

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

SATICOY BAY LLC SERIES 133 MCLAREN

Appellant

vs.

The Bank of New York Mellon fka The Bank of New York, as successor Trustee to JPMorgan Chase Bank, N.A, as Trustee for the Certificateholders of CWABS Master Trust Revolving Home Equity Loan Asset Backed Notes, Series 2004-T and Green Tree Servicing, LLC; CTC Real Estate Services

Respondent

No. 78661

DOCKETING

CIVIL APPEALS

Electronically Filed
May 22 2019 01:30 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

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

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

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

1. Judicial District Eighth Department 30

County Clark Judge Jerry A. Wiese

District Ct. Case No. A-14-693882-C

2. Attorney filing this docketing statement:

Attorney Michael F. Bohn, Esq. Telephone 702-642-3113

Firm Law Offices of Michael F. Bohn, Esq., Ltd.

Address 2260 Corporate Circle, Suite 480
Henderson, NV 89074

Client(s) Saticoy Bay LLC Series 133 McClaren

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

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

Attorney Darren T. Brenner, Esq. Telephone 702-634-5000

Firm AKERMAN LLP

Address 1635 Village Center Cir, Suite 200
Las Vegas, NV 89134

Client(s) Bank of New York Mellon Formerly Known As Bank of New York;Green Tree
Servicing LLC and CTC Real Estate Services

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

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

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

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

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

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

Saticoy Bay LLC Series 133 McClaren, vs. Green Tree Servicing LLC Docket # 65708

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

None

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

The plaintiff filed this action seeking quiet title and declaratory relief. The district court ruled in favor of defendant at trial, based on a claim of attempted tender of payment of the super priority amount;

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

1. Whether Fannie Mae complied with Nevada law to hold any interest in the Property
2. Whether plaintiff is protected by the statute of frauds
3. Whether the tender by Miles Bauer included improper conditions
4. Whether the conditions imposed by Miles Bauer violated NRS 116.1104
5. Whether the lender was entitled to equitable relief from the foreclosure sale
6. Whether defendant's delay in raising tender affects defendant's request for equitable relief

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

Daisey Trust v. Green Tree Servicing, Docket no. 74110
Saticoy Bay v. Bank of America Docket no. 74015
Bank of America v. Saticoy Bay Docket no. 73623
Bank of New York Mellon v. Saticoy Bay Docket no. 72746
Nationstar Mortgage v. Saticoy Bay Docket no. 72912
Saticoy Bay v. Bank of America Docket no. 69687

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain:

13. Trial. If this action proceeded to trial, how many days did the trial last? 2

Was it a bench or jury trial? bench

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

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from Mar 25, 2019

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

16. Date written notice of entry of judgment or order was served Mar 25, 2019

Was service by:

☐ Delivery

☐ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

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

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

Was service by:

☐ Delivery

☒ Mail

18. Date notice of appeal filed Apr 22, 2019

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

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

NRAP 4 (a)

SUBSTANTIVE APPEALABILITY

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

(a)

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

(b) Explain how each authority provides a basis for appeal from the judgment or order:
Appeal from a judgment after bench trial

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

(a) Parties:

Saticoy Bay LLC Series 133 McLaren, plaintiff; Green Tree Servicing LLC; the Bank of New York Mellon ; National Default Servicing Corporation; CTC Real Estate Services; Charles J. Wight; and Tara J. Wight defendants; and Nevada Association Services, Inc. and Hillpointe Park Maintenance District, counterdefendants

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

National Default Servicing Corporation signed a stipulation for non-monetary relief. Charles J. Wight and Tara J. Wight were dismissed from the District court case. Nevada Association Services, Inc. And Hillpointe Park Maintenance District were dismissed by stipulation.

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

1. Injunctive relief;
2. Quiet title; and
3. Declaratory relief

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

☒ Yes

☐ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

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

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

VERIFICATION


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

Saticoy Bay LLC Series 133 McLaren
Name of appellant

May 22, 2019
Date

Clark County, Nevada
State and county where signed

Michael F. Bohn, Esq.
Name of counsel of record


Signature of counsel of record

CERTIFICATE OF SERVICE


I certify that on the 22nd day of May, 2019, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Darren T. Brenner, Esq.
Jared M. Sechrist, Esq.
AKERMAN LLP
1635 Village Center Circle, Suite 200
Las Vegas, NV 89134

Dated this 22nd day of May, 2019


Signature

I. Party Information

Plaintiff SATICOY BAY LLC SERIES 133
MCLAREN

Attorney Michael F. Bohn, Esq.
376 E. Warm Springs Road, Ste. 125
Las Vegas NV 89119 (702) 642-3113

Defendants GREEN TREE SERVICING LLC; THE
BANK OF NEW YORK MELLON FKA THE BANK
OF NEW YORK, AS SUCCESSOR TRUSTEE TO
JPMORGAN CHASE BANK, N.A., AS
TRUSTEE FOR THE CERTIFICATEHOLDERS OF
CWABS MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES, SERIES
2004-T; NATIONAL DEFAULT SERVICING
CORPORATION; CTC REAL ESTATE SERVICES;
CHARLES J. WIGHT; AND TARA J. WIGHT,
Attorney N/A

II. Nature of Controversy EXEMPTION FROM ARBITRATION Title to Real Property

Civil Cases

Real Property	Torts	
<div><input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer</div> <div><input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance</div> <div><input type="checkbox"/> Condemnation/Eminent Domain</div> <div><input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning</div>	<div>Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other</div>	<div><input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability</div> <div><input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights</div> <div><input type="checkbox"/> Employment Torts (Wrongful termination)</div> <div><input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition</div>
Probate	Other Civil Filing Types	
<div>Estimated Estate Value: _____</div> <div><input type="checkbox"/> Summary Administration</div> <div><input type="checkbox"/> General Administration</div> <div><input type="checkbox"/> Special Administration</div> <div><input type="checkbox"/> Set Aside Estates</div> <div><input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee</div> <div><input type="checkbox"/> Other Probate</div>	<div><input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General</div> <div><input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code</div> <div><input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal</div>	<div><input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal</div> <div><input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding</div> <div><input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters</div>

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

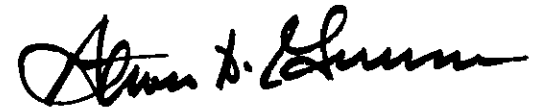
<input type="checkbox"/> NRS Chapters 78-88	<input type="checkbox"/> Investments (NRS 104 Art. 8)	<input type="checkbox"/> Enhanced Case Mgmt/Business
<input type="checkbox"/> Commodities (NRS 90)	<input type="checkbox"/> Deceptive Trade Practices (NRS 598)	<input type="checkbox"/> Other Business Court Matters
<input type="checkbox"/> Securities (NRS 90)	<input type="checkbox"/> Trademarks (NRS 600A)	

January 2nd, 2014

Date

/ S / Michael F. Bohn, Esq. /

Signature of initiating party or representative



CLERK OF THE COURT

1 **COMP**

2 MICHAEL F. BOHN, ESQ.

3 Nevada Bar No.: 1641

4 mbohn@bohnlawfirm.com

5 LAW OFFICES OF

6 MICHAEL F. BOHN, ESQ., LTD.

7 376 East Warm Springs Road, Ste. 125

8 Las Vegas, Nevada 89119

9 (702) 642-3113/ (702) 642-9766 FAX

10 Attorney for plaintiff

11
12 DISTRICT COURT

13 CLARK COUNTY, NEVADA

14 SATICOY BAY LLC SERIES 133 MCLAREN,

15 Plaintiff,

16 vs.

17 GREEN TREE SERVICING LLC; THE BANK
18 OF NEW YORK MELLON FKA THE BANK
19 OF NEW YORK, AS SUCCESSOR TRUSTEE
20 TO JPMORGAN CHASE BANK, N.A., AS
21 TRUSTEE FOR THE
22 CERTIFICATEHOLDERS OF CWABS
23 MASTER TRUST, REVOLVING HOME
24 EQUITY LOAN ASSET BACKED NOTES,
25 SERIES 2004-T; NATIONAL DEFAULT
26 SERVICING CORPORATION; CTC REAL
27 ESTATE SERVICES; CHARLES J. WIGHT;
28 AND TARA J. WIGHT,

Defendants.

CASE NO.: A-14-693882-C

DEPT NO.: XV

EXEMPTION FROM ARBITRATION:
Title to real property

COMPLAINT

Plaintiff, Saticoy Bay LLC Series 133 McLaren, by and through it's attorney, Michael F. Bohm, Esq. alleges as follows:

1. Plaintiff is the owner of the real property commonly known as 133 McLaren Street, Henderson, Nevada.

2. Plaintiff obtained title by foreclosure deed recorded November 26, 2013.

3. The plaintiff's title stems from a foreclosure deed arising from a delinquency in

1 assessments due from the former owner to the Hillpointe Park Maintenance, pursuant to NRS Chapter
2 116.

3 4. Green Tree Servicing LLC is the beneficiary of a deed of trust which was recorded as an
4 encumbrance to the subject property on November 23, 2004.

5 5. The Bank of New York Mellon f/k/a The Bank of New York, as Successor Trustee to JP
6 Morgan Chase Bank, N.A., as Trustee for the Certificateholders of CWABS Master Trust, Revolving
7 Home Equity Loan Asset Backed Notes, Series 2004-T is the beneficiary, by way of assignment, of a
8 second deed of trust which was recorded as an encumbrance to the subject property on November 23,
9 2004.

10 6. National default Servicing Corporation is the trustee on a deed of trust by way of a
11 substitution of trustee.

12 7. CTC Real Estate Services is the original trustee on a second deed of trust.

13 8. Defendants Charles J. Wight and Tara J. Wight are the former owners of the subject real
14 property.

15 9. The interest of each of the defendants has been extinguished by reason of the foreclosure
16 sale resulting from a delinquency in assessments due from the former owners, Charles J. Wight and
17 Tara J. Wight to the Hillpointe Park Maintenance, pursuant to NRS Chapter 116.

18 10. The plaintiff is entitled to an award of attorneys fees and costs.

19 **SECOND CLAIM FOR RELIEF**

20 11. Plaintiff repeats the allegations contained in paragraphs 1 through 10.

21 12. Plaintiff is entitled to a determination from this court, pursuant to NRS 40.010 that the
22 plaintiff is the rightful owner of the property and that the defendants have no right, title, interest or
23 claim to the subject property.

24 13. The plaintiff is entitled to an award of attorneys fees and costs.

25 **THIRD CLAIM FOR RELIEF**

26 14. Plaintiff repeats the allegations contained in paragraphs 1 through 13.

27 15. Plaintiff seeks a declaration from this court, pursuant to NRS 40.010, that title in the
28

1 property is vested in plaintiff free and clear of all liens and encumbrances, that the defendants herein
2 have no estate, right, title or interest in the property, and that defendants are forever enjoined from
3 asserting any estate, title, right, interest, or claim to the subject property adverse to the plaintiff.

4 16. The plaintiff is entitled to an award of attorneys fees and costs.

5 WHEREFORE, plaintiff prays for Judgment as follows:

6 1. For injunctive relief;

7 2. For a determination and declaration that plaintiff is the rightful holder of title to the
8 property, free and clear of all liens, encumbrances, and claims of the defendants.

9 3. For a determination and declaration that the defendants have no estate, right, title, interest
10 or claim in the property.

11 4. For a judgment forever enjoining the defendants from asserting any estate, right, title,
12 interest or claim in the property; and

13 5. For such other and further relief as the Court may deem just and proper.

