

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.: 77007

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

Electronically Filed
May 16 2019 12:28 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Appeal

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

Appellants' Appendix to Opening Brief – Volume 10

(Docket 77007)

RICHARD HASKIN
Nevada Bar No. 11592
**GIBBS, GIDEN, LOCHER, TURNER,
SENET, & WITTBRODT, LLP**
1140 N. Town Center Drive
Las Vegas, Nevada 89144
(702) 836-9800

Attorneys for Appellants

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3. Notice of Entry of Order Granting Motion for Summary Judgment
(**AA000777 – AA000793**)

CERTIFICATE OF SERVICE

1. Electronic Service:

I hereby certify that on this date, the 16th day of May 2019, I submitted the foregoing **Appellant's Appendix for Opening Brief – Volume 10 (Docket 77007)** 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:

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

Christina H. Wang, Esq.
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113

Wesley J. Smith, Esq.
Laura J. Wolff, Esq.
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
Las Vegas, Nevada 89117

2. Traditional Service:

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

Christina H. Wang, Esq.
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113

Wesley J. Smith, Esq.
Laura J. Wolff, Esq.
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
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.

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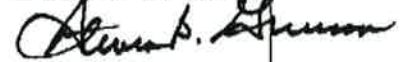
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Shawna Ortega, CET*562

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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**
3 KEVIN B. CHRISTENSEN, ESQ.
Nevada Bar No. 175
4 WESLEY J. SMITH, ESQ.
Nevada Bar No. 11871
5 LAURA J. WOLFF, ESQ.
Nevada Bar No. 6869
6 7440 W. Sahara Avenue
Las Vegas, Nevada 89117
7 Tel.: (702) 255-1718
Facsimile: (702) 255-0871
8 Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com
Attorneys for September Trust, Zobrist Trust, Sandoval Trust
9 *and Dennis & Julie Gegen*

10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

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

18 Plaintiffs,

19 vs.

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

24 Defendants.

25 AND ALL RELATED COUNTERCLAIMS
26 AND CROSS-CLAIMS

27 SEPTEMBER TRUST, DATED MARCH 23,
28 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-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
6 Plaintiffs,

7 vs.

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

12 Defendants.

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

18 Dated this 25th day of May, 2018.

19 **CHRISTENSEN JAMES & MARTIN**

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

21 Wesley J. Smith, Esq.

22 Nevada Bar No. 11871

23 Laura J. Wolff, Esq.

24 Nevada Bar No. 6869

25 7440 W. Sahara Ave.

26 Las Vegas, NV 89117

27 Attorneys for Plaintiffs September Trust,

28 Zobrist Trust, Sandoval Trust, and

Dennis & Julie Gegen

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☒ **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.

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

/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.**

6 Nevada Bar No. 11871

7 **LAURA J. WOLFF, ESQ.**

8 Nevada Bar No. 6869

9 7440 W. Sahara Avenue

10 Las Vegas, Nevada 89117

11 Tel.: (702) 255-1718

12 Facsimile: (702) 255-0871

13 Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com

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

15 *and Dennis & Julie Gegen*

16 **EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

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

24 Plaintiffs,

25 vs.

26 TRUDI LEE 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

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

3 Plaintiffs,

4 vs.

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

8 Defendants.

9 Presently before the Court is Plaintiffs' Motion for Summary Judgment or, in the
10 Alternative, Motion for Judgment on the Pleadings filed by the September Trust, dated March
11 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the Gerry R.
12 Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"), Raynaldo G. Sandoval and Julie
13 Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and
14 Devolution Trust dated May 27, 1992 ("Sandoval Trust"), and Dennis A. Gegen and Julie S.
15 Gegen, Husband and Wife, as Joint Tenants ("Dennis & Julie Gegen") (collectively the
16 "Plaintiffs") in Case No. A-17-765372-C, and Defendants' Countermotion for Summary
17 Judgment filed by Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust ("Lytle
18 Trust") in Case No. A-17-765372-C, which came on for hearing on March 21, 2018 at 9:00 a.m.
19 and May 2, 2018 at 9:00 a.m. in Department XVIII of the Eighth Judicial District Court, Clark
20 County, Nevada.

