

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

TRUDI LEE LYTLE; AND JOHN ALLEN
LYTLE, AS TRUSTEES OF THE LYTLE
TRUST,
Appellants
vs.
SEPTEMBER TRUST, DATED MARCH 23,
1972, et al.
Respondents

No. 76198

DOCKETING STATEMENT
CIVIL APPEALS

Electronically Filed
Sep 17 2018 03:02 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department XVIII
County Clark Judge Mark B. Bailus
District Ct. Case No. A-17-765372

2. Attorney filing this docketing statement:

Attorney Richard E. Haskin Telephone (702) 836-9800
Firm Gibbs, Giden, Locher, Turner, Senet & Wittbrodt, LLP
Address 1140 N. Town Center Drive, Suite 300
Las Vegas, Nevada 89144

Client(s) Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Wesley J. Smith Telephone (702) 255-1718
Firm Christensen James & Martin
Address 7440 W. Sahara Avenue
Las Vegas, Nevada 89117

Client(s) September Trust, Zobrist Family Trust, Sandoval Trust, Dennis and Julie Gegen

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input checked="" type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input checked="" type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Case No. 60657
Case No. 61308
Case No. 65721
Case No. 63942
Case No. 65294
Case No. 73039

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Eighth Judicial District Court, Case No. A-09-593497-C
Eighth Judicial District Court, Case No. A-10-631355-C
Eighth Judicial District Court, Case No. A-16-747800-C

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

Respondents commenced the underlying action to dispute the validity and legal effect of abstracts of judgment that Appellants recorded against their respective properties in relation to a judgment Appellants obtained against the Rosemere Estates Property Owners Association. Respondents' properties are included as property of and within the association. Respondents sought the same relief that had been afforded to the parties in case number A-16-747800-C, through a decision that is currently the subject of an appeal in Supreme Court case number 73039. Appellants appeal the decision of the district court granting summary judgment in Respondents' favor and holding that Appellants improperly clouded title to Respondents' properties, expunging the abstracts of judgment recorded against the Respondents' properties, permanently enjoining Appellants "from recording and enforcing Judgments obtained from the" Rosemere Litigation or any other judgments obtained against the Association against the Respondents' properties, and permanently enjoining Appellants "from taking any action in the future directly against the Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation II or Rosemere Litigation III."

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

1. Whether the district court erred in finding that Appellants clouded title to Respondents' properties when Appellants recorded the abstracts of judgment against Respondents' properties?
2. Whether the district court erred in ordering that Appellants abstracts of judgments recorded against Respondents' properties should be expunged?
3. Whether the district court erred in ordering that Appellants were permanently enjoined "from taking any action in the future directly against the [Respondents] or their properties based upon" the underlying judgment against the Rosemere Estate Property Owners' Association?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Trudi Lee Lytle; and John Allen Lytle, As Trustees of the Lytle Trust vs. Marjorie Boulden, Trustee of the Marjorie B. Boulden Trust, et al., Supreme Court case number 73039. This case is currently before this Court on appeal and involves the same Appellants, properties within the same Owners' Association, and is considering the same issues that are being appealed in this case.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

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

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

While there is no presumptive assignment to the Court of Appeals, Appellants contend that this case should be retained by the Supreme Court due to its familiarity with the issues and matters at hand. The Supreme Court has considered and determined appeals related to Appellants and Rosemere Estates Property Owners Association, which issue are unique and involved herein.

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

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from May 25, 2018

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served May 25, 2018

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed June 19, 2018

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1)

Γ NRS 38.205

NRAP 3A(b)(2)

▮ NRS 233B.150

☒ NRAP 3A(b)(3)

□ NRS 703.376

☐ Other (specify)

(b) Explain how each authority provides a basis for appeal from the judgment or order: The district court granted Respondents' Motion for Summary Judgment, fully resolving the case. Therefore, judgment is final. NRAP 3A(b)(1). Further, the district court granted an injunction prohibiting Appellants from enforcing its judgment against the association as to Respondents' properties. NRAP 3A(b)(3).

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

(a) Parties:

Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust; September Trust, dated March 23, 1972; Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the Gerry R. Zobrist and Jolin G. Zobrist Family Trust; Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and Devolution Trust dated May 27, 1992; and Dennis A. Gegen and Julie S. Gegen, Husband and Wife, as Joint Tenants

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Respondents made claims for quiet title and declaratory relief. All claims were disposed of via summary judgment on May 25, 2018. This action is consolidated with Case No. A-16-747800-C, which already is subject to an appeal before this Court as Docket No. 73039.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes

☒ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

Respondents still seek attorneys' fees and costs, and a hearing on the motion for attorneys' fees is scheduled for July 26, 2018.

(b) Specify the parties remaining below:

Trudi Lee Lytle and John Allen Lytle, As Trustees Of The Lytle Trust; September Trust, Dated March 23, 1972; Gerry R. Zobrist and Jolin G. Zobrist, As Trustees Of The Gerry R. Zobrist and Jolin G. Zobrist Family Trust; Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, As Trustees Of The Raynaldo G. And Evelyn A. Sandoval Joint Living and Devolution Trust Dated May 27, 1992; and Dennis A. Gegen and Julie S. Gegen, Husband and Wife, As Joint Tenants

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

The Order is independently appealable under NRAP 3A(b)

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Trudi Lytle
Name of appellant

Richard E. Haskin
Name of counsel of record

September 17, 2018
Date

Signature of counsel of record

Nevada, Clark County
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 17th day of September, 2018, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Dated this 17th day of September, 2018

Signature

CERTIFICATE OF MAILING

The undersigned, an employee of the law firm of GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT LLP, hereby certifies that on September 17, 2018, she served a copy of the foregoing **AMENDED DOCKETING STATEMENT** by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope(s) addressed to:

DANIEL T. FOLEY, ESQ.
FOLEY & OAKS
626 S. 8th Street
Las Vegas, Nevada 89101

Attorneys for **MARJORIE BOULDEN, TRUSTEE OF THE MARJORIE B. BOULDEN TRUST, ETAL.**

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Persi J. Mishel
2725 Tidewater Court
Las Vegas, Nevada 89117

Settlement Judge

Tel: (702) 981-3043

An employee of
Gibbs Giden Locher Turner
Senet & Wittbrodt LLP

EXHIBIT “1”


CLERK OF THE COURT

1 **COMP**
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3 Nevada Bar No. 1078
4 FOLEY & OAKES, PC
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7 Tel.: (702) 384-2070
8 Fax: (702) 384-2128
9 Email: dan@foleyoakes.com
10 Attorneys for Plaintiffs

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

9 MARJORIE B. BOULDEN, TRUSTEE OF)
10 THE MARJORIE B. BOULDEN TRUST,)
11 LINDA LAMOTHE AND JACQUES)
12 LAMOTHE, TRUSTEES OF THE)
13 JACQUES & LINDA LAMOTHE)
14 LIVING TRUST)

15 Plaintiff,)

Case No. A-16-747800-C

Dept. No.

XVI

16 v.)

17 TRUDI LEE LYTLE, JOHN ALLEN)
18 LYTLE, THE LYTLE TRUST, DOES I)
19 through X; and ROE CORPORATIONS)
20 I through X,)

21 Defendants.)

22 **COMPLAINT**

23 COMES NOW Marjorie Boulden as Trustee of the Marjorie Boulden Trust (Mrs.
24 Boulden”), Linda Lamothe and Jacques Lamothe as Trustees of the Jacques & Linda Lamothe
25 Living Trust (“Mr. and Mrs. Lamothe”), by and through their attorneys Foley & Oakes, PC, as
26 and for a Complaint against Trudi Lee Lytle, John Lytle, the Lytle Living Trust (collectively the
27 “Lyttles”), DOES I through X; and ROE CORPORATIONS I through X and allege as follows:

28 1. Mrs. Boulden is the owner of the residential property known as parcel number
163-03-313-008 also known as 1960 Rosemere Ct., Las Vegas, NV 89117 (the “Boulden
Property”)

1 2. Mr. and Mrs. Lamothe are the owners of the residential property in Clark County
2 Nevada known as parcel number 163-03-313-002 also known as 1830 Rosemere Ct., Las Vegas,
3 NV 89117 the ("Lamothe Property").

4 3. Mr. and Mrs. Lytle are residents of Clark County.

5 4. The true names and capacities, whether individual, corporate, associate, or
6 otherwise, of the Defendants herein designated as DOES I through V individuals and/or ROE V
7 through X Corporations, inclusive, are unknown to Plaintiff, who therefore sues said Defendants
8 by such fictitious names. Plaintiff is informed and believes, and thereupon alleges, that each of
9 the Defendants designated herein as DOE I through V individuals and/or ROE V through X
10 Corporations is responsible in some manner for the events and happenings herein referred to, or
11 claim an interest in said property. Plaintiff will seek leave to amend this Complaint to show the
12 true names and capacities of said Defendants DOES I through V individuals and/or ROE V
13 through X Corporations when the same have been ascertained by Plaintiff, together with
14 appropriate charges and allegations and to join such Defendants in this action.
15

16 5. Plaintiff is informed, believes, and thereon alleges, that at all times relevant,
17 Defendants, and each of them, including those fictitiously named DOE or ROE, were the agents
18 or sureties of the other and in doing the things alleged herein, were acting within the course and
19 scope of such agency and with the consent and permission of the other co-defendants and/or are
20 liable under the doctrine of respondeat superior. Accordingly, Defendants are liable to Plaintiff
21 for each other's actions as set forth in this Complaint. For ease of reference, the named
22 Defendants may be referred to collectively in the singular as "Defendant," and reference to one
23 shall constitute reference to the others as well.
24

25 6. The Boulden Property and the Lamothe Property are located in the Rosemere
26 Court subdivision and are subject to the CC&R's recorded January 4, 1994.
27

1 7. The Rosemere Court subdivision, as subject to the CC&Rs, is a Limited Purpose
2 Association (the "Rosemere LPA") under NRS 116.1201 and NAC 116.090.

3 8. The Rosemere LPA has been judicially declared to be a Limited Purpose
4 Association.

5 9. Pursuant to NRS 116.1201, NRS 116's application to the Rosemere LPA is
6 limited.

7
8 10. Pursuant to NRS 116.1201, NRS 116.3117, which provides that a judgment
9 against a homeowners' association, when recorded, is a lien against all real property owned by
10 the owners of the homeowners' association, is not applicable to the Rosemere LPA.

11 11. On or about July 29, 2016 the Lytles arguably obtained a Judgment in their favor
12 against Rosemere LPA in the amount of \$361,238.59 (the "Judgment").

13 12. On August 16, 2016, the Lytles recorded with the Clark County Recorder's office
14 an abstract of the Judgement against the Rosemere LPA (the "First Abstract of Judgment"),
15 specifically listing the parcel numbers of the Boulden Property and the Lamothe Property as
16 properties to which the Judgment was to attach. A copy of the First Abstract of Judgment is
17 attached hereto as Exhibit "A".
18

19 13. On September 2, 2016, the Lytles recorded with the Clark County Recorder's
20 office another abstract of the Judgement against the Rosemere LPA, specifically listing the
21 parcel number of the Lamothe Property as the property to which the Judgment was to attach (the
22 "Second Abstract of Judgment"). A copy of the Second Abstract of Judgment is attached hereto
23 as Exhibit "B". (The First Abstract of Judgment and the Second Abstract of Judgment are
24 hereinafter collectively referred to as the "Abstracts of Judgment")
25

26 14. When the Lytles recorded the Abstracts of Judgement, the Lytles specifically
27 included the parcel numbers of the Boulden Property and the Lamothe Property even though
28

1 Plaintiffs were not parties to the lawsuit from which the Judgment arose and certainly were not
2 judgment creditors under the Judgment.

3 15. The Plaintiffs have no legal duty to pay the Judgment and have advised the Lytles
4 of this fact.

5 16. The Lytles knew or should have known that the Plaintiffs did not have a legal
6 duty to pay on the Judgment.

7 17. The Abstracts of Judgment were wrongfully recorded against the Boulden
8 Property and the Lamothe Property and the Lytles knew or should have known the Abstracts of
9 Judgment were wrongfully recorded.

10 18. A Purchase and Sale Agreement to purchase the Boulden Property was executed
11 by a third party buyer and Mrs. Boulden and deposited into the escrow (the "PSA").

12 19. The buyer under the PSA terminated Escrow because of the recorded Frist
13 Abstract of Judgment.

14
15
16 **FIRST CAUSE OF ACTION**
(Slander of Title, Mrs. Boulden)

17 20. Plaintiffs repeat and re-allege each and every allegation set forth above.

18 21. The Lytles' recording of the First Abstract of Judgment was a false and malicious
19 communication that has disparaged Mrs. Boulden's title to the Boulden Property.

20 22. As a proximate result of the Lytles' actions, Mrs. Boulden has been damaged due
21 to a third-party buyer cancelling escrow due to the existence of the recorded First Abstract of
22 Judgment.

23 23. As a proximate result of the Lytles' actions, the vendibility of the Boulden
24 Property is impaired.

25 24. As a proximate result of Lytles' actions Mrs. Boulden is entitled to special
26 damages in an amount in excess of \$10,000.00.

25. As a proximate result of Lytles' actions Mrs. Boulden is entitled to punitive damages in an amount in excess of \$10,000.00.

26. As a proximate result of Lytles' actions, Mrs. Boulden has been required to retain the services of Foley & Oakes, PC to prosecute this action, and is entitled to an award of attorney's fees and costs.

SECOND CAUSE OF ACTION

(Injunction, All Plaintiffs)

27. Plaintiffs repeat and re-allege each and every allegation set forth above.

28. Plaintiffs do not owe any money whatsoever to the Lytles.

29. Plaintiffs do not have an adequate remedy at law because they cannot sell their property with the Abstracts of Judgment recorded against their property.

30. Plaintiffs will suffer irreparable harm if they are not able to sell their property due to the recording of the Abstracts of Judgment.

31. Plaintiffs are likely to prevail on their claims against the Lytles.

32. Plaintiffs are entitled to injunctive relief in the form of an Order from this Court expunging the liens in the form of the recorded Abstracts of Judgment.

33. Plaintiffs have been required to retain the services of Foley & Oakes, PC to prosecute this action, and are entitled to an award of attorney's fees and costs.

THIRD CAUSE OF ACTION
(Quiet Title, All Plaintiffs)

34. Plaintiffs repeat and re-allege each and every allegation set forth above.

35. The Lytles, by their claims and actions, have asserted certain rights to lien the Boulden Property and the Lamothe Property.

36. The Lytles are without any legal basis whatsoever to lien the Boulden Property and the Lamothe Property.

37. The Lytles are without any legal basis whatsoever to claim any interest in the Boulden Property and the Lamothe Property, including any rights to lien or sell the same.

38. As a proximate result of the Lytles' actions, the titles to the Boulden Property and the Lamothe Property have been improperly and illegally clouded.

39. Plaintiffs are entitled to an Order from this Court pursuant to NRS 40.010 quieting title in their names and expunging the Abstracts of Judgment.

40. Plaintiffs herein have been required to retain the services of Foley & Oakes, PC, to prosecute this action, and are entitled to an award of attorney's fees and costs.

FOURTH CAUSE OF ACTION
(Declaratory Relief)

41. Plaintiffs repeat and re-allege each and every allegation set forth above.

42. A dispute and actual controversy exists between the parties relative to their interpretation of the rights and duties of the Plaintiffs regarding the Judgment, the recorded Abstracts of Judgment, and the Boulden Property and the Lamothe Property.

43. The Plaintiffs are entitled to a declaration from the Court, to the effect that the Judgment against the Rosemere LPA is not a judgment against the Plaintiffs, separately or individually, and that the Judgment and the Abstracts of Judgment were improperly and unlawfully recorded against the Boulden Property and the Lamothe Property.

44. Plaintiffs have been required to retain the services of Foley & Oakes, PC, to prosecute this action, and are entitled to an award of attorney's fees and costs.

WHEREFORE, Plaintiffs pray for judgment against the Lytles as follows:

A. That pending a hearing on the Preliminary Injunction and notice of the same, as required by law, a Temporary Restraining Order issue with such notice as is required by law, restraining and enjoining the Lytles, and each of them, their agents, servants, employees, attorneys, successors, and assigns and all persons in active participation or consort with them

1 from selling, attempting to sell, or disposing of the Boulden Property and the Lamothe Property.

2 Further, the Temporary Restraining Order should strike the Abstracts of Judgment;

3 B. That a Preliminary Injunction should be issued, restraining the Lytles, and each of
4 them, their, agents, servants, employees, attorneys, successors and assign, during the pendency
5 of this action, from foreclosing upon or selling the Boulden Property and the Lamothe Property
6 and from doing, causing, or permitting to be done, directly or indirectly, any acts whereby the
7 rights of the Plaintiffs in said property is in any matter impaired, violated or interfered with; and
8 that after such hearing as may be required by law, said preliminary injunction be made
9 permanent. Further, the Preliminary Injunction should strike the Abstracts of Judgment;
10

11 C. For judgment against the Lytles for general, special and punitive damages in
12 amounts in excess of \$10,000.00, plus costs, disbursements and interest;

13 D. For an Order quieting title of the Boulden Property and the Lamothe Property in
14 favor of the Plaintiffs and against the Lytles;

15 E. For a declaration that the Lytles, and each of them, have no right, title or interest
16 in the Boulden Property and the Lamothe Property, and a judgment and order quieting the
17 Plaintiffs' title, canceling and expunging the Abstracts of Judgment;
18

19 F. That Plaintiffs be awarded their reasonable attorneys' fees and costs of such suit
20 herein; and

21 G. For such other and further relief as this Court may deem proper in the premises.

22 DATED this 8th day of December 2016.

23 Respectfully Submitted,

24 FOLEY & OAKES, PC

25 /s/Daniel T. Foley

26 Daniel T. Foley, Esq.

27 626 S. 8th St.

28 Las Vegas, Nevada 89101

Attorneys for Plaintiffs

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10 Attorneys for Plaintiffs

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

9 MARJORIE B. BOULDEN, TRUSTEE OF)
10 THE MARJORIE B. BOULDEN TRUST,)
11 LINDA LAMOTHE AND JACQUES)
12 LAMOTHE, TRUSTEES OF THE)
13 JACQUES & LINDA LAMOTHE)
14 LIVING TRUST)

15 Plaintiff,)

Case No.

Dept. No.

16 v.)

