

IN THE SUPREME COURT OF THE STATE OF NEVADA

SFR INVESTMENTS POOL 1,
LLC, a Nevada limited liability
company,

Appellant,

vs.

MARCHAI, B.T., a Nevada
business trust,

Respondent.

Electronically Filed
Supreme Court Case No. 74416
Jan 30 2019 04:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
District Court Case No. A-
689461-C, Consolidated with A-
16-742327-C

APPEAL

From the Eighth Judicial District Court
The Honorable Linda Marie Bell

Respondent's Appendix

David J. Merrill
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Tab	Date Filed	Document	Bates Number
1	7/19/2018	Application for Default Judgment and Entry of Final Judgment on Order Shortening Time	RA001

Certificate of Service

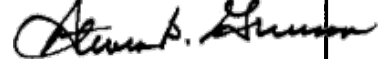
I certify that I filed the Respondent's Appendix electronically with the Nevada Supreme Court on the 30th day of January 2019, and each of the registered users of the Court's electronic filing system shall receive notice.

Dated this 30th day of January 2019.

David J. Merrill, P.C.

By: /s/ David J. Merrill
David J. Merrill
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Attorney for Marchai, B.T.

TAB 1



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1 **AFDJ**
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6
7

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 **MARCHAI, B.T., a Nevada business**
trust,

11 **Plaintiff,**

12 **v.**

13 **CRISTELA PEREZ, an individual; et al.**

14 **Defendants.**

15
16 **AND ALL RELATED CLAIMS AND**
17 **ACTIONS**

Case No.: A-13-689461-C
Dept. No. XI

Consolidated with: A-16-742327-C

18 **Application for Default Judgment and Entry of Final Judgment on Order Shortening Time**


19 Marchai, B.T. applies, on shortened time, for entry of judgment by default in
20 favor of Marchai and against Cristela Perez and U.S. Bank, N.A. and moves for entry
21 of a final judgment consistent with this Court's prior order granting summary
22 judgment in favor of Marchai and against SFR Investments Pool 1, LLC and Wyeth
23 Ranch Community Association. Marchai bases this application on the following
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1 memorandum of points authorities, the pleadings and papers on file, and any argu-
2 ment heard by the Court.

3 Dated this 18th day of July 2018.

4 David J. Merrill, P.C.


5
6 By: 
7 David J. Merrill
8 Nevada Bar No. 6060
9 10161 Park Run Drive, Suite 150
10 Las Vegas, Nevada 89145
11 (702) 566-1935
12 Attorney for Marchai, B.T.

13 **Application for Order Shortening Time**

14 Pursuant to EDCR 2.26, Marchai applies for an order shortening time for the
15 hearing on its application based upon the following Declaration of David J. Merrill.

16 Dated this 18th day of July 2018.

17 David J. Merrill, P.C.

18 By: 
19 David J. Merrill
20 Nevada Bar No. 6060
21 10161 Park Run Drive, Suite 150
22 Las Vegas, Nevada 89145
23 (702) 566-1935
24 Attorney for Marchai, B.T.

25 **Declaration of David J. Merrill in Support of Application**
26 **for Order Shortening Time**

27 I, David J. Merrill, declare as follows:

28 1. I am the sole shareholder of David J. Merrill, P.C., which is counsel of
record in the above-referenced case. I have made this declaration in support of the
application for order shortening time and the application for default judgment. I

1 have personal knowledge of and am competent to testify to the facts contained in
2 this declaration.

3 2. On October 3, 2017, this Court entered its Decision and Order, which
4 denied SFR Investments Pool 1, LLC and Wyeth Ranch Community Association's
5 motions for summary judgment and granted summary judgment in favor of Mar-
6 chai.¹

7 3. On November 3, 2017, SFR appealed the Decision and Order to the Ne-
8 vada Supreme Court.²

9 4. On March 1, 2018, the Nevada Supreme Court entered an order to
10 show cause, noting that the appeal suffered from a jurisdictional defect.³

11 5. On April 2, 2018, SFR filed a response to the order, in which it asked
12 the court for more time to cure the jurisdictional defects.⁴

13 6. On April 26, 2018, the court granted SFR's request.⁵ The court directed
14 SFR to file a response to the order to show cause in 60 days.⁶

15 7. On April 17, 2018, SFR filed an application for default judgment
16 against Cristela Perez and U.S. Bank, N.A.⁷

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21 ¹ See Decision & Order (Oct. 3, 2017).

