IN THE SUPREME COURT OF NEVADA

Case No. 77874

NATIONSTAR MORTGAGE LLC,

Appellant,

vs.

SATICOY BAY LLC SERIES 4641 VIAREGGIO CT.,

Respondent.

Appeal from the Eighth Judicial District Court, Department XXIV
The Honorable Adriana Escobar, District Judge
District Court Case No. A-13-689240-C

BRIEF OF AMICUS CURIAE FEDERAL HOUSING FINANCE AGENCY IN SUPPORT OF APPELLANT AND REVERSAL OF THE DISTRICT COURT'S JUDGMENT

Leslie Bryan Hart, Esq. (SBN 4932)
John D. Tennert III, Esq. (SBN 11728)
FENNEMORE CRAIG, P.C.
300 E. Second St., Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2228
Fax: (775) 788-2229
lhart@fclaw.com
jtennert@fclaw.com

Attorneys for Amicus Curiae
FEDERAL HOUSING FINANCE AGENCY

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Rules

Other Authorities

STATEMENT OF INTEREST OF AMICUS CURIAE

Amicus curiae the Federal Housing Finance Agency ("FHFA") respectfully supports Appellant Nationstar Mortgage LLC ("Nationstar") in this appeal. The district court based its decision to award summary judgment to Saticoy Bay LLC Series 4641 Viareggio Ct. ("Saticoy Bay") on the incorrect conclusions that Freddie Mac's interest in the property was not propertly recorded and that the evidence Nationstar submitted was insufficient to establish Freddie Mac's ownership interest.

This appeal will directly impact the interests of entities operating under FHFA's conservatorship—Fannie Mae and Freddie Mac (together, the "Enterprises")—and the interests of FHFA as the Enterprises' Conservator and regulator. The Enterprises are federally chartered entities that Congress created to enhance the nation's housing-finance market. They own millions of mortgages nationwide, including hundreds of thousands in Nevada.

In 2008, Congress enacted the Housing and Economic Recovery Act ("HERA"), which established FHFA as an independent agency of the federal government and as the Enterprises' regulator. *See* 12 U.S.C. § 4511 *et seq.* HERA vests FHFA with the power to place the Enterprises into conservatorship or receivership under statutorily defined circumstances, mandating that as Conservator, FHFA succeeds to all "rights, titles, powers, and privileges" of an

entity in conservatorship with respect to its assets. 12 U.S.C. § 4617(b)(2)(A). On September 6, 2008, FHFA's Director placed the Enterprises into FHFA's conservatorship, where they remain today.

When FHFA acts in its capacity as Conservator, its actions are deemed non-governmental for many substantive purposes. While this brief addresses FHFA's statutory powers as Conservator, FHFA submits the brief exclusively in its capacity as an agency of the United States.[1] In that capacity, FHFA has an interest in this case because if Saticoy Bay were to prevail on appeal and this Court were to affirm, it would effectively nullify the absolute federal statutory property protections Congress provided to FHFA conservatorships, affecting several hundred cases pending in Nevada state courts. These protections are crucial to the Enterprises' ability to fulfill their congressionally mandated mission, which is under FHFA's regulatory purview.

[1] Under the Nevada Rules of Appellate Procedure, FHFA is permitted, as an agency of the United States, to file this amicus curiae brief without consent of the parties or leave of court, and without a corporate disclosure statement. Nev. R. App. P. 26.1, 29(a).

INTRODUCTION

This case involves a fact pattern familiar to the Court: a Nevada homeowners' association's non-judicial foreclosure and sale of real property for unpaid dues owed by the former homeowner (the "HOA Sale"). Under Nevada law, such HOA sales, if properly conducted, can extinguish all other preexisting lien interests in the underlying property, including deeds of trust. *See* NRS § 116.3116(2) (the "State Foreclosure Statute"). But a federal statute precludes that result here. Under 12 U.S.C. § 4617(j)(3), which this Court often refers to as the "Federal Foreclosure Bar," while an Enterprise is in FHFA's conservatorship, its "property," including lien interests, is not "subject to . . . foreclosure." And at the time of the HOA Sale here, Freddie Mac owned a deed of trust encumbering the property (the "Deed of Trust").