17 TRUDI LEE LYTLE, JOHN ALLEN)
18 LYTLE, THE LYTLE TRUST, DOES I)
19 through X; and ROE CORPORATIONS)
20 I through X,)

21 Defendants.)

22 **INITIAL APPEARANCE FEE DISCLOSURE**

23 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for
24 parties appearing in the above-entitled action as indicated below:

25 The Marjorie B. Boulden Trust	\$270.00
26 The Jacques & Linda Lamothe Living Trust	\$30.00
27 TOTAL REMITTED	\$300.00

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DATED this 8th day of December 2016.

FOLEY & OAKES, PC

/s/Daniel T. Foley
Daniel T. Foley, Esq.
626 So. 8th Street
Las Vegas, Nevada 89101
Attorneys for Petitioner

EXHIBIT “2”


CLERK OF THE COURT

1 **ACOM**
2 DANIEL T. FOLEY, ESQ.
3 Nevada Bar No. 1078
4 FOLEY & OAKES, PC
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7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

9 MARJORIE B. BOULDEN, TRUSTEE OF)
10 THE MARJORIE B. BOULDEN TRUST,)
11 LINDA LAMOTHE AND JACQUES)
12 LAMOTHE, TRUSTEES OF THE)
13 JACQUES & LINDA LAMOTHE)
14 LIVING TRUST)

13 Plaintiff,)

Case No. A-16-747800-C
Dept. No. XVI

14 v.)

15 TRUDI LEE LYTLE AND JOHN ALLEN)
16 LYTLE, AS TRUSTEES OF THE LYTLE)
17 TRUST, DOES I through X; and ROE)
18 CORPORATIONS I through X,)
19 Defendants.)

19 **AMENDED COMPLAINT**

20 COMES NOW Marjorie Boulden as Trustee of the Marjorie Boulden Trust (Mrs.
21 Boulden"), Linda Lamothe and Jacques Lamothe as Trustees of the Jacques & Linda Lamothe
22 Living Trust ("Mr. and Mrs. Lamothe"), by and through their attorneys Foley & Oakes, PC, as
23 and for a Complaint against Trudi Lee Lytle, and John Lytle, as Trustees of the Lytle Trust
24 (collectively the "Lyttles"), DOES I through X; and ROE CORPORATIONS I through X and
25 allege as follows:
26
27
28

1 1. Mrs. Boulden is the owner of the residential property known as parcel number
2 163-03-313-008 also known as 1960 Rosemere Ct., Las Vegas, NV 89117 (the "Boulden
3 Property")

4 2. Mr. and Mrs. Lamothe are the owners of the residential property in Clark County
5 Nevada known as parcel number 163-03-313-002 also known as 1830 Rosemere Ct., Las Vegas,
6 NV 89117 the ("Lamothe Property").
7

8 3. Mr. and Mrs. Lytle are residents of Clark County, and are co-trustees of the Lytle
9 Trust.

10 4. The true names and capacities, whether individual, corporate, associate, or
11 otherwise, of the Defendants herein designated as DOES I through V individuals and/or ROE V
12 through X Corporations, inclusive, are unknown to Plaintiff, who therefore sues said Defendants
13 by such fictitious names. Plaintiff is informed and believes, and thereupon alleges, that each of
14 the Defendants designated herein as DOE I through V individuals and/or ROE V through X
15 Corporations is responsible in some manner for the events and happenings herein referred to, or
16 claim an interest in said property. Plaintiff will seek leave to amend this Complaint to show the
17 true names and capacities of said Defendants DOES I through V individuals and/or ROE V
18 through X Corporations when the same have been ascertained by Plaintiff, together with
19 appropriate charges and allegations and to join such Defendants in this action.
20

21 5. Plaintiff is informed, believes, and thereon alleges, that at all times relevant,
22 Defendants, and each of them, including those fictitiously named DOE or ROE, were the agents
23 or sureties of the other and in doing the things alleged herein, were acting within the course and
24 scope of such agency and with the consent and permission of the other co-defendants and/or are
25 liable under the doctrine of respondeat superior. Accordingly, Defendants are liable to Plaintiff
26 for each other's actions as set forth in this Complaint. For ease of reference, the named
27

1 Defendants may be referred to collectively in the singular as "Defendant," and reference to one
2 shall constitute reference to the others as well.

3 6. The Boulden Property and the Lamothe Property are located in the Rosemere
4 Court subdivision and are subject to the CC&R's recorded January 4, 1994.

5 7. The Rosemere Court subdivision, as subject to the CC&Rs, is a Limited Purpose
6 Association (the "Rosemere LPA") under NRS 116.1201 and NAC 116.090.

7 8. The Rosemere LPA has been judicially declared to be a Limited Purpose
8 Association.

9 9. Pursuant to NRS 116.1201, NRS 116's application to the Rosemere LPA is
10 limited.

11 10. Pursuant to NRS 116.1201, NRS 116.3117, which provides that a judgment
12 against a homeowners' association, when recorded, is a lien against all real property owned by
13 the owners of the homeowners' association, is not applicable to the Rosemere LPA.

14 11. On or about July 29, 2016 the Lytles arguably obtained a Judgment in their favor
15 against Rosemere LPA in the amount of \$361,238.59 (the "Judgment").

16 12. On August 16, 2016, the Lytles recorded with the Clark County Recorder's office
17 an abstract of the Judgement against the Rosemere LPA (the "First Abstract of Judgment"),
18 specifically listing the parcel numbers of the Boulden Property and the Lamothe Property as
19 properties to which the Judgment was to attach. A copy of the First Abstract of Judgment is
20 attached hereto as Exhibit "A".

21 13. On September 2, 2016, the Lytles recorded with the Clark County Recorder's
22 office another abstract of the Judgement against the Rosemere LPA, specifically listing the
23 parcel number of the Lamothe Property as the property to which the Judgment was to attach (the
24 "Second Abstract of Judgment"). A copy of the Second Abstract of Judgment is attached hereto
25

1 as Exhibit "B". (The First Abstract of Judgment and the Second Abstract of Judgment are
2 hereinafter collectively referred to as the "Abstracts of Judgment")

3 14. When the Lytles recorded the Abstracts of Judgment, the Lytles specifically
4 included the parcel numbers of the Boulden Property and the Lamothe Property even though
5 Plaintiffs were not parties to the lawsuit from which the Judgment arose and certainly were not
6 judgment creditors under the Judgment.

7
8 15. The Plaintiffs have no legal duty to pay the Judgment and have advised the Lytles
9 of this fact.

10 16. The Lytles knew or should have known that the Plaintiffs did not have a legal
11 duty to pay on the Judgment.

12 17. The Abstracts of Judgment were wrongfully recorded against the Boulden
13 Property and the Lamothe Property and the Lytles knew or should have known the Abstracts of
14 Judgment were wrongfully recorded.

15
16 18. A Purchase and Sale Agreement to purchase the Boulden Property was executed
17 by a third party buyer and Mrs. Boulden and deposited into the escrow (the "PSA").

18 19. The buyer under the PSA terminated Escrow because of the recorded First
19 Abstract of Judgment.

20 **FIRST CAUSE OF ACTION**
21 **(Slander of Title, Mrs. Boulden)**

22 20. Plaintiffs repeat and re-allege each and every allegation set forth above.

23 21. The Lytles' recording of the First Abstract of Judgment was a false and malicious
24 communication that has disparaged Mrs. Boulden's title to the Boulden Property.

25 22. As a proximate result of the Lytles' actions, Mrs. Boulden has been damaged due
26 to a third-party buyer cancelling escrow due to the existence of the recorded First Abstract of
27 Judgment.

1 23. As a proximate result of the Lytles' actions, the vendibility of the Boulden
2 Property is impaired.

3 24. As a proximate result of Lytles' actions Mrs. Boulden is entitled to special
4 damages in an amount in excess of \$10,000.00.

5 25. As a proximate result of Lytles' actions Mrs. Boulden is entitled to punitive
6 damages in an amount in excess of \$10,000.00.

7
8 26. As a proximate result of Lytles' actions, Mrs. Boulden has been required to retain
9 the services of Foley & Oakes, PC to prosecute this action, and is entitled to an award of
10 attorney's fees and costs.

11 **SECOND CAUSE OF ACTION**
12 **(Injunction, All Plaintiffs)**

13 27. Plaintiffs repeat and re-allege each and every allegation set forth above.

14 28. Plaintiffs do not owe any money whatsoever to the Lytles.

15 29. Plaintiffs do not have an adequate remedy at law because they cannot sell their
16 property with the Abstracts of Judgment recorded against their property.

17 30. Plaintiffs will suffer irreparable harm if they are not able to sell their property due
18 to the recording of the Abstracts of Judgment.

19 31. Plaintiffs are likely to prevail on their claims against the Lytles.

20 32. Plaintiffs are entitled to injunctive relief in the form of an Order from this Court
21 expunging the liens in the form of the recorded Abstracts of Judgment.

22
23 33. Plaintiffs have been required to retain the services of Foley & Oakes, PC to
24 prosecute this action, and are entitled to an award of attorney's fees and costs.

25 **THIRD CAUSE OF ACTION**
26 **(Quiet Title, All Plaintiffs)**

27 34. Plaintiffs repeat and re-allege each and every allegation set forth above.

1 35. The Lytles, by their claims and actions, have asserted certain rights to lien the
2 Boulden Property and the Lamothe Property.

3 36. The Lytles are without any legal basis whatsoever to lien the Boulden Property
4 and the Lamothe Property.

5 37. The Lytles are without any legal basis whatsoever to claim any interest in the
6 Boulden Property and the Lamothe Property, including any rights to lien or sell the same.
7

8 38. As a proximate result of the Lytles' actions, the titles to the Boulden Property and
9 the Lamothe Property have been improperly and illegally clouded.

10 39. Plaintiffs are entitled to an Order from this Court pursuant to NRS 40.010
11 quieting title in their names and expunging the Abstracts of Judgment.

12 40. Plaintiffs herein have been required to retain the services of Foley & Oakes, PC,
13 to prosecute this action, and are entitled to an award of attorney's fees and costs.
14

15 **FOURTH CAUSE OF ACTION**
16 **(Declaratory Relief)**

17 41. Plaintiffs repeat and re-allege each and every allegation set forth above.

18 42. A dispute and actual controversy exists between the parties relative to their
19 interpretation of the rights and duties of the Plaintiffs regarding the Judgment, the recorded
20 Abstracts of Judgment, and the Boulden Property and the Lamothe Property.

21 43. The Plaintiffs are entitled to a declaration from the Court, to the effect that the
22 Judgment against the Rosemere LPA is not a judgment against the Plaintiffs, separately or
23 individually, and that the Judgment and the Abstracts of Judgment were improperly and
24 unlawfully recorded against the Boulden Property and the Lamothe Property.

25 44. Plaintiffs have been required to retain the services of Foley & Oakes, PC, to
26 prosecute this action, and are entitled to an award of attorney's fees and costs.
27

28 **WHEREFORE,** Plaintiffs pray for judgment against the Lytles as follows:

1 A. That a Preliminary Injunction should be issued, restraining the Lyties, and each of
2 them, their, agents, servants, employees, attorneys, successors and assign, during the pendency
3 of this action, from foreclosing upon or selling the Boulden Property and the Lamothe Property
4 and from doing, causing, or permitting to be done, directly or indirectly, any acts whereby the
5 rights of the Plaintiffs in said property is in any matter impaired, violated or interfered with; and
6 that after such hearing as may be required by law, said preliminary injunction be made
7 permanent. Further, the Preliminary Injunction should strike the Abstracts of Judgment;

8
9 B. For judgment against the Lyties for general, special and punitive damages in
10 amounts in excess of \$10,000.00, plus costs, disbursements and interest;

11 C. For an Order quieting title of the Boulden Property and the Lamothe Property in
12 favor of the Plaintiffs and against the Lyties;

13 D. For a declaration that the Lyties, and each of them, have no right, title or interest
14 in the Boulden Property and the Lamothe Property, and a judgment and order quieting the
15 Plaintiffs' title, canceling and expunging the Abstracts of Judgment;

16
17 E. That Plaintiffs be awarded their reasonable attorneys' fees and costs of such suit
18 herein; and

19 F. For such other and further relief as this Court may deem proper in the premises.

20 DATED this 10th day of March 2017.

21 Respectfully Submitted,

22 FOLEY & OAKES, PC

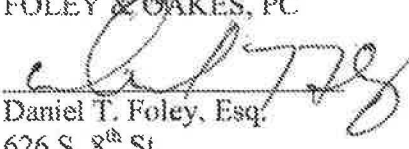
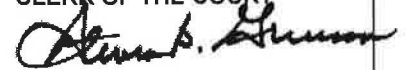
23 
24 Daniel T. Foley, Esq.
25 626 S. 8th St.
26 Las Vegas, Nevada 89101
27 Attorneys for Plaintiffs

EXHIBIT “3”



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

9 MARJORIE B. BOULDEN, TRUSTEE OF)
10 THE MARJORIE B. BOULDEN TRUST,)
11 LINDA LAMOTHE AND JACQUES)
12 LAMOTHE, TRUSTEES OF THE)
13 JACQUES & LINDA LAMOTHE)
14 LIVING TRUST)

13 Plaintiff,)

Case No. A-16-747800-C
Dept. No. XVI

14 v.)

15 TRUDI LEE LYTLE AND JOHN ALLEN)
16 LYTLE, AS TRUSTEES OF THE LYTLE)
17 TRUST, DOES I through X; and ROE)
18 CORPORATIONS I through X,)
19 Defendants.)

19 **SECOND AMENDED COMPLAINT**

20 COMES NOW Marjorie Boulden as Trustee of the Marjorie Boulden Trust (Mrs.
21 Boulden”), Linda Lamothe and Jacques Lamothe as Trustees of the Jacques & Linda Lamothe
22 Living Trust (“Mr. and Mrs. Lamothe”), by and through their attorneys Foley & Oakes, PC, as
23 and for a Complaint against Trudi Lee Lytle, and John Lytle, as Trustees of the Lytle Trust
24 (collectively the “Lyttles”), DOES I through X; and ROE CORPORATIONS I through X and
25 allege as follows:
26
27
28

1 1. Mrs. Boulden is the owner of the residential property known as parcel number
2 163-03-313-008 also known as 1960 Rosemere Ct., Las Vegas, NV 89117 (the "Boulden
3 Property")

4 2. Mr. and Mrs. Lamothe are the owners of the residential property in Clark County
5 Nevada known as parcel number 163-03-313-002 also known as 1830 Rosemere Ct., Las Vegas,
6 NV 89117 the ("Lamothe Property").
7

8 3. Mr. and Mrs. Lytle are residents of Clark County, and are co-trustees of the Lytle
9 Trust.

10 4. The true names and capacities, whether individual, corporate, associate, or
11 otherwise, of the Defendants herein designated as DOES I through V individuals and/or ROE V
12 through X Corporations, inclusive, are unknown to Plaintiff, who therefore sues said Defendants
13 by such fictitious names. Plaintiff is informed and believes, and thereupon alleges, that each of
14 the Defendants designated herein as DOES I through V individuals and/or ROE V through X
15 Corporations is responsible in some manner for the events and happenings herein referred to, or
16 claim an interest in said property. Plaintiff will seek leave to amend this Complaint to show the
17 true names and capacities of said Defendants DOES I through V individuals and/or ROE V
18 through X Corporations when the same have been ascertained by Plaintiff, together with
19 appropriate charges and allegations and to join such Defendants in this action.
20

21 5. Plaintiff is informed, believes, and thereon alleges, that at all times relevant,
22 Defendants, and each of them, including those fictitiously named DOES or ROE, were the agents
23 or sureties of the other and in doing the things alleged herein, were acting within the course and
24 scope of such agency and with the consent and permission of the other co-defendants and/or are
25 liable under the doctrine of respondeat superior. Accordingly, Defendants are liable to Plaintiff
26 for each other's actions as set forth in this Second Amended Complaint. For ease of reference,
27
28

1 the named Defendants may be referred to collectively in the singular as "Defendant," and
2 reference to one shall constitute reference to the others as well.

3 6. The Boulden Property and the Lamothe Property are located in the Rosemere
4 Court subdivision and are subject to the CC&R's recorded January 4, 1994 (the "CC&Rs").

5 7. The CC&Rs provide in paragraph 21 that a property owners committee shall be
6 established by all owners of lots within the subdivision to determine the landscaping on the four
7 exterior wall planters and the entrance way planters, and to determine the method and cost of
8 watering the planters.
9

10 8. A non-profit corporation, the Rosemere Estates Property Owners Association,
11 was formed in 1997 in order to open a bank account to handle the owners committee's funds for
12 the landscaping described above. The corporate charter of the Rosemere Estates Property
13 Owners Association was revoked by the Nevada Secretary of State's office in 2015.

14 9. The CC&Rs provided in paragraph 24 that in order to enforce the CC&Rs any
15 appropriate judicial proceeding in law or in equity could be used by any lot owner suing directly
16 any other lot owner or owners for any violation of the CC&Rs.
17

18 10. In 2009, the Lytles filed suit against the Rosemere Estates Property Owners
19 Association directly in case # A09-593497-C (the "Rosemere Litigation").

20 11. A number of lot owners within the Rosemere Subdivision had attempted to amend
21 the CC&R's. The Lytles and the Plaintiffs did not vote in favor of amending the CC&Rs.

22 12. The Lytles did not name the Plaintiffs or any other lot owners as defendants in the
23 Rosemere Litigation.
24

25 13. On or about July 29, 2016 the Lytles obtained a Judgment in their favor against
26 the Rosemere Estates Property Owners Association in the amount of \$361,238.59 (the
27 "Rosemere Judgment").
28

1 14. Thereafter, in August and September of 2016, the Lytles recorded with the Clark
2 County Recorder's office three different abstracts of the Rosemere Judgement against the
3 Rosemere Estates Property Owners Association specifically listing the parcel numbers of the
4 Boulden Property and the Lamothe Property as properties to which the Rosemere Judgment was
5 to attach (the "Abstracts of Judgment").

6 15. When the Lytles recorded the Abstracts of Judgement, the Lytles specifically
7 included the parcel numbers of the Boulden Property and the Lamothe Property even though
8 Plaintiffs were not parties to the Rosemere Litigation from which the Rosemere Judgment arose.
9

10 16. The Plaintiffs have no legal duty to pay the Rosemere Judgment and advised the
11 Lytles of this fact.