22 ² See Notice of Appeal (Nov. 3, 2017).

23 ³ See *SFR Invs. Pool 1, LLC v. Marchai, B.T.*, Case No. 74416, Order to Show Cause (Mar. 1,
24 2018).

25 ⁴ See *SFR Invs. Pool 1, LLC*, Resp. to Order to Show Cause (Apr. 2, 2018).

26 ⁵ See *SFR Invs. Pool 1, LLC*, Order Grant. Mot. in Part (Apr. 26, 2018).

27 ⁶ See *id.*

28 ⁷ See SFR Invs. Pool 1, LLC's Application for J. by Default Against Cristela Perez & U.S.
Bank, Nat'l Ass'n on Order Shortening Time (Apr. 17, 2018).

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8. On April 26, 2018, this Court entered a default judgment in favor of SFR and against Perez and U.S. Bank.⁸ The judgment expressly recognizes that SFR acquired its interest in the property subject to Marchai's deed of trust.⁹

9. On June 26, 2018, SFR filed another response to the order to show cause, in which it asked the Nevada Supreme Court for additional time to cure the jurisdictional defects.¹⁰

10. On July 7, 2018, the court entered an order granting SFR an extension of time to cure the jurisdictional defects and file a new response to the order to show cause by August 9, 2018.¹¹

11. Marchai would like to get a final judgment to avoid a dismissal of the appeal and the requisite filing of a new appeal. Accordingly, Marchai asks that this Court hear the application for default judgment on shortened time.

12. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18th day of July 2018 in Las Vegas, Nevada.

David J. Merrill
David J. Merrill

Order on Application for Order Shortening Time

The Court having considered the application for order shortening time, the affidavit of David J. Merrill, and good cause appearing therefor:

⁸ See J. by Default Against Cristela Perez and U.S. Bank Nat'l Ass'n on Order Shortening Time (Apr. 26, 2018).

⁹ See *id.* at 2:18–25.

¹⁰ See *SFR Invs. Pool 1*, Resp. to Order to Show Cause (Jun 26, 2018).

¹¹ See *SFR Invs. Pool 1*, Order Grant. Mot. (July 2, 2018).

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1 It is hereby ordered that the Application for Default Judgment and Entry
2 of Final Judgment shall be heard before this Court on the 6 day of Aug
3 2018 at 9:15 a.m.

4 Dated this ____ day of July 2018.

5
6 
7 Honorable Elizabeth Gonzalez
8 District Court Judge

9 **Memorandum of Points and Authorities**

10 **Introduction**

11 This Court has already entered summary judgment in favor of Marchai and
12 against SFR and Wyeth Ranch. But because a few claims remain outstanding, the
13 Nevada Supreme Court has issued an order to show cause concerning whether this
14 Court has issued a final judgment that would give the Nevada Supreme Court juris-
15 diction over the appeal. Hence, Marchai applies to this Court for a default judgment
16 against Cristela Perez and U.S. Bank, N.A. and for the entry of a final judgment
17 that is consistent with this Court's prior ruling on summary judgment.