The district court concluded that "[b]ecause no interest" of Freddie Mac or FHFA was "recorded, there was no interest that would be effective as against the HOA or Saticoy Bay." Joint Appendix ("JA") 1789. To the same effect, the court also ruled that Freddie Mac's business records did not sufficiently prove ownership of the loan because it "would conflict with the judicially noticeable public record." JA 1789. Those rulings are incorrect; this Court should vacate the judgment to Saticoy Bay and remand with instructions to enter judgment in favor of Nationstar.

ARGUMENT

The district court held that the property Saticoy Bay purchased at an HOA foreclosure sale was not subject to a deed of trust owned by Freddie Mac because Freddie Mac's interest in the property purportedly was not properly recorded, and the evidence Nationstar submitted was supposedly insufficient to establish Freddie Mac's ownership of the loan. JA 1788-90. The district court's analysis contradicts this Court's precedent, multiple Ninth Circuit decisions, and more than thirty federal district court decisions. The court's decision is wrong as a matter of law.

Further, the district court's decision contravenes sound policy considerations. Departing from the well-established legal principles governing Freddie Mac's property interest here would hamper FHFA in fulfilling its statutory mission as Freddie Mac's regulator and conservator and undermine Freddie Mac's role in promoting a stable mortgage market. *See* 12 U.S.C. § 4513(a)(1)(B)(ii) (requiring that FHFA as regulator ensure that "the operations and activities of [Freddie Mac] foster liquid, efficient, competitive, and resilient national housing finance markets"); *id*. at § 4617(b)(2)(B)(iv) (empowering FHFA as conservator to "preserve and conserve" Freddie Mac's assets); *id.* at § 1716 (Freddie Mac's mission is to provide liquidity and "stability in the secondary market for residential mortgages.").

Affirmance of the district court's ruling would force Freddie Mac and, by extension, the Conservator to choose between (1) relinquishing the efficiency gained by delegating management of mortgage servicing to third-party servicers; (2) severely constraining servicers' ability to perform their duties by refusing to allow them to appear as record beneficiaries; or (3) risking loss of ownership—for no consideration—of the valuable assets at the core of Freddie Mac's statutory mission. Each of these options would impose unnecessary risks and costs to the conservatorship, the mortgage market, and borrowers. Neither the law nor the public interest counsels this Court to reach a holding with such an impact.

I. Nationstar Established All Prerequisites of the Federal Foreclosure Bar's Application

The Federal Foreclosure Bar has three prerequisites: conservatorship, property interest, and non-consent. *See* 12 U.S.C. § 4617(j)(3). Conservatorship is undisputed and judicially noticeable.[2] Nationstar submitted sufficient, undisputed evidence to establish Freddie Mac's property interest in the subject property here.

---

[2] The fact of conservatorship is subject to judicial notice because it is a fact "generally known or capable of verification from a reliable source" and "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *See Mack v. Estate of Mack*, 206 P.3d 98, 105 (Nev. 2009) (taking judicial notice on appeal). FHFA's Director placed the Enterprises into FHFA's conservatorship on September 6, 2008, and they have been in conservatorship ever since. FHFA, History of Fannie Mae & Freddie Mac Conservatorships, http://www.fhfa.gov/Conservatorship. Accordingly, Freddie Mac was under FHFA's conservatorship at the time of the HOA Sale here in August 2013, and this court may take judicial notice of that fact.

While the district court did not reach a decision on consent (and Nationstar does not properly bear the burden on the issue), the record unequivocally shows that FHFA did not consent, and indeed FHFA's non-consent is judicially noticeable.