12 17. The Lytles knew or should have known that the Plaintiffs did not have a legal
13 duty to pay the Rosemere Judgment.

14 18. The Abstracts of Judgment were wrongfully recorded against the Boulden
15 Property and the Lamothe Property and the Lytles knew or should have known the Abstracts of
16 Judgment were wrongfully recorded.
17

18 19. A Purchase and Sale Agreement to purchase the Boulden Property was executed
19 by a third party buyer and Mrs. Boulden and deposited into the escrow (the "PSA").

20 20. The buyer under the PSA terminated Escrow because of the recorded Abstracts of
21 Judgment.

22 21. In May 2017, the Lytles recorded two *lis pendens* against the Plaintiffs' property.

23 22. On June 15, 2017, Mr. Haskin, counsel for the Lytles, sent an email to Mr. Foley,
24 counsel for the Plaintiffs, enclosing a different judgment the Lytles obtained against the
25 Rosemere Estates Property Owners Association in the amount of \$274,608.28, in case # 10-
26 631355-C (the "Rosemere II Litigation"), a different case from the Rosemere Litigation (the
27 "Rosemere II Judgment").
28

1 23. The Plaintiffs were not named parties in the Rosemere II Litigation and did not
2 have notice of the same.

3 24. In his June 15, 2017 email, Mr. Haskin stated "the Lytle Trust more recently
4 obtained another judgment against the Association in another case. The Lytle Trust was awarded
5 its attorneys' fees. A copy of that award is attached hereto. We trust your clients will honor
6 their obligation to disclose all judgments and litigation to any buyer."

7
8 **FIRST CAUSE OF ACTION**
9 **(Slander of Title, Mrs. Boulden)**

10 25. Plaintiffs repeat and re-allege each and every allegation set forth above.

11 26. The Lytles' recording of the Abstracts of Judgment were false and malicious
12 communications that disparaged Mrs. Boulden's title to the Boulden Property.

13 27. As a proximate result of the Lytles' actions, Mrs. Boulden has been damaged due
14 to a third-party buyer cancelling escrow due to the existence of the recorded Abstracts of
15 Judgment.

16 28. As a proximate result of the Lytles' actions, the vendibility of the Boulden
17 Property was impaired.

18 29. As a proximate result of Lytles' actions Mrs. Boulden is entitled to special
19 damages in an amount in excess of \$10,000.00.

20 30. As a proximate result of Lytles' actions Mrs. Boulden is entitled to punitive
21 damages in an amount in excess of \$10,000.00.

22 31. As a proximate result of Lytles' actions, Mrs. Boulden has been required to retain
23 the services of Foley & Oakes, PC to prosecute this action, and is entitled to an award of
24 attorney's fees and costs.

25
26 **SECOND CAUSE OF ACTION**
27 **(Injunction, All Plaintiffs)**

28 32. Plaintiffs repeat and re-allege each and every allegation set forth above.

33. Plaintiffs do not owe any money whatsoever to the Lytles.

34. Plaintiffs do not have an adequate remedy at law because they cannot sell their property with the Abstracts of Judgment recorded against their property.

35. Plaintiffs will suffer irreparable harm if they are not able to sell their property due to the recording of the Abstracts of Judgment.

36. Plaintiffs are likely to prevail on their claims against the Lytles.

37. Plaintiffs are entitled to injunctive relief in the form of an Order from this Court expunging the liens in the form of the recorded Abstracts of Judgment.

38. Plaintiffs have been required to retain the services of Foley & Oakes, PC to prosecute this action, and are entitled to an award of attorney's fees and costs.

THIRD CAUSE OF ACTION
(Quiet Title, All Plaintiffs)

39. Plaintiffs repeat and re-allege each and every allegation set forth above.

40. The Lytles, by their claims and actions, have asserted certain rights to lien the Boulden Property and the Lamothe Property.

41. The Lytles are without any legal basis whatsoever to lien the Boulden Property and the Lamothe Property.

42. The Lytles are without any legal basis whatsoever to claim any interest in the Boulden Property and the Lamothe Property, including any rights to lien or sell the same.

43. As a proximate result of the Lytles' actions, the titles to the Boulden Property and the Lamothe Property have been improperly and illegally clouded.

44. Plaintiffs are entitled to an Order from this Court pursuant to NRS 40.010 quieting title in their names and expunging the Abstracts of Judgment.

45. Plaintiffs herein have been required to retain the services of Foley & Oakes, PC, to prosecute this action, and are entitled to an award of attorney's fees and costs.

FOURTH CAUSE OF ACTION
(Declaratory Relief)

46. Plaintiffs repeat and re-allege each and every allegation set forth above.

47. A dispute and actual controversy exists between the parties relative to their interpretation of the rights and duties of the Plaintiffs regarding the Rosemere Judgment, the recorded Abstracts of Judgment, and the Boulden Property and the Lamothe Property.

48. The Plaintiffs are entitled to a declaration from the Court, to the effect that the Rosemere Judgment against the Rosemere Estates Home Owners Association is not a judgment against the Plaintiffs, separately or individually, and that the Rosemere Judgment and the Abstracts of Judgment were improperly and unlawfully recorded against the Boulden Property and the Lamothe Property.

49. Plaintiffs have been required to retain the services of Foley & Oakes, PC, to prosecute this action, and are entitled to an award of attorney's fees and costs.

FIFTH CAUSE OF ACTION
(Injunction, Rosemere II Judgment)

50. Plaintiffs repeat and re-allege each and every allegation set forth above.

51. Plaintiffs do not owe any money whatsoever to the Lytles.

52. The Lytles have threatened Plaintiffs with the Rosemere II Judgment demanding that Plaintiffs notify any and all prospective purchasers of their property of the Rosemere II Judgment, just as the Lytles did by recording the now cancelled two *Lis Pendens*.

53. If the Lytles were to record the Rosemere II Judgment like they did the Rosemere Judgment, the Plaintiffs will not have an adequate remedy at law because they could not sell their property.

54. Plaintiffs will suffer irreparable harm if they are not able to sell their property due to the recording of the Abstracts of Judgment.

55. Plaintiffs are likely to prevail on their claims against the Lytles.

56. Plaintiffs are entitled to injunctive relief in the form of an Order from this Court enjoining the Lytles from taking any action with respect to the Rosemere II Judgment with respect to the Plaintiffs or their property.

57. Plaintiffs have been required to retain the services of Foley & Oakes, PC to prosecute this action, and are entitled to an award of attorney's fees and costs.

SIXTH CAUSE OF ACTION **(Declaratory Relief)**

58. Plaintiffs repeat and re-allege each and every allegation set forth above.

59. A dispute and actual controversy exists between the parties relative to their interpretation of the rights and duties of the Plaintiffs regarding the Rosemere II Judgment and the Boulden Property and the Lamothe Property.

60. The Plaintiffs are entitled to a declaration from the Court, to the effect that the Rosemere II Judgment against the Rosemere Estates Home Owners Association is not a judgment against the Plaintiffs, separately or individually, and that the Rosemere II Judgment cannot be recorded against the Boulden Property and the Lamothe Property.

61. Plaintiffs have been required to retain the services of Foley & Oakes, PC, to prosecute this action, and are entitled to an award of attorney's fees and costs.

WHEREFORE, Plaintiffs pray for judgment against the Lytles as follows:

A. That a Preliminary Injunction should be issued, restraining the Lytles, and each of them, their, agents, servants, employees, attorneys, successors and assign, during the pendency of this action, from foreclosing upon or selling the Boulden Property and the Lamothe Property and from doing, causing, or permitting to be done, directly or indirectly, any acts whereby the rights of the Plaintiffs in said property is in any matter impaired, violated or interfered with; and that after such hearing as may be required by law, said preliminary injunction be made permanent. Further, the Preliminary Injunction should strike the Abstracts of Judgment;

1 B. For judgment against the Lytles for general, special and punitive damages in
2 amounts in excess of \$10,000.00, plus costs, disbursements and interest;

3 C. For an Order quieting title of the Boulden Property and the Lamothe Property in
4 favor of the Plaintiffs and against the Lytles;

5 D. For a declaration that the Lytles, and each of them, have no right, title or interest
6 in the Boulden Property and the Lamothe Property, and a judgment and order quieting the
7 Plaintiffs' title, canceling and expunging the Abstracts of Judgment;

8 E. That Plaintiffs be awarded their reasonable attorneys' fees and costs of such suit
9 herein; and
10

11 F. For such other and further relief as this Court may deem proper in the premises.

12 DATED this 25th day of July 2017.

13 Respectfully Submitted,

14 FOLEY & OAKES, PC

15 /s/Daniel T. Foley

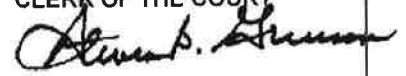
16 Daniel T. Foley, Esq.

17 626 S. 8th St.

18 Las Vegas, Nevada 89101

19 *Attorneys for Plaintiffs*

EXHIBIT “4”



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2 Nevada State Bar # 11592
Timothy P. Elson, Esq.
3 Nevada State Bar # 11559
GIBBS GIDEN LOCHER TURNER
4 **SENET & WITTBRODT LLP**
1140 N. Town Center Drive, Suite 300
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(702) 836-9800

6 Attorneys for Defendants
7 TRUDI LEE LYTLE, JOHN ALLEN LYTLE,
& THE LYTLE TRUST

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

11 MARJORIE B. BOULDEN, TRUSTEE OF THE
MARJORIE B. BOULDEN TRUST, LINDA
12 LAMOTHE AND JACQUES LAMOTHE,
TRUSTEES OF THE JACQUES & LINDA
13 LAMOTHE LIVING TRUST

14 Plaintiff,

15 v.

16 TRUDI LEE LYTLE, JOHN ALLEN LYTLE,
THE LYTLE TRUST, DOES I through X,
17 inclusive, and ROE CORPORATIONS I through
X,

18 Defendants.

19
20 TRUDI LEE LYTLE, JOHN ALLEN LYTLE,
21 THE LYTLE TRUST,

22 Counter-Claimants,

23 v.

24 LINDA LAMOTHE AND JACQUES LAMOTHE,
TRUSTEES OF THE JACQUES & LINDA
25 LAMOTHE LIVING TRUST, ROBERT Z.
DISMAN, YVONNE A. DISMAN, and ROES 1
through 10, inclusive,

26 Counter-Defendants.
27
28

Case No.: A-16-747800-C
Dept.: XVI

**DEFENDANTS TRUDI LEE LYTLE AND
JOHN ALLEN LYTLE, TRUSTEES OF
THE LYTLE TRUST'S ANSWER TO
PLAINTIFFS' SECOND AMENDED
COMPLAINT AND COUNTERCLAIM**

COMES NOW Defendants TRUDI LEE LYTLE and JOHN ALLEN LYTLE, Trustees of THE LYTLE TRUST ("Defendants" and/or the "Lytles"), by and through their counsel of record, Richard E. Haskin, Esq., of the law firm of GIBBS, GIDEN, LOCHER, TURNER, SENET & WITTBRODT, LLP, and hereby answers Plaintiffs MARJORIE B. BOULDEN, TRUSTEE OF THE MARJORIE B. BOULDENR TRUST, LINDA LAMOTHE AND JACQUES LAMOTHE, TRUSTEES OF THE JACQUES & LINDA LAMOTHE LIVING TRUST's (collectively "Plaintiffs") Second Amended Complaint as follows:

1. As to Paragraphs 1 through 3 of the Second Amended Complaint, Defendants admit the allegations set forth in said Paragraphs.

2. As to Paragraphs 4 through 5 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to admit or deny the allegations contained therein. Said Paragraphs also contain legal conclusions rather than facts that need to be admitted or denied. Defendants deny the same on that basis.

3. As to Paragraph 6 of the Second Amended Complaint, Defendants admit the allegations set forth in said Paragraph.

4. As to Paragraph 7 of the Second Amended Complaint, Defendants admit that Rosemere Estates Property Owners Association, a Nevada non-profit corporation ("Rosemere"), is a Limited Purpose Association governed by Chapter 116 of the Nevada Revised Statutes. As to the remaining allegations, said Paragraph also contains legal conclusions rather than facts that need admitted or denied. Defendants deny the same on that basis, as well as the content of such allegation should such a denial be necessary.

5. Defendants deny the allegations in Paragraph 8 of the Second Amended Complaint.

6. As to Paragraphs 9 of the Second Amended Complaint, Defendants admit that paragraph 24 of the CC&Rs speaks for itself.

7. As to Paragraphs 10 through 14 of the Second Amended Complaint, Defendants admit the allegations set forth in said Paragraphs.

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1 8. As to Paragraph 15 of the Second Amended Complaint, Defendants admit that the
2 Bouldens and the Lamothes were not parties to the aforementioned lawsuit. However, Defendants
3 deny the allegation that the property of the Bouldens and Lamothes described in the Second
4 Amended Complaint is not subject to the judgment described in the Second Amended Complaint.
5 As to the remaining allegations, said Paragraph also contains legal conclusions rather than facts that
6 need to be admitted or denied. Defendants deny the same on that basis, as well as the content of
7 such allegation should such a denial be necessary.

8 9. Defendants deny the allegations in Paragraphs 16 through 18 of the Second Amended
9 Complaint. Furthermore, said Paragraphs also contain legal conclusions rather than facts that need
10 to be admitted or denied. Defendants deny the same on that basis.

11 10. As to Paragraphs 19 and 20 of the Second Amended Complaint, Defendants are
12 without knowledge or information sufficient to admit or deny the allegations contained therein.

13 11. As to Paragraphs 21 and 22 of the Second Amended Complaint, Defendants admit the
14 allegations contained therein.

15 12. As to Paragraph 23. Defendants admit that Plaintiffs were not parties in the Rosemere
16 II litigation; however, Defendants deny that Plaintiffs did not have notice of the same. Plaintiffs
17 regularly attended Board meetings for the Association during which all litigation by and against
18 Defendants were discussed, and Plaintiffs routinely contributed assessments to fund such litigation.

19 13. As to Paragraph 24 of the Second Amended Complaint, Defendants admit the
20 allegations contained therein.

21 **FIRST CAUSE OF ACTION**

22 **(Slander of Title, Mrs. Boulden)**

23 14. Defendants repeat herein by this reference Paragraphs 1 through 13, inclusive, with
24 the same force and effect as if said Paragraphs were set forth herein in full.

25 15. As to Paragraph 25 of the Second Amended Complaint, Defendants deny the
26 allegations contained therein. Furthermore, said Paragraph also contains legal conclusions rather
27 than facts that need to be admitted or denied. Defendants deny the same on that basis.

28 ///

16. As to Paragraphs 26 through 31 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to admit or deny the allegations contained therein. Said Paragraphs also contain legal conclusions rather than facts that need to be admitted or denied. Defendants deny the same on that basis.

SECOND CAUSE OF ACTION

(Injunction, All Plaintiffs)

17. Defendants repeat herein by this reference Paragraphs 1 through 16, inclusive, with the same force and effect as if said Paragraphs were set forth herein in full.

18. Defendants deny the allegations in Paragraph 33 of the Second Amended Complaint.

19. As to Paragraphs 34 through 38 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to admit or deny the allegations contained therein. Said Paragraphs also contain legal conclusions rather than facts that need to be admitted or denied. Defendants deny the same on that basis.

THIRD CAUSE OF ACTION

(Quiet Title, All Plaintiffs)

20. Defendants repeat herein by this reference Paragraphs 1 through 19, inclusive, with the same force and effect as if said Paragraphs were set forth herein in full.

21. As to Paragraph 40 of the Complaint, Defendants admit the allegations contained therein.

22. As to Paragraphs 41 through 45 of the Second Amended Complaint, Defendants deny the allegations contained therein. Furthermore, said Paragraphs also contain legal conclusions rather than facts that need admitted or denied. Defendants deny the same on that basis.

FOURTH CAUSE OF ACTION

(Declaratory Relief, All Plaintiffs)

23. Defendants repeat herein by this reference Paragraphs 1 through 22, inclusive, with the same force and effect as if said Paragraphs were set forth herein in full.

24. As to Paragraph 47 of the Second Amended Complaint, Defendants admit the allegations contained therein.

25. As to Paragraphs 48 through 49 of the Second Amended Complaint, Defendants deny that the allegations contained therein.

FIFTH CAUSE OF ACTION

(Injunction, Rosemere II Judgment)

26. Defendants repeat herein by this reference Paragraphs 1 through 25, inclusive, with the same force and effect as if said Paragraphs were set forth herein in full.

27. As to Paragraphs 51 through 57 of the Second Amended Complaint, Defendants deny that the allegations contained therein.

SIXTH CAUSE OF ACTION

(Declaratory Relief)

28. Defendants repeat herein by this reference Paragraphs 1 through 27, inclusive, with the same force and effect as if said Paragraphs were set forth herein in full.

29. Defendants admit the allegations contained in Paragraph 59 of the Second Amended Complaint.

30. 27. As to Paragraphs 60 through 61 of the Second Amended Complaint, Defendants deny that the allegations contained therein.

AFFIRMATIVE DEFENSES

For their further and separate affirmative defenses to the Second Amended Complaint filed by Plaintiffs and the claims asserted therein, and without assuming the burden of proof on any matters for which that burden rests with Plaintiffs, Defendants allege as follows:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

If Plaintiffs suffered or sustained any loss, injury, damage or other detriment, the same was directly and proximately caused and contributed to by the breach of contract, conduct, acts, omissions, activities, carelessness, recklessness, negligence, and/or intentional misconduct of Plaintiffs or persons or entities under Plaintiffs' control, and thereby completely or partially bars Plaintiffs' recovery herein.

THIRD AFFIRMATIVE DEFENSE

Defendants are not legally responsible for the acts and/or omissions claimed herein.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs failed, refused and neglected to take reasonable steps to mitigate its alleged damages, if any, thus barring or diminishing Plaintiffs' recovery herein.

FIFTH AFFIRMATIVE DEFENSE

The injuries and damages of which Plaintiffs complain were proximately caused by, or contributed to, by the acts of other persons and/or other entities, whether now named or otherwise, and that said acts were an intervening and superseding cause of the injuries and damages, if any, of which Plaintiffs complain, thus barring Plaintiffs from any recovery against these Defendants or entitled Defendants to contribution from such parties.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are reduced, modified, and/or barred by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs have knowledge of and assumed the risks of their acts or failure to act. The damages alleged by Plaintiffs were caused by, and arose out of, risks which Plaintiffs directly assumed.