14 DATED this 2nd day of January 2014.

15 LAW OFFICES OF
16 MICHAEL F. BOHN, ESQ., LTD.

17
18 By: / s / Michael F. Bohn, Esq. /
19 Michael F. Bohn, Esq.
20 376 East Warm Springs Road, Ste. 125
21 Las Vegas, Nevada 89119
22 Attorney for plaintiff
23
24
25
26
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VERIFICATION

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

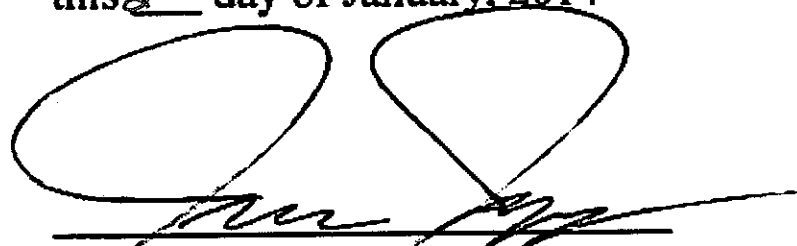
Iyad Haddad, being first duly sworn, deposes and says;

That he is the authorized representative of the plaintiff Limited Liability Company in the above entitled action; that he has read the foregoing complaint and knows the contents thereof; that the same is true of his own knowledge, except as to those matters therein alleged on information and belief, and as to those matters, he believes them to be true.

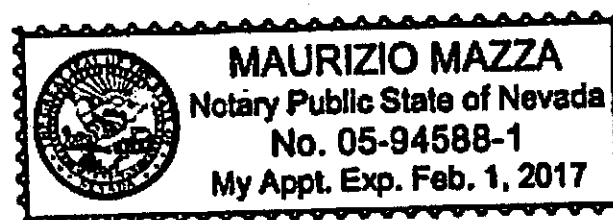


IYAD HADDAD

SUBSCRIBED and SWORN to before me
this 2ND day of January, 2014



NOTARY PUBLIC in and for said
County and State



1 **IAFD**
MICHAEL F. BOHN, ESQ.
2 Nevada Bar No.: 1641
mbohn@bohnlawfirm.com
3 LAW OFFICES OF
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5 (702) 642-3113/ (702) 642-9766 FAX

6 Attorney for plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 SATICOY BAY LLC SERIES 133 MCLAREN,
10 Plaintiff,

11 vs.

12 GREEN TREE SERVICING LLC; THE BANK
OF NEW YORK MELLON FKA THE BANK
OF NEW YORK, AS SUCCESSOR TRUSTEE
13 TO JPMORGAN CHASE BANK, N.A., AS
TRUSTEE FOR THE
14 CERTIFICATEHOLDERS OF CWABS
MASTER TRUST, REVOLVING HOME
15 EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
16 SERVICING CORPORATION; CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
17 AND TARA J. WIGHT,

18 Defendants.

CASE NO.: A-14-693882-C
DEPT NO.: XV

19 **INITIAL APPEARANCE FEE DISCLOSURE**

20 Pursuant to NRS Chapter 19, filing fees are submitted for the party appearing in the above-
21 entitled action as indicated below:

22 SATICOY BAY LLC SERIES 133 MCLAREN	\$270.00
23 TOTAL REMITTED:	\$270.00

24
25 ///

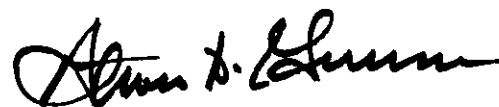
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DATED this 2nd day of January 2014.

LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

By: / s / Michael F. Bohn, Esq. /
Michael F. Bohn, Esq.
376 East Warm Springs Road, Ste. 125
Las Vegas, Nevada 89119
Attorney for plaintiff



CLERK OF THE COURT

1 **SAO**
2 MICHAEL F. BOHN, ESQ.
3 Nevada Bar No.: 1641
4 mbohn@bohnlawfirm.com
5 KELLY M. PERRI, ESQ.
6 Nevada Bar No. 13220
7 kperri@bohnlawfirm.com
8 LAW OFFICES OF
9 MICHAEL F. BOHN, ESQ., LTD.
10 376 East Warm Springs Road, Ste. 125
11 Las Vegas, Nevada 89119
12 (702) 642-3113/ (702) 642-9766 FAX

13 Attorney for plaintiff Saticoy Bay LLC Series 133 McLaren

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 SATICOY BAY LLC SERIES 133 MCLAREN,
17 Plaintiff,

18 vs.

19 GREEN TREE SERVICING LLC; THE BANK
20 OF NEW YORK MELLON FKA THE BANK
21 OF NEW YORK, AS SUCCESSOR TRUSTEE
22 TO JPMORGAN CHASE BANK, N.A., AS
23 TRUSTEE FOR THE CERTIFICATEHOLDERS
24 OF CWABS MASTER TRUST, REVOLVING
25 HOME EQUITY LOAN ASSET BACKED
26 NOTES, SERIES 2004-T; NATIONAL
27 DEFAULT SERVICING CORPORATION; CTC
28 REAL ESTATE SERVICES; CHARLES J.
WIGHT; AND TARA J. WIGHT,

Defendants.

CASE NO.: A693882
DEPT NO.: ~~XV~~ 2

STIPULATION FOR NON-MONETARY RELIEF

Plaintiff, Saticoy Bay LLC Series 133 McLaren, and Defendant, National Default Servicing Corporation, by and through their respective counsel of record, hereby stipulate as follows:

1. Plaintiff acknowledges and stipulates that National Default Servicing Corporation has been named as a defendant in this litigation, solely in its capacity as trustee and that it has not been named as a defendant due to any acts or omissions on its part in the performance of its duties as trustee.

RECEIVED APR 09 2014

APR 10 2014

1 2. National Default Servicing Corporation agrees to be bound by whatever final order or final
2 judgment is issued by the Court relating to the Deed of Trust (unless said order or judgment is
3 successfully appealed by another party hereto) and shall not be subject to any monetary awards for
4 damages, attorneys's fees or costs.

5 3. National Default Servicing Corporation will not be required to participate further in this action,
6 will not be required to respond to any of the pleadings in this action, and will not be required to appear
7 at any hearings or the trial of this action.

8 4. The filing of this stipulation is not intended to and shall not prejudice the rights of any trustor,
9 beneficiary, or assignee under the Deed of trust, and shall not constitute a waiver of any other person or
10 entity's rights or obligations under the Deed of Trust.

11 5. The Stipulation shall inure the benefits of the parties and their successors and/or assigns.


12 6. The parties to this Stipulation agree and request that the Court issue and Order consistent with
13 the terms of the Stipulation.

14 DATED this 9th day of ~~February~~ ^{APRIL}, 2014.

15 LAW OFFICES OF
16 MICHAEL F. BOHN, ESQ., LTD.

TIFFANY & BOSCO P.A.

17
18 By: Kelly P. Bar No. 13220
19 Michael F. Bohn, Esq.
20 376 E. Warm Springs Road, Ste. 125
21 Las Vegas, Nevada 89119
Attorney for Saticoy Bay LLC
Series 133 McLaren

By: 
Gregory L. Wilde, Esq.
212 South Jones Boulevard
Las Vegas, NV 89107
Attorney for National Default Servicing
Corporation

22 ///

23 ///

24 ///

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ORDER

Pursuant to the above stipulation of the parties, It is ORDERED that:

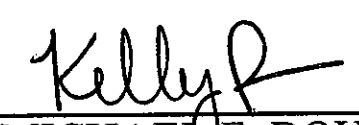
1. National Default Servicing Corporation shall be bound by whatever final order or final judgment is issued by the Court relating to the Deed of Trust (unless said order or judgment is successfully appealed by another party hereto), and shall not be subject to any monetary awards for damages, attorney's fees or costs
2. National Default Servicing Corporation will not be required to participate further in this action, will not be required to respond to any of the pleadings in this action, and will not be required to appear at any hearings or the trial of this action.

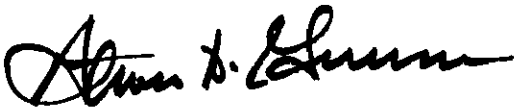
IT IS SO ORDERED this 21st day of April, 2014.


DISTRICT COURT JUDGE 

Respectfully submitted by:

LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

By:  Bar No. 13220
MICHAEL F. BOHN, ESQ.
376 E. Warm Springs Road, Ste. 125
Las Vegas, NV 89119
Attorney for plaintiff


CLERK OF THE COURT

1 **NEO**
2 MICHAEL F. BOHN, ESQ.
3 Nevada Bar No.: 1641
4 mbohn@bohnlawfirm.com
5 KELLY M. PERRI, ESQ.
6 Nevada Bar No.: 13220
7 kperry@bohnlawfirm.com
8 LAW OFFICES OF
9 MICHAEL F. BOHN, ESQ.
10 376 East Warm Springs Road, Ste. 140
11 Las Vegas, Nevada 89119
12 (702) 642-3113/ (702) 642-9766 FAX
13 Attorney for plaintiff

DISTRICT COURT
CLARK COUNTY NEVADA

SATICOY BAY LLC SERIES 133 MCLAREN,

Plaintiff,

vs.

GREEN TREE SERVICING LLC; THE BANK OF
NEW YORK MELLON FKA THE BANK OF NEW
YORK, AS SUCCESSOR TRUSTEE TO
JPMORGAN CHASE BANK, N.A., AS
TRUSTEE FOR THE CERTIFICATEHOLDERS OF
CWABS MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES, SERIES
2004-T; NATIONAL DEFAULT SERVICING
CORPORATION; CTC REAL ESTATE SERVICES;
CHARLES J. WIGHT; AND TARA J. WIGHT,

Defendants.

CASE NO.: A693882
DEPT NO.: II

NOTICE OF ENTRY OF ORDER

TO: Parties above-named; and

TO: Their Attorney of Record

///

///

///

1
2
3 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an **STIPULATION AND**
4 **ORDER** has been entered on the 23rd day of April, 2014, in the above captioned matter, a copy of which
5 is attached hereto.

6 Dated this 24th day of April, 2014.

7
8 LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

9
10 By: /s/ /Michael F. Bohn, Esq./
MICHAEL F. BOHN, ESQ.
11 376 E. Warm Springs Rd., Ste. 140
12 Las Vegas, NV 89119
Attorney for plaintiff

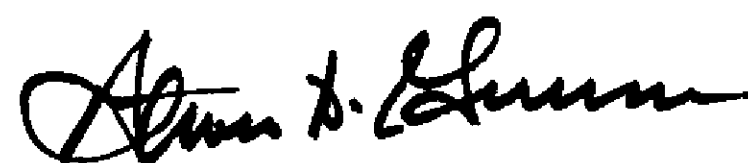
13 **CERTIFICATE OF MAILING**

14 I HEREBY CERTIFY that on the 24th day of April 2014, I served a photocopy of the
15 foregoing **NOTICE OF ENTRY OF ORDER** by placing the same in a sealed envelope with first-class
16 postage fully prepaid thereon and deposited in the United States mails addressed as follows:

17
18 Gregory L. Wilde, Esq.
TIFFANY & BOSCO P.A.
19 212 S. Jones Boulevard
Las Vegas, Nevada 89107

Michael R. Brooks, Esq.
BROOKS BAUER LLP
1645 Village Center Circle, Suite 200
Las Vegas, NV 89134

20
21
22
23 By: /s/ /Marc Sameroff /
An Employee of the LAW OFFICES OF
24 MICHAEL F. BOHN, ESQ.



CLERK OF THE COURT

1 SAO
2 MICHAEL F. BOHN, ESQ.
3 Nevada Bar No.: 1641
4 mbohn@bohnlawfirm.com
5 KELLY M. PERRI, ESQ.
6 Nevada Bar No. 13220
7 kperri@bohnlawfirm.com
8 LAW OFFICES OF
9 MICHAEL F. BOHN, ESQ., LTD.
10 376 East Warm Springs Road, Ste. 125
11 Las Vegas, Nevada 89119
12 (702) 642-3113/ (702) 642-9766 FAX

13 Attorney for plaintiff Saticoy Bay LLC Series 133 McLaren

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 SATICOY BAY LLC SERIES 133 MCLAREN,
17 Plaintiff,

18 vs.

