

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellant ,

v.

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,

Respondents .

**Supreme Court No.: 76198**

District Court Case No.: A-17-765372-C

Electronically Filed  
Jan 15 2019 01:43 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**Appeal**

From the Eighth Judicial District Court, Clark County  
Honorable Mark Bailus

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**Appellants' Appendix to Opening Brief – Volume 10**

**(Docket 76198)**

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**RICHARD HASKIN**  
Nevada Bar No. 11592  
**GIBBS, GIDEN, LOCHER, TURNER,  
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*Attorneys for Appellants*

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2. Transcript of Proceedings Re: Decision (AA000771 – AA000776)
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**CERTIFICATE OF SERVICE**

**1. Electronic Service:**

I hereby certify that on this date, the 15th day of January 2019, I submitted the foregoing **Appellant's Appendix for Opening Brief – Volume 10 (Docket 76198)** for filing and service through the Court's eFlex electronic filing service. According to the system, electronic notification will automatically be sent to the following:

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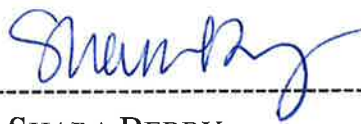
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Las Vegas, Nevada 89117



SHARA BERRY

1 review all --

2 MR. SMITH: Thank you, Your Honor.

3 THE COURT: -- a lot of the cases cited. Like I said, it took  
4 me a while in reading this to get a handle on the fact that there was -- it  
5 was a lengthy fact pattern and tried to understand what occurred in each  
6 of t he -- it was, what, three -- *NRED 1*, *NRED 2*, *NRED 3*, then what  
7 happened in front of Judge Leavitt, and then what happened in front of  
8 Judge Williams. And now it's happening in front of myself.

9 MR. HASKIN: You got sucked in.

10 MR. SMITH: We won't belabor the issue then. We'll let you  
11 get to it.

12 THE COURT: Thank you, counsel.

13 MR. SMITH: Thank you.

14 MR. HASKIN: Thank you.

15 [Proceedings concluded at 9:31 a.m.]

16

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19 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
20 audio/video proceedings in the above-entitled case to the best of my  
ability.

21



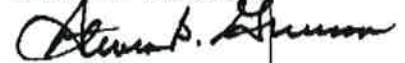
22

Shawna Ortega, CET\*562

23

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1 **RTRAN**

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4 **DISTRICT COURT**  
5 **CLARK COUNTY, NEVADA**  
6

7  
8 **MARJORIE B. BOULDEN TRUST,**  
9 **Plaintiff(s),**

10 **vs.**

11 **TRUDI LYTLE,**  
12 **Defendant(s).**

Case No. A-16-747800-C /  
Case No. A-17-765372-C

DEPT. XVIII

13  
14  
15 **BEFORE THE HONORABLE MARK B. BAILUS,**  
16 **DISTRICT COURT JUDGE**

17 **WEDNESDAY, MAY 2, 2018**

18  
19 **TRANSCRIPT OF PROCEEDINGS RE:**  
20 **DECISION**

21  
22 **APPEARANCES (on page 2).**

23  
24 **RECORDED BY: ROBIN PAGE, COURT RECORDER**  
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APPEARANCES:

For the Plaintiff(s), September  
Trust Dated March 23, 1972;  
Gerry R. Zobrist and Jolin G.  
Zobrist Family Trust;  
Raynaldo G and Evelyn A  
Sandoval Joint Living and  
Devolution Trust; Julie S.  
Gegen, and Dennis A. Gegen: WESLEY J. SMITH, ESQ.

For the Plaintiff(s), Linda  
Lamothe, Jacques Lamothe,  
Marjorie B. Boulden, and  
Jacques & Linda Lamothe  
Living Trust: DANIEL THOMAS FOLEY, ESQ.

For the Counter Defendant(s),  
Yvonne A. Disman and  
Robert Z. Disman: CHRISTINA H. WANG, ESQ.

For the Defendant(s),  
Lytle Trust: RICHARD EDWARD HASKIN, ESQ.

