

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRUDI LEE LYTLE; AND JOHN ALLEN  
LYTLE, AS TRUSTEES OF THE LYTLE  
TRUST,

Appellant ,

v.

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

Respondents .

**Supreme Court No.: 76198**

District Court Case No.: A-16-747800-C

Electronically Filed

**MOTION TO CONSOLIDATE  
APPEALS**

Oct 16, 2018 03:45 p.m.

Elizabeth A. Brown  
Clerk of Supreme Court

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**Motion to Consolidate Appeals**

**(Docket 76198)**

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**RICHARD HASKIN**  
Nevada Bar No. 11592  
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*Attorneys for Appellants*

## **INTRODUCTION**

TRUDI LEE LYTLE; AND JOHN ALLEN LYTLE, AS TRUSTEES OF THE LYTLE TRUST (the “Lytles”) hereby request that Docket 76198 be consolidated with Docket 773039 in the interests of justice and judicial economy. NRAP 2. The Lytles are Appellants in both dockets. Consolidation is warranted and necessary for the effective disposition of these matters given that the legal issues and legal questions are nearly identical.

## **SUMMARY OF FACTS AND RELATED APPEALS**

### **I. The Underlying Litigation Between The Lytles And Rosemere Estates Property Owners’ Association**

#### **A. The Association**

On January 4, 1994, Baughman & Turner Pension Trust (the “Developer”), as the subdivider of a cul-de-sac to be made up of nine (9) residential lots on a street known as Rosemere Court in Las Vegas, Nevada, recorded with the Clark County Recorder’s Office a Declaration of Covenants, Conditions, and Restrictions (“Original CC&Rs”). Request for Judicial Notice in Support of Opposition to Motion for Summary Judgment (“RJN for Opp.”), Original CC&Rs, AA000155 – 000156, 000159, *see also* RJN for Opp., Order Granting Motion for Summary Judgment, AA000167. Appellants purchased their property, Lot 163-03-313-009 (“Appellants’ Property”) on November 6, 1996, from the original buyer who first purchased it from the Developer on August 25, 1995. *Id.*, AA000167.

The Original CC&Rs, in the first paragraph, defines Rosemere Estates as “Lots 1 through 9 of Rosemere Court, a subdivision...” Request for Judicial Notice (“RJN”) for Opposition (“Opp.”), Original CC&Rs, Appellants’ Index (“AA”) 000159.<sup>1</sup> The document adds that “it is the desire and intention of the Subdivider to sell the land described above and to impose on it mutual, beneficial, covenants, conditions and restrictions under a general plan or scheme of improvement for the benefit of all of the land described above and the future owners of the lots comprising said land.” *Id.* Thus, the Association includes each lot, or unit, therein.

Sometime after the Lytles purchased their property, a group of homeowners formed Rosemere Estate Property Owners’ Association (the “Association”). RJN for Opp., Articles of Organization, AA000155 – 000156, 000164. In 1997, Non-Profit Articles of Incorporation (the “Articles”) were filed pursuant to Nevada Revised Statutes (“NRS”) 82, which formalized the property owners’ committee and named it “Rosemere Estates Property Owners Association.” *Id.* It was the intention of the homeowners to formalize the “owners committee” referenced in the Original CC&Rs. RJN for Opp, Order Granting Motion for Summary Judgment, Finding of Fact (“FOF”) Nos. 14, 15, AA000155 – 000156, AA000168.

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<sup>1</sup> The Lytles cite to the Appellants’ Index filed in Docket 73039.

**B. Judgments Against The Association**

In 2007, the Lytles filed a NRS 38.310 mandated non-binding arbitration before the Nevada Real Estate Division (“NRED”), naming the Association as respondent. The underlying dispute arose out of the Amended Covenants, Conditions, and Restrictions (the “Amended CC&Rs”) which were recorded by the Association’s Board of Directors on July 3, 2007, and enforced by the Association against the Lytles and their Property. The Lytles sought to un-cloud title to their property through the revocation of the Amended CC&Rs.

After the arbitrator found in favor of the Association, the Lytles filed for a trial de novo in district court, case number A-09-593497-C (the “Underlying Litigation”), which was assigned to Judge Michelle Leavitt in Department XII of the Eighth Judicial District Court. After the matter was initially dismissed by the district court, the Lytles appealed to the Supreme Court, prevailed, and the matter was then remanded back to the district court.

The Lytles ultimately prevailed, entirely, in the underlying litigation, and the district court granted the Lytles summary judgment on July 29, 2013. RJN for Opp., Order Granting Summary Judgment, AA000166 – 000177. In doing so, the district court found the Amended CC&Rs were improperly adopted and unlawfully recorded. The district court ordered that the Amended CC&Rs were *void ab initio*. *Id.* Finally, the district court ordered the Association to release the recording of the Amended CC&Rs, which revocation was ultimately accomplished. *Id.*



The matter was once again appealed, and the Nevada Supreme Court affirmed the district court's Order Granting the Lytles' summary judgment. RJN for Opp., Supreme Court Order, AA000155 -000156, 000179 – 000183. The Supreme Court remanded the case to the district court for redetermination of costs, attorneys' fees and damages on October 19, 2015. *Id.*

On May 25, 2016, after hearing the Lytles' motion for attorneys' fees, the Court awarded Appellants \$297,072.66 in attorneys' fees pursuant to the Original CC&Rs, Amended CC&Rs and NRS 116.4117. RJN for Opp., Order Awarding Attorneys' Fees, AA000155 – 000156, 000186 – 000189.