19 GREEN TREE SERVICING LLC; THE BANK
20 OF NEW YORK MELLON FKA THE BANK
21 OF NEW YORK, AS SUCCESSOR TRUSTEE
22 TO JPMORGAN CHASE BANK, N.A., AS
23 TRUSTEE FOR THE CERTIFICATEHOLDERS
24 OF CWABS MASTER TRUST, REVOLVING
25 HOME EQUITY LOAN ASSET BACKED
26 NOTES, SERIES 2004-T; NATIONAL
27 DEFAULT SERVICING CORPORATION; CTC
28 REAL ESTATE SERVICES; CHARLES J.
WIGHT; AND TARA J. WIGHT,

Defendants.

CASE NO.: A693882
DEPT NO.: ~~XV~~ 2

STIPULATION FOR NON-MONETARY RELIEF

Plaintiff, Saticoy Bay LLC Series 133 McLaren, and Defendant, National Default Servicing Corporation, by and through their respective counsel of record, hereby stipulate as follows:

1. Plaintiff acknowledges and stipulates that National Default Servicing Corporation has been named as a defendant in this litigation, solely in its capacity as trustee and that it has not been named as a defendant due to any acts or omissions on its part in the performance of its duties as trustee.

RECEIVED APR 09 2014

APR 10 2014

1 2. National Default Servicing Corporation agrees to be bound by whatever final order or final
2 judgment is issued by the Court relating to the Deed of Trust (unless said order or judgment is
3 successfully appealed by another party hereto) and shall not be subject to any monetary awards for
4 damages, attorneys's fees or costs.

5 3. National Default Servicing Corporation will not be required to participate further in this action,
6 will not be required to respond to any of the pleadings in this action, and will not be required to appear
7 at any hearings or the trial of this action.

8 4. The filing of this stipulation is not intended to and shall not prejudice the rights of any trustor,
9 beneficiary, or assignee under the Deed of trust, and shall not constitute a waiver of any other person or
10 entity's rights or obligations under the Deed of Trust.

11 5. The Stipulation shall inure the benefits of the parties and their successors and/or assigns.

12 6. The parties to this Stipulation agree and request that the Court issue and Order consistent with
13 the terms of the Stipulation.

14 DATED this 9th day of ~~February~~ ^{APRIL}, 2014.

15 LAW OFFICES OF
16 MICHAEL F. BOHN, ESQ., LTD.

17
18 By: Kelly P. Bar No. 13220
19 Michael F. Bohn, Esq.
20 376 E. Warm Springs Road, Ste. 125
21 Las Vegas, Nevada 89119
Attorney for Saticoy Bay LLC
Series 133 McLaren

22 ///

23 ///

24 ///


25

26

27

28

TIFFANY & BOSCO P.A.

By: 
Gregory L. Wilde, Esq.
212 South Jones Boulevard
Las Vegas, NV 89107
Attorney for National Default Servicing
Corporation

ORDER

Pursuant to the above stipulation of the parties, It is ORDERED that:

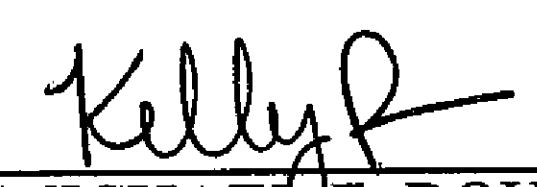
1. National Default Servicing Corporation shall be bound by whatever final order or final judgment is issued by the Court relating to the Deed of Trust (unless said order or judgment is successfully appealed by another party hereto), and shall not be subject to any monetary awards for damages, attorney's fees or costs
2. National Default Servicing Corporation will not be required to participate further in this action, will not be required to respond to any of the pleadings in this action, and will not be required to appear at any hearings or the trial of this action.

IT IS SO ORDERED this 21st day of April, 2014.


DISTRICT COURT JUDGE 

Respectfully submitted by:

LAW OFFICES OF
MICHAEL F. BOHN, ESQ., LTD.

By:  Bar No. 13220
MICHAEL F. BOHN, ESQ.
376 E. Warm Springs Road, Ste. 125
Las Vegas, NV 89119
Attorney for plaintiff



CLERK OF THE COURT

1 AACC
Michael R. Brooks, Esq.
2 Nevada Bar No. 7287
Alia A. Najjar, M.D., Esq.
3 Nevada Bar No. 12832
BROOKS HUBLEY, LLP
4 1645 Village Center Circle, Suite 200
Las Vegas, Nevada 89134
5 Tel: (702) 851-1191
Fax: (702) 851-1198
6 Email: anajjar@brookshubley.com
Attorneys for Defendant and Counterclaimant
7 *Green Tree Servicing LLC*

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

10 SATICOY BAY LLC SERIES 133
11 MCLAREN,

12
13 Plaintiff,

14 vs.

15 GREEN TREE SERVICING LLC; THE
16 BANK OF NEW YORK MELLON FKA THE
17 BANK OF NEW YORK, AS SUCCESSOR
18 TRUSTEE TO JPMORGAN CHASE BANK,
19 N.A., AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWABS
MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
SERVICING CORPORATION; CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
AND TARA J. WIGHT,

20 Defendants.

Case No.: A-14-693882-C
Dept. No.: XV

**GREEN TREE SERVICING LLC'S
FIRST AMENDED VERIFIED
ANSWER AND COUNTERCLAIM**

BROOKS HUBLEY, LLP
1645 VILLAGE CENTER CIRCLE, SUITE 200, LAS VEGAS, NV 89134
TELEPHONE: (702) 851-1191 FAX: (702) 851-1198

1 GREEN TREE SERVICING LLC,

2 Counterclaimant,

3 vs.

4 SATICOY BAY LLC SERIES 133
5 MCLAREN; NEVADA ASSOCIATION
6 SERVICES, INC.; HILLPOINTE PARK
MAINTENANCE DISTRICT; and ROES I
through X, inclusive,

Counter-Defendants.

7
8 **FIRST AMENDED ANSWER TO COMPLAINT**

9 COMES NOW, Defendant GREEN TREE SERVICING LLC ("Green Tree"), by
10 and through its attorneys of record, Brooks Hubley, LLP, as and for its First Amended
11 Answer to Plaintiff SATICOY BAY LLC SERIES 133 MCLAREN's ("Plaintiff")
12 Complaint on file herein hereby admits, denies and alleges as follows:

13 1. Answering Paragraph 1 of the Complaint, Green Tree is without sufficient
14 knowledge or information to form a belief as to the truth of the allegations contained
15 therein and therefore denies the allegations.

16 2. Answering Paragraph 2 of the Complaint, to the extent the allegations
17 reference documents that speak for themselves, no response is required. To the extent a
18 response is required, Green Tree is without sufficient knowledge or information to form a
19 belief as to the truth of the allegations contained therein and therefore denies the
20 allegations.

21 3. Answering Paragraph 3 of the Complaint, Green Tree is without sufficient
22 knowledge or information to form a belief as to the truth of the allegations contained
23 therein and therefore denies the allegations.

1 4. Answering Paragraph 4 of the Complaint, Green Tree admits this allegation.

2 5. Answering Paragraph 5 of the Complaint, to the extent the allegations
3 reference documents that speak for themselves, no response is required. To the extent a
4 response is required, Green Tree is without sufficient knowledge or information to form a
5 belief as to the truth of the allegations contained therein and therefore denies the
6 allegations.

7 6. Answering Paragraph 6 of the Complaint, to the extent the allegations
8 reference documents that speak for themselves, no response is required. To the extent a
9 response is required, Green Tree admits the allegations therein.

10 7. Answering Paragraph 7 of the Complaint, to the extent the allegations
11 reference documents that speak for themselves, no response is required. To the extent a
12 response is required, Green Tree is without sufficient knowledge or information to form a
13 belief as to the truth of the allegations contained therein and therefore denies the
14 allegations.

15 8. Answering Paragraph 8 of the Complaint, Green Tree is without sufficient
16 knowledge or information to form a belief as to the truth of the allegations contained
17 therein and therefore denies the allegations.

18 9. Answering Paragraph 9 of the Complaint, to the extent the allegations are
19 Plaintiff's legal conclusions, no response is required. To the extent a response is required,
20 Green Tree denies the allegations therein.

21 10. Answering Paragraph 10 of the Complaint, to the extent the allegations are
22 Plaintiff's prayer for relief, no response is required. To the extent a response is required,
23 Green Tree denies the allegations.

SECOND CLAIM FOR RELIEF

11. Answering Paragraph 11 of the Complaint, which incorporates other paragraphs by reference, Green Tree incorporates its responses to those paragraphs by this reference as though set forth herein at length.

12. Answering Paragraph 12 of the Complaint, to the extent the allegations are Plaintiff's legal conclusions, no response is required. To the extent allegations are Plaintiff's prayer for relief, no response is required. To the extent a response is required, Green Tree denies the allegations.

13. Answering Paragraph 13 of the Complaint, to the extent the allegations are Plaintiff's prayer for relief, no response is required. To the extent a response is required, Green Tree denies the allegations.

THIRD CLAIM FOR RELIEF

14. Answering Paragraph 14 of the Complaint, which incorporates other paragraphs by reference, Green Tree incorporates its responses to those paragraphs by this reference as though set forth herein at length.

15. Answering Paragraph 15 of the Complaint, to the extent the allegations are Plaintiff's legal conclusions, no response is required. To the extent allegations are Plaintiff's prayer for relief, no response is required. To the extent a response is required, Green Tree denies the allegations.

16. Answering Paragraph 16 of the Complaint, to the extent the allegations are Plaintiff's prayer for relief, no response is required. To the extent a response is required, Green Tree denies the allegations.

///

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint and each and every cause of action/claim for relief contained therein fail to state facts sufficient to state a claim against Green Tree.

SECOND AFFIRMATIVE DEFENSE

Plaintiff is barred from any recovery against Green Tree because Plaintiff has not been damaged by the actions alleged in the Complaint.

THIRD AFFIRMATIVE DEFENSE

At all times, Green Tree acted in accordance with reasonable standards, in good faith, and with ordinary care, and its actions did not contribute to the alleged damages.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff is precluded from recovery against Green Tree because Plaintiff failed to mitigate properly any damages it might have suffered as a result of the conduct alleged in the Complaint.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's damages, if any, should be offset, in whole or in part, against any damages caused by Plaintiff to Green Tree as a result of Plaintiff's conduct.

SIXTH AFFIRMATIVE DEFENSE

Any damages Plaintiff may have sustained were proximately caused by the acts of persons other than Green Tree and, therefore, Plaintiff is not entitled to any relief from Green Tree.

///

///

1 **SEVENTH AFFIRMATIVE DEFENSE**

2 Plaintiff's damages, if any, resulted from the acts or omissions of third parties over
3 whom Green Tree had no control. The acts of such third parties constitute intervening or
4 superseding causes of the harm, if any, suffered by Plaintiff.

5 **EIGHTH AFFIRMATIVE DEFENSE**

6 By reason of its own acts, Plaintiff has released and discharged Green Tree from the
7 claims alleged.

8 **NINTH AFFIRMATIVE DEFENSE**

9 Plaintiff is barred from any recovery against Green Tree by the principles of equity
10 including waiver, laches, and estoppel, so as to preclude in whole or in part the relief
11 sought in the Complaint.

12 **TENTH AFFIRMATIVE DEFENSE**

13 Green Tree has been required to retain the services of an attorney to defend this
14 claim and has been damaged as a result thereof, in the amount of its attorneys' fees and
15 costs incurred and to be incurred. Green Tree is entitled to recover those fees and costs
16 from Plaintiff.

17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 Green Tree hereby incorporates by reference those affirmative defenses enumerated
19 in Rule 8 of the Nevada Rules of Civil Procedure. In the event subsequent investigation or
20 discovery reveals the applicability of such defenses, Green Tree hereby reserves its right to
21 seek leave of the Court to amend its answer to specifically assert the same. Such defenses
22 are herein incorporated by reference with the specific purpose of not waiving the same.

