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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

VENISE ABELARD,

Plaintiff,

vs.

9352 CRANESBILL TRUST, FORT APACHE  
SQUARE HOMEOWNERS ASSOCIATION,  
MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC,  
BENCH MARCH ASSOCIATION SERVICES,  
IYAD HADDAD; et. al.,

Defendant.

And all related Parties and Actions.

Case No.: A-12-671509-C

Dept. No.: VII

**NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that 9352 Cranesbill Trust, Teal Petal St. Trust, and Iyad Haddad, hereby appeal to the Nevada Supreme Court from the Findings of Fact and Conclusions of Law granting Wells Fargo Bank, N.A.'s Motion for Summary Judgment entered in this action

1 on April 30, 2018.

2 Dated: May 29, 2018

3 GEISENDORF & VILKIN, PLLC

4  
5 /s/ Charles L. Geisendorf  
6 Charles L. Geisendorf, Esq.  
7 Nevada Bar No. 6985  
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11 Attorney for 9352 Cranesbill Trust,  
12 Teal Petal St. Trust, and Iyad Haddad

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**Certificate of Service**

I hereby certify that on May 29, 2018, I served the following document(s):

A copy of the preceding **NOTICE OF APPEAL**.

- By Electronic Transmission: by transmitting the document to the parties registered to receive service for this case via this Court's mandatory e-service system.

/s/ Charles L. Geisendorf  
An employee of Geisendorf & Vilkin, PLLC



1 RTRAN

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5 VENISE ABELARD,

6 Plaintiff,

7 vs.

8 9352 CRANESBILL TRUST, et al.,

9 Defendants.  
10  
11  
12

CASE NO. A-12-671509-C

DEPT. VII

BEFORE THE HONORABLE LINDA MARIE BELL, DISTRICT COURT JUDGE  
TUESDAY, MARCH 6, 2018

14 **RECORDER'S TRANSCRIPT OF**  
15 **MOTIONS FOR SUMMARY JUDGMENT**  
16

17 **APPEARANCES:**

18 For the Plaintiff:

JOICE B. BASS, ESQ.

19 For Third-Party Plaintiff Wells Fargo Bank:

JEFFREY L. WILLIS, ESQ.  
DANIEL IVIE, ESQ.

20 For Defendant 9352 Cranesbill Trust:

CHARLES L. GEISENDORF, ESQ.

21 For Defendant Apache Square HOA:

ELIZABETH LOWELL, ESQ.

22  
23  
24  
25 RECORDED BY: RENEE VINCENT, COURT RECORDER

1 Tuesday, March 6, 2018 - 10:31 a.m.

2  
3 THE COURT: Good morning. This is on for a motion for summary  
4 judgment. If everyone could state their appearance, please.

5 MS. LOWELL: Good morning, Your Honor. Charles Geisendorf had to go  
6 to down to the third floor to check in for a conference call, counsel for Cranesbill  
7 Trust.

8 THE COURT: Okay. Well, you know what, if you all want to just hang out  
9 where you are, we'll do this as soon as he comes up, and I'll just take care of a  
10 couple of other cases. So make yourselves comfortable.

11 [Matter trailed at 10:23 a.m., recommencing at 10:31 a.m.]

12 THE COURT: Are you all ready?

13 MS. BASS: Good morning, Your Honor. Joice Bass here for the Plaintiff,  
14 Ms. Abelard.

15 MR. WILLIS: Good morning, Your Honor. Jeff Willis and Dan Ivie on  
16 behalf of Wells Fargo Bank. And my Bar number is 4797.

17 THE COURT: All right.

18 MS. LOWELL: Good morning, Your Honor. Elizabeth Lowell on behalf of  
19 Fort Apache HOA.

20 MR. GEISENDORF: Charles Geisendorf on behalf of Cranesbill Trust, Teal  
21 Petals Trust and lyad Haddad.

22 THE COURT: All right. So we have two motions for summary judgment.  
23 Who wants to start?

24 MR. GEISENDORF: The bank can, if they would like.

25 THE COURT: This is page five, Abelard v. Cranesbill. I'm sorry?



1 MR. WILLIS: I'll be glad to start.

2 THE COURT: Okay.

3 MR. WILLIS: Your Honor, good morning. This case might seem familiar to  
4 you because it's almost identical to the Marchai decision you issued, I believe, two  
5 to two and a half months ago. But the dispositive factor and the undisputed fact is  
6 that the borrower and the homeowner, Ms. Abelard, made payments to the HOA  
7 after the notice of delinquent assessment lien that were greater than nine months  
8 of assessments before the notice of delinquent assessment lien.

9 Based on the reasoning in the Marchai case and also the reasoning  
10 in the *Golden Hill* case by the Supreme Court, that means that the sale that  
11 occurred, whether or not it's fallible for other reasons, but the sale that occurred  
12 had to have been as a matter of law a sub priority sale.

13 So what the bank seeks is an order from this Court recognizing and  
14 declaring that under all circumstances, if the sale is allowed to stand, it was a sub  
15 priority sale. And we also believe, Your Honor, and it's apparent from our papers,  
16 that there are sufficient undisputed facts from which the Court could conclude that  
17 the sale was fatally flawed given the undisputed facts regarding the  
18 communications between Ms. Abelard and Alessi and that the sale should be set  
19 aside as a matter of equity, either as commercially unreasonable or simply  
20 inequitable.

21 But I go back to the bank's position, which is, Your Honor, under all  
22 circumstances, the bank's lien survives, and that is the declaration we seek from  
23 you today.

24 THE COURT: All right.

25 MR. WILLIS: Thank you.

1 MR. GEISENDORF: Your Honor, I might as well address the first issue.  
2 We believe that it is inconsequential that the homeowner makes the payments to  
3 the delinquent account. We don't think that the homeowner had any intention of  
4 paying off the bank's super priority lien. They were trying to save the house. We  
5 think that it's irrelevant and has no effect; however, I do acknowledge the *Golden*  
6 *Hill* decision and that it was -- the rehearing was denied. So regarding that issue, I  
7 would just rest on the pleadings.

8 THE COURT: Okay.

9 MR. GEISENDORF: Otherwise, Your Honor, the rest of the case, I do  
10 believe, is similar to all the other cases. We believe that the trust deed was  
11 extinguished by the foreclosure sale. We believe there's a presumption that the  
12 sale was properly conducted. The recitals are conclusive.

13 In this case we have all the documentary evidence that all the  
14 notices were recorded. We have all the mailings, all the postings and all the  
15 publishings that are required. We believe that the trust is a bona fide purchaser.  
16 Took for valuable consideration without notice of prior equities. We don't believe  
17 that experience as a real estate investor has any -- any effect on this. We have  
18 the *Melendrez* case that says that.

19 We also believe that there's a deed of trust on every property that is  
20 foreclosed on, and that's not enough notice to jeopardize his BFP status. We  
21 believe the bank is not entitled to relief against a BFP, that they had equitable relief  
22 that was available to them that they did not take advantage of -- or I'm sorry,  
23 they're only entitled to equitable relief if they've exhausted all the remedies  
24 involved, which they haven't. They didn't attend the sale. They didn't request  
25 arbitration. They didn't try to enjoin the sale.

1                   We -- although they have pointed what they believe is fraud,  
2 unfairness or oppression in this, just pointing that out isn't enough. They have to  
3 show proof that that fraud, unfairness or oppression accounted for bringing about  
4 the inadequate price, which they haven't done and they haven't even alleged.

5                   Otherwise, Your Honor, the only other issue that we bring up is the  
6 amounts that are still owed by the Homeowners Association. I put in my -- as I  
7 briefed in my motion for summary judgment, there was an order entered requiring  
8 the homeowner to pay taxes, insurance and HOA dues. We've owned the property  
9 for five years. We've made all those payments. We would seek reimbursement  
10 from the homeowner for those amounts. I have in my brief a total amount of  
11 \$23,939.50.

12               THE COURT: All right. So with respect to the bank's motion for summary  
13 judgment, I'm going to grant it on the first issue, which is that the homeowner  
14 satisfied the super priority amount of the -- a lien after the lien was filed. I don't  
15 think that the statute requires that it be the lender who satisfies the super priority  
16 amount so that the -- so Cranesbill Trust would take the property subject to the first  
17 deed of trust.

18               Then with respect to the remaining arguments of the bank, though, I  
19 don't find that the sale was commercially unreasonable. That isn't really even an  
20 analysis that applies given the case law from the Nevada Supreme Court. And I  
21 also think that under the Nevada Supreme Court's bona fide purchaser analysis,  
22 which, I think, is broader than the traditional view of that concept, the purchaser  
23 was a good faith purchaser.

24               There was an auction, it was done by statute, valuable consideration  
25 was paid for the property, so I'm not -- I don't think any of the other arguments

1 apply and -- oh, and there's no requirement of notice of the paying the super  
2 priority portion.

3 I'm sorry, Mr. Geisendorf, I'm trying to find that part about the fees  
4 because I just didn't make a note of it.

5 MR. GEISENDORF: It's on page 17 of my motion for summary judgment,  
6 Your Honor, letter G.

7 THE COURT: The problem is I can't find your --

8 MR. GEISENDORF: That doesn't help?

9 THE COURT: There we go. All right. All right. I mean, Ms. Abelard was  
10 required to pay that pursuant to the court order. What would you like to do at this  
11 point?

12 MR. GEISENDORF: I believe the order was that Cranesbill take subject to  
13 the deed of trust, so --

14 THE COURT: Right.

15 MR. GEISENDORF: -- are you going grant my summary judgment/quiet  
16 title against her interest?

17 THE COURT: Yes.

18 MR. GEISENDORF: So it's --

19 THE COURT: Yes.

20 MR. GEISENDORF: -- still on the property.

21 THE COURT: Yes.

22 MR. GEISENDORF: At this point all we can get is a judgment for that  
23 amount, Your Honor.

24 THE COURT: Yes. Right. So Cranesbill's summary judgment with  
25 respect to Ms. Abelard is granted, given that the foreclosure sale was conducted

1 pursuant to statute, and I don't see any issue with respect to the statute. However,  
2 the court order required her to pay the property insurance and taxes and HOA  
3 dues as long as she continued to occupy the property. At this point it's 23,939.50?

4 MR. GEISENDORF: That's correct, Your Honor.

5 THE COURT: So --

6 MS. BASS: Your Honor, may we be heard on the opposition to the trust?

7 THE COURT: Sure.

8 MS. BASS: Unless you --

9 THE COURT: Sure.

10 MS. BASS: We -- as Your Honor noted, the BFP status law in Nevada  
11 appears to be a little bit broader, but the case law clearly bears out that BFP status  
12 goes to claims to title based on notice, and in this case Ms. Abelard is not  
13 challenging Cranesbill's title based on notice. She's challenging it on the basis that  
14 there was fraud, oppression and unfairness.

15 And the argument -- that theory as an equitable basis for the Court  
16 invalidating a sale has been upheld now twice. Very recently in *Shadow -- Shadow*  
17 *Wood* and most recently in *Nationstar*. And so that is a very valid basis for the  
18 Court to invalidate a sale, even assuming there is a BFP. The Court has equitable  
19 powers to weigh the -- well, really, the Court would be --

20 THE COURT: But here's the problem that I have. In order to seek  
21 equitable remedies, you have to have clean hands, and the failure to make these  
22 payments prior to all of this and subsequent to with the court order, I think makes  
23 that problematic.

24 MS. BASS: I understand, Your Honor. And I assume when you saying --  
25 when you're referring to making the payments prior to all of this, you're meaning

1 the alleged late payments. And I know this case has been pending for a long time,  
2 Your Honor, but, you know, there's been a lot of talk about things that the bank  
3 didn't do, and in this case, there are so many things that the homeowner did do.

4           You know, she -- she asked -- when the management company  
5 changed for the third or fourth time, she reached out and sought coupons so that  
6 she could continue making her payments. Those weren't sent to her. After that,  
7 when she found out about the foreclosure, she reached out to them consistently for  
8 over a month. Every single week she called them. She faxed them documents.

9           All of the payments that have been submitted to the Court with  
10 these briefings alone demonstrate that the amounts that she has -- that she did  
11 actually pay outweighed the amount of assessments that would've been due during  
12 that same period of time. Therefore, any additional amounts that she would've  
13 owed would've been based on fines, penalties, violations. And there is a basis for  
14 those, Your Honor, but the bottom line is, she was actively disputing the fact that  
15 she owed over and above the amounts of assessments and late fines, and they  
16 consistently put her off.

17           She believes that she would have been able to make up the  
18 difference. Because of them misleading her into understanding that they had put  
19 off the sale and that they were investigating -- and they have a statutory duty to  
20 verify a debt. They acknowledge that. David Alessi in his deposition  
21 acknowledged that they shouldn't have gone forward with the sale.

22           In fact, when Ms. Abelard went to their office on the day of the sale,  
23 they were still telling her that the sale was going to be put off after they had already  
24 sold it. So we believe that there is, at the very least, a triable issue of material  
25 fact, Your Honor, that should be reserved for trial where Your Honor can hear the

1 testimony of Ms. Abelard and Mr. Alessi about the procedures that his office was  
2 operating under. The law clearly provides that this is a basis for equitable relief,  
3 even as against a BFP. So, Your Honor, we would ask that the case be allowed to  
4 proceed to trial. Thank you.

5 THE COURT: Okay.

6 MR. GEISENDORF: I guess my response to that, Your Honor, is, Ms.  
7 Abelard admits that she was behind on payments and inclearing isn't enough.  
8 Well, she may have a claim against Alessi or the HOA; it's against them, not  
9 against the purchaser. The purchaser is a bona fide purchaser, and, again, any of  
10 that fraud, unfairness or oppression doesn't account for or bring about the  
11 inadequacy of the price, which is required.

12 Furthermore, all the statements made by Ms. Abelard, I believe, are  
13 just hearsay. None of it is confirmed with the notes or any of the documents from  
14 Alessi or the HOA. In fact, the notes from Alessi's office say they are not putting  
15 this on hold and continued to move forward. She could have -- just like the bank's,  
16 could have paid the amount was owed and then sought reimbursement afterwards.

17 THE COURT: All right. So I agree, I mean, in order to seek equitable  
18 remedies, Ms. Abelard would have to be in a position where she didn't owe the  
19 money, and that's not the position that -- that we unfortunately are in. So I am  
20 going to grant summary judgment with respect to Cranesbill's -- Cranesbill as it  
21 applies to Ms. Abelard.

22 MR. GEISENDORF: Thank Your Honor.

23 THE COURT: All right. And --

24 MR. GEISENDORF: We have an order and kind of have two motions.

25 THE COURT: Do you want to each prepare your own orders since you

1 kind of have some separate --

2 MR. GEISENDORF: Yes, Your Honor.

3 MR. WILLIS: That would be fine, Your Honor.

4 THE COURT: Great.

5 MR. WILLIS: And we had a --

6 THE COURT: Run them by each other.

7 MR. WILLIS: I believe we have a settlement conference scheduled, a  
8 calendar call, a pretrial --

9 THE COURT: Does that resolve the --

10 MR. GEISENDORF: Yes, it resolves --

11 MR. WILLIS: It resolves everything for the bank, Your Honor. That's --

12 MR. GEISENDORF: It resolves everything between the investor and the  
13 other parties also.

14 MS. BASS: It resolves the claims to -- to title. We still have outstanding  
15 claims for -- I believe it's violation of the Fair Debt Collection Practices Act and  
16 breach of fiduciary duties against the HOA.

17 THE COURT: Okay. So right -- so at this point we just have the claims  
18 against -- from Ms. Abelard against the HOA? That's what's left?

19 MS. LOWELL: I believe so, yes.

20 THE COURT: Okay.

21 MS. LOWELL: And Alessi and Koenig --

22 THE COURT: So the parties -- obviously, the parties that no longer -- so  
23 those are the only parties that will be required to participate in the settlement  
24 conference or the trial.

25 MS. LOWELL: Could I -- Alessi and Koenig, I believe, is still in. Steve



1 Loizzi was here earlier today. He had to leave to go to a 10:00 o'clock hearing. He  
2 told me he was withdrawing.

3 THE COURT: I haven't gotten a motion, I don't know, so --

4 MS. LOWELL: Okay. I'm not making a motion right now. I'm just saying,  
5 looking at this, because the case has changed dramatically in the last ten minutes,  
6 is it -- would you possibly consider our motion to continue the trial on another stack  
7 or --

8 THE COURT: You know, given the age of this case, I would really -- I  
9 mean, the issues have been narrowed down considerably doesn't make the case  
10 harder, it makes it easier, right?

11 MS. LOWELL: Right.

12 THE COURT: So I would prefer to just get it tried. It's a 2012 case. Thank  
13 you.


14 MR. GEISENDORF: Thank Your Honor.

15 MR. WILLIS: Thank Your Honor.

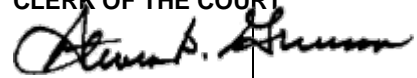
16 MS. LOWELL: Thank you.

17 [Proceeding concluded at 10:48 a.m.]

18  
19  
20 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
21 audio-visual recording of the proceeding in the above entitled case to the  
22 best of my ability.

23 

24 \_\_\_\_\_  
25 Renee Vincent, Court Recorder/Transcriber



**MOT**

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*Attorneys for Plaintiff Venise Abelard*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

VENISE ABELARD,

Plaintiff,

vs.

IYAD HADDAD, Individually and as Trustee  
for CRANESBILL CT. TRUST; 9352  
CRANESBILL CT. TRUST; TEAL PETALS  
ST. TRUST; FORT APACHE SQUARE  
HOMEOWNERS ASSOCIATION; MESA  
MANAGEMENT, LLC; LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC;  
ALESSI & KOENIG, LLC; and DOES I  
through X, and ROE COMPANIES I through  
X, inclusive,

Defendants.

9352 CRANESBILL CT. TRUST

Defendant/CounterClaimant,

vs.

VENISE ABELARD,

Plaintiff/CounterDefendant.

Case No.: A-12-671509-C

Dept No.: 11

**PLAINTIFF'S MOTION FOR  
RECONSIDERATION OF SUMMARY  
JUDGMENT AGAINST VENISE  
ABELARD OR, IN THE ALTERNATIVE,  
FOR AMENDMENT OF JUDGMENT  
PURSUANT TO NRCP 59(e)**

WELLS FARGO BANK, N.A.  
Intervenor/Counterclaimant,  
vs.  
9352 CRANESBILL CT. TRUST, a Nevada  
Trust,  
CounterDefendant.

WELLS FARGO BANK, N.A.,  
Intervenor/Cross-Claimant,  
vs.  
FORT APACHE SQUARE HOMEOWNERS  
ASSOCIATION, a Nevada non-profit  
corporation; ALESSI & KOENIG, LLC, a  
Nevada limited Liability company;  
Cross-Defendants,

WELLS FARGO BANK, N.A.  
Intervenor/Third-Party Plaintiff,  
vs.  
TEAL PETALS ST., TRUST, a Nevada trust;  
and DOES I through X and ROE COMPANIES  
I through X, inclusive;  
Third-Party Defendants.

Plaintiff Venise Abelard, by and through her attorneys of record, Joice Bass and Legal Aid  
Center of Southern Nevada, Inc., respectfully moves the Court for reconsideration of the grant of  
summary judgment against Plaintiff in favor of Defendants Iyad Haddad, Teal Petal St. Trust, and  
9352 Cranesbill Ct. Trust in the amount of \$23,939.50 (filed June 19, 2018). Alternatively,

1 Plaintiff respectfully moves the Court to amend the judgment pursuant to NRCP 59(e) to reduce  
2 the amount awarded to reflect the actual amount that Defendants paid in HOA fees/violations,  
3 homeowners insurance and property taxes since 2015.

4 This motion is based upon and supported by the following Memorandum of Points and  
5 Authorities, the pleadings and papers on file, and any argument that the Court may allow at a  
6 hearing on this matter.  
7

8 DATED this 6<sup>th</sup> day of July, 2018.

9  
10 **LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

11 /s/Joice Bass

12 Debra A. Bookout (SBN 11765)

13 Joice Bass (SBN 9405)

14 **LEGAL AID CENTER OF  
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21 *Attorneys for Plaintiff Venise Abelard*  
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**NOTICE OF HEARING**

PLEASE TAKE NOTICE that **PLAINTIFF’S MOTION FOR RECONSIDERATION OF SUMMARY JUDGMENT AGAINST VENISE ABELARD OR, IN THE ALTERNATIVE, FOR AMENDMENT OF JUDGMENT PURSUANT TO NRCP 59(e)** will be heard in Dept. XI of the above captioned court on the 10 day of AUGUST, 2018 at the hour of CHAMBERS .m. of said day, or as soon thereafter as counsel can be heard.

**LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

/s/Joice Bass

Debra A. Bookout (SBN 11765)

Joice Bass (SBN 9405)

**LEGAL AID CENTER OF  
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725 E. Charleston Blvd.

Las Vegas, NV 89104

*Attorneys for Plaintiff Venise Abelard*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. Legal Standard**

This Court “may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.” *Masonry and Tile Contractors Ass’n of Southern Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997)(citations omitted). Moreover, “Rule 59(e) provides an opportunity, within a severely limited time, to seek correction at the trial court level of an erroneous order or judgment, thereby initially avoiding the time and expense of appeal.” *Chiara v. Belaustegui*, 86 Nev. 856, 859 (1970).

## II. The Judgement Against Plaintiff Should Be Amended

On or about June 19, 2018, notice was served of the entry of judgment against Plaintiff for, in relevant part, an amount of **\$23,939.50**. This amount purportedly is owed to Defendants as a result of the Court's prior order (July 22, 2015) that Plaintiff pay HOA dues and property insurance and taxes on the Subject Property starting in 2015. This amount, however, is not correct, because Defendants did not pay it either.

While it is true that Plaintiff did not pay those amounts as ordered, it was because she could not pay them. Her mortgage with Wells Fargo was still in place, secured by a deed of trust on the Subject Property, and, as is normal, the mortgage company was paying the property insurance and taxes. *See* Exhibit 1 hereto<sup>1</sup>, Wells Fargo mortgage account information; *see also* Exhibit 2, homeowners insurance policy information. Furthermore, although Plaintiff's counsel had requested that Defendants' counsel at the time, Michael F. Bohn, forward any such bills to Plaintiff's counsel for payment, that never happened either.

Accordingly, while Plaintiff did not pay for the homeowners insurance or property taxes, neither did Defendants, except for a few property tax payments. *See* Exhibit 3, property tax records. An award to Defendants for monies that they did not pay would be an unjust windfall, especially since Plaintiff remains, for all intents and purposes, still personally liable on the mortgage (that has the escrow account that actually paid for the homeowners insurance and property taxes).

As for the HOA dues and fines, no other evidence was presented to the Court in support of Defendants' request for judgment against Plaintiff other than a conclusory declaration that such

---

<sup>1</sup> Plaintiff's counsel was only able to obtain these documents recently from counsel for Wells Fargo because there was a litigation hold on Plaintiff's loan account and the loan servicer refused to communicate with Plaintiff.

1 costs were “incurred.” *See* Exhibit 4, Declaration of Iyad Haddad. In view of the fact that  
2 Defendants clearly sought to be reimbursed for amounts that they did not actually pay (for  
3 homeowners insurance and property taxes), Plaintiff respectfully requests that the Court  
4 reconsider the award to Defendants of amounts that were allegedly incurred for HOA dues and  
5 fines.  
6

7 DATED this 6<sup>th</sup> day of July, 2018.

8 **LEGAL AID CENTER OF**  
9 **SOUTHERN NEVADA, INC.**

10 /s/Joice Bass

11 Debra A. Bookout (SBN 11765)

12 Joice Bass (SBN 9405)

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of LEGAL AID CENTER OF SOUTHERN NEVADA and that on the 6<sup>th</sup> day of July 2018, I served a true and correct copy of the foregoing **PLAINTIFF'S MOTION FOR RECONSIDERATION OF SUMMARY JUDGMENT AGAINST VENISE ABELARD OR, IN THE ALTERNATIVE, FOR AMENDMENT OF JUDGMENT PURSUANT TO NRCP 59(e)** via the Court's Electronic filing system to:

GEISENDORF & VILKIN, PLLC  
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*Attorneys for Fort Apache Square Homeowners Association*

/s/ Jineen DeAngelis  
An employee of Legal Aid Center  
of Southern Nevada Inc.



# **EXHIBIT 1**

## Joice Bass

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**From:** Ivie, Daniel <divie@swlaw.com>  
**Sent:** Tuesday, June 26, 2018 3:06 PM  
**To:** Joice Bass  
**Subject:** Abelard - Insurance and Tax Payments  
**Attachments:** 2013.pdf; 2014.pdf; 2015.pdf; Active System Payment History. 708-0206738635.pdf; 2012.pdf

**AmicusDealtWith:** Yes  
**AmicusFileIds:** 34482  
**AmicusFileName:** Abelard, Venise v. Fort Apache Square HOA  
**AmicusId:** 297910  
**AmicusStatus:** Saved  
**AmicusTimeEntry:** Yes

Joyce,

Below is a summary of the hazard insurance and tax payments on your client's property since 2012. Attached are the payment histories accounting for these payments. Let me know if you have any questions.

Thanks,  
Dan

Transaction Description	Applied Date	Payment
County Tax Disbursement	02/22/2018	-296.30
County Tax Disbursement	12/04/2017	-296.30
Hazard Ins Disbursement	11/03/2017	-555.00
County Tax Disbursement	09/26/2017	-296.30
County Tax Disbursement	08/09/2017	-298.09
Hazard Ins Disbursement	11/03/2016	-458.00
Hazard Ins Disbursement	11/12/2015	-472.00
County Tax Disbursement	02/20/2015	-279.28
County Tax Disbursement	12/21/2014	-279.28
Hazard Ins Disbursement	11/18/2014	-416.00
County Tax Disbursement	09/26/2014	-279.28

County Tax Disbursement	07/30/2014	-279.88
County Tax Disbursement	02/26/2014	-271.14
County Tax Disbursement	12/16/2013	-271.14
Hazard Ins Disbursement	11/08/2013	-447.00
County Tax Disbursement	09/20/2013	-271.14
County Tax Disbursement	07/26/2013	-271.14
County Tax Disbursement	2/18/2013	-274.97
County Tax Disbursement	12/20/2012	-274.97
Hazard Ins Disbursement	11/4/2012	-300.00
County Tax Disbursement	9/18/2012	-274.97
County Tax Disbursement	7/23/2012	-275.49
County Tax Disbursement	2/17/2012	-293.97

**2012**

#	VENISE ABELARD										MARCUS COMPERE										EMP 0 POF0									
	9352 CRANESBILL COURT										LAS VEGAS										NV 89149									
T MTGE PRIN	2ND MTGE PRIN	ESC BAL	REST ESC	SUSPENSE	ADV BAL	REPL RES	HUD BAL	LC BAL	INT DUE	DUE DATE	HUD	PRT OF																		
230,672.92		.00	.00	.00	.00	.00	.00	176.79	.00	10-01-12		.00 PR																		
& I 1ST	P&I 2ND	CO TAX	CITY TAX	HAZ INS	M I P	LIEN	BSC	A & H	LIFE	MISC	REP RES	TOT PAYMT	INT RATE	DT																
1247.68	.00	121.96	.00	25.00	88.74	.00	.00	.00 0	.00 0	.00 0	.00	1506.64	.0487500	1																
OVER/SHORT AMT		23.26																												
1ST ORIG MTG	2ND ORIG MTG	PRIN BAL	BEG	INT IND	CAP FLAG	MTGR SSN	DEF INT BAL	PRIOR YR	PPD INT	PPD INT	IND	GPM																		
226,081	0	233,412.12				000 00 5437	8,608.74		0.00	0	0																			
SUM-DT	XFER-DEED	FHA-SEC/NUM	LIP PAYOFF	FC-TRK-SW	YE-ACQ-RPT/DATE	SALE-ID	EXEMPT	PLGD-LN	PMT-OPT	CALC-METH	ELOC	BNKRPCY	CH/																	
		796/332-451756			N/12-18-07	1273	5																							
T PERIOD	1098-DET-HIST	POINTS-PAID/RPTG	YR	SUPPR-MICR-STMT	DI-NOT-RPT-YR	REAS CAUS	RI-HDR-SW	1ST-DUE-DT	REO	STAT/COMPL																				
12		.00						01-08																						
E CREDIT	YTD/W-H	SW/W-H	BALANCE	IORE CREDIT	YTD/W-H	SW/W-H	BALANCE	CONSTR CD	NO PURGE	FLAG/YR	BNKRPT	STAT	LAST DEF	DUE																
.00		.00		.00		.00			2	14			04-41																	
C CORP ADV BAL	3RD REC CORP ADV BAL	FORECL WKST	CODE/REINSTATE	DATE	INIT	ESC	STMT	CODE /	DATE	LOSS	MIT	STATUS/COMPL	DATE																	
.00	.00	R		04-18-11		9			02-19-08		C		04-26-11																	
UE PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C																
TE DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D																
L-FWD					233412.12			54.56	.00			.00																		
-12 01-04 3 10 1			CHECK #WIRE				87.39-	32.83-		PAYEE CD RBP																				
-12 01-05 1 61 1			32.83	.00	233412.12	.00	32.83	.00	32.83	.00	.00	.00	.00																	
										BATCH 904 EDIT-SEQ	999999																			
-12 01-13 1 73 1			1506.64	299.44	233112.68	948.24	258.96	258.96	32.83	.00	.00	.00																		
										PRV-PD FROM:	12-12-11	THRU:	01-13-12	L																
													72.94	A																
													299.44	A																
													299.44	A																
													299.44	A																
													299.44	A																
										BATCH LEC EDIT-SEQ	857347																			
-12 01-13 1 68 2			.00	.00	233112.68	.00	32.83-	226.13	.00	.00	.00	.00																		
													32.83	V																
										BATCH LEC EDIT-SEQ	857347																			
-12 02-03 3 10 1			CHECK #																											

EMP 0 POF0

APP000644

#	VENISE ABELARD				MARCUS COMPERE				EMP 0 POF0					
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS D
-12	09-03	3	10	1	CHECK #WIRE			87.39-	770.27		PAYEE CD RBP			
-00	09-09	3	07	1	CHECK #842292	MICR CHECK #7019842292		503.34-	266.93		PAYEE CD			
-12	09-17	1	52	1	.00	.00	230982.23	.00	.00	266.93	.00	.00	.00	60.27-
-12	09-18	3	12	1	CHECK #986508	MICR CHECK #7019986508		274.97-	8.04-		PAYEE CD 27003			
-12	09-19	1	61	1	8.04	.00	230982.23	.00	8.04	.00	8.04	.00	.00	.00
											BATCH 918 EDIT-SEQ 999999			
-12	10-04	3	10	1	CHECK #WIRE			87.39-	87.39-		PAYEE CD RBP			
-12	10-05	1	61	1	87.39	.00	230982.23	.00	87.39	.00	95.43	.00	.00	.00
											BATCH 904 EDIT-SEQ 999999			
-12	10-16	1	52	1	.00	.00	230982.23	.00	.00	.00	95.43	.00	.00	.00
-00	10-29	6	31	1	.00 PROCES DKH	REASON INSP INSPECTION				CORP:SEQ 02	PAYEE 40N15	ORIG PAY SE-FIRST		60.27-
					CHECK #415920	MICR CHECK #7020415920								15.00 A
-12	11-02	3	10	1	CHECK #WIRE			87.39-	87.39-		PAYEE CD RBP			
-12	11-04	1	61	1	87.39	.00	230982.23	.00	87.39	.00	182.82	.00	.00	.00
											BATCH 902 EDIT-SEQ 999999			
-12	11-04	3	51	2	CHECK #465195	MICR CHECK #7020465195		300.00-	300.00-		PAYEE CD 74760			
-12	11-05	1	61	1	300.00	.00	230982.23	.00	300.00	.00	482.82	.00	.00	.00
											BATCH 904 EDIT-SEQ 999999			
-12	11-16	1	52	1	.00	.00	230982.23	.00	.00	.00	482.82	.00	.00	.00
-12	11-30	1	86	1							FULL SETTLEMENT PRIN	230982.23	INT	58.26-
-12	12-03	3	10	1	CHECK #WIRE			87.39-	87.39-		PAYEE CD RBP			3745.91
-12	12-04	1	61	1	87.39	.00	230982.23	.00	87.39	.00	570.21	.00	.00	.00
											BATCH 903 EDIT-SEQ 999999			
-12	12-17	1	52	1	.00	.00	230982.23	.00	.00	.00	570.21	.00	.00	.00
-12	12-20	3	12	1	CHECK #059147	MICR CHECK #7021059147		274.97-	274.97-		PAYEE CD 27003			58.26-
-12	12-21	1	61	1	274.97	.00	230982.23	.00	274.97	.00	845.18	.00	.00	.00
											BATCH 920 EDIT-SEQ 999999			
-00	12-27	6	31	1	.00 PROCES CH8	REASON INSP INSPECTION				CORP:SEQ	PAYEE 40N15	ORIG PAY SE-FIRST		15.00 A
					CHECK #110903	MICR CHECK #7021110903								
-12	12-31	1	73	1	1566.91	309.31	230672.92	938.37	258.96	258.96	845.18	.00	.00	.00
											PRV-PD FROM: 08-15-12	THRU: 12-30-12	L	60.27
														309.31 A
														309.31 A
														309.31 A
														309.31 A
											BATCH LAG EDIT-SEQ 642784			
-12	12-31	1	68	2	.00	.00	230672.92	.00	258.96-	.00	586.22	.00	.00	.00
														258.96 V
											BATCH LAG EDIT-SEQ 642784			
Q-BY TOTALS				14,558.31			8,489.92				.00			11,682.68
/E					2,739.20			2,916.86						

HER AMOUNT CODES:

FHA-PENALTY	G=SER=INTEREST-PAID TO POOL	K=INT-DUE-PD	P=ACCRUED-IOE/IORE	U=REAPPLICATION-FEE	Y=HUD-FUND
BSC	H=FEE-AMT	L=PD-THRU-DT	R=UE-INT-AMT	V=ESCROW-ADVANCE	Z=RESTRICTED-ESCROW
235-FEE	I=A-H-PD	M=ADVANCE-EFF-DATE	S=CR-LIFE-AMT	W=SUSPENSE	DI=DEFERRED-INT-BAL
MISC	J=LIFE-PD	N=ADVANCE-MEMO-AMT	T=ORIG-FEE-AMT	X=REPLACEMENT-RESERVE	
-SER-FEE-PD	AR-DEFERRED-INT-PD	AC-LIFE-DEF-INT-PD	AD-CHECK-NO	AE-DEFERRED-INT-LTD-PD	AF-LIFE-DEFERRED-INT-LTD-PD

APP000645

**2013**



#	VENISE ABELARD				MARCUS COMPERE				LAS VEGAS				EMP 0 POF0												
	9352 CRANESBILL COURT								NV 89149																
T MTGE PRIN	229,737.42	2ND MTGE PRIN	.00	ESC BAL	.00	REST ESC	.00	SUSPENSE	1,306.84	ADV BAL	2,679.81	REPL RES	.00	HUD BAL	.00	LC BAL	.00	INT DUE	.00	DUE DATE	01-01-13	HUD PRT OF	.00 PR		
& I 1ST	1247.68	P&I 2ND	.00	CO TAX CITY TAX	96.45	HAZ INS	25.00	M I P	87.39	LIEN	.00	BSC	.00	A & H	.00	LIFE	.00	MISC	.00	REP RES	.00	TOT PAYMT	1456.52	INT RATE DT	.0487500 1
1ST ORIG MTG	226,081	2ND ORIG MTG	0	PRIN BAL BEG	230,672.92	INT IND		CAP FLAG		MTGR SSN	000 00 5437	DEF INT BAL	7,673.24	PRIOR YR		PPD INT	0.00	PPD INT IND	0	GPM O				0	
SUM-DT XFER-DEED	FHA-SEC/NUM	LIP PAYOFF	FC-TRK-SW	YE-ACQ-RPT/DATE	SALE-ID	EXEMPT	PLGD-LN	PMT-OPT	CALC-METH	ELOC	BNKRPCY	CH/													
	796/332-451756			N/12-18-07	1273	5																			
T PERIOD	1098-DET-HIST	POINTS-PAID/RPTG	YR	SUPPR-MICR-STMT	DI-NOT-RPT-YR	REAS CAUS	RI-HDR-SW	1ST-DUE-DT	REO STAT/COMPL																
12		.00						01-08																	
E CREDIT YTD/W-H	SW/W-H BALANCE	IORE CREDIT YTD/W-H	SW/W-H BALANCE	CONSTR CD	NO PURGE	FLAG/YR	BNKRPT STAT	LAST DEF DUE																	
.00	.00	.00	.00		2	14		04-41																	
C CORP ADV BAL	3RD REC CORP ADV BAL	FORECL WKST	CODE/REINSTATE	DATE	INIT ESC	STMT CODE	/ DATE	LOSS MIT	STATUS/COMPL	DATE															
1,875.52	520.00	S			9		02-19-08	A		03-08-13															
UE PROC TP SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER C														
TE DATE TR NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS D														
L-FWD			230672.92			.00	586.22		.00	.00															
-13 01-04 3 10 1	CHECK #WIRE				85.95-	85.95-		PAYEE CD RBP																	
-12 01-06 1 61 1	85.95	.00	230672.92	.00	85.95	.00	672.17	.00	.00	.00															
																								.00 W	
-13 02-03 3 10 1	CHECK #WIRE				85.95-	85.95-		PAYEE CD RBP																	
-12 02-04 1 61 1	85.95	.00	230672.92	.00	85.95	.00	758.12	.00	.00	.00															
																								.00 W	
-00 02-15 6 31 1	.00 PROCES	CH8	REASON INSP	INSPECTION																					
	CHECK #800871		MICR CHECK	#7021800871																					
-13 02-18 3 12 1	CHECK #815398		MICR CHECK	#7021815398	274.97-	274.97-		PAYEE CD 27003																	
-12 02-19 1 61 1	274.97	.00	230672.92	.00	274.97	.00	1033.09	.00	.00	.00															
																								.00 W	
-13 03-03 3 10 1	CHECK #WIRE				85.95-	85.95-		PAYEE CD RBP																	
-12 03-04 1 61 1	85.95	.00	230672.92	.00	85.95	.00	1119.04	.00	.00	.00															
																								.00 W	
-00 03-06 6 31 1	.00 PROCES	DKH	REASON INSP	INSPECTION																					
	CHECK #954772		MICR CHECK	#7021954772																					
-00 03-12 6 31 1	.00 PROCES	CH8	REASON INSP	INSPECTION																					
	CHECK #104880		MICR CHECK	#7022104880																					
-00 04-01 6 30 1	.00 PROCES	DKH	REASON ATTY	ATTORNEY FEES																					
	CHECK #274854		MICR CHECK	#7022274854																					
-00 04-01 6 32 2	.00 PROCES	DKH	REASON RCRD	RECORDING FEES																					
	CHECK #275196		MICR CHECK	#7022275196																					

APP000647

#	VENISE ABELARD				MARCUS COMPERE				EMP 0 POF0						
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D
				CHECK #314058		MICR CHECK #7022314058									
-13	04-04	3	10	2	CHECK #WIRE			85.95-	85.95-		PAYEE CD RBP				
-12	04-05	1	61	1	85.95	.00	230672.92	.00	85.95	.00	1204.99	.00	.00	.00	
														.00	W
											BATCH 904 EDIT-SEQ 999999				
-13	05-03	3	10	1	CHECK #WIRE			85.95-	85.95-		PAYEE CD RBP				
-12	05-03	1	61	2	85.95	.00	230672.92	.00	85.95	.00	1290.94	.00	.00	.00	
														.00	W
-00	05-06	6	31	1	.00 PROCES	DKH REASON INSP INSPECTION			CORP:SEQ	02	PAYEE 40N15	ORIG PAY SE-FIRST		15.00	A
					CHECK #738439	MICR CHECK #7022738439									
-00	05-07	6	30	1	.00 PROCES	DKH REASON ATTY ATTORNEY FEES			CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		400.00	A
					CHECK #749625	MICR CHECK #7022749625									
-00	05-07	6	32	2	.00 PROCES	DKH REASON FILE FILING COSTS			CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		288.60	A
					CHECK #749734	MICR CHECK #7022749734									
-00	05-07	6	32	3	.00 PROCES	DKH REASON TITL TITLE POLICY			CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		881.92	A
					CHECK #749734	MICR CHECK #7022749734									
-00	05-13	6	32	1	.00 PROCES	DKH REASON CLER CLERK COSTS			CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		3.00	A
					CHECK #908184	MICR CHECK #7022908184									
-00	05-13	6	32	2	.00 PROCES	DKH REASON FILE FILING COSTS			CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		14.00	A
					CHECK #908184	MICR CHECK #7022908184									
-00	05-13	6	32	3	.00 PROCES	DKH REASON PROC PROCESS SERVICE			CORP:SEQ		PAYEE 03T03	ORIG PAY ATY-CA-MCC		340.00	A
					CHECK #908184	MICR CHECK #7022908184									
-00	05-13	6	32	4	.00 PROCES	DKH REASON RCRD RECORDING FEES			CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		20.00	A
					CHECK #908184	MICR CHECK #7022908184									
-00	05-15	6	30	1	.00 PROCES	DKH REASON ATTY ATTORNEY FEES			CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		60.00	A
					CHECK #935552	MICR CHECK #7022935552									
-13	06-03	3	10	1	CHECK #WIRE			85.95-	85.95-		PAYEE CD RBP				
-12	06-03	1	61	2	85.95	.00	230672.92	.00	85.95	.00	1376.89	.00	.00	.00	
														.00	W
-00	06-04	6	31	1	.00 PROCES	DKH REASON INSP INSPECTION			CORP:SEQ	02	PAYEE 40N15	ORIG PAY SE-FIRST		15.00	A
					CHECK #095469	MICR CHECK #7023095469									
-00	06-17	6	30	1	.00 PROCES	DKH REASON ATTY ATTORNEY FEES			CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		60.00	A
					CHECK #246744	MICR CHECK #7023246744									
-00	07-03	6	31	1	.00 PROCES	DKH REASON INSP INSPECTION			CORP:SEQ	02	PAYEE 40N15	ORIG PAY SE-FIRST		15.00	A
					CHECK #377092	MICR CHECK #7023377092									
-13	07-04	3	10	1	CHECK #WIRE			85.95-	85.95-		PAYEE CD RBP				
-12	07-04	1	61	2	85.95	.00	230672.92	.00	85.95	.00	1462.84	.00	.00	.00	
														.00	W
-00	07-22	3	01	1	CHECK #558213	MICR CHECK #7023558213		203.44-	203.44-		PAYEE CD 27003				
-12	07-22	1	61	2	203.44	.00	230672.92	.00	203.44	.00	1666.28	.00	.00	.00	
														.00	W
-13	07-26	3	12	1	CHECK #601332	MICR CHECK #7023601332		271.14-	271.14-		PAYEE CD 27003				
-12	07-26	1	61	2	271.14	.00	230672.92	.00	271.14	.00	1937.42	.00	.00	.00	
														.00	W
-00	08-02	6	31	1	.00 PROCES	DKH REASON INSP INSPECTION			CORP:SEQ		PAYEE 08T08	ORIG PAY SE-FIRST		15.00	A
					CHECK #654089	MICR CHECK #7023654089									
-13	08-02	3	10	2	CHECK #WIRE			85.95-	85.95-		PAYEE CD RBP				
-12	08-02	1	61	3	85.95	.00	230672.92	.00	85.95	.00	2023.37	.00	.00	.00	

#				VENISE ABELARD		MARCUS COMPERE						EMP 0	P0F0	
UE TE	PROC DATE	TP TR	SQ NO	AMOUNT RECEIVED	PRINCIPAL PAID	PRINCIPAL BALANCE	INTEREST PAID	ESCROW PAID	ESCROW BALANCE	ADVANCE BALANCE	STATUS AMOUNT	STATUS BALANCE	UNEARNED INT-BAL.	OTHER C AMOUNTS D
-12	09-03	1 72	1	CHECK #798683 1119.71	MICR CHECK #7023798683 .00	230672.92	.00	.00	.00	2023.37	.00	.00	.00	1119.71 W 08-31-13 L 1119.71 W
-13	09-04	3 10	1	CHECK #WIRE				85.95-	85.95-		BATCH LUB EDIT-SEQ 475986 ACTION 1003			
-12	09-04	1 61	2	85.95	.00	230672.92	.00	85.95	.00	2109.32	PAYEE CD RBP .00	.00	.00	1119.71 W
-00	09-17	6 30	1	.00 PROCES DKH REASON ATTY ATTORNEY FEES					CORP:SEQ	PAYEE 01R01	ORIG PAY ATY-CA-MCC			512.50 A
-00	09-17	6 32	2	CHECK #088386 MICR CHECK #7024088386					CORP:SEQ	PAYEE 03T03	ORIG PAY ATY-CA-MCC			15.00 A
-13	09-20	3 12	1	CHECK #088528 MICR CHECK #7024088528										
-12	09-20	1 61	2	CHECK #114130 MICR CHECK #7024114130				271.14-	271.14-		PAYEE CD 27003			
-12	09-20	1 61	2	271.14	.00	230672.92	.00	271.14	.00	2380.46	.00	.00	.00	1119.71 W
-12	10-04	1 72	1	1119.71	.00	230672.92	.00	.00	.00	2380.46	.00	.00	.00	1119.71 W 10-02-13 L 2239.42 W
											MPL-ID GLBL			
-12	10-04	1 73	2	.00	310.57	230362.35	937.11	258.96	258.96	2380.46	BATCH LUA EDIT-SEQ 417717 ACTION 1029 .00	.00	.00	1506.64-W PRV-PD FROM: 12-30-12 THRU: 10-02-13 L 310.57 A 310.57 A 310.57 A 310.57 A 732.78 W
-12	10-04	1 68	3	.00	.00	230362.35	.00	258.96-	.00	2121.50	BATCH 929 EDIT-SEQ 999999 ACTION 0029 .00	.00	.00	258.96 V 732.78 W
-13	10-04	3 10	4	CHECK #WIRE				85.95-	85.95-		BATCH 929 EDIT-SEQ 999999 ACTION 0029			
-12	10-04	1 61	5	85.95	.00	230362.35	.00	85.95	.00	2207.45	PAYEE CD RBP .00	.00	.00	732.78 W
-13	11-03	3 10	1	CHECK #WIRE				85.95-	85.95-		PAYEE CD RBP			
-12	11-03	1 61	2	85.95	.00	230362.35	.00	85.95	.00	2293.40	.00	.00	.00	732.78 W
-12	11-04	1 72	1	1119.71	.00	230362.35	.00	.00	.00	2293.40	.00	.00	.00	1119.71 W 11-01-13 L 1852.49 W
											MPL-ID GLBL			
-12	11-04	1 73	2	.00	311.83	230050.52	935.85	208.84	208.84	2293.40	BATCH LUC EDIT-SEQ 810781 ACTION 1029 .00	.00	.00	APP000649 1456 52-W

#	VENISE ABELARD				MARCUS COMPERE				EMP 0 POF0						
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D
														311.83	A
														311.83	A
														395.97	W
-12	11-04	1	68	3	.00	.00	230050.52	.00	208.84-	.00	2084.56	BATCH 929 EDIT-SEQ 999999 ACTION 0029	.00	.00	.00
														208.84	V
														395.97	W
-13	11-08	3	51	1	CHECK #479157	MICR CHECK #7024479157		447.00-	447.00-			BATCH 929 EDIT-SEQ 999999 ACTION 0029			
-12	11-08	1	61	2	447.00	.00	230050.52	.00	447.00	.00	2531.56	PAYEE CD 74760	.00	.00	.00
-12	12-02	1	32	1	.00	.00	230050.52	.00	.00	.00	2531.56		.00	.00	.00
														395.97	W
														176.79	D
														395.97	W
-13	12-04	3	10	1	CHECK #WIRE			85.95-	85.95-			BATCH RCA EDIT-SEQ 904384			
-12	12-04	1	61	2	85.95	.00	230050.52	.00	85.95	.00	2617.51	PAYEE CD RBP	.00	.00	.00
-12	12-11	1	72	1	1119.71	.00	230050.52	.00	.00	.00	2617.51		.00	.00	.00
												MPL-ID GLBL			
														1119.71	W
														1515.68	W
-12	12-11	1	72	2	1456.52-	.00	230050.52	.00	.00	.00	2617.51	BATCH LRA EDIT-SEQ 505420 ACTION OMP4	.00	.00	.00
												MPL-ID GLBL			
														1456.52-	W
														59.16	W
-12	12-11	1	72	3	1456.52	313.10	229737.42	934.58	208.84	208.84	2617.51	BATCH LRA EDIT-SEQ 505420 ACTION OMP4	.00	.00	.00
												MPL-ID GLBL			
												PRV-PD FROM: 11-01-13 THRU: 12-11-13 L			
														313.10	A
														313.10	A
														313.10	A
														313.10	A
														59.16	W
-12	12-11	1	68	4	.00	.00	229737.42	.00	208.84-	.00	2408.67	BATCH LRA EDIT-SEQ 505420	.00	.00	.00
												MPL-ID GLBL			
														208.84	V
														59.16	W
-13	12-16	3	12	1	CHECK #796390	MICR CHECK #7024796390		271.14-	271.14-			BATCH LRA EDIT-SEQ 505420			
-13	12-16	1	61	2	271.14	.00	229737.42	.00	271.14	.00	2679.81	PAYEE CD 27003	.00	.00	.00
-00	12-18	7	45	1	1065.00-PROCES FPH	REASON ATTY ATTORNEY FEES				CORP:SEQ	PAYEE 01R01	ORIG PAY			59.16 W
-00	12-18	7	45	2	CHECK #									1065.00-A	
-00	12-18	7	45	2	1065.00 PROCES FPH	REASON ATTY ATTORNEY FEES				CORP:SEQ	PAYEE 16N16	ORIG PAY			1065.00 A
-13	12-18	1	72	3	CHECK #										
					1247.68	.00	229737.42	.00	.00	.00	2679.81		.00	.00	.00

#	VENISE ABELARD				MARCUS COMPERE								EMP 0	POFO	
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D
												BATCH 4KR EDIT-SEQ 316244			
Q-BY TOTALS				8,496.75			2,807.54				.00			9,467.79	
/E					935.50			2,770.23							

HER AMOUNT CODES:

FHA-PENALTY	G=SER=INTEREST-PAID TO POOL	K=INT-DUE-PD	P=ACCRUED-IOE/IORE	U=REAPPLICATION-FEE	Y=HUD-FUND
BSC	H=FEE-AMT	L=PD-THRU-DT	R=UE-INT-AMT	V=ESCROW-ADVANCE	Z=RESTRICTED-ESCROW
235-FEE	I=A-H-PD	M=ADVANCE-EFF-DATE	S=CR-LIFE-AMT	W=SUSPENSE	DI=DEFERRED-INT-BAL
MISC	J=LIFE-PD	N=ADVANCE-MEMO-AMT	T=ORIG-FEE-AMT	X=REPLACEMENT-RESERVE	
=SER-FEE-PD	AB=DEFERRED-INT-PD	AC=LIFE-DEF-INT-PD	AD=CHECK-NO	AE=DEFERRED-INT-LTD-PD	AF=LIFE-DEFERRED-INT-LTD-PD
=SUB-CODE	AJ=DEF-INT-ADJ-FLAG	AK=ADV-AMT-RECD	AL=TRAN-SOURCE	AM=IOC-SPEC-INT-PD	AN=NON-REC-CORP-ADV
AMP	AR=MTGR-REC-CORP-ADV	AS=PREV-POSTED	AT=3RD-REC=CORP-ADV	AY=ADJ YE 1098 IND	P1=1ST PRIN BAL
E CODES:	1=LATE-CHARGE	2=BAD-CK-FEE	3=CHG-OWNER	\$=ELOC-FEE	P2=2ND PRIN BAL
					WB=SUSP BA

**2014**

APP000653

#	VENISE ABELARD				MARCUS COMPERE				EMP 0 POF2						
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D
											MPL-ID	GLBL			
											PRV-PD	THRU: 02-18-14			
											BATCH	LOA	EDIT-SEQ	611421	ACTION 1029
-13	02-18	1	73	2	.00	315.65	229107.40	932.03	208.84	208.84	2639.81	.00	.00	.00	1456.52 Q
															1456.52-W
															633.22 W
											PRV-PD	FROM: 01-17-14	THRU: 02-18-14		
															315.65 A
															315.65 A
															315.65 A
															315.65 A
-13	02-18	1	68	3	.00	.00	229107.40	.00	208.84-	.00	2430.97	.00	.00	.00	633.22 W
															208.84 V
											BATCH	929	EDIT-SEQ	999999	ACTION 0029
-14	02-26	3	12	1	CHECK #309739	MICR CHECK #7025309739		271.14-	271.14-						
-13	02-26	1	61	2	271.14	.00	229107.40	.00	271.14	.00	2702.11	.00	.00	.00	633.22 W
-14	03-03	3	10	1	CHECK #WIRE			84.42-	84.42-						
-13	03-03	1	61	2	84.42	.00	229107.40	.00	84.42	.00	2786.53	.00	.00	.00	633.22 W
-00	03-05	6	32	1	.00 PROCES	DKH REASON PROC	PROCESS	SERVICE	CORP:SEQ	PAYEE	13T13	ORIG	PAY	TI-FICO612	25.00 A
-13	03-17	1	72	1	CHECK #345908	MICR CHECK #7025345908									
-13	03-17	1	72	1	1119.71	.00	229107.40	.00	.00	.00	2786.53	.00	.00	.00	1456.52 Q
															1119.71 W
															1752.93 W
											PRV-PD	THRU: 03-15-14			
-14	04-04	3	10	1	CHECK #WIRE			84.42-	84.42-						
-13	04-04	1	61	2	84.42	.00	229107.40	.00	84.42	.00	2870.95	.00	.00	.00	1752.93 W
-00	04-07	6	32	1	.00 PROCES	DKH REASON STCM	CERT	MAIL	COSTS	CORP:SEQ	PAYEE	03T03	ORIG	PAY	ATY-CA-MCC
															6.48 A
-00	04-08	6	30	1	CHECK #583365	MICR CHECK #7025583365									
-00	04-08	6	30	1	.00 PROCES	DKH REASON ATTY	ATTORNEY	FEES	CORP:SEQ	PAYEE	01R01	ORIG	PAY	ATY-CA-MCC	90.00 A
-00	04-25	6	30	1	CHECK #591991	MICR CHECK #7025591991									
-00	04-25	6	30	1	.00 PROCES	DKH REASON ATTY	ATTORNEY	FEES	CORP:SEQ	PAYEE	01R01	ORIG	PAY	ATY-CA-MCC	90.00 A
-14	05-02	3	10	1	CHECK #783382	MICR CHECK #7025783382									
-14	05-02	3	10	1	CHECK #WIRE			84.42-	84.42-						
-13	05-02	1	61	2	84.42	.00	229107.40	.00	84.42	.00	2955.37	.00	.00	.00	1752.93 W
-00	05-21	6	32	1	.00 PROCES	DKH REASON STCM	CERT	MAIL	COSTS	CORP:SEQ	PAYEE	03T03	ORIG	PAY	ATY-CA-MCC
															6.48 A
-14	06-04	3	10	1	CHECK #997405	MICR CHECK #7025997405									
-14	06-04	3	10	1	CHECK #WIRE			84.42-	84.42-						
-13	06-04	1	61	2	84.42	.00	229107.40	.00	84.42	.00	3039.79	.00	.00	.00	1752.93 W
-13	07-01	1	73	1	.00	316.93	228790.47	930.75	208.84	208.84	3039.79	.00	.00	.00	1456.52 Q
															1456.52-W
															296.41 W
											PRV-PD	FROM: 02-18-14	THRU: 03-15-14		