On June 17, 2016, after a prove-up hearing, the district court awarded the Lytles damages in the amount of \$63,566.93. Order Awarding Damages, RJN for Opp., Order Awarding Damages, AA000155 – 000156, 000189 – 000192. These damages included amounts expended by the Lytles in the design, engineering, and other costs associated with the construction of their home for Rosemere Estates, all of which were now stale and useless. *Id.*

Finally, on February 13, 2014, the district court awarded the Lytles \$1,962.80 in costs. Then, after remand from the Supreme Court, the district Court awarded Appellants' additional costs in the amount of \$599.00 on July 22, 2016. RJN for Opp., Order Awarding Costs, AA000155 – 000156, 000193 – 000194.

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On September 2, 2016, the Lytles recorded abstracts of judgment against each property within the Association pursuant to the authorities set forth herein. RJN for Opp., Abstracts of Judgment, AA000155 – 000156, 000195 – 000220.

The Lytles prevailed in two additional lawsuits against the Association, one related to the Association’s wrongful recording and enforcement of liens against the Lytles which led to an award of punitive damages, and another lawsuit wherein the Lytles successfully sought to compel a Board election it refused to hold. In all the actions, the Lytles were awarded attorneys’ fees and costs. The Lytles did not record abstracts of judgment against any individual owners’ property related to the foregoing litigation, although the Lytles contend they have the legal right to do so.

## **II. Docket 73039**

Respondents MARJORIE BOULDEN, TRUSTEE OF THE MARJORIES B. BOULDEN TRUST (“Boulden”) and JACQUES LAMOTHE, TRUSTEES OF THE JACQUES & LINDA LAMOTHE LIVING TRUST (“Lamothe”) filed a lawsuit on December 8, 2016, seeking to quiet title to their respective properties and setting forth claims for quiet title, cloud on title, and slander of title. Complaint in Case No. A-16-747800-C, Exhibit A. Lamothe owns property within the Association and Boulden owned property therein until sold after her filing of the lawsuit. *Id.*<sup>2</sup>

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<sup>2</sup> In or about August 2017, Respondents Robert Z. Disman, an individual, and Yvonne A. Disman (collectively the “Dismans”) purchased the real property formerly belonging to Respondent Boulden. The Dismans are the current owners and were added to this Appeal by this Court on December 5, 2017.

On April 26, 2017, after a hearing, the district court granted Respondents' Motion for Partial Summary Judgment on all claims. *See* Findings of Fact and Conclusions of Law and Order Granting Motion for Partial Summary Judgment ("Order"), Exhibit B. Therein, the district court granted a permanent injunction against the Lytles. *Id.* The district court also entered an order granting summary judgment as to Boulden and Lamothe's slander of title claim. *Id.*

On May 16, 2017, the Lytles filed a Motion to Alter or Amend Findings of Fact and Conclusions of Law as to the slander of title claim, arguing that the district court made no findings with respect to malice, oppression, or fraud, and, therefore, a finding of slander of title was unwarranted. That Motion to Alter or Amend Findings of Fact and Conclusions of Law was heard on June 29, 2017, and was granted, and the district court entered Amended Findings of Fact and Conclusions of Law ("Amended Findings"), withdrawing any findings related to Respondents' slander of title claim. Order Granting Motion to Alter or Amend Findings of Fact and Conclusions of Law, Exhibit C.

The issue presented to this Court on appeal is: whether the district court erred in granting a permanent injunction after finding that the Lytles clouded title to Boulden and Lamothe's properties when the Lytles recorded abstracts of judgment awarded to them in a separate civil action against the Association? The Lytles contend that provisions of Chapter 116 of the Nevada Revised Statutes and common law provide the Lytles with this remedy.

### III. Docket 76198

On November 30, 2017, another group of homeowners within the Association filed a complaint in the Eighth District Court against the Lytles seeking to similarly quiet title to their respective properties, Case No. A-17-765372-C. *See* Complaint in Case No. A-17-765372-C, Exhibit D. The allegations of the Complaint filed in this action are virtually identical to those file in the Boulden and Lamothe action; however, there are some factual distinctions. Most notably, Case No A-17-765372-C seeks to quiet title as to the Abstracts of Judgment that were recorded against the properties and also seeks declaratory relief with respect to the other judgments the Lytles obtained.<sup>3</sup> *See* Order Granting Motion to Alter or Amend Findings of Fact and Conclusions of Law, Exhibit C.

Case No. Case No. A-16-747800-C and Case No. A-17-765372-C were consolidated by district court order on March 2, 2018. *See* Order Re Consolidation, Exhibit D.

The plaintiffs in Case No A-17-765372-C filed a motion for summary judgment which was opposed and countered by the Lytles. On May 25, 2018, the district court, Hon. Mark Bailus, entered an order that mirrors Judge Williams' order in Case No. A-16-747800-C. *See generally* Order Granting Motion for Summary Judgment, Exhibit E. Indeed, this Order references Judge Williams' Order in Case No. A-16-747800-C

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<sup>3</sup> The plaintiffs in Case No A-17-765372-C also do not allege a cause of action for slander of title, which is present in Case No. A-16-747800-C.

and concludes Judge Williams' order is "the laws of the case" and applies to decide the matters set forth in Case No. A-17-765372-C.<sup>4</sup> *See id.* at Findings of Fact, ¶¶ 25 – 28, and Conclusions of Law ¶ 1, Exhibit E.

The issues on appeal in Docket 76198 are identical to those on appeal in Docket 73039. *See* Docketing Statement 73039, Exhibit F; *see also* Docketing Statement 76198, Exhibit G.

### RELIEF REQUESTED

The Lytles seek to consolidate Dockets 73039 and 76198. These cases were consolidated before the district court and similarly should be consolidated herein. Once more, the district court's orders granting summary judgment and imposing permanent injunctions mirror one another. Judge Bailus, in the latter of the orders, applies Judge Williams' order in Case No. A-16-747800-C as the "law of the case" for Case No. A-17-765372-C.