23 ///

TWELFTH AFFIRMATIVE DEFENSE

Pursuant to Rule 11 of the Nevada Rules of Civil Procedure, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon filing of this answer and, therefore, Green Tree reserves its right to amend its answer to allege additional affirmative defenses if subsequent investigation warrants their assertion.

THIRTEENTH AFFIRMATIVE DEFENSE

The homeowner's association sale is void because it was not commercially reasonable and the facts and circumstances regarding the sale of the property to Plaintiff violated the homeowner's association's obligation of good faith and duty to act in a commercially reasonable manner. Thus, Plaintiff's claim of free and clear title to the property is barred.

FOURTEENTH AFFIRMATIVE DEFENSE

The homeowner's association lien foreclosure sale is void because the homeowner's association failed to comply with the requirements of NRS 116 et seq. and other applicable laws. Thus, Plaintiff's claim of free and clear title to the property is barred.

FIFTEENTH AFFIRMATIVE DEFENSE

The homeowner's association lien foreclosure sale is void because the provisions of NRS 116.31162-116.31168 fail to provide notice of satisfaction of the conditions precedent required for the existence of super-priority lien rights and, as such, are unconstitutionally vague and violate the Due Process Clause of the United States Constitution and the Nevada Constitution.

SIXTEENTH AFFIRMATIVE DEFENSE

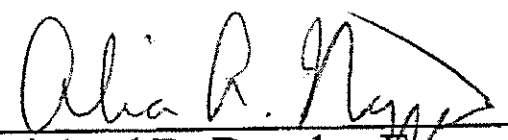
The homeowner's association lien foreclosure sale is void because the "opt-in" notice provisions of NRS 116.3116 et seq. do not require that reasonable and affirmative steps be taken to give actual notice to lenders and other holders of recorded security interests prior to a deprivation of their property rights and, as such, violate the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution and the Due Process Clause of the Nevada Constitution.

WHEREFORE, Defendant GREEN TREE respectfully prays for judgment as follows:

1. That Plaintiff takes nothing by way of the Complaint on file herein;
2. That Green Tree be awarded a reasonable sum as and for its attorneys' fees and costs incurred in defending this claim; and
3. For such other and further relief as this Court deems just and proper.

DATED this 24th day of June, 2015.

BROOKS HUBLEY, LLP

By: 
Michael R. Brooks, Esq.
Nevada Bar No. 7287
Alia A. Najjar, M.D., Esq.
Nevada Bar No. 12832
*Attorneys for Defendant and
Counterclaimant
Green Tree Servicing LLC*

COUNTERCLAIM

Pursuant to Rule 13 of the Nevada Rules of Civil Procedure, Green Tree Servicing LLC, by and through its attorneys of record, Brooks Hubley, LLP, hereby demands declaratory relief against Saticoy Bay LLC Series 133 McLaren, Hillpointe Park Maintenance District, and Nevada Association Services, Inc., and quiet title against Saticoy Bay LLC Series 133 McLaren as follows:

PARTIES

1. Green Tree beneficiary of a Deed of Trust on real property, located at 133 McLaren St., Henderson, Nevada 89074, APN 178-16-215-068 (the "Property"), by way of an Assignment of Deed of Trust.

2. Upon information and belief, Saticoy Bay LLC Series 133 McLaren ("Plaintiff") is a Nevada limited liability company with its principal place of business in Nevada.

3. Upon information and belief, Hillpointe Park Maintenance District (the "HOA") is a Nevada Non-Profit Cooperative Corporation with its principal place of business in Nevada.

4. Upon information and belief, Nevada Association Services, Inc. ("NAS") is a Nevada corporation with its principal place of business in Nevada.

5. DOES 1-10 are fictitious names of individuals, partnerships, and other business entities whose names and capacities are not presently known to Green Tree. Upon information and belief, such counter-defendants may claim to have some interest in the Property. When their true names and capacities are ascertained, Green Tree will seek

///

1 leave to amend this complaint to allege their true names and capacities and will further ask
2 leave to join such counter-defendants in this action.

3 6. This Court has personal jurisdiction over the counter-defendant because of
4 the Counter-defendant's Nevada citizenship and the Property's location in Nevada.

5 7. Venue is proper in this Court because the subjects of this action—the
6 Counter-defendant's activities and the Property's location—are in Clark County, Nevada.

7 **Green Tree's Interest in the Property**

8 8. Prior to November 26, 2013, Charles Wight and Tara Wight ("Borrowers")
9 were the record owners of the Property.

10 9. On or about November 12, 2004, the Borrowers obtained a mortgage loan
11 from Countrywide Home Loans, Inc. by signing a note ("Note") in the amount of
12 \$220,000.00 and a first deed of trust ("Deed of Trust") to the Property.

13 10. The Deed of Trust was recorded in the Official Records of the Clark County
14 Recorder on November 23, 2004, as instrument number 20041123-0002449.

15 11. The Note and Deed of Trust were subsequently assigned to Green Tree via a
16 Corporate Assignment of Deed of Trust recorded on May 28, 2013.

17 12. Green Tree's interest in the Deed of Trust encumbering the Property
18 constitutes an interest in real property.

19 **Plaintiff's Relationship with the Property**

20 13. The HOA is a homeowner's association that oversees a common-interest
21 community ("Community") that includes the Property.

22 14. The Community is subject to HOA's covenants, conditions, and restrictions,
23 which requires the payment of periodic assessments.

1 15. The HOA claims a lien ("HOA Lien") against the Property via a Notice of
2 Delinquent Assessment (Lien) recorded by NAS as document number 201102240001247
3 in the Official Records of Clark County, Nevada on January 14, 2011.

4 16. The HOA Lien stated that the amount due as of January 11, 2011 was
5 \$1,286.00, including late fees, collection fees and interest in the amount of \$907.00.

6 17. NAS subsequently recorded a Notice of Default and Election to Sell under
7 Homeowners Association Lien ("Notice of Default") as document number
8 201109090000728 in the Official Records of Clark County, Nevada on September 9,
9 2011.

10 18. The Notice of Default stated that the amount owed was \$2,149.00 as of
11 September 6, 2011, and would increase until the account became current.

12 19. The Notice of Default fails to describe the deficiency in payment as required
13 by NRS 116.31162.

14 20. NAS scheduled the foreclosure sale of the Property for November 22, 2013,
15 and recorded a notice of foreclosure sale ("Notice of Sale") as document number
16 201310290003584 in the Official Records of Clark County, Nevada on October 29, 2013.

17 21. The Notice of Sale stated that the "total amount of the unpaid balance of the
18 obligation secured by the property to be sold and reasonable estimated costs, expenses and
19 advances at the time of the initial publication of the Notice of Sale is \$2,667.87."

20 22. None of the aforementioned notices identified above specified what
21 proportion of the lien, if any, that the HOA claimed constituted a super-priority lien.

22 ///

23 ///

1 23. None of the aforementioned notices identified above specified whether the
2 HOA was foreclosing on a super-priority portion of its lien, if any, or on the sub-priority
3 portion of the lien.

4 24. None of the aforementioned notices identified above provided any notice of a
5 right to cure.

6 25. None of the aforementioned notices identified above provided notice that
7 Green Tree's first secured interest on the Property would be foreclosed or extinguished.

8 26. Plaintiff purchased the Property on November 22, 2013, at the HOA lien
9 foreclosure sale ("HOA Sale") for \$10,200.00.

10 27. NAS executed a foreclosure deed ("Foreclosure Deed") on November 25,
11 2013, that purported to convey the Property to Plaintiff and later recorded the deed as
12 document number 201311260001363 in the Official Records of Clark County, Nevada on
13 November 26, 2013.

14 28. Upon information and belief, at the time of the HOA Sale, the fair market
15 value of the Property exceeded \$186,000.

16 29. At the time of the HOA Sale, the amount owed on the Loan exceeded
17 \$180,000.

18 30. The sale price at the HOA Sale was not commercially reasonable when
19 compared to the fair market value of the Property.

20 31. Upon information and belief, prior to the completion of the HOA Sale, HOA
21 or NAS received payment for the HOA Lien and/or entered into an agreement for such
22 payment.

23 ///

FIRST CLAIM FOR RELIEF

(Declaratory Relief against all Counter-Defendants)

32. Green Tree incorporates paragraphs 1 through 31, inclusive above, as if the same were set forth at length herein.

33. An actual controversy has arisen between Green Tree and Counter-Defendants with respect to the propriety of the HOA Sale.

34. Counter-Defendants contend that the HOA Lien was a super-priority lien under Chapter 116 of the Nevada Revised Statutes.

35. Counter-Defendants contend that the HOA Sale eliminated the Deed of Trust and therefore resulted in the transfer of clear title to the Property to Plaintiff.

36. The HOA has the exclusive right to enforce the super-priority lien and only upon the satisfaction of certain conditions precedent to the creation of the super-priority lien including the annual adoption a budget as required by section 116.3115 of the Nevada Revised Statutes.

37. Upon information and belief, the HOA and its agents did not comply with the requirements of establishing a budget pursuant to the provisions of NRS 116.3115 on an annual basis as required by law.

38. As a result of the HOA's failure to comply with the budgetary requirements of NRS 116.3115, there was no super-priority lien upon which to foreclose.

39. Upon information and belief, prior to the completion of the HOA Sale, HOA or NAS received payment for the HOA Lien and/or entered into an agreement for such payment.

///

1 40. Upon information and belief, the purported HOA Sale was conducted by
2 someone other than the HOA and/or its agents without legal authority to do so.

3 41. The Notice of Default failed to describe the deficiency in payment as required
4 by section 116.31162 of Nevada Revised Statutes, including without limitation, the failure
5 to recite compliance with the provisions of section 116.3115 of the Nevada Revised
6 Statutes.

7 42. The Notice of Sale failed to state that the HOA Lien was for common
8 expenses based on the periodic budget adopted by the association pursuant to section
9 116.3115 of the Nevada Revised Statutes which would have become due in the absence of
10 acceleration during the 9 months immediately preceding institution of an action to enforce
11 the lien.

12 43. The Notice of Sale failed to identify "the amount necessary to satisfy the lien
13 as of the date of the proposed sale" as required by sections 116.311635 and 116.3116 of
14 the Nevada Revised Statutes.

15 44. The HOA lacked authority to conduct the HOA Sale on the super-priority lien
16 due to HOA's failure to comply with the provisions of section 116.3115 during the
17 relevant period of delinquency.

18 45. As a direct result of HOA and NAS' failure to comply with the requirements
19 of Chapter 116 of the Nevada Revised Statutes, Plaintiff was allegedly the highest bidder
20 and purchased the Property well below fair market value at the HOA Sale in a
21 commercially unreasonable manner.

22 ///

23 ///

1 46. Green Tree contends that the HOA and/or NAS lacked the authority to
2 conduct the foreclosure sale because it did not mail the Notice of Sale, pursuant to NRS
3 116.311635(1)(b)(2), via registered or certified mail, return receipt requested, to Green
4 Tree.

5 47. Green Tree further alleges, upon information and belief, that the HOA lacked
6 authority to conduct a foreclosure sale because the HOA and/or NAS received payment for
7 the HOA Lien and/or entered into an agreement for such payment to sell the Property to
8 Plaintiff. Thus, the purported HOA lien upon which the foreclosure sale was based was
9 extinguished prior to the purported foreclosure sale.

10 48. Green Tree further contends that the provisions of NRS 116.31162-
11 116.31168 are unconstitutional for the purposes of providing notice of the conditions
12 precedent to the existence of super-priority lien rights and are unconstitutionally vague.