APP000654



#	VENISE ABELARD				MARCUS COMPERE								EMP 0	POF2	
UE TE	PROC DATE	TP TR	SQ NO	AMOUNT RECEIVED	PRINCIPAL PAID	PRINCIPAL BALANCE	INTEREST PAID	ESCROW PAID	ESCROW BALANCE	ADVANCE BALANCE	STATUS AMOUNT	STATUS BALANCE	UNEARNED INT-BAL.	OTHER AMOUNTS	C D
											BATCH 45J EDIT-SEQ 427336			316.93	A
-13	07-01	1	68	2	.00	.00	228790.47	.00	208.84-	.00	2830.95	.00	.00	.00	296.41 W
														208.84	V
-14	07-04	3	10	1	CHECK #WIRE			84.42-	84.42-		BATCH 45J EDIT-SEQ 427336				
-13	07-04	1	61	2	84.42	.00	228790.47	.00	84.42	.00	PAYEE CD RBP		.00	.00	296.41 W
-13	07-11	1	73	1	.00	.00	228790.47	.00	296.41	2915.37	.00	.00	.00	1456.52 Q	
														296.41-W	
											PRV-PD		THRU: 07-10-14	.00	W
-13	07-11	1	68	2	.00	.00	228790.47	.00	296.41-	.00	BATCH 55Y EDIT-SEQ 224482		.00	.00	.00 W
														296.41	V
-00	07-28	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ		BATCH 55Y EDIT-SEQ 224482				
					CHECK #430911 MICR CHECK #7026430911					PAYEE 08T08	ORIG PAY UTIL-ND743			15.00	A
-00	07-30	3	01	1	CHECK #444969 MICR CHECK #7026444969			297.52-	297.52-		PAYEE CD 27003				
-14	07-30	3	12	2	CHECK #447033 MICR CHECK #7026447033			279.88-	577.40-		PAYEE CD 27003				
-13	07-30	1	61	3	577.40	.00	228790.47	.00	577.40	.00	3196.36	.00	.00	.00	.00 W
-14	08-03	3	10	1	CHECK #WIRE			84.42-	84.42-		PAYEE CD RBP				
-13	08-03	1	61	2	84.42	.00	228790.47	.00	84.42	.00	3280.78	.00	.00	.00	.00 W
-00	09-03	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ		PAYEE 08T08	ORIG PAY UTIL-ND743		15.00	A
					CHECK #687199 MICR CHECK #7026687199										
-14	09-04	3	10	1	CHECK #WIRE			84.42-	84.42-		PAYEE CD RBP				
-13	09-04	1	61	2	84.42	.00	228790.47	.00	84.42	.00	3365.20	.00	.00	.00	.00 W
-00	09-08	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ	02	PAYEE 40N15	ORIG PAY UTIL-ND743		15.00	A
					CHECK #712984 MICR CHECK #7026712984										
-00	09-12	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ	02	PAYEE 40N15	ORIG PAY UTIL-ND743		15.00	A
					CHECK #779478 MICR CHECK #7026779478										
-00	09-18	6	32	1	.00 PROCES DKH REASON STCM CERT MAIL COSTS				CORP:SEQ		PAYEE 03T03	ORIG PAY ATY-CA-MCC		6.72	A
					CHECK #815778 MICR CHECK #7026815778										
-00	09-18	6	32	2	.00 PROCES DKH REASON FILE FILING COSTS				CORP:SEQ		PAYEE 01R01	ORIG PAY ATY-CA-MCC		227.00	A
					CHECK #815778 MICR CHECK #7026815778										
-00	09-19	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ	02	PAYEE 40N15	ORIG PAY UTIL-ND743		15.00	A
					CHECK #820755 MICR CHECK #7026820755										
-14	09-26	3	12	1	CHECK #863468 MICR CHECK #7026863468			279.28-	279.28-		PAYEE CD 27003				
-13	09-26	1	61	2	279.28	.00	228790.47	.00	279.28	.00	3644.48	.00	.00	.00	.00 W
-00	10-02	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ		PAYEE 08T08	ORIG PAY UTIL-ND743		15.00	A
					CHECK #900634 MICR CHECK #7026900634										
-14	10-03	3	10	1	CHECK #WIRE			84.42-	84.42-		PAYEE CD RBP				
-13	10-03	1	61	2	84.42	.00	228790.47	.00	84.42	.00	3728.90	.00	.00	.00	.00 W
-00	10-08	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ	02	PAYEE 40N15	ORIG PAY UTIL-ND743		15.00	A

APP000655

APP000655

#	VENISE ABELARD				MARCUS COMPERE				EMP 0				POF2		
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D
-00	10-22	6	31	1	.00	PROCES DKH	REASON INSP	INSPECTION	CORP:SEQ	02 PAYEE	40N15	ORIG PAY	UTIL-ND743	15.00	A
					CHECK #035512	MICR CHECK #7027035512									
-14	11-03	3	10	1	CHECK #WIRE			84.42-	84.42-		PAYEE CD	RBP			
-13	11-03	1	61	2	84.42	.00	228790.47	.00	84.42	.00	3813.32	.00	.00	.00	W
-00	11-14	6	31	1	.00	PROCES DKH	REASON INSP	INSPECTION	CORP:SEQ	PAYEE	08T08	ORIG PAY	UTIL-ND743	15.00	A
					CHECK #196123	MICR CHECK #7027196123									
-14	11-18	3	51	1	CHECK #210759	MICR CHECK #7027210759		416.00-	416.00-		PAYEE CD	74760			
-13	11-18	1	61	2	416.00	.00	228790.47	.00	416.00	.00	4229.32	.00	.00	.00	W
-00	11-21	6	31	1	.00	PROCES DKH	REASON INSP	INSPECTION	CORP:SEQ	02 PAYEE	40N15	ORIG PAY	UTIL-ND743	15.00	A
					CHECK #249343	MICR CHECK #7027249343									
-00	11-25	6	31	1	.00	PROCES DKH	REASON INSP	INSPECTION	CORP:SEQ	02 PAYEE	40N15	ORIG PAY	UTIL-ND743	15.00	A
					CHECK #265754	MICR CHECK #7027265754									
-00	12-02	6	31	1	.00	PROCES DKH	REASON INSP	INSPECTION	CORP:SEQ	PAYEE	08T08	ORIG PAY	UTIL-ND743	15.00	A
					CHECK #303292	MICR CHECK #7027303292									
-14	12-04	3	10	1	CHECK #WIRE			84.42-	84.42-		PAYEE CD	RBP			
-13	12-04	1	61	2	84.42	.00	228790.47	.00	84.42	.00	4313.74	.00	.00	.00	W
-00	12-16	6	31	1	.00	PROCES DKH	REASON INSP	INSPECTION	CORP:SEQ	02 PAYEE	40N15	ORIG PAY	UTIL-ND743	15.00	A
					CHECK #449003	MICR CHECK #7027449003									
-14	12-21	3	12	1	CHECK #492513	MICR CHECK #7027492513		279.28-	279.28-		PAYEE CD	27003			
-13	12-21	1	61	2	279.28	.00	228790.47	.00	279.28	.00	4593.02	.00	.00	.00	W
-00	12-23	7	45	1	227.00-PROCES	E6K	REASON FILE	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		227.00-A	
-00	12-23	7	45	2	90.00-PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		90.00-A	
-00	12-23	7	45	3	90.00-PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		90.00-A	
-00	12-23	7	45	4	135.00-PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		135.00-A	
-00	12-23	7	45	5	512.50-PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		512.50-A	
-00	12-23	7	45	6	60.00-PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		60.00-A	
-00	12-23	7	45	7	60.00-PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		60.00-A	
-00	12-23	7	45	8	20.00-PROCES	E6K	REASON RCRD	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		20.00-A	
-00	12-23	7	45	9	14.00-PROCES	E6K	REASON FILE	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		14.00-A	
-00	12-23	7	45	10	3.00-PROCES	E6K	REASON CLER	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		3.00-A	
-00	12-23	7	45	11	881.92-PROCES	E6K	REASON TITL	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		881.92-A	
-00	12-23	7	45	12	288.60-PROCES	E6K	REASON FILE	FCL DISMISSED	CORP:SEQ	PAYEE	01R01	ORIG PAY		288.60-A	
-00	12-23	7	45	13	227.00 PROCES	E6K	REASON FILE	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		227.00 A	
-00	12-23	7	45	14	90.00 PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		90.00 A	
-00	12-23	7	45	15	90.00 PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		90.00 A	
-00	12-23	7	45	16	135.00 PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		135.00 A	
-00	12-23	7	45	17	512.50 PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		512.50 A	
-00	12-23	7	45	18	60.00 PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		60.00 A	
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D
L-FWD						228790.47			.00	4593.02		.00	.00	1306.84	W
-00	12-23	7	45	19	60.00 PROCES	E6K	REASON ATTY	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		60.00 A	
-00	12-23	7	45	20	20.00 PROCES	E6K	REASON RCRD	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		20.00 A	
-00	12-23	7	45	21	14.00 PROCES	E6K	REASON FILE	FCL DISMISSED	CORP:SEQ	PAYEE	03T03	ORIG PAY		14.00 A	

APP000656

#	VENISE ABELARD				MARCUS COMPERE				EMP 0 POF2						
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D
-00	12-23	6 31	25	.00	PROCES DKH	REASON INSP	INSPECTION		CORP:SEQ	02	PAYEE	40N15	ORIG PAY UTIL-ND743	15.00	A
				CHECK #507942	MICR CHECK #7027507942										
-00	12-29	7 45	1	227.00	PROCES E6K	REASON FILE FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	227.00	A
-00	12-29	7 45	2	90.00	PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	90.00	A
-00	12-29	7 45	3	90.00	PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	90.00	A
-00	12-29	7 45	4	135.00	PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	135.00	A
-00	12-29	7 45	5	512.50	PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	512.50	A
-00	12-29	7 45	6	60.00	PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	60.00	A
-00	12-29	7 45	7	60.00	PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	60.00	A
-00	12-29	7 45	8	20.00	PROCES E6K	REASON RCRD FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	20.00	A
-00	12-29	7 45	9	14.00	PROCES E6K	REASON FILE FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	14.00	A
-00	12-29	7 45	10	3.00	PROCES E6K	REASON CLER FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	3.00	A
-00	12-29	7 45	11	881.92	PROCES E6K	REASON TITL FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	881.92	A
-00	12-29	7 45	12	288.60	PROCES E6K	REASON FILE FCL	DISMISSED		CORP:SEQ		PAYEE	01R01	ORIG PAY	288.60	A
-00	12-29	7 45	13	227.00	-PROCES E6K	REASON FILE FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	227.00	-A
-00	12-29	7 45	14	90.00	-PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	90.00	-A
-00	12-29	7 45	15	90.00	-PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	90.00	-A
-00	12-29	7 45	16	135.00	-PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	135.00	-A
-00	12-29	7 45	17	512.50	-PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	512.50	-A
-00	12-29	7 45	18	60.00	-PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	60.00	-A
-00	12-29	7 45	19	60.00	-PROCES E6K	REASON ATTY FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	60.00	-A
-00	12-29	7 45	20	20.00	-PROCES E6K	REASON RCRD FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	20.00	-A
-00	12-29	7 45	21	14.00	-PROCES E6K	REASON FILE FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	14.00	-A
-00	12-29	7 45	22	3.00	-PROCES E6K	REASON CLER FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	3.00	-A
-00	12-29	7 45	23	881.92	-PROCES E6K	REASON TITL FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	881.92	-A
-00	12-29	7 45	24	288.60	-PROCES E6K	REASON FILE FCL	DISMISSED		CORP:SEQ		PAYEE	03T03	ORIG PAY	288.60	-A
-00	12-29	6 31	25	.00	PROCES DKH	REASON INSP	INSPECTION		CORP:SEQ	02	PAYEE	40N15	ORIG PAY UTIL-ND743	15.00	A
				CHECK #526006	MICR CHECK #7027526006										
Q-BY TOTALS				6,195.27			2,796.09				.00			4,230.57	
/E					946.95			2,836.14							

HER AMOUNT CODES:

=FHA-PENALTY

=SER-INT-PD TO POOL

=ADVANCE-EFF-DATE

=CR-LIFE-AMT

=HUD-FUND

=DEFERRD-INT-LTD-PD

=ADV-AMT-RECD

=TIME-STAMP

=

=1ST PRIN BAL

E CODES:

B =

H =

N =ADVANCE-MEMO-AMT

T =ORIG-FEE-AMT

Z =RESTRICTED-ESCROW

AF=LIFE-DFRD-INT-LTD

AL=TRAN-SOURCE

AR=MTGR-REC-CORP-ADV

AX=

P2=2ND PRIN BAL

1=LATE-CHARGE

C =235-FEE

I =A-H-PD

O =

U =REAPPLICATION-FEE

AA=SER-FEE-PD

AG=SUB-CODE

AM=IOC-SPEC-INT-PD

AS=PREV-POSTED

AY=ADJ YE 1098 IND

WB=SUSP BAL

2=BAD-CK-FEE

D =

J =LIFE-PD

P =ACCRUED-IOE/IORE

V =ESCROW-ADVANCE

AB=DEFERRED-INT-PD

AH=

AN=NON-REC-CORP-ADV

AT=3RD-REC=CORP-ADV

AZ=

3=CHG-OWNER

E =CHG-OWNER-FEE-PD

K =INT-DUE-PD

Q =SCHED-PMT-DUE-AMT

W =SUSPENSE

AC=LIFE-DEF-INT-PD

AI=

AO=

AU=

\$=ELOC-FEE

F =MISC

L =

R =UE-INT-AMT

X =REPLACEMENT-RESER

AD=CHECK-NO

AJ=DEF-INT-ADJ-FLAG

AP=DATE-STAMP

AV=

**2015**

#	VENISE ABELARD										MARCUS COMPERE										EMP 0 POF2									
										9352 CRANESBILL COURT										LAS VEGAS NV 89149										
T MTGE PRIN	2ND MTGE PRIN	ESC BAL	REST ESC	SUSPENSE	ADV BAL	REPL RES	HUD BAL	LC BAL	INT DUE	DUE DATE	HUD PRT	OF																		
228,790.47	.00	.00	.00	.00	6,337.90	.00	.00	.00	.00	04-01-13	.00	PR																		
& I 1ST	P&I 2ND	CO TAX CITY TAX	HAZ INS	M I P	LIEN	BSC	A & H	LIFE	MISC	REP RES	TOT PAYMT	INT RATE	DT																	
1247.68	.00	96.45	.00	25.00	87.39	.00	.00	.00 0	.00 0	.00 0	.00	1456.52	.0487500	1																
1ST ORIG MTG	2ND ORIG MTG	PRIN BAL	BEG	INT IND	CAP FLAG	MTGR SSN	DEF INT BAL	PRIOR YR	PPD INT	PPD INT	IND	GPM	O																	
226,081	0	228,790.47				070 54 5437	6,726.29		0.00		0		0																	
SUM-DT XFER-DEED FHA-SEC/NUM										LIP PAYOFF FC-TRK-SW YE-ACQ-RPT/DATE										SALE-ID EXEMPT PLGD-LN PMT-OPT CALC-METH ELOC BNKRPCY CH/										
796/332-451756										N/12-18-07										1273										
T PERIOD	1098-DET-HIST	POINTS-PAID/RPTG	YR	SUPPR-MICR-STMT	DI-NOT-RPT-YR	REAS CAUS	RI-HDR-SW	1ST-DUE-DT	REO	STAT/COMPL																				
12		.00						01-08																						
E CREDIT YTD/W-H	SW/W-H BALANCE	IORE CREDIT YTD/W-H	SW/W-H BALANCE	CONSTR CD	NO PURGE	FLAG/YR	BNKRPT STAT	LAST DEF	DUE																					
.00	.00	.00	.00						04-41																					
C CORP ADV BAL	3RD REC CORP ADV BAL	FORECL WKST	CODE/REINSTATE	DATE	INIT ESC	STMT CODE	/ DATE	LOSS MIT	STATUS/COMPL	DATE																				
2,510.77	730.64	A			9		02-19-08	R		10-21-14																				
UE PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C																
TE DATE	TR NO		RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D																
L-FWD					228790.47			.00	4593.02		.00	.00	.00	W																
-15 01-04	3 10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP																					
-13 01-04	1 61	2	82.80	.00	228790.47	.00	82.80	.00	4675.82	.00	.00	.00	.00	W																
-00 01-05	6 31	1	.00 PROCES	DKH REASON INSP	INSPECTION			CORP:SEQ	PAYEE 08T08	ORIG PAY	UTIL-ND743	15.00	A																	
-00 01-28	6 31	1	.00 PROCES	DKH REASON INSP	INSPECTION			CORP:SEQ	02 PAYEE 40N15	ORIG PAY	UTIL-ND743	15.00	A																	
-15 02-04	3 10	1	CHECK #752945	MICR CHECK #7027752945																										
-13 02-04	1 61	2	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP																					
-13 02-04	1 61	2	82.80	.00	228790.47	.00	82.80	.00	4758.62	.00	.00	.00	.00	W																
-00 02-09	6 32	1	.00 PROCES	DKH REASON PROC	PROCESS SERVICE			CORP:SEQ	PAYEE 03T03	ORIG PAY	ATY-CA-MCC	7.50	A																	
-00 02-09	6 32	2	CHECK #810262	MICR CHECK #7027810262																										
-00 02-09	6 32	2	.00 PROCES	DKH REASON CLER	CLERK COSTS			CORP:SEQ	PAYEE 01R01	ORIG PAY	ATY-CA-MCC	5.00	A																	
-00 02-20	6 30	1	CHECK #810262	MICR CHECK #7027810262																										
-00 02-20	6 32	2	.00 PROCES	DKH REASON ATTY	ATTORNEY FEES			CORP:SEQ	PAYEE 01R01	ORIG PAY	ATY-CA-MCC	56.25	A																	
-00 02-20	6 32	2	CHECK #909364	MICR CHECK #7027909364																										
-00 02-20	6 32	3	.00 PROCES	DKH REASON RCRD	RECORDING FEES			CORP:SEQ	PAYEE 01R01	ORIG PAY	ATY-CA-MCC	18.00	A																	
-00 02-20	6 32	3	CHECK #909533	MICR CHECK #7027909533																										
-00 02-20	6 32	4	.00 PROCES	DKH REASON STRM	STAT REG MAIL			CORP:SEQ	PAYEE 03T03	ORIG PAY	ATY-CA-MCC	.96	A																	
-00 02-20	6 32	4	CHECK #909533	MICR CHECK #7027909533																										
-00 02-20	6 32	5	.00 PROCES	DKH REASON PROC	PROCESS SERVICE			CORP:SEQ	PAYEE 03T03	ORIG PAY	ATY-CA-MCC	7.50	A																	
-00 02-20	6 32	5	CHECK #909533	MICR CHECK #7027909533																										
-15 02-20	3 12	6	CHECK #908968	MICR CHECK #7027908968		279.28-	279.28-		PAYEE CD 27003																					
-13 02-20	1 61	7	279.28	.00	228790.47	.00	279.28	.00	5037.80	.00	.00	.00	.00	W																

APP000659

#				VENISE ABELARD				MARCUS COMPERE				EMP 0 POF2			
UE	PROC	TP	SQ	AMOUNT	PRINCIPAL	PRINCIPAL	INTEREST	ESCROW	ESCROW	ADVANCE	STATUS	STATUS	UNEARNED	OTHER	C
TE	DATE	TR	NO	RECEIVED	PAID	BALANCE	PAID	PAID	BALANCE	BALANCE	AMOUNT	BALANCE	INT-BAL.	AMOUNTS	D
-15	03-04	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	03-04	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5120.70	.00	.00	.00	W
-00	03-20	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ	PAYEE 08T08	ORIG PAY UTIL-ND743			15.00	A
					CHECK #084564 MICR CHECK #7028084564										
-15	04-03	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	04-03	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5203.50	.00	.00	.00	W
-00	04-17	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ	PAYEE 08T08	ORIG PAY UTIL-ND743			15.00	A
					CHECK #303890 MICR CHECK #7028303890										
-15	05-03	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	05-03	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5286.30	.00	.00	.00	W
-00	05-12	6	31	1	.00 PROCES DKH REASON INSP INSPECTION				CORP:SEQ	PAYEE 08T08	ORIG PAY UTIL-ND743			15.00	A
					CHECK #466688 MICR CHECK #7028466688										
-15	06-04	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	06-04	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5369.10	.00	.00	.00	W
-15	07-03	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	07-03	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5451.90	.00	.00	.00	W
-15	08-03	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	08-03	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5534.70	.00	.00	.00	W
-15	09-04	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	09-04	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5617.50	.00	.00	.00	W
-15	10-02	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	10-02	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5700.30	.00	.00	.00	W
-15	11-04	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	11-04	1	61	2	82.80	.00	228790.47	.00	82.80	.00	5783.10	.00	.00	.00	W
-15	11-12	3	51	1	CHECK #504426 MICR CHECK #7029504426			472.00-	472.00-		PAYEE CD 74760				
-13	11-12	1	61	2	472.00	.00	228790.47	.00	472.00	.00	6255.10	.00	.00	.00	W
-15	12-04	3	10	1	CHECK #WIRE			82.80-	82.80-		PAYEE CD RBP				
-13	12-04	1	61	2	82.80	.00	228790.47	.00	82.80	.00	6337.90	.00	.00	.00	W

Q-BY TOTALS1,744.88.00.00199.21

/E.001,744.88

HER AMOUNT CODES:

=FHA-PENALTY	B =	C =235-FEE	D =	E =CHG-OWNER-FEE-PD	F =MISC
=SER-INT-PD TO POOL	H =	I =A-H-PD	J =LIFE-PD	K =INT-DUE-PD	L =
=ADVANCE-EFF-DATE	N =ADVANCE-MEMO-AMT	O =	P =ACCRUED-IOE/IORE	Q =SCHED-PMT-DUE-AMT	R =UE-INT-AMT
=CR-LIFE-AMT	T =ORIG-FEE-AMT	U =REAPPLICATION-FEE	V =ESCROW-ADVANCE	W =SUSPENSE	X =REPLACEMENT-RESER
=HUD-FUND	Z =RESTRICTED-ESCROW	AA=SER-FEE-PD	AB=DEF/CAP-INT-PD	AC=LF-DEF/CAP-INT-PD	AD=CHECK-NO
=DEF/CAP-INT-LTD-PD	AF=LF-DEF/CAP-INT-LTD	AG=SUB-CODE	AH=	AI=	AJ=DEF-INT-ADJ-FLAG
=ADV-AMT-RECD	AL=TRAN-SOURCE	AM=IOC-SPEC-INT-PD	AN=NON-REC-CORP-ADV	AO=	AP=DATE-STAMP
=TIME-STAMP	AR=MTGR-REC-CORP-ADV	AS=PREV-POSTED	AT=3RD-REC=CORP-ADV	AU=	AV=
=	AX=	AY=ADJ YE 1098 IND	AZ=		
=1ST PRIN BAL	P2=2ND PRIN BAL	WB=SUSP BAL			
E CODES:	1=LATE-CHARGE	2=BAD-CK-FEE	3=CHG-OWNER	\$=ELOC-FEE	

# Payment History



P309 LN MORTGAGE LOAN HISTORY 06-19-18  
NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11  
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00  
HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L  
REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1  
APP 06-03 06-03 05-22 05-04 05-04  
SEG#/DUE 04-13 12-18 00-00 04-13 12-18  
TYPE/TRAN 1 61 3 10 6 31 1 61 3 10  
AMOUNT 77.26 77.26- .00 77.26 77.26-  
PRIN-PD .00 .00 .00 .00 .00  
PRIN-BAL 228,790.47 228,790.47 228,790.47 228,790.47 228,790.47  
INT-PD .00 .00 .00 .00 .00  
ESC-PD 77.26 77.26- .00 77.26 77.26-  
ESC-BAL .00 77.26- .00 .00 77.26-  
A&H-INS .00 .00 .00 .00 .00  
LIFE-INS .00 .00 .00 .00 .00  
LC/FEES .00 .00 .00 .00 .00  
MISC-PD .00 .00 .00 .00 .00  
ADV-BAL 10,924.93 10,847.67 10,847.67 10,847.67 10,770.41  
SUSP .00 .00 .00 .00 .00  
SC/PAYEE RBP UTIL-ND743 RBP

PAGE 00001 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000663

P309 LN	MORTGAGE LOAN HISTORY				06-19-18	
NAME V ABELARD	INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11					
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB	228,790.47	2ND PB	.00			
HUD .00 NET 1456.52 SF .00000000 SUSP	.00 STOP D B P F N A D L					
REP .00 RES .00	LNK LOAN 4 0 0 2 R 0 0 1					
APP	04-25	04-04	04-04	03-23	03-02	
SEG#/DUE	00-00	04-13	12-18	00-00	04-13	
TYPE/TRAN	6 31	1 61	3 10	6 31	1 61	
AMOUNT	.00	77.26	77.26-	.00	77.26	
PRIN-PD	.00	.00	.00	.00	.00	
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47	
INT-PD	.00	.00	.00	.00	.00	
ESC-PD	.00	77.26	77.26-	.00	77.26	
ESC-BAL	.00	.00	77.26-	.00	.00	
A&H-INS	.00	.00	.00	.00	.00	
LIFE-INS	.00	.00	.00	.00	.00	
LC/FEES	.00	.00	.00	.00	.00	
MISC-PD	.00	.00	.00	.00	.00	
ADV-BAL	10,770.41	10,770.41	10,693.15	10,693.15	10,693.15	
SUSP	.00	.00	.00	.00	.00	
SC/PAYEE UTIL-ND743	RBP		UTIL-ND743			

PAGE 00002 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000664

P309 LN MORTGAGE LOAN HISTORY 06-19-18  
NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11  
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00  
HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L  
REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1  
APP 03-02 02-26 02-22 02-22 02-02  
SEG#/DUE 12-18 00-00 04-13 02-18 04-13  
TYPE/TRAN 3 10 6 31 1 61 3 12 1 61  
AMOUNT 77.26- .00 296.30 296.30- 77.26  
PRIN-PD .00 .00 .00 .00 .00  
PRIN-BAL 228,790.47 228,790.47 228,790.47 228,790.47 228,790.47  
INT-PD .00 .00 .00 .00 .00  
ESC-PD 77.26- .00 296.30 296.30- 77.26  
ESC-BAL 77.26- .00 .00 296.30- .00  
A&H-INS .00 .00 .00 .00 .00  
LIFE-INS .00 .00 .00 .00 .00  
LC/FEES .00 .00 .00 .00 .00  
MISC-PD .00 .00 .00 .00 .00  
ADV-BAL 10,615.89 10,615.89 10,615.89 10,319.59 10,319.59  
SUSP .00 .00 .00 .00 .00  
SC/PAYEE RBP UTIL-ND743 27003

PAGE 00003 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000665

P309 LN	MORTGAGE LOAN HISTORY				06-19-18	
NAME V ABELARD	INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11					
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB	228,790.47	2ND PB	.00			
HUD .00 NET 1456.52 SF .00000000 SUSP	.00 STOP D B P F N A D L					
REP .00 RES .00	LNK LOAN 4 0 0 2 R 0 0 1					
APP	02-02	01-29	01-22	01-04	01-04	
SEG#/DUE	12-18	00-00	00-00	04-13	12-18	
TYPE/TRAN	3 10	6 31	6 31	1 61	3 10	
AMOUNT	77.26-	.00	.00	77.26	77.26-	
PRIN-PD	.00	.00	.00	.00	.00	
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47	
INT-PD	.00	.00	.00	.00	.00	
ESC-PD	77.26-	.00	.00	77.26	77.26-	
ESC-BAL	77.26-	.00	.00	.00	77.26-	
A&H-INS	.00	.00	.00	.00	.00	
LIFE-INS	.00	.00	.00	.00	.00	
LC/FEES	.00	.00	.00	.00	.00	
MISC-PD	.00	.00	.00	.00	.00	
ADV-BAL	10,242.33	10,242.33	10,242.33	10,242.33	10,165.07	
SUSP	.00	.00	.00	.00	.00	
SC/PAYEE RBP	UTIL-ND743		UTIL-ND743		RBP	

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116 OLDEST TRAN 06-04-15 /P

APP000666

P309 LN	MORTGAGE LOAN HISTORY					06-19-18
NAME V ABELARD	INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11					
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB	228,790.47	2ND PB	.00			
HUD .00 NET 1456.52 SF .00000000 SUSP	.00 STOP D B P F N A D L					
REP .00 RES .00	LNK LOAN 4 0 0 2 R 0 0 1					
APP	01-04	12-04	12-04	12-03	12-03	
SEG#/DUE	00-00	04-13	12-17	04-13	12-17	
TYPE/TRAN	6 31	1 61	3 12	1 61	3 10	
AMOUNT	.00	296.30	296.30-	79.22	79.22-	
PRIN-PD	.00	.00	.00	.00	.00	
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47	
INT-PD	.00	.00	.00	.00	.00	
ESC-PD	.00	296.30	296.30-	79.22	79.22-	
ESC-BAL	.00	.00	296.30-	.00	79.22-	
A&H-INS	.00	.00	.00	.00	.00	
LIFE-INS	.00	.00	.00	.00	.00	
LC/FEES	.00	.00	.00	.00	.00	
MISC-PD	.00	.00	.00	.00	.00	
ADV-BAL	10,165.07	10,165.07	9,868.77	9,868.77	9,789.55	
SUSP	.00	.00	.00	.00	.00	
SC/PAYEE UTIL-ND743	27003		RBP			

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116 OLDEST TRAN 06-04-15 /P

APP000667

P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	11-03	11-03	11-03	10-24	10-04
SEG#/DUE	04-13	12-17	12-17	00-00	04-13
TYPE/TRAN	1 61	3 51	3 10	6 31	1 61
AMOUNT	634.22	555.00-	79.22-	.00	79.22
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	634.22	555.00-	79.22-	.00	79.22
ESC-BAL	.00	634.22-	79.22-	.00	.00
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	9,789.55	9,155.33	9,155.33	9,155.33	9,155.33
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	74760	RBP	UTIL-ND743		

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116 OLDEST TRAN 06-04-15 /P

APP000668

P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	10-04	09-26	09-26	09-26	09-03
SEG#/DUE	12-17	04-13	09-17	00-00	04-13
TYPE/TRAN	3 10	1 61	3 12	6 31	1 61
AMOUNT	79.22-	296.30	296.30-	.00	79.22
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	79.22-	296.30	296.30-	.00	79.22
ESC-BAL	79.22-	.00	296.30-	.00	.00
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	9,076.11	9,076.11	8,779.81	8,779.81	8,779.81
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	RBP		27003	UTIL-ND743	

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116 OLDEST TRAN 06-04-15 /P

APP000669

P309 LN 1 MORTGAGE LOAN HISTORY 06-19-18  
NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11  
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00  
HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L  
REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1  
APP 09-03 08-28 08-09 08-09 08-09  
SEG#/DUE 12-17 00-00 04-13 07-17 00-00  
TYPE/TRAN 3 10 6 31 1 61 3 12 6 33  
AMOUNT 79.22- .00 298.09 298.09- .00  
PRIN-PD .00 .00 .00 .00 .00  
PRIN-BAL 228,790.47 228,790.47 228,790.47 228,790.47 228,790.47  
INT-PD .00 .00 .00 .00 .00  
ESC-PD 79.22- .00 298.09 298.09- .00  
ESC-BAL 79.22- .00 .00 298.09- .00  
A&H-INS .00 .00 .00 .00 .00  
LIFE-INS .00 .00 .00 .00 .00  
LC/FEES .00 .00 .00 .00 .00  
MISC-PD .00 .00 .00 .00 .00  
ADV-BAL 8,700.59 8,700.59 8,700.59 8,402.50 8,402.50  
SUSP .00 .00 .00 .00 .00  
SC/PAYEE RBP UTIL-ND743 27003 27003

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116 OLDEST TRAN 06-04-15 /P

APP000670



P309 LN : MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	08-04	08-04	07-28	07-03	07-03
SEG#/DUE	04-13	12-17	00-00	04-13	12-17
TYPE/TRAN	1 61	3 10	6 31	1 61	3 10
AMOUNT	79.22	79.22-	.00	79.22	79.22-
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	79.22	79.22-	.00	79.22	79.22-
ESC-BAL	.00	79.22-	.00	.00	79.22-
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	8,402.50	8,323.28	8,323.28	8,323.28	8,244.06
SUSP	.00	.00	.00	.00	.00
SC/PAYEE		RBP	UTIL-ND743		RBP

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APP000671

P309 LN MORTGAGE LOAN HISTORY 06-19-18  
NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11  
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00  
HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L  
REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1  
APP 06-30 06-02 06-02 05-25 05-04  
SEG#/DUE 00-00 04-13 12-17 00-00 04-13  
TYPE/TRAN 6 31 1 61 3 10 6 31 1 61  
AMOUNT .00 79.22 79.22- .00 79.22  
PRIN-PD .00 .00 .00 .00 .00  
PRIN-BAL 228,790.47 228,790.47 228,790.47 228,790.47 228,790.47  
INT-PD .00 .00 .00 .00 .00  
ESC-PD .00 79.22 79.22- .00 79.22  
ESC-BAL .00 .00 79.22- .00 .00  
A&H-INS .00 .00 .00 .00 .00  
LIFE-INS .00 .00 .00 .00 .00  
LC/FEES .00 .00 .00 .00 .00  
MISC-PD .00 .00 .00 .00 .00  
ADV-BAL 8,244.06 8,244.06 8,164.84 8,164.84 8,164.84  
SUSP .00 .00 .00 .00 .00  
SC/PAYEE UTIL-ND743 RBP UTIL-ND743

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116 OLDEST TRAN 06-04-15 /P

APP000672

P309 LN MORTGAGE LOAN HISTORY 06-19-18  
NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11  
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00  
HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L  
REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1  
APP 05-04 04-21 04-03 04-03 03-17  
SEG#/DUE 12-17 00-00 04-13 12-17 00-00  
TYPE/TRAN 3 10 6 31 1 61 3 10 6 31  
AMOUNT 79.22- .00 79.22 79.22- .00  
PRIN-PD .00 .00 .00 .00 .00  
PRIN-BAL 228,790.47 228,790.47 228,790.47 228,790.47 228,790.47  
INT-PD .00 .00 .00 .00 .00  
ESC-PD 79.22- .00 79.22 79.22- .00  
ESC-BAL 79.22- .00 .00 79.22- .00  
A&H-INS .00 .00 .00 .00 .00  
LIFE-INS .00 .00 .00 .00 .00  
LC/FEES .00 .00 .00 .00 .00  
MISC-PD .00 .00 .00 .00 .00  
ADV-BAL 8,085.62 8,085.62 8,085.62 8,006.40 8,006.40  
SUSP .00 .00 .00 .00 .00  
SC/PAYEE RBP UTIL-ND743 RBP UTIL-ND743

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116 OLDEST TRAN 06-04-15 /P

APP000673

P309 LN 1 MORTGAGE LOAN HISTORY 06-19-18  
NAME V ALLEARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11  
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00  
HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L  
REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1  
APP 03-03 03-03 02-13 02-03 02-03  
SEG#/DUE 04-13 12-17 00-00 04-13 12-17  
TYPE/TRAN 1 61 3 10 6 31 1 61 3 10  
AMOUNT 79.22 79.22- .00 79.22 79.22-  
PRIN-PD .00 .00 .00 .00 .00  
PRIN-BAL 228,790.47 228,790.47 228,790.47 228,790.47 228,790.47  
INT-PD .00 .00 .00 .00 .00  
ESC-PD 79.22 79.22- .00 79.22 79.22-  
ESC-BAL .00 79.22- .00 .00 79.22-  
A&H-INS .00 .00 .00 .00 .00  
LIFE-INS .00 .00 .00 .00 .00  
LC/FEES .00 .00 .00 .00 .00  
MISC-PD .00 .00 .00 .00 .00  
ADV-BAL 8,006.40 7,927.18 7,927.18 7,927.18 7,847.96  
SUSP .00 .00 .00 .00 .00  
SC/PAYEE RBP UTIL-ND743 RBP

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116 OLDEST TRAN 06-04-15 /P

APP000674

P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	01-11	01-04	01-04	12-08	12-02
SEG#/DUE	00-00	04-13	12-17	00-00	04-13
TYPE/TRAN	6 31	1 61	3 10	6 31	1 61
AMOUNT	.00	79.22	79.22-	.00	81.07
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	.00	79.22	79.22-	.00	81.07
ESC-BAL	.00	.00	79.22-	.00	.00
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	7,847.96	7,847.96	7,768.74	7,768.74	7,768.74
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	UTIL-ND743		RBP	UTIL-ND743	

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116 OLDEST TRAN 06-04-15 /P

APP000675

P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	12-02	11-07	11-04	11-04	11-03
SEG#/DUE	12-16	00-00	04-13	12-16	04-13
TYPE/TRAN	3 10	6 31	1 61	3 10	1 61
AMOUNT	81.07-	.00	81.07	81.07-	458.00
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	81.07-	.00	81.07	81.07-	458.00
ESC-BAL	81.07-	.00	.00	81.07-	.00
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	7,687.67	7,687.67	7,687.67	7,606.60	7,606.60
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	RBP	UTIL-ND743		RBP	

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116 OLDEST TRAN 06-04-15 /P

APP000676

P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	11-03	10-24	10-24	10-11	10-03
SEG#/DUE	12-16	00-00	00-00	00-00	04-13
TYPE/TRAN	3 51	7 14	7 14	6 31	1 61
AMOUNT	458.00-	7.50	12.50	.00	81.07
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	458.00-	.00	.00	.00	81.07
ESC-BAL	458.00-	.00	.00	.00	.00
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	7,148.60	7,148.60	7,148.60	7,148.60	7,148.60
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	74760			UTIL-ND743	

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116 OLDEST TRAN 06-04-15 /P

APP000677

P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	10-03	09-07	09-02	09-02	08-08
SEG#/DUE	12-16	00-00	04-13	12-16	00-00
TYPE/TRAN	3 10	6 31	1 61	3 10	6 31
AMOUNT	81.07-	.00	81.07	81.07-	.00
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	81.07-	.00	81.07	81.07-	.00
ESC-BAL	81.07-	.00	.00	81.07-	.00
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	7,067.53	7,067.53	7,067.53	6,986.46	6,986.46
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	RBP	UTIL-ND743		RBP	UTIL-ND743

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APP000678



P309 LN MORTGAGE LOAN HISTORY 06-19-18  
NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11  
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00  
HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L  
REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1  
APP 08-04 08-04 07-07 07-03 07-03  
SEG#/DUE 04-13 12-16 00-00 04-13 12-16  
TYPE/TRAN 1 61 3 10 6 31 1 61 3 10  
AMOUNT 81.07 81.07- .00 81.07 81.07-  
PRIN-PD .00 .00 .00 .00 .00  
PRIN-BAL 228,790.47 228,790.47 228,790.47 228,790.47 228,790.47  
INT-PD .00 .00 .00 .00 .00  
ESC-PD 81.07 81.07- .00 81.07 81.07-  
ESC-BAL .00 81.07- .00 .00 81.07-  
A&H-INS .00 .00 .00 .00 .00  
LIFE-INS .00 .00 .00 .00 .00  
LC/FEES .00 .00 .00 .00 .00  
MISC-PD .00 .00 .00 .00 .00  
ADV-BAL 6,986.46 6,905.39 6,905.39 6,905.39 6,824.32  
SUSP .00 .00 .00 .00 .00  
SC/PAYEE RBP UTIL-ND743 RBP

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116 OLDEST TRAN 06-04-15 /P

APP000679

P309 LN	MORTGAGE LOAN HISTORY				06-19-18	
NAME V ABELARD	INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11					
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB	228,790.47	2ND PB	.00			
HUD .00 NET 1456.52 SF .00000000 SUSP			.00 STOP D B P F N A D L			
REP .00 RES .00			LNK LOAN 4 0 0 2 R 0 0 1			
APP	06-15	06-03	06-03	05-12	05-04	
SEG#/DUE	00-00	04-13	12-16	00-00	04-13	
TYPE/TRAN	6 31	1 61	3 10	6 31	1 61	
AMOUNT	.00	81.07	81.07-	.00	81.07	
PRIN-PD	.00	.00	.00	.00	.00	
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47	
INT-PD	.00	.00	.00	.00	.00	
ESC-PD	.00	81.07	81.07-	.00	81.07	
ESC-BAL	.00	.00	81.07-	.00	.00	
A&H-INS	.00	.00	.00	.00	.00	
LIFE-INS	.00	.00	.00	.00	.00	
LC/FEES	.00	.00	.00	.00	.00	
MISC-PD	.00	.00	.00	.00	.00	
ADV-BAL	6,824.32	6,824.32	6,743.25	6,743.25	6,743.25	
SUSP	.00	.00	.00	.00	.00	
SC/PAYEE UTIL-ND743			RBP	UTIL-ND743		

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P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	05-04	04-03	04-03	03-21	03-04
SEG#/DUE	12-16	04-13	12-16	00-00	04-13
TYPE/TRAN	3 10	1 61	3 10	6 31	1 61
AMOUNT	81.07-	81.07	81.07-	.00	81.07
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	81.07-	81.07	81.07-	.00	81.07
ESC-BAL	81.07-	.00	81.07-	.00	.00
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	6,662.18	6,662.18	6,581.11	6,581.11	6,581.11
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	RBP		RBP	UTIL-ND743	

PAGE 00019 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000681

P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	03-04	02-04	02-04	01-04	01-04
SEG#/DUE	12-16	04-13	12-16	04-13	12-16
TYPE/TRAN	3 10	1 61	3 10	1 61	3 10
AMOUNT	81.07-	81.07	81.07-	81.07	81.07-
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	81.07-	81.07	81.07-	81.07	81.07-
ESC-BAL	81.07-	.00	81.07-	.00	81.07-
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	6,500.04	6,500.04	6,418.97	6,418.97	6,337.90
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	RBP		RBP		RBP

PAGE 00020 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000682

P309 LN	MORTGAGE LOAN HISTORY				06-19-18	
NAME V ABELARD	INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11					
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB	228,790.47	2ND PB	.00			
HUD .00 NET 1456.52 SF .00000000 SUSP	.00 STOP D B P F N A D L					
REP .00 RES .00	LNK LOAN 4 0 0 2 R 0 0 1					
APP	12-04	12-04	11-12	11-12	11-04	
SEG#/DUE	04-13	12-15	04-13	12-15	04-13	
TYPE/TRAN	1 61	3 10	1 61	3 51	1 61	
AMOUNT	82.80	82.80-	472.00	472.00-	82.80	
PRIN-PD	.00	.00	.00	.00	.00	
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47	
INT-PD	.00	.00	.00	.00	.00	
ESC-PD	82.80	82.80-	472.00	472.00-	82.80	
ESC-BAL	.00	82.80-	.00	472.00-	.00	
A&H-INS	.00	.00	.00	.00	.00	
LIFE-INS	.00	.00	.00	.00	.00	
LC/FEES	.00	.00	.00	.00	.00	
MISC-PD	.00	.00	.00	.00	.00	
ADV-BAL	6,337.90	6,255.10	6,255.10	5,783.10	5,783.10	
SUSP	.00	.00	.00	.00	.00	
SC/PAYEE	RBP		74760			

PAGE 00021 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000683

P309 LN MORTGAGE LOAN HISTORY 06-19-18

NAME V ABELARD INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11

BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB 228,790.47 2ND PB .00

HUD .00 NET 1456.52 SF .00000000 SUSP .00 STOP D B P F N A D L

REP .00 RES .00 LNK LOAN 4 0 0 2 R 0 0 1

APP	11-04	10-02	10-02	09-04	09-04
SEG#/DUE	12-15	04-13	12-15	04-13	12-15
TYPE/TRAN	3 10	1 61	3 10	1 61	3 10
AMOUNT	82.80-	82.80	82.80-	82.80	82.80-
PRIN-PD	.00	.00	.00	.00	.00
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47
INT-PD	.00	.00	.00	.00	.00
ESC-PD	82.80-	82.80	82.80-	82.80	82.80-
ESC-BAL	82.80-	.00	82.80-	.00	82.80-
A&H-INS	.00	.00	.00	.00	.00
LIFE-INS	.00	.00	.00	.00	.00
LC/FEES	.00	.00	.00	.00	.00
MISC-PD	.00	.00	.00	.00	.00
ADV-BAL	5,700.30	5,700.30	5,617.50	5,617.50	5,534.70
SUSP	.00	.00	.00	.00	.00
SC/PAYEE	RBP		RBP		RBP

PAGE 00022 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000684

P309 LN	MORTGAGE LOAN HISTORY				06-19-18	
NAME V ABELARD	INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11					
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB	228,790.47		2ND PB		.00	
HUD .00 NET 1456.52 SF .00000000 SUSP			.00 STOP D B P F N A D L			
REP .00 RES .00			LNK LOAN 4 0 0 2 R 0 0 1			
APP	08-03	08-03	07-03	07-03	06-04	
SEG#/DUE	04-13	12-15	04-13	12-15	04-13	
TYPE/TRAN	1 61	3 10	1 61	3 10	1 61	
AMOUNT	82.80	82.80-	82.80	82.80-	82.80	
PRIN-PD	.00	.00	.00	.00	.00	
PRIN-BAL	228,790.47	228,790.47	228,790.47	228,790.47	228,790.47	
INT-PD	.00	.00	.00	.00	.00	
ESC-PD	82.80	82.80-	82.80	82.80-	82.80	
ESC-BAL	.00	82.80-	.00	82.80-	.00	
A&H-INS	.00	.00	.00	.00	.00	
LIFE-INS	.00	.00	.00	.00	.00	
LC/FEES	.00	.00	.00	.00	.00	
MISC-PD	.00	.00	.00	.00	.00	
ADV-BAL	5,534.70	5,451.90	5,451.90	5,369.10	5,369.10	
SUSP	.00	.00	.00	.00	.00	
SC/PAYEE	RBP		RBP			

PAGE 00023 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000685

P309 LN	MORTGAGE LOAN HISTORY		06-19-18
NAME V ABELARD	INV-LN 011-003-0206747696 DUE 04-01-13 TYPE 11		
BR PR MAN F P-TYPE 1 INT .0487500 FIRST PB	228,790.47	2ND PB	.00
HUD .00 NET 1456.52 SF .00000000 SUSP	.00 STOP D B P F N A D L		
REP .00 RES .00	LNK LOAN 4 0 0 2 R 0 0 1		
APP	06-04		
SEG#/DUE	12-15		
TYPE/TRAN	3 10		
AMOUNT	82.80-		
PRIN-PD	.00		
PRIN-BAL	228,790.47		
INT-PD	.00		
ESC-PD	82.80-		
ESC-BAL	82.80-		
A&H-INS	.00		
LIFE-INS	.00		
LC/FEES	.00		
MISC-PD	.00		
ADV-BAL	5,286.30		
SUSP	.00		
SC/PAYEE	RBP		

PAGE 00024 OF 00024 TRANS AVAILABLE

116 OLDEST TRAN 06-04-15 /P

APP000686



# **EXHIBIT 2**

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Next

Bank of America



Lockbox - Universal - Texas - Monthly on 11/28/2014

## Check for Check Transaction ID G-5793015

Lockbox                      Ledger Date    11/24/2014    Amount    \$ 4,128.00

ABA/RT 091000019    Account                      Check Num    7027210759

Batch                      805    Item                      15

Envelope

Check

Page 1

### Transaction-level Keyed Fields

Remitter Name WELLS FARGO HOME MORTGAGE

Invoice	Policy #	Invoice Date	Pmt Amt
1		1214	416.00
2		1114	3054.00
3		1114	658.00

[Prev](#) [Next](#)

<b>WELLS FARGO HOME MORTGAGE</b> P.O. Box 10335 Des Moines, IA 50306-0335		WELLS FARGO BANK NA WELLS FARGO BANK NA ESCROW DISB CLRG/708 HFK G09 74760 0200738035		17-1 910 CHECK NO. <b>7027210759</b>	MO/DAY/YR <b>11/18/2014</b>
FOR PAYMENT OF HAZARD INSURANCE Four Thousand One Hundred Twenty Eight and 00/100 Dollars				AMOUNT <b>\$4,128.00</b>	
PAY TO THE ORDER OF		UNIVERSAL NORTH AMERICA PO BOX 644758 DALLAS, TX 75264		 AUTHORIZED SIGNATURE	
THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT.					

Bank of America Dallas Image Lockbox.

## Disbursement Check Voucher

PAYEE NAME  
& ADDRESS

UNIVERSAL NORTH AMERICA  
PO BOX 844758  
DALLAS, TX 75284

CHECK NUMBER: 7027210759  
CHECK DATE: 11/18/2014  
PAYEE CODE: 74760

BATCH: HFK

PAGE 1 OF 1

LOAN NUMBER	SHORT NAME/ INIT NAME/ PROPERTY ADDRESS	DESCRIPTION	TRAN CODE	DATE	AMOUNT DUE
0206738635	V ABELARD	NVVH0000012999	351	12-14	416.00
0371496522	K KIZZORT	UTAH0023877	351	11-14	3,054.00
0051145167	M REYES	CAVD0000012620	351	11-14	658.00
Check Totals:			3 Items		\$4,128.00

Bank of America Dallas Image Lockbox.

- [Prev](#)
- [Next](#)

**Bank of America**

Lockbox - Universal - Texas - Monthly on 11/30/2015

Check Transaction ID G-4301013

**Lockbox**                      **Ledger Date** 11/17/2015 **Amount**                      \$ 472.00**ABA/RT** 091000019 **Account**                      **Check Num** 7029504426**Batch**                      804 **Item**                      13

## Transaction-level Keyed Fields

**Remitter Name** WELLS FARGO HOME MORTGAGE

## Invoice-level Keyed Fields

Invoice Page	Policy #	Invoice Date	Pmt Amt
1 1		1215	472.00

Envelope



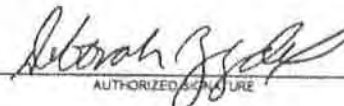
Check



Page 1



Check

<b>WELLS FARGO</b>	<b>HOME MORTGAGE</b>	WELLS FARGO BANK NA WELLS FARGO BANK NA ESCROW DISB CLRG/708		17-1 910
P.O. Box 10335 Des Moines, IA 50306-0335		H&T 0206738635	G09 74760	<b>CHECK NO</b> <b>7029504426</b>
FOR PAYMENT OF HAZARD INSURANCE Four Hundred Seventy Two and 00/100 Dollars				<b>MO/DAY/YR</b> <b>11/12/2015</b>
				<b>AMOUNT</b> <b>\$472.00</b>
<b>PAY TO THE ORDER OF</b>	<b>UNIVERSAL NORTH AMERICA</b> PO BOX 844758 DALLAS, TX 75284	 AUTHORIZED SIGNATURE		
10				
⑈ 70 295044 26 ⑈ ⑆ 09 10000 19 ⑆		6 504 70 14 7 2 ⑈		
THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT.				

Bank of America Dallas Image Lockbox.

## Disbursement Check Voucher

PAYEE NAME  
& ADDRESS

UNIVERSAL NORTH AMERICA  
PO BOX 844758  
DALLAS, TX 75284

CHECK NUMBER: 7029504426  
CHECK DATE: 11/12/2015  
PAYEE CODE: 74760

BATCH: H8T

PAGE 1 OF 1

LOAN NUMBER	SHORT NAME/ INIT NAME/ PROPERTY ADDRESS	DESCRIPTION	TRAN CODE	DATE	AMOUNT DUE
0206738635	V ABELARD	NVVH0000012999	351	12-15	472.00

Check Totals:

1 Item

\$472.00

Bank of America Dallas Image Lockbox.

- [Prev](#)
- [Next](#)

**Bank of America**

Lockbox - Universal - Texas - Monthly on 11/30/2016

Check Transaction ID G-4210045

**Lockbox**                      **Ledger Date** 11/08/2016 **Amount** \$ 458.00**ABA/RT** 091000019 **Account**                      **Check Num** 7031537465**Batch**                      801 **Item**                      11

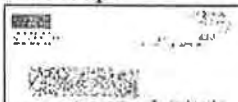
## Transaction-level Keyed Fields

**Remitter Name** HOME MORTGAGE

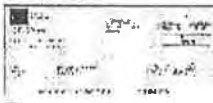
## Invoice-level Keyed Fields

Invoice Page	Policy #	Invoice Date	Pmt Amt
1 1		1216	458.00

Envelope



Check



Page 1



Check

<b>WELLS FARGO</b>	<b>HOME MORTGAGE</b>	WELLS FARGO BANK NA WELLS FARGO BANK N.A. ESCROW DISB CLRNG/708 HCC G09 74780 0206738635		17-1 910	CHECK NO. <b>7031537465</b>	MO/DAY/YR <b>11/03/2016</b>
P.O. Box 10335 Des Moines, IA 50306-0335						
FOR PAYMENT OF HAZARD INSURANCE				AMOUNT <b>\$458.00</b>		
Four Hundred Fifty Eight and 00/100 Dollars						
PAY TO THE ORDER OF		UNIVERSAL NORTH AMERICA PO BOX 844758 DALLAS, TX 75284		 AUTHORIZED SIGNATURE		
⑈ 7031537465⑈ ⑆091000019⑆				6504701472⑈		

THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT.

Bank of America Dallas Image Lockbox.



## Disbursement Check Voucher

PAYEE NAME  
& ADDRESS

UNIVERSAL NORTH AMERICA  
PO BOX 844758  
DALLAS, TX 75284

CHECK NUMBER: 7031537465  
CHECK DATE: 11/03/2016  
PAYEE CODE: 74760

BATCH: HCQ

PAGE 1 OF 1

LOAN NUMBER	SHORT NAME/ INIT NAME/ PROPERTY ADDRESS	DESCRIPTION	TRAN CODE	DATE	AMOUNT DUE
0206738635	V ABELARD	NVVR0000012999	351	12-16	458.00

Check Totals:

1 Item

\$458.00

Bank of America Dallas Image Lockbox.