A. Nationstar Submitted Ample, Uncontroverted Evidence that Freddie Mac Owned the Deed of Trust

To establish an Enterprise's property interest, a servicer like Nationstar need only submit business records and declaration testimony—such as that submitted here—of the Enterprise's ownership of the loan and of the servicing relationship between the record beneficiary and the Enterprise. Indeed, this Court has recently held that an Enterprise's business records, supported by employee testimony, "establish[ed] that [the Enterprise] owned the loan at the time of the HOA foreclosure sale." *CitiMortgage, Inc. v. SFR Invs. Pool 1, LLC*, No. 70237, 2019 WL 289690, at *1 & n.1 (Nev. Jan. 18, 2019) (unpublished disposition); *see also M&T Bank v. Wild Calla*, No. 74715, 2019 WL 1423107, at *2 (Nev. Mar. 28, 2019) (unpublished disposition) (Enterprise's employee affidavit, database records, its seller/servicer guide, and the deed of trust were sufficient to establish Enterprise's property interest); *SFR Invs. Pool 1, LLC v. Green Tree Serv'g, LLC*, No. 72010, 2018 WL 6721370, at *2 (Nev. Dec. 17, 2018) (unpublished

disposition) (Enterprise's business records and employee testimony were "ample evidence" to establish Enterprise's ownership of the loan).[3]

Similarly, the Ninth Circuit recognized that an Enterprise's database records were admissible business records that, along with a declaration from an Enterprise's employee, were sufficient to prove its ownership of a mortgage loan for purposes of a motion for summary judgment. *Berezovsky v. Moniz*, 869 F.3d 923, 932 n.8 (9th Cir. 2017); *see also Williston Inv. Grp., LLC v. JPMorgan Chase Bank, NA*, 736 F. App'x 168, 169 (9th Cir. 2018) (noting that "similar evidence was sufficient in *Berezovsky*" in concluding that Freddie Mac established an interest in the property). The Ninth Circuit also took judicial notice of an Enterprise's Single-Family Seller/Servicer Guide ("Guide") and explained that the Guide governs the relationship between the Enterprise and its servicers. *Berezovsky*, 869 F.3d at 933 & n.9; *see also Nationstar Mortg., LLC v. Guberland LLC-Series 3* ("*Guberland*"), No. 70546, 2018 WL 3025919, at *2 (Nev. June 15, 2018) (unpublished disposition) (relying upon the "publicly available" Guide in this inquiry).

---

[3] While *SFR v. Green Tree* is a post-trial decision, this Court unequivocally endorsed *Berezovsky v. Moniz*, 869 F.3d 923, 932 n.8 (9th Cir. 2017), a decision that affirmed summary judgment. *SFR v. Green Tree*, 2018 WL 6721370, at *1. Further, this Court does not mention anything about the trial court having had to weigh conflicting evidence. Thus, *Green Tree* confirms that the evidence Freddie Mac submitted here is sufficient to warrant judgment in its favor.

This Ninth Circuit precedent should be highly persuasive, as federal courts and this Court have adopted the same standard for determining what evidence is sufficient for summary judgment. *See Wood v. Safeway*, 121 P.3d 1026, 1031 (Nev. 2005) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 586 (1986), for Nevada's standard with respect to sufficiency of evidence for purposes of summary judgment).

Here, Nationstar submitted evidence materially identical to that evaluated by this Court in *SFR v. Green Tree* and by the Ninth Circuit in *Berezovsky*. Nationstar submitted Freddie Mac's business records and a declaration by a Freddie Mac employee describing Freddie Mac's ownership of the loan and its servicing relationship with Nationstar—its servicer and record deed-of-trust beneficiary at the time of the HOA Sale—in connection with the loan. JA 1547-67. Freddie Mac's employee declaration also discussed Freddie Mac's MIDAS system, JA 1548-52, as well as Freddie Mac's Guide, which operates as a "central document governing the contractual relationship between Freddie Mac and its loan servicers nationwide," JA 1552. Based on this evidence, and following the controlling precedent this Court set in *In re Montierth*, 354 P.3d 648 (Nev. 2015), and that the Ninth Circuit has followed in *Berezovsky* and its progeny, Nationstar is Freddie Mac's contractually authorized servicer and Freddie Mac owned the Note and Deed of Trust.