Admittedly, there are factual nuances between the cases. However, the essential and determinative facts and law are essentially the same. This Court's decision in Docket 73039 certainly will impact the Respondents in Docket 76198 because most of the legal issues will be decided therein. For those reasons, Dockets 73039 and 76198 should consolidated to effectively decide the issues before this Court.

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<sup>4</sup> The Lytles dispute Judge Williams' prior order in Case No. A-16-747800-C is "law of the case," and this conclusion will be an issue on appeal in Docket 76198.

The Lytles respectfully request this Court stay any decision in Docket 73039 pending full briefing and submission of Docket 76198.

DATED this 16<sup>th</sup> day of October, 2018.

GIBBS, GIDEN, LOCHER, TURNER, SENET &  
WITTBRODT, LLP

By: 

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**LIST OF EXHIBITS TO MOTION**

Exhibit A	Complaint in Case No. A-16-747800-C
Exhibit B	Findings of Fact and Conclusions of Law and Order Granting Motion for Partial Summary Judgment
Exhibit C	Order Granting Motion to Alter or Amend Findings of Fact and Conclusions of Law
Exhibit D	Complaint in Case No. Case No. A-17-765372-C
Exhibit E	Order Granting Motion for Summary Judgment in Case No. A-17-765372-C
Exhibit F	Docketing Statement 73039
Exhibit G	Docketing Statement 76198

## CERTIFICATE OF MAILING

The undersigned, an employee of the law firm of GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT LLP, hereby certifies that on October 16, 2018, she served a copy of the foregoing **MOTION TO CONSOLIDATE APPEALS** by placing said copy in an envelope, postage fully prepaid, in the U.S. Mail at Las Vegas, Nevada, said envelope(s) addressed to:

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# **EXHIBIT “A”**



CLERK OF THE COURT

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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 )

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")

**FOLEY  
&  
OAKES**

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

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 First  
13 Abstract of Judgment.

14  
15 **FIRST CAUSE OF ACTION**  
16 **(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.  
27  
28

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.

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

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

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

7           40. Plaintiffs herein have been required to retain the services of Foley & Oakes, PC,  
8 to prosecute this action, and are entitled to an award of attorney's fees and costs.  
9

10                                   **FOURTH CAUSE OF ACTION**  
11                                   **(Declaratory Relief)**

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

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

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

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

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

24           A. That pending a hearing on the Preliminary Injunction and notice of the same, as  
25 required by law, a Temporary Restraining Order issue with such notice as is required by law,  
26 restraining and enjoining the Lytles, and each of them, their agents, servants, employees,  
27 attorneys, successors, and assigns and all persons in active participation or consort with them  
28

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 8<sup>th</sup> day of December 2016.

23 Respectfully Submitted,

24 FOLEY & OAKES, PC

25 /s/Daniel T. Foley

26 Daniel T. Foley, Esq.


27 626 S. 8<sup>th</sup> St.

28 Las Vegas, Nevada 89101

Attorneys for Plaintiffs



# **EXHIBIT “B”**

  
CLERK OF THE COURT

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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. )

Date of Hearing: April 13, 2017  
Time of Hearing: 9:00 a.m.

19 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING**  
20 **PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

21 Plaintiffs' Motion for Partial Summary Judgment and Defendants' Counter Motion for  
22 Summary Judgment having come on for hearing before this Court on the 13<sup>th</sup> day of April 2017,  
23 Plaintiffs Marjorie Boulden and Linda Lamothe appeared with their counsel, Daniel T. Foley,  
24 Esq. and Defendants John Allen Lytle and Trudi Lee Lytle, as Trustees of the Lytle Trust,  
25 appearing with their counsel, Richard Haskin, Esq. The Court having reviewed the Plaintiffs'  
26 Motion, the Defendants' Opposition and Counter-Motion and the Plaintiffs' Reply and all  
27

1 documents attached thereto or otherwise filed in this case, and good cause appearing therefore,  
2 makes these Findings of Fact and Conclusions of Law.

3 To the extent any Findings of Fact also contain Conclusions of Law said Conclusions of  
4 Law should be considered as such. To the extent that any Conclusions of Law also contain  
5 Findings of Fact said Findings of Fact should be considered as such.

### 6 FINDINGS OF FACT

7  
8 1. Mrs. Boulden is trustee of the Marjorie B. Boulden Trust (hereinafter "Mrs.  
9 Boulden") which owns that residential property known as parcel number 163-03-313-008 also  
10 known as 1960 Rosemere Ct., Las Vegas, NV 89117 ("the Boulden Property").

11 2. Mr. and Mrs. Lamothe are the trustees of the Linda Lamothe and Jacques Lamothe  
12 Living Trust (hereinafter "Mr. and Mrs. Lamothe") which owns that certain residential property  
13 known as parcel number 163-03-313-002 also known as 1830 Rosemere Ct., Las Vegas, NV  
14 89117 (the "Lamothe Property").

15 3. The Boulden Property and the Lamothe Property are located in the Rosemere  
16 Court subdivision and are subject to the CC&Rs recorded January 4, 1994 (the "Original  
17 CC&Rs").

18 4. John Allen Lytle and Trudi Lee Lytle are the Trustees of the Lytle Trust  
19 (collectively the "Defendants") which owns that certain residential property known as parcel  
20 number 163-03-313-009 (the "Lytle Property").

21 5. In 2009, the Defendants sued the Rosemere Estates Property Owners Association  
22 (the Association") in the Eighth Judicial District Court, case # A-09-593497-C (the "Rosemere  
23 LPA Litigation").

24 6. None of the Plaintiffs were ever parties in the Rosemere LPA Litigation.  
25  
26  
27

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

3           8.     The Defendants obtained a Summary Judgment for Declaratory Relief from the  
4 District Court in the Rosemere LPA Litigation, which found and ruled as follows:

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

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

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

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

19           9.     Pursuant to NRS 116.1201(2) most of NRS Chapter 116 does not apply to the  
20 Association because it is a limited purpose association that is not a rural agricultural residential  
21 community.