- [Prev](#)
- [Next](#)

Bank of America



Lockbox - Universal - Texas - Monthly on 11/30/2017

Check Transaction ID G-5515004

**Lockbox**                      **Ledger Date** 11/10/2017 **Amount**                      \$ 555.00**ABA/RT** 091000019 **Account**                      **Check Num** 7033479022**Batch**                      800 **Item**                      9

## Transaction-level Keyed Fields

**Remitter Name** WELLS FARGO HOME MORTGAGE

## Invoice-level Keyed Fields

Invoice Page	Policy #	Pmt Amt
1 1		555.00

Envelope




Check



Page 1



Check

<b>WELLS FARGO</b>	<b>HOME MORTGAGE</b>	WELLS FARGO BANK NA WELLS FARGO BANK N.A. ESCROW DISB CLING/708 HN7 G09 74760 0206738635		17-1 910
P.O. Box 10335 Des Moines, IA 50306-0335		CHECK NO. <b>7033479022</b>	MO/DAY/YR <b>11/03/2017</b>	
FOR PAYMENT OF HAZARD INSURANCE Five Hundred Fifty Five and 00/100 Dollars		AMOUNT <b>\$555.00</b>		
PAY TO THE ORDER OF		UNIVERSAL NORTH AMERICA PO BOX 644758 DALLAS, TX 75284		
		 AUTHORIZED SIGNATURE		

⑈7033479022⑈ ⑆091000019⑆ 6504701472⑈

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Bank of America Dallas Image Lockbox.

## Disbursement Check Voucher

PAYEE NAME  
& ADDRESSUNIVERSAL NORTH AMERICA  
PO BOX 844758  
DALLAS, TX 75284

CHECK NUMBER: 7033479022

CHECK DATE: 11/03/2017

PAYEE CODE: 74760

BATCH: HN7

PAGE 1 OF 1

LOAN NUMBER	SHORT NAME/ INIT NAME/ PROPERTY ADDRESS	DESCRIPTION	TRAN CODE	DATE	AMOUNT DUE
0206738635	V ABELARD NVVH0000012999		351	12-17	555.00

Check Totals:

1 Item

\$555.00

Bank of America Dallas Image Lockbox.

# **EXHIBIT 3**



# CLARK COUNTY

RECEIPT NUMBER: 33249344

Page 1 of 1

Entered: 8/28/2015 12:00 AM

Interest Date: 8/27/2015

Cashier: mdm

Drawer: 1093

Amount Tendered: \$535.80

Less Change: \$0.00

Amount Applied: \$535.80

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2016	200	\$288.22	Property Tax Principal
	2016	WATLV	\$0.88	Las Vegas Artesian Basin
	2016	SPCLV	\$246.70	Las Vegas Sewer - Delinq
TOTAL:			\$535.80	

Form of Payment	Amount	Reference	Payer
Check	\$535.80		RESOURCES GROUP LLC
TOTAL:	\$535.80		

Interest Date equals Received Date

End of Receipt Number 33249344: 1 Page

RESOURCES GROUP LLC  
P O BOX 36208  
LAS VEGAS NV 89133-0000

RECEIPT NUMBER: 33249344

[PROD]

Run: 6/14/2018 4:41:01 PM  
APP000700



# CLARK COUNTY

RECEIPT NUMBER: 33847018

Page 1 of 1

Entered: 10/20/2015 12:00 AM

Interest Date: 10/15/2015

Cashier: mdm

Drawer: 1093

Amount Tendered: \$288.21

Less Change: \$0.00

Amount Applied: \$288.21

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2016	200	\$288.21	Property Tax Principal
TOTAL:			\$288.21	

Form of Payment	Amount	Reference	Payer
Check	\$288.21		RESOURCES GROUP LLC
TOTAL:	\$288.21		

Interest Date equals Received Date

End of Receipt Number 33847018: 1 Page

RESOURCES GROUP LLC  
P O BOX 36208  
LAS VEGAS NV 89133-0000

**RECEIPT NUMBER: 33847018**

[PROD]

Run: 6/14/2018 4:40:59 PM  
APP000701



# CLARK COUNTY

RECEIPT NUMBER: 34448009

Page 1 of 1

Entered: 1/15/2016 12:00 AM

Interest Date: 1/14/2016

Cashier: shal

Drawer: 1080

Amount Tendered: \$288.21

Less Change: \$0.00

Amount Applied: \$288.21

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2016	200	\$288.21	Property Tax Principal
TOTAL:			\$288.21	

Form of Payment	Amount	Reference	Payer
Check	\$288.21		RESOURCES GROUP LLC
TOTAL:	\$288.21		

Interest Date equals Received Date

End of Receipt Number 34448009: 1 Page

RESOURCES GROUP LLC  
P O BOX 36208  
LAS VEGAS NV 89133-0000

**RECEIPT NUMBER: 34448009**

[PROD]

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APP000702





# CLARK COUNTY

RECEIPT NUMBER: 35020638

Page 1 of 1

Entered: 3/21/2016 12:00 AM

Interest Date: 3/17/2016

Cashier: shal

Drawer: 1080

Amount Tendered: \$288.21

Less Change: \$0.00

Amount Applied: \$288.21

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2016	200	\$288.21	Property Tax Principal
TOTAL:			\$288.21	

Form of Payment	Amount	Reference	Payer
Check	\$288.21		RESOURCES GROUP LLC
TOTAL:	\$288.21		

Interest Date equals Received Date

End of Receipt Number 35020638: 1 Page

RESOURCES GROUP LLC  
P O BOX 36208  
LAS VEGAS NV 89133-0000

RECEIPT NUMBER: 35020638

[PROD]

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APP000703



CLARK COUNTY

RECEIPT NUMBER: 35854035

Page 1 of 1

Entered: 8/26/2016 12:00 AM

Interest Date: 8/25/2016

Cashier: hob

Drawer: 1084

Amount Tendered: \$791.45

Less Change: \$0.00

Amount Applied: \$791.45

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2017	200	\$288.79	Property Tax Principal
	2017	WATLV	\$1.81	Las Vegas Artesian Basin
	2017	SPCLV	\$500.85	Las Vegas Sewer - Delinq
		TOTAL:	\$791.45	

Form of Payment	Amount	Reference	Payer
Check	\$791.45		RESOURCES GROUP LLC
TOTAL:	\$791.45		

Interest Date equals Received Date

End of Receipt Number 35854035: 1 Page

RESOURCES GROUP LLC  
P O BOX 36208  
LAS VEGAS NV 89133-0000

RECEIPT NUMBER: 35854035

[PROD]

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APP000704



# CLARK COUNTY

RECEIPT NUMBER: 36440893

Page 1 of 1

Entered: 10/14/2016 12:00 AM

Interest Date: 10/13/2016

Cashier: yxp

Drawer: 1098

Amount Tendered: \$288.79

Less Change: \$0.00

Amount Applied: \$288.79

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2017	200	\$288.79	Property Tax Principal
TOTAL:			\$288.79	

Form of Payment	Amount	Reference	Payer
Check	\$288.79		RESOURCES GROUP LLC
TOTAL:	\$288.79		

Interest Date equals Received Date

End of Receipt Number 36440893: 1 Page

RESOURCES GROUP LLC  
P O BOX 36208  
LAS VEGAS NV 89133-0000

RECEIPT NUMBER: 36440893

[PROD]

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APP000705



# CLARK COUNTY

RECEIPT NUMBER: 37062022

Page 1 of 1

Entered: 1/13/2017 12:00 AM

Interest Date: 1/12/2017

Cashier: yxp

Drawer: 1098

Amount Tendered: \$288.79

Less Change: \$0.00

Amount Applied: \$288.79

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2017	200	\$288.79	Property Tax Principal
TOTAL:			\$288.79	

Form of Payment	Amount	Reference	Payer
Check	\$288.79		RESOURCES GROUP LLC
TOTAL:	\$288.79		

Interest Date equals Received Date

End of Receipt Number 37062022: 1 Page

RESOURCES GROUP LLC  
P O BOX 36208  
LAS VEGAS NV 89133-0000

RECEIPT NUMBER: 37062022

[PROD]

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APP000706



# CLARK COUNTY

RECEIPT NUMBER: 37629916

Page 1 of 1

Entered: 3/16/2017 12:00 AM

Interest Date: 3/16/2017

Cashier: yxp

Drawer: 1098

Amount Tendered: \$288.79

Less Change: \$0.00

Amount Applied: \$288.79

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2017	200	\$288.79	Property Tax Principal
TOTAL:			\$288.79	

Form of Payment	Amount	Reference	Payer
Check	\$288.79		RESOURCES GROUP LLC
TOTAL:	\$288.79		

Thank you for your payment.

End of Receipt Number 37629916: 1 Page

RESOURCES GROUP LLC  
P O BOX 36208  
LAS VEGAS NV 89133-0000

**RECEIPT NUMBER: 37629916**

[PROD]

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APP000707



# CLARK COUNTY

RECEIPT NUMBER: 37854074

Page 1 of 1

Entered: 8/15/2017 12:00 AM

Interest Date: 8/15/2017

Cashier: hob

Drawer: 1084

Amount Tendered: \$405.96

Less Change: \$0.00

Amount Applied: \$405.96

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2018	200	\$296.29	Property Tax Principal
	2018	WATLV	\$1.80	Las Vegas Artesian Basin
	2018	SPCLV	\$107.87	Las Vegas Sewer - Delinq
		<b>TOTAL:</b>	<b>\$405.96</b>	

Form of Payment	Amount	Reference	Payer
Wire Transfer	\$405.96		WELLS FARGO HOME MORTGAGE
<b>TOTAL:</b>	<b>\$405.96</b>		

Thank you for your payment.

End of Receipt Number 37854074: 1 Page

WELLS FARGO HOME MORTGAGE  
1 HOME CAMPUS MAC # X2301-029  
DES MOINES IA 50328

**RECEIPT NUMBER: 37854074**

[PROD]

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APP000708



# CLARK COUNTY

RECEIPT NUMBER: 30085675

Page 1 of 1

Entered: 8/15/2014 12:00 AM

Interest Date: 8/15/2014

Cashier: yxp

Drawer: 1098

Amount Tendered: \$577.40

Less Change: \$0.00

Amount Applied: \$577.40

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2015	200	\$279.26	Property Tax Principal
	2015	WATLV	\$0.62	Las Vegas Artesian Basin
	2015	SPCLV	\$297.52	Las Vegas Sewer - Delinq
		TOTAL:	\$577.40	

Form of Payment	Amount	Reference	Payer
Wire Transfer	\$577.40		WELLS FARGO HOME MORTGAGE
TOTAL:	\$577.40		

Thank you for your payment.

End of Receipt Number 30085675: 1 Page

WELLS FARGO HOME MORTGAGE  
1 HOME CAMPUS MAC # X2301-029  
DES MOINES IA 50328

RECEIPT NUMBER: 30085675

[PROD]

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APP000709



# CLARK COUNTY

RECEIPT NUMBER: 30733955

Page 1 of 1

Entered: 10/2/2014 12:00 AM

Interest Date: 9/30/2014

Cashier: nub

Drawer: 1090

Amount Tendered: \$279.28

Less Change: \$0.00

Amount Applied: \$279.28

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2015	200	\$279.28	Property Tax Principal
TOTAL:			\$279.28	

Form of Payment	Amount	Reference	Payer
Wire Transfer	\$279.28		WELLS FARGO HOME MORTGAGE
TOTAL:	\$279.28		

Interest Date equals Received Date

End of Receipt Number 30733955: 1 Page

WELLS FARGO HOME MORTGAGE  
1 HOME CAMPUS MAC # X2301-029  
DES MOINES IA 50328

RECEIPT NUMBER: 30733955

[PROD]

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APP000710





CLARK COUNTY

RECEIPT NUMBER: 31328576

Page 1 of 1

Entered: 12/24/2014 12:00 AM

Interest Date: 12/24/2014

Cashier: dlr

Drawer: 1081

Amount Tendered: \$279.28

Less Change: \$0.00

Amount Applied: \$279.28

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2015	200	\$279.28	Property Tax Principal
TOTAL:			\$279.28	

Form of Payment	Amount	Reference	Payer
Wire Transfer	\$279.28		WELLS FARGO HOME MORTGAGE
TOTAL:	\$279.28		

Thank you for your payment.

End of Receipt Number 31328576: 1 Page

WELLS FARGO HOME MORTGAGE  
1 HOME CAMPUS MAC # X2301-029  
DES MOINES IA 50328

RECEIPT NUMBER: 31328576

[PROD]

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APP000711



CLARK COUNTY

RECEIPT NUMBER: 31937800

Page 1 of 1

Entered: 2/27/2015 12:00 AM

Interest Date: 2/27/2015

Cashier: nub

Drawer: 1090

Amount Tendered: \$279.28

Less Change: \$0.00

Amount Applied: \$279.28

Receipt Applied To:

Property Account No. / Reference	Year	District	Amount	Description
125-18-513-016	2015	200	\$279.28	Property Tax Principal
TOTAL:			\$279.28	

Form of Payment	Amount	Reference	Payer
Wire Transfer	\$279.28		WELLS FARGO HOME MORTGAGE
TOTAL:	\$279.28		

Thank you for your payment.

End of Receipt Number 31937800: 1 Page

WELLS FARGO HOME MORTGAGE  
1 HOME CAMPUS MAC # X2301-029  
DES MOINES IA 50328

RECEIPT NUMBER: 31937800

[PROD]

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APP000712

# **EXHIBIT 4**

**DECLARATION OF IYAD HADDAD IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT**

1. I, Iyad "Eddie" Haddad, declare as follows:

2. I am the person most knowledgeable for 9352 Cranesbill Trust, Teal Petals St. Trust and Iyad Haddad, Defendants in *Venise Abelard vs. 9352 Cranesbill Trust*, which is now pending in the Eighth Judicial District Court, as Case No. A-12-671509-C.

3. This Declaration is made based on my own personal knowledge and in support of 9352 Cranesbill Trust and Iyad Haddad's Motion for Summary Judgment.

4. 9352 Cranesbill Trust is the owner of the real property commonly known as 9352 Cranesbill Ct., Las Vegas, Nevada ("the Property").

5. The Property was originally sold to 9352 Cranesbill Trust at the HOA foreclosure sale conducted on July 11, 2012 as evidenced by the foreclosure deed recorded on July 18, 2012.

6. In July 2012, Cranesbill transferred title by grant deed to the Teal Petals St. Trust.

7. The foreclosure deed reflects that valuable consideration in the sum of \$4,900.00 was paid for the property.

8. 9352 Cranesbill Trust's title stems from a foreclosure deed arising from a delinquency in assessments due from the former owner to the Fort Apache Square Homeowners Association pursuant to NRS Chapter 116.

9. Prior to and at the time of the foreclosure sale, there was nothing recorded in the public record to put me on notice of any claims or notices that any portion of the lien had been paid.

10. Prior to and at the time of the foreclosure sale, there is no way for myself or any other potential bidder at the foreclosure sale to research if the notices were sent to the proper parties at the proper address. I, and other potential bidders are forced to rely only on the

1 professional foreclosure agent to have obtained a trustee's sale guarantee issued by a local title  
2 and escrow company and to serve the notices upon the parties who are entitled to notice.

3 11. As a result of the limited information available to myself and other potential  
4 bidders at foreclosure sale, I, on behalf of 9352 Cranesbill Trust and Teal Petals St. Trust, am a  
5 bona fide purchaser of the property, for value, without notice of any claims on the title to the  
6 property or any alleged defects in the sale itself.

7 12. At no time prior to the foreclosure sale did I receive any information from the  
8 HOA or the foreclosure agent about the property or the foreclosure sale.


9 13. Neither myself or anyone associated with 9352 Cranesbill Trust or Teal Petals St.  
10 Trust, have any affiliation with the HOA board or the foreclosure agent.

11 14. On July 22, 2015, an order was entered requiring Plaintiff Venise Aberlard to pay  
12 the property insurance, taxes and HOA due if she is to continue occupying the property. The  
13 annual property insurance is \$1,400.00; the annual property taxes are \$1,845.00, the annual HOA  
14 dues are \$744.00. Additionally, while occupying the property, Plaintiff Venise Aberlard has  
15 caused 9352 Cranesbill Trust and/or Teal Petals St. Trust to incur approximately \$2,000.00 in  
16 HOA violations. Although ordered, Plaintiff Venise Aberlard has not paid anything while  
17 continuing to occupy the property.

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

19 Executed on January 31, 2018.

20  
21  
22  
23  
24  
25  
26  
27  
28

DocuSigned by:  
  
6A2D83E0FD1044E...

Iyad "Eddie" Haddad



**OPPS**

GEISENDORF & VILKIN, PLLC

Charles L. Geisendorf, Esq. (6985)

2470 St. Rose Parkway, Suite 309

Henderson, Nevada 89074

Tel: (702) 873-5868

Email: charles@gvattorneys.com

Attorney for 9352 Cranesbill Trust, Teal Petal St. Trust and Iyad Haddad

DISTRICT COURT

CLARK COUNTY, NEVADA

VENISE ABELARD,

Plaintiffs,

vs.

9352 CRANESBILL TRUST, FORT APACHE  
SQUARE HOMEOWNERS ASSOCIATION,  
MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC, BENCH  
MARCH ASSOCIATION SERVICES, IYAD  
HADDAD; et. al.

Defendants.

And all related matters.

Case No.: A-12-671509-C

Dept. No.: XI

**Opposition to Plaintiff's Motion for  
Reconsideration of Summary  
Judgment Against Venise Abelard or,  
in the Alternative, for Amendment of  
Judgment Pursuant to NRCP 59(e)**

Date of Hearing: 8-10-18

Time of Hearing: Chambers

Defendants/Counterclaimant 9352 Cranesbill Trust, Teal Petal St. Trust and Iyad Haddad

("Defendants"), by and through their counsel of record, Charles L. Geisendorf, Esq., hereby  
move this Court for an Order denying Plaintiff's Motion for Reconsideration of Summary  
Judgment Against Venise Abelard or, in the Alternative, for Amendment of Judgment Pursuant  
to NRCP 59(e).

1 This Opposition is made and based upon the attached points and authorities, Defendants'  
2 Motion for Summary Judgment filed on January 31, 2018, Defendants' Reply in Support of  
3 Motion for Summary Judgment filed on February 27, 2018, Plaintiff's Opposition to Defendants'  
4 Motion for Summary Judgment and Joinder to Wells Fargo Bank, N.A.'s Opposition to Motion  
5 for Summary Judgment filed on February 23, 2018, all papers and pleadings on file herein, and  
6 any oral argument this Court may entertain.  
7

8 Dated: July 23, 2018  
9

10 GEISENDORF & VILKIN, PLLC

11 /s/ Charles L. Geisendorf  
12 Charles L. Geisendorf, Esq. (6985)  
13

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 ***INTRODUCTION***

16 On July 6, 2018, Plaintiff filed a motion for reconsideration asking this Court to  
17 reconsider or amend its grant of summary judgment against Plaintiff in favor of Defendants in  
18 the amount of \$23,939.50 because: she was only obligated to reimburse Defendants for HOA  
19 dues, property insurance and taxes paid by Defendants, Wells Fargo actually made the payments,  
20 and as a result, she is not required to reimburse Defendants.  
21

22 As will be discussed below, the motion must be denied because Plaintiff has provided  
23 no substantially different evidence, no proof that the decision was clearly erroneous, and no new  
24 clarifying case law.

25 ***FACTS***

26 On January 31, 2018, Defendants filed their Motion for Summary Judgment.  
27  
28

1 On February 23, 2018, Plaintiff filed her Opposition to Defendants' Motion for Summary  
2 Judgment and Joinder to Wells Fargo Bank, N.A.'s Opposition to Motion for Summary  
3 Judgment.  
4

5 On February 27, 2018, Defendants filed their Reply in Support of Motion for Summary  
6 Judgment.

7 On June 19, 2108, of Findings of Fact, Conclusions of Law, and Order Granting  
8 Summary Judgment Against Venise Abelard was entered.

9 On June 19, 2018, Defendants filed their Notice of Entry of Findings of Fact,  
10 Conclusions of Law, and Order Granting Summary Judgment Against Venise Abelard.  
11

12 On July 6, 2018, Plaintiff filed its motion for reconsideration.

13 ***LEGAL ARGUMENT***

14 Rehearings are appropriate only when "substantially different evidence is subsequently  
15 introduced or the decision is clearly erroneous," *Masonry & Tile Contractors Ass'n of S. Nev. v.*  
16 *Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997); *see also Moore v.*  
17 *City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976) ("Only in very rare instances in  
18 which new issues of fact or law are raised supporting a ruling contrary to the ruling already  
19 reached should a motion for rehearing be granted"). Points or contentions not raised in the first  
20 instance cannot be raised on rehearing. *Achrem v. Expressway Plaza, Ltd. P'ship*, 112 Nev. 737,  
21 742, 917 P.2d 447, 450 (1996). Failure to make the arguments in the first instance constitutes a  
22 waiver. *Chowdhry. NLVH, Inc.*, 111 Nev. 560, 562, 893 P.2d 385, 387 (1995).  
23  
24

25 **1. Plaintiff has failed to provide support for her allegations.**

26 In her motion, Plaintiff makes many factual contentions such as: she could not pay the  
27 amounts as ordered because Wells Fargo was paying them; Plaintiff's counsel requested that  
28



1 Defendant's counsel at the time, Michael F. Bohn, forward any such bills to Plaintiff's counsel  
2 for payment, that never happened; Defendants' did not pay for homeowners insurance or  
3 property taxes; and, Plaintiff remains, for all intents and purposes, still personally liable on the  
4 mortgage. Motion at 5:8-22.

6 Eighth Judicial District Court Rule 2.21 states in pertinent part:

7 (a) Factual contentions involved in any pretrial or post-trial motion must be  
8 initially presented and heard upon affidavits, unsworn declarations under penalty  
9 of perjury, depositions, answers to interrogatories, and admissions on file. Oral  
testimony will not be received at the hearing. . . .

10 Plaintiff's factual contentions are not supported by affidavits, declarations, depositions,  
11 answers to interrogatories, or admissions, as required as required by rule. Plaintiff's failure to  
12 provide any authority or support for her contentions should be deemed as an admission that the  
13 motion is not meritorious. Accordingly, for this reason alone, Plaintiff's motion should be  
14 denied.  
15

16 **2. Plaintiff failed to make arguments in the first place.**

17 In her Motion at 5, Plaintiff incorrectly states that she was only obligated to reimburse  
18 Defendants for HOA dues, property insurance and taxes paid by Defendants, that Wells Fargo  
19 actually made the payments, and as a result, she is not required to reimburse Defendants. As  
20 proof, she provides as Exhibits 1-3, Wells Fargo mortgage account information, homeowners  
21 insurance policy information and property tax records.  
22

23 This contention was not raised in Plaintiff's Opposition to Defendants' Motion for  
24 Summary Judgment and Joinder to Wells Fargo Bank, N.A.'s Opposition to Motion for  
25 Summary Judgment filed on February 23, 2018. In its Opposition at 7:1-9, Plaintiff entire  
26 argument regarding her responsibility to pay is as follows:  
27  
28

1 Accordingly, while it is Ms. Abelard's desire and intention to comply with the Court's  
2 July 22, 2015, Order, directing that she pay all HOA dues post-June 2015, she has not  
3 been advised of how to accomplish this. As for the property insurance and taxes, Ms.  
4 Abelard is also unclear as to how to comply with paying for all such charges post-  
5 June 2015 since she has not received any statements. From when Ms. Abelard first  
6 purchased the Subject Property, property insurance and taxes were always escrowed  
by her mortgage servicer. As with the HOA dues, however, Ms. Abelard desires and  
intends to comply with the Court's order and will do so once there is clarification on  
this issue.

7 Nowhere does she argue that she is not required to pay because Wells Fargo allegedly  
8 paid, that she is not required to reimburse Defendants, or provide Exhibits 1-3. Since Plaintiff's  
9 contentions were not raised in the summary judgment pleadings, they are waived and cannot be  
10 raised on rehearing pursuant to *Achrem* and *Chowdry*.

11  
12 **3. The documents provided by Plaintiff in her motion are unauthenticated and**  
13 **inadmissible.**

14 NRCP 56(c) and FRCP 56(c)(1) allow a motion for summary judgment to be either  
15 supported or opposed by the pleadings, discovery, admissions on file, and affidavits, if any. See  
16 *Vermeff v. City of Boulder City*, 119 Nev. 549, 80 P.3d 445, 446 (2003). In addition, the court  
17 may consider any other material that would be admissible under the rules of evidence at trial.  
18 FRCP 56(c)(2); 10A Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure §  
19 2721, at 5 (3d ed. 1998); see also *Fraser v. Goodale*, 342 F.3d 1032 (9th Cir. 2003); *R&R*  
20 *Partners, Inc. v. Tovar*, 447 F. Supp. 2d 1141, 1147 (D. Nev. 2006); but see *Chambers by*  
21 *Cochran v. Sanderson*, 107 Nev. 846, 822 P.2d 657 (1991). Conversely, the court cannot  
22 consider any evidence that would be inadmissible at trial under the Rules of Evidence. See  
23 FRCP 56(c)(1)(B); *Sullivan v. Dollar Tree Stores, Inc.*, 623 F.3d 770 (9th Cir. 2010) (holding  
24 that legal conclusions are not admissible under FRE 803(8)(c), only factual findings); *Witherow*  
25 *v. Crawford*, 469 F. Supp. 2d 1253 (D. Nev. 2006).

1 Two hurdles that must be overcome are authentication and admissibility, Plaintiff's  
2 motion contains neither. Plaintiff simply attached 73 pages of documents, without any  
3 authentication or explanation and expects Defendants and this Court to decipher the contents.  
4 NRS 52.015(1) requires authentication or identification as a condition precedent to admissibility  
5 and is satisfied by evidence or other showing sufficient to support a finding that the matter in  
6 question is what its proponent claims. Authentication is generally proven by testimony of  
7 someone with personal knowledge (through deposition, affidavit or declaration) or rule (such as  
8 self-authenticating documents or judicial notice). Plaintiff's exhibits lack any evidence or other  
9 showing sufficient to support a finding that the matter in question is what she claims.  
10

11  
12 Next, Plaintiff's exhibits are inadmissible hearsay. Hearsay is a statement, other than one  
13 made by the declarant while testifying at the trial or hearing, offered in evidence to prove the  
14 truth of the matter asserted. NRS 51.035. The exhibits are apparently being provided by  
15 Plaintiff to absolve her of liability for amounts owed, but are not made by her and do not qualify  
16 for any exception. Thus, to the extent the exhibits are being provided by Plaintiff to absolve her  
17 of liability for amounts owed, they are inadmissible hearsay.  
18

19 **4. No matter who paid, Defendants are responsible for the amounts.**

20 Even if Wells Fargo made some payments, which Defendants do not concede,  
21 Defendants are the party most likely responsible.  
22

23 The Finding of Fact, Conclusions of Law and Order Granting Wells Fargo Bank, N.A.'s  
24 Motion for Summary Judgment filed on April, 27, 2018 at 5:12-13, states:

25 IT IS FURTHER ORDERED THAT the July 12, 2012 HOA foreclosure sale  
26 conveyed title of the Property to Defendant 9352 Cranesbill Ct. Trust subject to  
27 the Deed of Trust.  
28

1 The Deed of Trust secures the payment of all sums advanced to protect the security of  
2 Deed of Trust. Therefore, any amounts paid by Wells Fargo for property insurance and taxes are  
3 secured by the Deed of Trust. Since Defendants took title to the Property subject to the Deed of  
4 Trust, they are the party most likely responsible for those amounts.  
5

6 **CONCLUSION**

7 Only in very rare instances in which new issues of fact or law are raised supporting a  
8 ruling contrary to the ruling already reached should a motion for rehearing be granted – this in  
9 not such a case. Plaintiff has provided no substantially different evidence, no proof that the  
10 decision was clearly erroneous, and no new clarifying case law. Based on the foregoing,  
11 Defendants request this Court enter an order:  
12

- 13 1. Denying Plaintiff's Motion; and  
14 2. For any such other relief as the Court deems proper and just.  
15

16 Dated: July 23, 2018

17 GEISENDORF & VILKIN, PLLC

18 /s/ Charles L. Geisendorf  
19 Charles L. Geisendorf, Esq. (6985)

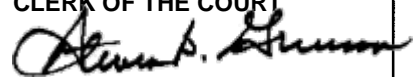
20 **Certificate of Service**

21 I hereby certify that on July 23, 2018, I served the following document(s):

22 A copy of the preceding **Opposition to Plaintiff's Motion for Reconsideration of**  
23 **Summary Judgment Against Venise Abelard or, in the Alternative, for Amendment of**  
24 **Judgment Pursuant to NRCP 59(e).**

- 25 ■ By Electronic Transmission: by transmitting the document to the parties  
26 registered to receive service for this case via this Court's mandatory e-service  
27 system.

28 /s/ Charles Geisendorf  
An employee of Geisendorf & Vilkin, PLLC



1 **ORDD**

2 MICHAEL F. BOHN, ESQ.

3 Nevada Bar No.: 1641

4 [mbohn@bohnlawfirm.com](mailto:mbohn@bohnlawfirm.com)

5 ADAM R. TRIPPIEDI, ESQ.

6 Nevada Bar No.: 12294

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9 MICHAEL F. BOHN, ESQ., LTD.

10 2260 Corporate Circle, Suite 480

11 Henderson, Nevada 89074

12 (702) 642-3113/ (702) 642-9766 FAX

13 Attorney for defendants 9352 Cranesbill Trust and Iyad Haddad

14 DISTRICT COURT

15 CLARK COUNTY, NEVADA

16 VENISE ABELARD,

17 Plaintiff,

18 vs.

19 9352 CRANESBILL TRUST, FORT APACHE  
20 SQUARE HOMEOWNERS ASSOCIATION,  
21 MESA MANAGEMENT, LAS VEGAS  
22 ASSOCIATION MANAGEMENT, LLC,  
23 BENCH MARCH ASSOCIATION SERVICES,  
24 IYAD HADDAD; et al.

25 Defendants.

CASE NO.: A-12-671509-C

DEPT NO.: XI

26 **ORDER DENYING MOTION FOR RECONSIDERATION**

27 The plaintiff's motion for reconsideration having come before the court on it's chambers calendar,  
28 and the court, after having reviewed the motion and the opposition thereto, the court notes that there are  
no new facts or law presented which would alter the findings previously made by Judge Bell.

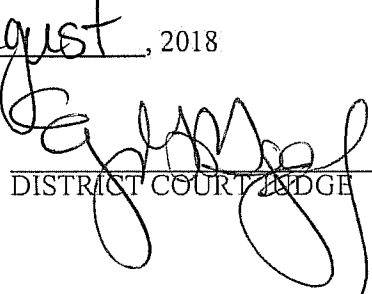
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1 NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the  
2 plaintiff's motion for reconsideration is denied.

3 Dated this 30 day of August, 2018

4  
5   
6 DISTRICT COURT JUDGE  
7

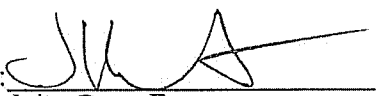
8 Respectfully Submitted by:

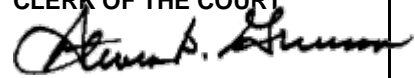
9 LAW OFFICES OF  
10 MICHAEL F. BOHN, ESQ., LTD.

11   
12 By: /s/ Michael F. Bohn, Esq./  
13 MICHAEL F. BOHN, ESQ.  
14 2260 Corporate Circle, Suite 480  
15 Henderson, Nevada 89074  
16 Attorneys for defendants 9352 Cranesbill Trust and  
17 Iyad Haddad

18 Reviewed by:

19 LEGAL AID CENTER  
20 OF SOUTHERN NEVADA, INC.

21   
22 By: Joice Bass, Esq.  
23 725 E. Charleston Blvd.  
24 Las Vegas, NV 89104  
25  
26  
27  
28



1 **NEO**  
MICHAEL F. BOHN, ESQ.  
2 Nevada Bar No.: 1641  
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3 ADAM R. TRIPPIEDI, ESQ.  
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7 Attorney for defendants 9352 Cranesbill Trust and Iyad Haddad

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 VENISE ABELARD,  
12 Plaintiff,

13 vs.

14 9352 CRANESBILL TRUST, FORT APACHE  
15 SQUARE HOMEOWNERS ASSOCIATION,  
16 MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC,  
17 BENCH MARCH ASSOCIATION SERVICES,  
IYAD HADDAD; et al.

18 Defendants.

CASE NO.: A-12-671509-C  
DEPT NO.: VII

**NOTICE OF ENTRY OF ORDER**

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an **ORDER DENYING**  
20 **MOTION FOR RECONSIDERATION** has been entered on the 4th day of September, 2018, in the  
21 above captioned matter, a copy of which is attached hereto

22 DATED this 4th day of September, 2018.

23 LAW OFFICES OF  
24 MICHAEL F. BOHN, ESQ., LTD.

25  
26 By: /s/ Michael F. Bohn, Esq. /  
Michael F. Bohn, Esq.  
2260 Corporate Circle, Suite 480  
27 Henderson, Nevada 89074  
Attorney for defendants 9352 Cranesbill  
28 Trust and Iyad Haddad

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 4th day of September, 2018, a copy of the NOTICE OF ENTRY OF  
3 ORDER was served on opposing counsel via the Court's electronic service system to the following  
4 counsel of record:

5 Amy F. Sorenson, Esq.  
6 Erica J. Stutsman, Esq.  
7 Casey G. Perkins, Esq.  
8 SNELL & WILMER L.L.P.  
9 3883 Howard Hughes Parkway  
10 Suite 1100  
11 Las Vegas, Nevada 89169

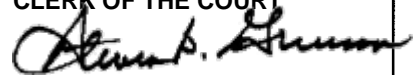
Daniel S. Ivie, Esq.  
SNELL & WILMER, L.L.P.  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, Nevada 89169

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Huong Lam, Esq.  
Alessi & Koenig, LLC  
9500 W. Flamingo, Ste. 205  
Las Vegas, NV 89147

Elizabeth B. Lowell, Esq.  
Pengilly Law Firm  
1995 Village Center Circle # 190  
Las Vegas, NV 89134

/s/ /Maggie Lopez/  
An employee of Law Offices of  
Michael F. Bohn, Esq., Ltd.





1 **ORDD**

2 MICHAEL F. BOHN, ESQ.

3 Nevada Bar No.: 1641

4 [mbohn@bohnlawfirm.com](mailto:mbohn@bohnlawfirm.com)

5 ADAM R. TRIPPIEDI, ESQ.

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7 [atrippiedi@bohnlawfirm.com](mailto:atrippiedi@bohnlawfirm.com)

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12 (702) 642-3113/ (702) 642-9766 FAX

13 Attorney for defendants 9352 Cranesbill Trust and Iyad Haddad

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DISTRICT COURT

CLARK COUNTY, NEVADA

VENISE ABELARD,

Plaintiff,

vs.

9352 CRANESBILL TRUST, FORT APACHE  
SQUARE HOMEOWNERS ASSOCIATION,  
MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC,  
BENCH MARCH ASSOCIATION SERVICES,  
IYAD HADDAD; et al.

Defendants.

CASE NO.: A-12-671509-C

DEPT NO.: XI

**ORDER DENYING MOTION FOR RECONSIDERATION**

The plaintiff's motion for reconsideration having come before the court on it's chambers calendar, and the court, after having reviewed the motion and the opposition thereto, the court notes that there are no new facts or law presented which would alter the findings previously made by Judge Bell.

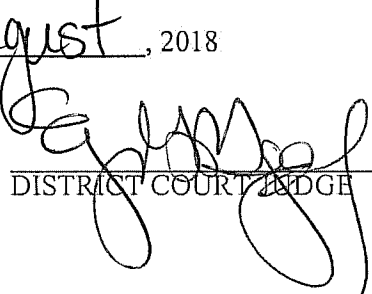
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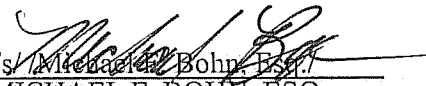
1 NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the  
2 plaintiff's motion for reconsideration is denied.

3 Dated this 30 day of August, 2018

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5   
6 DISTRICT COURT JUDGE  
7

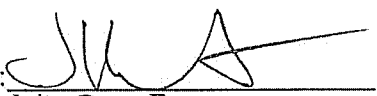
8 Respectfully Submitted by:

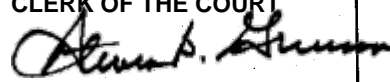
9 LAW OFFICES OF  
10 MICHAEL F. BOHN, ESQ., LTD.

11   
12 By: /s/ Michael F. Bohn, Esq./  
13 MICHAEL F. BOHN, ESQ.  
14 2260 Corporate Circle, Suite 480  
15 Henderson, Nevada 89074  
16 Attorneys for defendants 9352 Cranesbill Trust and  
17 Iyad Haddad

18 Reviewed by:

19 LEGAL AID CENTER  
20 OF SOUTHERN NEVADA, INC.

21   
22 By: Joice Bass, Esq.  
23 725 E. Charleston Blvd.  
24 Las Vegas, NV 89104  
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28



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11 Henderson, Nevada 89074  
12 (702) 642-3113/ (702) 642-9766 FAX  
13 Attorney for defendants 9352 Cranesbill Trust  
14 and Iyad Haddad

DISTRICT COURT  
CLARK COUNTY, NEVADA

11 VENISE ABELARD,  
12 Plaintiff,

13 vs.

14 9352 CRANESBILL TRUST, FORT APACHE  
15 SQUARE HOMEOWNERS ASSOCIATION,  
16 MESA MANAGEMENT, LAS VEGAS  
17 ASSOCIATION MANAGEMENT, LLC,  
18 BENCH MARCH ASSOCIATION SERVICES,  
19 IYAD HADDAD; et al.

20 Defendants.

CASE NO.: A-12-671509-C  
DEPT NO.: XI

Date of Hearing: September 25, 2018  
Time of Hearing: 9:00 a.m.

**ORDER GRANTING MOTION FOR  
NRCP 54(b) CERTIFICATION**

21 Defendant 9352 Cranesbill Trust's Motion for Rule 54(b) Determination having come before the  
22 court on September 25, 2018, at 9:00 a.m., Adam R. Trippiedi, Esq. appearing on behalf of defendant  
23 9352 Cranesbill Trust, and the court, having reviewed the motion, and no opposition having been filed,  
24 and having considered any oral argument presented at the time of the hearing:

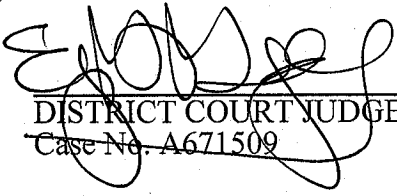
25 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that 9352 Cranesbill Trust's Motion  
26 for Rule 54(b) Determination is granted.

27 IT IS FURTHER ORDERED that the court finds and makes an express determination that there  
28 is no reason to delay entry of this order.

IT IS FURTHER ORDERED that the Findings of Fact, Conclusions of Law, and Order Granting

1 Summary Judgment Against Venise Abelard, filed in this matter on June 19, 2018, is certified to be a  
2 final and appealable judgment pursuant to NRCP 54(b).

3  
4 Dated this 25<sup>th</sup> day of September, 2018.

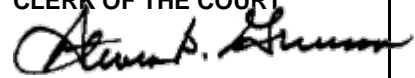
5  
6   
DISTRICT COURT JUDGE  
Case No. A671509

7 Respectfully Submitted by:

8 LAW OFFICES OF  
9 MICHAEL F. BOHN, ESQ., LTD.

10  
11 By: 

12 Michael F. Bohn, Esq.  
13 Adam R. Trippiedi, Esq.  
2260 Corporate Circle, Suite 480  
14 Henderson, Nevada 89074  
Attorneys for defendants 9352 Cranesbill Trust  
and Iyad Haddad



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3 ADAM R. TRIPPIEDI, ESQ.  
Nevada Bar No.: 12294  
4 [atrippiedi@bohnlawfirm.com](mailto:atrippiedi@bohnlawfirm.com)  
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6 Henderson, Nevada 89074  
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7 Attorney for defendants 9352 Cranesbill Trust and Iyad Haddad

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 VENISE ABELARD,  
12 Plaintiff,

13 vs.

14 9352 CRANESBILL TRUST, FORT APACHE  
15 SQUARE HOMEOWNERS ASSOCIATION,  
16 MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC,  
17 BENCH MARCH ASSOCIATION SERVICES,  
IYAD HADDAD; et al.

18 Defendants.

CASE NO.: A-12-671509-C  
DEPT NO.: XI

**NOTICE OF ENTRY OF ORDER**

19 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an **ORDER GRANTING**  
20 **MOTION FOR NRCP 54(b) CERTIFICATION** has been entered on the 3rd day of October, 2018,  
21 in the above captioned matter, a copy of which is attached hereto

22 DATED this 3rd day of October, 2018.

23 LAW OFFICES OF  
24 MICHAEL F. BOHN, ESQ., LTD.

25  
26 By: /s/ Michael F. Bohn, Esq. /  
Michael F. Bohn, Esq.  
2260 Corporate Circle, Suite 480  
27 Henderson, Nevada 89074  
Attorney for defendants 9352 Cranesbill  
28 Trust and Iyad Haddad

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of Law  
3 Offices of Michael F. Bohn., Esq., and on the 3rd day of October, 2018, an electronic copy of the  
4 **NOTICE OF ENTRY OF ORDER** was served on opposing counsel via the Court's electronic service  
5 system to the following counsel of record:

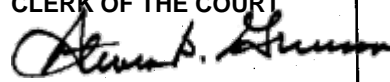
6 Amy F. Sorenson, Esq.  
7 Erica J. Stutsman, Esq.  
8 Casey G. Perkins, Esq.  
9 SNELL & WILMER L.L.P.  
10 3883 Howard Hughes Parkway  
11 Suite 1100  
12 Las Vegas, Nevada 89169

Daniel S. Ivie, Esq.  
SNELL & WILMER, L.L.P.  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, Nevada 89169

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Huong Lam, Esq.  
Alessi & Koenig, LLC  
9500 W. Flamingo, Ste. 205  
Las Vegas, NV 89147

Elizabeth B. Lowell, Esq.  
Pengilly Law Firm  
1995 Village Center Circle # 190  
Las Vegas, NV 89134

/s// Marc Sameroff/  
An employee of Law Offices of  
Michael F. Bohn, Esq., Ltd.



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4 [mbohn@bohnlawfirm.com](mailto:mbohn@bohnlawfirm.com)  
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13 Attorney for defendants 9352 Cranesbill Trust  
14 and Iyad Haddad

DISTRICT COURT  
CLARK COUNTY, NEVADA

11 VENISE ABELARD,  
12 Plaintiff,

13 vs.

14 9352 CRANESBILL TRUST, FORT APACHE  
15 SQUARE HOMEOWNERS ASSOCIATION,  
16 MESA MANAGEMENT, LAS VEGAS  
17 ASSOCIATION MANAGEMENT, LLC,  
18 BENCH MARCH ASSOCIATION SERVICES,  
19 IYAD HADDAD; et al.

20 Defendants.

CASE NO.: A-12-671509-C  
DEPT NO.: XI

Date of Hearing: September 25, 2018  
Time of Hearing: 9:00 a.m.

**ORDER GRANTING MOTION FOR  
NRCP 54(b) CERTIFICATION**

21 Defendant 9352 Cranesbill Trust's Motion for Rule 54(b) Determination having come before the  
22 court on September 25, 2018, at 9:00 a.m., Adam R. Trippiedi, Esq. appearing on behalf of defendant  
23 9352 Cranesbill Trust, and the court, having reviewed the motion, and no opposition having been filed,  
24 and having considered any oral argument presented at the time of the hearing:

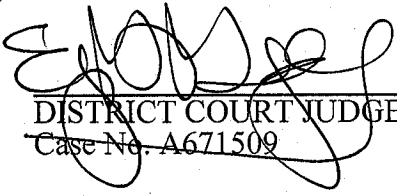
25 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that 9352 Cranesbill Trust's Motion  
26 for Rule 54(b) Determination is granted.

27 IT IS FURTHER ORDERED that the court finds and makes an express determination that there  
28 is no reason to delay entry of this order.

IT IS FURTHER ORDERED that the Findings of Fact, Conclusions of Law, and Order Granting

1 Summary Judgment Against Venise Abelard, filed in this matter on June 19, 2018, is certified to be a  
2 final and appealable judgment pursuant to NRCP 54(b).

3  
4 Dated this 25<sup>th</sup> day of September, 2018.

5  
6   
DISTRICT COURT JUDGE  
Case No. A671509

7 Respectfully Submitted by:

8 LAW OFFICES OF  
9 MICHAEL F. BOHN, ESQ., LTD.

10  
11 By: 

12 Michael F. Bohn, Esq.  
13 Adam R. Trippiedi, Esq.  
2260 Corporate Circle, Suite 480  
14 Henderson, Nevada 89074  
Attorneys for defendants 9352 Cranesbill Trust  
and Iyad Haddad



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5 Attorney for appellant  
6

Electronically Filed  
Jan 28 2019 11:42 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

7  
8 SUPREME COURT  
9 STATE OF NEVADA

10 9352 CRANESBILL TRUST; TEAL  
11 PETALS ST. TRUST; AND IYAD  
HADDAD,

CASE NO.: 76017

12 Appellants,

13 vs.

14 WELLS FARGO BANK, N.A.,  
15 Respondents.  
16

17 **JOINT APPENDIX 3**  
18

19  
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22 Attorney for Appellants  
23

Jeffrey Willis  
Erica J. Stutman  
Daniel S. Ivie  
SNELL & WILMER  
3883 Howard Hughes Pky Ste 1100  
Las Vegas, Nevada 8919

24 Attorney for Respondent  
25  
26  
27  
28

### **INDEX TO APPENDIX 3**

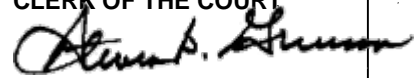
<b>Document</b>	<b>Appendix</b>	<b>Bates Stamp</b>
Wells Fargo Bank, N.A.'s Opposition to Motion for Summary Judgment	3	APP000467
Opposition to Wells Fargo Bank, N.A. s Motion for Summary Judgment	3	APP000490
Plaintiff's Opposition to Defendants Iyad Haddad's Motion for Summary Judgment and Joinder to Wells Fargo Bank, N.A.'s Opposition to Motion for Summary Judgment	3	APP000507
Wells Fargo Bank, N.A.'s Reply In Support of Motion for Summary Judgment	3	APP000549
Reply in Support of Motion for Summary Judgment	3	APP000564
Findings of Fact, Conclusions of Law and Order Granting Wells Fargo Bank, N.A.'s Motion for Summary Judgment	3	APP000600
Notice of Entry of Findings of Fact, Conclusions of Law and Order Granting Wells Fargo Bank, N.A.'s Motion for Summary Judgment	3	APP000608
Notice of Appeal	3	APP000619
Recorder's Transcript of Motions for Summary Judgment Heard on March 6,2018	3	APP000621
Plaintiff's Motion for Reconsideration of Summary Judgment Against Venise Abelard or, in the Alternative, for Amendment of Judgment	3	APP000632
Opposition to Plaintiff s Motion for Reconsideration of Summary Judgment Against Venise Abelard or, in the Alternative, for Amendment of Judgment	3	APP000716
Order Denying Motion for Reconsidration	3	APP000723
Notice of Entry of Order Denying Motion for Reconsideration	3	APP000725
Order Granting motion for NRCP 54(b) Certification	3	APP000729
Notice of Entry of Order	3	APP000731

### **ALPHABETICAL INDEX TO JOINT APPENDIXES**

<b>Document</b>	<b>Appendix</b>	<b>Bates Stamp</b>
Amended Complaint for Declaratory Relief, Damages, Violations of the FDCPA, Fraud and Demand for Jury Trial	1	APP000059
Answer to Amended Complaint and Counterclaim	1	APP000089
Answer to Defendant Haddad and 9352 Cranesbill Trusts' Counterclaim	1	APP000095

1	Answer to Second Amended Complaint	1	APP000158
2	Answer and Counterclaim	1	APP000050
3	Answer and Counterclaim	1	APP000044
4	Answer to Complaint	1	APP000028
5	Appendix of Exhibits to Motion for Summary Judgment	2	APP000238
6	Complaint for Declaratory Relief, Damages, Wrongful Foreclosure, Violations of the FDCPA, Negligence, Fraud and Demand for Jury Trial	1	APP000001
7	Findings of Fact, Conclusions of Law and Order Granting Wells Fargo Bank, N.A.'s Motion for Summary Judgment	3	APP000600
8	Fort Apache Square Homeowners Association and Alessi & Koenig, LLC's Answer to Wells Fargo Bank, N.A.'s Cross-Claim	1	APP000120
9	Motion for Summary Judgment	2	APP000394
10	Notice of Entry of Order Denying Motion for Reconsideration	3	APP000725
11	Notice of Appeal	3	APP000619
12	Notice of Entry of Findings of Fact, Conclusions of Law and Order Granting Wells Fargo Bank, N.A.'s Motion for Summary Judgment	3	APP000608
13	Notice of Entry of Order	3	APP000731
14	Opposition to Wells Fargo Bank, N.A. s Motion for Summary Judgment	3	APP000490
15	Opposition to Plaintiff s Motion for Reconsideration of Summary Judgment Against Venise Abelard or, in the Alternative, for Amendment of Judgment	3	APP000716
16	Order Denying Motion for Reconsideration	3	APP000723
17	Order Granting motion for NRC 54(b) Certification	3	APP000729
18	Plaintiff's Opposition to Defendants Iyad Haddad's Motion for Summary Judgment and Joinder to Wells Fargo Bank, N.A.'s Opposition to Motion for Summary Judgment	3	APP000507
19	Plaintiff's Motion for Reconsideration of Summary Judgment Against Venise Abelard or, in the Alternative, for Amendment of Judgment	3	APP000632
20	Recorder's Transcript of Motions for Summary Judgment Heard on March 6,2018	3	APP000621
21	Reply in Support of Motion for Summary Judgment	3	APP000564
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1	Summons - Las Vegas Association Management LLC	1	APP000024
2	Summons - Mesa Management	1	APP000022
3	Summons - Iyad Haddad	1	APP000020
4	Summons - Fort Apache Square Homeowners Association	1	APP000018
5	Summons - Alessi & Koenig LLC	1	APP000016
6	Summons - Nevada Association Services	1	APP000026
7	Wells Fargo Bank, N.A.'s Motion for Summary Judgment	1	APP000216
8	Wells Fargo Bank, N.A.'s Opposition to Motion for Summary Judgment	3	APP000467
9	Wells Fargo Bank, N.A.'s Reply In Support of Motion for Summary Judgment	3	APP000549
10	Wells Fargo Bank, N.A.'s Answer In Intervention to 9352 Cranesbill Trust's Counterclaim and Wells Fargo Bank, N.A.'s Counterclaims, Cross-Claims	1	APP000099
11			
12	Wells Fargo Bank, N.A.'s Supplemental Request for Judicial Notice	1	APP000164



**OPPS**

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Nevada Bar No. 10794  
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divie@swlaw.com

*Attorneys for Intervenor Wells Fargo Bank, N.A.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

VENISE ABELARD,

Plaintiff,

vs.

9352 CRANESBILL TRUST; FORT APACHE  
SQUARE HOMEOWNERS ASSOCIATION;  
MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC;  
BENCHMARK ASSOCIATION SERVICES;  
IYAD HADDAD, an individual; ALESSI &  
KOENIG, LLC; NEVADA ASSOCIATION  
SERVICES and DOES I through X and ROE  
COMPANIES I through X, inclusive,

Defendants.

And all related Parties and Actions.

Case No. A-12-671509-C

Dept. VII

**WELLS FARGO BANK, N.A.'S  
OPPOSITION TO MOTION FOR  
SUMMARY JUDGMENT**

Wells Fargo Bank, N.A. ("Wells Fargo"), by and through its attorneys, Snell & Wilmer L.L.P., submits the following Opposition to the Motion for Summary Judgment (the "Motion") filed by Defendants 9352 Cranesbill Trust, Teal Petal St. Trust, and Iyad Haddad (collectively, "Defendants").

///

APP000467

1 This Opposition is based on the Memorandum of Points and Authorities below, the papers  
2 and pleadings on file with the Court, and any oral argument that this Court may entertain.

3 Dated this 20th day of February, 2018. SNELL & WILMER L.L.P.

4  
5 By: /s/Daniel S. Ivie

Jeffrey Willis, Esq.

Erica J. Stutsman, Esq.

Daniel S. Ivie, Esq.

3883 Howard Hughes Parkway, Suite 1100

Las Vegas, Nevada 89169

Attorneys for Intervenor Wells Fargo Bank,  
N.A.

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I. INTRODUCTION**

11 For all of the reasons stated herein, Defendants' Motion for Summary Judgment should be  
12 denied. First, the HOA sale did not extinguish Wells Fargo's Deed of Trust because the HOA  
13 foreclosed on a subpriority lien only—Plaintiff paid more than nine months of assessments before  
14 the sale.

15 Second, contrary to Defendants' contention, the recitals in the foreclosure deed are not  
16 conclusive proof that the sale was conducted properly; there is substantial evidence of  
17 irregularities and unfairness in the sale, which justifies setting aside the sale for equitable reasons.

18 Third, the sale should be set aside as commercially unreasonable due to that same  
19 evidence of irregularity and unfairness. This includes Plaintiff's payments of all assessments, the  
20 HOA's misleading Plaintiff to believing the sale would be postponed, and the HOA's failure to  
21 provide notice of the sale to Wells Fargo.

22 Fourth, Defendants' Motion should be denied because they are not bona fide purchasers.  
23 Defendants had notice of a potential claim by Wells Fargo relating to its Deed of Trust and they  
24 did not pay valuable consideration for the Property.

25 Finally, Defendants' Motion should be denied because a careful consideration of all of the  
26 circumstances in this case demonstrates that the equities weigh heavily in favor of setting aside  
27 the sale.

28 ///

## II. COUNTERSTATEMENT OF UNDISPUTED FACTS

Defendants' Motion omits a significant number of facts which have a direct bearing on their requested relief. Therefore, Wells Fargo has endeavored to supply the omitted facts below.