Requiring Freddie Mac to submit more than the Enterprises' business records and an employee declaration to establish Freddie Mac's protected property interest would impose a pointless and burdensome requirement for duplicative evidence to prove a simple fact: that the Enterprise owned a particular loan on a particular date. *Montierth* confirms that Freddie Mac's interest was "perfected" and therefore properly recorded under Nevada law when Nationstar appeared as beneficiary of record on Freddie Mac's behalf at the time of the HOA Sale. *See* 354 P.3d at 650-51. To require more of Nationstar would "ignore[] the realities of modern business litigation, where many business records are kept in databases, and parties query these databases" to gather evidence. *Health All. Network, Inc. v. Cont'l Cas. Co.*, 245 F.R.D. 121, 129 (S.D.N.Y. 2007), *aff'd*, 294 F. App'x 680 (2d Cir. 2008). The burdens are particularly acute in the context of litigation involving FHFA and the Enterprises—entities that are engaged in hundreds of cases in federal and state courts where purchasers of property conveyed at HOA foreclosure sales seek declarations that those HOA Sales extinguished the Enterprises' deeds of trust. Requiring cumulative evidence would increase litigation costs and require the Enterprises to divert substantial resources to record retrieval, away from fulfilling their statutory roles of increasing the availability of mortgages.

Further, such documentation would not be proportionate to the needs of these cases, especially when Freddie Mac's business records that are used to track the loans that Freddie Mac owns provide more complete information. Nevada law confirms that business records and Enterprise employees' declarations suffice to establish an Enterprise's interest in the property at issue. Moreover, Saticoy Bay provided no evidence, or even a plausible theory, to suggest that any entity other than Freddie Mac owned the loan at the time of the HOA Sale. While the law requires nothing more from Nationstar, the burdens of cumulative evidence are particularly unwarranted in the conservatorship context, where taxpayer resources are at stake.

B. There is No Legitimate Question That FHFA Never Affirmatively Consented to Extinguishment of Freddie Mac's Deed of Trust

The Federal Foreclosure Bar operates automatically to safeguard the property interests of the Enterprises while in conservatorship. Indeed, no conduct, action, or inaction on the part of any party—save FHFA's express consent—would allow the HOA Sale to extinguish Freddie Mac's Deed of Trust. This is plain from the text of the statute, which contains no conditions precedent to the bar against extinguishment of conservatorship property interests. This Court recently held that "[t]he Federal Foreclosure Bar cloaks the FHFA's 'property with Congressional protection unless or until [the Agency] *affirmatively relinquishes it.*'" *Saticoy Bay LLC Series 9641 Christine View v. Fannie Mae*, 417 P.3d 363, 368 (Nev. 2018)

(quoting *Berezovsky*, 869 F.3d at 931) (emphasis added); *see also A&I LLC Series 3 v. Fannie Mae*, No. 71124, 2018 WL 3387787, at *1 (Nev. July 10, 2018) (unpublished disposition). The Ninth Circuit has also concluded that the Federal Foreclosure Bar "does not require an affirmative decision by FHFA *not* to consent." *FHFA v. SFR Invs. Pool 1, LLC*, 893 F.3d 1136, 1152 (9th Cir. 2018) , *cert. denied*, 139 S. Ct. 1618 (Apr. 29, 2019).

FHFA has not consented to the extinguishment of Freddie Mac's Deed of Trust in this case. Indeed, to the contrary and as Nationstar demonstrated in the district court, FHFA has stated publicly that it has not consented—and will not consent—to the extinguishment of a property interest held by the Enterprises. JA 1433; FHFA Statement on HOA Super-Priority Lien Foreclosures (Apr. 21, 2015), http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-HOA-Super-Priority-Lien-Foreclosures.aspx ("FHFA confirms that it has not consented, and will not consent in the future, to the foreclosure or other extinguishment of any Fannie Mae or Freddie Mac lien or other property interest in connection with HOA foreclosures of super-priority liens.").