13 49. Green Tree contends that the "opt-in" notice provisions of NRS 116.3116 et
14 seq. do not mandate that reasonable and affirmative steps be taken to give actual notice to
15 lenders and other holders of recorded security interests prior to a deprivation of their
16 property rights and, as such, violate the Due Process Clauses of the Fifth and Fourteenth
17 Amendments of the United States Constitution and the Due Process Clause of the Nevada
18 Constitution.

19 50. In light of the aforementioned allegations, the HOA Sale had no effect on the
20 Deed of Trust by operation of law.

21 51. Green Tree is entitled to an order declaring (a) the HOA Sale void as a matter
22 of law and therefore having no affect on the Green Tree's interest in the Property or (2)
23 Plaintiff's purchase of the Property subject to the Deed of Trust.

1 52. A judicial determination of the above contentions is necessary to resolve the
2 validity of the HOA Sale and the status of the ownership of the Property.

3 53. Green Tree does not have a plain, speedy, or adequate remedy at law.

4 54. A declaration of the rights and duties of the parties is necessary and
5 appropriate at this time, so the parties may ascertain their rights and avoid the multiplicity
6 of actions that would otherwise ensure.

7 **SECOND CLAIM FOR RELIEF**

8 **(Quiet Title against Saticoy Bay LLC Series 133 McLaren)**

9 55. Green Tree incorporates paragraphs 1 through 54, inclusive above, as if the
10 same were set forth at length herein.

11 56. Plaintiff claims ownership of the Property, free and clear of Green Tree's
12 Deed of Trust.

13 57. Green Tree seeks judgment-quieting title, such that Green Tree remains fully
14 vested of all rights, title, and interest in the Property by way of its Deed of Trust.

15 **PRAYER**

16 WHEREFORE, Defendant GREEN TREE respectfully prays for judgment as
17 follows:

- 18 1. That Plaintiff and Counter-Defendant Saticoy Bay LLC Series 133 McLaren
19 takes nothing by way of the Complaint on file herein;
- 20 2. A declaration of the invalidity of the HOA Sale;
- 21 3. A declaration that Green Tree as the beneficial interest holder of a first
22 position Deed of Trust on the Property as against all other claimants;

23 ///

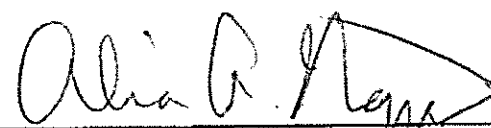
1 4. That Green Tree be awarded a reasonable sum as and for its attorneys' fees
2 and costs incurred in defending this claim;

3 5. For an adjudication quieting title regarding all rights, claims, ownership,
4 liens, titles and demands of Plaintiff is subject to Green Tree's interest in the
5 Note and Deed of Trust; and

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

7 DATED this 24th day of June, 2015.

BROOKS HUBLEY, LLP



Michael R. Brooks, Esq.

Nevada Bar No. 7287

Alia A. Najjar, M.D., Esq.

Nevada Bar No. 12832

*Attorneys for Defendant and
Counterclaimant*

Green Tree Servicing LLC


BROOKS HUBLEY, LLP
1645 VILLAGE CENTER CIRCLE, SUITE 200, LAS VEGAS, NV 89134
TELEPHONE: (702) 851-1191 FAX: (702) 851-1198

VERIFICATION

I, Mignonne Davis, am the Foreclosure Supervisor of Green Tree Servicing LLC, Defendant and Counterclaimant in the above-captioned action. I have read Green Tree Servicing LLC's First Amended Answer and Counterclaim and know the contents thereof and the same are true to the best of my knowledge, except for matters therein stated upon information and belief and, as to the matters therein stated, I believe the same to be true.

DATED this 25 day of June, 2015.

Green Tree Servicing LLC

By:  6-25-15
Authorized Representative

CERTIFICATE OF SERVICE

I, the undersigned, certify that I am employed in the County of Clark, State of Nevada, and over the age of 18 years and not a party to this action. My business address is Brooks Hubley, LLP, 1645 Village Center Circle, Suite 200, Las Vegas, Nevada 89134.

I certify that on this day, pursuant to Eighth Judicial District Court Administrative Order 14-2 and EDCR 8.05(i), I electronically served, via the Eighth Judicial District Court electronic filing system **GREEN TREE SERVICING LLC'S FIRST AMENDED ANSWER AND COUNTERCLAIM ON** the following parties and those parties listed on the Court's Master List in said action:

**E-Service Master List
For Case**

Akerman LLP

Contact	Email
Akerman Las Vegas Office	akermanlas@akerman.com
Ariel E. Stern, Esq.	ariel.stern@akerman.com
Natalie L. Winslow, Esq.	natalie.winslow@akerman.com

Brooks Hubley LLP

Contact	Email
Alia A. Najjar	anajjar@brookshubley.com

Law Offices of Michael F. Bohn, Esq.

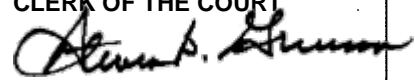
Contact	Email
Eserve Contact	office@bohnlawfirm.com
Michael F Bohn Esq	mbohn@bohnlawfirm.com

Tiffany & Bosco P.A.

Contact	Email
Gregory L. Wilde	glw@tblaw.com

I certify under penalty of perjury that the foregoing is true and correct and that this Certificate of Service was executed on the 25 day of June, 2015, at Las Vegas, Nevada.


An Employee of BROOKS HUBLEY, LLP



1 **SAO**

2 MELANIE D. MORGAN, ESQ.

3 Nevada Bar No. 8215

4 JARED M. SECHRIST, ESQ.

5 Nevada Bar No. 10439

6 **AKERMAN LLP**

7 1635 Village Center Circle, Suite 200

8 Las Vegas, NV 89134

9 Telephone: (702) 634-5000

10 Facsimile: (702) 380-8572

11 Email: melanie.morgan@akerman.com

12 Email: jared.sechrist@akerman.com

13 *Attorneys for The Bank of New York Mellon fka The Bank of New York, as successor Trustee to*
14 *JPMorgan Chase Bank, N.A, as Trustee for the Certificateholders of CWABS Master Trust*
15 *Revolving Home Equity Loan Asset Backed Notes, Series 2004-T and Green Tree Servicing, LLC*

16 **DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 SATICOY BAY LLC SERIES 133
19 MCLAREN,

20 Plaintiff,

21 vs.

22 GREEN TREE SERVICING LLC; THE
23 BANK OF NEW YORK MELLON FKA
24 THE BANK OF NEW YORK, AS
25 SUCCESSOR TRUSTEE TO JPMORGAN
26 CHASE BANK, N.A., AS TRUSTEE FOR
27 THE CERTIFICATEHOLDERS OF CWABS
28 MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
SERVICING CORPORATION, CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
AND TARA J. WIGHT,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-14-693882-C

Dept. No.: XXX

**STIPULATION AND ORDER FOR
DISMISSAL OF NEVADA ASSOCIATION
SERVICES, INC. WITHOUT PREJUDICE**

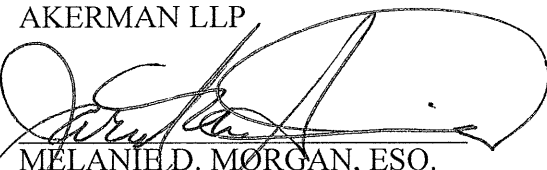
Defendant Green Tree Servicing, LLC now known as Ditech Financial LLC and cross-defendant Nevada Association Services, Inc. (NAS) (collectively, the **Parties**), by and through their respective counsel, hereby stipulate and agree as follows:

1 Ditech filed its amended answer and counterclaim on June 25, 2015, asserting a crossclaim against
2 NAS for declaratory relief.

3 The Parties have agreed that NAS will be dismissed without prejudice from this litigation, each
4 party to bear its own costs and fees. The Parties also agree to a tolling of the statute of limitations for
5 any claims that the Parties have asserted associated with the November 22, 2013 homeowners'
6 association foreclosure sale that is the subject of this litigation.

7
8 Dated this 25th day of January, 2019.


9 AKERMAN LLP

10 
11 MELANIE D. MORGAN, ESQ.
12 Nevada Bar No. 8215
13 JARED M. SECHRIST, ESQ.
14 Nevada Bar No. 10439
15 1635 Village Center Circle, Suite 200
16 Las Vegas, NV 89134

17 *Attorneys for The Bank of New York Mellon fka*
18 *The Bank of New York, as successor Trustee to*
19 *JPMorgan Chase Bank, N.A, as Trustee for the*
20 *Certificateholders of CWABS Master Trust*
21 *Revolving Home Equity Loan Asset Backed*
22 *Notes, Series 2004-T and Ditech Financial LLC*
23 *f/k/a Green Tree Servicing LLC*

Dated this 24 day of January, 2019.

NEVADA ASSOCIATION SERVICES, INC.

10 
11 BRANDON WOOD, ESQ.
12 Nevada Bar No.
13 6625 S. Valley View Blvd. Suite 300
14 Las Vegas, NV 89118

Attorney for Nevada Association Services, Inc.

ORDER

IT IS HEREBY ORDERED that defendant Green Tree Servicing LLC's claims against Nevada Association Services, Inc. are DISMISSED without prejudice, with each party to the above stipulation to bear its own attorneys' fees and costs.

IT IS FURTHER ORDERED that the statute of limitations for any claims that Green Tree Servicing LLC or Nevada Association Services, Inc. have asserted or could assert associated with the November 22, 2013 homeowners' association foreclosure sale that is the subject of this litigation shall be tolled as between the Parties.

Dated this 30 day of January, 2019.

HONORABLE JERRY A. WIESE

Submitted by:

AKERMAN LLP

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

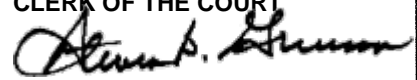
JARED M. SECHRIST, ESQ.

Nevada Bar No. 10439

1635 Village Center Circle, Suite 200

Las Vegas, NV 89134

*Attorneys for The Bank of New York Mellon
fka The Bank of New York, as successor
Trustee to JPMorgan Chase Bank, N.A, as
Trustee for the Certificateholders of
CWABS Master Trust Revolving Home
Equity Loan Asset Backed Notes, Series
2004-T and Ditech Financial LLC f/k/a
Green Tree Servicing LLC*



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Attorneys for The Bank of New York Mellon fka The Bank of New York, as successor Trustee to JPMorgan Chase Bank, N.A, as Trustee for the Certificateholders of CWABS Master Trust Revolving Home Equity Loan Asset Backed Notes, Series 2004-T and Green Tree Servicing, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

SATICOY BAY LLC SERIES 133
MCLAREN,

Plaintiff,

vs.

GREEN TREE SERVICING LLC; THE
BANK OF NEW YORK MELLON FKA
THE BANK OF NEW YORK, AS
SUCCESSOR TRUSTEE TO JPMORGAN
CHASE BANK, N.A., AS TRUSTEE FOR
THE CERTIFICATEHOLDERS OF CWABS
MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
SERVICING CORPORATION, CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
AND TARA J. WIGHT,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-14-693882-C

Dept. No.: XXX

**STIPULATION AND ORDER FOR
DISMISSAL OF HILLPOINTE PARK
MAINTENANCE DISTRICT WITHOUT
PREJUDICE**

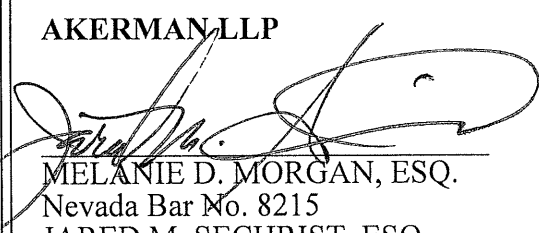
Defendant Green Tree Servicing, LLC now known as Ditech Financial LLC and cross-defendant Hillpointe Park Maintenance District (HOA) (collectively, the **Parties**), by and through their respective counsel, hereby stipulate and agree as follows:

1 Ditech filed its amended answer and counterclaim on June 25, 2015, asserting a crossclaim against
2 the HOA for declaratory relief.