18 **Statement of Facts**

19 On July 21, 2004, Perez, a resident of California, purchased the property at
20 7119 Wolf Rivers Avenue, Las Vegas, Nevada 89131 for \$457,545.00.¹² Title to the
21 property, which is in the Wyeth Ranch community, vested in Perez, a married
22 woman as her sole and separate property.¹³ Perez purchased the property as a sec-
23 ond home.¹⁴ To purchase the property, Perez entered into two loans with

24 ¹² See Decl. of David J. Merrill ¶¶ 2-6, attached to the App. of Exs. to Marchai, B.T.'s Mot. for
25 Summ. J. as Ex. 1 (Jan. 14, 2016); Aff. of David Alessi as Custodian of Records for Alessi & Koenig
26 (Nov. 10, 2015), attached to the App. as Ex. 2; Grant, Bargain, Sale Deed at 1, 4 (July 21, 2004), at-
tached to the App. as Ex. 2-A.

27 ¹³ See App. Ex. 2-A.

28 ¹⁴ See Deed of Trust at 22-23 (July 21, 2004), attached to the App. as Ex. 2-B.

1 Countrywide Home Loans, Inc.—one for \$366,000.00 and a second for \$68,631.00—
2 both of which Countrywide secured through the recording of two Deeds of Trust.¹⁵

3 On October 19, 2005, Perez refinanced her two loans with Countrywide by en-
4 tering into an InterestFirst Adjustable Rate Note with CMG Mortgage, Inc. in the
5 amount of \$442,000.00.¹⁶ On November 9, 2005, CMG Mortgage secured the note
6 through the recording of a Deed of Trust against the property.¹⁷

7 On April 6, 2006, U.S. Bank, N.A. recorded a Deed of Trust against the prop-
8 erty to secure a home equity line of credit that U.S. Bank extended to Perez in Jan-
9 uary 2006.¹⁸

10 On October 1, 2011, Perez defaulted under the terms of her loan from CMG
11 Mortgage.¹⁹

12 On May 25, 2012, Mortgage Electronic Registration Systems, Inc., as the
13 nominee for CMG Mortgage, assigned CMG Mortgage's deed of trust to CitiMort-
14 gage, Inc.²⁰ Likewise, CMG Mortgage endorsed the note payable to the order of
15 CitiMortgage.²¹ On June 5, 2012, CitiMortgage recorded a Corporate Assignment of
16 Deed of Trust.²²

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18 ¹⁵ See Deed of Trust, attached to the App. as Ex. 2-B; Deed of Trust at 1-3 (July 21, 2004), at-
19 tached to the App. as Ex. 2-C.

20 ¹⁶ See Decl. of Chaim Freeman ¶ 2, attached to the App. as Ex. 3; *see also* InterestFirst Adjusta-
21 ble Rate Note (Oct. 19, 2005), attached to the App. as Ex. 3-A.

22 ¹⁷ Deed of Trust (Nov. 9, 2005), attached to the App. as Ex. 2-D. Following the refinance of the
23 loan, on November 21, 2005, Countrywide reconveyed its two deeds of trust. *See* Merrill Decl. ¶¶ 7-8;
24 *see also* Substitutions of Trustee and Full Reconveyances, attached to the App. as Exs. 1-A & 1-B.

25 ¹⁸ See Deed of Trust (Apr. 6, 2006), attached to the App. as Ex. 4.

26 ¹⁹ See Freeman Decl. ¶ 5; *see also* letter from Carrington Mortgage Services, LLC to Perez (Oct.
27 3, 2012), attached to the App. as Ex. 3-E.

28 ²⁰ See Freeman Decl. ¶ 3; *see also* Corporate Assignment of Deed of Trust (June 5, 2012), at-
29 tached to the App. as Ex. 3-C.

²¹ See App. Ex. 3-A.

²² See App. Ex. 3-C.