As a matter of public policy, it would not make sense for Congress to require anything less than FHFA's affirmative consent to the extinguishment of the Enterprises' property interests. As noted earlier, one of Congress's principle objectives in enacting HERA and creating FHFA was to facilitate the recovery of

the country's economy, "foster liquid, efficient, competitive, and resilient national housing finance markets," and reduce taxpayer risk. *See* FHFA, Conservatorship, http://www.fhfa.gov/Conservatorship. To interpret inaction by FHFA to allow the uncompensated extinguishment of the Enterprises' assets would undermine FHFA's ability to accomplish those goals and its power to "put the [Enterprises] in a sound and solvent condition," and "preserve and conserve the[ir] assets and property." 12 U.S.C. § 4617(b)(2)(D).

Moreover, to require FHFA to act affirmatively to preserve the Federal Foreclosure Bar's protection would make the Federal Foreclosure Bar toothless unless FHFA were to continuously monitor each potential HOA sale and any other potential action that could affect the Enterprises' property interests, including the millions of loans they own nationwide. HERA provides no support for the inference that Congress intended to condition the Federal Foreclosure Bar's operation on such a burdensome procedure to the virtual exclusion of all of FHFA's other functions; to the contrary, its text makes clear that the protection is automatic and requires no such herculean efforts. *See Beal Bank, SSB v. Nassau Cty.*, 973 F. Supp. 130, 133 (E.D.N.Y. 1997) (evaluating the FDIC's similar property-protection statute and concluding Congress did not intend for the FDIC to make individual decisions for that protection to be effective).

II. Freddie Mac Maintained Its Property Interest While Its Servicer Appeared as the Deed of Trust's Beneficiary of Record

The district court's determination that Freddie Mac lacked a property interest because it did not appear as the Deed of Trust's record beneficiary, JA 1788-89, contravenes multiple decisions of this Court and the Ninth Circuit, as well as sound policy reflected in the Restatement (Third) of Property: Mortgages (the "Restatement").

Freddie Mac's acquisition of the loan at issue and its use of a contractually authorized servicer to appear on its behalf as the record deed-of-trust beneficiary conform to routine procedures that institutional mortgage investors follow in connection with their investments in millions of loans worth trillions of dollars. These procedures follow black-letter property law to ensure that the investor—here, Freddie Mac—acquires a loan *secured* by an interest in property; that is, ownership of both the note (which represents the borrower's personal financial obligation) and the deed of trust (which embodies a non-possessory property interest in the real estate securing repayment).

Nevada law confirms that a loan owner maintains a cognizable interest in the collateral property when it makes use of this common and commercially efficient arrangement. *Montierth* explains that where the record beneficiary of the deed of trust has contractual or agency authority to foreclose on the note owner's behalf, the note owner maintains a property interest in the collateral. *See In re Montierth*,

354 P.3d 648, 650-51 (Nev. 2015) (reaffirming Nevada's adoption of the entirety of the approach to the ownership and transfer of mortgages taken by the Restatement). In citing the Restatement, this Court described the necessary relationship for a note owner to remain "a secured creditor" as one where "there is either a principal agent relationship between the note holder and the mortgage holder, or the mortgage holder 'otherwise has authority to foreclose in the [note holder]'s behalf.'" *Id.* (citing Restatement § 5.4 cmts. c, e). Thus, in *Montierth*, this Court's holding relied on the loan owner's relationship with the entity that appeared as the deed of trust's record beneficiary: Deutsche Bank, as "the note holder[,] could compel an assignment of the deed of trust" from MERS. *Id.* at 651.

In *Montierth*, as in the present case, the deed of trust was not recorded in the name of the entity that owned the loan. *See id*. at 649. Rather, the deed of trust owned by Deutsche Bank was recorded in the name of MERS, which appeared as nominee for Deutsche Bank. In its analysis, this Court recognized that "perfection of a deed of trust occurs upon proper execution and recordation," and that a "security interest attaches to the property as between the mortgagor and mortgagee upon execution and as against third parties upon recordation." 354 P.3d at 650. This Court then held that the property interest of Deutsche Bank, which owned the note, was "attached and was perfected" while MERS was the record beneficiary of the Deed of Trust.