EIGHTH AFFIRMATIVE DEFENSE

Defendants are informed and believe, and thereon allege, that Plaintiffs waived their claims against these Defendants at issue herein.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs would be unjustly enriched if they recovered from Defendants any of the damages alleged in the Complaint.

TENTH AFFIRMATIVE DEFENSE

In the event Defendants are found liable in any manner to Plaintiffs, Defendants would be entitled to offsets and credits against any purported damages, if any, allegedly sustained by Plaintiffs.

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ELEVENTH AFFIRMATIVE DEFENSE

Defendants allege that Plaintiffs failed to properly confer jurisdiction on this Court on some or all causes of action in its Complaint because Plaintiffs failed to comply with the provisions of Chapter 38 of the Nevada Revised Statutes. Defendants reserve their right to raise this issue at any time, including appeal, as jurisdiction cannot be consented upon this Court by the parties and is never waived.

TWELFTH AFFIRMATIVE DEFENSE

Defendants incorporate by reference those affirmative defenses enumerated in NRCP 8 as fully set forth herein. In the event further investigation or discovery reveals the applicability of any such defenses, Defendants reserve the right to seek leave of the court to amend its answer to specifically assert the same. Such defenses are herein incorporated by reference for the specific purpose of not waiving the same.

THIRTEENTH AFFIRMATIVE DEFENSE

Pursuant to NRCP 11, as amended, all possible affirmative defenses may not have been stated or alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendants' Answer to the Second Amended Complaint, and therefore, Defendants specifically reserve the right to amend its Answer to allege additional affirmative defenses if subsequent investigation so warrants, up to and including through the time of trial in this matter.

WHEREFORE, Defendants pray for relief as follows:

1. That the Second Amended Complaint be dismissed and that Plaintiffs take nothing by way of its Second Amended Complaint;
2. For costs and disbursements in connection with this action;
3. For reasonable attorney's fees, and
4. For such other and further relief that this Court deems just and proper.

COUNTERCLAIM

COMES NOW Defendants and Counter-Claimants TRUDI LEE LYTLE and JOHN ALLEN LYTLE, Trustees of THE LYTLE TRUST (the "Lytles"), by and through their counsel of record, Richard E. Haskin, Esq., of the law firm of GIBBS, GIDEN, LOCHER, TURNER, SENET & WITTBRODT, LLP, and hereby alleges as follows:

I. THE PARTIES AND JURISDICTION

1. The Lytle Trust (the "Lytle Trust"), is the current owner of real property located 1930 Rosemere Court, in Clark County, Nevada, APN 163-03-313-009, and described as:

Lot Nine (9) of Rosemere Court, as shown by map thereof on file in Book 59, of Plats, Page 58, in the Office of the County Recorder of Clark County, Nevada ("Lytle Property").

The Lytle Property was previously owned by Defendants, Counter-Claimants J. Allen Lytle and Trudi L. Lytle, the current Trustees of the Lytle Trust, having been purchased by deed recorded November 15, 1996.

2. The Lytles are informed and believe, and thereon allege, that Counter-Defendants Linda Lamothe and Jacques Lamothe, Trustees of the Jacques & Linda Lamothe Living Trust, are the owners of the residential property in Clark County, Nevada known as parcel number 163-03-313-002, and commonly known as 1830 Rosemere Court, Las Vegas, Nevada 89117 ("1830 Rosemere Court").

3. The Lytles are informed and believe, and thereon allege, that Plaintiff Marjorie B. Boulden ("Boulden") was formerly the owner of the residential property in Clark County, Nevada known as parcel number 163-03-313-008, and commonly known as 1860 Rosemere Court, Las Vegas, Nevada 89117 ("1960 Rosemere Court"). However, the Lytles are informed and believe, and thereon allege, that on or about August 4, 2017, Boulden sold 1960 Rosemere Court to Counter-Defendants Robert Z. Disman and Yvonne A. Disman, who are now owners of 1960 Rosemere Court. Under NRS 116.4109, Counter-Defendants Robert and Yvonne Disman knew or should have known that the Association had judgments against it and recorded against it that could encumber

1 their property prior to their purchase of the property.

2 4. The true names and capacities of Counter-Defendants sued herein as ROES 1 through
3 10, inclusive, and each of them, are presently unknown to the Lytles, and, therefore, they are sued
4 herein under fictitious names, and when the true names are discovered, the Lytles will seek leave to
5 amend this Counterclaim and proceedings herein to substitute the true names of said Counter-
6 Defendants. The Lytles are informed and believe and based thereon allege that each of the foregoing
7 Counter designated herein as a ROE is negligent or responsible in some manner for the events herein
8 referred to.

9 **II. ROSEMERE ESTATES COMMUNITY AND GOVERNING DOCUMENTS**

10 5. The Original CC&Rs, in the first paragraph, defines Rosemere Estates as "Lots 1
11 through 9 of Rosemere Court, a subdivision..." The document adds that "it is the desire and
12 intention of the Subdivider to sell the land described above and to impose on it mutual, beneficial,
13 covenants, conditions and restrictions under a general plan or scheme of improvement for the benefit
14 of all of the land described above and the future owners of the lots comprising said land." Thus, the
15 Association includes each and every lot within Rosemere Estates.

16 6. Rosemere Property Owners' Association (the "Association"), at all times herein
17 mentioned is comprised of nine (9) owners of single family lots all as more particularly described in
18 the recorded Declaration of Covenants, Conditions and Restrictions, dated January 4, 1994 (the
19 "Original CC&Rs") for the Association, as recorded in the official records of the Clark County
20 Nevada Recorder's office. A true and correct copy of the Original CC&Rs is attached hereto, and
21 incorporated herein, as Exhibit "1." The Lytles are informed and believe, and based thereon allege,
22 that the Original CC&Rs were recorded on January 4, 1994, before title to any lot within the
23 Association was conveyed by deed, and are referenced in the deeds to all Nine (9) properties located
24 within the Association.

25 7. On February 25, 1997, Plaintiff and Counter-Defendant Linda Lamothe and Plaintiff
26 Marge Boulden, acting on behalf of all owners, filed Non-Profit Articles of Incorporation (the
27 "Articles") pursuant to Nevada Revised Statutes ("NRS") 82, which formalized the property owners'
28 committee and created an association, naming it "Rosemere Estates Property Owners Association."

1 8. At the July 2, 2007, the Association's Board, the Board presented the homeowners
2 with a binder that contained the following: (1) new Articles of Incorporation, dated July 6, 2007,
3 which articles were never filed although represented to be as set forth herein; (2) a letter from Kearn
4 to the Association members; (3) a Corporate Charter referencing the February 25, 1997 and July 6,
5 2007 Articles of Incorporation; (4) a section entitled "Governing Documents" referencing the July 6,
6 2007 Articles of Incorporation; (5) the "First Statutorily Mandated Amendment to the Bylaws of the
7 Rosemere Estates Homeowners Association," and (5) the proposed Amended and Restated
8 Covenants, Conditions and Restrictions ("Amended CC&Rs").

9 9. The proposed Amended CC&Rs were far more restrictive than the Original CC&Rs
10 and changed the very nature of property ownership within Rosemere Estates. The Amended CC&Rs
11 contained numerous use restrictions including a section entitled "Restrictions on Use, Alienation,
12 and Occupancy," pet restrictions, lease restrictions, the establishment of a Design Review
13 Committee with unfettered discretion, and a new and expansive definition of "nuisance." Further,
14 the Amended CC&Rs made the Association a full blown unit owners' association, subject to the
15 entirety of Chapter 116.

16 10. The proposed amended CC&Rs were not agreed to by all owners at the July 2, 2007
17 meeting, in fact less than 67% thereof, with at least 3 owners specifically objecting to the proposed
18 changes and refusing to sign the approval.

19 11. Despite the failure to obtain the required unanimous approval for changing the
20 CC&Rs, the Association proceeded, on July 3, 2007, to record in the office of the Recorder for Clark
21 County, Nevada, the Amended CC&Rs.

22 12. The Lytles immediately contested and continued to contest the Amended CC&Rs and
23 its unlawful adoption.

24 **III. THE UNDERLYING LITIGATION**

25 13. After proceeding through two separate mandatory arbitrations via NRS 38.383 in
26 2009 and 2010, one which contested the validity of the Amended CC&Rs and a second which
27 contested the validity of liens placed against the Lytle Property by the Association due to the Lytles
28 refusing to pay assessments levied against their property to fund litigation against them, the Lytles

1 filed two lawsuits in Nevada District Court. Pursuant to the Amended CC&Rs, which was the
2 governing document at the time and at all times during the underlying litigation, the Lytles were
3 required to file their claims against the Association, not against the any of the individual owners.

4 **A. NRED I LITIGATION**

5 14. The first lawsuit commenced by the Lytles, case number A-09-593497-C which was
6 assigned to Judge Michelle Leavitt in Department XII, contested the validity of the Amended
7 CC&Rs and sought to overturn the Amended CC&Rs ("NRED I Litigation"). The Lytles ultimately
8 prevailed, entirely, in the litigation, and the Court granted the Lytles summary judgment on July 29,
9 2013. The matter was appealed, and the Nevada Supreme Court affirmed the District Court's Order
10 granting the Lytles summary judgment. The Supreme Court remanded the case to the District Court
11 for redetermination of costs, attorneys' fees and damages on October 19, 2015.

12 15. On May 25, 2016, the Court awarded the Lytles \$297,072.66 in attorneys' fees
13 pursuant to the Original CC&Rs and the Amended CC&Rs, which the Court declared as the
14 governing documents during the entirety of the litigation.

15 16. On June 17, 2016, the Court awarded the Lytles damages in the NRED I Litigation,
16 after a prove-up hearing, in the amount of \$63,566.93.

17 17. Finally, on July 22, 2016, the Court in the NRED I Litigation awarded the Lytles
18 costs in the amount of \$599.00.

19 18. On September 2, 2016, the Lytles recorded Abstracts of Judgment from the NRED I
20 Litigation against each property within the Association pursuant to the law set forth herein.

21 **B. NRED II LITIGATION**

22 19. On December 13, 2010, the Lytles filed a second lawsuit against the Association
23 seeking to release and expunge three (3) unlawfully recorded liens, which were recorded by the
24 Association against the Lytle Property in 2009 and 2010. This second lawsuit bore case number A-
25 10-631355-C and was assigned to Department 32, Judge Robert Bare (the "NRED II Litigation").

26 20. Distinct from the NRED I Litigation, in the NRED II Litigation, both the Lytles and
27 the Association stipulated to the underlying fact that the Amended CC&Rs were the controlling
28 governing documents for the Association in the NRED II Litigation.

21. On November 14, 2011, the Court granted the Association's Motion for Summary Judgment against the Lytles in the NRED II Litigation. The Court then granted attorneys' fees to the Association pursuant to the Amended CC&Rs and NRS 116.4117. The Lytles appeals the Court's rulings in the NRED II Litigation.

22. On December 21, 2015, the Nevada Supreme Court vacated the Order Granting Summary Judgment in the NRED II Litigation and remanded the NRED II Litigation back to Department 32 for determination. The Supreme Court also vacated the order awarding attorneys' fees, costs, and damages to the Association.

23. On November 10, 2016, the Court in the NRED II Litigation granted the Lytles' Motion for Summary Judgment and entered an Order thereon, finding in favor of the Lytles as to all causes of action.

24. On April 14, 2017, the Court in the NRED II Litigation awarded the Lytles' attorneys' fees in the amount of \$274,608.28 pursuant to the Original CC&Rs, the Amended CC&Rs and NRS 116.4117, finding that the Amended CC&Rs controlled the remedies provided in the action. The Court also awarded costs in the amount of \$4,725.00.

25. Finally, on May 11, 2017, after a prove-up hearing, the Court in the NRED II Litigation awarded the Lytles punitive damages in the amount of \$823,824.84, pursuant to NRS 42.005.

26. On July 20, 2017, the Court in the NRED II Litigation issued an Abstract of Judgment in the amount of \$1,103,158.12, which has been recorded against the Association but none of the individual lots or properties within the Association.

FIRST CAUSE OF ACTION

(For Declaratory Relief Against Counter-Defendants Jacques and Linda Lamouthe, Third-Party Defendants Robert Disman and Yvonne Disman, and ROES 1 through 10, Inclusive)

27. The Lytles incorporate the allegations contained in Paragraphs 1 through 26 herein as though set forth in full.

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1 28. There exists a controversy between the Lytles and Counter-Defendants and Third
2 Party Defendants regarding the interpretation, application and enforcement of NRS, Chapter 116 as
3 well as the application of the Original CC&Rs and Amended CC&Rs to the controversy at hand,
4 requiring a determination by this Court and entry of declaratory relief.

5 29. Specifically, the Lytles contend as follows:

- 6 a. Pursuant to the Original CC&Rs, a lien or judgment against the Association
7 established under the Original CC&Rs attaches to each lot within the Association.
- 8 b. Pursuant to the Amended CC&Rs, which were in force at all times from 2007
9 through July 29, 2013, a lien or judgment against the Association established
10 under the Amended CC&Rs attaches to each lot within the Association.
- 11 c. Pursuant to NRS, Chapter 116, the Uniform Common Interest Development Act,
12 a lien or judgment against the Association attaches to each lot within the
13 Association, even if the Association is a *limited purpose association*, because
14 under NRS 116.021, each common interest community consists of all “real estate
15 described in a declaration with respect to which a person, by virtue of the person’s
16 ownership of a unit, is obligated to pay for a share of real estate taxes, insurance
17 premiums, maintenance or improvement of, or services or other expenses related
18 to, common elements, other units or other real estate described in that
19 declaration.” Further under NRS 116.093, each “unit” is defined as the “physical
20 portion of the common-interest community designated for separate ownership or
21 occupancy...” Thus, the association, or common interest community, includes
22 each and every unit in the community, including those owned by third parties.
- 23 d. Pursuant to NRS 116.3117, which governed the Association and all owners
24 during the underlying litigation, a judgment against the Association is a lien in
25 favor of the Lytles against all of the real property within the Association and all of
26 the units therein, including Counter-Defendants’ properties. The Association and
27 its membership are not entitled to use Chapter 116 and all of its provisions as a
28 sword during the litigation against the Lytles, *e.g.* to record multiple liens totaling

1 \$209,883.19 against the Lytles and attempt foreclosure against the Lytle Property
2 forcing the Lytles to procure a \$123,000.00 cash bond to prevent such
3 foreclosure, and then a shield to defend against the Lytles after they prevailed in
4 that litigation and the Association was declared a *limited purpose association*.

5 30. The Lytles desire a judicial determination of the parties' rights and duties and a
6 declaration the a lien against the Association, specifically the Abstract of Judgment issued in the
7 NRED II Litigation, can be recorded against 1830 Rosemere Court and 1960 Rosemere Court.

8 31. A judicial declaration is necessary and appropriate at this time so that the parties may
9 ascertain their rights and duties because the Lytles wish to record the Abstract of Judgment in the
10 NRED II Litigation against 1830 Rosemere Court and 1960 Rosemere Court to enforce their rights
11 as creditors against the Association.

12
13 WHEREFORE, Defendants and Counter-Claimants pray for relief as follows:

14 1. That the Second Amended Complaint be dismissed and that Plaintiffs take nothing by
15 way of its Second Amended Complaint;

16 2. That the Court enter a Declaratory Judgment in favor of the Lytles and against the
17 Counter-Defendants and Third Party Defendants, finding and declaring that the Lytles are entitled to
18 record a lien and/or Abstract of Judgment obtained in the NRED II Litigation against 1830
19 Rosemere Court and 1960 Rosemere Court in order to enforce the Lytles' rights as creditors against
20 the Association.

21 3. For an injunction preventing any Counter-Defendant or Third Party Defendant from
22 selling either 1830 Rosemere Court and 1960 Rosemere Court until this Court has entered a
23 Declaratory Judgment;

24 4. For costs and disbursements in connection with this action;

25 5. For reasonable attorney's fees, and

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6. For such other and further relief that this Court deems just and proper.

DATED: August 11, 2017

GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

By: 

Richard E. Haskin, Esq.
Nevada State Bar # 11592
Timothy P. Elson, Esq.
Nevada State Bar # 11559
1140 N. Town Center Drive, Suite 300
Las Vegas, Nevada 89144
Attorneys for Defendants
TRUDI LEE LYTLE, JOHN ALLEN LYTLE, & THE
LYTLE TRUST

CERTIFICATE OF MAILING

The undersigned, an employee of the law firm of GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT LLP, hereby certifies that on August 11, 2017, she served a copy of the foregoing **DEFENDANTS TRUDI LEE LYTLE AND JOHN ALLEN LYTLE, TRUSTEES OF THE LYTLE TRUST'S ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT AND COUNTERCLAIM**; by electronic service through the Regional Justice Center for Clark County, Nevada's ECF System:

Daniel T. Foley, ESQ.
FOLEY & OAKS, PC
626 S. 8th Street
Las Vegas, Nevada 89101

Attorney for Plaintiffs

Tel: (702) 384-2070
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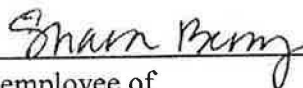
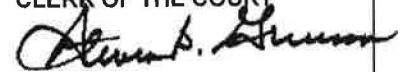

An employee of
Gibbs Giden Locher Turner
Senet & Wittbrodt LLP

EXHIBIT “5”



1 **ANSR**
2 DANIEL T. FOLEY, ESQ.
3 Nevada Bar No. 1078
4 FOLEY & OAKES, PC
5 626 S 8th Street
6 Las Vegas, Nevada 89101
7 Tel.: (702) 384-2070
8 Fax: (702) 384-2128
9 Email: dan@foleyoakes.com
10 *Attorneys for Plaintiffs*

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

9 MARJORIE B. BOULDEN, TRUSTEE OF
10 THE MARJORIE B. BOULDEN TRUST,
11 LINDA LAMOTHE AND JACQUES
12 LAMOTHE, TRUSTEES OF THE JACQUES
13 & LINDA LAMOTHE LIVING TRUST

12 Plaintiffs,

13 v.