### A. The Subject Property, Note, and Deed of Trust

1. A Deed of Trust listing Venise Abelard and non-party Marcus Compere as borrowers; DHI Mortgage Company, LTD ("Lender") as the lender; and Mortgage Electronic Registration Systems, Inc. ("MERS"), as beneficiary solely as nominee for Lender and Lender's successors and assigns, was recorded on November 28, 2007. Ex. A to Request for Judicial Notice in Support of Wells Fargo's Motions for Summary Judgment ("RJN").<sup>1</sup>

2. The Deed of Trust granted Lender a security interest in the real property commonly known as 9352 Cranesbill Court, Las Vegas, Nevada 89149, APN 125-18-513-016 (the "Property") to secure the repayment of a loan to Abelard and Compere in the original amount of \$226,081.00. Ex. A to RJN, Deed of Trust.

3. On November 1, 2010, National Default Servicing Corporation ("NDSC") recorded a Notice of Default and Election to Sell Under Deed of Trust on behalf of Wells Fargo, in which NDSC identified Wells Fargo as a party with an interest in the Loan. Ex. B to RJN, Notice of Default and Election to Sell Under Deed of Trust.

4. On October 17, 2012, an Assignment of Mortgage from MERS to Wells Fargo was recorded. Ex. D to RJN, Assignment.

### B. Mesa Management Failures and Inaccurate Records

5. In or around October 2011, Mesa took over management of the Fort Apache Square Homeowner's Association ("Fort Apache Square Account"). Tr. of Dep. of V. Abelard, Aug. 26, 2015 ("Abelard Dep.") at 12:20-13:4, attached as Exhibit 3 to Wells Fargo's Motion for Summary Judgment ("WF MSJ"); Letter from A&K to Abelard, dated October 5, 2011, attached as Exhibit 4 to WF MSJ.

6. When Mesa assumes management of an HOA, its policy is to send a welcome letter to the homeowner and populate its accounting software with reports and ledgers provided

<sup>1</sup> The RJN was previously filed with Wells Fargo's Motion for Summary Judgment on January 31, 2018.

1 by the previous management company. Tr. of Dep. of T. Wozniak, as representative of Mesa,  
2 June 8, 2016, ("Wozniak Dep.") at 21:2-9, attached as Exhibit 5 of WF MSJ.

3 7. Mesa did not take any action to verify the accuracy of the reports and information  
4 provided by the previous management company regarding Ms. Abelard's account, or to determine  
5 whether, and to what extent, any past due amounts related to assessments, late fees, violation  
6 fines, attorneys' fees, or other charges. Rather, Mesa's owner and Rule 30(b)(6) designee Tracy  
7 Wozniak testified that there is very little Mesa can do to verify the accuracy of the prior  
8 management company's records:

9 There isn't a lot we can do on transitions. We send notices out to the homeowner  
10 on what their balances are. If there is a dispute, then we'll discuss the dispute  
11 when they dispute it. There are times that there are disputes with the transition,  
12 but we don't know that if the homeowner doesn't communicate it to us.

13 \* \* \*

14 If we send [the homeowner] a statement and they don't dispute that that's the  
15 balance owed, then we don't know to do anything further.

16 Ex. 5 to WF MSJ, Wozniak Dep. at 21:10-25; *see also* Tr. of Dep. of M. Endelman, as  
17 representative of Mesa, June 8, 2016, ("Endelman Dep.") at 31:11-34:24, attached as Exhibit 6 of  
18 WF MSJ.

19 8. Abelard did not receive a welcome letter from Mesa or a statement showing the  
20 balance owed on her account when Mesa took over management of Fort Apache Square,  
21 however. She instead learned from a neighbor that Mesa was the new manager, and on June 30,  
22 2011, took it upon herself to send a letter to Mesa requesting payment coupons in which she also  
23 enclosed a check for six months of unpaid assessments. Ex. 3 to WF MSJ, Abelard Dep. at  
24 12:18-14:15.

25 9. Once she was informed that Mesa was managing Fort Apache Square and that her  
26 HOA assessments had increased from \$56.00 to \$61.00 per month, Abelard made consistent,  
27 though not always timely, assessment payments. ***Between June 2011 and the July 2012***  
28 ***foreclosure sale, Abelard paid a total of \$1,164.50.***

a. On June 30, 2011, Abelard made a payment of \$366, representing payment  
of assessments for January through June 2011. Ex. 3 to WF MSJ, Abelard



1 Dep. at 13:13-24; Copy of Check Transaction Detail Posting Date October  
2 7, 2011, attached as Exhibit 7 to WF MSJ.

3 b. On September 14, 2011, Abelard made a payment of \$142.00, representing  
4 payment of assessments and late fees for July and August 2011. Ex. 3 to  
5 WF MSJ, Abelard Dep. at 16:24-17:7; Copy of Check Transaction Detail  
6 Posting Date October 7, 2011, attached as Exhibit 8 to WF MSJ.

7 c. On February 1, 2012, Abelard made a payment of \$284.00, representing  
8 assessment payments and late fees for September through December 2011.  
9 Copy of Check Transaction Detail Posting Date February 13, 2012,  
10 attached as Exhibit 9 to WF MSJ.

11 d. On April 30, 2012, Abelard made a payment of \$223.50, representing  
12 payment of assessments, which had increased to \$64.50 per month in 2012,  
13 and late fees for January through March 2012. Copy of Check Transaction  
14 Detail Posting Date May 24, 2012, attached as Exhibit 10 to WF MSJ.

15 e. On June 20, 2012, Abelard made her final payment of \$149.00,  
16 representing assessments and late fees for April and May 2012. Copy of  
17 Duplicate Check Stub dated June 20, 2012, attached as Exhibit 11 to WF  
18 MSJ.

19 10. The HOA and its agent, A&K, relied on Mesa to keep accurate records of  
20 homeowner accounts, and did not take independent action to verify the accuracy of Mesa's  
21 records. Ex. 6 to WF MSJ, Endelman Dep. at 24:24-25:9; Tr. of Deposition of David Alessi, as  
22 representative of Alessi & Koenig, June 3, 2016, ("Alessi Dep. v. 1") at 46:3-23, attached as  
23 Exhibit 12 to WF MSJ.

24 **C. The HOA and Alessi & Koenig Foreclosure**

25 11. On July 12, 2011, A&K, acting on behalf of Fort Apache Square, recorded a  
26 Notice of Delinquent Assessment Lien ("Notice of Lien"), alleging unpaid amounts due of  
27 \$2,337.58. The Notice of Lien does not identify the alleged super-priority amount. Ex. E to RJN.  
28

12. Abelard did not receive the Notice of Lien before the HOA foreclosure sale. Ex. 3 to WF MSJ, Abelard Dep. at 63:20-25; 64:16-25.

13. On September 15, 2011, A&K, acting on behalf of Fort Apache Square, recorded a Notice of Default and Election to Sell Under Homeowners Association Lien ("NOD"), claiming a total amount due of \$3,403.58. The NOD does not identify the superpriority amount or otherwise indicate that Fort Apache Square intends to foreclose on a super-priority lien. Ex. F to RJN.

14. Abelard did not receive the NOD before the HOA foreclosure sale Ex. 3 to WF MSJ, Abelard Dep. at 18:13-17; 63:20-25; 64:16-25.

15. The NOD was not sent to Wells Fargo. Ex. 12 to WF MSJ, Alessi Dep. v. 1 at 55:6-11; *see also* Copy of NOD with copies of mailing envelopes and certified mail receipts produced by A&K, attached as Exhibit 13 to WF MSJ.

16. On May 7, 2012, A&K, acting on behalf of Fort Apache Square, recorded a Notice of Trustee's Sale ("Notice of Sale"), claiming a total amount due of \$3,932.58 and setting a foreclosure sale for June 6, 2012. The Notice of Sale does not identify the super-priority amount or otherwise indicate that Fort Apache Square intends to foreclose on a super-priority lien. Ex. G to RJN.

17. Abelard received the Notice of Sale when it was posted on the front door of her home on May 25, 2012. Ex. 3 to WF MSJ, Abelard Dep. at 34:5-13; 32:12-16.

18. The Notice of Sale was sent to NDSC, but not Wells Fargo. Ex. 12 to WF MSJ, Alessi Dep. v. 1 at 55:6-11, 79:19-25; *see also* Copy of Notice of Sale with copies of mailing envelopes and certified mail receipts produced by A&K, attached as Exhibit 14 to WF MSJ.

19. A&K relied on the accuracy of ledgers provided by Mesa when it calculated the amounts stated in the Notice of Lien, NOD, and Notice of Sale. As such, any inaccuracy in the ledgers rendered the amounts stated in the notice unreliable. Ex. 12 to WF MSJ, Alessi Dep. at 46:3-23.

20. After seeing the Notice of Sale posted on her door, Abelard immediately contacted A&K to dispute the claim that she was in arrears on her assessment payments. Ex. 3 to WF MSJ,

1 Abelard Dep. at 34:16-35:24; 64:16-25; Letter from Abelard to A&K, dated May 30, 2012,  
2 attached as Exhibit 15 to WF MSJ.

3 21. In the beginning of June, Abelard finally received a ledger from A&K purporting  
4 to reflect the balance of her account. Ex. 3 to WF MSJ, Abelard Dep. at 28:6-8; Fax Cover Letter  
5 from A&K to Abelard with Account Breakdown and Ledger, through July 2, 2012, attached as  
6 Exhibit 16 to WF MSJ.

7 22. After reviewing the ledger, Abelard called A&K to request a breakdown or  
8 explanation of the "initial balance" of more than \$1,204.58, which she did not believe was  
9 accurate because up to that point she had paid her HOA dues, even if sometimes late. Ex. 3 to  
10 WF MSJ, Abelard Dep. at 27:1-29:20; Ex. 15 to WF MSJ, Letter from Abelard to A&K.

11 23. The challenged "initial balance" on the Mesa ledger is a carryover from the prior  
12 management company's ledger, but Mesa made no attempt to verify the accuracy of that amount.  
13 Ex. 16 to WF MSJ, Ledger; Ex. 5 to WF MSJ, Wozniak Dep. at 21:10-25. Further, the ledger  
14 provided by the prior management company begins with a balance of \$739.58, an amount that  
15 neither the HOA's representative, nor Mesa's representative could explain. Prior Management  
16 Company Ledger, attached as Exhibit 17 to WF MSJ; Ex. 5 to WF MSJ, Wozniak Dep. at 21:10-  
17 25; Ex. 6 to WF MSJ, Endelman Dep. at 34:6-24.

18 24. At A&K's request, Abelard provided copies of checks showing some payments  
19 made to Fort Apache Square, and was told by A&K that her account was being placed on hold  
20 until management had an opportunity to review the dispute. Ex. 3 to WF MSJ, Abelard Dep. at  
21 29:21-30:14.

22 25. Abelard then called A&K weekly to see what was being done with her account;  
23 each time she was told that they were waiting for management review and that the account was  
24 still on hold. Ex. 3 to WF MSJ, Abelard Dep. at 30:16-31:24.

25 26. A&K never called, emailed, sent a letter, or otherwise contacted Abelard to tell her  
26 that the hold had been removed from her account and that A&K intended to proceed with  
27 foreclosure. Ex. 3 to WF MSJ, Abelard Dep. at 30:10-20; Tr. of Deposition of David Alessi, as  
28

1 representative of Alessi & Koenig, June 8, 2016, ("Alessi Dep. v. 2") at 73:3-74:7, attached as  
2 Exhibit 18 to WF MSJ.

3 27. The Board of Fort Apache Square (the "Board") has final decision-making  
4 authority on whether to foreclose on a homeowner's Property. Ex. 5 to WF MSJ, Wozniak Dep.  
5 at 49:11-15.

6 28. The Board is supposed to be notified when a homeowner raises a dispute so that  
7 the Board can attempt to resolve the dispute and evaluate whether the foreclosure sale should  
8 proceed. Ex. 5 to WF MSJ, Wozniak Dep. at 24:14-21; Ex. 6, Endelman Dep. at 56:9-16; 59:12-  
9 18.

10 29. There is no evidence that A&K advised Mesa or the Board of Abelard's payment  
11 dispute before proceeding with the HOA Foreclosure Sale. See Ex. 6 to WF MSJ, Endelman  
12 Dep. at 19-22.

13 30. Despite being initially noticed for June 6, 2012, the sale was postponed and did not  
14 go forward on that date. Ex. H to RJN.

15 31. On July 11, 2012, A&K, acting on behalf of Fort Apache Square, sold the Property  
16 to Cranesbill for \$4,900 (the "HOA Foreclosure Sale"). A Trustee's Deed Upon Sale reflecting  
17 that sale was recorded on July 18, 2012. Ex. H to RJN.

18 32. In July 2012, after the HOA Foreclosure Sale, Abelard received another notice on  
19 her door that the Property had been sold and that she would be required to vacate her home.  
20 News of the sale surprised Abelard because A&K never told her that the hold had been removed  
21 from her account and that the foreclosure would proceed. Ex. 3 to WF MSJ, Abelard Dep. at  
22 30:10-20; 43:16-44:3.

23 33. At the time of the HOA Foreclosure Sale, the Property had a fair market value of  
24 \$94,000.00. Appraisal Report of Scott Dugan, attached as Exhibit 19 to WF MSJ.

25 34. A few weeks after the HOA Foreclosure Sale, Cranesbill transferred its interest in  
26 the Property to Teal Petals by means of a Grant, Bargain, Sale Deed recorded on July 27, 2012.  
27 Ex. I to RJN.

28 ///

### III. LEGAL ARGUMENT

Defendants' Motion begins with a recitation of the holding in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014), in which the Nevada Supreme Court held that "NRS 116.3116(2) gives an HOA a true superpriority lien, *proper foreclosure* of which will extinguish a first deed of trust." *Id.* (emphasis added). Defendants then go on to assert that "[b]ecause the facts in the present case are substantially the same as the facts in *SFR*..., this Honorable Court should reach the same conclusion..." and find that the HOA foreclosure extinguished Wells Fargo's Deed of Trust. *See* Defs.' Mot. for Summ. J., 4:22-26 (emphasis added).

In reality, the facts of this case could not be more different than those presented in *SFR v. U.S. Bank*. As the Court will see below, Defendants are not entitled to summary judgment because the superpriority lien was satisfied prior to the sale. Additionally, the HOA did not conduct a "proper foreclosure" in this instance, requiring the sale to be set aside. Defendants are not bona fide purchasers, and even if they were, BFP status does not preclude the Court from setting aside an HOA foreclosure sale for equitable reasons. For this and other reasons, Defendants' Motion must be denied.

#### A. The HOA Sale Did Not Extinguish Wells Fargo's Deed Of Trust Because Abelard Satisfied The Superpriority Portion Of The HOA Lien Before The Sale.

Defendants' Motion argues, without any significant analysis, that Wells Fargo's Deed of Trust was extinguished by the HOA foreclosure sale. Defs.' Mot. for Summ. J., 4:8-26. Defendants' Motion completely ignores and omits the fact that Plaintiff continued making assessment payments right up until the foreclosure sale. The HOA Sale did not extinguish Wells Fargo's Deed of Trust because the superpriority portion of the HOA's lien was satisfied when Abelard paid more than nine months of assessments prior to the sale.

The Nevada Supreme Court has clearly established that NRS 116.3116(2) "splits an HOA lien into two pieces, a superpriority piece and a subpriority piece." *SFR Investments Pool 1 v. U.S. Bank*, 130 Nev. Adv. Op. 75, 334 P.3d 408, 441 (2014). The superpriority component of an HOA lien consists only of "the assessments for common expenses... which would have become

1 due in the absence of acceleration *during the 9 months immediately preceding institution of an*  
2 *action to enforce the lien.*” NRS 116.3116(2) (2012) (emphasis added); *see also Saticoy Bay LLC*  
3 *Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, Order of Affirmance, No. 71246, 2017  
4 WL 6597154 (Dec. 22, 2017) (affirming district court’s ruling that homeowner’s payments prior  
5 to HOA sale were sufficient to satisfy and discharge the superpriority component of HOA’s lien).  
6 “The subpriority piece, consisting of all other HOA fees or assessments, is subordinate to a first  
7 deed of trust.” *SFR Investments*, Nev. Adv. Op. 75, 334 P.3d at 441. The Nevada Supreme Court  
8 has clarified that “a party has ‘instituted proceedings to enforce the lien’ for purposes of NRS  
9 116.3116(6) when it provides the notice of delinquent assessment.” *Saticoy Bay LLC Series 2021*  
10 *Gray Eagle Way v. JPMorgan Chase Bank, N.A.*, 133 Nev. Adv. Op. 3, 388 P.3d 226, 231  
11 (2017), quoting NRS 116.3116(6).

12 Here, the HOA recorded its Notice of Lien on July 12, 2011. Ex. E to RJN. Any new  
13 assessments that accrue after an HOA begins collection are not included in the HOA Lien and do  
14 not count towards the superpriority amount. *Id.* (“Although appellant correctly points out that  
15 there were new unpaid monthly assessments at the time of the sale, these new unpaid monthly  
16 assessments could not have comprised a new superpriority lien absent a new notice of delinquent  
17 assessments.”) Thus, in this case, the superpriority component of the HOA Lien was comprised  
18 of only the amount of nine months of assessments owing between November, 2010 and July 12,  
19 2011.

20 Pursuant to the HOA’s records, the monthly assessment amount for Abelard’s community  
21 for November and December 2010 was \$56.00. Ex. 16 to WF MSJ, Ledger. As of January 1,  
22 2011, the monthly assessment was increased to \$61.00 and remained the same throughout 2011,  
23 including when the HOA Notice of Lien was recorded in July, 2011. Ex. 16 to WF MSJ, Ledger.  
24 Thus, the total amount of assessments due during the nine months immediately preceding the  
25 recording of the HOA Notice of Lien was \$539.00 (\$56.00 x 2 months, \$61.00 x 7 months).

26 It is undisputed that Abelard made payments to the HOA well in excess of \$539.00 in the  
27 months before the Property was sold in July 2012. On June 30, 2011, Abelard made a payment of  
28 \$366.00, which she stated was for the months of January 2011 through June 2011. Ex. 7 to WF

1 MSJ. On September 14, 2011, Abelard remitted a payment of \$142.00. Ex. 8 to WF MSJ. On  
2 February 1, 2012, Abelard made a payment of \$284.00. Ex. 9 to WF MSJ. On May 24, 2012,  
3 Abelard made a payment of \$223.50. Ex. 10 to WF MSJ. Finally, on June 20, 2012, Abelard  
4 made a payment of \$149.00. Ex. 11 to WF MSJ. Each of these payments was accepted and  
5 cashed by the HOA. Exs. 7-11 to WF MSJ.

6 In total, between June 2011 and June 2012, Abelard remitted \$1,164.50 to the HOA. This  
7 amount is *more than double* the \$539.00 which was owed for the nine months of assessments  
8 immediately preceding the institution of the action on the HOA Lien. In *Saticoy Bay LLC Series*  
9 *2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, the Nevada Supreme Court confirmed that  
10 when a former homeowner makes payments sufficient to satisfy the superpriority component of  
11 the HOA's lien, the deed of trust is not extinguished. Order of Affirmance, No. 71246, 2017 WL  
12 6597154 (Dec. 22, 2017) (finding that, because the former homeowner made enough payments to  
13 satisfy the superpriority portion of the HOA's lien, "there was no superpriority component of the  
14 HOA's lien that could have extinguished the [lender's] deed of trust") (emphasis added).

15 This Court recently addressed the issue of the impact of payments made by the  
16 homeowner on the superpriority portion of an HOA lien. In *Marchai B.T. v. Perez*, A-13-  
17 689461-C, the Court recognized that "[s]atisfying the superpriority amount of the lien, not the  
18 amounts incurred by any particular months, preserves the deed of trust." *See* Decision and Order,  
19 12:22-24, a copy of which is attached as Ex. 20 to WF MSJ, citing *Stone Hollow Ave. Trust v.*  
20 *Bank of America, N.A.*, 382 P.3d 911 (Nev. Aug. 11, 2016) (unpublished decision). In *Marchai*,  
21 the homeowner made periodic payments after the institution of the HOA's foreclosure action  
22 which far exceeded the value of nine months of assessments. Ex. 20 to WF MSJ, Decision and  
23 Order, 12:8-13. This Court held that "regardless of which months a payor may request a payment  
24 be applied to, *any payment which is at least equal to the amount incurred in the nine months*  
25 *preceding the notice of delinquent assessment lien is sufficient to satisfy the superpriority lien.*"  
26 Ex. 20 to WF MSJ, Decision and Order, 13:21-23 (emphasis added).

27 As the Court noted in the *Marchai* order, NRS 116.3116(2) "does not limit who can  
28 satisfy the superpriority portion of the lien." Ex. 20 to WF MSJ, Decision and Order, 13:3-4. As

1 long as the amount equal to or in excess of the superpriority portion is tendered to the HOA  
2 before the sale, the superpriority portion of the lien is satisfied. Ex. 20 to WF MSJ, Decision and  
3 Order, 13:16-23. Thus, Plaintiff's payments of the superpriority amount prior to the sale operates  
4 to satisfy the superpriority lien.

5 Likewise here, Abelard's payment of more than twice the amount of nine months of  
6 assessments satisfied the superpriority component of the HOA's Lien. For many of her  
7 payments, Abelard specifically indicated that those payments were intended to be applied to her  
8 monthly assessments. *See, e.g.*, Exs. 7-9 to WF MSJ, check posting details. However, regardless  
9 of Abelard's intent, any payments made after the recording of the delinquent assessment lien  
10 should be applied first to the superpriority portion of the lien, with any remaining funds being  
11 applied to the subpriority portion.<sup>2</sup> The HOA, therefore, foreclosed only the subpriority portion  
12 of the lien, which was subordinate to Wells Fargo's Deed of Trust. *SFR Investments*, 130 Nev.  
13 Adv. Op. 75, 334 P.3d at 411 ("The subpriority piece, consisting of all other HOA fees or  
14 assessments, is subordinate to a first deed of trust."). Contrary to Defendants' assertion, Wells  
15 Fargo's Deed of Trust remains on the Property.

16 **B. The Deed Recitals Do Not Offer Conclusive Proof Of The Legality Of A Sale.**

17 Defendants misinterpret the law concerning "conclusive recitals" in the recitals in a deed  
18 made pursuant to NRS 116.31164. *See* Defs.' Mot. for Summ. J., 4:27-6:12. The foreclosure  
19 deed recitals in this case are not conclusive proof that the foreclosure sale was properly conducted  
20 because there is overwhelming evidence that the foreclosure sale was attended by significant  
21 irregularities.

22 The Nevada Supreme Court has held, and reaffirmed, that an interpretation of a  
23 "conclusive recital statute like NRS 116.31166 as conclusively establishing a default justifying  
24 foreclosure when, in fact, no default occurred... would be breathtakingly broad and is probably  
25 legislatively unintended." *Shadow Wood HOA v. N.Y. Cmty. Bancorp.*, 366 P.3d 1105, 1110

26  
27 <sup>2</sup> Allowing the HOA to choose whether to apply any payments first to subpriority amounts, such as late fees or legal  
28 expenses, would in essence transform the entire lien into a superpriority lien because it would allow an HOA to  
prioritize the repayment of its own costs and expenses above the monthly assessments. This would contravene the  
public policy principle underlying NRS 116.3116 *et seq.*, which this Court noted in *Marchai* "is to ensure that  
homeowner association dues are paid first." Ex. 20 to WF MSJ, Decision and Order, 11:22-23.



1 (Nev. 2016). The Supreme Court further explained that “courts retain the power to grant  
2 equitable relief from a defective foreclosure sale when appropriate despite NRS 116.31166.” *Id.*  
3 at 1111. A foreclosure deed’s conclusive recitals are only conclusive “*in the absence of grounds*  
4 *for equitable relief.*” *Id.* at 1112 (emphasis supplied).

5 Here, the recitals in the HOA Foreclosure Deed do not specify what notice was given,  
6 stating in purely conclusory boilerplate that:

7 Default occurred as set forth in a Notice of Default and Election to Sell which was  
8 recorded in the office of the recorder of said county. All requirements of law  
9 regarding mailing of copies of notice and the posting and publication of the copies  
10 of the Notice of Sale have been complied with.

11 Ex. G to RJN, HOA Foreclosure Deed. Here, there is substantial and uncontroverted evidence  
12 that default did *not* occur as set forth in the Notice of Default. *See* Section III. A., *supra*.  
13 Furthermore, the Foreclosure Deed does not indicate what notice was given to whom. It mentions  
14 no particular law. The reader is left to guess whether NRS 116, NRS 107, or something else  
15 altogether, was the intended standard.

16 In considering this identical issue, courts have held that legal conclusions in a recital do  
17 not conclusively establish the purported conclusion. “[W]hat is required is a recital of fact  
18 specifying what the trustee has done, not a mere conclusory statement that the trustee has  
19 complied with the law.” *Rosenberg v. Smidt*, 727 P.2d 778, 785 (Alaska 1986). The Washington  
20 Court of Appeals has likewise declined to apply a conclusive presumption prescribed by statute  
21 because “the deed contains legal conclusions but not factual recitals that establish compliance”  
22 with the law. *Albice v. Premier Mortgage Servs. of Wash., Inc.*, 239 P.3d 1148, 1155 (Wash.  
23 App. 2010), *aff’d*, 276 P.3d 1277 (2012) (holding that where a deed recites simply that all legal  
24 requirements have been complied with, or words to that effect, such “conclusional recitals make it  
25 impossible to determine, as a matter of fact” whether the law was in fact complied with).

26 The Nevada Supreme Court recently reversed a district court decision based on the  
27 “conclusive proof” theory, holding that any such determination “is inconsistent with our opinion  
28 in *Shadow Wood . . .*” *JPMorgan Chase Bank v. Saticoy Bay LLC Series 10013 Alegria*, No.  
69583 (Nev. Apr. 14, 2017). Indeed, the Nevada Supreme Court has held several times that deed  
recitals are not sufficient in this context. *See G & P Inv. Enterprises, LLC v. Mortg. Elec.*

1 *Registration Sys., Inc.*, 391 P.3d 101 (Nev. 2017) (“We reject appellant’s suggestion that it is  
2 entitled to summary judgment based solely on the recitals in the trustee’s deed.”); *Centeno v.*  
3 *Mortg. Elec. Registration Sys., Inc.*, No. 64998, 2016 WL 3486378, at \*2 (Nev. June 23, 2016)  
4 (holding that because the purchaser “failed to, by affidavit or otherwise, establish that a valid  
5 notice of trustee’s sale was recorded at the time of foreclosure to support the deed’s recitals of  
6 notice compliance,” they failed to meet their burden to prove that the first deed of trust was  
7 properly extinguished); *RLP-Ampus Place v. U.S. Bank, N.A.*, 2017 WL 6597148 (Dec. 22, 2017)  
8 (finding that “district court’s refusal to give conclusive effect to the deed recitals was consistent  
9 with Nevada law” where the respondent showed “evidence supporting ... equitable relief.”).

10 As Defendants readily admit, the recitals in a foreclosure deed are not conclusive “in the  
11 case of fraud or other grounds for equitable relief.” Defs.’ Mot. for. Summ. J., 6:6-7. As is more  
12 fully discussed below, this case presents *ample* evidence of the type of unfairness and irregularity  
13 necessary to dispute the recitals in a foreclosure deed. Defendants are not entitled to rely solely  
14 upon the recitals in the foreclosure deed as conclusive proof that the foreclosure sale was proper.

15 **C. Defendants Are Not Entitled To Summary Judgment Because The HOA Sale**  
16 **Was Commercially Unreasonable And Should Be Set Aside.**

17 Defendants’ Motion should be denied because the HOA foreclosure sale was  
18 commercially unreasonable, and therefore should be set aside. Defendants inexplicably claim  
19 that there is no evidence of fraud, unfairness or oppression in the conduct of the sale to justify  
20 setting it aside. *See, e.g.*, Defs.’ Mot. for Summ. J., 10:12-13; 11:28-12:2; 13:14-15; 13:18; 16:22-  
21 23. In reality, this case is replete with unfairness and irregularities which, when combined with  
22 the grossly inadequate sales price, justify setting aside the sale.

23 The failure to sell property in a commercially reasonable manner renders an HOA  
24 foreclosure sale voidable. Nevada case law has established “that courts retain the power, in an  
25 appropriate case, to set aside a defective foreclosure on equitable grounds.” *Shadow Wood HOA*  
26 *v. N.Y. Cmty. Bancorp.*, 132 Nev. Adv. Op. 5, 366 P.3d 1105, 1111 (2016); *see also Golden v.*  
27 *Tomiyasu*, 79 Nev. at 514, 387 P.2d at 995 (adopting the California rule that “inadequacy of price,  
28 however gross, is not in itself a sufficient ground for setting aside a trustee’s sale legally made;  
there must be in addition proof of some element of fraud, unfairness, or oppression...”); *Nev.*

1 *Land & Mortg. Co. v. Hidden Wells Ranch, Inc.*, 83 Nev. 501, 504, 435 P.2d 198, 200 (1967) (“In  
2 the proper case, the trial court may set aside a trustee’s sale upon the grounds of fraud or  
3 unfairness.”).

4 While inadequacy of price alone is not enough to set aside a foreclosure sale, “the  
5 price/fair-market-value disparity is a relevant consideration because a wide disparity may require  
6 less evidence of fraud, unfairness, or oppression to justify setting aside the sale.” *Nationstar*  
7 *Mortgage, LLC v. Saticoy Bay LLC Series 2227 Shadow Canyon*, 133 Nev. Adv. Op. 91, 405  
8 P.3d 641 (2017); *see also Golden* (“inadequacy of price is a circumstance of greater or less  
9 weight to be considered in connection with other circumstances impeaching the fairness of the  
10 transaction as a cause of vacating it, and that, where the inadequacy is palpable and great, very  
11 slight additional evidence of unfairness or irregularity is sufficient to authorize the granting of the  
12 relief sought.”).

13 Here, the Property was sold for just 5.2% of its fair market value. Defendants do not  
14 dispute that such an extremely low sales price should be considered grossly inadequate. That  
15 grossly inadequate sale price, combined with the following undisputed evidence of unfairness and  
16 possible fraud in the sale process, warrants voiding the HOA foreclosure sale.

17 The HOA Foreclosure Sale should be set aside in this case because the sales price was  
18 severely inadequate and the sale was marked by conduct that was patently unfair and possibly  
19 fraudulent. Cranesbill paid just \$4,900.00 for the Property, or 5.2% of the Property’s \$94,000.00  
20 fair market value at the time of the sale. Ex. 19 to WF MSJ, Dugan Report. Where the price  
21 “inadequacy is palpable and great, *very slight additional evidence of unfairness or irregularity* is  
22 sufficient to authorize the granting of the relief sought.” *Golden*, 79 Nev. at 515, 387 P.2d at 995  
23 (emphasis added); *Saticoy Bay Series 2227 Shadow Canyon*, 405 P.3d at 643 (“we adhere to the  
24 observation in *Golden* that where the inadequacy of the price is great, a court may grant relief  
25 based on slight evidence of fraud, unfairness, or oppression”).

26 An abundance of evidence supports setting aside the sale in this case, especially given the  
27 great inadequacy in the sale price. First, the HOA and A&K acted unfairly and oppressively in  
28 foreclosing on Abelard’s home despite Abelard’s complaints that her account records were not

1 accurate and that she had paid her outstanding monthly assessments, as well as A&K's assurances  
2 that her account had been placed on hold in the month before the HOA Foreclosure Sale so that  
3 her complaints could be investigated. Second, the HOA and A&K failed to provide adequate  
4 notice to Wells Fargo despite having knowledge of Wells Fargo's recorded interest in the  
5 Property, and cannot demonstrate that it even had a super-priority lien at the time of the HOA  
6 Foreclosure Sale.

7           1.     *The HOA and A&K unfairly foreclosed on the Property in light of*  
8                     *Abelard's complaints about the accounting and her evidence of payments.*

9           The HOA and A&K acted unfairly, indeed oppressively, in foreclosing on Abelard's  
10 property. In the eighteen months preceding the foreclosure sale, Abelard paid \$1,164.00 in  
11 assessments and late fees against the \$1,119.00 in assessments that accrued during the same  
12 period. *See Undisputed Fact #9, infra.* Taking into account that the HOA foreclosed on July 12,  
13 2012, the only payment Abelard had not made in the year and a half before the foreclosure sale  
14 was for June 2012, the last month before the HOA sold her home, and during the time that  
15 Abelard was actively and strenuously contesting the HOA's records. *See Undisputed Fact #9,*  
16 *infra.* This fact alone justifies setting aside the foreclosure sale.

17           Abelard raised the fact that she had always paid her assessments (albeit sometimes late)  
18 on multiple occasions, but neither the HOA, Mesa, nor A&K took any action to verify Abelard's  
19 insistence that she was not behind on her assessments when Mesa assumed management of the  
20 HOA. Ex. 5 to WF MSJ, Wozniak Dep. at 21:10-25; Ex. 6 to WF MSJ, Endelman Dep. at 24:24-  
21 25:9, 31:11-34:24; Ex. 12 to WF MSJ, Alessi Dep. vol. 1 at 46:3-23. Instead, they provided  
22 Abelard with a ledger beginning with an "initial balance" of \$1,204.58; an amount Abelard denies  
23 owing. Ex. 15 to WF MSJ, Ledger; Ex. 3 to WF MSJ, Abelard Dep. at 23:1-29:20.

24           There is no evidence that the HOA or A&K verified the accuracy of Abelard's account  
25 records before foreclosing. To the contrary, the HOA did nothing despite Abelard's urging that  
26 the records were wrong—in part because A&K apparently never informed the HOA of the  
27 dispute. Ex. 6 to WF MSJ, Endelman Dep. at 31:11-34:24; 59:19-22. And Mesa, the  
28 management company responsible for keeping and ensuring the accuracy of those records,  
admitted that it couldn't verify the prior management company's records. Ex. 5 to WF MSJ,

1 Wozniak Dep. at 21:10-25. Despite that, relying on Mesa's questionable ledger, A&K published  
2 notices asserting thousands of dollars in past due assessments and other fees and costs. Ex. E to  
3 RJN, Notice of Lien; Ex. F to RJN, HOA Notice of Default; Ex. G to RJN, HOA Notice of Sale;  
4 Ex. 12 to WF MSJ, Alessi Dep. vol. 1, at 46:3-23.

5 A&K then misled Abelard into believing it would not foreclose on her home while it  
6 investigated her dispute over the validity of the alleged debt. Ex. 3 to WF MSJ, Abelard Dep.,  
7 30:6-16. When Abelard received the Notice of Sale posted on her door, she immediately  
8 contacted A&K to dispute the validity of the debt.<sup>3</sup> A&K representatives told her that her account  
9 had been placed on hold until management could review it, and that they would contact her when  
10 that review was complete. Ex. 3 to WF MSJ, Abelard Dep. at 29:21-30:14. Abelard called each  
11 week for an update, and each time was told that the account was still on hold pending  
12 management review. Ex. 3, Abelard Dep. at 30:16-31:24. In the end, A&K compounded Mesa's  
13 failure to ensure its records were accurate by foreclosing on Abelard's home without ever  
14 advising Mesa or the Board of the pending dispute. Ex. 6 to WF MSJ, Endelman Dep. at 59:19-  
15 22. Finally, the HOA and A&K foreclosed on Abelard's Property *without ever informing her*  
16 *that the hold had been removed from her account.* Ex. 3 to WF MSJ, Abelard Dep. at 30:10-20;  
17 Ex. 18 to WF MSJ, Alessi Dep. vol. 2 at 73:3-74:7. She only learned that her house had been  
18 sold when a copy of the Trustee's Deed was posted on her door. Ex. 3 to WF MSJ, Abelard Dep.  
19 at 43:16-44:3.

20 In sum, Mesa failed to verify the accuracy of Abelard's account information despite  
21 Abelard's complaint, and A&K foreclosed on Abelard's home based on faulty information and  
22 after putting Abelard at ease by telling her that the foreclosure would not proceed without notice  
23 to her. Under those circumstances, the foreclosure of Abelard's home was unfair, oppressive, and  
24 possibly fraudulent. Combined with the very low sales price, these facts justify voiding the  
25 foreclosure sale.

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<sup>3</sup> Abelard also contacted the Ombudsman as instructed in the Notice of Sale, and was told to contact A&K. Ex. 3 to WF MSJ, Abelard Dep. at 36:12-25.

2. *The HOA and A&K acted unfairly in attempting to extinguish Wells Fargo's interest in the Property.*

The HOA and A&K also acted unfairly towards Wells Fargo in carrying out the foreclosure because they failed to provide Wells Fargo with adequate notice of the HOA Foreclosure Sale.

The HOA and A&K failed to serve a copy of the Notice of Default on a party whose interest A&K and the HOA had notice of well in advance of the foreclosure proceedings. Wells Fargo's interest in the Property was disclosed in the Notice of Default and Election to Sell recorded by NDSC on Wells Fargo's behalf on November 1, 2010. Ex. B to RJN, DOT Notice of Default. A&K was plainly aware of Wells Fargo's interest because it attempted to serve Wells Fargo with a copy of the Notice of Sale, which it mailed to NDSC. Ex. 14 to WF MSJ, Notice of Sale with Certified Mail Receipts. Despite that, neither the HOA nor A&K ever served Wells Fargo with the Notice of Default, nor is there any evidence of Wells Fargo having received either the Notice of Default or the Notice of Sale before the HOA Foreclosure Sale.

The above facts illustrate that A&K and the HOA treated both Abelard and Wells Fargo unfairly in foreclosing on Abelard's home. A&K ignored multiple red flags, failed to include the Board in the decision to foreclose when new information came to light regarding Abelard's dispute, unfairly misrepresented to Abelard that her account had been placed on hold and then failed to notify her that the hold was lifted, and failed to send notice to Wells Fargo of the sale. As a consequence, the Court should declare the HOA sale void. Alternatively, given the lack of adequate notice to Wells Fargo and the evidence showing that the HOA did not have a superpriority lien, the Court should declare that the Deed of Trust survived and that any interest Cranesbill or Teal Petals has in the Property is subject to it.

**D. Defendants Are Not Bona Fide Purchasers Because They Had Notice Of The Deed Of Trust And Because They Did Not Provide Valuable Consideration.**

Defendants cannot assert the bona fide purchaser defense in this matter because they had constructive, if not actual, notice of a competing claim regarding the Deed of Trust and because they did not provide valuable consideration for the Property.

1       “The bona fide doctrine protects a subsequent purchaser’s title against competing legal or  
2 equitable claims of which the purchaser had no notice at the time of the conveyance.” *25 Corp.,*  
3 *Inc. v. Eisenman Chemical Co.*, 101 Nev. 664, 675, 709 P.2d 164, 172 (1985). The purchaser,  
4 however, is required to demonstrate that “the purchase was made in good faith, for a valuable  
5 consideration.” *Berge v. Fredericks*, 95 Nev. 183, 186, 591 P.2d 246, 247 (1979). Defendants  
6 cannot establish either of these requirements.

7       First, Defendants cannot show that they did not have notice of the Deed of Trust at the  
8 time of the foreclosure sale. “Very little information is necessary to give actual or constructive  
9 knowledge to a purchaser sufficient to defeat a bona fide purchaser defense.” *Time Warner v.*  
10 *Steadfast Orchard Park, L.P.*, 2008 WL 4350054, \*10 (C.D. Cal. Sept. 23, 2008). Indeed,  
11 “proper recording of a property interest is generally sufficient under state law to provide  
12 constructive notice sufficient to defeat a bona fide purchaser.” *Wonder-Bowl Properties v. Kim*,  
13 161 B.R. 831, 836 (B.A.P 9th Cir. 1993).

14       Here, Defendants undoubtedly had notice of the Deed of Trust because it was properly  
15 recorded against the Property nearly five years before the HOA Foreclosure Sale. Defendants  
16 cannot reasonably claim that, even though the Deed of Trust was properly recorded against the  
17 Property long before the HOA Sale, they did not have notice of the competing claim. Moreover,  
18 the person who acted on Defendants’ behalf in purchasing the Property, Iyad Haddad, is an  
19 experienced real estate broker. Ex. 2 to WF MSJ, Cranesbill Dep. at 6:22-24. Haddad also  
20 testified that he is well aware of how to access such public records and that he knew buying this  
21 Property likely meant he was “buying a lawsuit.” Ex. 2 to WF MSJ, Cranesbill Dep. at 41:18-  
22 42:16.

23       Defendants are also precluded from raising the bona fide purchaser defense because they  
24 did not provide valuable consideration for the Property. Other courts in this district have  
25 addressed these issues and found that similar sales did not constitute “valuable consideration.” In  
26 *SFR Investments Pool 1, LLC v. Nationstar Mortgage, LLC*, the Court found that a \$7,000  
27 purchase price was one factor in determining that the plaintiff buyer was not a bona fide  
28 purchaser, because the plaintiff did not provide valuable consideration for the property. Ex. 21 to

1 WF MSJ, Order in *SFR Investments Pool 1, LLC v. Nationstar Mortgage, LLC*, at 13-15 & n. 9,  
2 (August 5, 2013). Another department likewise held that the purchaser at an HOA foreclosure  
3 sale was not a bona fide purchaser, in part because plaintiff purchased for only \$3,743.84 and the  
4 deed of trust was \$576,000. Ex. 22 to WF MSJ, Order in *Design 3.2 LLC v. Bank of New York*  
5 *Mellon*, at 4 (April 8, 2013).

6 Here, the HOA Foreclosure Sale purchase price of \$4,900 is 5.2% of the fair market value  
7 of the property at the time of the sale, \$94,000. Haddad acknowledges knowing that the sale  
8 price was “much less” than fair market value. Ex. 2 to WF MSJ, Cranesbill Dep. at 55:12-56:3.  
9 But it was not just “much less,” it was grossly inadequate. And that grossly inadequate price,  
10 combined with Cranesbill’s constructive knowledge of the Deed of Trust and Wells Fargo’s  
11 interest in the Property, defeats any claim that Cranesbill was a bona fide purchaser.

12 **E. A Balance Of The Equities Supports Setting Aside The Foreclosure Sale.**

13 Even if the Court determines that Defendants were bona fide purchasers of the Property,  
14 this does not establish that Wells Fargo can have no relief against Defendants. *See* Mot. for  
15 Summ. J., 7:6-10:16. Bona fide purchaser status is not an absolute bar against overturning an  
16 HOA foreclosure sale or rendering it subject to a deed of trust. Instead, it is only one of many  
17 circumstances the Court must consider when deciding whether equity requires a sale to be set  
18 aside.

19 The Nevada Supreme Court has established that “[w]hen sitting in equity, however, courts  
20 must consider the entirety of the circumstances that bear upon the equities.” *Shadow Wood*, 366  
21 P.3d at 1115. “This includes considering the status and actions of all parties involved, including  
22 whether an innocent party may be harmed by granting the desired relief.” *Id.* Thus, a party’s  
23 status as a bona fide purchaser is only one of the many circumstances courts consider when  
24 determining whether to set aside a foreclosure sale. *See, e.g., Ferrell Street Trust v. Bank of*  
25 *America, N.A.*, 2017 WL 6547469, \*1 (December 14, 2017) (“With respect to appellant’s putative  
26 status as a bona fide purchaser, *Shadow Wood* explained that such putative status is simply one of  
27 ‘the entirety of the circumstances that bear upon the equities’ that a court must consider in  
28 granting equitable quiet title relief.”).



1 Here, the balance of the equities heavily favors setting aside the foreclosure sale, even if  
2 the Court determines Defendants are bona fide purchasers. Weighing in favor of setting aside the  
3 sale are (1) the significant irregularities in the foreclosure process; (2) the fact that Plaintiff paid  
4 more than the assessments owed for the nine months preceding the sale; (3) the HOA and A&K's  
5 misleading statements to Plaintiff that the sale would be put on hold pending an investigation of  
6 her complaints; and (4) the HOA's failure to provide Wells Fargo with the Notice of Default,  
7 despite notice of Wells Fargo's interest in the property records. Further, a decision against  
8 Plaintiff would require the Court to remove Plaintiff from her home. The Property is her primary  
9 residence, not an investment property.

10 The equities in Defendants' favor are considerably less weighty. First, the price paid by  
11 Defendants for the Property is miniscule—\$4,900.00—especially compared to the \$226,000.00  
12 invested in Property by Wells Fargo. Ex. A to RJN, Deed of Trust. Defendants could certainly  
13 seek their purchase money back from the HOA and A&K. Second, Defendants are real estate  
14 investors; they are corporations and do not reside in the Property like Plaintiff.

15 Defendants also argue in their Motion that the “inactions” of Wells Fargo must also be  
16 considered. Defs.' Mot. for Summ. J., 12:6-13:15. However, Defendants do not specify any  
17 specific “inactions” by Wells Fargo in their Motion. *Id.* Instead, Defendants simply state that  
18 Wells Fargo “had remedies available to it to protect its interests before the foreclosure sale and  
19 failed to avail itself of these remedies.”<sup>4</sup> *Id.* at 13:13-14. While Wells Fargo disputes that its  
20 conduct can be described as “inaction,” even assuming the Court accepts Defendants' arguments  
21 on that point, such “inaction” is only one of the many circumstances the Court must consider in  
22 evaluating the equities of the case. Here, the Court should consider that Wells Fargo was not  
23 even aware of the HOA foreclosure sale before it took place. Thus, Wells Fargo's “inaction”  
24 must be considered minimal in the entire context of the case.

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28 <sup>4</sup> Defendants also claim here that Wells Fargo “cannot now seek relief from this court, *especially when it has failed to demonstrate fraud, oppression or unfairness.*” Defs.' Mot. for Summ. J., 13:14-15 (emphasis added). This statement is strange, at best, given the substantial evidence of irregularities in the foreclosure sale addressed in Wells Fargo's Motion and in this Opposition.

Considering all the circumstances of this case, the Court should find that the equities heavily favor setting aside the foreclosure sale, and do not favor quieting title in Defendants' name. Defendants' Motion should be denied.

#### IV. CONCLUSION

Based upon the foregoing, Wells Fargo respectfully requests that this Court deny Defendant's Motion for Summary Judgment.

Dated this 20 day of February, 2018.

SNELL & WILMER L.L.P.

By: /s/Daniel S. Ivie

Jeffrey Willis, Esq.

Erica J. Stutsman, Esq.

Daniel S. Ivie, Esq.

*Attorneys for Intervenor*

*Wells Fargo Bank, N.A.*

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **WELLS FARGO BANK, N.A.'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT** by the method indicated:

  X   U. S. Mail  
       U.S. Certified Mail  
       Federal Express  
  X   Electronic Service  
       E-mail

and addressed to the following:

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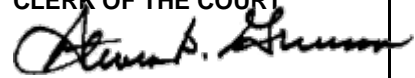
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Via U.S. Mail  
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Suite 3900  
Las Vegas, NV 89101

DATED this 20th day of February, 2018.

/s/ Gaylene Kim  
An employee of Snell & Wilmer L.L.P.

4824-9246-7035.2



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DISTRICT COURT  
CLARK COUNTY, NEVADA

9 VENISE ABELARD

10 Plaintiffs,

11 vs.

12 9352 CRANESBILL TRUST, FORT APACHE  
13 SQUARE HOMEOWNERS ASSOCIATION,  
14 MESA MANAGEMENT, LAS VEGAS  
15 ASSOCIATION MANAGEMENT, LLC,  
16 BENCH MARCH ASSOCIATION  
17 SERVICES, IYAD HADDAD; et. al.

16 Defendants

17 And all related matters.

Case No. A-12-671509-C  
Dept No. VII

**Opposition to Wells Fargo Bank, N.A.'s  
Motion for Summary Judgment**

18  
19 Defendants Iyad Haddad, Teal Petal St. Trust, and 9352 Cranesbill Trust ("Defendants or  
20 Cranesbill"), by and through their attorney, Charles L. Geisendorf, Esq., submit the following points  
21 and authorities in opposition to Wells Fargo Bank, N.A.'s Motion for Summary Judgment ("Bank or  
22 Wells Fargo") filed on January 31, 2018. This opposition is based upon the following memorandum  
23 of points and authorities, Defendants' Motion for Summary Judgment filed on January 31, 2018, all  
24 pleading and papers on file herein, the attached exhibits, and any oral arguments this Court may  
25 entertain at the hearing of this matter.

26 Dated: February 20, 2018

27 GEISENDORF & VILKIN, PLLC

28 /s/ Charles L. Geisendorf  
Charles L. Geisendorf, Esq. (6985)

GEISENDORF & VILKIN, PLLC  
2470 St. Rose Parkway, Suite 309, Henderson, Nevada 89074  
Phone: 702.873.5868 § Fax: 702.548.6335

1 **POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On January 31, 2018, Wells Fargo filed a motion for summary judgment arguing: the  
4 superpriority portion of the HOA lien was satisfied before the sale; the HOA sale was commercially  
5 unreasonable; and, Wells Fargo did not receive notice.

6 As will be discussed below, the motion must be denied because the superpriority portion of  
7 the HOA lien was not paid; a homeowner cannot payoff the superpriority portion of HOA lien; there  
8 was no fraud, unfairness, or oppression that accounts for and brings about the inadequacy of price;  
9 and, Wells Fargo did not have a recorded interest until after the foreclosure sale took place.

10 **II. STATEMENT OF FACTS**

11 Venise Abelard is the former homeowner of the real property commonly known as 9352  
12 Cranesbill Court, Las Vegas, Nevada. Defendant 9352 Cranesbill Trust was the successful bidder at  
13 the foreclosure sale, which was conducted on July 11, 2012. A copy of the foreclosure deed is attached  
14 as Exhibit A to Defendants MSJ. In July, 2012, Cranesbill transferred title by grant deed to the Teal  
15 Petals St. Trust.

16 DHI Mortgage Company was the beneficiary of a deed of trust recorded against the property on  
17 November 28, 2007. After the foreclosure sale in this case, Wells Fargo Bank became the beneficiary  
18 of the deed of trust by assignment recorded on October 17, 2012 .

19 The plaintiff filed this suit alleging wrongful foreclosure against the HOA, the foreclosure agent,  
20 and seeking quiet title against the Cranesbill Trust and Teal Petals Trust.

21 Wells Fargo Bank intervened in the case. It has filed a third party complaint against Cranesbill  
22 and Teal Petals alleging claims for declaratory relief and quiet title. Cranesbill and Teal Petals filed  
23 counterclaims/crossclaims for quiet title and declaratory relief. Cranesbill and Teal Petals now moves  
24 for summary judgment.

25 Prior to the foreclosure sale, the foreclosure agent, Alessi & Koenig, sent the former owner a lien  
26 letter dated June 28, 2011. A copy of the letter and proof of mailing is attached as Exhibit B to  
27 Defendants MSJ. The notice of lien was recorded on July 12, 2011. A copy of the recorded notice of lien  
28 is Exhibit C to Defendants MSJ.

1 On September 15, 2011, the foreclosure agent recorded the notice of default and election to sell  
2 under homeowners association lien. The notice was also mailed out to interested parties, including Wells  
3 Fargo's predecessor in interest, DHI Mortgage Company, and MERS. A copy of the lien and proof of  
4 mailing is attached as Exhibit D to Defendants MSJ.

5 On May 7, 2012, the foreclosure agent recorded the notice of foreclosure sale. A copy of the  
6 notice is Exhibit E to Defendants MSJ. The notice was also mailed out to interested parties, including  
7 Wells Fargo's predecessor in interest, DHI Mortgage Company, and MERS. Notice was also mailed to  
8 Wells Fargo Bank N.A. c/o National Default Servicing Corporation, 7720 No. 16th Street, Suite 300,  
9 Phoenix, AZ 85020. A copy of the proof of mailing is attached as Exhibit F to Defendants MSJ.

10 The foreclosure agent caused the notice of sale to be posted on the property and in three locations  
11 within Clark County. A copy of the affidavit of posting is attached as Exhibit G to Defendants MSJ .

12 The foreclosure agent also caused the notice of sale to be published in the Nevada Legal News.  
13 A copy of the affidavit of publication is Exhibit H to Defendants MSJ .

14 The sale was conducted on July 11, 2012, and was purchased by the 9352 Cranesbill Ct Trust for  
15 \$4,900.00 as evidenced by the foreclosure deed, Exhibit A to Defendants MSJ .

16 On July 27, 2012, the property was transferred by the 9352 Cranesbill Ct Trust to the Teal Petals  
17 Trust. A copy of this deed is attached as Exhibit I to Defendants MSJ.

18 Several months later, on October 17, 2012, Wells Fargo became the beneficiary of the deed of  
19 trust. A copy of the assignment is attached as Exhibit J to Defendants MSJ.

### 20 III. ARGUMENT

21 Summary Judgement should be granted only when, based upon the pleadings and discovery on  
22 file, no genuine issue of material fact exists for trial and the moving party is entitled to judgment as a  
23 matter of law. NRCP 56(c).

#### 24 A. Wells Fargo's deed of trust was extinguished by the HOA foreclosure sale.

25 As evidenced by the foreclosure deed recorded on July 18, 2012, Defendants acquired title to  
26 the Property by paying \$4,900.00 at the public auction held on July 11, 2012 (Defendants MSJ, Ex. A  
27 at 1). The exhibits to Defendant's motion for summary judgment prove that the HOA's foreclosure  
28 agent complied with all statutory requirements for the nonjudicial foreclosure sale including mailing a

1 copy of the notice of default to Bank's predecessor, DHI Mortgage Company and MERS, and a copy  
2 of the notice of trustee's sale to Bank at the address listed on the deed of trust recorded November 28,  
3 2007 (Bank's Request for Judicial Notice, Ex. A at 1). The assignment of mortgage that transferred  
4 the mortgage from DHI Mortgage Company to Wells Fargo was recorded on October 17, 2012, 98  
5 days after the foreclosure sale. (Defendants MSJ, Ex. J).

6 The first page of the foreclosure deed (Defendants MSJ, Ex. A at 1) included the following  
7 recitals:

8 This conveyance is made pursuant to the power conferred upon Trustee by NRS 116 et  
9 seq., and that certain Notice of Delinquent Assessment Lien, described herein. Default  
10 occurred as set forth in a Notice of Default and Election to Sell which was recorded in  
11 the office of the recorder of said county. All requirements of law regarding the mailing  
of copies of notices and the posting and publication of the copies of the Notice of Sale  
have been complied with. Said property was sold by said Trustee at public auction on  
July 11, 2012 at the place indicated on the Notice of Trustee's Sale.

12 Bank presented no evidence disputing that the HOA complied with all requirements for the  
13 nonjudicial foreclosure of its assessment lien pursuant to NRS Chapter 116.

14 There is no evidence that Bank or its predecessor, DHI Mortgage Company, tendered any  
15 amount of money to the HOA or its foreclosure agent to pay the superpriority portion of the HOA's  
16 assessment lien. There is no evidence that Bank or its predecessor recorded any document prior to the  
17 public auction or provided any notice to the persons bidding at the public auction held on July 11,  
18 2012 that Bank or its predecessor claimed that the payments made by the former owner to the HOA  
19 had paid and extinguished the HOA's superpriority lien.

