and ACS were unjustly enriched by the sale fails because the property did
5 not did not belong to another lienholder under the statute. Thus, Foxfield HOA's exercise of its'
6 statutory right to foreclose on the property did not unjustly take a benefit from MERS or BONY.
7 MERS and BONY's claim for tortious interference fails because Foxfield HOA and ACS conducted
8 the foreclosure only to recover assessments the two entities had a legal right to collect under the
9 statute. As such, MERS and BONY cannot establish that neither Foxfield HOA nor ACS had any
10 motive to intentionally disrupt as the Deed of Trust with the former homeowner. Lastly, MERS and
11 BONY cannot point to any duty or contract that Foxfield HOA or ACS violated to establish their
12 breach of the duty of good faith claim.

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III. Conclusion

The Court finds that Bank of America failed to tender the superpriority lien amount to Foxfield HOA to preserve Bank of America's interest in the property. Accordingly, the NRS 116 foreclosure sale extinguished Bank of America's interest in the property. The Court finds in favor of Plaintiff Thomas Jessup, LLC. Thomas Jessup LLC lawfully purchased the property at the foreclosure sale subject to no prior interest. Thus, the Court quiets title in Jessup LLC's favor.

DATED this 11th day of July 2017.



LINDA MARIE BELL
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date of filing, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system or, if no e-mail was provided, by facsimile, U.S. Mail and/or placed in the Clerk's Office attorney folder(s) for:

Name	Party
Richard L. Tobler, Esq. Richard L. Tobler, Ltd.	Counsel for Plaintiff
Darren T. Brenner, Esq. Akerman LLP	Counsel for Defendants Bank of America
Shane D. Cox, Esq. Absolute Collection Services	Counsel for Absolute Collection Services


TINA HURD
JUDICIAL EXECUTIVE ASSISTANT, DEPARTMENT VII

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Decision and Order filed in District Court case number A693205 **DOES NOT** contain the social security number of any person.

/s/ Linda Marie Bell Date 7/11/2017
District Court Judge

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

January 07, 2014

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

**January 07, 2014 10:00 AM Motion for Temporary
Restraining Order**

HEARD BY: Escobar, Adriana **COURTROOM:** Phoenix Building Courtroom -
11th Floor

COURT CLERK: Jill Chambers

RECORDER:

REPORTER: JoAnn Melendez

PARTIES

PRESENT: Infuso, Michael Attorney

JOURNAL ENTRIES

- Mr. Infuso stated the application is unopposed and all parties were properly served. Court, having reviewed everything, ORDERED application GRANTED and FURTHER ORDERED a \$1,000.00 BOND. Mr. Infuso to prepare the order and include Findings of Fact and Conclusions of Law.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

November 13, 2014

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

November 13, 2014 9:00 AM

**Status Check: Status of
Case**

HEARD BY: Escobar, Adriana

COURTROOM: Phoenix Building Courtroom -
11th Floor

COURT CLERK: Jill Chambers

RECORDER:

REPORTER:

PARTIES

PRESENT: Brenner, Darren Attorney
Swift, Christopher Attorney
Walkenshaw, Shawn L. Attorney

JOURNAL ENTRIES

- Court noted she received a stipulation and order. Mr. Brenner requested time to file the responsive pleading. Court SO ORDERED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

January 12, 2016

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

January 12, 2016

9:00 AM

All Pending Motions

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 03B

COURT CLERK: Sylvia Perry

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Defendant Bank of America, N.A.'s Motion for Leave to Amend Answer to Add Affirmative Defenses... Mortgage Electronic Registration Systems, Inc. and the Bank of New York Mellon fka the Bank of New York as Trustee for the Certificate holder of the Cwabs, Inc. Asset - Backed Certificates, Series 2005-17, Incorrectly named as BNY Mellon, NA's Motion for Leave to Amend Pleadings (First Request)...

No parties present

Prior to the hearing, the clerk received an e-mail from the department 7 JEA advising that although Mr. Geisendorf would not be present on this date, he did not oppose the motions. Court was informed.

COURT ORDERED, both motions GRANTED as they are unopposed. Counsel asked to submit orders; the amended complaint is to be filed within twenty (20) days. Parties notified no need to be present on this date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

December 13, 2016

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

December 13, 2016 9:00 AM Status Conference

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 03B

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Cooper, Thera Attorney
Cox, Shane Attorney
Langeveld, John M., ESQ Attorney
Tobler, Richard L Attorney

JOURNAL ENTRIES

- Status Conference

Parties advised they are all trial counsel.