14 TRUDI LEE LYTLE AND JOHN ALLEN
15 LYTLE, AS TRUSTEES OF THE LYTLE
16 TRUST, DOES I through X; and ROE
17 CORPORATIONS I through X

17 Defendants.

Case No. A-16-747800-C

Dept. No. XVI

18 TRUDI LEE LYTLE AND JOHN ALLEN
19 LYTLE, THE LYTLE TRUST,

19 Counter-Claimants,

20 v.

21 LINDA LAMOTHE AND JACQUES
22 LAMOTHE, TRUSTEES OF THE JACQUES
23 & LINDA LAMOTHE LIVING TRUST,
24 ROBERT Z. DISMAN, YVONNE A.
25 DISMAN, and ROES 1 through 10, inclusive,

24 Counter-Defendants.

25 **PLAINTIFFS' ANSWER TO COUNTER COMPLAINT**

1 COMES NOW Plaintiffs/Counter Defendants, Marjorie B. Boulden Trustee of the
2 Marjorie B. Boulden Trust and Linda Lamothe and Jacques Lamothe, Trustees of the Jacques &
3 Linda Lamothe Living Trust (collectively the "Plaintiffs") by and through their attorneys Foley
4 & Oakes, PC, and hereby respond to Trudi Lee Lytle's John Allen Lytle's, and the Lytle Trust's
5 (collectively the "Lyttles") Counter Complaint as follows:

6 1. With respect to the allegations contained in paragraphs numbered 2, 16, and 17,
7 the Plaintiffs admit all of the allegations contained therein.

8 2. With respect to the allegations contained in paragraphs numbered 28 and 31, the
9 Plaintiffs deny all of the allegations contained therein.

10 3. With respect to the allegations contained in paragraphs numbered 1, 4, 6, 8, 9, 10,
11 11, 12, 13, 14, 19, 20, 21, 22, 23, 24, 25, 26, 29, 30, the Plaintiffs are without sufficient
12 information upon which they can admit or deny said allegations, and on that basis deny all of the
13 allegations contained therein.

14 4. With respect to the allegations contained in paragraph numbered 3, the Plaintiffs
15 deny that the Dismans knew or should have known that the Association had judgments against it
16 and recorded against it that could encumber their property. Otherwise, the Plaintiffs admit all
17 other allegations contained in paragraph numbered 3.

18 5. With respect to the allegations contained in paragraph numbered 5, the Plaintiffs
19 deny that the Association included each and every lot within Rosemere Estates. Otherwise, the
20 Plaintiffs admit all other allegations contained in paragraph numbered 5.

21 6. With respect to the allegations contained in paragraph numbered 7, Plaintiffs deny
22 that the filing of articles of incorporation "formalized" the property owners' committee or
23 created an association. Otherwise, the Plaintiffs admit all other allegations contained in
24 paragraph numbered 7.

7. With respect to the allegations contained in paragraph numbered 15, Plaintiffs admit that the court awarded Lytles \$297,072.66 in attorneys' fees. Otherwise, the Plaintiffs deny all other allegations contained in paragraph numbered 15.

8. With respect to the allegations contained in paragraph numbered 18, Plaintiffs admit that the Lytles recorded Abstracts of Judgment. Otherwise, the Plaintiffs deny all other allegations contained in paragraph numbered 18.

9. With respect to the allegations contained in paragraph numbered 27, Plaintiffs repeat and re-allege their Answers to the paragraphs referenced therein.

10. To the extent necessary, Defendants deny the request for relief contained in the prayer of the Complaint.

AFFIRMATIVE DEFENSES

As and for Affirmative Defenses to the Lytle's Counter Complaint, Plaintiffs alleges as follows:

FIRST AFFIRMATIVE DEFENSE

The Counter Complaint fails to state a claim or claims against the Plaintiffs upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The injuries and damages, if any, which the Lytles allege in their Counter Complaint were caused solely by the negligence and action of the Lytles and/or others, and not by any act or omission to act on the part of Plaintiffs.

THIRD AFFIRMATIVE DEFENSE

The Lytles' claims and Counter Complaint are barred by the doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE

The Lytles waived any rights or claims they may have had against Plaintiffs.

1 **FIFTH AFFIRMATIVE DEFENSE**

2 The Lytles' claims and Counter Complaint are barred by the doctrine of Laches.

3 **SIXTH AFFIRMATIVE DEFENSE**

4 The Lytles' claims and Counter Complaint are barred by the doctrine of unclean hands.

5 **SEVENTH AFFIRMATIVE DEFENSE**

6 The Lytles failed to mitigate their damages.

7 **EIGHTH AFFIRMATIVE DEFENSE**

8 The Lytles' claims and Counter Complaint are barred by the statute of limitations.

9 **NINTH AFFIRMATIVE DEFENSE**

10 Plaintiffs hereby incorporate those affirmative defenses enumerated in NRCP 8 as if fully
11 set forth herein

12 **TENTH AFFIRMATIVE DEFENSE**

13 Pursuant to NRCP 11, as amended, all possible affirmative defenses may not have been
14 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
15 filing of Plaintiffs' Answer and, therefore, Plaintiffs reserve the right to amend their Answer to
16 allege additional affirmative defenses if subsequent investigation warrants.

17 **WHEREFORE**, Plaintiffs pray for relief as follows:

18 1. That Lytles take nothing by reason of their Counter Complaint on file herein and
19 that Plaintiffs have judgment against the Lytles, and each of them, for their costs of suit incurred
20 including a reasonable attorney's fee; and

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1 2. For such other and further relief as the Court may deem just and proper.

2 DATED this 30th day of August 2017

3

4

FOLEY & OAKES, PC

5

/s/Daniel T. Foley

6

Daniel T. Foley, Esq.

7

Nevada Bar No. 1078

8

626 So. 8th Street

9

Las Vegas, Nevada 89101

10

Attorneys for Defendants

11

12

13

14

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17

18

19

20

21

22

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NEFCR 9, N.R.C.P. 5(b) and EDCR 7.26, I hereby certify that I am an
3 employee of Foley & Oakes, PC, and that on the 5th day of September, 2017, I served the
4 following document(s):

5 **PLAINTIFFS' ANSWER TO COUNTER COMPLAINT**

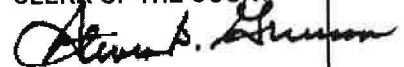
6
7 I served the above-named document(s) by the following means to the person s as listed
8 below: [x] By Electronic Transmission through the Odyssey eFileNV system:

9 Richard E. Haskin, Esq.
10 GIBBS, GIDEN, LOCHER, TURNER,
11 SENET & WHITTBRODT, LLP
12 1140 N. Town Center Drive, Suite 300
Las Vegas, NV 89144

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

14 /s/ Maren Foley
15 An employee of FOLEY & OAKES
16
17
18
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27

EXHIBIT “6”



1 **ANS/CRCM**
2 CHRISTINA H. WANG, ESQ.
3 Nevada Bar No. 9713
4 FIDELITY NATIONAL LAW GROUP
5 8363 W. Sunset Road, Suite 120
6 Las Vegas, Nevada 89113
7 Tel: (702) 667-3000
8 Fax: (702) 697-2020
9 Email: christina.wang@fnf.com
10 *Attorneys for Counter-Defendants/Cross-Claimants*
11 *Robert Z. Disman and Yvonne A. Disman*

7
8
9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 MARJORIE B. BOULDEN, TRUSTEE OF THE)
12 MARJORIE B. BOULDEN TRUST, LINDA)
13 LAMOTHE AND JACQUES LAMOTHE,)
14 TRUSTEES OF THE JACQUES & LINDA)
15 LAMOTHE LIVING TRUST,)

16 Plaintiffs,

17 vs.

18 TRUDI LEE LYTLE, JOHN ALLEN LYTLE,)
19 THE LYTLE TRUST, DOES I through X, and)
20 ROE CORPORATIONS I through X,)

21 Defendants.

22 TRUDI LEE LYTLE, JOHN ALLEN LYTLE,)
23 THE LYTLE TRUST,)

24 Counter-Claimants,

25 vs.

26 LINDA LAMOTHE AND JACQUES)
27 LAMOTHE, TRUSTEES OF THE JACQUES &)
28 LINDA LAMOTHE LIVING TRUST, ROBERT)
Z. DISMAN, YVONNE A. DISMAN, and)
ROES 1 through 10, inclusive,)

Counter-Defendants.

Case No.: A-16-747800-C

Dept. No.: XVI

**COUNTER-DEFENDANTS AND
CROSS-CLAIMANTS ROBERT Z.
DISMAN AND YVONNE A. DISMAN'S
ANSWER AND CROSSCLAIM**

1 ROBERT Z. DISMAN, an individual; and
2 YVONNE A. DISMAN, an individual,

3 Cross-Claimants,

4 vs.

5 MARJORIE B. BOULDEN, TRUSTEE OF THE
6 MARJORIE B. BOULDEN TRUST,
7 AMENDED AND RESTATED DATED JULY
8 17, 1996; DOES I through X; and ROE
9 BUSINESS ENTITIES XI through XX,

10 Cross-Defendants.

11 Counter-Defendants ROBERT Z. DISMAN and YVONNE A. DISMAN (hereinafter
12 collectively referred to as, the "Dismans") by and through their attorneys of record, the Fidelity
13 National Law Group, hereby file this Answer to Counter-Claimants TRUDI LEE LYTLE and
14 JOHN ALLEN LYTLE, Trustees of THE LYTLE TRUST (hereinafter collectively referred to
15 as, the "Lyttles")' Counterclaim as follows:

16 **I. THE PARTIES AND JURISDICTION**

17 1. Answering paragraph numbers 1 and 2, the Dismans are without sufficient
18 knowledge or information to form a belief as to the truth of the allegations of said paragraphs
19 and on that basis deny each and every allegation set forth therein.

20 2. Answering paragraph number 3, the Dismans admit that in or about August 2017,
21 they purchased the real property commonly known as 1960 Rosemere Court, Las Vegas, Nevada
22 89117, Parcel No. 163-03-313-008 ("1960 Rosemere Court" or "Property") from Marjorie B.
23 Boulden, Trustee of The Marjorie B. Boulden Trust, amended and restated dated July 17, 1996.
24 The Dismans further admit that they are now owners of 1960 Rosemere Court. The Dismans
25 generally and specifically deny all other allegations set forth in paragraph number 3.

26 3. Answering paragraph number 4, the Dismans are without sufficient knowledge or
27 information to form a belief as to the truth of the allegations of said paragraph and on that basis
28 deny each and every allegation set forth therein.

II. ROSEMERE ESTATES COMMUNITY AND GOVERNING DOCUMENTS

4. Answering paragraph number 5, the allegations set forth therein attempt to

1 characterize the terms of the document referenced, which speaks for itself. Therefore, the
2 Dismans generally and specifically deny any characterization or legal conclusion inconsistent
3 with the document referenced and no further response is required.

4 5. Answering paragraph numbers 6, 7, 8, 9, 10, 11 and 12, the Dismans are without
5 sufficient knowledge or information to form a belief as to the truth of the allegations of said
6 paragraphs and on that basis deny each and every allegation set forth therein.

7 **III. THE UNDERLYING LITIGATION**

8 6. Answering paragraph number 13, the Dismans are without sufficient knowledge
9 or information to form a belief as to the truth of the allegations of said paragraph and on that
10 basis deny each and every allegation set forth therein.

11 **A. NRED I LITIGATION**

12 7. Answering paragraph numbers 14, 15, 16, 17 and 18, the Dismans are without
13 sufficient knowledge or information to form a belief as to the truth of the allegations of said
14 paragraphs and on that basis deny each and every allegation set forth therein.

15 **B. NRED II LITIGATION**

16 8. Answering paragraph numbers 19, 20, 21, 22, 23, 24, 25 and 26, the Dismans are
17 without sufficient knowledge or information to form a belief as to the truth of the allegations of
18 said paragraphs and on that basis deny each and every allegation set forth therein.

19 **FIRST CAUSE OF ACTION**

20 **(For Declaratory Relief Against Counter-Defendants Jacques and Linda Lamothe, Third-**
21 **Party Defendants Robert Disman and Yvonne Disman, and ROES 1 through 10, Inclusive)**

22 9. Answering paragraph number 27, the Dismans repeat and reallege their answers
23 to paragraphs 1 through 26 above, and incorporates the same by reference as though fully set
24 forth herein.

25 10. Answering paragraph number 28, the Dismans generally and specifically deny
26 the allegations set forth therein.

27 11. Answering paragraph numbers 29(a) and (b), the allegations set forth therein
28 attempt to characterize the terms of the documents referenced, which speak for themselves.

1 Therefore, the Dismans generally and specifically deny any characterization or legal conclusion
2 inconsistent with the documents referenced and no further response is required.

3 12. Answering paragraph numbers 29(c) and (d), and 30, the allegations set forth
4 therein call for legal conclusions to which no response is required. To the extent paragraph
5 numbers 29(c) and (d) are determined to contain factual allegations, the Dismans are without
6 sufficient knowledge or information to form a belief as to the truth of the allegations of said
7 paragraphs and on that basis deny each and every allegation set forth therein.

8 13. Answering paragraph number 31, the Dismans generally and specifically deny
9 the allegations set forth therein

10 **AFFIRMATIVE DEFENSES**

11 The Dismans assert the following affirmative defenses to the claims and allegations
12 contained in the Counterclaim.

13 1. The Counterclaim fails to state a claim or cause of action against the Dismans
14 upon which relief can be granted.

15 2. The Counterclaim is not ripe for determination.

16 3. The Counterclaim is barred in whole or in part by the doctrines of laches, waiver,
17 estoppel, and/or unclean hands.

18 4. The Counterclaim is barred in whole or in part by the doctrines of ratification,
19 confirmation, release, discharge, and/or set-off.

20 5. The Counterclaim is barred in whole or in part by the doctrines of mistake,
21 excuse, and/or non-performance.

22 6. The Dismans acted at all times in accordance with their contractual and legal
23 rights.

24 7. The Dismans acted at all times in good faith and in conformity with applicable
25 law and regulations.

26 8. Any damage, injury or loss sustained by the Lytles was caused by the actions of
27 others or by intervening or superseding events for which the Dismans have no responsibility.

28

9. Any damage, injury or loss sustained by the Lytles was solely and proximately caused by, or contributed to by, their own negligence, which either bars or reduces the Lytles' recovery herein in an amount to be determined by the trier of fact.

10. The Lytles have failed to mitigate their damages.

11. The Lytles have failed to name all necessary parties and complete relief cannot be accorded among existing parties.

12. The Dismans are bona fide purchasers of 1960 Rosemere Court in that they purchased the Property in good faith, for a valuable consideration, not by gift, with no actual, constructive, or inquiry notice of any alleged or real infirmities in the title, who would be prejudiced by the relief sought.

13. The Dismans hereby incorporate by reference those affirmative defenses enumerated in NRCP 8 for the specific reason of not waiving the same.

14. Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein, insofar as sufficient facts were not available after reasonable inquiry upon the filing of the Dismans' Answer and, therefore, the Dismans reserve the right to amend their Answer to allege additional affirmative defenses if subsequent investigations warrants.

WHEREFORE, the Dismans pray that the Lytles take nothing by way of their Counterclaim, that the Dismans be awarded reasonable attorney's fees and costs incurred in defending this action, and that the Court award any and all other relief that it deems necessary and appropriate.

CROSSCLAIM

Cross-Claimants ROBERT Z. DISMAN and YVONNE A. DISMAN (hereinafter collectively referred to as, the “Dismans”), by and through their attorneys of record, the Fidelity National Law Group, complain and allege against Cross-Defendant MARJORIE B. BOULDEN, Trustee of THE MARJORIE B. BOULDEN TRUST, AMENDED AND RESTATED DATED JULY 17, 1996; DOES I through X; and ROE BUSINESS ENTITIES XI through XX as follows:

///

1 **PARTIES**

2 1. The Dismans are, and at all times relevant herein were, residents of Clark
3 County, Nevada.

4 2. The Dismans are informed and believe and on that basis allege that MARJORIE
5 B. BOULDEN, Trustee of THE MARJORIE B. BOULDEN TRUST, AMENDED AND
6 RESTATED DATED JULY 17, 1996 ("Boulden"), is, and at all relevant times herein was, a
7 resident of Clark County, Nevada.

8 3. The Dismans are unaware of the true names and legal capacities, whether
9 individual, corporate, associate, or otherwise, of the Cross-Defendants sued herein as DOES I
10 through X and ROE BUSINESS ENTITIES XI through XX, inclusive, and therefore sue said
11 Cross-Defendants by their fictitious names. The Dismans pray leave to insert said Cross-
12 Defendants' true names and legal capacities when ascertained. The Dismans are informed and
13 believe and on that basis allege that each of the Cross-Defendants designated herein as a DOE or
14 a ROE is in some way legally responsible and liable for the events referred to herein and
15 proximately caused the damages alleged herein.

16 **JURISDICTION AND VENUE**

17 4. This Court's jurisdiction over the parties is proper under NRS 14.065 as it is
18 consistent with the constitution of this state and the Constitution of the United States.

19 5. Venue is proper in the Eighth Judicial District Court of Nevada under NRS
20 13.010 as the subject property is located in Clark County, Nevada.

21 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

22 6. This action concerns the real property commonly known as 1960 Rosemere
23 Court, Las Vegas, Nevada 89117, Parcel No. 163-03-313-008 ("1960 Rosemere Court" or
24 "Property").

25 7. In or about August 2017, the Dismans purchased 1960 Rosemere Court from
26 Boulden for \$550,000.00.

27 8. The Grant, Bargain, Sale Deed conveying title of the Property from Boulden to
28 the Dismans was recorded on August 4, 2017, as Instrument No. 20170804-0002656 of the

1 Official Records of Clark County, Nevada.

2 9. Trudi Lee Lytle and John Allen Lytle, Trustees of The Lytle Trust (hereinafter
3 collectively referred to as, the "Lyttles") allege that 1960 Rosemere Court is encumbered by a
4 judgment lien that they recorded against the Rosemere Property Owners' Association and that
5 attached to the Property (the "Judgment Lien").

6 **FIRST CLAIM FOR RELIEF**

7 **(Breach of Warranty)**

8 10. The Dismans repeat, reallege and incorporate by reference each and every
9 allegation contained in Paragraphs 1 through 9 as though fully set forth herein.

10 11. Pursuant to Nevada law and, specifically, NRS 111.170, the Grant, Bargain, Sale
11 Deed whereby Boulden conveyed 1960 Rosemere Court to the Dismans is a warranty deed that
12 contains certain covenants, including, but not limited to, the covenant that the Property is free
13 from any encumbrance and defect in title.