1 On July 26, 2012, CitiMortgage assigned the deed of trust to U.S. Bank, as
2 trustee for Stanwich Mortgage Loan Trust, Series 2012-6.²³ CitiMortgage also
3 signed an allonge, endorsing the note payable to U.S. Bank.²⁴ On July 26, 2012,
4 U.S. Bank recorded the Assignment of Mortgage with the Clark County Recorder.²⁵
5 On October 3, 2012, Carrington Mortgage Services, LLC, the loan servicer, sent Pe-
6 rez a Notice of Intent to Foreclose.²⁶ According to the notice, Perez defaulted on the
7 loan on October 1, 2011 and owed U.S. Bank \$36,281.60.²⁷

8 On March 12, 2013, U.S. Bank assigned its interest in the Deed of Trust to
9 Marchai, B.T., a Nevada business trust, which it recorded with the Clark County
10 Recorder on August 12, 2013.²⁸ Contemporaneously with the assignment, U.S. Bank
11 executed an allonge endorsing the note to Marchai.²⁹

12 On August 28, 2013, Alessi & Koenig, LLC, as the agent for Wyeth Ranch
13 Community Association, conducted a foreclosure sale of an association lien.³⁰ At the
14 foreclosure sale, SFR Investments Pool 1, LLC submitted the winning bid.³¹

15 On September 9, 2013, Alessi recorded with the Clark County Recorder a
16 Trustee's Deed Upon Sale.³²

18 ²³ See Assignment of Mortgage (July 26, 2012), attached to the App. as Ex. 2-GG.

19 ²⁴ See App. Ex. 3-A.

20 ²⁵ See App. Ex. 2-GG.

21 ²⁶ See App. Ex. 3-E.

22 ²⁷ See *id.*

23 ²⁸ See Freeman Decl. ¶¶ 1; see also Assignment of Deed of Trust (Aug. 12, 2013), attached to the
24 App. as Ex. 3-F.

25 ²⁹ See App. Ex. 3-A.

26 ³⁰ See Trustee's Deed Upon Sale (Sept. 9, 2013), attached to the App. as Ex. 2-RR.

27 ³¹ See *id.*

28 ³² See *id.*

1 On September 30, 2013, Marchai commenced this action through the filing of
2 a Complaint for Judicial Foreclosure of Deed of Trust.³³ The complaint named Pe-
3 rez, SFR, and U.S. Bank as defendants.³⁴

4 On November 5, 2013, Marchai served U.S. Bank with a copy of the summons
5 and complaint.³⁵ U.S. Bank failed to file a response to the complaint. Hence, on De-
6 cember 13, 2013, the clerk entered a default against U.S. Bank.³⁶

7 On March 7, 2014, Marchai served Perez with a copy of the summons and
8 complaint.³⁷ Perez failed to file a response to the complaint. Hence, on April 22,
9 2014, the clerk entered a default against U.S. Bank.³⁸

10 Argument

11 NRS 40.430 *et seq.* provides the statutory framework for judicial actions for
12 foreclosure of real mortgages in Nevada and “must be construed to permit a secured
13 creditor to realize upon the collateral for a debt or other obligation agreed upon by
14 the debtor and creditor when the debt or other obligation was incurred.”³⁹ In an ac-
15 tion for judicial foreclosure, “the judgment must be rendered for the amount found
16 due the plaintiff, and the court, by its decree or judgment, may direct a sale of the
17 encumbered property, or such part thereof as is necessary, and apply the proceeds
18 of the sale as provided in NRS 40.462.”⁴⁰ “[A] creditor of a note secured by real
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20

21 ³³ See Compl. for Judicial Foreclosure of Deed of Trust (Sept. 30, 2013).

22 ³⁴ See *id.*

23 ³⁵ See Aff. of Serv. (Nov. 12, 2013).

24 ³⁶ See Default (Dec. 13, 2013).

25 ³⁷ See Return of Serv. (Mar. 11, 2014).

26 ³⁸ See Default (Apr. 22, 2014).

27 ³⁹ NRS § 40.430(2) (2015).

28 ⁴⁰ *Id.* § 40.430(1) (2015).

1 property must first pursue judicial foreclosure before recovering from the debtor di-
2 rectly.”⁴¹

3 On October 19, 2005, Perez obtained a loan from CMG Mortgage in the origi-
4 nal principal amount of \$442,000.00, which is evidenced by the InterestFirst Adjust-
5 able Rate Note. On November 9, 2005, CMG Mortgage secured the note through the
6 recording of a Deed of Trust against the Property.