1 **LAS VEGAS NEVADA, WEDNESDAY, MAY 2, 2018**

2 [Proceedings commenced at 9:19 a.m.]

3  
4 THE COURT: On page 6, *September Trust et al, vs. Trudi*  
5 *Lee Lytle and John Allen Lytle*, trustees of the Lytle Trust, Case No.  
6 A-17-765372.

7 Counsel, state your appearances, please.

8 MR. SMITH: Good morning, Your Honor. Wesley Smith for  
9 the September Trust, the Zobrist Trust, the Sandoval Trust, and Dennis  
10 and Julie Gegen.

11 THE COURT: Thank you, counsel.

12 MR. FOLEY: Dan Foley on behalf of the Boulden and  
13 Lamothe Trusts.

14 MR. HASKIN: Good morning, Your Honor. Richard Haskin on  
15 behalf of the Lytle Trust.

16 MS. WANG: Good morning, Your Honor. Christina Wang on  
17 behalf of the defendants, counter claimants, the Dismans.

18 THE COURT: Thank you, counsel.

19 This is -- this is Plaintiff's Motion for Summary Judgment, or in  
20 the alternative, Motion for Judgment on Pleadings, and Defendant Trudi  
21 Lytle, John Lytle, the Lytle Trust counter motion for Summary Judgment;  
22 is that correct?

23 MR. HASKIN: Yes, Your Honor.

24 THE COURT: And we've heard argument in this case; is that  
25 correct?

1 MR. SMITH: Yes, Your Honor.

2 MR. HASKIN: Yes.

3 THE COURT: I've reviewed all the briefing. And in light of the  
4 argument, I am -- will grant the plaintiff's Motion for Summary Judgment,  
5 deny the defendant's Counter Motion for Summary Judgment.

6 In review -- I also pulled -- so the parties are clear, I also  
7 pulled Judge Williams' previous order in this matter, which addressed a  
8 lot of the issues raised in this matter. And I feel that -- that this order, I'm  
9 going to adopt the findings of facts and conclusions of law set forth in  
10 this order as they may pertain to this case. And my order is going to  
11 be -- as Judge Williams' order addresses additional facts and he -- and  
12 he did not -- he did not take any findings that the defendant's  
13 [indiscernible] title Plaintiff's property at issue was left to the trier of fact.  
14 And his order is -- dealt with issues not raised in -- in this case.

15 So the order in this case is that the court denies the Lytles'  
16 Counter Motion for Summary Judgment, grant Plaintiff's Motion for  
17 Summary Judgment, or in the alternative, Motion for Judgment on the  
18 Pleadings, expunging and striking the abstract of judgment recorded  
19 against the plaintiff's properties, restraining enjoining Lytles from selling  
20 or attempting to sell the plaintiff's properties, and from taking any action  
21 in the future against the plaintiffs or the properties based upon any  
22 litigation the Lytles have commenced against the association.

23 In addition to the findings of facts and -- I found that Judge  
24 Williams' order was the law of the case. And because these cases -- so  
25 that's an additional finding you're going to have to make, counsel. But if



1 you base your findings of fact and conclusions of law is relevant to this  
2 case on Judge Williams' case, I wanted to keep them consistent. That's  
3 why I'm addressing this at this time.

4 So counsel, as the prevailing party, I'm going to have you  
5 prepare the order, including the denial of the counter motion. And then  
6 submit it to opposing counsel as to approval as to content and form.  
7 And then please try to submit it to my chambers within 10 days as  
8 required by -- under our local rules.

9 So is counsel understanding my order?

10 MR. SMITH: Yes, Your Honor.

11 MR. HASKIN: Yes, Your Honor.

12 THE COURT: Making it consistent with Judge Williams.

13 MR. HASKIN: Yes, Your Honor.

14 THE COURT: And -- but there was some things that Judge  
15 Williams addressed, especially as to what he ordered that wasn't  
16 requested in the Motion for Summary Judgment. So my orders are  
17 consistent with what you have requested in your Summary Judgment.  
18 There was a lot of additional orders that I'm not adopting. Because they  
19 weren't addressed in your motion. Okay.