14 12. Such covenants may be sued upon in the same manner as if they had been
15 expressly inserted in the conveyance.

16 13. By virtue of the Lyttles' Counterclaim against the Dismans, 1960 Rosemere Court
17 may be subject to the Judgment Lien.

18 14. Boulden, therefore, breached the covenants contained in the Grant, Bargain, Sale
19 Deed whereby she conveyed the Property to the Dismans.

20 15. As a direct and proximate result of Boulden's breach, the Dismans have suffered
21 damages in an amount in excess of Fifteen Thousand Dollars (\$15,000.00), all in a sum to be
22 determined according to proof at the time of trial.

23 16. As a direct and proximate result of Boulden's breach, the Dismans have been
24 required to retain legal counsel and incur legal fees and costs in connection with this action and
25 is, therefore, entitled to recover reasonable attorneys' fees and costs from Boulden as special
26 damages.

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1 WHEREFORE, the Dismans pray for judgment against Boulden, DOES I through X and
2 ROE BUSINESS ENTITIES XI through XX, and each of them, as follows:

- 3 1. For damages in excess of \$15,000.00, plus all applicable interest thereon;
- 4 2. For an award of attorney's fees and costs of litigation; and
- 5 3. For any and all such other relief as the Court deems just and proper.

6 DATED this 26th day of September, 2017.

7 FIDELITY NATIONAL LAW GROUP

8
9 
10 CHRISTINA H. WANG, ESQ.
11 Nevada Bar No. 9713
12 8363 W. Sunset Road, Suite 120
13 Las Vegas, Nevada 89113
14 *Attorneys for Counter-Defendants/Cross-*
15 *Claimants Robert Z. Disman and*
16 *Yvonne A. Disman*

CERTIFICATE OF SERVICE

The undersigned employee of Fidelity National Law Group, hereby certifies that she served a copy of the foregoing **COUNTER-DEFENDANTS AND CROSS-CLAIMANTS ROBERT Z. DISMAN AND YVONNE A. DISMAN'S ANSWER AND CROSSCLAIM** upon the following parties on the date below entered (unless otherwise noted), at the fax numbers and/or addresses indicated below by: ☐ (i) placing said copy in an envelope, first class postage prepaid, in the United States Mail at Las Vegas, Nevada, ☐ (ii) via facsimile, ☐ (iii) via courier/hand delivery, ☐ (iv) via overnight mail, ☐ (v) via electronic delivery (email), and/or ☒ (vi) via electronic service through the Court's Electronic File/Service Program.

Richard E. Haskin, Esq.
Timothy P. Elson, Esq.
GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP
1140 N. Town Center Drive, Suite 300
Las Vegas, Nevada 89144-0596
*Attorneys for Defendants/Counter-
Claimants Trudi Lee Lytle and John
Allen Lytle, Trustees of The Lytle Trust*

Daniel T. Foley, Esq.
Foley & Oakes, PC
626 S. 8th Street
Las Vegas, Nevada 89101
*Attorneys for Plaintiffs Marjorie B.
Boulden, Trustee of The Marjorie B.
Boulden Trust, amended and restated
dated July 17, 1996; and Linda Lamothe
and Jacques Lamothe, Trustees of the
Jacques and Linda Lamothe Living Trust*

DATED: 9/26/17

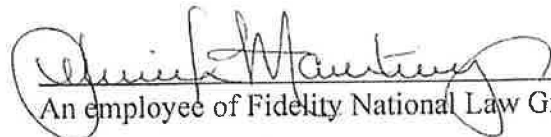
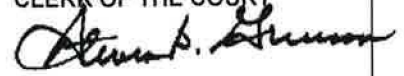

An employee of Fidelity National Law Group

EXHIBIT “7”



1 ANSR
2 DANIEL T. FOLEY, ESQ.
3 Nevada Bar No. 1078
4 FOLEY & OAKES, PC
5 626 S 8th Street
6 Las Vegas, Nevada 89101
7 Tel.: (702) 384-2070
8 Fax: (702) 384-2128
9 Email: dan@foleyoakes.com
10 Attorneys for Marjorie Boulden

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 MARJORIE B. BOULDEN, TRUSTEE OF)
10 THE MARJORIE B. BOULDEN TRUST,)
11 LINDA LAMOTHE AND JACQUES)
12 LAMOTHE, TRUSTEES OF THE JACQUES)
13 & LINDA LAMOTHE LIVING TRUST)

13 Plaintiffs,)

14 *Plaintiffs,*)

15 vs.)

16 TRUDI LEE LYTLE AND JOHN ALLEN)
17 LYTLE, AS TRUSTEES OF THE LYTLE)
18 TRUST, DOES I through X; and ROE)
19 CORPORATIONS I through X)

19 *Defendants.*)

20 TRUDI LEE LYTLE AND JOHN ALLEN)
21 LYTLE, THE LYTLE TRUST,)

21 Counter-Claimants,)

22 v.)

23 LINDA LAMOTHE AND JACQUES)
24 LAMOTHE, TRUSTEES OF THE JACQUES)
25 & LINDA LAMOTHE LIVING TRUST,)
26 ROBERT Z. DISMAN, YVONNE A.)
27 DISMAN, and ROES 1 through 10, inclusive,)

26 Counter-Defendants.)

Case No. A-16-747800-C
Dept. No. XVI

PLAINTIFFS' ANSWER TO
CROSS COMPLAINT

28 FOLEY
&
OAKES

1 ROBERT Z. DISMAN, an individual; and)
 2 YVONNE A. DISMAN, an individual,)
 3 Counter-Claimants,)
 4 v.)
 5 MAJORIE B. BOULDEN, TRUSTEE OF THE)
 6 MARJORIE B. BOULDEN TRUST,)
 7 AMENDED AND RESTATED DATED JULY)
 8 17, 1996; DOES 1 through 10, inclusive,)
 9 Counter-Defendants.)
 10)
 11)

12 **PLAINTIFFS' ANSWER TO CROSS COMPLAINT**

13 COMES NOW Plaintiff/Counter Defendant/ Cross Defendant, Marjorie B. Boulden
 14 Trustee of the Marjorie B. Boulden Trust ("Ms. Boulden") by and through her attorneys Foley &
 15 Oakes, PC, and hereby respond to Robert Disman's and Yvonne Disman's Cross Complaint as
 16 follows:

17 1. With respect to the allegations contained in paragraphs numbered 1, 2, 4, 5, 6, 7,
 18 and 8, Ms. Boulden admits all of the allegations contained therein.

19 2. With respect to the allegations contained in paragraphs numbered 9, 11, 12, 13,
 20 14, 15, 16, 19, 20, 21, and 22, Ms. Boulden denies all of the allegations contained therein.

21 3. With respect to the allegations contained in paragraphs numbered 3 and 18, Ms.
 22 Boulden is are without sufficient information upon which they can admit or deny said
 23 allegations, and on that basis denies all of the allegations contained therein.

24 4. With respect to the allegations contained in paragraphs numbered 10 and 17, Ms.
 25 Boulden repeats and re-alleges her Answers to the paragraphs referenced therein.
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5. To the extent necessary, Ms. Boulden denies the request for relief contained in the prayer of the Complaint.

AFFIRMATIVE DEFENSES

As and for Affirmative Defenses to the Lytle's Counter Complaint, Ms. Boulden alleges as follows:

FIRST AFFIRMATIVE DEFENSE

The Cross Complaint fails to state a claim or claims against Ms. Boulden upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The injuries and damages, if any, which the Dismans allege in their Cross Complaint were caused solely by the negligence and action of the Dismans and/or others, and not by any act or omission to act on the part of Ms. Boulden.

THIRD AFFIRMATIVE DEFENSE

The Dismans' claims and Cross Complaint are barred by the doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE

The Dismans waived any rights or claims they may have had against Ms. Boulden

FIFTH AFFIRMATIVE DEFENSE

The Dismans' claims and Cross Complaint are barred by the doctrine of Laches.

SIXTH AFFIRMATIVE DEFENSE

The Dismans' claims and Cross Complaint are barred by the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

The Dismans failed to mitigate their damages.

EIGHTH AFFIRMATIVE DEFENSE

The Dismans' claims and Cross Complaint are barred by the doctrine of waiver.

NINTH AFFIRMATIVE DEFENSE

The Dismans' claims and Cross Complaint are barred by the doctrine of Accord and satisfaction.

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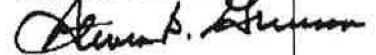
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EXHIBIT “8”



CHRISTENSEN JAMES & MARTIN
7440 WEST SAHARA AVE., LAS VEGAS, NEVADA 89117
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COM
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Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com
Attorneys for Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

SEPTEMBER TRUST, DATED MARCH
23, 1972; GERRY R. ZOBRIST AND
JOLIN G. ZOBRIST, AS TRUSTEES OF
THE GERRY R. ZOBRIST AND JOLIN G.
ZOBRIST FAMILY TRUST; RAYNALDO
G. SANDOVAL AND JULIE MARIE
SANDOVAL GEGEN, AS TRUSTEES OF
THE RAYNALDO G. AND EVELYN A.
SANDOVAL JOINT LIVING AND
DEVOLUTION TRUST DATED MAY 27,
1992; and DENNIS A. GEGEN AND
JULIE S. GEGEN, HUSBAND AND
WIFE, AS JOINT TENANTS,

Plaintiffs,

vs.

TRUDI LEE LYTLE AND JOHN ALLEN
LYTLE, AS TRUSTEES OF THE LYTLE
TRUST; JOHN DOES I through V; and
ROE ENTITIES I through V, inclusive,

Defendants.

A-17-765372-C

Case No.:

Dept. No.: Department 28

COMPLAINT

Plaintiffs, September Trust, dated March 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the Gerry R. Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"), Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and Devolution Trust Dated May 27, 1992 ("Sandoval Trust"), Dennis A. Gegen and Julie S. Gegen, Husband and Wife as Joint Tenants

1 (hereafter "Gegen") (hereafter September Trust, Zobrist Trust, Sandoval Trust and Gegen may
2 be collectively referred to as "Plaintiffs"), by and through their attorneys, Christensen James &
3 Martin, hereby complain against Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle
4 Trust (collectively the "Lyttles" or "Defendants"), JOHN DOES I through V; and ROE
5 ENTITIES I through V, as follows:

6 PARTIES, JURISDICTION & VENUE

7 1. The September Trust is the owner of the residential property in Clark County,
8 Nevada known as 1861 Rosemere Court, Las Vegas, Nevada 89117, Assessor's Parcel No. 163-
9 03-313-004 ("September Property").

10 2. The Zobrist Trust is the owner of the residential property in Clark County,
11 Nevada known as 1901 Rosemere Court, Las Vegas, Nevada 89117, Assessor's Parcel No. 163-
12 03-313-005 ("Zobrist Property").

13 3. The Sandoval Trust is the owner of the residential property in Clark County,
14 Nevada known as 1860 Rosemere Court, Las Vegas, Nevada 89117, Assessor's Parcel No. 163-
15 03-313-001 ("Sandoval Property").

16 4. Gegen is the owner of the residential property in Clark County, Nevada known as
17 1831 Rosemere Court, Las Vegas, Nevada 89117, Assessor's Parcel No. 163-03-313-003
18 ("Gegen Property") (hereafter September Property, Zobrist Property, Sandoval Property and
19 Gegen Property may be collectively referred to as Plaintiffs' Properties).

20 5. Upon information and belief, Trudi Lee Lytle and John Allen Lytle are residents
21 of Clark County, and are co-trustees of the Lytle Trust.

22 6. Venue for this proceeding is proper before the above-entitled Court as the events
23 relating to this matter occurred in Clark County, Nevada and the property that is the subject of
24 this litigation is in Clark County, Nevada.

25 7. The true names and capacities, whether partnership, individual, corporate,
26 company, associate or otherwise, of Defendants John Does I through V and Roe Entities I
27 through V, inclusive, are presently unknown to Plaintiffs, who therefore sue said Defendants by
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1 such fictitious names. Such Defendants may be responsible for or liable to Plaintiffs by virtue of
2 the actions hereinafter described. Plaintiffs reserve the right to amend the Complaint to insert any
3 additional charging allegations, together with the true identities and capacities, when the same
4 have been ascertained.

5 8. Wherever appearing in this Complaint, each and every reference to Defendants or
6 to any of them is intended to be and shall be a reference to all Defendants hereto, and to each of
7 them, named and unnamed, including all fictitiously named Defendants, unless said reference is
8 otherwise specifically qualified.

9 9. At all times material herein, Defendants, and each of them, were an owner, a co-
10 owner, an agent, officer, manager, employee, representative, partner and/or alter ego of its co-
11 defendants, or otherwise acting on behalf of each and every remaining Defendant and, in doing
12 the things herein alleged, were acting within the course and scope of their authorities as an
13 owner, a co-owner, an agent, officer, manager, employee, representative, partner and/or alter ego
14 of its co-defendants, with the full knowledge, permission and consent of each and every
15 remaining defendant, each co-defendant having ratified the acts of the other co-defendants.

16 10. At all times material herein and to the best of Plaintiffs' knowledge, the Lytles,
17 and John Does and Roe Entities have been operating as alter egos and conduits of each other and
18 to serve the purpose of each other, and not as individual entities or persons, so as to permit the
19 individual Defendants to escape liability, whose business operations have been operated under
20 common labor, ownership, control and an interrelationship of operations, such that they
21 constitute a single business in fact. The Court should disregard the corporate or business shell to
22 the extent necessary to afford complete relief.

23 11. Plaintiffs have been required to retain the services of Christensen James & Martin
24 to prosecute this action and are entitled to receive their reasonable attorney's fees and costs.

25 12. Jurisdiction and venue may also be based upon facts alleged elsewhere in this
26 Complaint.

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2 GENERAL ALLEGATIONS

3 13. Plaintiffs herein restate and re-allege Paragraphs 1 through 12 of this Complaint
4 as if fully set forth herein and incorporate the same by reference.

5 14. The Plaintiffs' Properties are located in the Rosemere Estates subdivision
6 ("Subdivision") wherein there are nine (9) lots and/or properties.

7 15. The Subdivision properties are subject to the CC&R's recorded January 4, 1994
8 (the "CC&Rs").

9 16. The CC&Rs provide in paragraph 21 that a property owners committee shall be
10 established by all owners of lots within the subdivision to determine the landscaping on the four
11 exterior wall planters and the entrance way planters, to determine the method and cost of
12 watering the planters, to maintain the exterior perimeter wall, to maintain the Entrance Gate and
13 to maintain and repair the interior street.

14 17. The CC&Rs provide in paragraph 24 that in order to enforce the CC&Rs any
15 appropriate judicial proceeding in law or in equity could be used by any lot owner suing directly
16 any other lot owner or owners for any violation of the CC&Rs.

17 18. A non-profit corporation, the Rosemere Estates Property Owners Association
18 ("Rosemere Association"), was formed in 1997 in order to open a bank account to handle the
19 property owners committee's funds for the landscaping described in paragraph sixteen (16). The
20 corporate charter of the Rosemere Association was revoked by the Nevada Secretary of State's
21 office in 2015.

22 **Rosemere Litigation I**

23 19. In 2009, the Lytles filed suit against the Rosemere Association directly in Case
24 No. A-09-593497-C ("Rosemere Litigation I"). The Lytles did not name the Plaintiffs or any
25 other lot owners as Defendants in Rosemere Litigation I.

26 20. On or about July 29, 2016, the Lytles obtained a Judgment against the Rosemere
27 Association in the amount of \$361,238.59 ("Rosemere Judgment I").
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2 21. Thereafter, in August and September of 2016, the Lytles recorded with the Clark
3 County Recorder's office two different abstracts of the Rosemere Judgment I. The first Abstract
4 (filed in August) specifically listed the parcel numbers of the Plaintiffs' Properties as properties
5 to which the Rosemere Judgment I was to attach but pursuant to the records of the Clark County
6 Recorder's Office only attached to one (1) of the Plaintiffs' Properties-the Sandoval Property.
7 However, the first recorded Abstract appears on a Title Report for the Zobrist Property. The
8 second Abstract (filed in September) only listed one parcel number but attached to three (3) of
9 the Plaintiffs' Properties (hereafter the 2 Abstracts are "Abstracts of Judgment"). Therefore,
10 both the Abstracts of Judgment affect and are an unlawful encumbrance on all of Plaintiffs'
11 Properties.
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13 22. When the Lytles recorded the Abstracts of Judgment, the Lytles specifically
14 included the parcel numbers of the Plaintiffs' Properties even though Plaintiffs were not parties
15 to the Rosemere Litigation from which the Rosemere Judgment I arose.
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17 23. The Plaintiffs have no legal duty to pay the Rosemere Judgment I and have
18 advised the Lytles of this fact and have requested that the Lytles remove the Abstracts of
19 Judgment from their Properties.

20 24. The Lytles knew or should have known that the Plaintiffs did not have a legal
21 duty to pay the Rosemere Judgment I.

22 25. The Abstracts of Judgment were wrongfully recorded against the Plaintiffs'
23 Properties and the Lytles knew or should have known the Abstracts of Judgment were
24 wrongfully recorded.

25 26. Other property owners in the Rosemere Subdivision, the Bouldens (Parcel No.
26 163-03-313-008) and the Lamothes (Parcel No. 163-03-313-002) have already filed a lawsuit
27 (Case No. A-16-747900-C) regarding this same issue ("BL Lawsuit"), because the Rosemere
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1 Judgment I was recorded against all the properties in the Subdivision except for the Lytle's
2 property.

3 27. On July 25, 2017, the Court issued its Order in the BL Lawsuit Granting Motion
4 to Alter or Amend Findings of Fact and Conclusions of Law ("Order").

5 28. In its Order, the Court found that, among other things, the Association is not
6 subject to NRS 116.3117, the Bouldens and Lamothes were not parties to the Rosemere
7 Litigation, the Rosemere Judgment I is not an obligation or debt of the Bouldens or the Lamothes
8 and that the Abstracts of Judgment were improperly recorded against such properties and must
9 be expunged and stricken from the record.

10 29. After the Court issued its Order, the Lytles released their liens against the
11 Boulden and Lamothes properties but have not released their liens against the Plaintiffs'
12 Properties.