7 In 2012, the Nevada Supreme Court held that in order to enforce a deed of
8 trust through foreclosure, the deed of trust and underlying promissory note must be
9 held by the same party.⁴² The court dispelled any notion that “separation” of the
10 note and deed of trust, i.e., that separate parties at one time held an interest in the
11 deed of trust and note, precludes enforcement when the documents are ultimately
12 unified in the same holder. “Indeed, while entitlement to enforce both the deed of
13 trust and the promissory note is required to foreclose, nothing requires those docu-
14 ments to be unified from the point of inception of the loan.”⁴³

15 “To prove that a previous beneficiary properly assigned its beneficial interest
16 in the deed of trust, the new beneficiary can demonstrate the assignment by means
17 of a signed writing.”⁴⁴ This requirement parallels the requirements for assignments
18 of a trust deed interest in lands generally, which “must be in writing, subscribed by
19 the party creating, granting, assigning, or declaring the same, or by the party’s law-
20 ful agent thereunto authorized in writing.”⁴⁵ An assignment of a beneficial interest
21

22 ⁴¹ *McDonald v. D.P. Alexander & Las Vegas Boulevard, LLC*, 121 Nev. 812, 816, 123 P.3d 748,
23 750 (2005).

24 ⁴² *Edelstein v. Bank of New York Mellon*, 128 Nev. Adv. Op. 48, 286 P.3d 249, 260 (2012) (citing
Cervantes v. Countrywide Home Loans, Inc., 656 F.3d 1034, 1039 (9th Cir. 2011)).

25 ⁴³ *Edelstein*, 286 P.3d at 259 (citing *In re Tucker*, 441 B.R. 638, 644 (Bankr. W.D. Mo. 2010)).

26 ⁴⁴ *Edelstein*, 286 P.3d at 260 (citing *Leyva v. National Default Servicing Corp.*, 127 Nev. Adv.
27 Op. 40, 255 P.3d, 1275, 1279 (2011)).

28 ⁴⁵ NRS § 111.205(1) (2015).

1 in a deed of trust must further be recorded in the office of the recorder in which the
2 property is located.⁴⁶

3 Here, CMG Mortgage, through MERS, assigned the Deed of Trust to
4 CitiMortgage, who assigned the Deed of Trust to U.S. Bank, who ultimately as-
5 signed the Deed of Trust to Marchai. The assignments satisfy all of the above re-
6 quirements: they are in writing; subscribed to by the agent of the prior beneficiary;
7 and recorded in Clark County, where the Property is located. Marchai, as the cur-
8 rent beneficiary of the Deed of Trust, is entitled to enforce it.⁴⁷

9 Article 3 of the Uniform Commercial Code governs transfers of negotiable in-
10 struments like promissory notes.⁴⁸ For a subsequent lender to establish it is entitled
11 to enforce a note, it must “present evidence showing [e]ndorsement of the note ei-
12 ther in its favor or in favor of [its servicer].”⁴⁹ When a promissory note is endorsed
13 to another party, the UCC permits a note to “be made payable to bearer or payable
14 to order,” depending on the type of endorsement.⁵⁰

15 Here, the note is payable to the order of Marchai. CMG Mortgage endorsed
16 the Note payable to the order of CitiMortgage. CitiMortgage, then executed an al-
17 longe making the Note payable to U.S. Bank, who then executed another allonge
18 making the Note payable to Marchai. Accordingly, Marchai is entitled to enforce the
19 Note.⁵¹

20
21 ⁴⁶ *Id.* § 106.210 (2015).

22 ⁴⁷ See *Edelstein*, 286 P.3d at 254 (noting that the beneficiary of a deed of trust is provided a lien
23 interest as security for the underlying debt, subject to the laws on foreclosure and sale) (citing
24 *Hamm v. Arrowcreek Homeowners’ Ass’n*, 124 Nev. 290, 298–99, 183 P.3d 895, 901–02 (2008); *Orr v.*
25 *Ulyatt*, 23 Nev. 134, 140, 43 P. 916, 917–18 (1896)).