3 The Parties have agreed that the HOA will be dismissed without prejudice from this litigation,
4 each party to bear its own costs and fees. The Parties also agree to a tolling of the statute of limitations
5 for any claims that the Parties have asserted with respect to the November 22, 2013 homeowners'
6 association foreclosure sale that is the subject of this litigation. Any such claims shall be brought by
7 Green Tree Servicing, LLC within 45 days of any final order from the appeal of this matter.

8
9 Dated this 28 day of January, 2019.

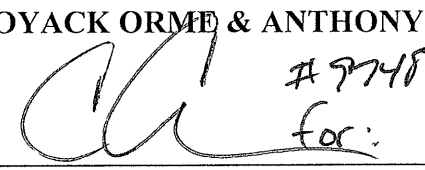
10 **AKERMAN LLP**

11 
12 MELANIE D. MORGAN, ESQ.
13 Nevada Bar No. 8215
14 JARED M. SECHRIST, ESQ.
15 Nevada Bar No. 10439
16 1635 Village Center Circle, Suite 200
17 Las Vegas, NV 89134

18 *Attorneys for The Bank of New York Mellon fka*
19 *The Bank of New York, as successor Trustee to*
20 *JPMorgan Chase Bank, N.A, as Trustee for the*
21 *Certificateholders of CWABS Master Trust*
22 *Revolving Home Equity Loan Asset Backed*
23 *Notes, Series 2004-T and Ditech Financial LLC*
24 *f/k/a Green Tree Servicing LLC*

Dated this 28 day of January, 2019.

10 **BOYACK ORME & ANTHONY**

11  #7748
12 for:
13 EDWARD D. BOYACK, ESQ.
14 Nevada Bar No. 005229
15 MICHAEL VAN LUVEN, ESQ.
16 Nevada Bar No. 13975
17 7432 W. Sahara Avenue, Suite 101
18 Las Vegas, Nevada 89117

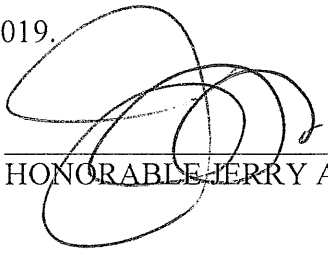
19 *Attorneys for Cross-Defendant Hillpointe Park*
20 *Maintenance District*

ORDER

IT IS HEREBY ORDERED that defendant Green Tree Servicing LLC's claims against Hillpointe Park Maintenance District are DISMISSED without prejudice, with each party to the above stipulation to bear its own attorneys' fees and costs.

IT IS FURTHER ORDERED that the statute of limitations for any claims that Green Tree Servicing LLC or Hillpointe Park Maintenance District has asserted with respect to the November 22, 2013 homeowners' association foreclosure sale that is the subject of this litigation shall be tolled as between the Parties. Any such claims shall be brought by Green Tree Servicing, LLC within 45 days of any final order from the appeal of this matter.

Dated this 28 day of January, 2019.


HONORABLE JERRY A. WIESE

Submitted by:

AKERMAN LLP


MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

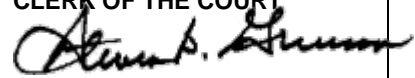
JARED M. SECHRIST, ESQ.

Nevada Bar No. 10439

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Las Vegas, NV 89134

*Attorneys for The Bank of New York Mellon
fka The Bank of New York, as successor
Trustee to JPMorgan Chase Bank, N.A, as
Trustee for the Certificateholders of
CWABS Master Trust Revolving Home
Equity Loan Asset Backed Notes, Series
2004-T and Ditech Financial LLC f/k/a
Green Tree Servicing LLC*



NESO

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Email: melanie.morgan@akerman.com

Email: jared.sechrist@akerman.com

Attorneys for The Bank of New York Mellon fka The Bank of New York, as successor Trustee to JPMorgan Chase Bank, N.A, as Trustee for the Certificateholders of CWABS Master Trust Revolving Home Equity Loan Asset Backed Notes, Series 2004-T and Green Tree Servicing, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

SATICOY BAY LLC SERIES 133
MCLAREN,

Plaintiff,

vs.

GREEN TREE SERVICING LLC; THE
BANK OF NEW YORK MELLON FKA
THE BANK OF NEW YORK, AS
SUCCESSOR TRUSTEE TO JPMORGAN
CHASE BANK, N.A., AS TRUSTEE FOR
THE CERTIFICATEHOLDERS OF CWABS
MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
SERVICING CORPORATION, CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
AND TARA J. WIGHT,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-14-693882-C

Dept. No.: XXX

**NOTICE OF ENTRY OF STIPULATION
AND ORDER FOR DISMISSAL OF
NEVADA ASSOCIATION SERVICES, INC.
WITHOUT PREJUDICE**

///

///

///

///

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that a **STIPULATION AND ORDER FOR DISMISSAL OF**
3 **NEVADA ASSOCIATION SERVICES, INC. WITHOUT PREJUDICE** has been entered by this
4 Court on the 31st day of January, 2019, in the above-captioned matter. A copy of said Order is attached
5 hereto as **Exhibit A.**

6 Dated: February 1, 2019

7 **AKERMAN LLP**

8
9 /s/ Jared M. Sechrist

10 MELANIE MORGAN, ESQ.

Nevada Bar No. 8215

11 JARED M. SECHRIST, ESQ.

Nevada Bar No. 10439

12 1635 Village Center Circle, Suite 200

Las Vegas, NV 89134

13 *Attorneys for The Bank of New York Mellon fka*
14 *The Bank of New York, as Successor Trustee to*
15 *JPMorgan Chase Bank, N.A., as Trustee for the*
16 *Certificateholders of CWABS Master Trust,*
17 *Revolving Home Equity Loan Asset Backed*
18 *Notes, Series 2004-T and Green Tree Servicing,*
19 *LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on February 1, 2019 and pursuant to NRCP 5, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER FOR DISMISSAL OF NEVADA ASSOCIATION SERVICES, INC. WITHOUT PREJUDICE**, in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof & served through the Notice Of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.

Nevada Association Services, Inc. .

Chris Yergensen, Esq.	Chris@nas-inc.com
Brandon E. Wood	brandon@nas-inc.com
Susan E. Moses	susanm@nas-inc.com

Brooks Hubley LLP

Michael R. Brooks, Esq.	MBrooks@brookshubley.com
efile Brooks Hubley	efile@brookshubley.com
Jessica Perlick	jperlick@brookshubley.com
Nicole Lane	NLane@brookshubley.com

Boyack Orme & Anthony

Sherri Tyrrell	marcia@boyacklaw.com
Mike Van Luven	mike@boyacklaw.com

Tiffany & Bosco P.A.

Gregory L. Wilde	glw@tblaw.com
------------------	---------------

HOA Lawyers Group, LLC

HOALG E-Serve	eserve@nrs116.com
---------------	-------------------

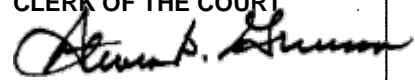
Law Office of Michael F. Bohn

Eserve Contact	office@bohnlawfirm.com
Michael F Bohn Esq.	mbohn@bohnlawfirm.com

/s/ Patricia Larsen

An employee of AKERMAN LLP

EXHIBIT A



1 **SAO**

2 MELANIE D. MORGAN, ESQ.

3 Nevada Bar No. 8215

4 JARED M. SECHRIST, ESQ.

5 Nevada Bar No. 10439

6 **AKERMAN LLP**

7 1635 Village Center Circle, Suite 200

8 Las Vegas, NV 89134

9 Telephone: (702) 634-5000

10 Facsimile: (702) 380-8572

11 Email: melanie.morgan@akerman.com

12 Email: jared.sechrist@akerman.com

13 *Attorneys for The Bank of New York Mellon fka The Bank of New York, as successor Trustee to*
14 *JPMorgan Chase Bank, N.A, as Trustee for the Certificateholders of CWABS Master Trust*
15 *Revolving Home Equity Loan Asset Backed Notes, Series 2004-T and Green Tree Servicing, LLC*

16 **DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 SATICOY BAY LLC SERIES 133
19 MCLAREN,

20 Plaintiff,

21 vs.

22 GREEN TREE SERVICING LLC; THE
23 BANK OF NEW YORK MELLON FKA
24 THE BANK OF NEW YORK, AS
25 SUCCESSOR TRUSTEE TO JPMORGAN
26 CHASE BANK, N.A., AS TRUSTEE FOR
27 THE CERTIFICATEHOLDERS OF CWABS
28 MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
SERVICING CORPORATION, CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
AND TARA J. WIGHT,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-14-693882-C

Dept. No.: XXX

**STIPULATION AND ORDER FOR
DISMISSAL OF NEVADA ASSOCIATION
SERVICES, INC. WITHOUT PREJUDICE**

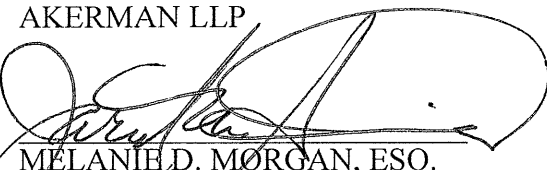
Defendant Green Tree Servicing, LLC now known as Ditech Financial LLC and cross-defendant Nevada Association Services, Inc. (NAS) (collectively, the **Parties**), by and through their respective counsel, hereby stipulate and agree as follows:

1 Ditech filed its amended answer and counterclaim on June 25, 2015, asserting a crossclaim against
2 NAS for declaratory relief.

3 The Parties have agreed that NAS will be dismissed without prejudice from this litigation, each
4 party to bear its own costs and fees. The Parties also agree to a tolling of the statute of limitations for
5 any claims that the Parties have asserted associated with the November 22, 2013 homeowners'
6 association foreclosure sale that is the subject of this litigation.

7
8 Dated this 25th day of January, 2019.


9 AKERMAN LLP

10 
11 MELANIE D. MORGAN, ESQ.
12 Nevada Bar No. 8215
13 JARED M. SECHRIST, ESQ.
14 Nevada Bar No. 10439
15 1635 Village Center Circle, Suite 200
16 Las Vegas, NV 89134

17 *Attorneys for The Bank of New York Mellon fka*
18 *The Bank of New York, as successor Trustee to*
19 *JPMorgan Chase Bank, N.A, as Trustee for the*
20 *Certificateholders of CWABS Master Trust*
21 *Revolving Home Equity Loan Asset Backed*
22 *Notes, Series 2004-T and Ditech Financial LLC*
23 *f/k/a Green Tree Servicing LLC*

Dated this 24 day of January, 2019.

NEVADA ASSOCIATION SERVICES, INC.

10 
11 BRANDON WOOD, ESQ.
12 Nevada Bar No.
13 6625 S. Valley View Blvd. Suite 300
14 Las Vegas, NV 89118

Attorney for Nevada Association Services, Inc.

ORDER

IT IS HEREBY ORDERED that defendant Green Tree Servicing LLC's claims against Nevada Association Services, Inc. are DISMISSED without prejudice, with each party to the above stipulation to bear its own attorneys' fees and costs.

IT IS FURTHER ORDERED that the statute of limitations for any claims that Green Tree Servicing LLC or Nevada Association Services, Inc. have asserted or could assert associated with the November 22, 2013 homeowners' association foreclosure sale that is the subject of this litigation shall be tolled as between the Parties.

Dated this 30 day of January, 2019.

HONORABLE JERRY A. WIESE

Submitted by:

AKERMAN LLP

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

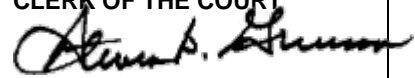
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Las Vegas, NV 89134

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fka The Bank of New York, as successor
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CWABS Master Trust Revolving Home
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Green Tree Servicing LLC*



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DISTRICT COURT

CLARK COUNTY, NEVADA

SATICOY BAY LLC SERIES 133
MCLAREN,

Plaintiff,

vs.