13 30. Although the Plaintiffs and Lytles have participated in settlement discussions and
14 the Plaintiffs have requested the same relief granted to the Bouldens and Lamothes, as of the date
15 of filing this Complaint, the Lytles have not agreed to release the Abstracts of Judgment
16 wrongfully recorded against the Plaintiffs' Properties.

17 **Rosemere Litigation II**

18 31. In 2010, the Lytles filed another suit against the Rosemere Association directly in
19 Case No. A-10-631355-C ("Rosemere Litigation II"). The Lytles did not name the Plaintiffs or
20 any other lot owners as Defendants in the Rosemere Litigation II.

21 32. On or about November 14, 2016, the Lytles were granted Summary Judgment
22 against the Rosemere Association.

23 33. On or about July 20, 2017, the District Court signed an Abstract of Judgment in
24 the amount of \$1,103,158.12. ("Rosemere Judgment II").

25 34. The Plaintiffs were not named parties in the Rosemere II Litigation and did not
26 have notice of the same.

1 35. As of the date of filing this Complaint, the Rosemere Judgment II has not been
2 recorded against the Plaintiffs' Properties.

3 **Rosemere Litigation III**

4 36. On or about April 2, 2015, the Lytles filed a third case (Case No. A-15-716420-
5 C) against the Association and named as Defendants Sherman L. Kearl ("Kearl") and Gerry G.
6 Zobrist ("Zobrist") ("Rosemere Litigation III"). On April 8, 2015, the Lytles filed an Errata to
7 the Complaint amending it so that all references to Kearl and Zobrist were taken out of the
8 Complaint.

9 37. On or about September 13, 2017, the Court entered its Order granting Summary
10 Judgment for Declaratory Relief as against the Association ("Rosemere Judgment III). On
11 November 8, 2017, the Court granted a Motion for Attorney's Fees and Costs in this case.

12 38. As of the date of filing this Complaint, the Rosemere Judgment III has not been
13 recorded against the Plaintiffs' Properties.

14 39. It has been necessary for Plaintiffs to obtain legal counsel to pursue their rights
15 and protect their interests as they relate to the allegations asserted in this Complaint.

16 **FIRST CAUSE OF ACTION**

17 [Quiet Title]

18 40. Plaintiffs herein restate and re-allege Paragraphs 1 through 39 of this Complaint
19 as if fully set forth herein and incorporate the same by reference.

20 41. The Lytles, by their claims and actions, have asserted certain rights to lien the
21 Plaintiffs' Properties.

22 42. The Lytles are without any legal basis whatsoever to lien the Plaintiffs'
23 Properties.

24 43. The Lytles are without any legal basis whatsoever to claim any interest in the
25 Plaintiffs' Properties, including any rights to lien or sell the same.

26 44. As a proximate result of the Lytles' actions, the titles to the Plaintiffs' Properties
27 have been improperly and illegally clouded.

45. Plaintiffs are entitled to an Order from this Court pursuant to NRS 40.010 quieting title in their names and expunging the Abstracts of Judgment.

46. Plaintiffs herein have been required to retain the services of Christensen James & Martin to prosecute this action, and are entitled to an award of attorney's fees and costs.

SECOND CAUSE OF ACTION

[Declaratory Relief]

47. Plaintiffs herein restate and re-allege Paragraphs 1 through 46 of this Complaint as if fully set forth herein and incorporate the same by reference.

48. A dispute and actual controversy exists between the parties relative to their interpretation of the rights and duties of the Plaintiffs regarding the Rosemere Judgments, the recorded Abstracts of Judgment, and the Plaintiffs' Properties.

49. The Plaintiffs are entitled to a declaration from the Court, to the effect that the Rosemere Judgments against the Rosemere Estates Home Owners Association are not judgments against the Plaintiffs, separately or individually, and that the Rosemere Judgments and the Abstracts of Judgment were improperly and unlawfully recorded against the Plaintiffs' Properties.

50. Plaintiffs do not owe any money whatsoever to the Lytles.

51. Plaintiffs do not have an adequate remedy at law because they cannot sell their Properties with the Abstracts of Judgment recorded against their Properties.

52. Plaintiffs will suffer irreparable harm if they are not able to sell their Properties due to the recording of the Abstracts of Judgment.

53. Further, if the Lytles were to record the Rosemere Judgment II or the Rosemere Judgment III like they have the Rosemere Judgment I, the Plaintiffs will not have an adequate remedy at law because they could not sell their Properties.

54. The Lytles have threatened to record the Rosemere Judgment II against other homeowners in the Rosemere Subdivision

55. Plaintiffs are likely to prevail on their claims against the Lytles.

1 56. The Plaintiffs are entitled to a declaration from the Court, to the effect that the
2 Rosemere Judgment II and Rosemere Judgment III against the Rosemere Estates Home Owners
3 Association is not a judgment against the Plaintiffs, separately or individually, and that the
4 Rosemere Judgment II and Rosemere Judgment III cannot be recorded against the Plaintiffs'
5 Properties.

6 57. Plaintiffs are entitled to an Order from this Court expunging the liens in the form
7 of the recorded Abstracts of Judgment and declaring that the Rosemere Judgment II and the
8 Rosemere Judgment III may not be recorded against the Plaintiffs' Properties.

9 58. Plaintiffs have been required to retain the services of Christensen James & Martin
10 to prosecute this action, and are entitled to an award of attorney's fees and costs.

11 PRAYER FOR RELIEF

12 WHEREFORE, the Plaintiffs pray for Judgment against Defendants as follows:

13 1. For an order restraining the Lytles, and each of them, their, agents, servants,
14 employees, attorneys, successors and assign, from foreclosing upon or selling the Plaintiffs'
15 Properties and from doing, causing, or permitting to be done, directly or indirectly, any acts
16 whereby the rights of the Plaintiffs in said property is in any matter impaired, violated or
17 interfered with and that the Abstracts of Judgment should be stricken from the records of the
18 Clark County Recorder's Office;

19 2. For an Order quieting title of the Properties in favor of the Plaintiffs and against
20 the Lytles;

21 3. For a declaration that the Lytles, and each of them, have no right, title or interest
22 in the Plaintiffs' Properties, and a judgment and order quieting the Plaintiffs' title, canceling and
23 expunging the Abstracts of Judgment;

24 4. For Plaintiffs' attorney's fees and costs incurred in this action, and

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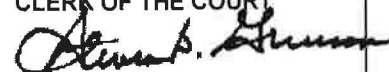
5. For such further relief as the Court may deem proper under the circumstances.

DATED this 29th day of November, 2017.

CHRISTENSEN JAMES & MARTIN

By: /s/ Laura J. Wolff, Esq.
Laura J. Wolff, Esq.
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Las Vegas, NV 89117
Tel.: (702) 255-1718
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Attorneys for Plaintiffs

EXHIBIT “9”



1 **ANSC**
Richard E. Haskin, Esq.
2 Nevada State Bar # 11592
3 **GIBBS GIDEN LOCHER TURNER**
SENET & WITTBRODT LLP
1140 N. Town Center Drive, Suite 300
4 Las Vegas, Nevada 89144-0596
(702) 836-9800

5 Attorneys for Defendant
6 TRUDI LEE LYTLE AND JOHN ALLEN
LYTLE, AS TRUSTEES OF THE LYTLE
7 TRUST

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 SEPTEMBER TRUST, DATED MARCH 23,
1972; GERRY R. ZOBRIST AND JOLIN G.
11 ZOBRIST, AS TRUSTEES OF THE GERRY R.
ZOBRIST AND JOLIN G. ZOBRIST FAMILY
12 TRUST; RAYNALDO G. SANDOVAL AND
JULIE MARIE SANDOVAL GEGEN, AS
13 TRUSTEES OF THE RAYNALDO G. AND
EVELYN A. SANDOVAL JOINT LIVING AND
14 DEVOLUTION TRUST DATED MAY 27, 1992;
and DENNIS A. GEGEN AND JULIE S. GEGEN,
15 HUSBAND AND WIFE, AS JOINT TENANTS,

Case No.: A-17-765372-C
Dept.: XXVIII

ANSWER TO COMPLAINT

16 Plaintiff,

17 v.

18 TRUDI LEE LYTLE AND JOHN ALLEN
LYTLE, AS TRUSTEES OF THE LYTLE
TRUST; JOHN DOES I through V, inclusive, ROE
19 ENTITIES I through V, inclusive,

20 Defendants.

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22 COMES NOW Defendants TRUDI LEE LYTLE and JOHN ALLEN LYTLE, Trustees of
23 THE LYTLE TRUST ("Defendants"), by and through their counsel of record, Richard E. Haskin,
24 Esq., and Timothy Elson, Esq., of the law firm of GIBBS, GIDEN, LOCHER, TURNER, SENET &
25 WITTBRODT, LLP, and hereby answers Plaintiffs SEPTEMBER TRUST, DATED MARCH 23,
26 1972; GERRY R. ZOBRIST AND JOLIN G. ZOBRIST, AS TRUSTEES OF THE GERRY R.
27 ZOBRIST AND JOLIN G. ZOBRIST FAMILY TRUST; RAYNALDO G. SANDOVAL AND
28 JULIE MARIE SANDOVAL GEGEN, AS TRUSTEES OF THE RAYNALDO G. AND EVELYN

1 A. SANDOVAL JOINT LIVING AND DEVOLUTION TRUST DATED MAY 27, 1992; and
2 DENNIS A. GEGEN AND JULIE S. GEGEN, HUSBAND AND WIFE, AS JOINT TENANTS
3 (collectively "Plaintiffs") Complaint as follows:

4 1. As to Paragraphs 1 through 6 of the Complaint, Defendants admit the allegations set
5 forth in said Paragraphs.

6 2. As to Paragraphs 7 and 8 of the Complaint, Defendants are without knowledge or
7 information sufficient to admit or deny the allegations contained therein. Said Paragraphs also
8 contain legal conclusions rather than facts that need to be admitted or denied. Defendants deny the
9 same on that basis.

10 3. As to Paragraphs 9 and 10 of the Complaint, Defendants deny the allegations
11 contained in said Paragraphs.

12 4. As to Paragraphs 11 and 12 of the Complaint, Defendants are without knowledge or
13 information sufficient to admit or deny the allegations contained therein.

14 5. Defendants repeat herein by this reference Paragraphs 1 through 12, inclusive, with
15 the same force and effect as if said Paragraphs were set forth herein in full.

16 6. As to Paragraphs 14 and 15 of the Complaint, Defendants admit the allegations set
17 forth in said Paragraphs.

18 7. As to Paragraphs 16 and 17 of the Complaint, the CC&Rs for Rosemere Estates
19 Property Owners' Association ("REPOA") speak for themselves, and the foregoing Paragraphs
20 contained legal conclusions rather than facts that need to be either admitted or denied. Defendants
21 deny the same on that basis.

22 8. As to Paragraph 18 of the Complaint, Defendants admit that REPOA was formed in
23 1997 as the formal association for the Rosemere Estates community, as provided in the CC&Rs.
24 Defendants deny the remaining allegations contained in this Paragraph.

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1 9. As to Paragraph 19, Defendants admit that they filed a lawsuit against REPOA in
2 Case No. A-09-593497-C ("NRED 1"); however, Defendants deny that they did not name any
3 Plaintiffs in the NRED 1 Litigation. Defendants attempted to name Sherman Kearn and Gerry
4 Zobrist as individual defendants in that action via an amended complaint, but the motion for leave to
5 amend to allow their addition was denied by the Court.

6 10. As to Paragraph 20, Defendants admit the allegations contained therein.

7 11. As to Paragraph 21, Defendants admit that they recorded abstracts of judgment with
8 the Clark County Recorder's Office against Plaintiffs' Properties with respect to the NRED 1
9 Litigation. With respect to the remaining allegations in Paragraph 21, the abstracts of judgment
10 speak for themselves. Therefore, Defendants deny the remaining allegations for the foregoing
11 reasons.

12 12. As to Paragraph 22 through 25, Defendants deny the allegations contained therein.

13 13. As to Paragraph 26, Defendants admit that two other Rosemere Estates property
14 owners filed a lawsuit against Defendants in a separate action, Case No. A-16-747900-C.

15 14. As to Paragraph 27, Defendants admit the allegation contained therein.

16 15. As to Paragraph 28, the paragraph contains conclusions of law that can neither be
17 admitted nor denied. Further, the Findings of Fact and Conclusions of Law referenced therein speak
18 for themselves. For those reasons, Defendants deny the allegations contained in Paragraph 28.

19 16. As to Paragraph 29, Defendants admit the allegations contained therein.

20 17. As to Paragraph 30 through 34, Defendants deny the allegations contained therein.

21 18. As to Paragraph 35 of the Complaint, Defendants admit the allegation contained
22 therein.

23 19. As to Paragraph 36 of the Complaint, Defendants deny that they filed an Errata to the
24 Complaint for the purpose of removing the names "Kearn" and "Zobrist" from the Complaint.
25 Defendants admit the remaining allegations in this Paragraph.

26 20. As to Paragraphs 37 and 38 of the Complaint, Defendants admit the allegations
27 contained therein.

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21. As to Paragraph 39 of the Complaint, Defendants are without knowledge or information sufficient to admit or deny the allegations contained therein.

22. Defendants repeat herein by this reference Paragraphs 1 through 22, inclusive, with the same force and effect as if said Paragraphs were set forth herein in full.

23. As to Paragraphs 41 through 46 of the Complaint, Defendants deny the allegations contained therein.

24. Defendants repeat herein by this reference Paragraphs 1 through 23, inclusive, with the same force and effect as if said Paragraphs were set forth herein in full.

25. As to Paragraph 48 of the Complaint, Defendants admit the allegations contained therein.

26. As to Paragraphs 49 through 58 of the Complaint, Defendants deny the allegations contained therein.

WHEREFORE, Defendants pray for relief as follows:

1. That the Complaint be dismissed and that Plaintiffs take nothing by way of its Complaint;
2. For costs and disbursements in connection with this action;
3. For reasonable attorney's fees, and
4. For such other and further relief that this Court deems just and proper.

DATED: January 9, 2018

GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

By: _____

Richard E. Haskin, Esq.
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Las Vegas, Nevada 89144
Attorneys for Defendant
TRUDI LEE LYTLE AND JOHN ALLEN LYTLE, AS
TRUSTEES OF THE LYTLE TRUST

CERTIFICATE OF MAILING

The undersigned, an employee of the law firm of GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT LLP, hereby certifies that on January 10, 2018, she served a copy of the foregoing **ANSWER TO COMPLAINT** by electronic service through the Regional Justice Center for Clark County, Nevada's ECF System:

Kevin B. Christensen, Esq.
Wesley J. Smith, Esq.
Laura J. Wolff, Esq.
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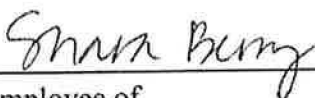

An employee of
Gibbs Giden Locher Turner
Senet & Wittbrodt LLP

EXHIBIT “10”

Steven D. Grierson

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1 **ORDR**
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14 *Attorneys for September Trust, Zobrist Trust, Sandoval Trust*
15 *and Dennis & Julie Gegen*

16 **EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 **MARJORIE B. BOULDEN, TRUSTEE OF**
19 **THE MARJORIE B. BOULDEN TRUST,**
20 **LINDA LAMOTHE AND JACQUES**
21 **LAMOTHE, TRUSTEES OF THE**
22 **JACQUES & LINDA LAMOTHE LIVING**
23 **TRUST,**

24 **Plaintiffs,**

25 **vs.**

26 **TRUDI LEE LYTLE, JOHN ALLEN**
27 **LYTLE, THE LYTLE TRUST, DOES I**
28 **through X, and ROE CORPORATIONS I**
29 **through X,**

30 **Defendants.**

Case No.: A-16-747800-C
Dept. No.: XVIII

ORDER GRANTING MOTION FOR
SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, MOTION FOR
JUDGMENT ON THE PLEADINGS
AND DENYING COUNTERMOTION
FOR SUMMARY JUDGMENT

Date: May 2, 2018
Time: 9:00 a.m.

31 **AND ALL RELATED COUNTERCLAIMS**
32 **AND CROSS-CLAIMS**

33 **SEPTEMBER TRUST, DATED MARCH 23,**
34 **1972; GERRY R. ZOBRIST AND JOLIN G.**
35 **ZOBRIST, AS TRUSTEES OF THE GERRY**
36 **R. ZOBRIST AND JOLIN G. ZOBRIST**
37 **FAMILY TRUST; RAYNALDO G.**
38 **SANDOVAL AND JULIE MARIE**
39 **SANDOVAL GEGEN, AS TRUSTEES OF**
40 **THE RAYNALDO G. AND EVELYN A.**
41 **SANDOVAL JOINT LIVING AND**

Case No.: A-17-765372-C
Dept. No.: XXVIII

1 DEVOLUTION TRUST DATED MAY 27,
2 1992; and DENNIS A. GEGEN AND JULIE
3 S. GEGEN, HUSBAND AND WIFE, AS
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN
8 LYTLE, AS TRUSTEES OF THE LYTLE
9 TRUST; JOHN DOES I through V; and ROE
10 ENTITIES I through V, inclusive,

11 Defendants.

12 Presently before the Court is Plaintiffs' Motion for Summary Judgment or, in the
13 Alternative, Motion for Judgment on the Pleadings filed by the September Trust, dated March
14 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the Gerry R.
15 Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"), Raynaldo G. Sandoval and Julie
16 Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and
17 Devolution Trust dated May 27, 1992 ("Sandoval Trust"), and Dennis A. Gegen and Julie S.
18 Gegen, Husband and Wife, as Joint Tenants ("Dennis & Julie Gegen") (collectively the
19 "Plaintiffs") in Case No. A-17-765372-C, and Defendants' Countermotion for Summary
20 Judgment filed by Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust ("Lytle
21 Trust") in Case No. A-17-765372-C, which came on for hearing on March 21, 2018 at 9:00 a.m.
22 and May 2, 2018 at 9:00 a.m. in Department XVIII of the Eighth Judicial District Court, Clark
23 County, Nevada.

24 Wesley J. Smith, Esq. of Christensen James & Martin appeared on behalf of the Plaintiffs
25 September Trust, Zobrist Trust, Sandoval Trust, and Dennis & Julie Gegen. Richard Haskin,
26 Esq. of Gibbs Giden Locher Turner Senet & Wittbrodt LLP appeared on behalf of the Lytle
27 Trust. Daniel T. Foley, Esq. of Foley & Oakes, PC appeared on behalf of Marjorie B. Boulden,
28 Trustee of the Marjorie B. Boulden Trust, amended and restated dated July 17, 1996 ("Boulden

1 Trust") and Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda Lamothe
2 Living Trust ("Lamothe Trust"). Christina H. Wang, Esq. of Fidelity Law Group appeared on
3 behalf of Robert Z. Disman and Yvonne A. Disman ("Robert & Yvonne Disman").