20 Thank you, counsel.

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MR. HASKIN: Thank you, Your Honor.

MR. FOLEY: Thank you, Your Honor.

MR. SMITH: Thank you, Your Honor.

[Proceedings concluded at 9:24 a.m.]

///

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Shawna Ortega, CET\*562



1 **NEOJ**  
2 **CHRISTENSEN JAMES & MARTIN**  
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4 Nevada Bar No. 175  
5 **WESLEY J. SMITH, ESQ.**  
6 Nevada Bar No. 11871  
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14 *Attorneys for September Trust, Zobrist Trust, Sandoval Trust*  
15 *and Dennis & Julie Gegen*

9 **EIGHTH JUDICIAL DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

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

17 Plaintiffs,

18 vs.

19 **TRUDI LEE LYTLE, JOHN ALLEN**  
20 **LYTLE, THE LYTLE TRUST, DOES I**  
21 **through X, and ROE CORPORATIONS I**  
22 **through X,**

23 Defendants.

24 **AND ALL RELATED COUNTERCLAIMS**  
25 **AND CROSS-CLAIMS**

26 **SEPTEMBER TRUST, DATED MARCH 23,**  
27 **1972; GERRY R. ZOBRIST AND JOLIN G.**  
28 **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-16-747800-C  
Dept. No.: XVIII

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

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

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

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

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

5 Plaintiffs,

6 vs.

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

11 Defendants.

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

17 Dated this 25th day of May, 2018.

18 **CHRISTENSEN JAMES & MARTIN**

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

20 Wesley J. Smith, Esq.

21 Nevada Bar No. 11871

22 Laura J. Wolff, Esq.

23 Nevada Bar No. 6869

24 7440 W. Sahara Ave.

25 Las Vegas, NV 89117

26 Attorneys for Plaintiffs September Trust,

27 Zobrist Trust, Sandoval Trust, and

28 Dennis & Julie Gegen

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**CERTIFICATE OF SERVICE**

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

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

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

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

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

/s/ Natalie Saville  
Natalie Saville



1 **ORDR**

2 **CHRISTENSEN JAMES & MARTIN**

3 **KEVIN B. CHRISTENSEN, ESQ.**

4 Nevada Bar No. 175

5 **WESLEY J. SMITH, ESQ.**

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14 *Attorneys for September Trust, Zobrist Trust, Sandoval Trust*

15 *and Dennis & Julie Gegen*

16 **EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

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

24 Plaintiffs,

25 vs.

26 TRUDI LEE LYTTLE, JOHN ALLEN  
27 LYTTLE, THE LYTTLE TRUST, DOES I  
28 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  
invalid, and the Amended CC&Rs have no force and effect.

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

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

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

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

21 17. On September 2, 2016, the Lytle Trust recorded with the Clark County Recorder's  
22 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded  
23 as Instrument No. 20160902-0002687 (the "Fourth Abstract of Judgment"). The Fourth Abstract  
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1 of Judgment listed the parcel number of the Zobrist Trust Property only as the property to which  
2 the Judgment was to attach.

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

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

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

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

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

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

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

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

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

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

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

#### 16                                   CONCLUSIONS OF LAW

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

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

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

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

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

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

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

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

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

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

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

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       ///

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**ORDER**

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

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

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

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

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

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

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

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

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

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

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

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

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

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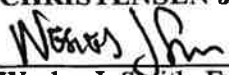
**IT IS SO ORDERED.**

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

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

Submitted by:

**CHRISTENSEN JAMES & MARTIN**

  
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**IT IS SO ORDERED.**

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

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

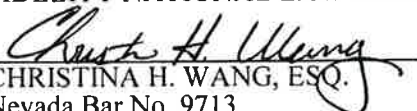
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and Lamothe Trust

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  
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1           **IT IS SO ORDERED.**

2  
3           Dated this 20 day of May, 2018.



DISTRICT COURT JUDGE

6 Submitted by:

7  
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18           Dennis & Julie Gegen

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

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