20 NRS 116.3116 (2) provides that the super-priority lien for up to 9 months of charges is "prior  
21 to all security interests described in paragraph (b)." The first deed of trust, recorded on November 28,  
22 2007, falls squarely within the language of paragraph (b). The statutory language does not limit the  
23 nature of this priority in any way.

24 In *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev., Adv. Op. 75, 334 P.3d 408, 419  
25 (2014), this Court stated:

26 NRS 116.3116(2) gives an HOA a true superpriority lien, proper foreclosure of which  
27 will extinguish a first deed of trust. Because Chapter 116 permits nonjudicial  
28 foreclosure of HOA liens, and because SFR's complaint alleges that proper notices  
were sent and received, we reverse the district court's order of dismissal. In view of

1 this holding, we vacate the order denying preliminary injunctive relief and remand for  
2 further proceedings consistent with this opinion.

3 In Bank's MSJ at 10-13, Bank argues that 1 payment in the amount of \$366 made by the  
4 former owner prior to the recordation of the HOA's notice of delinquent assessment lien and 3  
5 payments in the amount of \$798.50 made by the former owner after the recordation of the HOA's  
6 notice of delinquent assessment lien applied retrospectively to satisfy the delinquent assessments due  
7 immediately prior to the mailing and recording of the NODAL.

8 The notice of delinquent assessment (lien) recorded on July 12, 2011, showed the amount of the  
9 lien to be \$2,337.58 as of June 28, 2011. (Defendants MSJ, Ex. B) The notice of default recorded on  
10 September 15, 2011 showed that the amount owed to the HOA had increased to \$3,403.58 as of  
11 August 25, 2011. (Defendants MSJ, Ex. D) The notice of trustee's sale recorded on June 7, 2012  
12 showed that the amount owed to the HOA had increased to \$3,932.58. (Defendants MSJ, Ex. E)  
13 Based on the recorded documents, it can be discerned that the former owner continued to fail to make  
14 timely payments because the lien amount consistently increased.

15 While it may be true that the former owner made sporadic payments during the foreclosure  
16 process, the recorded documents prove that the former owner failed to bring the account current.

17 The account ledgers for the period from May 31, 2009, through August 1, 2013 (Bank's  
18 Appendix of Exhs. To MSJ, Exs. 16 and 17), show: that there was a balance of \$1,204.58 owed as of  
19 October 1, 2010; an additional 9 months of assessments in the amount of \$427 owed on July 1, 2011;  
20 an additional \$60.00 in late fees; and that the former owner made only 1 payments of \$56.00 on  
21 December 13, 2010, 1 payment of \$281.43 on October 24, 2011, and 1 payment of \$284.00 on  
22 February 13, 2012 for a total of \$621.43. Whether you use the Bank's figure of \$1,164.50 or the  
23 account statements' figure of \$621.43, the 9 months of assessments due before the notice of  
24 delinquent assessment lien went unpaid since neither covered the balance of \$1,204.58 owed before  
25 the 9 months of superpriority assessments started to accrue.

26 Moreover, the official comments prove that the drafters of the UCIOA intended that the super  
27 priority portion of the lien be paid by the trust deed holder and not the unit owner.



1 As noted by this Court in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev., Adv.  
2 Op. 75, 334 P.3d 408, 413 (2016), 1982 UCIOA § 3-116 cmt. 1 and 1994 & 2008 UCIOA § 3-116  
3 cmt. 2 provide:

4 The comments continue: “As a practical matter, secured lenders will most likely pay  
5 the 6 [in Nevada, nine, *see supra* note 1] months' assessments demanded by the  
6 association *rather than having the association foreclose on the unit.*” *Id.* (emphasis  
7 added). If the superpriority piece of the HOA lien just established a payment priority,  
8 the reference to a first security holder paying off the superpriority piece of the lien to  
9 stave off foreclosure would make no sense.

10 This court also stated:

11 But as a junior lienholder, U.S. Bank could have paid off the SHHOA lien to avert loss  
12 of its security; it also could have established an escrow for SHHOA assessments to  
13 avoid having to use its own funds to pay delinquent dues.

14 334 P.3d at 414.

15 In addition, the Bank does not offer any evidence that it recorded any notice of its claim that  
16 the former owner had paid the superpriority portion of the HOA's assessment lien.

17 In *Shadow Wood Homeowners Association, Inc. v. New York Community Bancorp, Inc.*, 132  
18 Nev. Adv. Op. 5, 366 P.3d 1105 (2016), this court found that the purchaser at an HOA sale is entitled  
19 to rely on the recorded notices as proof that the HOA foreclosed a superpriority lien:

20 When a trustee forecloses on and sells a property pursuant to a power of sale granted in  
21 a deed of trust, it terminates the owner's legal interest in the property. *Charmicor, Inc.*  
22 *v. Bradshaw Fin. Co.*, 92 Nev. 310, 313, 550 P.2d 413, 415 (1976). This principle  
23 equally applies in the HOA foreclosure context because NRS Chapter 116 grants  
24 associations the authority to foreclose on their liens by selling the property and thus  
25 divest the owner of title. *See* NRS 116.31162(1) (providing that “the association may  
26 foreclose its lien by sale” upon compliance with the statutory notice and timing rules);  
27 NRS 116.31164(3)(a) (stating the association's foreclosure sale deed “conveys to the  
28 grantee all title of the unit's owner to the unit”). **And if the association forecloses on  
its superpriority lien portion, the sale also would extinguish other subordinate  
interests in the property.** *SFR Invs.*, 334 P.3d at 412–13. So, when an association's  
foreclosure sale complies with the statutory foreclosure rules, **as evidenced by the  
recorded notices, such as is the case here, and without any facts to indicate the  
contrary**, the purchaser would have only “notice” that the former owner had the ability  
to raise an equitably based post-sale challenge, the basis of which is unknown to that  
purchaser. (emphasis added)

366 P.3d at 1116.

In *Moeller v. Lien*, 25 Cal. App. 4th 822, 831-832, 30 Cal. Rptr. 777 (1994), the court held  
that a bona fide purchaser is protected from an unrecorded claim that the trustor had been wrongfully  
deprived of his right of redemption:

1 Thus, as a general rule, a trustor has no right to set aside a trustee's deed as against a  
2 bona fide purchaser for value by attacking the validity of the sale. (Homestead Savings  
3 v. Darmiento, *supra*, 230 Cal. App.3d at p. 436.) The conclusive presumption  
4 precludes an attack by the trustor on a trustee's sale to a bona fide purchaser even  
5 though there may have been a failure to comply with some required procedure which  
6 deprived the trustor of his right of reinstatement or redemption. (4 Miller & Starr,  
7 *supra*, § 9:141, p. 463; cf. Homestead v. Darmiento, *supra*, 230 Cal. App.3d at p. 436.)  
8 The conclusive presumption precludes an attack by the trustor on the trustee's sale to a  
9 bona fide purchaser even where the trustee wrongfully rejected a proper tender of  
10 reinstatement by the trustor. (5) Where the trustor is precluded from suing to set aside  
11 the foreclosure sale, the trustor may recover damages from the trustee. (Munger v.  
12 Moore (1970) 11 Cal. App.3d 1, 9, 11 [89 Cal. Rptr. 323].)

13 Because the Bank offers no evidence that Defendants had any facts to indicate the contrary,  
14 this Court should find that the nonjudicial foreclosure of the HOA's super priority lien at the public  
15 auction held on July 11, 2012 extinguished the "first security interest" held by defendant.

16 **B. The amount of the HOA's superpriority lien is not defined by entries in the HOA's  
17 internal ledger, but by NRS 116.3116(2).**

18 NRS 116.3116(2) provides in pertinent part as follows:

19 The lien is also prior to all security interests described in paragraph (b) . . . to the  
20 extent of the assessments for common expenses...which would have become due in  
21 the absence of acceleration during the 9 months immediately proceeding institution of  
22 an action to enforce the lien.

23 As recognized by the Court in *Horizons at Seven Hills v. Ikon Holdings*, 132 Nev., Adv. Op.  
24 35, 373 P.3d 66, 73 (2016), the phrase "to the extent of" means "amount equal to." In other words, the  
25 super-priority portion of the lien is not a line-item on a given Association's account ledger. It is a sum  
26 equal to nine months of common expenses that must be paid by the first security interest holder in  
27 order for that first security interest to remain in place and not be subject to extinguishment.

28 NRS 116.3116(2) is simply a calculus; it is a method by which a lender can determine the  
super-priority amount that it must pay to protect its lien interest. In relation to a first deed of trust  
holder, the super-priority lien is the dollar amount of the assessments which would have become due  
in the nine months preceding an action to foreclose the lien and not the actual amount owed by the  
unit owner at the time of the foreclosure. Thus, Bank was required to pay nine months of monthly  
assessments in order to prevent the extinguishment of its deed of trust.

It is inconsequential that a homeowner might make payments toward a delinquent account  
even when the homeowner's payments match the calculus found in NRS 116.3116(2). The

1 homeowner's payments are irrelevant and can have no legal effect on the superpriority amount  
2 because only the holder of a first security interest can make these payments.

3       The superpriority lien does not matter to the property owner because even a sub-priority lien  
4 sale will divest the property owner of his or her interest in the property. Because the superpriority lien  
5 only affects the holder of a first deed of trust, the argument that payments by a property owner can pay  
6 the super-priority portion of a lien is not logical. Unless the owner pays the full amount of the lien,  
7 the owner will lose its interest regardless of the type of lien.

8       The fact that a homeowner pays all the common assessments on a given account has no  
9 bearing on the super-priority portion because, again, it is just a calculus; it is not a fixed amount in the  
10 HOA's ledger. So long as there is money owed to the Association, and the first security interest  
11 holder has paid nothing to the Association, the super-priority portion of the lien will exist.

12       The Report of the Joint Editorial Board for Uniform Real Property Acts, The Six-Month  
13 Limited Priority Lien for Association Fees Under the Uniform Common Interest Ownership Act,  
14 dated June 1, 2013, also discusses the policy behind NRS 116.3116 which is to ensure that  
15 associations have a mechanism to enforce their assessments without bearing the full costs of  
16 maintaining the community prior to the sale. As stated in the JEB report, the six months of super-  
17 priority (later amended to nine months in Nevada) is based on the amount of time that it typically  
18 takes a bank to foreclose and strikes "a workable and functional balance between the need to protect  
19 the financial integrity of the association and the legitimate expectations of the first mortgage lenders."  
20 Id. at pp. 3-4.

21       The JEB report recognizes that the UCIOA contemplates that the lender's foreclosure will take  
22 six months to complete. In other words, the language of the statute can only be understood in the  
23 context in which it was supposed to function. The UCIOA anticipated that the lender would pay an  
24 amount equal to nine-months of periodic assessments (ideally within 60 days of the homeowner  
25 becoming delinquent) and then proceed to foreclose on the deed of trust. While the lender's  
26 foreclosure was proceeding, the association would then draw from the amount paid by the lender until  
27 the end of the foreclosure when a new homeowner is put in place. Given the language in the JEB  
28

1 report, it is inconsequential that the former owner made payments on her account at various times  
2 during the history of the account.

3       Regardless of the former owner's efforts to make payments to the HOA, the former owner did  
4 not make sufficient payments to pay off all past due assessments, late fees, and the costs of collection.  
5 Thus, the HOA never released its lien. According to the JEB report, it was therefore incumbent upon  
6 Bank to pay the super-priority lien regardless of any payments made by the former owner. Because  
7 Bank failed to do so, the super-priority lien remained as to Bank, and the first deed of trust was  
8 extinguished by the HOA foreclosure.

9       Finally, while it is true the Nevada Supreme Court issued an Order of Affirmance in *Saticoy*  
10 *Bay LL Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, Case No. 71246, 2017 Nev. Unpub.  
11 LEXIS 1184 (Nev. Dec. 22, 2017) on December 22, 2017, the decision is not final. Appellant,  
12 Saticoy Bay LLC Series 2141 Golden Hill filed a Petition for Rehearing on January 24, 2018 and  
13 SFR Investment Pool 1, LLC filed a Motion for Leave to File Amicus Brief in Support of Rehearing  
14 and Motion to Extend Time to Submit the Proposed Amicus Brief. If granted, the rehearing could  
15 materially alter or even reverse the decision. Thus it is too soon to use this decision, even as  
16 persuasive authority, in any matter.

17 **C. Any Commercial Reasonableness Argument Should Be Rejected, as it has by the Nevada**  
18 **Supreme Court.**

19       In its decision filed November 22, 2017, the Nevada Supreme Court rejected the argument that  
20 a commercial reasonableness standard applies to a HOA foreclosure pursuant to NRS 116. The Court  
21 stated: "As to the 'commercial reasonableness' standard, which derives from Article 9 of the Uniform  
22 Commercial Code (U.C.C.), we hold that it has no applicability in the context of an HOA foreclosure  
23 involving the sale of real property." *Nationstar Mortgage, LLC v. Saticoy Bay LLC Series 2227*  
24 *Shadow Canyon*, 133 Nev., Advance Opinion 91 (filed November 22, 2017, at p. 2).

25       In its MSJ, Bank claims *Nationstar Mortgage, LLC v. Saticoy Bay LLC Series 2227 Shadow*  
26 *Canyon*, Nev. Adv. Op. 91, 2017 somehow lessened the standard set forth in *Golden v. Tomiyasu*, 79  
27 Nev. 503, 387 P.2d 989 (1963) when it quotes the limited portion of *Shadow Canyon*, "we adhere to  
28 the observation in *Golden* that where the inadequacy of price is great, a court may grant relief based

1 on slight evidence of fraud, unfairness, or oppression". This statement is taken out of context and  
2 omits the final requirement that the fraud, unfairness, or oppression as accounts for and brings about  
3 the inadequacy of price. It is not enough for Bank to point to some perceived irregularities and then  
4 profess to have satisfied its burden. Bank must prove that the identified irregularities show that the  
5 sale was affected by fraud, unfairness, or oppression – it has not.

6 When evaluating an HOA foreclosure sale, the Nevada Supreme Court has ruled that an  
7 allegation of inadequate sales price alone is insufficient to set aside a foreclosure sale: "there must  
8 also be a showing of fraud, unfairness, or oppression." *Shadow Wood*, 366 P.3d at 1105 (citing *Long*  
9 *v. Towne*, 98 Nev. 11, 13,639 P.2d 528,530 (1982)); see *Golden*, 79 Nev. at 504,514,387 P.2d at 995  
10 (adopting the California rule that "inadequacy of price, however gross, is not in itself a sufficient  
11 ground for setting aside a trustee's sale legally made; there must be in addition proof of some element  
12 of fraud, unfairness or oppression as accounts for and brings about the inadequacy of price" (internal  
13 citations omitted) (emphasis added). see also *Centeno v. JP Morgan Chase Bank, N.A.*, Nevada  
14 Supreme Ct. Case No. 67365 (unpublished Order Vacating and Remanding) (Nev. Mar. 18,2016)  
15 (reaffirmance of the holding in *Shadow Wood*); See also *Oller v. Sonoma County Land Title Co.*, 137  
16 Cal. App. 2d 633, 635, 290 P.3d 880, 882 (1955). However, even assuming that the price was  
17 inadequate, that fact standing alone would not justify setting aside the trustee's sale. "In California, it  
18 is a settled rule that inadequacy of price, however gross, is not in itself a sufficient ground for setting  
19 aside a trustee's sale legally made; there must be in addition proof of some element of fraud,  
20 unfairness, or oppression as accounts for and brings about the inadequacy of price." (citing *Steven v.*  
21 *Plumas Eureka Annex Mining Co.*, 2 Cal.2d 493,496,41 P.2d 927, 928 (1935)). In fact, in adopting  
22 the California rule in *Golden*, the Nevada Supreme Court expressly rejected an inference that a sale  
23 could be set aside merely because the price was so low as to "shock the conscience," which is often  
24 used synonymously with "grossly inadequate." See *Golden*, 79 Nev. at 510-511,387 P.2d at 993-994.

25 **1. The Price Paid at Auction was not "Grossly Inadequate. "**

26 The price paid by Defendants was adequate. When purchasing a property at a forced sale, fair  
27 market value has no applicability to this situation. *BFP v. Resolution Trust Corporation*, 511 U.S.  
28 531, 537, 114 S.Ct. 1757 (1994). While the *BFP* holding related to a mortgage foreclosure sale, other

1 Courts have extended the *BFP* analysis to tax-default sales of real property with adherence to  
2 requirements of state law where the statutes include requirements for public noticing of the auction  
3 and provisions for competitive bidding. See *In re Tracht Gut, LLC*, 836 F.3d 1146, 1152-1155 (9th  
4 Cir. 2016) (extending BFP analysis to California tax sales because they afford the same procedural  
5 safeguards as a mortgage foreclosure sale); *T.F. Stone v. Harper*, 72 F.3d 466 (5th Cir. 1995); *Kojima*  
6 *v. Grandote Int'l Ltd. Co.*, 252 F.3d 1146 (10th Cir. 2001). Regardless of the type of sale, however,  
7 the analysis still aptly explains how market value cannot be compared to a forced sale transaction.

8       Here, NRS 116 ensures public notice and contains provisions for competitive bidding. NRS  
9 116 requires that a Notice of Default be mailed to all interested parties and subordinate claims  
10 holders. NRS 116.31163; NRS 116.31168. After 90 days of the recording of the Notice of Default,  
11 the Notice of Sale must be mailed to all interested parties and subordinate claims holders. NRS  
12 116.311635(1)(b)(1); NRS 116.311635(1)(b)(3). Additionally, NRS 116 requires that the Notice of  
13 Sale must be posted in a public place as well as be published in a newspaper of general circulation for  
14 three consecutive weeks, at least once a week. NRS 116.311635(c). Additionally, NRS 116 requires  
15 that the sale takes place in the County in which the property is situated. NRS 116.31164. As a result,  
16 all subordinate interest holders, as well as the public as a whole, were made aware of an NRS 116  
17 auction. These noticing and foreclosure provisions ensured the auction was publicly noticed and  
18 would create competitive bidding. Here, the Association did everything required of it under the law  
19 to foreclose on its lien including meeting all the requirements of NRS 116. The foreclosure was  
20 properly noticed including the recording and mailing of all applicable notices. Additionally, the  
21 auction was publicly held and Defendants the winning bid of \$4,900.00 at auction.

22       While Bank may complain about the total amount received during the auction, the market  
23 conditions that existed (largely created by Bank and its brethren) significantly lowered the value of  
24 the property. As stated in *BFP*, "the only legitimate evidence of the property's value at the time it is  
25 sold is the foreclosure-sale price itself." *BFP*, 511 U.S. at 549. But given that this was a public  
26 auction if Bank disagreed with the collective public's valuation of the property it should have bought  
27 the property at the auction itself. However, it cannot be contested that the amount paid by Defendants  
28

1 was commercially reasonable given that the Association foreclosure complied with all requirements  
2 of NRS 116 and that this auction was a public auction open to all entities, including Bank.

3 This issue has engendered countless litigation costing thousands of dollars, led to many  
4 Nevada Supreme Court decisions, and is still driving litigation because no buyer at an Association  
5 foreclosure sale can obtain title insurance without proceeding through costly quiet title litigation.

6 **2. BANA Has Not Presented Evidence of Fraud, Unfairness or Oppression that**  
7 **Brought About an "Inadequate" Sale Price.**

8 Even if this Court were to use Mr. Dugan's retrospective market value appraisal, and use this  
9 as a comparison to conclude that the price paid by Defendants was inadequate, Bank nonetheless has  
10 failed to show that any fraud, unfairness or oppression brought about or accounted for the allegedly  
11 "inadequate" price. *Golden*, 79 Nev. at 504, 514, 387 P.2d at 995. Here, there is no admissible  
12 evidence of fraud, oppression or unfairness that brought about any inadequacy in price. The  
13 Association's sale was publicly noticed, as required by statute; multiple bidders attended the auction,  
14 and it is undisputed that neither the homeowner nor Bank paid an amount necessary to cure the lien  
15 before the sale.

16 Yet even if a defect existed, the fact remains that Defendants had no knowledge of any alleged  
17 deficiency, so this certainly could not have accounted for or brought about the price paid by  
18 Defendants. Here, the Association complied with the notice requirements of NRS 116; the sale was  
19 publicly noticed; the sale was held in a public place; and multiple bidders attended the sale.

20 In sum, because the price paid by Defendants was not "grossly inadequate," and Bank failed to  
21 demonstrate any fraud, oppression or unfairness which brought about and accounted for the price paid  
22 by Defendants, Bank's commercial unreasonableness arguments fails.

23 **3. Wells Fargo was not entitled to Notice.**

24 In its MSJ, Bank argues that the sale violated NRS 116.31163 because the HOA and A&K did  
25 not send notice to Wells Fargo. But, in the 2005 version of NRS 116.31163 which was applicable at  
26 the time of this sale, Wells Fargo was not entitled to notice.

27 **NRS 116.31163 Foreclosure of liens: Mailing of notice of default and election to**  
28 **sell to certain interested persons.** The association or other person conducting the sale  
shall also mail, within 10 days after the notice of default and election to sell is  
recorded, a copy of the notice by first-class mail to:

1           1. Each person who has requested notice pursuant to NRS 107.090 or  
2           116.31168;

3           2. Any holder of recorded security interest encumbering the unit's owner's  
4           interest who has notified the association, 30 days before the recordation of the notice  
5           of default, of the existence of the security interest; and

6           3. A purchaser of the unit's owner has notified the association, 30 days before  
7           the recordation of the notice, that the unit is the subject of a contract of sale and the  
8           association has been requested to furnish the certificate requires by NRS 116.4109.  
9           (Emphasis Added)

10          Here, DHI Mortgage Company was the holder of a recorded security interest at the time of  
11          sale, not Wells Fargo. Further, Wells Fargo's never requested notice pursuant to NRS 107.090 or  
12          116.31168, and did not record its assignment of mortgage until after the foreclosure sale took place.  
13          Since Wells Fargo did not request notice and was not the holder of a recorded interest, it was not  
14          entitled to notice.

15           **4. Defendants are Bona Fide Purchasers for Value; Equity Lies in Defendants' Favor.**

16          As discussed in Defendants' Motion for Summary Judgment and herein, because Bank did not  
17          proffer admissible evidence that Defendants had any knowledge precluding it from BFP status,  
18          Defendants have the valid defense of being a BFP. As a result, the sale cannot be unwound; nor can  
19          Defendants be said to have taken the Property subject to the First Deed of Trust.

20          "Where the complaining party has access to all the facts surrounding the questioned  
21          transaction and merely makes a mistake as to the legal consequences of his act, equity should  
22          normally not interfere, especially where the rights of third parties might be prejudiced thereby."  
23          *Shadow Wood*, 366 P.3d at 1116 (quoting *Nussbaumer v. Sup. Ct. in & for Yuma Cty.*, 107 Ariz. 504,  
24          489 P.2d 843, 846 (Ariz.1971)). This is consistent with the Restatement's commentary regarding  
25          those non-judicial foreclosure jurisdictions where price alone is not enough to set aside a sale: the  
26          wronged junior lienholder must seek a remedy from someone other than the purchaser:

27           If the real estate is unavailable because title has been acquired by a bona fide  
28           purchaser, the issue of price inadequacy may be raised by the [former title holder] or  
29           junior lienholder in a suit for wrongful foreclosure. . . . In addition, the [foreclosing  
30           lienholder] must be responsible for a defect in the foreclosure process of the type  
31           described in Comment e of this section.

32          Restatement § 8.3, cmt *b*. This is also consistent with California law that precludes unwinding a  
33          foreclosure sale once title has transferred to a BFP. See *Melendrez v. D & I Investments, Inc.*, 26  
34          Cal.1.Rptr.3d 413, 431-432 (2005) ("courts have sustained a number of foreclosure sale challenges



1 where the actions have been brought before the transfer of the trustee's deed to the  
2 buyer[]" but not after delivery of the trustee's deed) (internal citations omitted)). This policy of  
3 protecting purchasers at foreclosure sales is to encourage such persons to attend and bid. *Id.* at 426.  
4 Failing to protect BFPs simply because they buy "property for substantially less than its value would  
5 chill participation at trustees' sales by this entire class of buyers, and, ultimately, could have the  
6 undesired effect of reducing sales prices at foreclosure." *Id.* Thus, weighing of equities should always  
7 fall in favor of the BFP for policy reasons.

8 That Defendants are BFPs is unquestionable. A BFP is one who "takes the property 'for a  
9 valuable consideration and without notice of the prior equity....'" *Shadow Wood*, 366 P.3d at 1115  
10 (internal citations omitted). The fact that Defendants "paid 'valuable consideration' cannot be  
11 contested." *Id.* (citing *Fair v. Howard*, 6 Nev. 304, 308 (1871)). Further, contrary to the Bank's  
12 contention regarding Defendants' knowledge of the "deed of trust," notice by a potential purchaser  
13 that an association is conducting a sale pursuant to NRS 116, and that the potential exists for  
14 challenges to the sale "post hoc[.]" do not preclude that purchaser from BFP status. *Shadow Wood*,  
15 366 P.3d at 1115-1116. In other words, the risk of litigation due to lenders' inability to accept the law  
16 does not preclude BFP status. *Id.*

17 Additionally, the experience of the purchaser does not automatically defeat bona fide  
18 purchaser status; neither does a low price. *Melendrez*, 26 Cal.Rptr.3d at 425-426 ("we see no  
19 reasoned basis for a blanket rule that would preclude a buyer from being a BFP simply because he or  
20 she has experience in foreclosure sales and purchases property at less than fair market value.").  
21 Furthermore, general knowledge by a purchaser is not enough to defeat BFP - it is the **specific facts**  
22 of that sale, as each of the cases cited by the Bank demonstrates. In each, the purchaser was privileged  
23 with **insider knowledge of specific facts** of the foreclosure which, in their jurisdiction, put the  
24 purchaser on inquiry notice. See, e.g., *Albice v. Premier Mortg. Servs. of Wash, Inc.*, 276 P.3d 1277,  
25 1284-85 (Wash. 2012) (homeowner advised purchaser of resolved dispute with association pre-sale;  
26 purchaser "surprised" sale going forward); *Linden Park Homeowners Assoc. v. Mears*, 2015 WL  
27 6126446 at \*3, 7 (Wash. Ct. App. 2015) (opening bid at judicial foreclosure sale was substantially  
28 lower than judgment on the lien, known to purchaser); *Yates v. West End Financial Corp.*, 25 Cal.

1 App. 4th 511, 523 (Ct. App. 1994) (pre-sale discussions between purchaser and trustee wherein the  
2 trustee advised "there was a lot of juice [equity] in the property[.]"); *United States v. Countrywide*  
3 *Home Loans, Inc.*, 408 Fed. App'x 3, 5 (9th Cir. Oct. 5, 2010)(unpublished) (unrecorded lien would  
4 have been found if purchaser investigated an obvious discrepancy in the title recording on the  
5 property).

6 What the Bank seeks here is equity, while in some cases "courts retain the power to grant  
7 equitable relief from a defective foreclosure sale[.]" *Shadow Wood*, 366 P.3d at 1110, it is also well-  
8 settled in Nevada that courts lack authority to grant equitable relief when an adequate remedy at law  
9 exists. *Las Vegas Valley Water Dist. v. Curtis Park Manor Water Users Ass'n*, 646 P.2d 549, 551  
10 (Nev. 1982). Thus, even if Bank could prove some irregularity, it would have an adequate remedy at  
11 law against those who harmed it, not Defendants - and equitable relief is not available herein. See  
12 *Munger v. Moare*, 89 Cal.Rptr. 323 (Ct. App. 1970); see also *Brown v. Holder*, 763 F.3d 1141, 1152  
13 (9th Cir. 2014). However, even if Bank could be entitled to equity, which it is not, courts in equity  
14 "must consider the entirety of the circumstances that bear upon the equities[.]" including the actions  
15 and inactions of the parties and "whether an innocent party [a BFP] may be harmed by granting the  
16 desired relief." *Shadow Wood*, 366 P.3d at 1115-1116 (citing *In re Petition of Nelson*, 495 N.W.2d  
17 200, 203 (Minn. 1993) and *Smith v. United States*, 373 F.2d 419,424 (4th Circ. 1966)). Here, despite  
18 notice, Bank sat idly by. Plainly, Bank had "access to all the facts surrounding the questioned  
19 transaction and merely [made] a mistake as to the legal consequences of his act." *Shadow Wood*, 366  
20 P.3d at 1116 (quoting *Nussbaumer*, 489 P.2d at 846.) Thus, equity should not interfere here,  
21 especially where Defendants' rights would be prejudiced by this erroneous act by Bank. *Id.*

22 **E. The Bank is not entitled to equitable relief because it did not exhaust its legal remedies.**

23 The Nevada Supreme Court has recognized that a bank had many legal remedies to protect  
24 itself prior to an HOA foreclosure sale back prior to 2013 and 2014 and, if it didn't do so, it must  
25 accept the consequences.

26 U.S. Bank's final objection is that it makes little sense and is unfair to allow a  
27 relatively nominal lien—nine months of HOA dues—to extinguish a first deed of trust  
28 securing hundreds of thousands of dollars of debt. But as a junior lienholder, U.S.  
Bank could have paid off the SHHOA lien to avert loss of its security; it also could  
have established an escrow for SHHOA assessments to avoid having to use its own  
funds to pay delinquent dues. ....*The inequity U.S. Bank decries is thus of its own*

1       *making and not a reason to give NRS 116.3116(2) a singular reading at odds with its*  
2       *text and the interpretation given it by the authors and editors of the UCIOA.*

3       *SFR*, 334 P.3d at page 414. (Emphasis added)

4       In the *Shadow Wood* case, the Nevada Supreme Court pointed out additional means by which  
5 a bank could protect its interests in properties in the midst of an HOA foreclosure:

6       Against these inconsistencies, however, must be weighed NYCB's (in)actions. The NOS was  
7 recorded on January 27, 2012, and the sale did not occur until February 22, 2012. NYCB knew the  
8 sale had been scheduled and that it disputed

9       the lien amount, yet it did not attend the sale, request arbitration to determine the  
10       amount owed, or seek to enjoin the sale pending judicial determination of the amount  
11       owed. ....

12       ....

13       Id. at 1114.

14       The court also noted in footnote 7:

15       Consideration of harm to potentially innocent third parties is especially pertinent here  
16       where NYCB did not use the legal remedies available to it to prevent the property from  
17       being sold to a third party, such as by seeking a temporary restraining order and  
18       preliminary injunction and filing a lis pendens on the property. ....

19       Id. at 1116.

20       These were all legal remedies that the bank failed to avail itself of. Equitable relief is only  
21       available where there is no adequate remedy at law.

22       'Ordinarily, damages may not be awarded by the chancery court. It is the function of the law  
23       courts to award damages for breach of contract or for tort; and if the purpose of the proceeding  
24       is merely the recovery of a sum of money, there can be no reason for resorting to equity, since  
25       the remedy at law is complete.' (19 Am.Jur., Equity, Sec. 119, Pgs. 120 and 121.)

26       'Indeed, it is said that the absence of a plain and adequate remedy at law is the only test of  
27       equity jurisdiction.' (19 Am.Jur., Equity, Sec. 100, Pg. 107.)

28       *Davenport v. State Farm*, 81 Nev. 361, 404 P.2d 10, 14 (1965)

      As such, the Bank cannot be awarded any equitable relief. In this case, the Bank was in the  
best position to take action to protect its interest. It could have paid off the entire lien, as the Nevada  
Supreme Court stated in *SFR*. It could have filed an action to enjoin the sale and recorded a lis  
pendens on the property. And it could have recorded something to alert potential purchasers of the  
dispute as to title. It did none of these things and shouldn't now be allowed to come into court and

1 seek to overturn a sale to a bona fide purchaser without inquiry notice. The Bank's remedy, if any, is  
2 against the foreclosure trustee and the HOA.

3 **V. CONCLUSION**

4 For these reasons, Defendants ask the Court to deny Wells Fargo's motion and render summary  
5 judgment in its favor.

6 Dated: February 20, 2018

7 GEISENDORF & VILKIN, PLLC

8 /s/ Charles L. Geisendorf  
9 Charles L. Geisendorf, Esq. (6985)

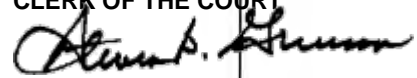
10  
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14 **Certificate of Service**

15 I hereby certify that on February 20, 2018, I served the following document(s):

16 A copy of the preceding **Opposition to Wells Fargo Bank, N.A.'s Motion for Summary**  
17 **Judgment.**

- 18 ■ By Electronic Transmission: by transmitting the document to the parties registered to  
19 receive service for this case via this Court's mandatory e-service system.

20 /s/ Charles L. Geisendorf  
21 An employee of Geisendorf & Vilkin, PLLC



**OPPS**

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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

VENISE ABELARD,

Plaintiff,

vs.

IYAD HADDAD, Individually and as Trustee  
for CRANESBILL CT. TRUST; 9352  
CRANESBILL CT. TRUST; TEAL PETALS  
ST. TRUST; FORT APACHE SQUARE  
HOMEOWNERS ASSOCIATION; MESA  
MANAGEMENT, LLC; LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC;  
ALESSI & KOENIG, LLC; and DOES I  
through X, and ROE COMPANIES I through  
X, inclusive,

Defendants.

9352 CRANESBILL CT. TRUST

Defendant/CounterClaimant,

vs.

VENISE ABELARD,

Plaintiff/CounterDefendant.

Case No.: A-12-671509-C

Dept No.: 7

**PLAINTIFF'S OPPOSITION TO  
DEFENDANTS IYAD HADDAD'S, 9352  
CRANESBILL CT. TRUST'S, AND TEAL  
PETALS ST. TRUST'S MOTION FOR  
SUMMARY JUDGMENT  
AND  
JOINDER TO WELLS FARGO BANK,  
N.A.'S OPPOSITION TO MOTION FOR  
SUMMARY JUDGMENT**

**DATE: March 6, 2018**

**TIME: 9:00 a.m.**

1 WELLS FARGO BANK, N.A.  
2 Intervenor/Counterclaimant,  
3 vs.  
4 9352 CRANESBILL CT. TRUST, a Nevada  
5 Trust,  
6 CounterDefendant.

7 WELLS FARGO BANK, N.A.,  
8 Intervenor/Cross-Claimant,  
9 vs.  
10  
11 FORT APACHE SQUARE HOMEOWNERS  
12 ASSOCIATION, a Nevada non-profit  
13 corporation; ALESSI & KOENIG, LLC, a  
14 Nevada limited Liability company;  
15 Cross-Defendants,

16 WELLS FARGO BANK, N.A.  
17 Intervenor/Third-Party Plaintiff,  
18 vs.  
19 TEAL PETALS ST., TRUST, a Nevada trust;  
20 and DOES I through X and ROE COMPANIES  
21 I through X, inclusive;  
22 Third-Party Defendants.

23  
24 Plaintiff Venise Abelard, by and through her attorneys of record, Joice Bass and Legal Aid  
25 Center of Southern Nevada, Inc., respectfully oppose Defendants Iyad Haddad's, 9352 Cranesbill  
26 Ct. Trust's, and Teal Petals St. Trust's (collectively the "Trust") Motion for Summary Judgment  
27 as follows.  
28

1                   **I.                   INTRODUCTION**

2                   This case involves the “**fraud, unfairness, or oppression**” that results when an HOA and  
3 its collection agents continually misrepresent to a homeowner the amount of overdue assessments  
4 and other charges she allegedly owes, misapplies her payments and/or fails to apply them at all,  
5 and then sells her home out from under her while simultaneously promising her that they will not  
6 do so while they are in the process of verifying the exact amount of the alleged debt owed.  
7 Justice—equity—here requires that the foreclosure sale of Ms. Abelard’s home be set aside, and  
8 that the parties, including Defendant Trust, be returned to their pre-sale positions.  
9

10                  Summary judgment as to Ms. Abelard’s claims against the Trust for declaratory relief and  
11 quiet title was previously denied by the Court in 2014 because there were genuine issues of  
12 material facts.<sup>1</sup> Discovery in the intervening period of time has not changed this. Neither does  
13 the Trust’s current argument and papers, which largely just restate its prior arguments—that it is a  
14 bona fide purchaser for value (“BFP”) because the HOA foreclosure is presumed to have been  
15 conducted in accordance with statutory requirements for notice.  
16

17                  Genuine issues of material facts remain outstanding—including whether or not the Trust,  
18 as a sophisticated real estate investor experienced in speculating with HOA lien foreclosures, can  
19 claim true BFP status (under no obligation to inquire further) and whether or not the HOA  
20 foreclosure sale otherwise involved “fraud, unfairness, or oppression” such that it should be set  
21 aside in any event. Accordingly, summary judgment should once again be denied, so that Ms.  
22 Abelard can have her day in court.  
23  
24

25  
26  
27 <sup>1</sup> See April 8, 2014, Court Minutes, Exhibit 1 hereto. (As it appears there was no formal order  
28 subsequently issued, and no objections raised by the parties thereto, a nunc pro tunc order will be  
submitted by Plaintiff’s counsel shortly.)

1 **II. PLAINTIFF JOINS WELLS FARGO'S OPPOSITION TO THE TRUST'S**  
2 **MOTION FOR SUMMARY JUDGMENT**

3 In the interests of preserving judicial and party resources, Plaintiff hereby joins in Wells  
4 Fargo's Opposition to the Trust's Motion for Summary Judgment in its entirety, with the addition  
5 of Plaintiff's "Supplemental Statement of Undisputed Material Facts" set forth herein. To the  
6 extent such joinder is disallowed or deemed improper for any reason, Plaintiff references and  
7 incorporates the entirety of Wells Fargo's Opposition here as if fully restated.  
8

9 **III. PLAINTIFF'S SUPPLEMENTAL STATEMENT OF UNDISPUTED MATERIAL**  
10 **FACTS<sup>2</sup>**

11  
12 Plaintiff Venise Abelard purchased the Subject Property in or about November 2007, along  
13 with her adult son Marcus Compere. Ms. Abelard has lived continuously in the Subject Property  
14 since then, and she would be homeless were she to lose the home and be evicted. (Mr. Compere  
15 does not reside at the property because he is in the service.) To purchase the home, Ms. Abelard  
16 and her son took out a mortgage for \$226,081, which she remains indebted on. The mortgage is  
17 secured by a First Deed of Trust on the property.  
18

19 With regards to her HOA account, Ms. Abelard made sure to pay all of the monthly  
20 assessments between February 1, 2008, when her first payment was due, and June 2012, just  
21 shortly before the foreclosure sale by Alessi & Koenig. In total, Ms. Abelard paid **\$3,135.02**  
22 (although \$149.00 of that was rejected in June 2012). Thus, she was completely shocked and  
23 horrified when she first learned that the HOA was foreclosing on her home in May 2012. That is  
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25  
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27

28 <sup>2</sup> This statement of facts is supported by Ms. Abelard's affidavit and exhibits thereto, attached as Exhibit 2.



1 when a Notice of Sale was posted on her front door, indicating that she owed over **\$3,900**. Ms.  
2 Abelard had no idea where this amount—which was very significant to her—came from.

3 Her monthly assessments at that point in time were just **\$61** and she had not received any  
4 HOA notices regarding any other fines or penalties that she could or would be charged for. Even  
5 when Ms. Abelard reached out to the HOA's new management company, Mesa, in mid-2011 to  
6 request a coupon book, no one told her that she had an outstanding balance, much less that she  
7 could possibly lose her home in a foreclosure. Ms. Abelard relied on the HOA to keep accurate  
8 books and records concerning not just her account but all of the homeowners' in the community.  
9 Ms. Abelard relied on the HOA to communicate with her in a fair and prompt manner if they were  
10 going to impose fines or other charges against her property.  
11

12 Extremely concerned, Ms. Abelard immediately called Alessi & Koenig to dispute the debt  
13 and to ask for documentation substantiating that she owed the amount claimed. Ms. Abelard told  
14 Alessi & Koenig's employees that she wanted to bring her account current, because she absolutely  
15 wanted to keep her home, but that her records reflected that she had paid all of the assessments  
16 that were due; therefore, she wanted to verify where the large balance owed came from. She  
17 offered to send in the documents that she had—copies of checks and bank statements—as  
18 confirmation of her prior payments and later did so.  
19

20 Between May 25, 2012, and July 12, 2012, Ms. Abelard made multiple calls and wrote  
21 multiple letters to Alessi & Koenig about her account, trying to get to the bottom of things. Ms.  
22 Abelard was repeatedly told by Alessi & Koenig that they were looking into her dispute, that they  
23 were communicating with the HOA's management company, Mesa, and that they were holding  
24 off on the foreclosure sale until the dispute was reviewed by the HOA/Mesa and resolved. Ms.  
25 Abelard relied on what Alessi & Koenig was telling her, as an agent of the HOA.  
26  
27  
28

1 When Ms. Abelard later realized that the foreclosure sale had gone through anyway, she  
2 was devastated. She called Alessi & Koenig multiple times in July 2012, after she received a  
3 notice posted on her door indicating that the property had been sold. At first, Alessi & Koenig's  
4 employees expressed surprise also, stating that they were still waiting to hear back from  
5 "management," and even claimed they could still stop the sale from going through. Shortly after  
6 that, however, they stopped taking Ms. Abelard's phone calls. Ms. Abelard even had her brother  
7 call Alessi & Koenig in the hopes that they would agree to speak to him instead; however, they  
8 refused.

10 When Ms. Abelard finally went to Alessi & Koenig's offices in August 2012 to confront  
11 them in person, she was advised that they hadn't done what they had promised at all. In fact, the  
12 employee who Ms. Abelard had been told was handling her account was suddenly no longer with  
13 the company. Ms. Abelard was advised that the employee had not followed through on  
14 investigating Ms. Abelard's account after all.

16 What should have happened with Ms. Abelard's HOA account is that it should have been  
17 investigated as promised and, in the worst case scenario, she should have been placed on a  
18 repayment plan to bring her account current.<sup>3</sup> This never happened. The foreclosure should never  
19 have proceeded, once Ms. Abelard had reached out to Alessi & Koenig, even with the Notice of  
20 Sale pending. Alessi & Koenig violated their own internal policies in the handling of Ms.  
21 Abelard's account, and then their employee who was responsible for working with Ms. Abelard  
22 disappeared.

25 Since about July 2012, Ms. Abelard has not received any communications from the HOA.  
26 In fact, her last payment to Alessi & Koenig in June 2012 of \$149.00 was rejected and returned.

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28 <sup>3</sup> See Excerpt of Deposition of David Alessi, June 3, 2016, pg. 82:1—9, attached as Exhibit 3.

1 Accordingly, while it is Ms. Abelard's desire and intention to comply with the Court's July 22,  
2 2015, Order, directing that she pay all HOA dues post-June 2015, she has not been advised of how  
3 to accomplish this. As for the property insurance and taxes, Ms. Abelard is also unclear as to how  
4 to comply with paying for all such charges post-June 2015 since she has not received any  
5 statements. From when Ms. Abelard first purchased the Subject Property, property insurance and  
6 taxes were always escrowed by her mortgage servicer. As with the HOA dues, however, Ms.  
7 Abelard desires and intends to comply with the Court's order and will do so once there is  
8 clarification on this issue.  
9

#### 10 11 **IV. CONCLUSION**

12 For the foregoing reasons, Plaintiff Venise Abelard respectfully requests that the Court  
13 deny Trust Defendants' motion for summary judgment. There are genuine issues of material facts  
14 outstanding and Plaintiff should be afforded her day in court.  
15

16 DATED this 23<sup>rd</sup> day of February, 2018.  
17

18 **LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

19 /s/Joice Bass

20 Debra A. Bookout (SBN 11765)

21 Joice Bass (SBN 9405)

22 **LEGAL AID CENTER OF  
SOUTHERN NEVADA, INC.**

23 725 E. Charleston Blvd.

24 Las Vegas, NV 89104

25 Telephone: (702) 386-1070

26 Facsimile: (702) 388-1452

27 [dbookout@lacsnc.org](mailto:dbookout@lacsnc.org)

28 [jbass@lacsnc.org](mailto:jbass@lacsnc.org)

*Attorneys for Plaintiff Venise Abelard*

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# **EXHIBIT 1**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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<b>Title to Property</b>	<b>COURT MINUTES</b>	<b>April 08, 2014</b>
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A-12-671509-C	Venise Abelard, Plaintiff(s) vs. 9352 Cranesbill Trust, Defendant(s)
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<b>April 08, 2014</b>	<b>9:30 AM</b>	<b>Motion for Summary Judgment</b>
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<b>HEARD BY:</b> Escobar, Adriana	<b>COURTROOM:</b> Phoenix Building Courtroom - 11th Floor
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**COURT CLERK:** Jill Chambers

**RECORDER:**

**REPORTER:** Renee Silvaggio

**PARTIES**

<b>PRESENT:</b>	Bohn, Michael F Joe, Michael R.	Attorney for Deft Attorney for Pltf
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**JOURNAL ENTRIES**

- Argument by counsel regarding foreclosure sale and HOA payments by the Pltf. Court FINDS there are genuine issues of material fact and DENIED Motion. Mr. Joe to prepare the order.

# **EXHIBIT 2**

1     **AFFIDAVIT OF VENISE ABELARD IN SUPPORT OF OPPOSITION TO MOTION FOR**  
2                                     **SUMMARY JUDGMENT**

3     STATE OF NEVADA     )  
4                             )     ss:  
5     COUNTY OF CLARK   )

6             I, VENISE ABELARD, being duly sworn according to law, deposes and says:

7             1.     I am the Plaintiff in Case No. A-12-671509-C, *Abelard v. Haddad, et al.*

8             2.     The facts set forth in the following Exhibit were created by me and are true  
9                     and correct to the best of my personal knowledge, information and belief.

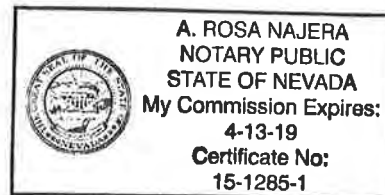
10            FURTHER AFFIANT SAYETH NAUGHT.

11            DATED this 23<sup>rd</sup> day of February, 2018.

12                                       
13                                     VENISE ABELARD  
14

15  
16     SUBSCRIBED and SWORN TO before me  
17     this 23<sup>rd</sup> day of February, 2018.

18                       
19     NOTARY PUBLIC in and for said  
20     County and State





## EXHIBIT

1  
2  
3 1. I immigrated to the United States from Haiti in about 1972, and I moved to Las Vegas in  
4 2004.

5 2. In November 2007, I purchased my home at 9352 Cranesbill Court, Las Vegas, Nevada  
6 89149, with my adult son (who was in the army at the time). To purchase our home, my son and I  
7 took out a mortgage for about \$226,081.

8 3. Owning my own home has always been my dream, and I have lived continuously in the  
9 property since 2007.

10 4. The home is located in an area that is managed by an association, FORT APACHE SQUARE  
11 HOMEOWNERS ASSOCIATION (hereinafter "ASSOCIATION").

12  
13 5. The builder paid the association dues through January 2008. My first payment was due  
14 February 1, 2008.

15 6. During the relevant time period, the Association used ALESSI & KOENIG, LLC (hereinafter  
16 "ALESSI & KOENIG") as a collection company to collect association dues, fees and assessments.

17  
18 7. I paid all of my monthly association dues between February 2008 and June 2012. Attached  
19 is an accurate accounting of my payments, reflecting that I paid **\$3,135.02** (although \$149.00 of that  
20 was rejected/returned).

21 8. I believe that the Association and Alessi & Koenig improperly added late fees, fines and  
22 collection costs to my account and/or improperly applied my payments.

23 9. When Mesa Management took over my account from the Association's prior management  
24 company, they only sent me a letter saying they were the new management firm. They did not send  
25 a letter or an accounting saying that I was delinquent.

26  
27 10. I believe that Mesa took over as the Association's management company in late 2010.

1 11. On June 30, 2011, I wrote to Mesa Management requesting a copy of my monthly statement  
2 or a copy of a book with the payment coupons.

3 12. I had been used to the coupon books so when I did not receive a new coupon book for 2011,  
4 I was unsure as to what to do.

5 13. On September 14, 2011, I wrote to Mesa Management again requesting a copy of the  
6 payment coupons.

7 14. I did not receive a Notice of Delinquent Lien Assessment.

8 15. I never received the June 28, 2011 letter from Alessi and Koenig.

9 16. I did not receive a Notice of Default.

10 17. The first time I was aware that the Association was trying to sell my home was when they  
11 put a Notice of Sale on my door on May 25, 2012.

12 18. I was shocked and horrified when I found the posting, because I had not received any prior  
13 notices and I had paid all my monthly dues as required.

14 19. On May 25, 2012, I contacted Alessi & Koenig and spoke with Catherine Kettles, an  
15 employee of Alessi & Koenig.

16 20. On May 30, 2012, I wrote a letter to Alessi & Koenig disputing that I owed any money. I  
17 also brought the letter to their office the next day.

18 21. On May 31, 2012, I went to Alessi & Koenig and I spoke with Catherine Kettles who said  
19 that Gina was handling this account. I asked for complete history of my account.

20 22. On June 4, 2012, Alessi & Koenig sent me a ledger for the account. There was a \$1204.58  
21 "initial balance" on the ledger.

22 23. On June 5, 2012 I sent an email to Catherine Kettles disputing the initial balance of \$1204.  
23  
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1 24. On June 5, 2012 I called Catherine and I asked Alessi & Koenig to explain what the opening  
2 balance was and I explained to them that I was current on my assessments. She said they would  
3 look into it.

4 25. I explained to Alessi & Koenig that I was current with my HOA assessments and showed  
5 proof of every payment made to the Association.

6 26. Alessi & Koenig told me that they would put the sale on hold to investigate the account.

7 27. They told me that they would not foreclose because they put the sale on hold.

8 28. I continually called Alessi & Koenig and Catherine kept telling me that they sent the  
9 question to the management company and were awaiting an answer.  
10

11 29. On June 11, 2012, I called Alessi & Koenig and Catherine told me that they sent the question  
12 to the management company and were awaiting an answer.  
13

14 30. On June 18, 2012, I called Alessi & Koenig and Catherine told me that they sent the question  
15 to the management company and were awaiting an answer.

16 31. On June 25, 2012, I called Alessi & Koenig and Catherine told me that they sent the question  
17 to the management company and were awaiting an answer.

18 32. Unbeknownst to me, Alessi & Koenig and the Association were proceeding with the  
19 foreclosure despite assurances that the sale was on hold.  
20

21 33. They have never given me an explanation of what the opening balance on the account was.

22 34. The Association and Alessi & Koenig foreclosed on my home.

23 35. According to Alessi & Koenig the property was sold on July 11, 2012.

24 36. The purchase price at the foreclosure sale was \$4,900.00.

25 37. On July 12, 2012 I received a posting on my door that stated the property had been sold. I  
26 was devastated and very distraught.  
27  
28

1 38. On July 12, 2012, I called Alessi & Koenig and spoke to Catherine who had no knowledge  
2 that the property had been sold. She said it was "impossible" and that she would check into it.

3 39. Later that day on July 12, 2012 they had not called back and I called them again, but no one  
4 would speak with me.

5 40. Later that day, July 12, 2012, Mary Endolucia called me and asked me to fax over my  
6 documents so that they could stop the transaction.

7 41. Over the next several weeks I called several times but no one would talk to me.

8 42. On July 26, 2012, my brother Ley Abelard called but they would not speak with him.

9 43. On August 5, 2012 I went to Alessi & Koenig's office. Mary Endolucia met with me and  
10 informed me that Gina was no longer with the office. She said that Gina was not doing what she  
11 was supposed to do.  
12

13 44. Mary Endolucia said that Gina had never turned in the documents to the management office  
14 that I had provided.  
15

16 45. A deed was recorded by Alessi & Koenig on July 18, 2012. There is no record of how the  
17 sale was noticed and how the postponement was re-noticed.

18 46. The Notice of Sale stated that the sale would occur on June, 2012.

19 47. The sale was originally scheduled in June but the property was not sold until July 11, 2012.

20 48. From the time that I moved into my home, I have relied on the Association to keep accurate  
21 records of my payments and any charges or fines posted to my account.  
22

23 49. I have relied on the Association to communicate fairly and promptly with me about any  
24 amounts that they may claim I owe.  
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1 50. When I was dealing with Alessi & Koenig, I relied on them to keep their promises to  
2 investigate my dispute and to help me resolve it with the Association's management company,  
3 Mesa.

4 51. Had I known that Alessi & Koenig was going to foreclose on my home regardless of my  
5 efforts to dispute the amount they claimed I owed, I would have done everything possible to pay the  
6 full amount that they said I owed. I had some savings at the time and I also could have borrowed  
7 money from my brother or from my son. However, Alessi & Koenig repeatedly told me not to  
8 worry and that everything was on hold.  
9

10 52. I am devastated that my house was sold for such a small amount—an amount that I could  
11 have paid myself—and I will be homeless if I am evicted.

12 53. I want to comply with the Court's order that I pay for Association dues after June 2015, as  
13 well as homeowners insurance and property taxes, but I have been unclear on how to do that.  
14

15 54. Since the property was sold in July 2012, I have not received any direct communications  
16 from the Association. Also, they rejected the payment that I made in June 2012.

17 55. My homeowners insurance and property taxes were always paid through escrow before July  
18 2012, so I am unclear on how to start paying those myself also.

19 56. If I can receive clarification from the Court on how to pay these items, and a payment plan so  
20 that I can catch up over time, it is my full intention to comply.  
21

22 57. Attached are true and accurate copies of my correspondences with Alessi & Koenig.  
23  
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# PROOF OF PAYMENT

## ABELARD

Date	Amount Paid	Check Number			A&K
			Check	Bank	
2/26/2008	\$56.00	1052	Register	Statement	Account
4/29/2008	\$56.00	1066	Bank Statement		Account
6/1/2008	\$112.00	1074	Bank Statement		Account
8/20/2008	\$112.00	1077			
11/7/2008	\$133.68	1084	Bank Statement		
11/13/2008	\$56.00	1086	Bank Statement		
11/24/2008	\$66.84	1088	Stub		
12/29/2008	\$56.00	1089	Bank Statement		
1/13/2009					
8/20/2009	\$250.00	1110	Bank Statement		
8/31/2009	\$280.00	1111	Stub		
11/19/2009	\$100.00	1113	Stub		
			Check	Bank	
1/20/2010	\$56.00	1133	Register	Statement	Account
			Check	Bank	
3/30/2010	\$132.00	1137	Register	Statement	Account
			Check		
4/30/2010	\$112.00	1144	Register		Account
6/30/2010	\$112.00	1153			
9/15/2010	\$112.00	1155			
10/1/2010	\$112.00	1157			Account
12/13/2010	\$56.00	1167	Bank Statement		Account
5/28/2011	\$366.00	1189	Check		
9/14/2011	\$142.00	1196	Check		
2/1/2012	\$284.00	1215	Check		Account
4/30/2012	\$223.50	1224	Check		
		1233	Check		
6/20/2012	\$149.00	(refused )	Register		

JUNE 30, 2011

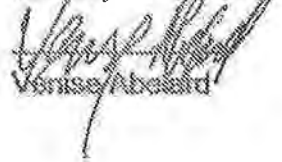
Venise Abelard  
9352 Cranesbill Ct.  
Las Vegas NV. 89149

Ref: HOA Fort Apache Square.