4 The Court having considered the Motions and exhibits, having heard the arguments of
5 counsel, for all the reasons contained in the Plaintiffs' Motion for Summary Judgment or, in the
6 Alternative, Motion for Judgment on the Pleadings, and with good cause appearing therefore, the
7 Court hereby enters the following Order:

8
9 **FINDINGS OF FACT**

10 1. The September Trust is the owner of the residential property in Clark County,
11 Nevada known as 1861 Rosemere Court, Las Vegas, Nevada 89117, Assessor's Parcel No. 163-
12 03-313-004 ("September Property").

13 2. The Zobrist Trust is the owner of the residential property in Clark County,
14 Nevada known as 1901 Rosemere Court, Las Vegas, Nevada 89117, Assessor's Parcel No. 163-
15 03-313-005 ("Zobrist Property").

16 3. The Sandoval Trust is the owner of the residential property in Clark County,
17 Nevada known as 1860 Rosemere Court, Las Vegas, Nevada 89117, Assessor's Parcel No. 163-
18 03-313-001 ("Sandoval Property").

19 4. Dennis & Julie Gegen are the owner of the residential property in Clark County,
20 Nevada known as 1831 Rosemere Court, Las Vegas, Nevada 89117, Assessor's Parcel No. 163-
21 03-313-003 ("Gegen Property") (hereafter September Property, Zobrist Property, Sandoval
22 Property and Gegen Property may be collectively referred to as "Plaintiffs' Properties").
23

24 5. The Plaintiffs' Properties are located in the Rosemere Estates subdivision
25 ("Rosemere Subdivision" or "Subdivision") and are subject to the CC&R's recorded January 4,
26 1994 (the "CC&Rs").
27
28

1 6. John Allen Lytle and Trudi Lee Lytle are the Trustees of the Lytle Trust
2 (collectively "Lytle Trust") which owns that certain residential property known as parcel number
3 163-03-313-009 (the "Lytle Property"), also located in the Rosemere Subdivision.

4 7. In 2009, the Lytles filed suit against the Rosemere Association directly in the
5 Eighth Judicial District Court, Case No. A-09-593497-C ("Rosemere Litigation I").

6 8. None of the Plaintiffs were ever parties in the Rosemere Litigation I.

7 9. None of the Plaintiffs were a "losing party" in the Rosemere Litigation I as that
8 term is found in Section 25 of the Original CC&Rs.
9

10 10. The Lytles obtained a Summary Judgment for Declaratory Relief from the District
11 Court in the Rosemere Litigation I, which found and ruled as follows:

12 a. The Association is a limited purpose association under NRS 116.1201, is not a
13 Chapter 116 "unit-owners' association," and is relegated to only those specific
14 duties and powers set forth in Paragraph 21 of the Original CC&Rs and NRS
116.1201.

15 b. The Association did not have any powers beyond those of the "property owners
16 committee" designation in the Original CC&Rs - simply to care for the
17 landscaping and other common elements of Rosemere Estates as set forth in
Paragraph 21 of the Original CC&Rs.

18 c. Consistent with the absence of a governing body, the Developer provided each
19 homeowner the right to independently enforce the Original CC&Rs against one
another.

20 d. The Amended and Restated CC&Rs recorded with the Clark County Recorder's
21 Office as Instrument No. 20070703-0001934 (the "Amended CC&Rs") are
22 invalid, and the Amended CC&Rs have no force and effect.

23 11. Pursuant to NRS 116.1201(2) much of NRS Chapter 116 does not apply to the
24 Association because it is a limited purpose association that is not a rural agricultural residential
25 community.

26 12. After obtaining Summary Judgment in the Rosemere Litigation I, the Lytle Trust
27 filed a Motion for Attorneys' Fees and Costs against the Association, and conducted a prove-up
28

1 hearing on damages. After hearing all matters, a Final Judgment was entered in the Lytle Trust's
2 favor against the Association for \$361,238.59, which includes damages, attorneys' fees and costs
3 (the "Final Judgment").

4 13. After obtaining the Attorneys' Fees Judgment, the Lytle Trust, on August 16,
5 2016, recorded with the Clark County Recorder's office an Abstract of Judgment referencing the
6 Final Judgment against the Association, recorded as Instrument No. 20160818-0001198 (the
7 "First Abstract of Judgment").
8

9 14. In the First Abstract of Judgment, the Lytle Trust listed the parcel numbers for all
10 of the Plaintiffs' Properties as properties to which the First Abstract of Judgment and Final
11 Judgment was to attach.

12 15. On September 2, 2016, the Lytle Trust recorded with the Clark County Recorder's
13 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded
14 as Instrument No. 20160902-0002685 (the "Second Abstract of Judgment"). The Second
15 Abstract of Judgment listed the parcel number of the Gegen Property only as the property to
16 which the Judgment was to attach.
17

18 16. On September 2, 2016, the Lytle Trust recorded with the Clark County Recorder's
19 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded
20 as Instrument No. 20160902-0002686 (the "Third Abstract of Judgment"). The Third Abstract of
21 Judgment listed the parcel number of the September Trust Property only as the property to which
22 the Judgment was to attach.
23

24 17. On September 2, 2016, the Lytle Trust recorded with the Clark County Recorder's
25 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded
26 as Instrument No. 20160902-0002687 (the "Fourth Abstract of Judgment"). The Fourth Abstract
27
28

1 of Judgment listed the parcel number of the Zobrist Trust Property only as the property to which
2 the Judgment was to attach.

3 18. In 2010, the Lytle Trust filed another suit against the Rosemere Association
4 directly in Case No. A-10-631355-C ("Rosemere Litigation II"). The Lytle Trust did not name
5 the Plaintiffs as Defendants in the Rosemere Litigation II.

6 19. On or about November 14, 2016, the Lytle Trust was granted Summary Judgment
7 against the Rosemere Association.

8 20. On or about July 20, 2017, the District Court signed an Abstract of Judgment in
9 the amount of \$1,103,158.12. ("Rosemere Judgment II").
10

11 21. The Plaintiffs were not named parties in the Rosemere II Litigation.

12 22. On or about April 2, 2015, the Lytle Trust filed a third case (Case No. A-15-
13 716420-C) against the Association and named as Defendants Sherman L. Kearl ("Kearl") and
14 Gerry G. Zobrist ("Zobrist") ("Rosemere Litigation III"). On April 8, 2015, the Lytles filed an
15 Errata to the Complaint amending it so that all references to Kearl and Zobrist were taken out of
16 the Complaint.
17

18 23. On or about September 13, 2017, the Court in the entered its Order granting
19 Summary Judgment for Declaratory Relief as against the Association ("Rosemere Judgment III").
20 On November 8, 2017, the Rosemere Litigation III Court granted a Motion for Attorney's Fees
21 and Costs.

22 24. On February 24, 2017, the Boulden Trust, owner of Parcel No. 163-03-313-008 in
23 the Rosemere Subdivision, and the Lamothe Trust, owner of Parcel No. 163-03-313-002 in the
24 Rosemere Subdivision, filed a Motion for Partial Summary Judgment in this Court in this Case,
25 Case No. A-16-747900-C.
26
27
28

1 25. This Court granted the Boulden Trust's and Lamothe Trust's Motion for Partial
2 Summary Judgment, and on July 25, 2017, entered its Order Granting Motion to Alter or Amend
3 Findings of Fact and Conclusions of Law ("Order").

4 26. In its Order, the Court found that, among other things, the Association is not
5 subject to NRS 116.3117, the Boulden Trust and Lamothe Trust were not parties to the
6 Rosemere Litigation, the Rosemere Judgment I (referred to as the "Rosemere LP Litigation" in
7 the Order) is not an obligation or debt of the Boulden Trust or the Lamothe Trust and that the
8 Abstracts of Judgment were improperly recorded against their properties and must be expunged
9 and stricken from the record.
10

11 27. After the Court issued its Order, the Lytles released their liens against the
12 Boulden Trust and Lamothe Trust properties.

13 28. On February 21, 2018, Case No. A-17-765372-C was consolidated with Case No.
14 A-16-747900-C.
15

16 CONCLUSIONS OF LAW

17 1. The Court's prior Order with respect to Boulden Trust's and Lamothe Trust's
18 Motion for Partial Summary Judgment, Case No. A-16-747900-C, is the law of the case, to the
19 extent applicable to Plaintiffs' claims.

20 2. The Association is a "limited purpose association" as referenced in NRS
21 116.1201(2).

22 3. As a limited purpose association, NRS 116.3117 is not applicable to the
23 Association.
24

25 4. As a result of the Rosemere Litigation I, the Amended CC&Rs were judicially
26 declared to have been improperly adopted and recorded, the Amended CC&Rs are invalid and
27 have no force and effect and were declared *void ab initio*.
28

1 5. The Plaintiffs were not parties to the Rosemere Litigation I, Rosemere Litigation
2 II or Rosemere Litigation III.

3 6. The Plaintiffs were not "losing parties" in the Rosemere Litigation I, Rosemere
4 Litigation II or Rosemere Litigation III as per Section 25 of the Original CC&Rs.

5 7. Rosemere Judgments I, II and III in favor of the Lytle Trust, are not against, and
6 are not an obligation of the Plaintiffs to the Lytle Trust.

7 8. Rosemere Judgments I, II and III are against the Association and are not an
8 obligation or debt owed by the Plaintiffs to the Lytle Trust.

9 9. The First Abstract of Judgment recorded as Instrument No. 20160818-0001198
10 was improperly recorded against the Plaintiffs' Properties and constitutes a cloud against each of
11 the Plaintiffs' Properties.

12 10. The Second Abstract of Judgment recorded as Instrument No. 20160902-0002685
13 was improperly recorded against the Gegen Property and constitutes a cloud against the Gegen
14 Property.

15 11. The Third Abstract of Judgment recorded as Instrument No. 20160902-0002686
16 was improperly recorded against the September Trust Property and constitutes a cloud against
17 the September Trust Property.

18 12. The Fourth Abstract of Judgment recorded as Instrument No. 20160902-0002687
19 was improperly recorded against the Zobrist Trust Property and constitutes a cloud against the
20 Zobrist Trust Property.

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ORDER

Based upon the Findings of Fact and Conclusions of Law above, and good cause appearing therefore,

IT IS HEREBY ORDERED ADJUDGED AND DECREED that Plaintiffs' Motion for Summary Judgment is GRANTED.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust's Countermotion for Summary Judgment is DENIED.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust improperly clouded the title to the September Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust improperly clouded the title to the Zobrist Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust improperly clouded the title to the Sandoval Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust improperly clouded the title to the Gegen Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the First Abstract of Judgment recorded as Instrument No. 20160818-0001198 in the Clark County Recorder's Office is hereby expunged and stricken from the records of the Clark County Recorder's Office.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Second Abstract of Judgment recorded as Instrument No. 20160902-0002685 in the Clark County Recorder's Office is hereby expunged and stricken from the records of the Clark County Recorder's Office.

1 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
2 Third Abstract of Judgment recorded as Instrument No. 20160902-0002686 in the Clark County
3 Recorder's Office is hereby expunged and stricken from the records of the Clark County
4 Recorder's Office.

5 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
6 Fourth Abstract of Judgment recorded as Instrument No. 20160902-0002687 in the Clark County
7 Recorder's Office is hereby expunged and stricken from the records of the Clark County
8 Recorder's Office.
9

10 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
11 Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from
12 the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other
13 judgments obtained against the Association, against the September Property, Zobrist Property,
14 Sandoval Property or Gegen Property.
15

16 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
17 Lytle Trust is permanently enjoined from taking any action in the future directly against the
18 Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation II or
19 Rosemere Litigation III.

20 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
21 Lytle Trust is hereby ordered to release the First Abstract of Judgment, the Second Abstract of
22 Judgment, the Third Abstract of Judgment and the Fourth Abstract of Judgment recorded with
23 the Clark County Recorder within ten (10) days after the date of Notice of Entry of this Order.
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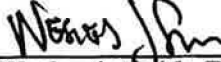
IT IS SO ORDERED.

Dated this ____ day of May, 2018.

DISTRICT COURT JUDGE

Submitted by:

CHRISTENSEN JAMES & MARTIN



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Dennis & Julie Gegen

Approved as to Form and Content by:

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1140 N. Town Center Drive, Suite 300
Las Vegas, Nevada 89144
Attorneys for Defendants/Counter-
Claimants Lytle Trust

1 **IT IS SO ORDERED.**

2
3 Dated this ____ day of May, 2018.

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DISTRICT COURT JUDGE

Submitted by:

CHRISTENSEN JAMES & MARTIN

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Attorneys for Plaintiffs/Counter-
Defendants/Cross-Defendants Boulden Trust
and Lamothe Trust

1 **IT IS SO ORDERED.**

2
3 Dated this 22 day of May, 2018.

4
5 _____
DISTRICT COURT JUDGE

6 Submitted by:

L. L.

7
8 **CHRISTENSEN JAMES & MARTIN**

9 _____
Wesley J. Smith, Esq.
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12 Attorneys for Plaintiffs September Trust,
13 Zobrist Trust, Sandoval Trust, and
Dennis & Julie Gegen

14
15 **Approved as to Form and Content by:**

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Defendants/Cross-Defendants Boulden Trust
and Lamothe Trust

1 **IT IS SO ORDERED.**

2
3 Dated this 28 day of May, 2018.



DISTRICT COURT JUDGE

6 Submitted by:

7
8 **CHRISTENSEN JAMES & MARTIN**

9
10 Wesley J. Smith, Esq.
11 Nevada Bar No. 11871
12 Laura J. Wolff, Esq.
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17 Zobrist Trust, Sandoval Trust, and
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15 **Approved as to Form and Content by:**

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Defendants/Cross-Defendants Boulden Trust
and Lamothe Trust

EXHIBIT “11”



1 **NEOJ**
2 **CHRISTENSEN JAMES & MARTIN**
3 **KEVIN B. CHRISTENSEN, ESQ.**
4 Nevada Bar No. 175
5 **WESLEY J. SMITH, ESQ.**
6 Nevada Bar No. 11871
7 **LAURA J. WOLFF, ESQ.**
8 Nevada Bar No. 6869
9 7440 W. Sahara Avenue
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11 Tel.: (702) 255-1718
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13 Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com
14 *Attorneys for September Trust, Zobrist Trust, Sandoval Trust*
15 *and Dennis & Julie Gegen*

16 **EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 **MARJORIE B. BOULDEN, TRUSTEE OF**
19 **THE MARJORIE B. BOULDEN TRUST,**
20 **LINDA LAMOTHE AND JACQUES**
21 **LAMOTHE, TRUSTEES OF THE**
22 **JACQUES & LINDA LAMOTHE LIVING**
23 **TRUST,**

24 Plaintiffs,

25 vs.

26 **TRUDI LEE LYTLE, JOHN ALLEN**
27 **LYTLE, THE LYTLE TRUST, DOES I**
28 **through X, and ROE CORPORATIONS I**
through X,

Defendants.

Case No.: A-16-747800-C
Dept. No.: XVIII

NOTICE OF ENTRY OF ORDER
GRANTING MOTION FOR
SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, MOTION FOR
JUDGMENT ON THE PLEADINGS
AND DENYING COUNTERMOTION
FOR SUMMARY JUDGMENT

Date: May 2, 2018
Time: 9:00 a.m.

AND ALL RELATED COUNTERCLAIMS
AND CROSS-CLAIMS

SEPTEMBER TRUST, DATED MARCH 23,
1972; GERRY R. ZOBRIST AND JOLIN G.
ZOBRIST, AS TRUSTEES OF THE GERRY
R. ZOBRIST AND JOLIN G. ZOBRIST
FAMILY TRUST; RAYNALDO G.
SANDOVAL AND JULIE MARIE
SANDOVAL GEGEN, AS TRUSTEES OF
THE RAYNALDO G. AND EVELYN A.
SANDOVAL JOINT LIVING AND

Case No.: A-17-765372-C
Dept. No.: XXVIII

CHRISTENSEN JAMES & MARTIN
7440 WEST SAHARA AVE., LAS VEGAS, NEVADA 89117
PH: (702) 255-1718 & FAX: (702) 255-0871

1 DEVOLUTION TRUST DATED MAY 27,
2 1992; and DENNIS A. GEGEN AND JULIE
3 S. GEGEN, HUSBAND AND WIFE, AS
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN
8 LYTLE, AS TRUSTEES OF THE LYTLE
9 TRUST; JOHN DOES I through V; and ROE
10 ENTITIES I through V, inclusive,

11 Defendants.

12 PLEASE TAKE NOTICE that an **ORDER GRANTING MOTION FOR**
13 **SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, MOTION FOR**
14 **JUDGMENT ON THE PLEADINGS AND DENYING COUNTERMOTION FOR**
15 **SUMMARY JUDGMENT** was filed with the Court on May 24, 2018, a true and correct
16 copy of which is attached hereto.

17 Dated this 25th day of May, 2018.

18 **CHRISTENSEN JAMES & MARTIN**

19 By: /s/ Wesley J Smith, Esq.

20 Wesley J. Smith, Esq.

21 Nevada Bar No. 11871

22 Laura J. Wolff, Esq.

23 Nevada Bar No. 6869

24 7440 W. Sahara Ave.

25 Las Vegas, NV 89117

26 Attorneys for Plaintiffs September Trust,

27 Zobrist Trust, Sandoval Trust, and

28 Dennis & Julie Gegen

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CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin. On May 25, 2018, I caused a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, MOTION FOR JUDGMENT ON THE PLEADINGS AND DENYING COUNTERMOTION FOR SUMMARY JUDGMENT**, to be served in the following manner:

☒ **ELECTRONIC SERVICE**: electronic transmission (E-Service) through the Court's electronic filing system pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada.

☐ **UNITED STATES MAIL**: depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed to the parties at their last-known mailing address(es):

☐ **FACSIMILE**: By sending the above-referenced document via facsimile as follows:

☐ **E-MAIL**: electronic transmission by email to the following address(es):

/s/ Natalie Saville
Natalie Saville