22           10.    After obtaining Summary Judgment in the Rosemere LPA Litigation, the  
23 Defendants filed a Motion for Attorneys' Fees and Costs against the Association, and conducted a  
24 prove-up hearing on damages. After hearing all matters, a Final Judgment was entered in the  
25 Defendants' favor against the Association for \$361,238.59, which includes damages, attorneys'  
26 fees and costs (the "Final Judgment").

27           11.    After obtaining the Final Judgment, the Defendants, on August 16, 2016, recorded  
28 with the Clark County Recorder's office an Abstract of Judgement referencing the Final Judgment

1 against the Association, recorded as Instrument #20160818-0001198 (the "First Abstract of  
2 Judgment").

3 12. In the First Abstract of Judgment, the Defendants listed the parcel numbers of the  
4 Boulden Property and the Lamothe Property as properties to which the First Abstract of Judgment  
5 and Final Judgment was to attach.

6 13. On September 2, 2016, the Defendants recorded with the Clark County Recorder's  
7 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded  
8 as Instrument #20160902-0002684 (the "Second Abstract of Judgment"). The Second Abstract  
9 of Judgment listed the parcel number of the Lamothe Property only as the property to which the  
10 Final Judgment was to attach.

11 14. On September 2, 2016, the Defendants recorded with the Clark County Recorder's  
12 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded  
13 as Instrument #20160902-0002690 (the "Third Abstract of Judgment"). The Third Abstract of  
14 Judgment listed the parcel number of the Boulden Property only as the property to which the  
15 Final Judgment was to attach.

### 16 CONCLUSIONS OF LAW

17 1. The Association is a "limited purpose association" as referenced in NRS  
18 116.1201(2).

19 2. As a limited purpose association, NRS 116.3117 is not applicable to the  
20 Association.

21 3. As a result of the Rosemere LPA Litigation, the Amended CC&Rs were judicially  
22 declared to have been improperly adopted and recorded, the Amended CC&Rs are invalid and  
23 have no force and effect and were declared void ab initio.

24 4. The Plaintiffs were not parties to the Rosemere LPA Litigation.

5. The Plaintiffs were not “losing parties” in the Rosemere LPA Litigation as per Section 25 of the Original CC&Rs.

6. The Final Judgment in favor of the Defendants is not against, and is not an obligation of, the Plaintiffs.

7. The Final Judgment against the Association is not an obligation or debt owed by the Plaintiffs.

8. The First Abstract of Judgment recorded as Instrument #20160818-0001198 was improperly recorded against the Lamothe Property and constitutes a cloud against the Lamothe Property.

9. The First Abstract of Judgment recorded as Instrument #20160818-0001198 was improperly recorded against the Boulden Property and constitutes a cloud against the Boulden Property.

10. The Second Abstract of Judgment recorded as Instrument #20160902-0002684 improperly recorded against the Lamothe Property and constitutes a cloud against the Lamothe Property.

11. The Third Abstract of Judgment recorded as Instrument #20160902-0002690 was improperly recorded against the Boulden Property and constitutes a cloud against the Boulden Property.

## 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 Partial Summary Judgment is **GRANTED**.

1       **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that  
2 Defendants' Motion for Summary Judgment is DENIED.

3       **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
4 Defendants improperly clouded the title to the Boulden Property.

5       **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
6 Defendants improperly clouded the title to the Lamothe Property.

7       **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
8 Defendants slandered the title to the Boulden Property.

9       **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the First  
10 Abstract of Judgment recorded as Instrument #20160818-0001198 in the Clark County  
11 Recorder's Office is hereby expunged and stricken from the records of the Clark County  
12 Recorder's Office.

13       **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
14 Second Abstract of Judgment recorded as Instrument #20160902-0002684 in the Clark County  
15 Recorder's Office is hereby expunged and stricken from the records of the Clark County  
16 Recorder's Office.

17       **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Third  
18 Abstract of Judgment recorded as Instrument #20160902-0002690 in the Clark County  
19 Recorder's Office is hereby expunged and stricken from the records of the Clark County  
20 Recorder's Office.

21       **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
22 Defendants are permanently enjoined from recording and enforcing the Final Judgment from the  
23 Rosemere LPA Litigation or any abstracts related thereto against the Boulden Property or the  
24 Lamothe Property.

**IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Defendants are hereby ordered to release the First Abstract of Judgment, the Second Abstract of Judgment, and the Third Abstract of Judgment recorded with the Clark County Recorder within ten (10) days after the date of Notice of Entry of this Order.

DATED this 25<sup>th</sup> day of April 2017

District Court Judge

Submitted by:  
FOLEY & OAKES, PC

Daniel T. Foley, Esq.  
626 S. 8<sup>th</sup> St.  
Las Vegas, Nevada 89101  
Attorney for Plaintiffs

**Approved as to form:**

Richard E. Haskin, Esq.  
Gibbs Giden Locker Turner Senet & Wittbrodt LLP  
1140 N. Town Center Dr., Ste. 300  
Las Vegas, Nevada 89144  
Attorney for Defendants



**IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Defendants are permanently enjoined from taking any action in the future against the Plaintiffs or their properties based upon the Rosemere LPA Litigation.

**IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Defendants are hereby ordered to release the First Abstract of Judgment, the Second Abstract of Judgment, and the Third Abstract of Judgment recorded with the Clark County Recorder within ten (10) days after the date of Notice of Entry of this Order.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2017

DISTRICT COURT JUDGE

Submitted by:  
FOLEY & OAKES, PC

Daniel T. Foley, Esq.  
626 S. 8<sup>th</sup> St.  
Las Vegas, Nevada 89101  
Attorney for Plaintiffs

Approved as to form:

Richard E. Haskin, Esq.  
Gibbs Gliden Locker Turner Senet & Wittbrodt LLP  
1140 N. Town Center Dr., Ste. 300  
Las Vegas, Nevada 89144  
Attorney for Defendants

# **EXHIBIT “C”**

*Steven D. Grierson*

**ORDR**

Richard E. Haskin, Esq.  
Nevada State Bar # 11592  
Timothy P. Elson, Esq.  
Nevada State Bar # 11559  
**GIBBS GIDEN LOCHER TURNER  
SENET & WITTBRODT LLP**  
1140 N. Town Center Drive, Suite 300  
Las Vegas, Nevada 89144-0596  
(702) 836-9800

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

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

Plaintiff,

v.

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

Defendants.

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

**ORDER GRANTING MOTION TO  
ALTER OR AMEND FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

*Hearing: June 29, 2017*

Plaintiffs' Motion for Partial Summary Judgment and Defendants' Counter Motion for  
Summary Judgment having come on for hearing before this Court on of April 13, 2017. Plaintiffs  
Marjorie Boulden and Linda Lamothe appeared with their counsel, Daniel T. Foley, Esq. and  
Defendants John Allen Lytle and Trudi Lee Lytle, as Trustees of the Lytle Trust, appeared with their  
counsel, Richard Haskin, Esq. After hearing, the Court entered Findings of Fact, Conclusions of  
Law and entered an Order Granting Plaintiffs' Motion for Partial Summary Judgment on April 25,  
2017.

///

1 On June 29, 2017, Defendants' Motion for Reconsideration or, in the Alternative, Motion to  
 2 Alter or Amend Judgment, came on for hearing. Plaintiffs Marjorie Boulden and Linda Lamothe  
 3 appeared with their counsel, Daniel T. Foley, Esq. and Defendants John Allen Lytle and Trudi Lee  
 4 Lytle, as Trustees of the Lytle Trust, appeared with their counsel, Richard Haskin, Esq.

5 The Court having reviewed the Defendants' Motion, Plaintiff's Opposition and the  
 6 Defendants' Reply, all documents attached thereto or otherwise filed in this case, and good cause  
 7 appearing therefore, grants Defendants' Motion to Alter and Amend Judgment pursuant to EDCR  
 8 2.24(b), and the Court makes the following Amendment Findings of Fact and Conclusions of Law,  
 9 granting Plaintiffs' Motion for Partial Summary Judgment.

#### 10 **FINDINGS OF FACT**

11 1. Mrs. Boulden is trustee of the Marjorie B. Boulden Trust (hereinafter "Mrs.  
 12 Boulden") which owns that residential property known as parcel number 163-03-313-008 also  
 13 known as 1960 Rosemere Ct., Las Vegas, NV 89117 ("the Boulden Property").

14 2. Mr. and Mrs. Lamothe are the trustees of the Linda Lamothe and Jacques Lamothe  
 15 Living Trust (hereinafter "Mr. and Mrs. Lamothe") which owns that certain residential property  
 16 known as parcel number 163-03-313-002 also known as 1830 Rosemere Ct., Las Vegas, NV 89117  
 17 (the "Lamothe Property").

18 3. The Boulden Property and the Lamothe Property are located in the Rosemere Court  
 19 subdivision and are subject to the CC&Rs recorded January 4, 1994 (the "Original CC&Rs").

20 4. John Allen Lytle and Trudi Lee Lytle are the Trustees of the Lytle Trust (collectively  
 21 the "Defendants") which owns that certain residential property known as parcel number 163-03-313-  
 22 009 (the "Lytle Property").

23 5. In 2009, the Defendants sued the Rosemere Estates Property Owners Association (the  
 24 Association") in the Eighth Judicial District Court, case # A-09-593497-C (the "Rosemere LPA  
 25 Litigation").

26 6. None of the Plaintiffs were ever parties in the Rosemere LPA Litigation.

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

1           8.     The Defendants obtained a Summary Judgment for Declaratory Relief from the  
2 District Court in the Rosemere LPA Litigation, which found and ruled as follows:

- 3           a.     The Association is a limited purpose association under NRS 116.1201, is not  
4                 a Chapter 116 "unit-owners' association," and is relegated to only those  
5                 specific duties and powers set forth in Paragraph 21 of the Original CC&Rs  
6                 and NRS 116.1201.  
7           b.     The Association did not have any powers beyond those of the "property  
8                 owners committee" designation in the Original CC&Rs – simply to care for  
9                 the landscaping and other common elements of Rosemere Estates as set forth  
10                in Paragraph 21 of the Original CC&Rs.  
11           c.     Consistent with the absence of a governing body, the Developer provided  
12                 each homeowner the right to independently enforce the Original CC&Rs  
13                 against one another.  
14           d.     The Amended and Restated CC&Rs recorded with the Clark County  
15                 Recorder's Office as Instrument #20070703-0001934 (the "Amended  
16                 CC&Rs") are invalid, and the Amended CC&Rs have no force and effect.

17           9.     Pursuant to NRS 116.1201(2) much of NRS Chapter 116 does not apply to the  
18 Association because it is a limited purpose association that is not a rural agricultural residential  
19 community.

20           10.    After obtaining Summary Judgment in the Rosemere LPA Litigation, the Defendants  
21 filed a Motion for Attorneys' Fees and Costs against the Association, and conducted a prove-up  
22 hearing on damages. After hearing all matters, a Final Judgment was entered in the Defendants'  
23 favor against the Association for \$361,238.59, which includes damages, attorneys' fees and costs  
24 (the "Final Judgment").

25           11.    After obtaining the Attorneys' Fees Judgment, the Defendants, on August 16, 2016,  
26 recorded with the Clark County Recorder's office an Abstract of Judgement referencing the Final  
27 Judgment against the Association, recorded as Instrument #20160818-0001198 (the "First Abstract  
28 of Judgment").