26 ⁴⁸ *Edelstein*, 286 P.3d at 261 (citing *Leyva*, 255 P.3d at 1279).

27 ⁴⁹ *Edelstein*, 286 P.3d at 261 (citing *In re Veal*, 250 B.R. 897, 921 (9th Cir. BAP 2011); see also
28 *Leyva*, 255 P.3d at 1279).

⁵⁰ *Leyva*, 255 P.3d at 1280 (citing NRS § 104.3109).

⁵¹ See *id.*

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Perez must pay the principal and interest on the debt evidenced by the note and failure to make such payments constitutes default and breach of the note and Deed of Trust. Upon default, the beneficiary of the Deed of Trust must provide notice to Perez of the breach and provide 30 days to cure. If Perez fails to cure, the beneficiary may accelerate the full payment of the note and invoke the power of sale and any other remedies permitted by law.

Here, Perez failed to make the October 1, 2011 payment on the note and all payments due thereafter, resulting in default under the terms of the Note and Deed of Trust. On October 3, 2012, the loan servicer mailed Perez the Notice of Intent to Foreclose as required under the plain language of the Deed of Trust. Perez has failed to pay the amounts due and owing on the note.⁵² And Marchai elected to accelerate the amounts owed on the loan as evidenced by filing the complaint. As of July 18, 2018, Perez owed Marchai a total of \$534,939.55; \$430,113.48 for the unpaid principal balance of the note, \$96,327.50 in interest, and \$8,498.57 in late charges.⁵³

Marchai elects to invoke the power of sale and is entitled to a judgment of this Court ordering the property sold at foreclosure in order to satisfy the amount due and payable.⁵⁴

Conclusion

Perez and U.S. Bank failed to timely file a response to the complaint. And the clerk properly entered a default against both. Hence, Marchai respectfully asks this

52 **See Freeman Decl. ¶ 7.**

53 See Decl. of Chaim Freeman ¶ 2, attached as Ex. 1.

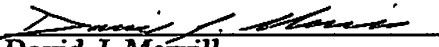
⁵⁴ See NRS § 40.430(1).

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1 Court to enter a judgment by default against Perez and U.S. Bank and enter a final
2 judgment in this action consistent with this Court's Decision and Order.⁵⁵

3 Dated this 18th day of July 2018.

4 David J. Merrill, P.C.

5
6 By: 
7 David J. Merrill
8 Nevada Bar No. 6060
9 10161 Park Run Drive, Suite 150
10 Las Vegas, Nevada 89145
11 (702) 566-1935
12 Attorney for Marchai, B.T.

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28 ⁵⁵ A proposed Final Judgment is attached as Exhibit 2.

EXHIBIT 1

Declaration of Chaim Freeman


I, Chaim Freeman, declare as follows:

1. I am the trustee of Marchai, B.T., a business trust formed under the laws of the State of Nevada, plaintiff in *Marchai, B.T. v. Perez*, Case No. A-13-689461-C, which is pending in the Eighth Judicial District Court, Clark County, Nevada. I have made this declaration in support of the Application for Default Judgment and Entry of Final Judgment on Shortened Time. I have personal knowledge of and am competent to testify to the facts set forth herein.

2. Despite demand, Cristela Perez has failed to cure the delinquency due under the note and Marchai has elected to accelerate the sums due under the note. As of January 31, 2018, Perez owes the unpaid principal balance of \$430,113.48, interest in the amount of \$96,327.50, and late charges in the amount of \$8,498.57, for a total owed of \$534,939.55.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed on this 18th day of July in Los Angeles, California.



Chaim Freeman

EXHIBIT 2

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JUDG
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Attorney for Marchai, B.T.

DISTRICT COURT
CLARK COUNTY, NEVADA

MARCHAI, B.T., a Nevada business
trust,

Plaintiff,

v.

CRISTELA PEREZ, an individual; *et al.*

Defendants.