GREEN TREE SERVICING LLC; THE
BANK OF NEW YORK MELLON FKA
THE BANK OF NEW YORK, AS
SUCCESSOR TRUSTEE TO JPMORGAN
CHASE BANK, N.A., AS TRUSTEE FOR
THE CERTIFICATEHOLDERS OF CWABS
MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
SERVICING CORPORATION, CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
AND TARA J. WIGHT,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-14-693882-C

Dept. No.: XXX

**NOTICE OF ENTRY OF STIPULATION
AND ORDER FOR DISMISSAL OF
HILLPOINTE PARK MAINTENANCE
DISTRICT WITHOUT PREJUDICE**

///

///

///

///

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that a **STIPULATION AND ORDER FOR DISMISSAL OF**
3 **HILLPOINTE PARK MAINTENANCE DISTRICT WITHOUT PREJUDICE** has been entered
4 by this Court on the 1st day of February, 2019, in the above-captioned matter. A copy of said Order is
5 attached hereto as **Exhibit A.**

6 Dated: February 1, 2019

7 **AKERMAN LLP**

8
9 /s/ Jared M. Sechrist

10 MELANIE MORGAN, ESQ.

Nevada Bar No. 8215

11 JARED M. SECHRIST, ESQ.

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13 *Attorneys for The Bank of New York Mellon fka*
14 *The Bank of New York, as Successor Trustee to*
15 *JPMorgan Chase Bank, N.A., as Trustee for the*
16 *Certificateholders of CWABS Master Trust,*
17 *Revolving Home Equity Loan Asset Backed*
18 *Notes, Series 2004-T and Green Tree Servicing,*
19 *LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on February 1, 2019 and pursuant to NRCP 5, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER FOR DISMISSAL OF HILLPOINTE PARK MAINTENANCE DISTRICT WITHOUT PREJUDICE**, in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof & served through the Notice Of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.

Nevada Association Services, Inc. .

Chris Yergensen, Esq.	Chris@nas-inc.com
Brandon E. Wood	brandon@nas-inc.com
Susan E. Moses	susanm@nas-inc.com

Brooks Hubley LLP

Michael R. Brooks, Esq.	MBrooks@brookshubley.com
efile Brooks Hubley	efile@brookshubley.com
Jessica Perlick	jperlick@brookshubley.com
Nicole Lane	NLane@brookshubley.com

Boyack Orme & Anthony

Sherri Tyrrell	marcia@boyacklaw.com
Mike Van Luven	mike@boyacklaw.com

Tiffany & Bosco P.A.

Gregory L. Wilde	glw@tblaw.com
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HOA Lawyers Group, LLC

HOALG E-Serve	eserve@nrs116.com
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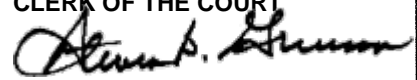
Law Office of Michael F. Bohn

Eserve Contact	office@bohnlawfirm.com
Michael F Bohn Esq.	mbohn@bohnlawfirm.com

/s/ Patricia Larsen

An employee of AKERMAN LLP

EXHIBIT A



SAO

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

JARED M. SECHRIST, ESQ.

Nevada Bar No. 10439

AKERMAN LLP

1635 Village Center Circle, Suite 200

Las Vegas, NV 89134

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Attorneys for The Bank of New York Mellon fka The Bank of New York, as successor Trustee to JPMorgan Chase Bank, N.A, as Trustee for the Certificateholders of CWABS Master Trust Revolving Home Equity Loan Asset Backed Notes, Series 2004-T and Green Tree Servicing, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

SATICOY BAY LLC SERIES 133
MCLAREN,

Plaintiff,

vs.

GREEN TREE SERVICING LLC; THE
BANK OF NEW YORK MELLON FKA
THE BANK OF NEW YORK, AS
SUCCESSOR TRUSTEE TO JPMORGAN
CHASE BANK, N.A., AS TRUSTEE FOR
THE CERTIFICATEHOLDERS OF CWABS
MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
SERVICING CORPORATION, CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
AND TARA J. WIGHT,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-14-693882-C

Dept. No.: XXX

**STIPULATION AND ORDER FOR
DISMISSAL OF HILLPOINTE PARK
MAINTENANCE DISTRICT WITHOUT
PREJUDICE**

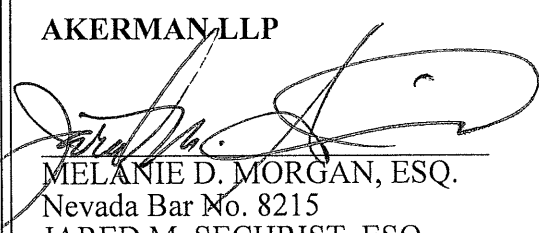
Defendant Green Tree Servicing, LLC now known as Ditech Financial LLC and cross-defendant Hillpointe Park Maintenance District (HOA) (collectively, the **Parties**), by and through their respective counsel, hereby stipulate and agree as follows:

1 Ditech filed its amended answer and counterclaim on June 25, 2015, asserting a crossclaim against
2 the HOA for declaratory relief.

3 The Parties have agreed that the HOA will be dismissed without prejudice from this litigation,
4 each party to bear its own costs and fees. The Parties also agree to a tolling of the statute of limitations
5 for any claims that the Parties have asserted with respect to the November 22, 2013 homeowners'
6 association foreclosure sale that is the subject of this litigation. Any such claims shall be brought by
7 Green Tree Servicing, LLC within 45 days of any final order from the appeal of this matter.

8
9 Dated this 28 day of January, 2019.

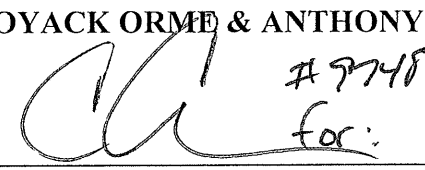
10 **AKERMAN LLP**

11 
12 MELANIE D. MORGAN, ESQ.
13 Nevada Bar No. 8215
14 JARED M. SECHRIST, ESQ.
15 Nevada Bar No. 10439
16 1635 Village Center Circle, Suite 200
17 Las Vegas, NV 89134

18 *Attorneys for The Bank of New York Mellon fka*
19 *The Bank of New York, as successor Trustee to*
20 *JPMorgan Chase Bank, N.A, as Trustee for the*
21 *Certificateholders of CWABS Master Trust*
22 *Revolving Home Equity Loan Asset Backed*
23 *Notes, Series 2004-T and Ditech Financial LLC*
24 *f/k/a Green Tree Servicing LLC*

Dated this 28 day of January, 2019.

10 **BOYACK ORME & ANTHONY**

11  #7748
12 for:
13 EDWARD D. BOYACK, ESQ.
14 Nevada Bar No. 005229
15 MICHAEL VAN LUVEN, ESQ.
16 Nevada Bar No. 13975
17 7432 W. Sahara Avenue, Suite 101
18 Las Vegas, Nevada 89117

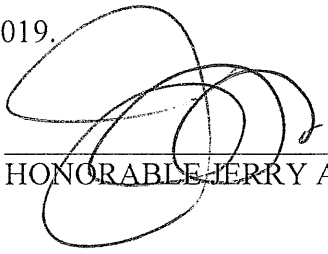
19 *Attorneys for Cross-Defendant Hillpointe Park*
20 *Maintenance District*

ORDER

IT IS HEREBY ORDERED that defendant Green Tree Servicing LLC's claims against Hillpointe Park Maintenance District are DISMISSED without prejudice, with each party to the above stipulation to bear its own attorneys' fees and costs.

IT IS FURTHER ORDERED that the statute of limitations for any claims that Green Tree Servicing LLC or Hillpointe Park Maintenance District has asserted with respect to the November 22, 2013 homeowners' association foreclosure sale that is the subject of this litigation shall be tolled as between the Parties. Any such claims shall be brought by Green Tree Servicing, LLC within 45 days of any final order from the appeal of this matter.

Dated this 28 day of January, 2019.


HONORABLE JERRY A. WIESE

Submitted by:

AKERMAN LLP


MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

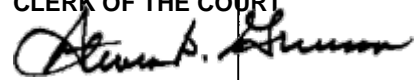
JARED M. SECHRIST, ESQ.

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1635 Village Center Circle, Suite 200

Las Vegas, NV 89134

*Attorneys for The Bank of New York Mellon
fka The Bank of New York, as successor
Trustee to JPMorgan Chase Bank, N.A, as
Trustee for the Certificateholders of
CWABS Master Trust Revolving Home
Equity Loan Asset Backed Notes, Series
2004-T and Ditech Financial LLC f/k/a
Green Tree Servicing LLC*



**DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-**

SATICOY BAY LLC SERIES 133)
MCLAREN,)
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Plaintiff,)
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vs.)
)
GREEN TREE SERVICING LLC; THE)
BANK OF NEW YORK MELLON FKA)
THE BANK OF NEW YORK, AS)
SUCCESSOR TRUSTEE TO JP)
MORGAN CHASE BANK, N.A., AS)
TRUSTEE FOR THE CERTIFICATE-)
HOLDERS OF CWABS MASTER)
TRUST, REVOLVING HOME EQUITY)
LOAN ASSET BACKED NOTES,)
SERIES 2004-T; NATIONAL DEFAULT)
SERVICING CORPORATION; CTC)
REAL ESTATE SERVICES; CHARLES)
J. WIGHT; AND TARA WIGHT,)
)
Defendants,)
)
AND RELATED CLAIMS)
)

CASE NO.: A-14-693882-C
DEPT NO.: XXX

JUDGMENT FOLLOWING
NON-JURY TRIAL

The above-referenced case came on for a Trial before Judge Jerry A. Wiese II, without a Jury, on January 28-29, 2018. The parties were represented by counsel, who presented evidence and argued their respective positions. The Court thereafter took the matter under advisement, and now issues the following Order/Judgment.

UNDERLYING FACTS

This case concerns title to the real property located at 133 McLaren Street, Henderson, Nevada, 89074, Parcel Number 178-16-215-068. On or about November 16, 2004, Charles and Tara Wight, obtained a loan from Countrywide Home Loans in the amount of \$220,000.00 to purchase the property.

Repayment of the above-referenced loan was secured by a Deed of Trust, recorded on November 23, 2004, as Instrument No.: 20041123-0002449, which

1 identified Countrywide Home Loans as the Lender, and MERS as beneficiary and
2 nominee for Lender and Lender's successors and assigns.

3 On May 28, 2013, MERS assigned the beneficial interest in the deed to Green
4 Tree Servicing LLC, and such assignment was recorded on May 28, 2013.

5 On January 14, 2011, NAS, as agent for Hillpoint (the HOA), recorded a Notice
6 of Delinquent Assessment Lien.

7 On September 9, NAS recorded a Notice of Default and Election to Sell.

8 On October 29, 2013, NAS recorded a Notice of Foreclosure Sale, setting the sale
9 for November 22, 2013.

10 On November 26, 2013, NAS recorded a foreclosure deed against the property,
11 stating that it had sold the HOA's interest to Plaintiff for \$10,200.00, on November 22,
12 2013.

13 On November 22, 2013, Green Tree was the servicer of the loan and the record
14 beneficiary of the Deed of Trust.

15 **ISSUES PRESENTED**

16 The issues for the Court to address consist primarily of the following:

- 17 • Did FNMA (Fannie Mae) have an interest in the subject property such that the
18 Federal Foreclosure Bar provision of the Housing and Economic Recovery Act
(HERA), prohibits nonconsensual foreclosure of assets held by the Federal
Housing Finance Agency (FHFA)?
- 19 • Did the homeowner make payments sufficient to satisfy the Chapter 116
20 Superpriority Lien, such that when the foreclosure sale occurred, the lender's
21 interests were preserved?
- 22 • Did the lender's alleged tender of the Superpriority Lien amount to the HOA
23 protect the lender's interests in the property?
- 24 • Was there a good faith rejection of the Superpriority Lien tender?