          12.    In the First Abstract of Judgment, the Defendants listed the parcel numbers of the  
Boulden Property and the Lamothe Property as properties to which the First Abstract of Judgment  
and Final Judgment was to attach.

///

14. On September 2, 2016, the Defendants recorded with the Clark County Recorder's office an Abstract of Judgment referencing the Final Judgment against the Association, recorded as Instrument #20160902-0002690 (the "Third Abstract of Judgment"). The Third Abstract of Judgment listed the parcel number of the Boulden Property only as the property to which the Judgment was to attach.

11 **CONCLUSIONS OF LAW**

12           1.       The Association is a “limited purpose association” as referenced in NRS 116.1201(2).

13           2.     As a limited purpose association, NRS 116.3117 is not applicable to the Association.

14           3.       As a result of the Rosemere LPA Litigation, the Amended CC&Rs were judicially  
15       declared to have been improperly adopted and recorded, the Amended CC&Rs are invalid and have  
16       no force and effect and were declared void ab initio.

17           4.     The Plaintiffs were not parties to the Rosemere LPA Litigation.

5. The Plaintiffs were not “losing parties” in the Rosemere LPA Litigation as per Section 25 of the Original CC&Rs.

20           6.       The Final Judgment in favor of the Defendants is not against, and is not an obligation  
21 of, the Plaintiffs.

22           7.       The Final Judgment against the Association is not an obligation or debt owed by the  
23   Plaintiffs.

8. The First Abstract of Judgment recorded as Instrument #20160818-0001198 was improperly recorded against the Lamothe Property and constitutes a cloud against the Lamothe 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 Partial Summary Judgment is GRANTED as to Plaintiffs' claims and causes of action for quiet title and declaratory relief, the Second and Third Causes of Action in Plaintiffs' First Amended Complaint.

**IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that Defendants' Motion for Summary Judgment is **DENIED**.

**IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Defendants improperly clouded the title to the Boulden Property.

**IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Defendants improperly clouded the title to the Lamothe Property.

**IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the First Abstract of Judgment recorded as Instrument #20160818-0001198 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 Second  
2 Abstract of Judgment recorded as Instrument #20160902-0002684 in the Clark County Recorder's  
3 Office is hereby expunged and stricken from the records of the Clark County Recorder's Office.

4           **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Third  
5 Abstract of Judgment recorded as Instrument #20160902-0002690 in the Clark County Recorder's  
6 Office is hereby expunged and stricken from the records of the Clark County Recorder's Office.

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1 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
2 Defendants are permanently enjoined from recording and enforcing the Final Judgment from the  
3 Rosemere LPA Litigation or any abstracts related thereto against the Boulden Property or the  
4 Lamothe Property.

5 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
6 Defendants are permanently enjoined from taking any action in the future against the Plaintiffs or  
7 their properties based upon the Rosemere LPA Litigation.

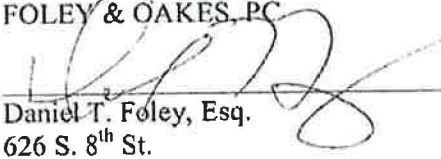
8 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the  
9 Defendants are hereby ordered to release the First Abstract of Judgment, the Second Abstract of  
10 Judgment, and the Third Abstract of Judgment recorded with the Clark County Recorder within  
11 ten (10) days after the date of Notice of Entry of this Order.  
12

13 DATED this 19<sup>th</sup> day of July 2017

14  
15   
16 DISTRICT COURT JUDGE  
17 

18 Submitted by:

19 FOLEY & OAKES, PC

20   
21 Daniel T. Foley, Esq.

22 626 S. 8<sup>th</sup> St.

23 Las Vegas, Nevada 89101

24 Attorney for Plaintiffs

25 Approved as to form:

26   
27 Richard E. Maskin, Esq.

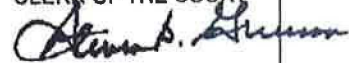
28 Gibbs Giden Locker Turner Senet & Wittbrodt LLP

1140 N. Town Center Dr., Ste. 300

Las Vegas, Nevada 89144

Attorney for Defendants

# **EXHIBIT “D”**



CHRISTENSEN JAMES & MARTIN  
7440 WEST SAHARA AVE., LAS VEGAS, NEVADA 89117  
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1 **COM**  
2 **CHRISTENSEN JAMES & MARTIN**  
3 KEVIN B. CHRISTENSEN, ESQ.  
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Attorneys for Plaintiffs

9 **EIGHTH JUDICIAL DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

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

17 Plaintiffs,

18 vs.

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

22 Defendants.

A-17-765372-C

Case No.:

Dept. No.: Department 28

**COMPLAINT**

23  
24 Plaintiffs, September Trust, dated March 23, 1972 ("September Trust"), Gerry R. Zobrist  
25 and Jolin G. Zobrist, as Trustees of the Gerry R. Zobrist and Jolin G. Zobrist Family Trust  
26 ("Zobrist Trust"), Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, as Trustees of the  
27 Raynaldo G. and Evelyn A. Sandoval Joint Living and Devolution Trust Dated May 27, 1992  
28 ("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  
28

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.

27 ///

28

1  
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").  
28

1  
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.  
12

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.  
16

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

21 24. The Lytles knew or should have known that the Plaintiffs did not have a legal  
22 duty to pay the Rosemere Judgment I.  
23

24 25. The Abstracts of Judgment were wrongfully recorded against the Plaintiffs'  
25 Properties and the Lytles knew or should have known the Abstracts of Judgment were  
26 wrongfully recorded.  
27

28 26. Other property owners in the Rosemere Subdivision, the Bouldens (Parcel No.  
163-03-313-008) and the Lamothes (Parcel No. 163-03-313-002) have already filed a lawsuit  
(Case No. A-16-747900-C) regarding this same issue ("BL Lawsuit"), because the Rosemere

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.