This Court has consistently confirmed *Montierth*, applying it in a variety of contexts. *See Wild Calla*, 2019 WL 1423107, at *2 (citing *Montierth* to conclude that an Enterprise "need not be the beneficiary of record on a deed of trust" for the Federal Foreclosure Bar's protections to apply); *JPMorgan Chase Bank, N.A. v. Guberland LLC-Series 2 (Guberland II)*, No. 73196, 2019 WL 2339537, at *1 (Nev. May 31, 2019) (unpublished disposition) (confirming that "the loan holder maintains secured status under the deed of trust even when not named as the deed's record beneficiary" when there is a principal-agent relationship or when the servicer has the authority to foreclose on the loan on behalf of its owner); *Guberland*, 2018 WL 3025919 at *2 (applying *Montierth* to facts materially identical to those of this case, and emphasizing that where "different parties may hold the note and the deed of trust," the note remains secured "if there is *either* a principal-agent relationship between the note holder and the mortgage holder, *or* the mortgage holder otherwise has authority to foreclose in the [note holder]'s behalf"); *CitiMortgage v. SFR*, 2019 WL 289690, at *1 (holding that a servicer's "status as the recorded deed of trust beneficiary does not create a question of material fact regarding whether Fannie Mae owns the subject loan, as this court has recognized that such an arrangement is acceptable and common"); *CitiMortgage v. TRP Fund VI, LLC*, No. 71318, 2019 WL 1245886, at *1 (Nev. Mar. 14, 2019)

(unpublished disposition) (recognizing Enterprise's property interest under *Montierth* based on relationship between Enterprise and servicer).[4]

Requiring Freddie Mac to appear as record beneficiary on all of the loans that it owns is not only unnecessary under Nevada law, but would undermine sound public policy. Congress chartered Freddie Mac to facilitate liquidity in the nationwide secondary mortgage market, and thereby to enhance the equitable distribution of mortgage credit throughout the nation. *See City of Spokane v. Fannie Mae*, 775 F.3d 1113, 1114 (9th Cir. 2014). Congress noted that "the continued ability of [Fannie Mae] and [Freddie Mac] to accomplish their public missions is important to providing housing in the United States and the health of the Nation's economy." 12 U.S.C. § 4501. In furtherance of that statutory mission, Freddie Mac owns millions of mortgages across the country. Indeed, it would be difficult to overstate the importance of the stability of these assets to the national economy. On July 30, 2008, "[c]oncerned that a default by Fannie and Freddie would imperil the already fragile national economy," *Perry Capital LLC v. Mnuchin*, 864 F.3d 591, 599 (D.C. Cir. 2017), Congress enacted HERA, creating

[4] *See also Nationstar Mortg., LLC v. SFR Invs. Pool 1, LLC*, 396 P.3d 754, 757 (Nev. 2017); *W. Sunset 2050 Tr. v. Nationstar Mortg., LLC*, 420 P.3d 1032, 1036 n.4 (Nev. 2018); *Ohfuji Invs., LLC v. Nationstar Mortg., LLC*, No. 72676, 2018 WL 1448729, at *1 (Nev. Mar. 15, 2018) (unpublished disposition); *5312 La Quinta Hills, LLC v. BAC Home Loans Servicing, LP*, No. 71069, 2018 WL 3025927, at *1 (Nev. June 15, 2018) (unpublished disposition).

FHFA with broad powers to place the Enterprises into conservatorships and fulfill its role as conservator.

Thus, Freddie Mac's business model is premised on maintaining security interests in property; Freddie Mac is not in the business of investing in unsecured promissory notes. *See Lightfoot v. Cendant Mortg. Corp.*, 137 S. Ct. 553, 557 (2017) (discussing Enterprise's role as a purchaser of mortgages); *Perry Capital*, 864 F.3d at 599-600 (discussing Enterprise's role in purchasing mortgage loans); *FHFA v. Nomura Holding Am., Inc.*, 873 F.3d 85, 105 (2d Cir. 2017), *cert. denied*, 138 S. Ct. 2679 (June 25, 2018) (same). Indeed, under its charter, Freddie Mac may acquire *only* "mortgages"—which are, by definition, loans secured by an interest in real property—not other forms of debt. *See* 12 U.S.C. §§ 1717(b), 1719.