I am writing this letter in reference of my HOA dues. I have not received my monthly statement (stubs book)  
I did not received any information concerning any changes in the HOA. By searching for information, I had to found out from my neighbor, Miss Linda. I did not know where about to send or request any information.  
The only information I had was that the company Benchmark were no longer the Hoa management,  
that was in december of 2010, I have been waiting for futher notice but I had not received any. I do not want to be accountable for faulty that have not done by me. Information that I finded by my neighbor, I understand the HOA due has change from \$56.00 to \$61.00, therefore include is a check in the amount of Three Hundred Sixty Six dollars(\$366.00) for the Months of January through June of 2011. I knew when I purchased the home I agree to HOA even tought there is no services provide to the home owner but I do not refused to pay the dues. It is the error of the management I should not be wonder around to look for information I had enough probleme of my own trying to keep my home for my family in this economy crisis.

I would like to recived the book of stubs for the rest of the months please.

Thank you,

  
Venise Abelard

September 14, 2011

Venise Abelard

9352 Cranesbill Court

Las Vegas NV. 89149

#

Fort Apache Square HOA : Mesa Management

Ref: Request Payment Stubs.

With my last payments I had requested the annual payment stubs to be sent to me of which I had never received. I am still waiting expecting it but apparently no one is paying attention. I had to go to my neighbor to find information. I will really appreciate if I could receive the information, since it is only four months left in the year.

Include is a check for two months, month of July and August of the amount of one hundred and forty two dollars (\$142.00) Included late charge.

Thank you,

A handwritten signature in dark ink, appearing to read 'Venise Abelard', followed by a small handwritten symbol that looks like a stylized 'H' or a checkmark.

Venise Abelard



September 23, 2011

In regards to: Fort Apache Square HOA/9352 Cranesbill CT/HO #27031

CERTIFIED MAIL

Alessi & Koenig, LLC  
9500 West Flamingo Road, suite 205  
Las Vegas, Nevada 89147

Attention: Gina Garcia (Legal Assistant)

Dear Alessi & Koenig, LLC:

SUBJECT: REPLY TO NOTICE OF FALSE DELEQUENTS.

I had received a letter from you (Alessi & Koenig, LLC), stating that I owed a \$2493.58 of HOA dues and also a lien about to place on my property. First of all: I do not owe Hoa due, second: I do not know what are those charges are for. I suggested you go back to your client and find out what those allegations are because I have never received any document from Hoa company Which I believe is Mossa, I wrote them regarding my yearly statement stubs which I had never received from them. I had to do research on my own to found out from my neighbor of changes of the company, then I send them a check for the months of the Hoa due, therefore I do not know what dues are they mentioned. I will like this matter to be result before it goes further, If I have to bring the media in to this I will because those Hoa are home owners torture. Please reply.

SINCERELY,



Venise Abelard

https://www.healthstream.com/HLC/Login.aspx?organizationID=c13a3fb5-ed79-11d4-95aa-00151729eb2f&organizationNodeID=694625c8-7867-d111-a530-0015171c1a75&bbcp=0

93 52 CRANESBILL CT.  
LAS VEGAS, NEVADA 89149

ABELARD 0003  
APP000527

**Fort Apache Square**  
C/O Mesa Management  
9512 W. Flamingo Road suite 102  
Las Vegas, NV 89147  
702-750-0530 / 702-750-0532

Date: November 1, 2011

To: Fort Apache Square HOA Members

From: Fort Apache Square Board of Directors

Re: 2012 Budget

---

The Board has approved the enclosed 2012 budget. The monthly assessment has been increased to \$3.50 to \$64.50 per month. The reason for the increase was the lighting project that is planned for 2012. The Board has adopted a reserve funding plan in order to adequately fund the reserves.

Enclosed you will find a detailed budget listing projected expenditures for 2012. The Board of Directors has adopted the component funding method, and a copy of the reserve study components list has been enclosed for your review. For a full copy of the reserve study please contact Mesa Management.

The budget ratification meeting is scheduled to be held on November 17, 2011 at 7:00 p.m. at the Allante Library. Per NRS 116.31151 "(2) (b) unless a majority of all units' owners reject the proposed budget, the budget is ratified, whether or not a quorum is present."

If you have any questions regarding the budgeted expenses for 2012 please feel free to contact Mandy Endelman at [mandy@mesamanagement.com](mailto:mandy@mesamanagement.com) or by calling the Mesa Management office at (702) 750-0530.

Next Board of Directors Meeting is scheduled for:

Thursday, November 17, 2011

Allante Library

2400 W. Deer Spring Way In North Las Vegas

Board Meeting called to order at 6:30 p.m.

Executive Session is held at 6:00 p.m.

Budget Ratification Meeting 7:00 p.m.

*Members of the Board have not accepted any gifts, incentives, gratuities, rewards or other items of value from any vendors of the association.*

ABELARD 0004  
APP000528

VENISE ABELARD  
9352 CRANESBILL CT.  
LAS VEGAS NV.89149

MAY 30<sup>TH</sup>, 2012

TO: ALEXIS&

REF: FORT APACHE SQUARE (HOA).

A noticed had been posted on my door on may 25<sup>th</sup>, stated my home will be auction on June 06, 2012 due to delinquent of HOA dues.

I have no such knowledge of this occurrences, I have never received any noticed from HOA Management (Fort Apache Square) regarding this matter. I am wondered how I got to owed this sum of three thousands nine hundred and forty two. (\$3,942.ect..) I am not denied that I paid late on some occasion due to my financial hardship, but I have always included late fees. Even on my hardship time with mortgage situation that my property was on the status of foreclosure in 2010, I had continued paid my HOA dues at that time the HOA management was under Benchmark corp. Even taught there was no services provide to the home owners. From 2008-2010 the HOA management been switch to four different HOA management. Mesa is the Second time around. The HOA management had not provided any services to homeowners from 2008-2010, the home owners had to do the best of keeping the property in good standard. I had to do my own landscaping, cutting them bushes, which I have proof of. There were no services provided to me, even then I still paid my dues, because I know when I purchased the property I agreed to the HOA. I have never received any letter from HOA but one when Mesa took over from Benchmark on October of 2010, to forward the due for the month of November 2010. I will like this matter to be solve. I do know my rights. I have all the proof of my payments, which I will be forward to you. First of all they have no right putting a lien on my property with out sending me a notice nor to put it on auction, when I am not aware of the debt I owe after all I do paid the HOA dues, I do not owe them. Thank you for your cooperate.

Sincerely,

Venise Abelard

ABELARD 0005  
APP000529

Subject: Re: Breakdown and Ledger 9352 CRANESBILL CT  
From: venie compare (veeacj05@yahoo.com)  
To: catherine@alessikoenig.com;  
Date: Tuesday, June 5, 2012 1:55 PM

Dear Catherine: I have received the ledger it started with a assesment of \$1,204 as initial balance on 10/31/2010 and ended with 5/1/ 2012. How that possible! I was in your office on Thursday may 31, 2012 and I provide prove of those monthly fee you send me. I do not understand the ledger and even if I was late for those month where all those fee come from and beside what would those interest be. Like I had said I paid my dues even when I paid late I include the late fee which I had provide you the proof. I know this is a mistake you guys made. I suggest you and HOA management get the facts together to solve this matter It is a mistake on you guys part. I have never received any document concerning any of noticed regarding payments cause I always send my payment include the late fees. I want my name and my home to be clear of this allegation or I will take it to the media and present them with my proof I do not want this to reach to this farther, this is injustice. This needs to be resolve. If you have any question or need any document please feel free to contact me you have my address.  
Thank you, V. Abelard

From: Catherine Kettles <catherine@alessikoenig.com>  
To: "veeacj05@yahoo.com" <veeacj05@yahoo.com>  
Sent: Monday, June 4, 2012 2:19 PM  
Subject: Breakdown and Ledger 9352 CRANESBILL CT

*Vanise & Marcus,*

*Attached is the breakdown and ledger for your property listed above. If you have any questions please feel free to contact me.*

Thank you,  
**Catherine Diaz-Kettles**  
Administrative Assistant  
Alessi & Koenig LLC

**Office Hours:**  
Monday - Thursday 8:30am to 5:00pm  
Friday 8:30am to 2:00pm

**Nevada**  
9500 W. Flamingo Rd. Ste 205  
Las Vegas, Nevada 89147  
Ph: 702-222-4033  
Fax: 702-222-4043

**California**  
28914 Roadside Dr. Ste F4  
Agoura Hills, CA 91301  
Ph: 818-735-9600  
Fax: 818-735-0095

*"Alessi & Koenig LLC, is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose."*

Have a nice day!

VENISE ABELARD  
9357 CRANESBILL CT.  
LAS VEGAS NV 89148  
(917) 912-4292 (CELL)  
(702) 532-9169 (HOME)

August 21<sup>st</sup>, 2012

ON August 21<sup>st</sup>, 2012, I Went to Alessi & Khoeng law firm  
I Spoke to Katherine and Heidi Hegan. I Requested  
that they Provide me with the Record of lien,  
Default notice, trustee sale and Summary of the  
amount stated where, who and how I owed  
the amount of (\$3,932.58) on the notice of sale  
because according to this amount they claim  
they sold my home according to the ledger they  
provided me after the fact do not correspond  
to the amount that was the question from the  
beginning cause all my payments to HGT was  
current. But no one had never take the time  
when I responded to the notice to sit down  
or neither provided me with the ledger or  
explanation. and still now I want to the  
office today they still cannot provide  
me this documents. Their respond is to  
have my lawyer contact them.

At this point here I do not know what to do.  
this situation here cause me a lot of Anxieties  
and my health is deteriorated. I also dealing with the firm that  
I claim they bought the house posted eviction notice on my  
door. even though I went to court, the judge denied motion of eviction  
but they still posting the notice. Please help.

Venise Abelard

APP000531

VENISE ABELARD

9352 CRANESBILL CT.

LSA VEGAS, NV.89149

(917) 913-4292

Email:veeacj05@yahoo.com

August 15, 2012

On May 25<sup>th</sup>, 2012 I received a notice posted on my door (trustee's sale). I immediately responded, prior to this notice I had not receive any notice concerning any charges.

As I contacted the office (Alessi&Koeing) I spoke to one of the assistant(Katherine).She suggested that I write a letter and documents that payments was made to the account(cancel checks). I set an appointment with her I personally took the letter and the docs on May 31<sup>st</sup>, as she requested. I remitted to Katherine, she replied she will forward the docs to the legal assistant name Gina whom suppose to be handling the case and meanwhile they will put the account on hold to review it and they will contact me. No one have not contacted me, I called on several occasions when I finally got an answer of whom I spoke Katherine, she said that she forwarded the docs to management office and she waiting from them it will take at least thirty days, she will contact me. No one ever contacted me. On June 4<sup>th</sup> I received a ledger via email from Katherine of which I requested there was never one provided to me explain those charges. I answered via email questioned the charges and I also called, Katherine answer was that she forwarded the docs waiting for replied from management .

On July 12<sup>th</sup>, 2012 in the morning@10:00am, I received a notice posted on my door to vacate the property, my house has been sold in auction to Cranesbill ct. trustee without any explanation to me. I contacted the office of Alessi and Koeing , spoke to Katherine again apparently she has no knowledge of such, she told me they were still waiting for answer from management office. I replied to her: If you waiting for answer from management how come there is a notice on my door stated that my house was sold on auction, she said it was impossible then she said let her go check with management, when I called her back she said I just find out the property this morning and she said I will call you back, no one had ever call me back, I called there was no answer, until 4:35pm someone name Mary Endolicia called me and

asked me to fax the same documents which I previously gave to Katherine On May 31<sup>st</sup>, so she could stop what ever the transaction at that point I do not know what she could done but I faxed the docs as she requested. After then I called several occasions no one ever answer in the mean time another notice was posted on my by the Cranesbill court trustee to vacated the property. My brother Lay Abelard also called and went to the office on July 26, could never get a hold of Mary, Finally on August 5<sup>th</sup> we went to the office to see if we could get someone attention since they ignored all our telephone calis, we saw her, this is when she decided to went through the ledger and stated that Gina who was handling the case is no longer with the company , because she was not doing what she was supposed to be doing, apparently Gina had never turned in the docs to the management offices that I had provided. Therefore here I am the one victimized by their clerical error and negligent.

I have responded well in advance, I provided all docs asked by them and no one had took the time to follow on the case like they should, they have ignore me. As far as I am concern I did my part.

I believe I am a victim of fraudulent , therefore I am graciously asking for your help this has cause me a great deal of anxieties and emotionally disturb cause I have no where to go. I worked hard paying my mortgages and my dues. Please help.

Thank You,



Vanise Abelard



VENISE ABELARD  
9352 CRANESSBILL CT.  
LAS VEGAS NV 89149  
CELL: (917) 913 -4292  
HOME: (702) 538-9169  
EMAIL: [venaci05@yahoo.com](mailto:venaci05@yahoo.com)

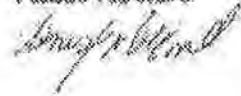
August 29, 2012

Since the year of 2008, the Fort Apache Square have been under Three different management. My HOA dues started February of 2008. Mesa management took over the end of 2010, November which is at present, since they took over in 2010 I received one letter from the management to forward payment of the month November to them since they are the new management, of which I did but I have never received a book of stub payment like the previous management always send each year of which I have requested, but I have continuing making my payment. I have never received any notice from them of any sort.

Alessi & Khoeing had previously mentioned to me they received my account from Mesa management on June 2011, of which I have never received any notice from Mesa of which I owed a debt and all this was present to me after they claim to putting my home to foreclosure. There was never a ledger present to me until after I requested of which they can not even present me a correct ledger because the ledger they present they cannot even verified they amount because the month they stated in the ledger I am current on the payment and all these payment have cashed by them. At this point now I do not know what to do, I have been harassment of eviction by the trust firm that claim they bought the house in auction. I have been to court with the lawyer the judge had denied the motion of the eviction suggested me to get a lawyer, but they still posted the same notice on my door.

Therefore I am graciously asking for your help, this situation here has cause me a great deal of emotions and anxiety embarrassment and really make a big impact on me even affecting my work duties and fear of leaving in my own home. Please take my case in consideration. Thank you.

Venise Abelard





TRANSMISSION VERIFICATION REPORT

TIME : 07/12/2012 17:35  
 NAME :  
 FAX :  
 TEL :  
 SER.# : 000F0N480099

DATE, TIME  
 FAX NO. /NAME  
 DURATION  
 PAGE(S)  
 RESULT  
 MODE

07/12 17:33  
 2224043  
 00:01:49  
 07  
 OK  
 STANDARD  
 ECM

VENISE Abelard

935 & Cranes blert

LAS Vegas NV 89149

FAX TO: 702 222-4043

ATT: MARY INDALECIO

This The Document I  
 Provided to Katherine on  
 May 31st, 2012 @ the  
 OFFICE -

ABELARD 0011

APP000535

VENISE Abelard

9352 Cranesbill Ct

LAS Vegas NV 89149

FAX TO: 702 222-4043

ATT: MARY INDALICIO

This The Document I  
Provided to Katherine on  
May 31st, 2012 @ the  
Office -

Also - I include The Correspondent,  
The ledger she email me on  
June 11th 2012 -

and Gina contact me on the 5th of  
June 12th. stating waiting for manager  
Katherine, said she Forward the document  
to management and waited for respond  
in the mean time, the will put hold on the  
account. Since then I had never heard from  
any one. I apologize for the Scoble Scoble on the copy  
on the check.

ABELARD 0012

APP000536

Bank of America

Online Banking

## eBanking - 3271 Transaction Details

My description: Check 1196

Check number: 00000001196

Posting date: 10/07/2011

Amount: -142.00

Type: Check

Description: Check

VERISE ABELARD  
1200 COLUMBIA ST. (917) 818-4200  
LAS VEGAS, NV 89101

1196  
SEP 27 2011  
14/11  
99-721234 07  
1000

ONE HUNDRED FORTY-TWO AND 00/100  
\$ 142.00

Bank of America  
1200 COLUMBIA ST. (917) 818-4200  
LAS VEGAS, NV 89101

Account Number  
[REDACTED]

July 2 August 2011  
# 1196

ABELARD 0013

<https://safe.bankofamerica.com/myaccounts/details/deposit/last-page.go?adx=7614caef8d6e...> 8/8/2012

APP000537

Subject: Re: Breakdown and Ledger 9352 CRANESBILL CT  
From: venie compere (veeacj05@yahoo.com)  
To: catherine@alessikoenig.com;  
Date: Tuesday, June 5, 2012 1:55 PM

Dear Catherine: I have received the ledger it started with a assesment of \$1,204 as initial balance on 10/31/2010and ended with 5/1/ 2012. How that possible! I was in your office on Thursday may 31, 2012 and I provide prove of those monthly fee you send me. I do not understand the ledger and even if I was late for those month where all those fee come from and beside what would those interest be. Like I had said I paid my dues even when I paid late I include the late fee which I had provide you the proof. I know this is a mistake you guys made. I suggest you and HOA management get the facts together to solve this matter It is a mistake onyou guys part. I have never received any document concerning any of noticed regarding payments cause I always send my payment include the late fees. I want my name and my home to be clear of this allegation or I will take it to the media and present them with my proof I do not want this to reach to this farther, this is injustice. This needs to be resolve. If you have any question or need any document please feel free to contact me you have my address.  
Thank you, V.Abelard

From: Catherine Kettles <catherine@alessikoenig.com>  
To: "veeacj05@yahoo.com" <veeacj05@yahoo.com>  
Sent: Monday, June 4, 2012 2:19 PM  
Subject: Breakdown and Ledger 9352 CRANESBILL CT

**Venise & Marcus,**

***Attached is the breakdown and ledger for your property listed above. If you have any questions please feel free to contact me.***

Thank you,  
**Catherine Diaz-Kettles**  
Administrative Assistant  
Alessi & Koenig LLC

**Office Hours:**  
Monday - Thursday 9:30am to 5:00pm  
Friday 9:30am to 2:00pm

**Nevada**  
9500 W. Flamingo Rd. Ste. 205  
Las Vegas, Nevada 89147  
Ph: 702-222-4033  
Fax: 702-222-4043

**California**  
28914 Roadside Dr Ste F4  
Agoura Hills, CA 91301  
Ph: 818-735-0800  
Fax: 818-735-0098

***"Alessi & Koenig LLC, is a debt collector and is attempting to collect a debt. Any information obtained will be used for that purpose."***

Have a nice day!

VENISE ABELARD  
9352 CRANESBILL CT.  
LAS VEGAS NV.89149

MAY 30<sup>TH</sup>, 2012

TO: ALEXIS&

REF: FORT APACHE SQUARE (HOA).

A noticed had been posted on my door on may 25<sup>th</sup>, stated my home will be auction on June 06, 2012 due to delinquent of HOA dues.

I have no such knowledge of this occurrences, I have never received any noticed from HOA Management (Fort Apache Square) regarding this matter. I am wondered how I got to owed this sum of three thousands nine hundred and forty two. (\$3,942.ect..) I am not denied that I paid late on some occasion due to my financial hardship, but I have always Included late fees. Even on my hardship time with mortgage situation that my property was on the status of foreclosure in 2010, I had continued paid my HOA dues at that time the HOA management was under Benchmark corp. Even taught there was no services provide to the home owners. From 2008-2010 the HOA management been switch to four different HOA management, Mesa is the Second time around. The HOA management had not provided any services to homeowners from 2008-2010, the home owners had to do the best of keeping the property in good standard. I had to do my own landscaping, cutting them bushes, which I have proof of. There were no services provided to me, even then I still paid my dues, because I know when I purchased the property I agreed to the HOA. I have never received any letter from HOA but one when Mesa took over from Benchmark on October of 2010, to forward the due for the month of November 2010. I will like this matter to be solve. I do know my rights. I have all the proof of my payments, which I will be forward to you. First of all they have no right putting a lien on my property with out sending me a notice nor to put it on auction, when I am not aware of the debt I owe after all I do paid the HOA dues, I do not owe them. Thank you for your cooperate.

Sincerely,

Venise Abelard

ABELARD 0015

APP000539

Bank of America

Online Banking

## eBanking - 3271 Transaction Details

Check number: 00000001215

Posting date: 02/13/2012

Amount: -284.00

Type: Check

Description: Check

VENISE ABELARD  
6032 CHAMBERLAIN CT  
LAS VEGAS, NV 89148

1215  
02-13-2012  
02-13-2012

For: Capcha square Hotel \$ 284.00

Two hundred eighty four and 00/100

Bank of America

Account 00000001215

VENISE ABELARD

Sept. Dec. 2011  
#1215

ABELARD 0016

Bank of America

Online Banking

eBanking - 3271 Transaction Details

Check number: 00000001189

Posting date: 10/07/2011

Amount: -366.00

Type: Check

Description: Check

1189

VERONIC ABELARD  
8888 CYPRESS ST. 1017 018-4000  
LAS VEGAS, NV 89149

RECEIVED

East of poche Square Wd N. m. A 366.00

Three Hundred Sixty Six

Bank of America

ACH DEPOSIT

10/07/2011

Veronic Abelard

10

Send With request  
for stop payment  
January - June 2011

ABELARD 0017

<https://safe.bankofamerica.com/myaccounts/details/deposit/previous-page.go?adx=7614ca...> 7/12/2012

APP000541

## Online Banking

This is payment

FOV

2 Newtest

me

2012

Jan Feb  
March

# 1220

VENICE BRELAND  
2000 FRANKLIN ST  
LAS VEGAS, NV 89102

RECEIVED  
MAY 14 2012

30-2012

15 2012

Two Hundred and Twenty Five Dollars

Bank of America

17491

17491

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 07-14-98 BY 60321

ABELARD 0018



this the stub for the month of Apr  
 I have not received our candidate and

1233

STORE YOUR DUPLICATE CHECKS IN YOUR CHECK BOX

☐ I AM DEDUCTIBLE ITEM

☐ Thank your spouse...  
☐ Clothing ☐ Food ☐ Transportation  
☐ Credit Card ☐ Utilities ☐ Marriage  
☐ Entertainment ☐ Insurance ☐ Other

ONE HUNDRED FORTY NINE AND NO/100  
 APRIL 20-2012  
 149.99/100

1234

NOT NEGOTIABLE

For added security, your name and account number do not appear on this copy.

ABELARD 0019

# FedEx Office

Right Office is your partner  
for shipping and logistics

1700 W. 10th St.  
100 Wagon, 100 Wagon  
1700 W. 10th St.

1700 W. 10th St.  
100 Wagon, 100 Wagon  
1700 W. 10th St.

Regular Price  
Discount

Total

Sub-Total  
Tax  
Total

Total Order  
Charge Fee

Total Discounts

2.40



No other items of other  
FedEx services, packing, etc.  
at this address. Last  
last and order

Thank you

Page 11

ABELARD 0020

# **EXHIBIT 3**

<p>Page 1</p> <p>DISTRICT COURT CLARK COUNTY, NEVADA</p> <p>VENISE ABELARD,</p> <p>Plaintiff,</p> <p>vs.,</p> <p>9352 CRANESBILL TRUST; FORT APACHE SQUARE HOMEOWNERS ASSOCIATION; MESA MANAGEMENT, LAS VEGAS ASSOCIATION MANAGEMENT, LLC; BENCHMARK ASSOCIATION SERVICES; IYAD HADDAD, an individual; ALESSI &amp; KOENIG, LLC; NEVADA ASSOCIATION SERVICES and DOES I through X and ROE COMPANIES I through X, inclusive,</p> <p>Defendants.</p> <p>AND ALL RELATED MATTERS.</p> <p>DEPOSITION OF DAVID ALESSI Taken at Snell &amp; Wilmer at 3883 Howard Hughes Parkway Eleventh Floor Las Vegas, Nevada 89169</p> <p>On Friday, June 3, 2016 at 9:11 a.m.</p> <p>Reported by: Jualitta Stewart, CCR No. 807, RPR</p>	<p>Page 3</p> <p>I N D E X</p> <p>WITNESS</p> <p>DAVID ALESSI</p> <p>Examination by Mr. Willis</p> <p>--o0o--</p> <p>E X H I B I T S</p> <p>DEFENDANT'S</p> <p>MARKED</p> <p>1 - Retainer Agreement 15</p> <p>2 - Authorization to Conclude Non-Judicial Foreclosure and Conduct Trustee Sale 38</p> <p>3 - Notice of Delinquent Assessment Lien 44</p> <p>4 - June 28, 2011 Lien Letter 50</p> <p>5 - First American Title Insurance Company Record Property Information Report 52</p> <p>6 - Notice of Default and Election to Sell Under Homeowners Association Lien 54</p> <p>7 - Account History Report 63</p> <p>8 - Copy of Check No. 1189 65</p> <p>9 - Notice of Trustee's Sale 68</p> <p>10- Copies of Checks 81</p> <p>11 - Letters and Copies of Checks 83</p> <p>12 - Trustee's Deed Upon Sale 86</p> <p>--o0o--</p>
<p>Page 2</p> <p>APPEARANCES:</p> <p>For the Plaintiff, Venise Abelard: DEBRA BOOKOUT, ESQ. JOICE BASS, ESQ. Legal Aid Center 725 East Charleston Boulevard Las Vegas, Nevada 89104 (702) 386-1070</p> <p>For the Defendant, Wells Fargo Bank, N.A.: JEFFREY WILLIS, ESQ. Snell &amp; Wilmer 3883 Howard Hughes Parkway Suite 1100 Las Vegas, Nevada 89169 (702) 784-5200</p> <p>For the Defendant, Fort Apache Square: DAVID A. MARKMAN, ESQ. Pengilly Law Firm 1995 Village Center Circle Suite 190 Las Vegas, Nevada 89134 (702) 889-6665</p> <p>--o0o--</p>	<p>Page 4</p> <p>LAS VEGAS, NEVADA; Friday, June 3, 2016; 9:11 A.M.</p> <p>DAVID ALESSI, having been first duly sworn, testified as follows:</p> <p>EXAMINATION</p> <p>BY MR. WILLIS:</p> <p>Q. Would you please state your full name.</p> <p>A. David Alessi, A-l-e-s-s-i.</p> <p>Q. How old are you, Mr. Alessi?</p> <p>A. Never been asked that one before.</p> <p>Forty-nine, just turned two days ago.</p> <p>Q. Congratulations.</p> <p>Have you been deposed before?</p> <p>A. Yes.</p> <p>Q. In fact, you've been deposed by me at least once before.</p> <p>A. Yes.</p> <p>Q. Do you feel comfortable with -- do you feel as though you're familiar with the rules and procedures related to depositions in Clark County, Nevada?</p> <p>A. Yes.</p> <p>Q. Is there any reason why your testimony</p>

Page 81

1 would also, our online status report, which is  
2 available to the public, would be updated to reflect  
3 the postponement and the postponement date.  
4 Q. Is it fair to assume because he signed a  
5 notice of trustee sale that Mr. Kerbow would have  
6 done the -- would have conducted the sale?  
7 A. Either him or one of the attorneys at the  
8 office.  
9 (Whereupon, Exhibit No. 10 was  
10 marked for identification.)  
11 BY MR. WILLIS:  
12 Q. Do you have Exhibit 10 before you?  
13 A. Yes.  
14 Q. We received these from Alessi & Koenig.  
15 Can you tell me what they are and how you  
16 got them?  
17 A. These are copies of checks from the --  
18 Q. Exhibit 10? Okay.  
19 A. I was going from the back to the front.  
20 Sorry.  
21 Q. That's all right.  
22 A. This appears to be -- it looks to be  
23 correspondence from a Ms. Abelard to our office.  
24 Q. Who is Mary Indalecio?  
25 A. A former employee.

Page 82

1 Q. Does Alessi & Koenig have a routine  
2 practice when it receives correspondence of this  
3 nature from a homeowner in connection with a pending  
4 sale?  
5 A. Yes. We would scan the correspondence  
6 into the program, and we would attempt to resolve  
7 the issue, get the homeowner on a payment plan to  
8 bring their account to a zero balance. The trustee  
9 sale is always a last resort.  
10 Q. Do you know if anybody at Alessi & Koenig  
11 investigated Ms. Abelard's apparent contention that  
12 she wasn't in default or at least not in default as  
13 much as was indicated?  
14 A. I don't see that contention.  
15 Q. Well, do you know whether anybody at  
16 Alessi & Koenig investigated the information that  
17 was provided by Ms. Abelard through these  
18 handwritten notes and copies of checks?  
19 A. I believe that -- based on my  
20 conversation with Jona at the break, the  
21 homeowner -- that we did ask the homeowner to  
22 provide proof of additional payments that would  
23 reflect a -- the difference between the payments we  
24 received and the payments on the ledger. I don't  
25 think we ever received those payments.

Page 83

1 Beyond that, I'm not aware of any  
2 confirmation by our office.  
3 Q. And who at the office in that time frame  
4 would be the person responsible for looking into the  
5 matter?  
6 A. That would be the legal assistant  
7 handling the day-to-day portfolio, that would be  
8 Gina.  
9 Q. Do you know whether the termination of  
10 Ms. Garcia's appointment was related in any way to  
11 her performance as it related to the Abelard file?  
12 A. No.  
13 Q. You don't know or it wasn't?  
14 A. I don't believe it was.  
15 Q. But you're not exactly sure why she was  
16 terminated?  
17 A. I don't know if she was terminated or  
18 quit, but it doesn't have anything to do with this  
19 file, to my recollection.  
20 MR. WILLIS: Exhibit 11, please.  
21 (Whereupon, Exhibit No. 11 was  
22 marked for identification.)  
23 BY MR. WILLIS:  
24 Q. You were about to say something?  
25 A. I'm just wondering out loud whether or

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1 not Ms. Abelard failed to account for the -- just  
2 because I've seen so many of these files -- failed  
3 to account for the prior foreclosure by NAS and that  
4 the payment that she made may have felt that --  
5 because I've seen this before with homeowners this  
6 balance forward of 739.58 -- and I'm speculating  
7 here, but just trying to help resolve this issue,  
8 may have been fees and costs that were accrued by  
9 NAS that she failed to account for.  
10 If she was in foreclosure twice in a row,  
11 she would have had a lot of nonjudicial fees  
12 assessed to her account, and perhaps she isn't  
13 accounting for both foreclosures in her payments. I  
14 don't know that to be true, I'm just throwing that  
15 out there.  
16 Q. We have placed Exhibit 11 in front of  
17 you. Again, these were documents that we received  
18 from your files. I am assuming that what we've seen  
19 here in Exhibit 11 and Exhibit 10 were items that  
20 were scanned into the program and then you did blow  
21 backs as part of the production in this lawsuit?  
22 A. Right.  
23 Q. How would you have gotten the documents  
24 that comprise Exhibit 11 other than the last page,  
25 which is a letter from Ms. Garcia to Ms. Abelard?

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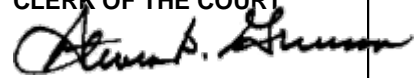
1 postponed, we would let them know that. If a  
2 homeowner called and asked if a sale was postponed  
3 and the date, we would communicate that to them as  
4 well. But we had no special policies bird dogging  
5 properties for any investors.  
6 Q. Do you ever have any presale commitments  
7 by a particular investor in the sense that you  
8 publish your list of properties that are going to be  
9 auctioned about a week or two or a month down the  
10 road? Do you ever have investors call you and say  
11 we guarantee that we'll pay at least the opening bid  
12 or we'll pay over the opening bid for a particular  
13 piece of property?  
14 A. Not to my knowledge. I mean, it's all  
15 transparent. The sale is published, the investors  
16 know where the sales are published. They all do a  
17 lot of research into the properties, and if an  
18 investor called and said we'll guarantee that we'll  
19 make the opening bid, it doesn't really matter,  
20 there are other investors there bidding. We had no  
21 agreements like that, arrangements like that.  
22 MR. WILLIS: I don't think I have any  
23 further questions at this time, Mr. Alessi, subject  
24 to what we talked about earlier reconvening.  
25 THE WITNESS: Okay. Perfect.

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1 MR. WILLIS: It's now 12:20. Do we want  
2 to conclude this for the day and pick it up again on  
3 a date to be agreed upon?  
4 MS. BOOKOUT: Yes.  
5 MR. WILLIS: Thanks very much for your  
6 time.  
7 (Thereupon, the taking of the deposition  
8 concluded at 12:19 p.m.)  
9  
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1 REPORTER'S DECLARATION  
2 STATE OF NEVADA )  
3 ) ss  
4 COUNTY OF CLARK )  
5 I, Jualitta Stewart, a duly commissioned  
6 Notary Public, Clark County, State of Nevada, do  
7 hereby certify:  
8 I reported the taking of the deposition  
9 of the witness, DAVID ALESSI, commencing on Friday,  
10 June 3, 2016, at the hour of 9:11 a.m.  
11 That prior to being examined, the witness  
12 was by me duly sworn to testify to the truth, the  
13 whole truth, and nothing but the truth.  
14 That I thereafter transcribed my said  
15 shorthand notes into typewriting and that the  
16 transcript is a complete, true, and accurate  
17 transcription of said shorthand notes.  
18 I certify that I am not a relative or  
19 employee of any party involved in said action, nor a  
20 person financially interested in the action.  
21 IN WITNESS WHEREOF, I have hereunto set  
22 my hand and affixed my official seal in my office in  
23 the County of Clark, State of Nevada, this 15th day  
24 of June, 2016. *Jualitta Stewart*  
25 JUALITTA STEWART, RPR, CCR No. 807



**RPLY**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

VENISE ABELARD,

Plaintiff,

vs.

9352 CRANESBILL TRUST; FORT APACHE  
SQUARE HOMEOWNERS ASSOCIATION;  
MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC;  
BENCHMARK ASSOCIATION SERVICES;  
IYAD HADDAD, an individual; ALESSI &  
KOENIG, LLC; NEVADA ASSOCIATION  
SERVICES and DOES I through X and ROE  
COMPANIES I through X, inclusive,

Defendants.

And all related Parties and Actions.

Case No. A-12-671509-C

Dept. VII

**WELLS FARGO BANK, N.A.'S REPLY  
IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT**

Wells Fargo Bank, N.A. ("Wells Fargo"), by and through its attorneys, Snell & Wilmer L.L.P., submits this Reply in support of its Motion for Summary Judgment and in response to the Opposition filed by Defendants 9352 Cranesbill Trust, Teal Petal St. Trust, and Iyad Haddad (collectively, "Defendants").

///

APP000549

Snell & Wilmer

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Las Vegas, Nevada 89169  
702.784.5200

1 This Reply is based on the Memorandum of Points and Authorities below, the papers and  
2 pleadings on file with the Court, and any oral argument that this Court may entertain.

3 Dated this 27th day of February, 2018. SNELL & WILMER L.L.P.

4  
5 By: /s/Daniel S. Ivie  
6 Jeffrey Willis, Esq.  
7 Erica J. Stutsman, Esq.  
8 Daniel S. Ivie, Esq.  
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Attorneys for Intervenor Wells Fargo Bank,  
N.A.

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I. INTRODUCTION**

11 Wells Fargo is entitled to summary judgment in this matter and Defendants' Opposition  
12 has not changed that. Defendants' Opposition is flawed for several reasons.

13 First, Defendants' argument that only a lender can satisfy a superpriority lien is  
14 unsupported by any authority and contradicts this Court's and Nevada Supreme Court case law.  
15 Plaintiff satisfied the superpriority component of the lien and Wells Fargo's Deed of Trust  
16 survived the sale.

17 Second, there is no support for Defendants' argument that Plaintiff was required to satisfy  
18 the entire HOA lien before the superpriority component could be satisfied. Nevada case law  
19 demonstrates that a homeowner can satisfy the superpriority lien while still paying less than the  
20 full lien amount demanded by the HOA.

21 Third, Defendants' argument that Wells Fargo should have recorded a notice that the  
22 superpriority lien had been satisfied is, once again, unsupported by any legal authority. This  
23 argument has likewise been rejected by the Nevada Supreme Court.

24 Fourth, the HOA foreclosure sale was commercially unreasonable under applicable  
25 Nevada case law. Defendants' argument that the UCC Article 9 commercial unreasonableness  
26 standard should not apply is a red herring. The HOA sale should be set aside because it satisfies  
27 the Nevada Supreme Court's test under *Golden v. Tomiyasu* and its progeny, not UCC Article 9.  
28



1 Fifth, Defendants are not bona fide purchasers for value. Defendants had knowledge of  
2 Wells Fargo's adverse interest in the Property and failed to provide valuable consideration.  
3 Additionally, even if Defendants were bona fide purchasers, such status cannot revive a  
4 previously satisfied superpriority component of an HOA's lien.

5 Finally, Defendants' Opposition fails because the balance of equities under *Shadow Wood*  
6 favors setting aside the HOA foreclosure sale.

## 7 **II. ARGUMENT**

### 8 **A. The Super-Priority Lien Was Satisfied Regardless Of Who Made The** 9 **Payment.**

10 Defendants make the curious argument that the super-priority lien can *only* be paid off by  
11 the beneficiary of a deed of trust on a property. This argument is not supported by any legal  
12 authority. To the contrary, there is no requirement that any specific party satisfy a super-priority  
13 lien. Plaintiff's payment of an amount equal to the nine months of assessments prior to the sale  
14 satisfied the super-priority lien and transformed the sale into a sub-priority one.

15 NRS 116.3116 *et seq.* governs liens against property for nonpayment of assessments.  
16 Nothing in that section mandates that only a lender or beneficiary of a first deed of trust may  
17 satisfy a super-priority lien. Likewise, nothing in that section prevents a homeowner from  
18 satisfying a super-priority lien. Indeed, the entire statutory scheme is silent as to the source of  
19 payment for any portion of an HOA's lien, whether it be super- or sub-priority. *See* NRS  
20 116.3116 *et seq.* Not surprisingly, Defendants do not cite a single statutory provision or decision  
21 supporting this argument.

22 In arguing that only Wells Fargo could have satisfied the super-priority lien, Defendants  
23 ask the Court to ignore its reasoning in the *Marchai* Order, and instead come to the completely  
24 opposite result despite the striking similarity between *Marchai* and this case. As the Court is well  
25 aware, the Court rejected Defendants' argument in *Marchai* and noted that NRS 116.3116(2)  
26 "does not limit who can satisfy the superpriority portion of the lien." Ex. 20 to WF MSJ, Decision  
27 and Order, 13:3-4. As long as the amount equal to or in excess of the superpriority portion is  
28 tendered to the HOA before the sale, the superpriority portion of the lien is satisfied. Ex. 20 to  
WF MSJ, Decision and Order, 13:16-23.

1 The Court's decision in *Marchai* also conforms to the Nevada Supreme Court's recent  
2 order of affirmance in *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*,  
3 No. 71246, 2017 WL 6597154 (Dec. 22, 2017)<sup>1</sup>. In *Golden Hill*, the Supreme Court affirmed the  
4 district court's order in favor of the lender where the homeowner, not the lender, satisfied the  
5 super-priority amount. *Id.* Just like in this case, the Supreme Court noted that the appellant in  
6 *Golden Hill* failed to cite any authority imposing a requirement that only the lender can satisfy the  
7 super-priority lien. *Id.* Here, Abelard's payment of more than twice the nine months of  
8 assessments satisfied the superpriority component of the HOA's Lien, and the HOA foreclosed  
9 only on the sub-priority portion of its lien.

10 Finally, Defendants' argument does not make practical sense in light of the purpose of  
11 NRS 116.3116 *et seq.*, which is "to encourage the collection of needed HOA funds and avoid  
12 adverse impacts on other residents." *Property Plus Investments, LLC v. Mortgage Electronic*  
13 *Registration Systems, Inc.*, 133 Nev. Adv. Op. 62, \_\_\_, 401 P.3d 728, 730 (2017). The aim of the  
14 HOA foreclosure statute is furthered by the receipt of the assessment payments, regardless of the  
15 source of the payments.

16 **B. Paying The Entire HOA Account Is Not Required To Satisfy The Super-**  
17 **Priority Component.**

18 Defendants argue that Plaintiff's \$1,164.50 in payments prior to the HOA foreclosure sale  
19 are not sufficient to satisfy the super-priority lien (despite the fact that nine months of  
20 assessments totals only \$539.00). Defs.' Opp'n, 5:3-16. Instead, Defendants contend that the  
21 superpriority portion could *only* have been satisfied if Plaintiff brought the entire account current,  
22 including all late fees, legal costs, and other non-assessment charges. Defs.' Opp'n, 5:7-16.  
23 Defendants offer no authority in support of this argument, because there is none.

24 Again, the Nevada Supreme Court's recent order in *Golden Hill* is instructive here. In that  
25 case, the Court recognized that the homeowner paid the "superpriority component of the HOA's  
26 lien before the sale." *Golden Hill*, No. 71246, 2017 WL 6597154, p. 2. As a result, the Court

27 \_\_\_\_\_  
28 <sup>1</sup> Defendants' Opposition asks this Court to not consider *Golden Hill* because of a pending motion for rehearing and  
motion for leave to file an amicus brief. However, an Order Denying Rehearing was just issued by the Nevada  
Supreme Court, denying both motions. See *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank,*  
*N.A.*, Order Denying Rehearing, No. 71246 (Feb. 26, 2018), attached hereto as **Exhibit 22**.

1 found that “at the time of the foreclosure sale, there was no superpriority component of the  
2 HOA’s lien that could have extinguished respondent’s deed of trust.” *Id.* The same is true here.  
3 Plaintiff paid more than the nine months of assessments that comprised the super-priority lien,  
4 and thus the lien was satisfied. While it is undisputed that the HOA claimed additional fines, fees  
5 and costs, Plaintiff was not required to bring her entire account current in order to satisfy the  
6 super-priority lien.

7 **C. A Recorded Notice That The Super-Priority Lien Had Been Satisfied Is Not**  
8 **Required.**

9 Plaintiff’s payments prior to the HOA sale exceeded nine months’ worth of assessments,  
10 and thus the superpriority portion of the lien was satisfied. There is no requirement under statute  
11 or case law that a notice of such payment be recorded in order for it to be effective.

12 Defendants argue that “the Bank does not offer any evidence that it recorded any notice of  
13 its claim that the former owner had paid the superpriority portion of the HOA’s assessment lien.”  
14 Defs.’ Opp’n, 6:11-13. Defendants do not offer any authority in support for this novel argument,  
15 whether from statute or case law. Indeed, a recent Nevada Supreme Court decision directly  
16 contradicts this argument. In *Golden Hill*, the Nevada Supreme Court rejected this argument,  
17 stating “We also disagree with appellant’s argument that respondent needed to record a document  
18 showing that the former homeowner satisfied the superpriority component of the HOA’s lien  
19 before the sale.” *Golden Hill*, No. 71246, 2017 WL 6597154, p. 2. Just as is the case here, the  
20 Nevada Supreme Court in *Golden Hill* found that the appellant offered “no authority in support of  
21 imposing such a requirement.” *Id.*

22 This Court should follow the Nevada Supreme Court’s decision in *Golden Hill* and reject  
23 Defendants’ assertion that a recorded notice is necessary before a payment is effective to satisfy  
24 the superpriority component of an HOA lien.

25 **D. The HOA Foreclosure Sale Was Commercially Unreasonable Under The**  
26 **Nevada Supreme Court’s Applicable Case Law.**

27 Defendants attempt to confuse the Court by claiming that there is no commercial  
28 reasonableness standard applicable to HOA sales. Defs.’ Opp’n, 9:18-10:24. Specifically,  
Defendants argue that the narrow commercial reasonableness standard found in UCC Article 9

1 does not apply to HOA sales. Defs.'s Opp'n, 9:19-24. However, Wells Fargo does not argue that  
2 the UCC standard should apply here. Wells Fargo only argues that the Nevada Supreme Court's  
3 standard set forth in *Golden v. Tomiyasu* and its progeny regarding the setting aside of foreclosure  
4 sales applies in this case. By applying the principles laid out in *Golden* and related case law, it is  
5 apparent that the HOA foreclosure sale in this case should be set aside.

6 *1. Fair Market Value Is Unquestionably the Standard in Nevada for*  
7 *Evaluating Commercial Reasonableness.*

8 Defendants' assertion that "fair market value has no applicability" to the evaluation of an  
9 HOA foreclosure sale contradicts long-established Nevada law. Defs.' Opp'n, 10:25-12:5.  
10 Defendants' reliance on *BFP v. Resolution Trust Corporation* is misplaced and should be  
11 disregarded. *Id.*

12 Nevada law, including *Shadow Wood v. N.Y. Bancorp*, has consistently established that  
13 the benchmark to perform a commercial reasonableness analysis is fair market value, not  
14 Defendants' forced sale value. No authority binding on this Court holds that disposition value or  
15 fair forced value has any role in determining commercial reasonableness.

16 Contrary to Defendants' unsubstantiated assertion, fair market value is unquestionably the  
17 legal standard in Nevada for determining whether a foreclosure sale price is commercially  
18 reasonable. Indeed, using the fair market value of a foreclosed property as the standard to  
19 measure commercial reasonableness has been in effect in Nevada since at least 1963. *Golden*, 79  
20 Nev. at 505, 387 P.2d at 990. In *Golden*, the Nevada Supreme Court held that

21 [a]lthough the evidence is in conflict, there is substantial support of the  
22 court's finding that the land has a market value of \$2,500 an acre. As five  
23 acres had been released from the deed of trust, there remained  
approximately 80 acres valued at a total of approximately \$200,000. As  
against the inadequacy of the bid of \$18,025.73 as compared with this  
valuation[...].

24 *Id.* (1963) (emphasis added).

25 Further, in *Shadow Wood*, the Supreme Court took notice of an appraisal of the property  
26 and suggested that an appraisal of the property as of the date of the foreclosure sale could be used  
27 to establish the fair market value of the property at the time of the foreclosure sale for purposes of  
28

1 determining commercial reasonableness. *Shadow Wood*, 366 P.3d at 1113, n.3. Defendants'  
2 contention that fair market value is irrelevant flies in the face of established Nevada law.

3 2. *There Is Ample Evidence of Fraud, Unfairness and Oppression to Justify*  
4 *Setting Aside the Sale.*

5 Pursuant to Nevada law, evidence of fraud, oppression, or unfairness in addition to an  
6 inadequate sale price justifies the setting aside of an HOA foreclosure sale as commercially  
7 unreasonable. Wells Fargo has provided ample evidence of such evidence to justify setting aside  
8 the sale.

9 Defendants' Opposition strangely ignores Wells Fargo's Motion and asserts that Wells  
10 Fargo has not offered any evidence of fraud, unfairness or oppression in this case. Opp'n, 12:7-  
11 14. Defendants cannot seriously argue that there is no such evidence in this case; to the contrary,  
12 the undisputed evidence is significant.

13 First, the HOA foreclosure sale was unfair because the HOA failed to verify Plaintiff's  
14 debt after she disputed owing it, and then proceeded to foreclose after telling Plaintiff the sale was  
15 on hold pending an investigation. *See* Wells Fargo's Mot. for Summ. J., 14:6-16:14.

16 Second, the sale was unfair because the HOA failed to serve a copy of the Notice of  
17 Default on Wells Fargo, despite the fact that Wells Fargo's interest was disclosed in the property  
18 records. *See* Wells Fargo's Mot. for Summ. J., 16:17-17:9. Defendants ignore this point in their  
19 Opposition, instead misdirecting the Court by arguing that Wells Fargo's interest in the Property  
20 did not become apparent until after the HOA foreclosure sale, when the Assignment was  
21 recorded. The record shows that Wells Fargo's interest in the Property was disclosed well before  
22 the HOA foreclosure sale in the Notice of Default and Election to Sell recorded by NDSC on  
23 Wells Fargo's behalf on November 1, 2010. A&K was plainly aware of Wells Fargo's interest  
24 because it attempted to serve Wells Fargo with a copy of the Notice of Sale, but never sent Wells  
25 Fargo the Notice of Default. Ex. 14 to WF MSJ, Notice of Sale with Certified Mail Receipts.

26 It is important to note that overwhelming evidence is not required to invalidate a sale.  
27 Instead, "where the inadequacy is palpable and great, *very slight additional evidence* of  
28 unfairness or irregularity is sufficient to authorize the granting of the relief sought." *Golden*, 79  
Nev. at 515 (emphasis added). Wells Fargo submits that the evidence in this case is anything but

1 “very slight,” and certainly a sale yielding only 5.2% of the property’s fair market value must be  
2 considered greatly inadequate. The sale should be set aside.

3 **E. Defendants Are Not Bona Fide Purchasers**

4 Defendants cannot assert the bona fide purchaser defense in this matter because they had  
5 constructive, if not actual, notice of a competing claim regarding the Deed of Trust and because  
6 they did not provide valuable consideration for the Property.

7 “The bona fide doctrine protects a subsequent purchaser’s title against competing legal or  
8 equitable claims of which the purchaser had no notice at the time of the conveyance.” *25 Corp.,*  
9 *Inc. v. Eisenman Chemical Co.*, 101 Nev. 664, 675, 709 P.2d 164, 172 (1985). The purchaser,  
10 however, is required to demonstrate that “the purchase was made in good faith, for a valuable  
11 consideration.” *Berge v. Fredericks*, 95 Nev. 183, 186, 591 P.2d 246, 247 (1979). Defendants  
12 cannot establish either of these requirements.

13 First, Defendants cannot show that they did not have notice of a competing claim  
14 regarding the Deed of Trust at the time of the foreclosure sale. “Very little information is  
15 necessary to give actual or constructive knowledge to a purchaser sufficient to defeat a bona fide  
16 purchaser defense.” *Time Warner v. Steadfast Orchard Park, L.P.*, 2008 WL 4350054, \*10 (C.D.  
17 Cal. Sept. 23, 2008). Indeed, “proper recording of a property interest is generally sufficient under  
18 state law to provide constructive notice sufficient to defeat a bona fide purchaser.” *Wonder-Bowl*  
19 *Properties v. Kim*, 161 B.R. 831, 836 (B.A.P 9th Cir. 1993).

20 Here, Defendants undoubtedly had notice of the Deed of Trust because it was properly  
21 recorded against the Property nearly five years before the HOA Sale. Moreover, the person who  
22 acted on Defendants’ behalf in purchasing the Property, Iyad Haddad, is an experienced real  
23 estate broker. Ex. 2 to WF MSJ, Cranesbill Dep. at 6:22-24. Haddad also testified that he is well  
24 aware of how to access such public records and that he knew buying this Property likely meant he  
25 was “buying a lawsuit.” Ex. 2 to WF MSJ, Cranesbill Dep. at 41:18-42:16.

26 Defendants are also precluded from raising the bona fide purchaser defense because they  
27 did not provide valuable consideration for the Property. Other courts in this district have  
28 addressed these issues and found that similar sales did not constitute “valuable consideration.” In

1 *SFR Investments Pool 1, LLC v. Nationstar Mortgage, LLC*, the Court found that a \$7,000  
2 purchase price was one factor in determining that the plaintiff buyer was not a bona fide  
3 purchaser, because the plaintiff did not provide valuable consideration for the property. Ex. 21 to  
4 WF MSJ, Order in *SFR Investments Pool 1, LLC v. Nationstar Mortgage, LLC*, at 13-15 & n. 9,  
5 (August 5, 2013). Another department likewise held that the purchaser at an HOA foreclosure  
6 sale was not a bona fide purchaser, in part because plaintiff purchased for only \$3,743.84 and the  
7 deed of trust was \$576,000. Ex. 22 to WF MSJ, Order in *Design 3.2 LLC v. Bank of New York*  
8 *Mellon*, at 4 (April 8, 2013).

9 Here, the HOA Foreclosure Sale purchase price of \$4,900 is 5.2% of the fair market value  
10 of the property at the time of the sale, \$94,000. Haddad acknowledges knowing that the sale  
11 price was “much less” than fair market value. Ex. 2 to WF MSJ, Cranesbill Dep. at 55:12-56:3.  
12 But it was not just “much less,” it was grossly inadequate. And that grossly inadequate price,  
13 combined with Cranesbill’s constructive knowledge of the Deed of Trust and Wells Fargo’s  
14 interest in the Property, defeats any claim that Cranesbill was a bona fide purchaser.

15 Finally, even assuming Defendants can show bona fide purchaser status, that status cannot  
16 be used to “revive[] an already-satisfied superpriority component of the HOA’s lien.” *Golden*  
17 *Hill*, No. 71246, 2017 WL 6597154, p. 2, n. 1. Because the super-priority lien was satisfied by  
18 Plaintiff, the most Defendants can claim is ownership of the Property subject to Wells Fargo’s  
19 Deed of Trust.

20 **F. A Balance Of The Equities Supports Setting Aside The Foreclosure Sale.**

21 Even if the Court determines that Defendants were bona fide purchasers of the Property,  
22 this does not establish that Wells Fargo can have no relief against Defendants. *See* Mot. for  
23 Summ. J., 7:6-10:16. Bona fide purchaser status is not an absolute bar against overturning an  
24 HOA foreclosure sale or rendering it subject to a deed of trust. Instead, it is only one of many  
25 circumstances the Court must consider when deciding whether equity requires a sale be set aside.

26 The Nevada Supreme Court has established that “[w]hen sitting in equity, however, courts  
27 must consider the entirety of the circumstances that bear upon the equities.” *Shadow Wood*, 366  
28 P.3d at 1115. “This includes considering the status and actions of all parties involved, including

1 whether an innocent party may be harmed by granting the desired relief.” *Id.* Thus, a party’s  
2 status as a bona fide purchaser is only one of the many circumstances courts consider when  
3 determining whether to set aside a foreclosure sale. *See, e.g., Ferrell Street Trust v. Bank of*  
4 *America, N.A.*, 2017 WL 6547469, \*1 (December 14, 2017) (“With respect to appellant’s putative  
5 status as a bona fide purchaser, *Shadow Wood* explained that such putative status is simply one of  
6 ‘the entirety of the circumstances that bear upon the equities’ that a court must consider in  
7 granting equitable quiet title relief.”).

8 In this case, despite Defendants’ contentions, the balance of the equities heavily favors  
9 setting aside the foreclosure sale, even if the Court determines Defendants are bona fide  
10 purchasers. Weighing in favor of setting aside the sale are (1) the significant irregularities in the  
11 foreclosure process; (2) the fact that Plaintiff paid more than the assessments owed for the nine  
12 months preceding the sale; (3) the HOA and A&K’s misleading statements to Plaintiff that the  
13 sale would be put on hold pending an investigation of her complaints; and (4) the HOA’s failure  
14 to provide Wells Fargo with the Notice of Default, despite notice of Wells Fargo’s interest in the  
15 property records. Further, a decision against Plaintiff would require the Court to remove Plaintiff  
16 from her home. The Property is her primary residence, not an investment property.