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

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

5                                 SECOND CAUSE OF ACTION

6   [Declaratory Relief]

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

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

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

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

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

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

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

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

27           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

25     ///

26     ///

27     ///

28

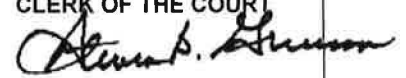
5. For such further relief as the Court may deem proper under the circumstances.

DATED this 29<sup>th</sup> day of November, 2017.

CHRISTENSEN JAMES &amp; MARTIN

By: /s/ Laura J. Wolff, Esq.  
 Laura J. Wolff, Esq.  
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 7440 W. Sahara Avenue  
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*Attorneys for Plaintiffs*

# **EXHIBIT “E”**



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

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

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

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.

**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 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

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

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

13           10.    The Second Abstract of Judgment recorded as Instrument No. 20160902-0002685  
14 was improperly recorded against the Gegen Property and constitutes a cloud against the Gegen  
15 Property.  
16

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

20           12.    The Fourth Abstract of Judgment recorded as Instrument No. 20160902-0002687  
21 was improperly recorded against the Zobrist Trust Property and constitutes a cloud against the  
22 Zobrist Trust Property.  
23

24 ///

25 ///

26 ///

27 ///

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

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

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

22           ///

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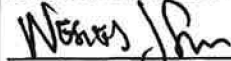
1           **IT IS SO ORDERED.**

2  
3           Dated this \_\_\_\_ day of May, 2018.

4  
5  
6           \_\_\_\_\_  
DISTRICT COURT JUDGE

7 Submitted by:

8 **CHRISTENSEN JAMES & MARTIN**

9 

10 Wesley J. Smith, Esq.  
Nevada Bar No. 11871  
Laura J. Wolff, Esq.  
Nevada Bar No. 6869  
7440 W. Sahara Ave.  
Las Vegas, NV 89117  
Attorneys for Plaintiffs September Trust,  
13 Zobrist Trust, Sandoval Trust, and  
Dennis & Julie Gegen

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

16 **FIDELITY NATIONAL LAW GROUP**

**FOLEY & OAKES, P.C.**

17 **CHRISTINA H. WANG, ESQ.**  
Nevada Bar No. 9713  
8363 W. Sunset Road, Suite 120  
Las Vegas, Nevada 89113  
Attorneys for Counter-Defendants/Cross-  
20 Claimants Robert & Yvonne Disman

21 **GIBBS GIDEN LOCHER TURNER**  
**SENET & WITTBRODT LLP**

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626 S. 8<sup>th</sup> Street  
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Attorneys for Plaintiffs/Counter-  
Defendants/Cross-Defendants Boulden Trust  
and Lamothe Trust

22  
23 **RICHARD E. HASKIN, ESQ.**  
Nevada Bar No. 11592  
24 **TIMOTHY P. ELSON, ESQ.**  
Nevada Bar No. 11559  
1140 N. Town Center Drive, Suite 300  
Las Vegas, Nevada 89144  
Attorneys for Defendants/Counter-  
26 Claimants Lytle Trust



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**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May, 2018.

\_\_\_\_\_  
DISTRICT COURT JUDGE

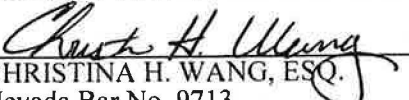
Submitted by:

**CHRISTENSEN JAMES & MARTIN**

\_\_\_\_\_  
Wesley J. Smith, Esq.  
Nevada Bar No. 11871  
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Attorneys for Plaintiffs September Trust,  
Zobrist Trust, Sandoval Trust, and  
Dennis & Julie Gegen

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

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Claimants Robert & Yvonne Disman

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Attorneys for Defendants/Counter-  
Claimants Lytle Trust

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DANIEL T. FOLEY, ESQ.  
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626 S. 8<sup>th</sup> Street  
Las Vegas, Nevada 89101  
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. R.*

7  
8           **CHRISTENSEN JAMES & MARTIN**

9           \_\_\_\_\_  
Wesley J. Smith, Esq.  
Nevada Bar No. 11871  
10          Laura J. Wolff, Esq.  
Nevada Bar No. 6869  
11          7440 W. Sahara Ave.  
Las Vegas, NV 89117  
12          Attorneys for Plaintiffs September Trust,  
13          Zobrist Trust, Sandoval Trust, and  
Dennis & Julie Gegen

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

16          **FIDELITY NATIONAL LAW GROUP**

17          \_\_\_\_\_  
CHRISTINA H. WANG, ESQ.  
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18          8363 W. Sunset Road, Suite 120  
Las Vegas, Nevada 89113  
19          Attorneys for Counter-Defendants/Cross-  
20          Claimants Robert & Yvonne Disman

21          **GIBBS GIDEN LOCHER TURNER**  
**SENET & WITTBRODT LLP**


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23          TIMOTHY P. ELSON, ESQ.  
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26          Attorneys for Defendants/Counter-  
Claimants Lytle Trust

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626 S. 8<sup>th</sup> Street  
Las Vegas, Nevada 89101  
Attorneys for Plaintiffs/Counter-  
Defendants/Cross-Defendants Boulden Trust  
and Lamothe Trust

1           **IT IS SO ORDERED.**

2  
3           Dated this 20 day of May, 2018.