Freddie Mac can operate more efficiently as a mortgage investor, and thereby more effectively fulfill its federal statutory mission, by contracting with servicers such as Nationstar to handle the day-to-day administration of the mortgages Freddie Mac owns. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1038-39 (9th Cir. 2011) (describing how loan owners contract with servicers and the servicers' role). This includes maintaining relationships with the borrowers under those loans, such as accepting payments, sending notices, and handling inquiries from the borrowers. If a borrower experiences financial difficulty, the servicer works to resolve the default, and, if necessary, may

ultimately have to foreclose on the collateral securing the loan. Servicers also receive and respond to other notices relating to the mortgage or the underlying property and handle litigation that could affect Freddie Mac's interests. To perform these duties most effectively, Freddie Mac's servicers may appear as the record beneficiaries of the deeds of trust that secure the obligations under the loans that Freddie Mac owns.

Indeed, the Restatement recognizes the benefits that inhere in the secondary mortgage market when servicers appear as record beneficiaries of deeds of trusts. Restatement § 5.4 cmt. c. An assignment of the mortgage from Freddie Mac to its servicer is "convenient because it facilitates actions that the servicer might take, such as releasing the mortgage, at the instruction of the purchaser." Restatement §5.4 cmt. c; *see also Montierth*, 354 P.3d at 651. Accordingly, if—contrary to the black-letter law cited and described above—the appearance of Freddie Mac's servicer as record deed-of-trust beneficiary jeopardizes Freddie Mac's interests in the property securing the loans it owns, Freddie Mac's ability to fulfill its mission would be significantly impaired.

///

///

///

///

CONCLUSION

For these reasons, FHFA supports Nationstar's request that this Court reverse the district court's decision.

DATED: June 24, 2019June 24, 2019.

Respectfully submitted,

FENNEMORE CRAIG, P.C.

By: */s/ Leslie Bryan Hart*
Leslie Bryan Hart, Esq. (SBN 4932)
John D. Tennert, Esq. (SBN 11728)
300 E. Second St., Suite 1510
Reno, Nevada 89501
Tel: (775) 788-2228
Fax: (775) 788-2229
lhart@fclaw.com; jtennert@fclaw.com

Attorneys for Amicus Curiae
Federal Housing Finance Agency

CERTIFICATE OF SERVICE

Pursuant to NEFCR 9(b)(d)(e), I certify that on June 24, 2019, a true and correct copy of the **BRIEF OF AMICUS CURIAE FEDERAL HOUSING FINANCE AGENCY IN SUPPORT OF APPELLANT AND REVERSAL OF THE DISTRICT COURT'S JUDGMENT**, was transmitted electronically through the Court's e-filing system to the attorney(s) associated with this case.

Role	Party Name	Represented By
Appellant	Nationstar Mortgage LLC	Melanie D. Morgan (Akerman LLP/Las Vegas) Ariel E. Stern (Akerman LLP/Las Vegas) Donna M. Wittig (Akerman LLP/Las Vegas)
Respondent	Saticoy Bay, LLC	Michael F. Bohn (Law Offices of Michael F. Bohn, Ltd.) Adam R. Trippiedi (Law Offices of Michael F. Bohn, Ltd.)

/s/ Pamela Carmon
An Employee of Fennemore Craig, P.C.

ATTORNEY'S CERTIFICATE PURSUANT TO NEVADA RULE OF APPELLATE PROCEDURE 28.2

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[X] This brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman typeface; or

[ ] This brief has been prepared in a monospaced typeface using [state name and version of word-processing program] with [state number of characters per inch and name of type style].

2. I further certify that this brief complies with the page-or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

[X] Proportionately spaced, has a typeface of 14 points or more, and contains 4,090 words; or

[ ] Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or

[ ] Does not exceed _____ pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated: June 24, 2019.

FENNEMORE CRAIG, P.C.

By: */s/ Leslie Bryan Hart*
Leslie Bryan Hart, Esq. (SBN 4932)

14972055.1/038236.0001