Case No.: A-13-689461-C
Dept. No. VII

Consolidated with: A-16-742327-C

**AND ALL RELATED CLAIMS AND
ACTIONS**

JUDGMENT

On December 13, 2013, the Clerk of the Court entered a default against U.S. Bank, N.A. for its failure to file a response to the Complaint for Judicial Foreclosure of Deed of Trust. On April 22, 2014, the Clerk entered a default against Perez for her failure to serve a response to the complaint. On October 3, 2017, this Court entered a Decision and Order that entered summary judgment in favor of Marchai, B.T. and against SFR Investments Pool 1, LLC and Wyeth Ranch Community Association. Based upon the defaults, the Decision and Order, and good cause appearing therefor:

1 **It is hereby ordered, adjudged, and decreed** that Marchai shall take
2 judgment in its favor and against SFR, Perez, and U.S. Bank on its claim for judi-
3 cial foreclosure;

4 **It is further ordered, adjudged, and decreed** that SFR and U.S. Bank's
5 interests in the property located at 7119 Wolf Rivers Avenue, Las Vegas, Nevada
6 89131 (APN 125-15-811-013), shall be and hereby are subordinate, subsequent, and
7 subject to the Deed of Trust recorded on November 9, 2005 as Document No.
8 20051109-0001385, which is now owned by Marchai;

9 **It is further ordered, adjudged, and decreed** that Perez owes Marchai a
10 total of \$534,939.55, which includes \$430,113.48 in principal, \$96,327.50 in interest
11 through July 31, 2018, and \$8,498.57 in late charges;

12 **It is further ordered, adjudged, and decreed** that the Deed of Trust
13 shall be foreclosed to satisfy the amounts owed by Perez to Marchai;

14 **It is further ordered, adjudged, and decreed** that the Sheriff of Clark
15 County, or a levying officer appointed by the Court, shall have the authority to sell
16 the property and apply the proceeds of the sale due to Marchai;

17 **It is further ordered, adjudged, and decreed** that SFR, Wyeth Ranch,
18 U.S. Bank, Perez, and all persons claiming under them subsequent to the recording
19 of the Deed of Trust, either as lien claimants, judgment creditors, claimants under a
20 junior deed of trust, purchasers, encumbrances, and otherwise, be barred and fore-
21 closed from all rights, claims, interest or equity of redemption of the property and
22 every part of the property when the time for redemption has lapsed;

23 **It is further ordered, adjudged, and decreed** that Marchai, or any other
24 party to this action, may bid at the foreclosure sale;

25 **It is further ordered, adjudged, and decreed** that when the time for re-
26 demption has lapsed, the levying officer or Sheriff shall execute a deed to the pur-
27 chaser of the property at the sale and the purchaser at the sale shall be given pos-
28 session of the property upon production of the levying officer's or Sheriff's deed;

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1 **It is further ordered, adjudged, and decreed** that nothing in this Judg-
2 ment shall prevent Marchai from electing to exercise its non-judicial foreclosure
3 rights under the Deed of Trust;

4 **It is further ordered, adjudged, and decreed** that Marchai shall take
5 judgment in its favor and against SFR and Wyeth Ranch on a claim for declaratory
6 relief;

7 **It is further ordered, adjudged, and decreed** that Marchai holds a valid
8 interest in the property;

9 **It is further ordered, adjudged, and decreed** that Wyeth Ranch's lien on
10 the property was subject to Marchai's deed of trust;

11 **It is further ordered, adjudged, and decreed** that Wyeth Ranch's fore-
12 closure of its lien did not extinguish Marchai's deed of trust;

13 **It is further ordered, adjudged, and decreed** that SFR's counterclaims
14 and cross claims for quiet title/declaratory relief and preliminary and permanent
15 injunction shall be and hereby are **dismissed with prejudice**;

16 **It is further ordered, adjudged, and decreed** that Marchai shall take
17 judgment, jointly and severally, in its favor and against SFR and Wyeth Ranch for
18 its reasonable costs in the amount of \$2,752.85; and