\_\_\_\_\_  
DISTRICT COURT JUDGE

6 Submitted by:

7  
8           **CHRISTENSEN JAMES & MARTIN**

9  
10           \_\_\_\_\_  
Wesley J. Smith, Esq.  
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11           Laura J. Wolff, Esq.  
Nevada Bar No. 6869  
12           7440 W. Sahara Ave.  
Las Vegas, NV 89117  
13           Attorneys for Plaintiffs September Trust,  
Zobrist Trust, Sandoval Trust, and  
Dennis & Julie Gegen

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

16           **FIDELITY NATIONAL LAW GROUP**

FOLEY & OAKES, P.C.

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Las Vegas, Nevada 89113  
19           Attorneys for Counter-Defendants/Cross-  
20           Claimants Robert & Yvonne Disman

21           \_\_\_\_\_  
GIBBS GIDEN LOCHER TURNER  
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26           Attorneys for Defendants/Counter-  
Claimants Lytle Trust

\_\_\_\_\_  
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Las Vegas, Nevada 89101  
Attorneys for Plaintiffs/Counter-  
Defendants/Cross-Defendants Boulden Trust  
and Lamothe Trust

# **EXHIBIT “F”**

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.

MARJORIE BOULDEN, TRUSTEE OF THE  
MARJORIE B. BOULDEN TRUST, etc

No. 73039

Electronically Filed  
Jun 02 2017 10:22 a.m.

Elizabeth A. Brown

DOCKETING STATEMENT  
CIVIL APPEALS  
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.

Revised December 2015

1. Judicial District Eighth Department XVI  
County Clark Judge Timothy Williams  
District Ct. Case No. A-16-747800-C

**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. Towne Center, Suite 300  
Las Vegas, NV 89140

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 Daniel T. Foley Telephone (702) 384-2070  
Firm Foley & Oakes, PC  
Address 626 S. 8th Street  
Las Vegas, NV 89101

Client(s) Marjorie B. Boulden, Linda Lamothe, Jacques Lamothe

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

**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 number A-09-593497-C  
Eighth Judicial District Court, case number A-10-631355-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 Appellants recorded against their respective properties in relation to a judgment Appellants obtained against the Rosemere Estates Property Owners Association, whereas the Respondents' properties are included as property of and within the association. Appellants appeal the decision of the district court granting summary judgment in Respondents' favor and holding that Appellants improperly clouded and slandered title to Respondents' properties, expunging the abstracts of judgment recorded against the Respondents' properties, permanently enjoining Appellants "from recording and enforcing the Final Judgment from the Rosemere Litigation or any abstracts related thereto against" Respondents' properties, and permanently enjoining Appellants "from taking any action in the future against the Plaintiffs or their properties based upon the Rosemere LPA Litigation."

**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 finding that Appellants' slandered title to Respondents' properties when there is no evidence and no findings by the court of malice, oppression, or fraud, and the district court did not consider the issue at hearing?
3. Whether the district court erred in ordering that Appellants were permanently enjoined from "taking any action in the future against [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:

N/A



**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: NRS 116.3117 permits a judgment creditor as to the association to record an abstract of judgment against the association and all of the units therein at the time the judgment was entered. However, NRS 116.3117 is not incorporated into those statutes that apply to limited purpose association under NRS 116.1201. Appellants contend that Appellants may still record an abstract of judgment related to a limited purpose association against all units within the limited purpose association, because, by definition, a "unit" is included within and property of the limited purpose association via NRS 116.021 and NRS 116.093.

**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 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 issues 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** April 26, 2017

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** April 27, 2017

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 May 15, 2017

**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** May 9, 2017

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)

- |   |                                       |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input type="checkbox"/> NRS 233B.150 |
| <input checked="" type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376  |
| <input type="checkbox"/> Other (specify) _____    |                                       |

(b) Explain how each authority provides a basis for appeal from the judgment or order:  
The district court granted Respondents' Motion for Partial Summary Judgment to quiet title to property, for cloud on title and slander of title. Respondents later waived a claim for damages other than attorneys' fees and costs. 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. NRA 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  
Marjorie B. Boulden, Trustee of the Marjorie B. Boulden Trust  
Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda  
Lamothe Living Trust

**(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, slander of title, and cloud on title. All claims were disposed of via summary judgment on April 26, 2017.

**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, which motion will be heard on June 29, 2017.

(b) Specify the parties remaining below:

Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust  
Marjorie B. Boulden, Trustee of the Marjorie B. Boulden Trust  
Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda Lamothe  
Living Trust

(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)):**

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

June 2, 2017  
Date

Nevada, Clark County  
State and county where signed

Richard E. Haskin  
Name of counsel of record

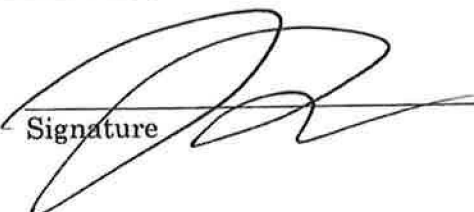
  
Signature of counsel of record

## CERTIFICATE OF SERVICE

I certify that on the 2nd day of June, 2017, 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 2nd day of June, 2017

  
Signature

**CERTIFICATE OF MAILING**

The undersigned, an employee of the law firm of GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT LLP, hereby certifies that on June 2, 2017, she served a copy of the foregoing **DOCKETING STATEMENT** by electronic service through the Nevada Supreme Court's ECF System:

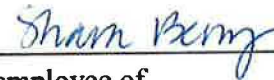
DANIEL T. FOLEY, ESQ.  
FOLEY & OAKS  
626 S. 8<sup>th</sup> Street  
Las Vegas, Nevada 89101

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

Tel: (702) 384-2070  
Fax: (702) 384-2128  
Email: [dan@folevoakes.com](mailto:dan@folevoakes.com)

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 “G”**

## 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

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

DOCKETING STATEMENT  
CIVIL APPEALS

### 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

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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  
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**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)

- |   |                                       |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)            | <input type="checkbox"/> NRS 233B.150 |
| <input checked="" type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376  |
| <input type="checkbox"/> 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