17 The equities in Defendants’ favor are considerably less weighty. First, the price paid by  
18 Defendants for the Property is miniscule—\$4,900.00—especially compared to the \$226,000.00  
19 invested in the Property by Wells Fargo. Ex. A to RJN, Deed of Trust. Defendants could  
20 certainly seek their purchase money back from the HOA and A&K. Second, Defendants are real  
21 estate investors; they are corporations and do not reside in the Property like Plaintiff.

22 Defendants also argue in their Opposition that the “inactions” of Wells Fargo must also be  
23 considered. Defs.’ Opp’n, 15:13-21. However, Defendants do not specify any specific  
24 “inactions” by Wells Fargo in their Opposition. *Id.* While Wells Fargo disputes that its conduct  
25 can be described as “inaction,” even assuming the Court accepts Defendants’ arguments on that  
26 point, such “inaction” is only one of the many circumstances the Court must consider in  
27 evaluating the equities of the case. Here, the Court should consider that Wells Fargo was not  
28



1 even aware of the HOA foreclosure sale before it took place. Thus, Wells Fargo's "inaction"  
2 must be considered minimal in the entire context of the case.

3 Considering all the circumstances of this case, the Court should find that the equities  
4 heavily favor setting aside the foreclosure sale, and do not favor quieting title in Defendants'  
5 name.

6 **III. CONCLUSION**

7 Based upon the foregoing, Wells Fargo respectfully requests that this Court deny  
8 Defendant's Motion for Summary Judgment.

9 Dated this 27th day of February, 2018. SNELL & WILMER L.L.P.

10  
11 By: /s/Daniel S. Ivie  
12 Jeffrey Willis, Esq.  
13 Erica J. Stutsman, Esq.  
14 Daniel S. Ivie, Esq.  
15 *Attorneys for Intervenor*  
16 *Wells Fargo Bank, N.A.*  
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**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **WELLS FARGO BANK, N.A.'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** by the method indicated:

  X   U. S. Mail  
       U.S. Certified Mail  
       Federal Express  
  X   Electronic Service  
       E-mail

and addressed to the following:

Via Electronic Service  
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Iyad Haddad and 9352 Cranesbill Trust*

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Via U.S. Mail  
Office of the Attorney General  
Attn: Gina Long  
555 E. Washington Ave.  
Suite 3900  
Las Vegas, NV 89101

DATED this 27th day of February, 2018.

/s/ Gaylene Kim  
An employee of Snell & Wilmer L.L.P.

4824-2966-2558.1

# **EXHIBIT 22**

# **EXHIBIT 22**

IN THE SUPREME COURT OF THE STATE OF NEVADA

SATICOY BAY LLC SERIES 2141  
GOLDEN HILL,  
Appellant,  
vs.  
JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION,  
Respondent.

No. 71246

**FILED**

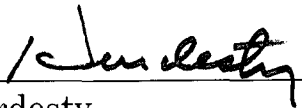
FEB 26 2018


ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

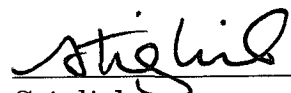
*ORDER DENYING REHEARING*

Appellant seeks rehearing of the panel's December 22, 2017, Order of Affirmance. Having considered the petition, we are not persuaded that rehearing is warranted. NRAP 40(c). While we agree that the Uniform Common Interest Ownership Act presupposes a lender satisfying the superpriority component of an HOA's lien, **nothing in the Act appears to prohibit a homeowner from doing so.** Appellant's remaining two arguments were not raised in district court or in its opening brief, and the third argument was only alluded to in the reply brief. Those arguments therefore did not factor into our December 22 disposition and do not provide a valid basis for rehearing.<sup>1</sup> NRAP 40(c)(1). In light of the foregoing, we deny the rehearing petition.

It is so ORDERED.

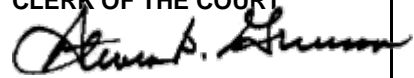
, J.  
Hardesty

, J.  
Parraguirre

, J.  
Stiglich

<sup>1</sup>SFR Investments Pool 1, LLC, has filed a motion to file an amicus brief in support of appellant. We deny that motion because the proposed amicus brief likewise raises issues that were not presented to the district court or to this court on appeal.

cc: Hon. Gloria Sturman, District Judge  
Law Offices of Michael F. Bohn, Ltd.  
Smith Larsen & Wixom  
Eighth District Court Clerk



**RIS**  
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Attorney for 9352 Cranesbill Trust, Teal Petal St. Trust and Iyad Haddad

DISTRICT COURT  
CLARK COUNTY, NEVADA

VENISE ABELARD

Plaintiffs,

vs.

9352 CRANESBILL TRUST, FORT APACHE  
SQUARE HOMEOWNERS ASSOCIATION,  
MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC,  
BENCH MARCH ASSOCIATION  
SERVICES, IYAD HADDAD; et. al.

Defendants

And all related matters.

Case No. A-12-671509-C  
Dept No. VII

Hearing Date: 3-6-18  
Hearing Time: 9:00 a.m.

**REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Defendants Iyad Haddad, Teal Petal St. Trust, and 9352 Cranesbill Trust, by and through their attorney, Charles L. Geisendorf, Esq., hereby files its Reply In Support of its Motion for Summary Judgment. This reply is based upon the following memorandum of points and authorities, Defendants Opposition to Wells Fargo Bank, N.A.'s Motion for Summary Judgment, all pleading and papers on file herein, the attached exhibits, and any oral arguments this Court may entertain at the hearing of this matter.

Dated: February 26, 2018

GEISENDORF & VILKIN, PLLC

/s/ Charles L. Geisendorf  
Charles L. Geisendorf, Esq. (6985)

1 POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 On February 20, 2018, Wells Fargo filed an opposition to motion for summary judgment  
4 arguing: the HOA foreclosed on a subpriority lien only; the recitals in the foreclosure deed are not  
5 conclusive proof that the sale was conducted properly; the HOA sale was commercially unreasonable;  
6 and, defendants are not bona fide purchasers because they had notice of a potential claim by Wells  
7 Fargo and did not pay valuable consideration for the Property.

8 On February 23, 2018, Venise Abelard filed an opposition to motion for summary judgment  
9 arguing: genuine issues of material fact remain outstanding including whether or not the Trust, as a  
10 sophisticated real estate investor can claim true BFP status; and, whether or not the HOA foreclosure  
11 sale otherwise involved “fraud, unfairness, or oppression such that it should be set aside.

12 As will be discussed below, the Trust’s motion must be granted because the superpriority  
13 portion of the HOA lien was not paid; the foreclosure was properly conducted; there was no fraud,  
14 unfairness, or oppression that **accounts for and brings about the inadequacy of price**; the Trust is a  
15 bona fide purchaser; and, Wells Fargo did not have a recorded interest until after the foreclosure sale  
16 took place.

17 **II. STATEMENT OF FACTS**

18 Venise Abelard is the former homeowner of the real property commonly known as 9352  
19 Cranesbill Court, Las Vegas, Nevada. Defendant 9352 Cranesbill Trust was the successful bidder at  
20 the foreclosure sale, which was conducted on July 11, 2012. A copy of the foreclosure deed is attached  
21 as Exhibit A to Defendants MSJ. In July, 2012, Cranesbill transferred title by grant deed to the Teal  
22 Petals St. Trust.

23 DHI Mortgage Company was the beneficiary of a deed of trust recorded against the property on  
24 November 28, 2007. After the foreclosure sale in this case, Wells Fargo Bank became the beneficiary  
25 of the deed of trust by assignment recorded on October 17, 2012 .

26 During discovery in this case, Venise Abelard was served with interrogatories. A copy of the  
27 responses to interrogatories is attached as Exhibit N.

1           **INTERROGATORY NO. 13:**

2           State each address, including post office boxes where you receive any mail from the  
3           time you acquired your interest in the deed of trust until the present.

4           **Ms. Abelard's response was:**

5           Please refer to Ms. Abelard's General Objections. Without waiving said objections, Ms.  
6           Abelard responds: Ms. Abelard receives her mail at 9352 Cranesbill Court, Las Vegas, NV 89149.

7           During discovery in this case, Venise Abelard was deposed. A copy of the relevant portions  
8           of the transcript are attached as Exhibit O. In the deposition, Ms. Abelard testified that she reads and  
9           writes English (5:18-20); was born in Haiti, but moved to Brooklyn, NY when she was 12 years old  
10          (10:22-25); graduated from high school in Brooklyn, NY (9:18-24); has an associates degree in  
11          business from Brooklyn College of New York (10:1-8); was sent a ledger in June 2012 by email  
12          (27:12-16); and, admitted to paying her HOA assessments late (29:13-20).

13          Prior to the foreclosure sale, the foreclosure agent, Alessi & Koenig, sent the former owner a  
14          lien letter dated June 28, 2011. A copy of the lien, letter, and proof of mailing is attached as Exhibit  
15          B to Defendants MSJ. The notice of lien was recorded on July 12, 2011. A copy of the recorded  
16          notice of lien is Exhibits B and C to Defendants MSJ.

17          On September 15, 2011, the foreclosure agent recorded the notice of default and election to  
18          sell under homeowners association lien. The notice was also mailed out to all interested parties,  
19          including Wells Fargo's predecessor in interest, DHI Mortgage Company, and MERS. A copy of the  
20          lien and proof of mailing is attached as Exhibit D to Defendants MSJ.

21          On September 23, 2011, Ms. Abelard sent Alessi & Koenig, LLC a letter acknowledging  
22          receipt of the lien letter, that she was not going to pay, and that she would contact the media. A copy  
23          of the September 23, 2011 letter is attached as Exhibit P.

24          On May 7, 2012, the foreclosure agent recorded the notice of foreclosure sale. A copy of the  
25          notice is Exhibit E to Defendants MSJ. The notice was also mailed out to all interested parties,  
26          including Wells Fargo's predecessor in interest, DHI Mortgage Company, and MERS. Notice was  
27          also mailed to Wells Fargo Bank N.A. c/o National Default Servicing Corporation, 7720 No. 16th  
28          Street, Suite 300, Phoenix, AZ 85020. A copy of the proof of mailing is attached as Exhibit F to



1 Defendants MSJ.

2 The foreclosure agent caused the notice of sale to be posted on the property and in three  
3 locations within Clark County. A copy of the affidavit of posting is attached as Exhibit G to  
4 Defendants MSJ .

5 The foreclosure agent also caused the notice of sale to be published in the Nevada Legal  
6 News. A copy of the affidavit of publication is Exhibit H to Defendants MSJ .

7 The sale was conducted on July 11, 2012, and was purchased by the 9352 Cranesbill Ct Trust  
8 for \$4,900.00 as evidenced by the foreclosure deed, Exhibit A to Defendants MSJ .

9 On July 27, 2012, the property was transferred by the 9352 Cranesbill Ct Trust to the Teal  
10 Petals Trust. A copy of this deed is attached as Exhibit I to Defendants MSJ.

11 Several months later, on October 17, 2012, Wells Fargo became the beneficiary of the deed of  
12 trust. A copy of the assignment is attached as Exhibit J to Defendants MSJ.

13 **III. ARGUMENT**

14 **A. Wells Fargo's deed of trust was extinguished by the HOA foreclosure sale.**

15 As evidenced by the foreclosure deed recorded on July 18, 2012, Defendants acquired title to  
16 the Property by paying \$4,900.00 at the public auction held on July 11, 2012 (Defendants MSJ, Ex. A  
17 at 1). The exhibits to Defendant's motion for summary judgment prove that the HOA's foreclosure  
18 agent complied with all statutory requirements for the nonjudicial foreclosure sale including mailing a  
19 copy of the notice of default to Bank's predecessor, DHI Mortgage Company and MERS, and a copy  
20 of the notice of trustee's sale to Bank at the address listed on the deed of trust recorded November 28,  
21 2007 (Bank's Request for Judicial Notice, Ex. A at 1). The assignment of mortgage that transferred  
22 the mortgage from DHI Mortgage Company to Wells Fargo was recorded on October 17, 2012, 98  
23 days after the foreclosure sale. (Defendants MSJ, Ex. J).

24 Although Ms. Abelard claims she never received any of the notices, Nevada law requires only  
25 proof that foreclosure notices were sent, not proof that they were received. In virtually every  
26 foreclosure case the former owner of the property will allege that he or she did not receive notice of  
27 the foreclosure sale. That person will then allege that because he or she did not receive notice of the  
28 sale, the sale should be set aside. The Nevada Supreme Court has held that "mailing of notices is all

1 that the Statute requires. Their mailing presumes that they are received. The actual notice is not  
2 necessary as long as the statutory requirements are met." *Hankins v. Administrator of Veterans*  
3 *Affairs*, 92 Nev. 578,580,555 P.2d 483, 484 (1976); *See also Turner v. Dewco Services, Inc.*, 87 Nev.  
4 14, 479 P.2d 462 (1971). The reason for this "mailbox" rule is self evident: if actual notice is  
5 required, every person whose property is foreclosed upon would attempt to defeat the foreclosure sale  
6 by refusing to pick up their certified and/or registered mail then falsely alleging that they did not  
7 receive notice of the sale. Evidence all of the declarations of mailing and other evidence  
8 demonstrating that the required notices were properly sent to all parties is attached to Defendants MSJ  
9 as Exhibits A - H.

10 Neither the Bank nor Ms. Abelard has presented any credible evidence disputing that the HOA  
11 complied with all requirements for the nonjudicial foreclosure of its assessment lien pursuant to NRS  
12 Chapter 116.

13 There is no evidence that Bank or its predecessor, DHI Mortgage Company, tendered any  
14 amount of money to the HOA or its foreclosure agent to pay the superpriority portion of the HOA's  
15 assessment lien. There is no evidence that Bank or its predecessor recorded any document prior to the  
16 public auction or provided any notice to the persons bidding at the public auction held on July 11,  
17 2012 that Bank or its predecessor claimed that the payments made by the former owner to the HOA  
18 had paid and extinguished the HOA's superpriority lien.

19 NRS 116.3116 (2) provides that the super-priority lien for up to 9 months of charges is "prior  
20 to all security interests described in paragraph (b)." The first deed of trust, recorded on November 28,  
21 2007, falls squarely within the language of paragraph (b). The statutory language does not limit the  
22 nature of this priority in any way.

23 In *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev., Adv. Op. 75, 334 P.3d 408, 419  
24 (2014), this Court stated:

25 NRS 116.3116(2) gives an HOA a true superpriority lien, proper foreclosure of which  
26 will extinguish a first deed of trust. Because Chapter 116 permits nonjudicial  
27 foreclosure of HOA liens, and because SFR's complaint alleges that proper notices  
28 were sent and received, we reverse the district court's order of dismissal. In view of  
this holding, we vacate the order denying preliminary injunctive relief and remand for  
further proceedings consistent with this opinion.

1 In Bank's Opposition at 9-12, Bank argues that 1 payment in the amount of \$366 made by the  
2 former owner prior to the recordation of the HOA's notice of delinquent assessment lien and 3  
3 payments in the amount of \$798.50 made by the former owner after the recordation of the HOA's  
4 notice of delinquent assessment lien applied retrospectively to satisfy the delinquent assessments due  
5 immediately prior to the mailing and recording of the NDAL.

6 The notice of delinquent assessment (lien) recorded on July 12, 2011, showed the amount of the  
7 lien to be \$2,337.58 as of June 28, 2011. (Defendants MSJ, Ex. B) The notice of default recorded on  
8 September 15, 2011 showed that the amount owed to the HOA had increased to \$3,403.58 as of  
9 August 25, 2011. (Defendants MSJ, Ex. D) The notice of trustee's sale recorded on June 7, 2012  
10 showed that the amount owed to the HOA had increased to \$3,932.58. (Defendants MSJ, Ex. E)  
11 Based on the recorded documents, it can be discerned that the former owner continued to fail to make  
12 timely payments because the lien amount consistently increased.

13 While it may be true that the former owner made sporadic payments during the foreclosure  
14 process, the recorded documents prove that the former owner failed to bring the account current.

15 The account ledgers for the period from May 31, 2009, through August 1, 2013 (attached as  
16 Exhibit Q), show: that there was a balance of \$1,204.58 owed as of October 1, 2010; an additional 9  
17 months of assessments in the amount of \$427 owed on July 1, 2011; an additional \$60.00 in late fees;  
18 and that the former owner made only 1 payments of \$56.00 on December 13, 2010, 1 payment of  
19 \$281.43 on October 24, 2011, and 1 payment of \$284.00 on February 13, 2012 for a total of \$621.43.  
20 Whether you use the Bank's figure of \$1,164.50 or the account statements' figure of \$621.43, the 9  
21 months of assessments due before the notice of delinquent assessment lien went unpaid since neither  
22 covered the balance of \$1,204.58 owed before the 9 months of superpriority assessments started to  
23 accrue.

24 Moreover, the official comments prove that the drafters of the UCIOA intended that the super  
25 priority portion of the lien be paid by the trust deed holder and not the unit owner.

26 As noted by this Court in *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 130 Nev., Adv.  
27 Op. 75, 334 P.3d 408, 413 (2016), 1982 UCIOA § 3-116 cmt. 1 and 1994 & 2008 UCIOA § 3-116  
28 cmt. 2 provide:

1 The comments continue: “As a practical matter, secured lenders will most likely pay  
2 the 6 [in Nevada, nine, *see supra* note 1] months' assessments demanded by the  
3 association *rather than having the association foreclose on the unit.*” *Id.* (emphasis  
4 added). If the superpriority piece of the HOA lien just established a payment priority,  
5 the reference to a first security holder paying off the superpriority piece of the lien to  
6 stave off foreclosure would make no sense.

7 This court also stated:

8 But as a junior lienholder, U.S. Bank could have paid off the SHHOA lien to avert loss  
9 of its security; it also could have established an escrow for SHHOA assessments to  
10 avoid having to use its own funds to pay delinquent dues.  
11 334 P.3d at 414.

12 In addition, the Bank does not offer any evidence that it recorded any notice of its claim that  
13 the former owner had paid the superpriority portion of the HOA's assessment lien.

14 In *Shadow Wood Homeowners Association, Inc. v. New York Community Bancorp, Inc.*, 132  
15 Nev. Adv. Op. 5, 366 P.3d 1105 (2016), this court found that the purchaser at an HOA sale is entitled  
16 to rely on the recorded notices as proof that the HOA foreclosed a superpriority lien:

17 When a trustee forecloses on and sells a property pursuant to a power of sale granted in  
18 a deed of trust, it terminates the owner's legal interest in the property. *Charmicor, Inc.*  
19 *v. Bradshaw Fin. Co.*, 92 Nev. 310, 313, 550 P.2d 413, 415 (1976). This principle  
20 equally applies in the HOA foreclosure context because NRS Chapter 116 grants  
21 associations the authority to foreclose on their liens by selling the property and thus  
22 divest the owner of title. *See* NRS 116.31162(1) (providing that “the association may  
23 foreclose its lien by sale” upon compliance with the statutory notice and timing rules);  
24 NRS 116.31164(3)(a) (stating the association's foreclosure sale deed “conveys to the  
25 grantee all title of the unit's owner to the unit”). **And if the association forecloses on  
26 its superpriority lien portion, the sale also would extinguish other subordinate  
27 interests in the property.** *SFR Invs.*, 334 P.3d at 412–13. So, when an association's  
28 foreclosure sale complies with the statutory foreclosure rules, **as evidenced by the  
recorded notices, such as is the case here, and without any facts to indicate the  
contrary**, the purchaser would have only “notice” that the former owner had the ability  
to raise an equitably based post-sale challenge, the basis of which is unknown to that  
purchaser. (emphasis added)

366 P.3d at 1116.

36 In *Moeller v. Lien*, 25 Cal. App. 4th 822, 831-832, 30 Cal. Rptr. 777 (1994), the court held  
37 that a bona fide purchaser is protected from an unrecorded claim that the trustor had been wrongfully  
38 deprived of his right of redemption:

39 Thus, as a general rule, a trustor has no right to set aside a trustee's deed as against a  
40 bona fide purchaser for value by attacking the validity of the sale. (*Homestead Savings*  
41 *v. Darmiento*, *supra*, 230 Cal. App.3d at p. 436.) The conclusive presumption  
42 precludes an attack by the trustor on a trustee's sale to a bona fide purchaser even

1 though there may have been a failure to comply with some required procedure which  
2 deprived the trustor of his right of reinstatement or redemption. (4 Miller & Starr,  
3 *supra*, § 9:141, p. 463; cf. *Homestead v. Darmiento*, *supra*, 230 Cal. App.3d at p. 436.)  
4 The conclusive presumption precludes an attack by the trustor on the trustee's sale to a  
5 bona fide purchaser even where the trustee wrongfully rejected a proper tender of  
6 reinstatement by the trustor. (5) Where the trustor is precluded from suing to set aside  
7 the foreclosure sale, the trustor may recover damages from the trustee. (*Munger v.*  
8 *Moore* (1970) 11 Cal. App.3d 1, 9, 11 [89 Cal. Rptr. 323].)

9 Because the Bank offers no evidence that Defendants had any facts to indicate the contrary,  
10 this Court should find that the nonjudicial foreclosure of the HOA's super priority lien at the public  
11 auction held on July 11, 2012 extinguished the "first security interest" held by defendant.

12 **B. The amount of the HOA's superpriority lien is not defined by entries in the HOA's**  
13 **internal ledger, but by NRS 116.3116(2).**

14 NRS 116.3116(2) provides in pertinent part as follows:

15 The lien is also prior to all security interests described in paragraph (b) . . . to the  
16 extent of the assessments for common expenses...which would have become due in  
17 the absence of acceleration during the 9 months immediately proceeding institution of  
18 an action to enforce the lien.

19 As recognized by the Court in *Horizons at Seven Hills v. Ikon Holdings*, 132 Nev., Adv. Op.  
20 35, 373 P.3d 66, 73 (2016), the phrase "to the extent of" means "amount equal to." In other words, the  
21 super-priority portion of the lien is not a line-item on a given Association's account ledger. It is a sum  
22 equal to nine months of common expenses that must be paid by the first security interest holder in  
23 order for that first security interest to remain in place and not be subject to extinguishment.

24 NRS 116.3116(2) is simply a calculus; it is a method by which a lender can determine the  
25 super-priority amount that it must pay to protect its lien interest. In relation to a first deed of trust  
26 holder, the super-priority lien is the dollar amount of the assessments which would have become due  
27 in the nine months preceding an action to foreclose the lien and not the actual amount owed by the  
28 unit owner at the time of the foreclosure. Thus, Bank was required to pay nine months of monthly  
assessments in order to prevent the extinguishment of its deed of trust.

It is inconsequential that a homeowner might make payments toward a delinquent account  
even when the homeowner's payments match the calculus found in NRS 116.3116(2). The  
homeowner's payments are irrelevant and can have no legal effect on the superpriority amount  
because only the holder of a first security interest can make these payments.

1       The superpriority lien does not matter to the property owner because even a sub-priority lien  
2 sale will divest the property owner of his or her interest in the property. Because the superpriority lien  
3 only affects the holder of a first deed of trust, the argument that payments by a property owner can pay  
4 the super-priority portion of a lien is not logical. Unless the owner pays the full amount of the lien,  
5 the owner will lose its interest regardless of the type of lien.

6       The fact that a homeowner pays all the common assessments on a given account has no  
7 bearing on the super-priority portion because, again, it is just a calculus; it is not a fixed amount in the  
8 HOA's ledger. So long as there is money owed to the Association, and the first security interest  
9 holder has paid nothing to the Association, the super-priority portion of the lien will exist.

10       The Report of the Joint Editorial Board for Uniform Real Property Acts, The Six-Month  
11 Limited Priority Lien for Association Fees Under the Uniform Common Interest Ownership Act,  
12 dated June 1, 2013, also discusses the policy behind NRS 116.3116 which is to ensure that  
13 associations have a mechanism to enforce their assessments without bearing the full costs of  
14 maintaining the community prior to the sale. As stated in the JEB report, the six months of super-  
15 priority (later amended to nine months in Nevada) is based on the amount of time that it typically  
16 takes a bank to foreclose and strikes "a workable and functional balance between the need to protect  
17 the financial integrity of the association and the legitimate expectations of the first mortgage lenders."  
18 Id. at pp. 3-4.

19       The JEB report recognizes that the UCIOA contemplates that the lender's foreclosure will take  
20 six months to complete. In other words, the language of the statute can only be understood in the  
21 context in which it was supposed to function. The UCIOA anticipated that the lender would pay an  
22 amount equal to nine-months of periodic assessments (ideally within 60 days of the homeowner  
23 becoming delinquent) and then proceed to foreclose on the deed of trust. While the lender's  
24 foreclosure was proceeding, the association would then draw from the amount paid by the lender until  
25 the end of the foreclosure when a new homeowner is put in place. Given the language in the JEB  
26 report, it is inconsequential that the former owner made payments on her account at various times  
27 during the history of the account.

28       Regardless of the former owner's efforts to make payments to the HOA, the former owner did

1 not make sufficient payments to pay off all past due assessments, late fees, and the costs of collection.  
2 Thus, the HOA never released its lien. According to the JEB report, it was therefore incumbent upon  
3 Bank to pay the super-priority lien regardless of any payments made by the former owner. Because  
4 Bank failed to do so, the super-priority lien remained as to Bank, and the first deed of trust was  
5 extinguished by the HOA foreclosure.

6 Finally, while it is true the Nevada Supreme Court issued an Order of Affirmance in *Saticoy*  
7 *Bay LL Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, Case No. 71246, 2017 Nev. Unpub.  
8 LEXIS 1184 (Nev. Dec. 22, 2017) on December 22, 2017, the decision is not final. Appellant,  
9 Saticoy Bay LLC Series 2141 Golden Hill filed a Petition for Rehearing on January 24, 2018 and  
10 SFR Investment Pool 1, LLC filed a Motion for Leave to File Amicus Brief in Support of Rehearing  
11 and Motion to Extend Time to Submit the Proposed Amicus Brief. If granted, the rehearing could  
12 materially alter or even reverse the decision. Thus it is too soon to use this decision, even as  
13 persuasive authority, in any matter.

14 **C. Any Commercial Reasonableness Argument Should Be Rejected, as it has by the Nevada**  
15 **Supreme Court.**

16 In its decision filed November 22, 2017, the Nevada Supreme Court rejected the argument that  
17 a commercial reasonableness standard applies to a HOA foreclosure pursuant to NRS 116. The Court  
18 stated: “As to the ‘commercial reasonableness’ standard, which derives from Article 9 of the Uniform  
19 Commercial Code (U.C.C.), we hold that it has no applicability in the context of an HOA foreclosure  
20 involving the sale of real property.” *Nationstar Mortgage, LLC v. Saticoy Bay LLC Series 2227*  
21 *Shadow Canyon*, 133 Nev., Advance Opinion 91 (filed November 22, 2017, at p. 2).

22 In its Opposition, Bank claims *Nationstar Mortgage, LLC v. Saticoy Bay LLC Series 2227*  
23 *Shadow Canyon*, Nev. Adv. Op. 91, 2017 somehow lessened the standard set forth in *Golden v.*  
24 *Tomiyasu*, 79 Nev. 503, 387 P.2d 989 (1963) when it quotes the limited portion of *Shadow Canyon*,  
25 “we adhere to the observation in *Golden* that where the inadequacy of price is great, a court may grant  
26 relief based on slight evidence of fraud, unfairness, or oppression”. This statement is taken out of  
27 context and omits the final requirement that the fraud, unfairness, or oppression as accounts for and  
28 brings about the inadequacy of price. It is not enough for Bank to point to some perceived

1 irregularities and then profess to have satisfied its burden. Bank must prove that the identified  
2 irregularities show that the sale was affected by fraud, unfairness, or oppression – it has not.

3       When evaluating an HOA foreclosure sale, the Nevada Supreme Court has ruled that an  
4 allegation of inadequate sales price alone is insufficient to set aside a foreclosure sale: "there must  
5 also be a showing of fraud, unfairness, or oppression." *Shadow Wood*, 366 P.3d at 1105 (citing *Long*  
6 *v. Towne*, 98 Nev. 11, 13,639 P.2d 528,530 (1982)); see *Golden*, 79 Nev. at 504,514,387 P.2d at 995  
7 (adopting the California rule that "inadequacy of price, however gross, is not in itself a sufficient  
8 ground for setting aside a trustee's sale legally made; there must be in addition proof of some element  
9 of fraud, unfairness or oppression as **accounts for and brings about the inadequacy of price**"  
10 (internal citations omitted) (emphasis added). see also *Centeno v. JP Morgan Chase Bank, N.A.*,  
11 Nevada Supreme Ct. Case No. 67365 (unpublished Order Vacating and Remanding) (Nev. Mar.  
12 18,2016) (reaffirmance of the holding in *Shadow Wood*); See also *Oller v. Sonoma County Land Title*  
13 *Co.*, 137 Cal. App. 2d 633, 635, 290 P.3d 880, 882 (1955). However, even assuming that the price  
14 was inadequate, that fact standing alone would not justify setting aside the trustee's sale. "In  
15 California, it is a settled rule that inadequacy of price, however gross, is not in itself a sufficient  
16 ground for setting aside a trustee's sale legally made; there must be in addition proof of some element  
17 of fraud, unfairness, or oppression as accounts for and brings about the inadequacy of price." (citing  
18 *Steven v. Plumas Eureka Annex Mining Co.*, 2 Cal.2d 493,496,41 P.2d 927, 928 (1935)). In fact, in  
19 adopting the California rule in *Golden*, the Nevada Supreme Court expressly rejected an inference  
20 that a sale could be set aside merely because the price was so low as to "shock the conscience," which  
21 is often used synonymously with "grossly inadequate." See *Golden*, 79 Nev. at 510-511,387 P.2d at  
22 993-994.

23       **1. The Price Paid at Auction was not "Grossly Inadequate. "**

24       The price paid by Defendants was adequate. When purchasing a property at a forced sale, fair  
25 market value has no applicability to this situation. *BFP v. Resolution Trust Corporation*, 511 U.S.  
26 531, 537, 114 S.Ct. 1757 (1994). While the *BFP* holding related to a mortgage foreclosure sale, other  
27 Courts have extended the *BFP* analysis to tax-default sales of real property with adherence to  
28 requirements of state law where the statutes include requirements for public noticing of the auction



1 and provisions for competitive bidding. See *In re Tracht Gut, LLC*, 836 F.3d 1146, 1152-1155 (9th  
2 Cir. 2016) (extending BFP analysis to California tax sales because they afford the same procedural  
3 safeguards as a mortgage foreclosure sale); *T.F. Stone v. Harper*, 72 F.3d 466 (5th Cir. 1995); *Kojima*  
4 *v. Grandote Int'l Ltd. Co.*, 252 F.3d 1146 (10th Cir. 2001). Regardless of the type of sale, however,  
5 the analysis still aptly explains how market value cannot be compared to a forced sale transaction.

6       Here, NRS 116 ensures public notice and contains provisions for competitive bidding. NRS  
7 116 requires that a Notice of Default be mailed to all interested parties and subordinate claims  
8 holders. NRS 116.31163; NRS 116.31168. After 90 days of the recording of the Notice of Default,  
9 the Notice of Sale must be mailed to all interested parties and subordinate claims holders. NRS  
10 116.311635(1)(b)(1); NRS 116.311635(1)(b)(3). Additionally, NRS 116 requires that the Notice of  
11 Sale must be posted in a public place as well as be published in a newspaper of general circulation for  
12 three consecutive weeks, at least once a week. NRS 116.311635(c). Additionally, NRS 116 requires  
13 that the sale takes place in the County in which the property is situated. NRS 116.31164. As a result,  
14 all subordinate interest holders, as well as the public as a whole, were made aware of an NRS 116  
15 auction. These noticing and foreclosure provisions ensured the auction was publicly noticed and  
16 would create competitive bidding. Here, the Association did everything required of it under the law  
17 to foreclose on its lien including meeting all the requirements of NRS 116. The foreclosure was  
18 properly noticed including the recording and mailing of all applicable notices. Additionally, the  
19 auction was publicly held and Defendants the winning bid of \$4,900.00 at auction.

20       While Bank may complain about the total amount received during the auction, the market  
21 conditions that existed (largely created by Bank and its brethren) significantly lowered the value of  
22 the property. As stated in *BFP*, "**the only legitimate evidence of the property's value at the time it**  
23 **is sold is the foreclosure-sale price itself.**" *BFP*, 511 U.S. at 549. But given that this was a public  
24 auction if Bank disagreed with the collective public's valuation of the property it should have bought  
25 the property at the auction itself. However, it cannot be contested that the amount paid by Defendants  
26 was commercially reasonable given that the Association foreclosure complied with all requirements  
27 of NRS 116 and that this auction was a public auction open to all entities, including Bank.

28

1           **2. BANA Has Not Presented Evidence of Fraud, Unfairness or Oppression that**  
2           **Brought About an "Inadequate" Sale Price.**

3           Even if this Court were to use Mr. Dugan's retrospective market value appraisal, and use this  
4 as a comparison to conclude that the price paid by Defendants was inadequate, Bank nonetheless has  
5 failed to show that any fraud, unfairness or oppression **brought about or accounted for the**  
6 **allegedly "inadequate" price.** *Golden*, 79 Nev. at 504, 514, 387 P.2d at 995. Here, there is no  
7 admissible evidence of fraud, oppression or unfairness that brought about any inadequacy in price.  
8 The Association's sale was publicly noticed, as required by statute; multiple bidders attended the  
9 auction, and it is undisputed that neither the homeowner nor Bank paid an amount necessary to cure  
10 the lien before the sale.

11           Yet even if a defect existed, the fact remains that Defendants had no knowledge of any alleged  
12 deficiency, so this certainly could not have accounted for or brought about the price paid by  
13 Defendants. Here, the Association complied with the notice requirements of NRS 116; the sale was  
14 publicly noticed; the sale was held in a public place; and multiple bidders attended the sale.

15           In sum, because the price paid by Defendants was not "grossly inadequate," and Bank failed to  
16 demonstrate any fraud, oppression or unfairness which brought about and accounted for the price paid  
17 by Defendants, Bank's commercial unreasonableness arguments fails.

18           **3. Wells Fargo was not entitled to Notice.**

19           In its Opposition, Bank argues that the sale violated NRS 116.31163 because the HOA and  
20 A&K did not send notice to Wells Fargo. But, in the 2005 version of NRS 116.31163 which was  
21 applicable at the time of this sale, Wells Fargo was not entitled to notice.

22           **NRS 116.31163 Foreclosure of liens: Mailing of notice of default and election to**  
23 **sell to certain interested persons.** The association or other person conducting the sale  
shall also mail, within 10 days after the notice of default and election to sell is  
recorded, a copy of the notice by first-class mail to:

24           1. Each person who has requested notice pursuant to NRS 107.090 or  
116.31168;

25           2. Any holder of recorded security interest encumbering the unit's owner's  
interest who has notified the association, 30 days before the recordation of the notice  
of default, of the existence of the security interest; and

26           3. A purchaser of the unit's owner has notified the association, 30 days before  
27 the recordation of the notice, that the unit is the subject of a contract of sale and the  
28 association has been requested to furnish the certificate requires by NRS 116.4109.  
(Emphasis Added)

1 Here, DHI Mortgage Company was the holder of a recorded security interest at the time of  
2 sale, not Wells Fargo. Further, Wells Fargo's never requested notice pursuant to NRS 107.090 or  
3 116.31168, and did not record its assignment of mortgage until after the foreclosure sale took place.  
4 Since Wells Fargo did not request notice and was not the holder of a recorded interest, it was not  
5 entitled to notice.

6 **4. Defendants are Bona Fide Purchasers for Value; Equity Lies in Defendants' Favor.**

7 As discussed in Defendants' Motion for Summary Judgment and herein, because Bank did not  
8 proffer admissible evidence that Defendants had any knowledge precluding it from BFP status,  
9 Defendants have the valid defense of being a BFP. As a result, the sale cannot be unwound; nor can  
10 Defendants be said to have taken the Property subject to the First Deed of Trust.

11 "Where the complaining party has access to all the facts surrounding the questioned  
12 transaction and merely makes a mistake as to the legal consequences of his act, equity should  
13 normally not interfere, especially where the rights of third parties might be prejudiced thereby."  
14 *Shadow Wood*, 366 P.3d at 1116 (quoting *Nussbaumer v. Sup. Ct. in & for Yuma Cty.*, 107 Ariz. 504,  
15 489 P.2d 843, 846 (Ariz.1971)). This is consistent with the Restatement's commentary regarding  
16 those non-judicial foreclosure jurisdictions where price alone is not enough to set aside a sale: the  
17 wronged junior lienholder must seek a remedy from someone other than the purchaser:

18 If the real estate is unavailable because title has been acquired by a bona fide  
19 purchaser, the issue of price inadequacy may be raised by the [former title holder] or  
20 junior lienholder in a suit for wrongful foreclosure. . . . In addition, the [foreclosing  
lienholder] must be responsible for a defect in the foreclosure process of the type  
described in Comment e of this section.

21 Restatement § 8.3, cmt *b*. This is also consistent with California law that precludes unwinding a  
22 foreclosure sale once title has transferred to a BFP. See *Melendrez v. D & I Investments, Inc.*, 26  
23 Ca1.Rptr.3d 413, 431-432 (2005) ("courts have sustained a number of foreclosure sale challenges  
24 where the actions have been brought before the transfer of the trustee's deed to the  
25 buyer[]" but not after delivery of the trustee's deed) (internal citations omitted)). This policy of  
26 protecting purchasers at foreclosure sales is to encourage such persons to attend and bid. *Id.* at 426.  
27 Failing to protect BFPs simply because they buy "property for substantially less than its value would  
28 chill participation at trustees' sales by this entire class of buyers, and, ultimately, could have the

1 undesired effect of reducing sales prices at foreclosure." *Id.* Thus, weighing of equities should always  
2 fall in favor of the BFP for policy reasons.

3 That Defendants are BFPs is unquestionable. A BFP is one who "takes the property 'for a  
4 valuable consideration and without notice of the prior equity....'" *Shadow Wood*, 366 P.3d at 1115  
5 (internal citations omitted). The fact that Defendants "paid 'valuable consideration' cannot be  
6 contested." *Id.* (citing *Fair v. Howard*, 6 Nev. 304, 308 (1871)). Further, contrary to the Bank's  
7 contention regarding Defendants' knowledge of the "deed of trust," notice by a potential purchaser  
8 that an association is conducting a sale pursuant to NRS 116, and that the potential exists for  
9 challenges to the sale "post hoc[,] do not preclude that purchaser from BFP status. *Shadow Wood*,  
10 366 P.3d at 1115-1116. In other words, the risk of litigation due to lenders' inability to accept the law  
11 does not preclude BFP status. *Id.*

12 Additionally, the experience of the purchaser does not automatically defeat bona fide  
13 purchaser status; neither does a low price. *Melendrez*, 26 Cal.Rptr.3d at 425-426 ("we see no  
14 reasoned basis for a blanket rule that would preclude a buyer from being a BFP simply because he or  
15 she has experience in foreclosure sales and purchases property at less than fair market value.")).  
16 Furthermore, general knowledge by a purchaser is not enough to defeat BFP - it is the **specific facts**  
17 of that sale, as each of the cases cited by the Bank demonstrates. In each, the purchaser was privileged  
18 with **insider knowledge of specific facts** of the foreclosure which, in their jurisdiction, put the  
19 purchaser on inquiry notice. See, e.g., *Albice v. Premier Mortg. Servs. of Wash, Inc.*, 276 P.3d 1277,  
20 1284-85 (Wash. 2012) (homeowner advised purchaser of resolved dispute with association pre-sale;  
21 purchaser "surprised" sale going forward); *Linden Park Homeowners Assoc. v. Mears*, 2015 WL  
22 6126446 at \*3, 7 (Wash. Ct. App. 2015) (opening bid at judicial foreclosure sale was substantially  
23 lower than judgment on the lien, known to purchaser); *Yates v. West End Financial Corp.*, 25 Cal.  
24 App. 4th 511, 523 (Ct. App. 1994) (pre-sale discussions between purchaser and trustee wherein the  
25 trustee advised "there was a lot of juice [equity] in the property[.]"); *United States v. Countrywide*  
26 *Home Loans, Inc.*, 408 Fed. App'x 3, 5 (9th Cir. Oct. 5, 2010)(unpublished) (unrecorded lien would  
27 have been found if purchaser investigated an obvious discrepancy in the title recording on the  
28 property).

1       What the Bank seeks here is equity, while in some cases "courts retain the power to grant  
2 equitable relief from a defective foreclosure sale[.]" *Shadow Wood*, 366 P.3d at 1110, it is also well-  
3 settled in Nevada that courts lack authority to grant equitable relief when an adequate remedy at law  
4 exists. *Las Vegas Valley Water Dist. v. Curtis Park Manor Water Users Ass'n*, 646 P.2d 549, 551  
5 (Nev. 1982). Thus, even if Bank could prove some irregularity, it would have an adequate remedy at  
6 law against those who harmed it, not Defendants - and equitable relief is not available herein. See  
7 *Munger v. Moare*, 89 Cal.Rptr. 323 (Ct. App. 1970); see also *Brown v. Holder*, 763 F.3d 1141, 1152  
8 (9th Cir. 2014). However, even if Bank could be entitled to equity, which it is not, courts in equity  
9 "must consider the entirety of the circumstances that bear upon the equities[.]" including the actions  
10 and inactions of the parties and "whether an innocent party [a BFP] may be harmed by granting the  
11 desired relief." *Shadow Wood*, 366 P.3d at 1115-1116 (citing *In re Petition of Nelson*, 495 N.W.2d  
12 200, 203 (Minn. 1993) and *Smith v. United States*, 373 F.2d 419,424 (4th Cir. 1966)). Here, despite  
13 notice, Bank sat idly by. Plainly, Bank had "access to all the facts surrounding the questioned  
14 transaction and merely [made] a mistake as to the legal consequences of his act." *Shadow Wood*, 366  
15 P.3d at 1116 (quoting *Nussbaumer*, 489 P.2d at 846.) Thus, equity should not interfere here,  
16 especially where Defendants' rights would be prejudiced by this erroneous act by Bank. *Id.*

17 **E.     The Bank is not entitled to equitable relief because it did not exhaust its legal remedies.**

18       The Nevada Supreme Court has recognized that a bank had many legal remedies to protect  
19 itself prior to an HOA foreclosure sale back prior to 2013 and 2014 and, if it didn't do so, it must  
20 accept the consequences.

21       U.S. Bank's final objection is that it makes little sense and is unfair to allow a  
22 relatively nominal lien—nine months of HOA dues—to extinguish a first deed of trust  
23 securing hundreds of thousands of dollars of debt. But as a junior lienholder, U.S.  
24 Bank could have paid off the SHHOA lien to avert loss of its security; it also could  
25 have established an escrow for SHHOA assessments to avoid having to use its own  
26 funds to pay delinquent dues. ....*The inequity U.S. Bank decries is thus of its own  
27 making and not a reason to give NRS 116.3116(2) a singular reading at odds with its  
28 text and the interpretation given it by the authors and editors of the UCIOA.*

*SFR*, 334 P.3d at page 414. (Emphasis added)

      In the *Shadow Wood* case, the Nevada Supreme Court pointed out additional means by which  
a bank could protect its interests in properties in the midst of an HOA foreclosure:

1 Against these inconsistencies, however, must be weighed NYCB's (in)actions. The NOS was  
2 recorded on January 27, 2012, and the sale did not occur until February 22, 2012. NYCB knew the  
sale had been scheduled and that it disputed

3 the lien amount, yet it did not attend the sale, request arbitration to determine the  
amount owed, or seek to enjoin the sale pending judicial determination of the amount  
owed. ....

4 ....

5 Id. at 1114.

6 The court also noted in footnote 7:

7 Consideration of harm to potentially innocent third parties is especially pertinent here  
8 where NYCB did not use the legal remedies available to it to prevent the property from  
being sold to a third party, such as by seeking a temporary restraining order and  
preliminary injunction and filing a lis pendens on the property. ....

9 Id. at 1116.

10 These were all legal remedies that the bank failed to avail itself of. Equitable relief is only  
11 available where there is no adequate remedy at law.  
12

13  
14 'Ordinarily, damages may not be awarded by the chancery court. It is the function of the law  
15 courts to award damages for breach of contract or for tort; and if the purpose of the proceeding  
is merely the recovery of a sum of money, there can be no reason for resorting to equity, since  
16 the remedy at law is complete.' (19 Am.Jur., Equity, Sec. 119, Pgs. 120 and 121.)

17 'Indeed, it is said that the absence of a plain and adequate remedy at law is the only test of  
18 equity jurisdiction.' (19 Am.Jur., Equity, Sec. 100, Pg. 107.)

19 *Davenport v. State Farm*, 81 Nev. 361, 404 P.2d 10, 14 (1965)

20 As such, the Bank cannot be awarded any equitable relief. In this case, the Bank was in the  
21 best position to take action to protect its interest. It could have paid off the entire lien, as the Nevada  
22 Supreme Court stated in *SFR*. It could have filed an action to enjoin the sale and recorded a lis  
23 pendens on the property. And it could have recorded something to alert potential purchasers of the  
24 dispute as to title. It did none of these things and shouldn't now be allowed to come into court and  
25 seek to overturn a sale to a bona fide purchaser without inquiry notice. The Bank's remedy, if any, is  
26 against the foreclosure trustee and the HOA.

1 **V. CONCLUSION**

2 For these reasons, Defendants ask the Court to render summary judgment in their favor.

3 Dated: February 26, 2018

4 GEISENDORF & VILKIN, PLLC

5 /s/ Charles L. Geisendorf  
6 Charles L. Geisendorf, Esq. (6985)

7  
8  
9  
10  
11 **Certificate of Service**

12 I hereby certify that on February 26, 2018, I served the following document(s):

13 A copy of the preceding **REPLY IN SUPPORT OF MOTION FOR SUMMARY**  
14 **JUDGMENT.**

- 15 ■ By Electronic Transmission: by transmitting the document to the parties registered to  
16 receive service for this case via this Court's mandatory e-service system.

17 /s/ Charles L. Geisendorf  
18 An employee of Geisendorf & Vilkin, PLLC

## **Exhibit N**



1 Debra A. Bookout, Esq.  
Nevada Bar No.: 11765C  
2 Dan L. Wulz, Esq.  
Nevada Bar No.: 5557  
3 **LEGAL AID CENTER OF**  
4 **SOUTHERN NEVADA, INC.**  
725 E. Charleston Blvd.  
Las Vegas, NV 89101  
5 Telephone: (702) 386-1070 x 1452  
Facsimile: (702) 388-1452  
6 [dbookout@lacsnsn.org](mailto:dbookout@lacsnsn.org)  
7 *Attorneys for Plaintiff Venise Abelard*

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10  
11 VENISE ABELARD,

12 Plaintiff,

13 vs.

14 IYAD HADDAD, Individually and as Trustee  
15 for CRANESBILL CT. TRUST; 9352  
16 CRANESBILL CT. TRUST; TEAL PETALS  
17 ST. TRUST; FORT APACHE SQUARE  
18 HOMEOWNERS ASSOCIATION; MESA  
19 MANAGEMENT, LLC; LAS VEGAS  
20 ASSOCIATION MANAGEMENT, LLC;  
ALESSI & KOENIG, LLC; and DOES I  
through X, and ROE COMPANIES I through  
X, inclusive,

21 Defendants.

22  
23 9352 CRANESBILL CT. TRUST

24 Defendant/CounterClaimant,

25 vs.

26 VENISE ABELARD,

27 Plaintiff/CounterDefendant.  
28

Case No.: A-12-671509-C  
Dept No.: XIV

1 sent to management's address. Discovery is ongoing and Ms. Abelard reserves the right to  
2 supplement and/or amend this Response.

3 **INTERROGATORY NO. 12:**

4 Identify any steps you took to ensure the Association received the assessments owned in  
5 relation to the Property.

6 **RESPONSE NO. 12:**

7 Please refer to Ms. Abelard's General Objections. Without waiving said objections, upon  
8 information and belief, Ms. Abelard paid her assessments by check sent to the address of  
9 Management's office. Ms. Abelard also communicated with the HOA regarding the assessments.  
10 Discovery is ongoing and Ms. Abelard reserves the right to supplement and/or amend this  
11 Response.

12 **INTERROGATORY NO. 13:**

13 State each address, including post office boxes where you receive any mail from the time  
14 you acquired your interest in the deed of trust until the present.

15 **RESPONSE NO. 13:**

16 Please refer to Ms. Abelard's General Objections. Without waiving said objections, Ms.  
17 Abelard responds: Ms. Abelard receives her mail at 9352 Cranesbill Court, Las Vegas, NV  
18 89149.

19 **INTERROGATORY NO. 14:**

20 Identify all the facts, information, and evidence of which you are aware that contradicts  
21 9352 Cranesbill Ct. Trust's assertion that it was a bona fide purchaser for value at the  
22 Association foreclosure sale.

23 **RESPONSE NO. 14:**

24 Please refer to Ms. Abelard's General Objections. Without waiving said objections, upon  
25 information and belief, Ms. Abelard responds: Discovery is ongoing and Ms. Abelard will  
26 supplement and/or amend this Response once depositions of the Defendants are completed.

27 ///

28 ///

VERIFICATION

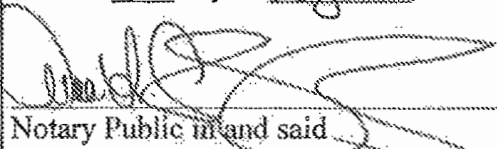
STATE OF NEVADA )  
 ) ss:  
COUNTY OF CLARK )

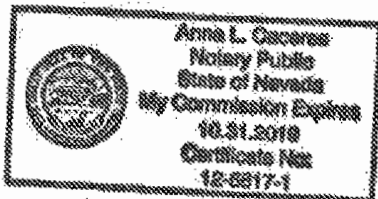
I, VENISE ALEARD, being duly sworn, deposes and says:

That I am the Plaintiff in the forgoing Matter; that I have read the foregoing  
PLAINTIFF/COUNTERDEFENDANT VENISE ABELARD'S RESPONSES TO  
DEFENDANT/COUNTERCLAIMANT CRANESBILL COURT TRUST'S FIRST SET  
OF INTERROGATORIES, and know the contents thereof and that same is true to the best of  
my knowledge, expect as to the matters therein set forth upon information and belief, and as to  
those matters, I believe them to be true.

  
VENISE ABELARD

SUBSCRIBED and SWORN to before  
Me this 11<sup>th</sup> day of May, 2016.

  
Notary Public in and said  
County and State



## **Exhibit O**

Venice Abelard - August 26, 2015  
Venice Abelard vs. 9352 Cranesbill Trust, et al.

Page 1

1 DISTRICT COURT  
2 CLARK COUNTY, NEVADA  
3  
4 VENISE ABELARD,  
5 Plaintiff,  
6 vs. CASE NO.: A671509  
7 9352 CRANESBILL TRUST, FORT DEPT NO.: VII  
8 APACHE SQUARE HOMEOWNERS  
9 ASSOCIATION, MESA MANAGEMENT  
10 LAS VEGAS ASSOCIATION  
11 MANAGEMENT, LLC, BENCH MARCH  
12 ASSOCIATION SERVICES, IYAD  
13 HADDAD, et. al.  
14 Defendants.  
15  
16 9352 CRANESBILL TRUST  
17 Counterclaimant,  
18 vs.  
19 VENISE ABELARD,  
20 Counter defendant.  
21  
22 DEPOSITION OF VENISE ABELARD  
23  
24 Taken at the offices of Michael F. Bohn  
25 on Wednesday, August 26, 2015  
at 2:16 p.m.  
at 376 East Warm Springs Road, Suite 125  
Las Vegas, Nevada 89119  
Reported by: Trina K. Sanchez, CCR No. 933, RPR

Page 2

1 APPEARANCES:  
2  
3 For the Plaintiff:  
4 DEBRA A. BOOKOUT, ESQ.  
5 LEGAL AID CENTER OF SOUTHERN NEVADA, INC.  
6 725 East Charleston Boulevard  
7 Las Vegas, Nevada 89104  
8  
9 For the Defendants:  
10  
11 MICHAEL F. BOHN, ESQ.  
12 LAW OFFICES OF MICHAEL F. BOHN, ESQ., LTD  
13 376 East Warm Springs Road, Suite 125  
14 Las Vegas, Nevada 89119  
15  
16 HUONG LAM, ESQ.  
17 ALESSI & KOENIG  
18 9500 West Flamingo Road, Suite 205  
19 Las Vegas, Nevada 89147  
20  
21 DANIEL S. IVIE, ESQ.  
22 SNELL & WILMER  
23 3883 Howard Hughes Parkway, Suite 1100  
24 Las Vegas, Nevada 89169  
25  
26 I N D E X  
27  
28 WITNESS: PAGE  
29 VENISE ABELARD  
30 Examination by Mr. Michael Bohn 4  
31 Examination by Ms. Huong Lam 53  
32 Examination by Mr. Daniel Ivie 62

Page 3

1 E X H I B I T S  
2 EXHIBITS DESCRIPTION PAGE  
3 EXHIBIT A Alessi & Koenig letter 4  
4 EXHIBIT B June 30, 2011 letter 4  
5 EXHIBIT C September 14, 2011 letter 4  
6 EXHIBIT D Notice of Default 4  
7 EXHIBIT E Mail receipts 4  
8 EXHIBIT F Alessi & Koenig letter 4  
9 EXHIBIT G HOA letter 4  
10 EXHIBIT H Notice of Trustee Sale 4  
11 EXHIBIT I Mail receipts 4  
12 EXHIBIT J Affidavit of Service 4  
13 EXHIBIT K May 30, 2012 letter 4  
14 EXHIBIT L June 5, 2012 letter 4  
15 EXHIBIT M August 21, 2012 letter 4  
16 EXHIBIT N August 15, 2012 letter 4  
17 EXHIBIT O Trustee's Deed Upon Sale 4  
18 EXHIBIT P August 29, 2012 letter 4  
19  
20  
21  
22  
23  
24  
25

Page 4

1 LAS VEGAS, NEVADA, WEDNESDAY, AUGUST 26, 2015;  
2 2:16 P.M.  
3 -000-  
4 (Exhibits A through P were marked for the record.)  
5  
6 (In an off-the-record discussion held prior to the  
7 commencement of the deposition proceedings, counsel  
8 agreed to waive the court reporter requirements  
9 under Rule 30(b)(4) of the Nevada Rules of Civil  
10 Procedure.)  
11  
12 Whereupon,  
13  
14 VENISE ABELARD,  
15 having been first duly sworn to testify to the  
16 truth, the whole truth and nothing but the truth,  
17 was examined and testified as follows:  
18  
19 EXAMINATION  
20 BY MR. BOHN:  
21 Q. Can you please state your name and spell  
22 it for the record.  
23 A. My name is Venice Abelard. First name,  
24 V-e-n-i-s-e; last name Abelard, A-b-e-l-a-r-d.  
25 Q. Thank you.