Mr. Tobler advised the dispositive motion cutoff date is January 4, 2016 and requested to move it out thirty (30) days. There being no opposition, COURT SO ORDERED; dispositive cut off date is now 2/6/17. Further, Mr. Tobler made an oral request to stay the case pending the Saticoy Bay decision. Mr. Tobler's request DENIED. Colloquy regarding settlement efforts as Court noted it will not continue the court date for a settlement conference or mediation. Parties so noted. DC VII trial handout reviewed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

January 26, 2017

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

January 26, 2017	9:00 AM	Motion to Withdraw as Counsel	Gerrard, Cox & Larsen's Motion to Withdraw as Counsel on Order Shortening Time
-------------------------	----------------	--	---

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Rebecca Foster

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:	Bank of America	Defendant
	Langeveld, John M., ESQ	Attorney
	Mortgage Electronic Registration	Defendant
	Systems Inc	Counter Claimant

JOURNAL ENTRIES

- There being no opposition, COURT ORDERED, Motion to Withdraw is GRANTED. Upon Court's inquiry, counsel stated there are no problems with trial.

CLERK'S NOTE: This minute order has been AMENDED as of February 23, 2017. ///ac

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

March 07, 2017

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

March 07, 2017 9:00 AM All Pending Motions

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Habdas, William S. Attorney
Tobler, Richard L Attorney

JOURNAL ENTRIES

- Following extensive arguments by Counsel, COURT ORDERED, as follows:

Defendant's Motion for Summary Judgment Against Plaintiff Thomas Jessup, LLC Series VII;
DENIED.

Plaintiff Thomas Jessup LLC Series VII's Opposition to Bank of New York Mellon's Motion for
Summary Judgment and Countermotion for Summary Judgment; DENIED.

Calendar Call; Trial SET TO PROCEED 4/3/17 and Counsel to have all exhibits to chambers by
3/20/17.

4/3/17 9:00 AM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

April 03, 2017

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

April 03, 2017 9:00 AM Bench Trial

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Phyllis Irby

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT: Brenner, Darren Attorney
 Habdas, William S. Attorney
 Tobler, Richard L Attorney

JOURNAL ENTRIES

- OPENING STATEMENTS. Parties informed the Court they would like to introduce all of the exhibits as stipulated. Exhibits #25 has been replaced (redacted). Colloquy regarding exhibit #25, to admit the redacted copy then seal the unredacted copy. COURT SO ORDERED.

Testimony and exhibits presented (see worksheet). Defense rested. Plaintiff rested.

CLOSING ARGUMENTS BY COUNSEL.

COURT ORDERED, STATUS CHECK SET.

5-02-17 9:00 AM STATUS CHECK: DECISION (DEPT. VII)

CLERK'S NOTE: Status check date changed due to department being dark on 5/1 date./pi

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

May 02, 2017

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

May 02, 2017

9:00 AM

Status Check

HEARD BY: Hardy, Joe

COURTROOM: RJC Courtroom 03H

COURT CLERK: Kristin Duncan

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT: Brenner, Darren

Attorney

JOURNAL ENTRIES

- The COURT noted that the instant case was under advisement, and ORDERED the matter was hereby CONTINUED for a decision; counsel would not be required to appear at the continuance date.

CONTINUED TO: 5/30/17 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

May 30, 2017

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

May 30, 2017

9:00 AM

Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Status Check: Decision

COURT ORDERED, matter CONTINUED.

CONTINUED TO 6/27/17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

June 27, 2017

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

June 27, 2017

9:00 AM

Status Check

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Status Check: Decision

No parties present

COURT ORDERED, matter CONTINUED.

CONTINUED TO 7/11/17

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

July 11, 2017

A-13-693205-C Thomas Jessup LLC Series VII, Plaintiff(s)
vs.
Lena Cook, Defendant(s)

July 11, 2017 9:00 AM Status Check

HEARD BY: Bell, Linda Marie **COURTROOM:** RJC Courtroom 15A

COURT CLERK: Sylvia Perry

RECORDER: Renee Vincent

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Status Check: Decision

Court advised a written decision will issue.