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

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 **FINDINGS OF FACT**
9

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

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
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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.
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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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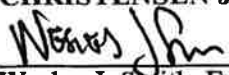
IT IS SO ORDERED.

Dated this ____ day of May, 2018.

DISTRICT COURT JUDGE

Submitted by:

CHRISTENSEN JAMES & MARTIN



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,
Zobrist Trust, Sandoval Trust, and
Dennis & Julie Gegen

Approved as to Form and Content by:

FIDELITY NATIONAL LAW GROUP

FOLEY & OAKES, P.C.

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

DANIEL T. FOLEY, ESQ.
Nevada Bar No. 1078
626 S. 8th Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs/Counter-
Defendants/Cross-Defendants Boulden Trust
and Lamothe Trust

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

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

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IT IS SO ORDERED.

Dated this ____ day of May, 2018.

DISTRICT COURT JUDGE

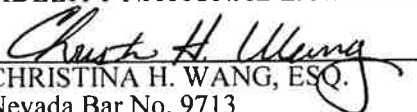
Submitted by:

CHRISTENSEN JAMES & MARTIN

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

Approved as to Form and Content by:

FIDELITY NATIONAL LAW GROUP


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

GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

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

FOLEY & OAKES, P.C.

DANIEL T. FOLEY, ESQ.
Nevada Bar No. 1078
626 S. 8th 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 _____
10 Wesley J. Smith, Esq.
11 Nevada Bar No. 11871
12 Laura J. Wolff, Esq.
13 Nevada Bar No. 6869
14 7440 W. Sahara Ave.
15 Las Vegas, NV 89117
16 Attorneys for Plaintiffs September Trust,
17 Zobrist Trust, Sandoval Trust, and
18 Dennis & Julie Gegen

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

20 **FIDELITY NATIONAL LAW GROUP**

21 _____
22 CHRISTINA H. WANG, ESQ.
23 Nevada Bar No. 9713
24 8363 W. Sunset Road, Suite 120
25 Las Vegas, Nevada 89113
26 Attorneys for Counter-Defendants/Cross-
27 Claimants Robert & Yvonne Dismar

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

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

FOLEY & OAKES, P.C.

DANIEL T. FOLEY, ESQ.
Nevada Bar No. 1078
626 S. 8th 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.
11 Nevada Bar No. 11871
12 Laura J. Wolff, Esq.
13 Nevada Bar No. 6869
14 7440 W. Sahara Ave.
15 Las Vegas, NV 89117
16 Attorneys for Plaintiffs September Trust,
17 Zobrist Trust, Sandoval Trust, and
18 Dennis & Julie Gegen

19
20 **Approved as to Form and Content by:**

21 FIDELITY NATIONAL LAW GROUP

FOLEY & OAKES, P.C.

22
23 CHRISTINA H. WANG, ESQ.
24 Nevada Bar No. 9713
25 8363 W. Sunset Road, Suite 120
26 Las Vegas, Nevada 89113
27 Attorneys for Counter-Defendants/Cross-
28 Claimants Robert & Yvonne Disman

GIBBS GIDEN LOCHER TURNER
SENET & WILTBROOK LLP

23 RICHARD E. HASKIN, ESQ.
24 Nevada Bar No. 11592
25 TIMOTHY P. ELSON, ESQ.
26 Nevada Bar No. 11559
27 1140 N. Town Center Drive, Suite 300
28 Las Vegas, Nevada 89144
Attorneys for Defendants/Counter-
Claimants Lytle Trust

DANIEL T. FOLEY, ESQ.
Nevada Bar No. 1078
626 S. 8th Street
Las Vegas, Nevada 89101
Attorneys for Plaintiffs/Counter-
Defendants/Cross-Defendants Boulden Trust
and Lamothe Trust