Page 9	Page 11
<p>1 A. Okay.</p> <p>2 Q. Are you under any medication or anything</p> <p>3 else that would affect your ability to understand</p> <p>4 my questions or give an appropriate answer?</p> <p>5 A. No.</p> <p>6 Q. Okay. What is your date of birth?</p> <p>7 A. 6/25/60 -- 1960.</p> <p>8 Q. Okay. And did you graduate high school?</p> <p>9 A. Yes, I did.</p> <p>10 Q. Where did you go to high school?</p> <p>11 A. Bay Ridge High School.</p> <p>12 Q. Bay Ridge?</p> <p>13 A. Bay Ridge in New York. Brooklyn, New</p> <p>14 York, Sheepshead Bay.</p> <p>15 Q. Okay. When did you graduate from Bay</p> <p>16 Ridge?</p> <p>17 A. 1978.</p> <p>18 Q. Okay. And did you have any education</p> <p>19 after high school?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Where did you go?</p> <p>22 A. I did go to Brooklyn College in New York.</p> <p>23 Q. How long did you go to Brooklyn College?</p> <p>24 A. Two years. Associate degree in business.</p> <p>25 Q. So you did get the associate's degree?</p>	<p>1 Q. Okay. When did you move to Las Vegas?</p> <p>2 A. I move in Las Vegas in 2004.</p> <p>3 Q. Okay. And you filed this lawsuit over</p> <p>4 the foreclosure sale of the property at 9352</p> <p>5 Cranesbill Court; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. How long have you lived at 9352</p> <p>8 Cranesbill Court?</p> <p>9 A. It would be eight years.</p> <p>10 Q. Eight years from now?</p> <p>11 A. Yes.</p> <p>12 Q. So about 2007?</p> <p>13 A. 2007, correct.</p> <p>14 Q. Now, when you purchased that house, did</p> <p>15 you take out a mortgage on the house?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And have you continuously made</p> <p>18 payments on the mortgage since you moved into the</p> <p>19 house?</p> <p>20 A. Yes, I did.</p> <p>21 Q. And are you -- have you been making</p> <p>22 payments on the house even after the foreclosure</p> <p>23 sale?</p> <p>24 A. After the foreclosure was done, yes, I</p> <p>25 was. I did continue paying.</p>
Page 10	Page 12
<p>1 A. Yes.</p> <p>2 Q. Any other college other than Brooklyn?</p> <p>3 A. Nevada CSN.</p> <p>4 Q. And what did you take at CSN?</p> <p>5 A. I took nursing.</p> <p>6 Q. Did you get a degree?</p> <p>7 A. I did complete as a nursing technician.</p> <p>8 Q. As a nursing technician?</p> <p>9 A. Yes.</p> <p>10 Q. And when did you get that degree?</p> <p>11 A. 2006.</p> <p>12 Q. Is that a bachelor's or associates or a</p> <p>13 certificate?</p> <p>14 A. It's a certificate. A license, yes.</p> <p>15 Q. Any other education, other than</p> <p>16 continuing education to keep your certificate</p> <p>17 active?</p> <p>18 A. I did -- I'm also a dialysis technician,</p> <p>19 so yes. And also I studied cosmetology also.</p> <p>20 Q. All right. I detect a slight accent.</p> <p>21 Where are you from originally?</p> <p>22 A. I'm from Haiti. I grew up in Brooklyn.</p> <p>23 Q. When did you move to New York?</p> <p>24 A. I came to New York when I was 12 years</p> <p>25 old.</p>	<p>1 Q. Let me start you out -- let's show you</p> <p>2 what's been marked as Exhibit A.</p> <p>3 Have you seen that document before?</p> <p>4 A. No. I didn't see that document.</p> <p>5 Q. Okay. The date of that letter is June</p> <p>6 28th, 2011; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Let me show you what we marked as</p> <p>9 Exhibit B. That's a letter -- is that a letter</p> <p>10 that -- did you write that letter?</p> <p>11 A. Yes, I did.</p> <p>12 Q. Okay. And that letter is dated June</p> <p>13 30th, just two days after the demand letter of June</p> <p>14 28th, 2011.</p> <p>15 Did you write your letter of June 30th in</p> <p>16 response to this letter of June 28th, 2011?</p> <p>17 A. No.</p> <p>18 Q. Okay. What prompted you to write your</p> <p>19 letter of June 30th?</p> <p>20 A. The reason I write this letter, it's</p> <p>21 because I did not receive like the pamphlet to --</p> <p>22 for the -- like the stub they send you every year.</p> <p>23 So I did not receive that pamphlet.</p> <p>24 So I called and asked and then I</p> <p>25 understand that the management has been changed. I</p>

Page 25

1 Koenig you got a letter from them claiming that you  
2 owed \$2,493.58; is that correct?  
3 **A. That's what the letter said, yes.**  
4 Q. Okay. After this date, did you ever  
5 speak with anyone at Alessi & Koenig about the  
6 money they thought you owed?  
7 **A. I didn't talk to anyone.**  
8 Q. Okay. This letter is addressed to a Gina  
9 Garcia, legal assistant. Do you know who Gina  
10 Garcia is?  
11 **A. Yes, I do. I don't know her, but I did**  
12 **speak to her on the phone.**  
13 Q. Was that before or after you sent this  
14 letter?  
15 **A. I spoke to Gina after. That was in 2012.**  
16 **In June of 2012 --**  
17 Q. Okay.  
18 **A. -- that's when I speak to Gina.**  
19 Q. In September 2011, how did you know to  
20 direct the letter to Gina Garcia?  
21 **A. Like I said, again, I don't know. And,**  
22 **you know, I don't recall this letter, so...**  
23 Q. Okay. After September, how many times  
24 did you speak to Gina Garcia?  
25 **A. As I recall, I spoke to -- have spoken to**

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1 **her twice.**  
2 Q. Okay. Do you remember --  
3 **A. But that was in June.**  
4 Q. Of 2012?  
5 **A. Of 2012.**  
6 Q. Okay. So that was some months after you  
7 sent the letter, correct?  
8 **A. Like I said, I don't know about this**  
9 **letter.**  
10 Q. Okay. Did you ever speak to anyone else  
11 at Alessi & Koenig about the letter claiming that  
12 you owed them money -- or you owed money on your  
13 HOA dues?  
14 **A. In June of 2012.**  
15 Q. Okay. Who did you speak to at Alessi &  
16 Koenig?  
17 **A. I speak to Catherine, as I remember.**  
18 Q. Okay.  
19 **A. I spoke to Gina, too, in the beginning**  
20 **and then after it was Catherine.**  
21 Q. Okay. So you spoke to Gina twice and  
22 Catherine how many times?  
23 **A. I can't even count. Several times.**  
24 Q. Okay. What was said in those  
25 conversations?

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1 **A. With -- okay. With Gina, it was -- when**  
2 **I spoke to her, that was like in June of 2004. It**  
3 **was, like, regarding a ledger that was supposed to**  
4 **be sent to me, so -- which I never got the ledger**  
5 **from her.**  
6 **Then the next --**  
7 Q. Well, let me stop you. You said June  
8 2004.  
9 **A. '12, June 2012.**  
10 Q. And you said letter or ledger?  
11 **A. Ledger.**  
12 Q. Okay. And she sent you a ledger in June  
13 2012?  
14 **A. No. She did not send me the ledger. I**  
15 **believe Catherine had sent me the ledger through**  
16 **email.**  
17 Q. Okay.  
18 **A. Mm-hmm.**  
19 Q. And what did the ledger show?  
20 **A. The ledger, there was not much saying.**  
21 **It was just there was an amount of a thousand --**  
22 **1200, so 1200 and some change, which I don't**  
23 **recall, but it was about that.**  
24 **And then when I called her and send her**  
25 **back, you know, the message, so I was referring to**

Page 28

1 **the amount because there was not really, like, a**  
2 **break down of the ledger, you know, like month to**  
3 **month of what was it. It was just, like, the**  
4 **amount that was showing was 1200. That was the**  
5 **ledger, 1200 and some change.**  
6 Q. When did you get that ledger?  
7 **A. That was some time in June. I think it's**  
8 **the beginning of June.**  
9 Q. Okay. So by that time, you had spoken to  
10 Catherine once because she's the one that emailed  
11 you the ledger, correct?  
12 **A. Yes. By the time I spoke to Catherine.**  
13 Q. How many times did you talk to Catherine?  
14 Do you remember?  
15 **A. I spoke to her several times because I --**  
16 **I spoke to her several times. We even went and**  
17 **met, you know, with her personally. I went down to**  
18 **the office.**  
19 Q. Did the ledger reflect the payments that  
20 you made with your letter of June 30th, 2011?  
21 **A. When they -- that ledger that she had**  
22 **sent me?**  
23 Q. Yeah.  
24 **A. There was -- like I said, there was no**  
25 **break down on it. There was no, like, payment or**

Page 29

1 anything like that on the ledger. So this is why,  
2 you know, I didn't understand the ledger, and my  
3 question was 1200, I cannot remember the exact  
4 amount, but I know it's 1200 that was what was in  
5 question.  
6 Q. Okay. And what were your conversations  
7 with Gina about?  
8 A. My conversation with Gina was about the  
9 amount, you know, of the HOA dues, you know. You  
10 know, what do I owe, that was that, so this is why  
11 she was, you know, supposed to send me a ledger of  
12 it.  
13 Q. Have you always been -- up until the time  
14 of the foreclosure sale that led to this lawsuit,  
15 had you been current in your HOA dues?  
16 A. My HOA dues?  
17 Q. Yes.  
18 A. I wouldn't say -- you know, but I do pay  
19 my HOA dues, yeah. But I sometimes be late, might  
20 be late on paying.  
21 Q. Okay. Did you ever attempt to get copies  
22 of any checks to send to Gina or Catherine to show  
23 that you were not behind in your payments?  
24 A. Yes, I did.  
25 Q. And did you get them copies?

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1 A. I personally brought them down to -- to  
2 Catherine.  
3 Q. And when was that?  
4 A. That was in -- it's been so long. It was  
5 in June of 2012.  
6 Q. Who did you speak with when you went down  
7 there?  
8 A. Catherine.  
9 Q. And what did she tell you?  
10 A. She told me that she would give -- you  
11 know, pass the copy -- the check to Gina, and then  
12 they would put the account on hold and -- so they  
13 will contact me when they get through with  
14 management.  
15 Q. And did they get back to you?  
16 A. No, but I -- they didn't get back to me,  
17 but I called. From that time when I brought her  
18 the documents, I call every week, that I call,  
19 like, constantly, like, every Monday. I remember I  
20 called to find out about the account.  
21 Q. And when you called, did you speak with  
22 either Gina or Catherine?  
23 A. I spoke to Catherine.  
24 Q. And what were you told?  
25 A. She told me that they still waiting on

Page 31

1 management.  
2 Q. Okay. Did you call after that?  
3 A. Like I said, every Monday starting from  
4 that June when I brought the document to Gina at  
5 Alessi & Koenig, I called every Monday of that  
6 month to find out, you know, what's going on  
7 because she had told me that they would put the  
8 account on hold, so -- you know, so I kept, you  
9 know, in touch to find out because she told me she  
10 was waiting for management.  
11 Q. Okay. And when did you stop calling?  
12 A. You know, I never stopped calling. I  
13 never really stopped calling because -- I mean,  
14 when I don't stop -- when I stopped talking to  
15 Catherine, now it was someone else. Because after  
16 in July '12 when I received that notice and I call  
17 her again and then -- you know, and she -- as a  
18 matter of fact, she didn't even know what was going  
19 on with the account.  
20 Because when I called her to find out  
21 again about my account, she was telling me the same  
22 thing, that every time that I call, that, you know,  
23 she's waiting for management, she's waiting for  
24 management, she hasn't heard from management.  
25 Q. Okay. Did you ever call anyone at Mesa

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1 Management?  
2 A. No, I never called anyone at Mesa  
3 Management.  
4 Q. Did you ever call anyone at your HOA?  
5 A. No, because I was -- the person I was  
6 calling was Alessi & Koenig. That's whom I have,  
7 you know, contact with.  
8 Q. Did you ever go to any of those HOA  
9 meetings?  
10 A. I never go to -- like I said, I never go  
11 to no HOA meeting.  
12 Q. Okay. Let me show you what's been next  
13 marked as Exhibit H.  
14 Have you seen that document before?  
15 A. Yes. That was the notice that was posted  
16 at my door on May -- that was May 20 -- May 25th.  
17 Q. Okay. We'll get to that. Let me show  
18 you what's been marked as Exhibit I. The bottom  
19 right corner shows a certified mail receipt  
20 addressed to you.  
21 Is that your correct address?  
22 A. It is my correct address.  
23 Q. Okay. Did you ever receive certified  
24 mail shortly after May 7th, 2012?  
25 A. No.



1 A. Yes.  
2 Q. Did you write this with the intent of  
3 preserving your recollection of these details?  
4 A. This was writing to my -- to the  
5 lawyer -- to the legal aid office when I went, you  
6 know, for help. So this was the document, you  
7 know, of everything that happened and then that was  
8 submitted to the lawyer.  
9 Q. Was that during -- were you already  
10 represented by an attorney at that time or were you  
11 being evaluated?  
12 A. Being evaluated, yes, and I had to write  
13 everything, you know, that happened, so this is  
14 what this letter...  
15 Q. And did you write this at legal aid's  
16 request?  
17 A. Yes.  
18 MR. IVIE: Okay. I think that's  
19 everything for me.  
20 THE WITNESS: Thank you.  
21 MS. BOOKOUT: I don't have anything.  
22 (The deposition concluded at 3:58 p.m.)  
23  
24  
25

1 CERTIFICATE OF DEPONENT  
2 PAGE LINE CHANGE REASON  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \* \* \* \* \*  
14  
15 I, Venise Abelard, deponent herein, do hereby  
16 certify and declare under the penalty of perjury  
17 the within and foregoing transcription to be my  
18 deposition in said action; that I have read,  
19 corrected and do hereby affix my signature to said  
20 deposition.  
21  
22  
23  
24 \_\_\_\_\_  
25 Venise Abelard, Deponent

1 Certificate of Reporter  
2 STATE OF NEVADA )  
3 COUNTY OF CLARK ) SS:  
4 I, Trina K. Sanchez, CCR No. 933, RPR  
5 declare that I reported the taking of the  
6 deposition of the witness, Venise Abelard,  
7 commencing on Wednesday, August 26, 2015, at 2:16  
8 p.m.  
9 That prior to being examined, the witness  
10 was by me duly sworn to testify to the truth, the  
11 whole truth, and nothing but the truth.  
12 That I thereafter transcribed my said  
13 shorthand notes into typewriting and that the  
14 typewritten transcript of said deposition is a  
15 complete, true, and accurate transcription of said  
16 shorthand notes taken down at said time, and that a  
17 request has not been made to review the transcript.  
18 I further declare that I am not a  
19 relative or employee of any party involved in said  
20 action, nor a person financially interested in the  
21 action.  
22 Dated at Las Vegas, Nevada this 31st day  
23 of August, 2015.  
24  
25 Trina K. Sanchez, CCR No. 933, RPR

## **Exhibit P**

September 23, 2011

In regards to: Port Apache Square HOA/9352 Cranesbill CT./HO #27031

CERTIFIED MAIL

Alessi & Koenig, LLC  
9500 West Flamingo Road, suite 205  
Las Vegas, Nevada 89147

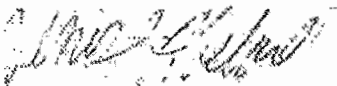
Attention: Gina Garcia (Legal Assistant)

Dear Alessi & Koenig, LLC:

SUBJECT: REPLY TO NOTICE OF FALSE DELINQUENTS.

I had received a letter from you (Alessi & Koenig, LLC), stating that I owed a \$2493.58 of HOA dues and also a lien about to place on my property. First of all: I do not owe Hoa due, second: I do not know what are those charges are for. I suggested you go back to your client and find out what those allegations are because I have never received any document from Hoa company Which I believe is Messa, I wrote them regarding my yearly statement stubs which I had never received from them. I had to do research on my own to found out from my neighbor of changes of the company, then I send them a check for the months of the Hoa due, therefore I do not know what dues are they mentioned. I will like this matter to be result before it goes further, If I have to bring the media in to this I will because those Hoa are home owners torture. Please reply.

SINCERELY,



Venise Abelard

0015171c1e75e2b2c0  
1164-95am-00151729eb226e.orgunizunifonNodeID=694625c8-7867-d111-a530-  
https://www.healthstream.com/HL/C/Login.aspx?organizationID=c13a3fb5-ed79-  
93 32 CRANESBILL CT.  
LAS VEGAS, NEVADA 89149

ABELARD 0003

APP000593

# **Exhibit Q**

DAVID ALESSI\*  
 THOMAS BAYARD \*  
 ROBERT KOENIG\*\*  
 RYAN KERBOW\*\*\*

\* Admitted to the California Bar

\*\* Admitted to the California, Nevada  
 and Colorado Bars

\*\*\* Admitted to the Nevada and California Bar



*A Multi-Jurisdictional Law Firm*

9500 W. Flamingo Road, Suite 205  
 Las Vegas, Nevada 89147  
 Telephone: 702-222-4033  
 Facsimile: 702-222-4043  
 www.alessikoenig.com

ADDITIONAL OFFICES IN

AGOURA HILLS, CA  
 PHONE: 818- 735-9600

RENO NV  
 PHONE: 775-626-2323  
 &  
 DIAMOND BAR CA  
 PHONE: 909-861-8300

**FACSIMILE COVER LETTER**

<b>To:</b>	ABELARD VENISE & COMPERE MARCUS	<b>Re:</b>	9352 CRANESBILL CT/HO #27031
<b>From:</b>		<b>Date:</b>	Monday, June 04, 2012
<b>Fax No.:</b>		<b>Pages:</b>	2, including cover
		<b>HO #:</b>	27031

Dear ABELARD VENISE &:

This cover will serve as an amended demand on behalf of Fort Apache Square Homeowners Association for the above referenced escrow; property located at 9352 CRANESBILL CT, LAS VEGAS, NV. The total amount due through July 2, 2012 is \$4,224.01. The breakdown of fees, interest and costs is as follows:

Pre NOD	\$90.00
Notice of Delinquent Assessment Lien - Nevada	\$325.00
Notice of Default	\$400.00
Notice of Trustee Sale	\$275.00
Foreclosure Fee	\$150.00
Release of Lien (Upon payment in full)	\$30.00
<b>Total</b>	<b>\$1,270.00</b>
<b>1. Attorney and/or Trustees fees:</b>	<b>\$1,270.00</b>
<b>2. Notary, Recording, Copies, Mailings, and PACER</b>	<b>\$400.00</b>
<b>3. Ledger Through July 2, 2012</b>	<b>\$2,048.65</b>
<b>4. RPIR-GI Report</b>	<b>\$85.00</b>
<b>5. Title Research (10-Day Mailings per NRS 116.31163)</b>	<b>\$275.00</b>
<b>6. Management Company Advanced Audit Fee</b>	<b>\$200.00</b>
<b>7. Management Account Setup Fee</b>	<b>\$0.00</b>
<b>8. Publishing and Posting of Trustee Sale</b>	<b>\$175.00</b>
<b>10. Conduct Foreclosure Sale</b>	<b>\$125.00</b>
<b>11. Capital Contribution</b>	<b>\$0.00</b>
<b>12. Progress Payments:</b>	<b>\$376.86</b>
<b>Sub-Total:</b>	<b>\$4,955.51</b>
<b>Less Payments Received:</b>	<b>\$731.50</b>
<b>Total Amount Due:</b>	<b>\$4,224.01</b>

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

A&KRPD00019

APP000595<sup>074</sup>

DAVID ALESSI\*

THOMAS BAYARD \*

ROBERT KOENIG\*\*

RYAN KERBOW\*\*\*

\* Admitted to the California Bar

\*\* Admitted to the California, Nevada  
and Colorado Bars

\*\*\* Admitted to the Nevada and California Bar



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[www.alessikoenig.com](http://www.alessikoenig.com)

ADDITIONAL OFFICES IN

AGOURA HILLS, CA  
PHONE: 818-735-9600

RENO NV  
PHONE: 775-626-2323  
&  
DIAMOND BAR CA  
PHONE: 909-861-8300

***FACSIMILE COVER LETTER***

Please have a check in the amount of \$4,224.01 made payable to the Alessi & Koenig, LLC and mailed to the above listed NEVADA address. Upon receipt of payment a release of lien will be drafted and recorded. Please contact our office with any questions.

Please be advised that Alessi & Koenig, LLC is a debt collector that is attempting to collect a debt and any information obtained will be used for that purpose.

A&KRPD00020

APP000596075

**Fort Apache Square**  
**9512 W Flamingo Road #102**  
**Las Vegas, NV 89147**

Venise Abelard  
 9352 Cranesbill Court  
 Las Vegas, NV 89149

**Property Address:** 9352 Cranesbill Court  
**Account #:** 17491

Code	Date	Amount	Balance	Check#	Memo
Assessment	10/31/2010	1,204.58	1,204.58		Initial Balance
Assessment	11/1/2010	56.00	1,260.58		Assessment
Assessment	12/1/2010	56.00	1,316.58		Assessment
Payment	12/13/2010	-56.00	1,260.58	1187	Mesa-12132010.TXT
Late Fee	12/30/2010	10.00	1,270.58		Lien
Assessment	1/1/2011	61.00	1,331.58		Assessment
Late Fee	1/30/2011	10.00	1,341.58		Lien
Assessment	2/1/2011	61.00	1,402.58		Assessment
Late Fee	2/28/2011	10.00	1,412.58		Lien
Assessment	3/1/2011	61.00	1,473.58		Assessment
Late Fee	3/30/2011	10.00	1,483.58		Lien
Assessment	4/1/2011	61.00	1,544.58		Assessment
Late Fee	4/30/2011	10.00	1,554.58		Lien
Assessment	5/1/2011	61.00	1,615.58		Assessment
Assessment	6/1/2011	61.00	1,676.58		Assessment
Late Fee	6/30/2011	10.00	1,686.58		Lien
Assessment	7/1/2011	61.00	1,747.58		Assessment
Assessment	8/1/2011	61.00	1,808.58		Assessment
Late Fee	8/30/2011	10.00	1,818.58		Lien
Assessment	9/1/2011	61.00	1,879.58		Assessment
Late Fee	9/30/2011	10.00	1,889.58		Lien
Assessment	10/1/2011	61.00	1,950.58		Assessment
Payment	10/24/2011	-281.43	1,669.15	61198	Alessi progress payment
Late Fee	10/30/2011	10.00	1,679.15		Lien
Assessment	11/1/2011	61.00	1,740.15		Assessment
Late Fee	11/30/2011	10.00	1,750.15		Lien
Assessment	12/1/2011	61.00	1,811.15		Assessment
Late Fee	12/30/2011	10.00	1,821.15		Lien
Assessment	1/1/2012	64.50	1,885.65		Assessment
Late Fee	1/30/2012	10.00	1,895.65		Lien
Assessment	2/1/2012	64.50	1,960.15		Assessment
Payment	2/13/2012	-284.00	1,676.15	1215	Mesa-02132012.TXT
Late Fee	2/29/2012	10.00	1,686.15		Lien
Assessment	3/1/2012	64.50	1,750.65		Assessment

Mesa Management | 9512 W Flamingo Road #102 | Las Vegas, NV 89147 | 702-750-0530

**Make check payable to: Fort Apache Square**

5/31/2012

Page 1 of 2

A&KRPD00021

APP000597076

**Fort Apache Square**  
 9512 W Flamingo Road #102  
 Las Vegas, NV 89147

Code	Date	Amount	Balance	Check#	Memo
Late Fee	3/30/2012	10.00	1,760.65		Lien
Assessment	4/1/2012	64.50	1,825.15		Assessment
Late Fee	4/30/2012	10.00	1,835.15		Lien
Assessment	5/1/2012	64.50	1,899.65		Assessment
Current	30 - 59 Days	60 - 89 Days	>90 Days	Balance:	1,899.65
0.00	74.50	74.50	1,750.65		

Mesa Management | 9512 W Flamingo Road #102 | Las Vegas, NV 89147 | 702-750-0530

**Make check payable to: Fort Apache Square**

5/31/2012

Page 2 of 2

A&KRPD00022

APP000598<sup>077</sup>



# **Account History Report Fort Apache Square HOA**

**Venise Abelard**

00198-2017

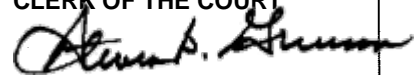
Community Address: 9352 Cranesbill Court  
Las Vegas, NV 89149

Date Settled:  
Unit Type: 01 - Homeowner

Mailing Address: 9352 Cranesbill Court  
Las Vegas, NV 89149

Last payment date: Wed Sep 15, 2010  
Last payment amount: 112.00  
Current balance: 1,204.58

Trans Date	Transaction	Charges	Payments	Balance	Date Billed	Reference	Comments
05/31/2009	Balance Forward Chrg	739.58		739.58		Balance Forward	prior management AMI
06/01/2009	Assessment	56.00		795.58		Monthly Charges	Recurring Charges: 06/01/2009
07/01/2009	Assessment	56.00		851.58		Monthly Charges	Recurring Charges: 07/01/2009
07/31/2009	Late Fee	10.00		861.58		Late Fee	Late Fee: 07/30/2009
08/01/2009	Assessment	56.00		917.58		Monthly Charges	Recurring Charges: 08/01/2009
08/31/2009	Late Fee	10.00		927.58		Late Fee	Late Fee: 08/30/2009
08/01/2009	Assessment	56.00		983.58		Monthly Charges	Recurring Charges: 09/01/2009
09/01/2009	Check		-125.00	858.58		138112	NAS
09/30/2009	Late Fee	10.00		868.58		Late Fee	Late Fee: 09/30/2009
10/01/2009	Assessment	56.00		924.58		Monthly Charges	Recurring Charges: 10/01/2009
10/31/2009	Late Fee	10.00		934.58		Late Fee	Late Fee: 10/30/2009
11/01/2009	Assessment	56.00		990.58		Monthly Charges	Recurring Charges: 11/01/2009
11/19/2009	Check		-100.00	890.58		147943	NAS
11/30/2009	Late Fee	10.00		900.58		Late Fee	Late Fee: 11/30/2009
12/01/2009	Assessment	56.00		956.58		Monthly Charges	Recurring Charges: 12/01/2009
12/31/2009	Late Fee	10.00		966.58		Late Fee	Late Fee: 12/30/2009
01/01/2010	Assessment	56.00		1,022.58		Monthly Charges	Recurring Charges: 01/01/2010
01/31/2010	Late Fee	10.00		1,032.58		Late Fee	Late Fee: 01/30/2010
02/01/2010	Assessment	56.00		1,088.58		Monthly Charges	Recurring Charges: 02/01/2010
02/03/2010	Check		-56.00	1,032.58		1133	Payment. Thank you
02/28/2010	Late Fee	10.00		1,042.58		Late Fee	Late Fee: 02/28/2010
03/01/2010	Assessment	56.00		1,098.58		Monthly Charges	Recurring Charges: 03/01/2010
03/31/2010	Late Fee	10.00		1,108.58		Late Fee	Late Fee: 03/30/2010
04/01/2010	Assessment	56.00		1,164.58		Monthly Charges	Recurring Charges: 04/01/2010
04/14/2010	Check		-132.00	1,032.58		1137	Payment. Thank you
04/30/2010	Late Fee	10.00		1,042.58		Late Fee	Late Fee: 04/30/2010
05/01/2010	Assessment	56.00		1,098.58		Monthly Charges	Recurring Charges: 05/01/2010
05/30/2010	Late Fee	10.00		1,108.58		Late Fee	Late Fee: 05/30/2010
06/01/2010	Assessment	56.00		1,164.58		Monthly Charges	Recurring Charges: 06/01/2010
06/16/2010	Check		-112.00	1,052.58		1144	Payment. Thank you.
06/30/2010	Late Fee	10.00		1,062.58		Late Fee	Late Fee: 06/30/2010
07/01/2010	Assessment	56.00		1,118.58		Monthly Charges	Recurring Charges: 07/01/2010
07/30/2010	Late Fee	10.00		1,128.58		Late Fee	Late Fee: 07/30/2010
08/01/2010	Assessment	56.00		1,184.58		Monthly Charges	Recurring Charges: 08/01/2010
08/30/2010	Late Fee	10.00		1,194.58		Late Fee	Late Fee: 08/30/2010
09/01/2010	Assessment	56.00		1,250.58		Monthly Charges	Recurring Charges: 09/01/2010
09/15/2010	Check		-112.00	1,138.58		1157	Payment. Thank you
09/30/2010	Late Fee	10.00		1,148.58		Late Fee	Late Fee: 09/30/2010
10/01/2010	Assessment	56.00		1,204.58		Monthly Charges	Recurring Charges: 10/01/2010



**ORDR**

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*Attorneys for Intervenor Wells Fargo Bank, N.A.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

VENISE ABELARD,

Plaintiff,

vs.

9352 CRANESBILL TRUST; FORT APACHE  
SQUARE HOMEOWNERS ASSOCIATION;  
MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC;  
BENCHMARK ASSOCIATION SERVICES;  
IYAD HADDAD, an individual; ALESSI &  
KOENIG, LLC; NEVADA ASSOCIATION  
SERVICES and DOES I through X and ROE  
COMPANIES I through X, inclusive,

Defendants.

And all related Parties and Actions.

Case No. A-12-671509-C

Dept. VII

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER GRANTING  
WELLS FARGO BANK, N.A.'S  
MOTION FOR SUMMARY  
JUDGMENT**

This matter came for hearing before the Court on March 6, 2018 at 9:00 a.m. on  
Intervenor Wells Fargo Bank, N.A.'s ("Wells Fargo") Motion for Summary Judgment and  
Defendants 9352 Cranesbill St. Trust, Teal Petals St. Trust and Iyad Haddad's ("Defendants")  
Motion for Summary Judgment. Jeffrey Willis, Esq. and Daniel S. Ivie, Esq. of Snell & Wilmer,  
LLP appeared on behalf of Wells Fargo; Charles Geisendorf, Esq. of Geisendorf & Vilkin, PLLC

4846-0617-5583.1

APP000600

Snell & Wilmer

L.L.P.  
LAW OFFICES  
3883 Howard Hughes Parkway, Suite 1100  
Las Vegas, Nevada 89169  
702.784.5200

APR 23 2018  
SDY

1 appeared on behalf of Defendants; Joice B. Bass, Esq. of Legal Aid Center of Southern Nevada  
2 appeared on behalf of Plaintiff Venise Abelard ("Plaintiff"); and Elizabeth Lowell, Esq. of  
3 Pengilly Law Firm appeared on behalf of Fort Apache Square Homeowners Association (the  
4 "HOA").

5 Based on the Court's consideration of the full briefing on the motions, the record on this  
6 case on file herein, and argument of counsel at the hearing, the court makes the following  
7 findings of fact and conclusions of law.

### 8 FINDINGS OF FACT

9 1. This matter involves real property located at 9352 Cranesbill Court, Las Vegas,  
10 Nevada 89149, APN 125-18-513-016 (the "Property").

11 2. On or about November 20, 2007, Plaintiff purchased the Property with proceeds  
12 from a mortgage loan provided by DHI Mortgage Company, LTD. ("DHI") in the amount of  
13 \$226,081.00.

14 3. A Deed of Trust naming Plaintiff and non-party Marcus Compere as borrowers  
15 and DHI as the lender was recorded as instrument no. 20120718-0003166 on November 28, 2007,  
16 granting DHI a security interest in the Property (the "Deed of Trust").

17 4. On October 17, 2012, Wells Fargo became the beneficiary of the Deed of Trust via  
18 an Assignment of Mortgage recorded against the Property as instrument no. 20121017-0001249.

19 5. On July 12, 2011, Alessi & Koenig ("A&K"), acting on behalf of the HOA,  
20 recorded a Notice of Delinquent Assessment Lien ("Notice of Lien") against the Property for  
21 unpaid assessments, late fees, collection costs and other charges allegedly owed by Plaintiff.

22 6. During the 2010 calendar year, the HOA's monthly assessment amount was  
23 \$56.00. For 2011, that amount increased to \$61.00 per month. As of January 1, 2012, the  
24 monthly assessment amount increased again to \$64.50.

25 7. On September 14, 2011, Plaintiff made a payment of \$142.00 to the HOA.

26 8. On September 15, 2011, acting on behalf of the HOA, A&K recorded a Notice of  
27 Default and Election to Sell Under Homeowners Association Lien ("NOD"), claiming a total  
28 amount due of \$3,403.58.

- 1           9.       On February 1, 2012, Plaintiff made a payment of \$284.00 to the HOA.
- 2           10.       On April 30, 2012, Plaintiff made a payment of \$223.50 to the HOA.
- 3           11.       On May 7, 2012, acting on behalf of the HOA, A&K recorded a Notice of
- 4       Trustee's Sale ("Notice of Sale"), claiming a total amount due of \$3,932.58.
- 5           12.       On June 20, 2012, Plaintiff made a final payment to the HOA of \$149.00.
- 6           13.       On July 11, 2012, A&K, foreclosed on the Property on behalf of the HOA and sold
- 7       it to Defendant 9352 Cranesbill Ct. Trust for \$4,900.00.
- 8           14.       On July 27, 2012, Defendant 9352 Cranesbill Ct. Trust conveyed the Property to
- 9       Defendant Teal Petals St. Trust.
- 10          15.       In its moving papers and at the hearing, Wells Fargo argued that Plaintiff's
- 11       payments to the HOA constituted a tender of the super-priority component of the HOA lien,
- 12       thereby satisfying the super-priority portion and preserving the Deed of Trust.
- 13          16.       Defendants argued that Wells Fargo's Deed of Trust was extinguished by virtue of
- 14       the HOA foreclosure sale.
- 15          17.       Defendants also argued that only a beneficiary of a deed of trust could pay off a
- 16       super-priority component of an HOA lien, not a homeowner. Defendants argued that if a
- 17       homeowner makes payments after the commencement of an action to enforce an HOA lien, those
- 18       payments can only be applied to the total balance owing on the account, not the super-priority
- 19       portion.

- 20          18.       Defendants also argued that a document stating that the super-priority portion of
- 21       the HOA's lien had been satisfied should have been recorded prior to the HOA foreclosure sale.
- 22          19.       Defendants further argued that they are entitled to bona fide purchaser status.

### CONCLUSIONS OF LAW

- 24          1.       The super-priority component of an HOA's lien consists of "the assessments for
- 25       common expenses ... which would have become due in absence of acceleration during the 9
- 26       months immediately preceding institution of an action to enforce the lien." NRS 116.3116(2)
- 27       (2012).

28

2. An action to enforce an HOA's delinquent assessment lien commences upon service of a notice of delinquent assessments. *Saticoy Bay LLC Series 2021 Gray Eagle Way v. JPMorgan Chase Bank, N.A.*, 133 Nev. Adv. Op. 3, 388 P.3d 226, 231 (2017).

3. The HOA instituted an action to enforce its lien against the Property in this case on July 12, 2011 when A&K recorded the Notice of Lien.

4. Therefore, the HOA's super-priority lien in this matter consisted of the assessments due for the nine months that immediately preceded the recording of the Notice of Lien, or the months of September 2010 through June 2011.

5. The monthly assessment for the Property between September 2010 and December 2010 were \$56.00 per month. The monthly assessments due on the Property between January 2011 and June 2011 increased to \$61.00 per month. Thus, the total amount of the HOA's super-priority component of the lien was \$534.00 ( $\$56.00 \times 3 \text{ mo.} + \$61.00 \times 6 \text{ mo.} = \$534.00$ ).

6. Between the recording of the HOA Notice of Lien on July 12, 2011 and the HOA foreclosure sale on July 11, 2012, Plaintiff made payments to the HOA totaling \$798.50.

7. Nevada Revised Statutes 116.3116(2) states the HOA lien is prior to first deeds of trust, but it does not limit who can satisfy the superpriority portion of the lien.

8. Because Plaintiff's payments to the HOA exceeded the super-priority component of the HOA's lien, the super-priority component of the lien was satisfied prior to the HOA foreclosure sale. *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, 408 P.3d 558, 2017 WL 6597154, \*1 (Nev. December 22, 2017). Therefore, there was no super-priority component of the HOA's lien that could have extinguished Wells Fargo's Deed of Trust on the Property.

9. Although the HOA did not record a document showing that Plaintiff had satisfied the super-priority component of the HOA's lien prior to the sale, there is no requirement that such a document be recorded. *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, 408 P.3d 558, 2017 WL 6597154, \*1 (Nev. December 22, 2017).

10. Defendants are not entitled to bona fide purchaser status with regard to Wells Fargo's Deed of Trust. The bona fide purchaser doctrine cannot revive an already-satisfied super-

1 priority component of an HOA lien. *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan*  
2 *Chase Bank, N.A.*, 408 P.3d 558, 2017 WL 6597154, \*1 (Nev. December 22, 2017).

3 **ORDER**

4 Good cause appearing, therefor

5 IT IS ORDERED that Wells Fargo's Motion for Summary Judgment is GRANTED.

6 IT IS FURTHER ORDERED that Plaintiff's payments to the HOA constituted a tender of  
7 the super-priority component of the HOA lien prior to the HOA foreclosure sale and that the  
8 tender satisfied the super-priority lien on the Property.

9 IT IS FURTHER ORDERED the Deed of Trust recorded against the Property as  
10 instrument no. 20071128-0003832 was not extinguished by the July 11, 2012 HOA foreclosure  
11 and remains as an encumbrance and lien on the Property.

12 IT IS FURTHER ORDERED THAT the July 12, 2012 HOA foreclosure sale conveyed  
13 title of the Property to Defendant 9352 Cranesbill Ct. Trust subject to the Deed of Trust.

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1 IT IS SO ORDERED.

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3 Dated this 21 day of April, 2018.

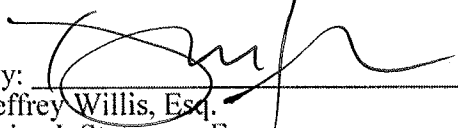


DISTRICT COURT JUDGE



4  
5  
6  
7  
8 Respectfully submitted by:

9 SNELL & WILMER L.L.P.

10  
11 By:   
12 Jeffrey Willis, Esq.  
13 Erica J. Stutsman, Esq.  
14 Daniel S. Ivie, Esq.  
15 3883 Howard Hughes Parkway, Suite 1100  
16 Las Vegas, Nevada 89169  
17 Attorneys for Intervenor Wells Fargo Bank,  
18 N.A.

19  
20 Approved as to form and content:

21 PENGILLY LAW FIRM

22 By: \_\_\_\_\_  
23 James W. Pengilly, Esq.  
24 Elizabeth B. Lowell, Esq.  
25 1995 Village Center Cir. Suite 190  
26 Las Vegas, NV 89134

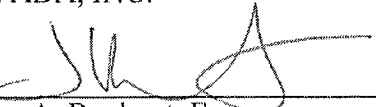
27 Attorneys for Fort Apache Square HOA

Approved as to form:

GEISENDORF & VILKIN, PLLC

By: \_\_\_\_\_  
Charles L. Geisendorf, Esq.  
2470 St. Rose Parkway, Suite 309  
Henderson, Nevada 89074  
Attorneys for Defendants 9352 Cranesbill Ct.  
Trust, Teal Petals St. Trust and Iyad Haddad

Approved as to form and content:  
LEGAL AID CENTER OF SOUTHERN  
NEVADA, INC.

By:  \_\_\_\_\_  
Debra A. Bookout, Esq.  
Joice B. Bass, Esq.  
725 E. Charleston Blvd.  
Las Vegas, Nevada 89101

Attorney for Plaintiff Venise Abelard

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IT IS SO ORDERED.

Dated this \_\_\_\_ day of April, 2018.

DISTRICT COURT JUDGE

Respectfully submitted by:

SNELL & WILMER L.L.P.

By: \_\_\_\_\_  
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Erica J. Stutsman, Esq.  
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N.A.*

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Trust, Teal Petals St. Trust and Iyad Haddad*

Approved as to form and content:

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*Attorney for Plaintiff Venise Abelard*



IT IS SO ORDERED.

Dated this \_\_\_\_ day of April, 2018.

DISTRICT COURT JUDGE

Respectfully submitted by:

SNELL & WILMER L.L.P.

Approved as to form:


GEISENDORF & VILKIN, PLLC

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N.A.*

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Trust, Teal Petals St. Trust and Iyad Haddad*

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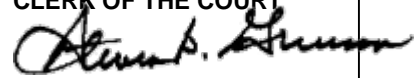
By:  \_\_\_\_\_  
James W. Pengilly, Esq.  
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Las Vegas, NV 89134

*Attorneys for Fort Apache Square HOA*

Approved as to form and content:  
LEGAL AID CENTER OF SOUTHERN  
NEVADA, INC.

By: \_\_\_\_\_  
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*Attorney for Plaintiff Venise Abelard*



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 divie@swlaw.com

*Attorneys for Intervenor Wells Fargo Bank, N.A.*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

VENISE ABELARD,

Plaintiff,

vs.

9352 CRANESBILL TRUST; FORT APACHE  
 SQUARE HOMEOWNERS ASSOCIATION;  
 MESA MANAGEMENT, LAS VEGAS  
 ASSOCIATION MANAGEMENT, LLC;  
 BENCHMARK ASSOCIATION SERVICES;  
 IYAD HADDAD, an individual; ALESSI &  
 KOENIG, LLC; NEVADA ASSOCIATION  
 SERVICES and DOES I through X and ROE  
 COMPANIES I through X, inclusive,

Defendants.

And all related Parties and Actions.

Case No. A-12-671509-C

Dept. VII

**NOTICE OF ENTRY OF FINDINGS OF  
 FACT, CONCLUSIONS OF LAW AND  
 ORDER GRANTING WELLS FARGO  
 BANK, N.A.'S MOTION FOR  
 SUMMARY JUDGMENT**

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///

1 PLEASE TAKE NOTICE that the FINDINGS OF FACT, CONCLUSIONS OF LAW  
2 AND ORDER GRANTING WELLS FARGO BANK, N.A.'S MOTION FOR SUMMARY  
3 JUDGMENT was entered with this Court on April 27, 2018, a copy of which is attached hereto.

4 Dated this 27th day of April 2018.

SNELL & WILMER L.L.P.

5  
6 By: /s/Daniel S. Ivie

Jeffrey Willis, Esq.

Erica J. Stutsman, Esq.

Daniel S. Ivie, Esq.

3883 Howard Hughes Parkway, Suite 1100

Las Vegas, Nevada 89169

*Attorneys for Intervenor Wells Fargo Bank,  
N.A.*

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **WELLS FARGO BANK, N.A.'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** by the method indicated:

  X   U. S. Mail  
       U.S. Certified Mail  
       Federal Express  
  X   Electronic Service  
       E-mail

and addressed to the following:

Via Electronic Service  
Charles L. Geisendorf, Esq.  
GEISENDORF & VILKIN, PLLC  
2470 St. Rose Parkway, Suite 309  
Henderson, Nevada 89074  
*Attorney for Defendants/Counterclaimants  
Iyad Haddad and 9352 Cranesbill Trust*

Via Electronic Service  
Debra A. Bookout, Esq.  
Joice B. Bass, Esq.  
LEGAL AID CENTER OF SOUTHERN  
NEVADA, INC.  
725 E. Charleston Blvd.  
Las Vegas, Nevada 89101  
*Attorney for Plaintiff Venise Abelard*

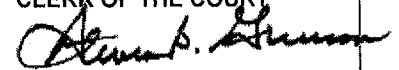
Via Electronic Service  
Steven T. Loizzi, Jr., Esq.  
HOA LAWYERS GROUP  
9500 W. Flamingo Road, Suite 204  
Las Vegas, NV 89147  
*Attorneys for Alessi Koenig, LLC*

Via Electronic Service  
James W. Pengilly, Esq.  
Elizabeth B. Lowell, Esq.  
PENGILLY LAW FIRM  
1995 Village Center Cir. Suite 190  
Las Vegas, NV 89134  
*Attorneys for Fort Apache Square HOA*

Via U.S. Mail  
Office of the Attorney General  
Attn: Gina Long  
555 E. Washington Ave.  
Suite 3900  
Las Vegas, NV 89101

DATED this 30<sup>th</sup> day of April 2018.

/s/ Gaylene Kim  
An employee of Snell & Wilmer L.L.P.



**ORDR**

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Erica J. Stutman, Esq.  
Nevada Bar No. 10794  
Daniel S. Ivie, Esq.  
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jwillis@swlaw.com  
estutman@swlaw.com  
divie@swlaw.com

*Attorneys for Intervenor Wells Fargo Bank, N.A.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

VENISE ABELARD,

Plaintiff,

vs.

9352 CRANESBILL TRUST; FORT APACHE  
SQUARE HOMEOWNERS ASSOCIATION;  
MESA MANAGEMENT, LAS VEGAS  
ASSOCIATION MANAGEMENT, LLC;  
BENCHMARK ASSOCIATION SERVICES;  
IYAD HADDAD, an individual; ALESSI &  
KOENIG, LLC; NEVADA ASSOCIATION  
SERVICES and DOES I through X and ROE  
COMPANIES I through X, inclusive,

Defendants.

And all related Parties and Actions.

Case No. A-12-671509-C

Dept. VII

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER GRANTING  
WELLS FARGO BANK, N.A.'S  
MOTION FOR SUMMARY  
JUDGMENT**

This matter came for hearing before the Court on March 6, 2018 at 9:00 a.m. on  
Intervenor Wells Fargo Bank, N.A.'s ("Wells Fargo") Motion for Summary Judgment and  
Defendants 9352 Cranesbill St. Trust, Teal Petals St. Trust and Iyad Haddad's ("Defendants")  
Motion for Summary Judgment. Jeffrey Willis, Esq. and Daniel S. Ivie, Esq. of Snell & Wilmer,  
LLP appeared on behalf of Wells Fargo; Charles Geisendorf, Esq. of Geisendorf & Vilkin, PLLC

4846-0617-5583.1

Snell & Wilmer

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APR 23 2018

SDY

1 appeared on behalf of Defendants; Joice B. Bass, Esq. of Legal Aid Center of Southern Nevada  
2 appeared on behalf of Plaintiff Venise Abelard ("Plaintiff"); and Elizabeth Lowell, Esq. of  
3 Pengilly Law Firm appeared on behalf of Fort Apache Square Homeowners Association (the  
4 "HOA").

5 Based on the Court's consideration of the full briefing on the motions, the record on this  
6 case on file herein, and argument of counsel at the hearing, the court makes the following  
7 findings of fact and conclusions of law.

### 8 FINDINGS OF FACT

9 1. This matter involves real property located at 9352 Cranesbill Court, Las Vegas,  
10 Nevada 89149, APN 125-18-513-016 (the "Property").

11 2. On or about November 20, 2007, Plaintiff purchased the Property with proceeds  
12 from a mortgage loan provided by DHI Mortgage Company, LTD. ("DHI") in the amount of  
13 \$226,081.00.

14 3. A Deed of Trust naming Plaintiff and non-party Marcus Compere as borrowers  
15 and DHI as the lender was recorded as instrument no. 20120718-0003166 on November 28, 2007,  
16 granting DHI a security interest in the Property (the "Deed of Trust").

17 4. On October 17, 2012, Wells Fargo became the beneficiary of the Deed of Trust via  
18 an Assignment of Mortgage recorded against the Property as instrument no. 20121017-0001249.

19 5. On July 12, 2011, Alessi & Koenig ("A&K"), acting on behalf of the HOA,  
20 recorded a Notice of Delinquent Assessment Lien ("Notice of Lien") against the Property for  
21 unpaid assessments, late fees, collection costs and other charges allegedly owed by Plaintiff.

22 6. During the 2010 calendar year, the HOA's monthly assessment amount was  
23 \$56.00. For 2011, that amount increased to \$61.00 per month. As of January 1, 2012, the  
24 monthly assessment amount increased again to \$64.50.

25 7. On September 14, 2011, Plaintiff made a payment of \$142.00 to the HOA.

26 8. On September 15, 2011, acting on behalf of the HOA, A&K recorded a Notice of  
27 Default and Election to Sell Under Homeowners Association Lien ("NOD"), claiming a total  
28 amount due of \$3,403.58.

- 1           9.     On February 1, 2012, Plaintiff made a payment of \$284.00 to the HOA.
- 2           10.    On April 30, 2012, Plaintiff made a payment of \$223.50 to the HOA.
- 3           11.    On May 7, 2012, acting on behalf of the HOA, A&K recorded a Notice of
- 4 Trustee's Sale ("Notice of Sale"), claiming a total amount due of \$3,932.58.
- 5           12.    On June 20, 2012, Plaintiff made a final payment to the HOA of \$149.00.
- 6           13.    On July 11, 2012, A&K, foreclosed on the Property on behalf of the HOA and sold
- 7 it to Defendant 9352 Cranesbill Ct. Trust for \$4,900.00.
- 8           14.    On July 27, 2012, Defendant 9352 Cranesbill Ct. Trust conveyed the Property to
- 9 Defendant Teal Petals St. Trust.
- 10          15.    In its moving papers and at the hearing, Wells Fargo argued that Plaintiff's
- 11 payments to the HOA constituted a tender of the super-priority component of the HOA lien,
- 12 thereby satisfying the super-priority portion and preserving the Deed of Trust.
- 13          16.    Defendants argued that Wells Fargo's Deed of Trust was extinguished by virtue of
- 14 the HOA foreclosure sale.
- 15          17.    Defendants also argued that only a beneficiary of a deed of trust could pay off a
- 16 super-priority component of an HOA lien, not a homeowner. Defendants argued that if a
- 17 homeowner makes payments after the commencement of an action to enforce an HOA lien, those
- 18 payments can only be applied to the total balance owing on the account, not the super-priority
- 19 portion.
- 20          18.    Defendants also argued that a document stating that the super-priority portion of
- 21 the HOA's lien had been satisfied should have been recorded prior to the HOA foreclosure sale.
- 22          19.    Defendants further argued that they are entitled to bona fide purchaser status.

### CONCLUSIONS OF LAW

- 24          1.     The super-priority component of an HOA's lien consists of "the assessments for
- 25 common expenses ... which would have become due in absence of acceleration during the 9
- 26 months immediately preceding institution of an action to enforce the lien." NRS 116.3116(2)
- 27 (2012).
- 28

2. An action to enforce an HOA's delinquent assessment lien commences upon service of a notice of delinquent assessments. *Saticoy Bay LLC Series 2021 Gray Eagle Way v. JPMorgan Chase Bank, N.A.*, 133 Nev. Adv. Op. 3, 388 P.3d 226, 231 (2017).

3. The HOA instituted an action to enforce its lien against the Property in this case on July 12, 2011 when A&K recorded the Notice of Lien.

4. Therefore, the HOA's super-priority lien in this matter consisted of the assessments due for the nine months that immediately preceded the recording of the Notice of Lien, or the months of September 2010 through June 2011.

5. The monthly assessment for the Property between September 2010 and December 2010 were \$56.00 per month. The monthly assessments due on the Property between January 2011 and June 2011 increased to \$61.00 per month. Thus, the total amount of the HOA's super-priority component of the lien was \$534.00 (\$56.00 x 3 mo. + \$61.00 x 6 mo. = \$534.00).

6. Between the recording of the HOA Notice of Lien on July 12, 2011 and the HOA foreclosure sale on July 11, 2012, Plaintiff made payments to the HOA totaling \$798.50.

7. Nevada Revised Statutes 116.3116(2) states the HOA lien is prior to first deeds of trust, but it does not limit who can satisfy the superpriority portion of the lien.

8. Because Plaintiff's payments to the HOA exceeded the super-priority component of the HOA's lien, the super-priority component of the lien was satisfied prior to the HOA foreclosure sale. *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, 408 P.3d 558, 2017 WL 6597154, \*1 (Nev. December 22, 2017). Therefore, there was no super-priority component of the HOA's lien that could have extinguished Wells Fargo's Deed of Trust on the Property.

9. Although the HOA did not record a document showing that Plaintiff had satisfied the super-priority component of the HOA's lien prior to the sale, there is no requirement that such a document be recorded. *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, 408 P.3d 558, 2017 WL 6597154, \*1 (Nev. December 22, 2017).

10. Defendants are not entitled to bona fide purchaser status with regard to Wells Fargo's Deed of Trust. The bona fide purchaser doctrine cannot revive an already-satisfied super-



priority component of an HOA lien. *Saticoy Bay LLC Series 2141 Golden Hill v. JPMorgan Chase Bank, N.A.*, 408 P.3d 558, 2017 WL 6597154, \*1 (Nev. December 22, 2017).

**ORDER**

Good cause appearing, therefor

IT IS ORDERED that Wells Fargo's Motion for Summary Judgment is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's payments to the HOA constituted a tender of the super-priority component of the HOA lien prior to the HOA foreclosure sale and that the tender satisfied the super-priority lien on the Property.

IT IS FURTHER ORDERED the Deed of Trust recorded against the Property as instrument no. 20071128-0003832 was not extinguished by the July 11, 2012 HOA foreclosure and remains as an encumbrance and lien on the Property.

IT IS FURTHER ORDERED THAT the July 12, 2012 HOA foreclosure sale conveyed title of the Property to Defendant 9352 Cranesbill Ct. Trust subject to the Deed of Trust.

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IT IS SO ORDERED.

Dated this 21 day of April, 2018.

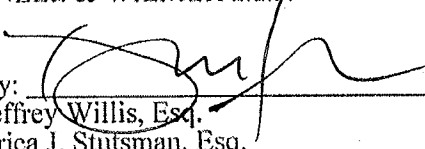


DISTRICT COURT JUDGE

*HLK*

Respectfully submitted by:

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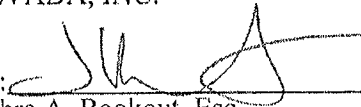
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IT IS SO ORDERED.

Dated this \_\_\_\_ day of April, 2018.

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*Attorney for Plaintiff Venise Abelard*

IT IS SO ORDERED.

Dated this \_\_\_\_ day of April, 2018.

DISTRICT COURT JUDGE

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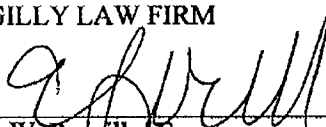
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