JOINT TRIAL EXHIBITS

CASE NO. A-13-693205-C

No.	Description	Stipulated	Date Offered	Objection	Date Admitted
1	Grant, Bargain, Sale Deed, Bates No. BANA000032-000034	Yes	4-3-17	STIP	4-3-17
2	Deed of Trust, Bates No. 000035-000056	Yes			
3	Substitution of Trustee and Full Reconveyance, Bates No. BANA000057-000058	Yes			
4	Deed of Trust, Bates No. BANA000059-000073	Yes			
5	Notice of Delinquent Assessment Lien, Bates No. BANA000074-000075	Yes			
6	Notice of Default and Election to Sell Under Homeowners Association Lien, Bates No. BANA000078-000080	Yes			
7	Assignment of Deed of Trust, Bates No. BANA000081-000082	Yes			
8	Substitution of Trustee Nevada, Bates No. BANA000084-000085	Yes			
9	Notice of Default/Election to Sell Under Deed of Trust, Bates No. BANA000086-000087	Yes			
10	Notice of Trustee's Sale, Bates No. BANA000088-000089	Yes			
11	Certificate State of Nevada Foreclosure Mediation Program, Bates No. BANA000091	Yes			
12	Nevada Notice of Trustee's Sale, Bates No. BANA000092-000093	Yes			
13	Notice of Trustee's Sale, Bates No. BANA000094-000095	Yes			
14	Trustee's Deed Upon Sale, Bates No. BANA000096-000099	Yes			
15	Release of Lien, Bates No. BANA000100	Yes			
16	Quitclaim Deed, Bates No. BANA000101-000105	Yes			
17	Notice of Release of Lien, Bates No. BANA000106	Yes			
18	Quit Claim Deed, Bates No. BANA000107-000108	Yes			
19	Nevada Notice of Trustee's Sale, Bates No. BANA000109-000110	Yes			
20	Documents produced by MERS and BNY Mellon by previous counsel, Bates No. BONY00001-00057	Yes			
21	Miles Bauer affidavits, Bates No. BANA000114-000123	Yes			

22	Documents produced by Foxfield Community Association, Bates No. FOX00001-000085	Yes	4-3-17	STIP	4-3-17
23	Documents produced by Absolute Collections Services, LLC, Bates No. ACS00001-00179	Yes			
24	Expert report by Scott Dugan, Bates No. DUGAN000001-000032	Yes			
25	Note for underlying loan, BANA000159-000163	Yes			

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

DEFENDANTS THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATE HOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES SERIES 2005-17, BANK OF AMERICA N.A., AND MORTGAGE OF AMERICA N.A., AND MORTGAGE ELECTRONICS REGISTRATION SYSTEMS, INC.'S NOTICE OF APPEAL; DEFENDANTS' THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATE HOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2005-17, BANK OF AMERICA N.A., AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DECISION AND ORDER; NOTICE OF ENTRY OF DECISION AND ORDER; DISTRICT COURT MINUTES; EXHIBITS LIST

THOMAS JESSUP, LLC SERIES VII,

Plaintiff(s),

vs.

LENA COOK; BNY MELLON, N.A.; SFG
MORTGAGE; BANK OF AMERICA, N.A.;
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.; HEIRS OF THE ESTATE OF
LENA COOK,

Defendant(s),

Case No: A-13-693205-C

Dept No: VII

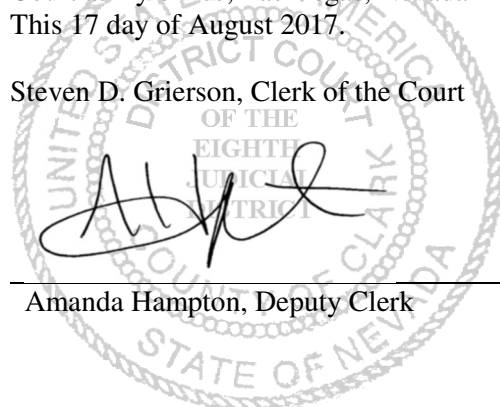
now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 17 day of August 2017.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk



AKERMAN LLP

57452 CLERK SUPREME COURT OF NEVADA

08/15/17

CHECK NO. 26000994

G/L ACCOUNT #	DATE	INVOICE NUMBER	DESCRIPTION	MATTER	AMOUNT
299810000000000000	08/15/17	08152017CDLL	CRINV Filing Fee for Appeal - Case No. A-13-693205-C, Send to Carlota D. Liarena, LV	0284876	250.00
				TOTAL	\$250.00

AKERMAN LLP

57452 CLERK SUPREME COURT OF NEVADA

08/15/17

CHECK NO. 26000994

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				TOTAL	\$250.00

AKERMAN LLP

495 N KELLER ROAD
SUITE 300
MAITLAND, FL 32751
PHONE (407)254-2397

Las Vegas, NV

26000994

63-215
631

DATE 08/15/17

AMOUNT OF CHECK

\$250.00*****

PAY TWO HUNDRED FIFTY AND 00/100 Dollars

OPERATING ACCOUNT
VOID AFTER 90 DAYSTO THE
ORDER OFSUPREME COURT OF NEVADA
200 LEWIS AVE
CLARK COUNTY DISTRICT COURT
LAS VEGAS, NV 89155

CHECKS OVER \$1,000 REQUIRE TWO SIGNATURES

⑈ 26000994 ⑈ ⑆063107513⑆ 2000032043949⑈