25 **LEGAL ANALYSIS**

- 26 • **Did FNMA (Fannie Mae) have an interest in the subject property such**
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28 **Economic Recovery Act (HERA), prohibits nonconsensual**
foreclosure of assets held by the Federal Housing Finance Agency
(FHFA)?

1 With regard to Fannie Mae's alleged interest in the loan, the Court acknowledges
2 that the following information is contained at the bottom of the Corporate Assignment
3 of Deed of Trust:

4 GTSAV 20225711 – FNMA MIN 100015700043943683 MERS PHONE 1-888-
5 679-6377 DOCR T1613055309 [C] EFRMNV1

6 (Exhibit 6, bate GTS (Wight)0050)

7 The lender argues that the above-referenced information evidences Fannie
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9 system, this is the only document that suggests anything about Fannie Mae, and it
10 clearly does not evidence that Fannie Mae has an interest in the loan.

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12 loan, and Green Tree/ Ditech, was only its "servicer." The lender's witnesses referred
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14 previously tried many of these cases, the Court has asked the lender's witnesses, and
15 specifically the Fannie Mae representatives, for documentary evidence of Fannie Mae's
16 interest.

17 The Deeds of Trust occasionally, but very rarely, indicate that Fannie Mae has an
18 interest in the loan. The Court does not require that Fannie Mae have a recorded
19 interest in order to establish an interest in the loan, but the Court notes that in this
20 case, Fannie Mae does not have a recorded interest. The evidence suggests that if
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22 servicer. Such a servicing contract was not introduced in evidence in this case. The
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27 servicer collects mortgage payments, retains a portion for its servicing charge, and
28 submits the rest to Fannie Mae. Such financial documents were not introduced in
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is the recorded beneficiary of the Deed of Trust, and as the servicer it has the right to
acquire and possess the original note (which is apparently endorsed in blank), what

1 prevents Green Tree/Ditech from selling or otherwise transferring all interest in that
2 loan to another entity. There is really no good answer because it appears that Green
3 Tree/Ditech would be able to accomplish just that. All of this evidence, or the lack of
4 any real evidence indicating Fannie Mae's interest in the loan, indicates that Fannie
5 Mae has failed in its burden to establish an interest in the loan, and consequently, the
6 Federal Foreclosure Bar would not apply, to prevent the foreclosure sale of the subject
7 property.

- 8 • **Did the homeowner make payments sufficient to satisfy the Chapter**
9 **116 Superpriority Lien, such that when the foreclosure sale occurred,**
10 **the lender's interests were preserved?**

11 Exhibit 30 was used in an attempt to establish that payments made by the
12 homeowner were made in an attempt to satisfy the superpriority portion of the HOA
13 lien. The HOA assessments were apparently \$92.25 quarterly, or \$30.75 per month.
14 Consequently, the superpriority amount of the lien (9 months of assessments) would be
15 \$276.75. Exhibit 30 was used to establish that the homeowner paid more than
16 \$276.75, which was transferred to the HOA, and arguably could have satisfied the
17 superpriority lien. Such an argument is consistent with the Nevada Supreme Court's
18 unpublished opinion in *Saticoy Bay LLC v. JP Morgan Chase Bank (Golden Hill)*, 408
19 P.3d 558 (Nev. 2017, unpublished), in which the Court held that the record contained
20 "undisputed evidence that the former homeowner made payments sufficient to satisfy
21 the superpriority component of the HOA's lien and that the HOA applied those
22 payments to the superpriority component of the former homeowner's outstanding
23 balance." *Id.* The Court further indicated that "at the time of the foreclosure sale, there
24 was no superpriority component of the HOA's lien that could have extinguished
25 respondent's deed of trust." *Id.* In a later case, however, *SFR Investments Pool 1, LLC*
26 *v. Wells Fargo Bank, N.A.*, 432 P.3d 172 (Nev. 2018, unpublished), the Supreme Court
27 indicated that "Assuming a homeowner can satisfy the default as to the superpriority
28 portion of an HOA's lien, the record does not establish that the HOA in this case
allocated or had an obligation to allocate the former homeowner's payments in that
manner." *Id.* Similarly, in the present case, there is insufficient evidence that the
homeowner intended such payments to be applied to the superpriority portion of the
HOA lien, or that the HOA allocated or had an obligation to allocate the payments in
that manner.

1 Consequently, the Court does not find that the homeowner's payments were
2 sufficient to satisfy the Chapter 116 Superpriority Lien, to preserve the lender's interest
3 in the property.

- 4 • **Did the lender's alleged tender of the Superpriority Lien amount to
5 the HOA protect the lender's interests in the property?**

6 On or about December 16, 2011, Bank of America, through its attorneys, Miles,
7 Bauer, tendered a check to the HOA, in the amount of \$276.75, to preserve its super-
8 priority interest in the property. Such amount represented nine months of delinquent
9 assessments recoverable by the HOA. The Miles, Bauer letter dated December 16, 2011,
10 contained the following language:

11 This is a non-negotiable amount and any endorsement of said cashier's check on
12 your part, whether express or implied, will be strictly construed as an
13 unconditional acceptance on your part of the facts stated herein and express
14 agreement that BANA's financial obligations toward the HOA in regards to the
15 real property located at 133 McLaren Street have now been "paid in full."

16 (See Exhibit 14, GTS (Wight) 0138-0139).

17 In *Bank of America, N.A. v. SFR Investments Pool 1, LLC, (Diamond Spur)*, 134
18 Nev. Adv.Op. 72, 427 P.3d 113 (2018), the Nevada Supreme Court cited the exact same
19 language from a Miles, Bauer letter, and concluded that it was a legal right that BANA
20 had a right to insist on, and it was not an improper condition. The Court indicated in
21 that case that when the first deed of trust holder tenders the superpriority amount due,
22 it results in the buyer at foreclosure "taking the property subject to the deed of trust."
23 *Id.*, at 116. This case has facts almost exactly the same as the *Diamond Spur* case.
24 Bank of Nevada tendered the superpriority amount, and it was rejected by the HOA.

25 Based on the Nevada Supreme Court's analysis in the *Diamond Spur* case, this
26 Court must conclude that the bank's tender in the present case, was sufficient to satisfy
27 the super-priority lien amount, and preserved the Bank's interest in the property, such
28 that the purchaser at the foreclosure sale, purchased the property subject to the deed of
trust.

- **Was there a good faith rejection of the Superpriority Lien tender?**

The purchaser argues that there was a good faith rejection of the bank's tender.
In the *Diamond Spur* case, SFR argued that even if the bank's tender was valid, the
HOA's good faith rejection, under a belief that the bank needed to tender the entire

1 amount of the lien, was a defense to the tender. The Nevada Supreme Court in
2 *Diamond Spur* addressed the “good-faith rejection” argument and rejected it. The
3 Court stated, “We therefore reject SFR’s claim that the HOA’s asserted ‘good faith’ in
4 rejecting Bank of America’s tender allowed the HOA to proceed with the sale, thereby
5 extinguishing Bank of America’s first deed of trust.” *Id.*, at 119. This Court finds no
6 “good-faith rejection of the tender, and concludes that the bank’s tender was sufficient
7 to preserve its interest in the property.

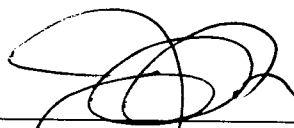
8 The Court finds no merit to the other various arguments asserted by the
9 purchaser, with regard to BFP status, the statute of frauds argument, the request for
10 other equitable relief, etc.

11 Based upon the foregoing, the testimony and evidence presented to the Court,
12 and other good cause appearing, the Court hereby concludes that Fannie Mae did not
13 present sufficient evidence to establish that it had an interest in the subject property,
14 and consequently, the Federal Foreclosure Bar did not prohibit the foreclosure of the
15 subject property in this case. The Court concludes that the homeowner’s payments to
16 the HOA did not satisfy the superpriority lien, as there was no evidence that the
17 homeowner intended, nor that the HOA was obligated to apply the payments from the
18 homeowner to the delinquent assessments. The Court does conclude that the lender’s
19 tender of the superpriority lien amount to the HOA protected the lender’s interest in
20 the property, and consequently, the purchaser purchased the property subject to the
21 Deed of Trust. Finally, the Court does not find that the rejection of the superpriority
22 tender to be in good faith, nor any of the other equitable arguments offered by the
23 purchaser, to be persuasive.

24 **JUDGMENT.**

25 Judgment is hereby entered in favor of the Defendants and against the Plaintiff,
26 insomuch as the Court finds that the purchaser took title to the property subject to the
27 Deed of Trust, and the lender’s interest in the property was preserved by the tender of
28 the superpriority lien amount.

DATED this 25th day of March, 2019.


JERRY A. WIESE II, DIST. CT. JUDGE
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT XXX

DISTRICT COURT
CLARK COUNTY, NEVADA
-oOo-

Steven D. Grierson

SATICOY BAY LLC SERIES 133)
MCLAREN,)
Plaintiff,)

vs.)

GREEN TREE SERVICING LLC; THE)
BANK OF NEW YORK MELLON FKA)
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SUCCESSOR TRUSTEE TO JP)
MORGAN CHASE BANK, N.A., AS)
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HOLDERS OF CWABS MASTER)
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LOAN ASSET BACKED NOTES,)
SERIES 2004-T; NATIONAL DEFAULT)
SERVICING CORPORATION; CTC)
REAL ESTATE SERVICES; CHARLES)
J. WIGHT; AND TARA WIGHT,)

Defendants,)

AND RELATED CLAIMS)

CASE NO.: A-14-693882-C
DEPT NO.: XXX

NOTICE OF ENTRY OF
ORDER:
JUDGMENT FOLLOWING
NON-JURY TRIAL

You are hereby notified that this Court entered **Judgment Following Non-Jury Trial**, a copy of which is attached hereto.

DATED this 25th day of March 2019.

Jerry A. Wiese

JERRY A WIESE

DISTRICT COURT JUDGE

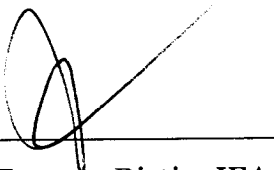
<input type="checkbox"/> Non-Jury <input checked="" type="checkbox"/> Disposed After Trial Start <input checked="" type="checkbox"/> Non-Jury Judgment Reached <input type="checkbox"/> Transferred before Trial	<input type="checkbox"/> Jury <input type="checkbox"/> Disposed After Trial Start <input type="checkbox"/> Jury Verdict Reached <input type="checkbox"/> Other - _____
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CERTIFICATE OF SERVICE

I hereby certify that on the date filed, a copy of this Order was electronically served through the Eighth Judicial District Court EFP system, or, if no e-mail was provided, mailed or placed in the Clerk's Office attorney folder for:

"Ariel E. Stern, Esq." . ariel.stern@akerman.com
"Chris Yergensen, Esq." . Chris@nas-inc.com
"Michael R. Brooks, Esq." . MBrooks@brookshubley.com
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Brandon E. Wood . brandon@nas-inc.com
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Michael F Bohn Esq . mbohn@bohnlawfirm.com
Nicole Lane . NLane@brookshubley.com
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Jared Sechrist . jared.sechrist@akerman.com
Sherri Tyrrellmarcia@boyacklaw.com
Mike Van Luven . mike@boyacklaw.com


Tatyana Ristic, JEA

DISTRICT COURT
CLARK COUNTY, NEVADA

-oOo-

Steven D. Grierson

SATICOY BAY LLC SERIES 133)
MCLAREN,)

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vs.)

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J. WIGHT; AND TARA WIGHT,)

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16 The issues for the Court to address consist primarily of the following:

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25 **LEGAL ANALYSIS**

- 26 • **Did FNMA (Fannie Mae) have an interest in the subject property such**
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2 that the following information is contained at the bottom of the Corporate Assignment
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5 679-6377 DOCR T1613055309 [C] EFRMNV1

6 (Exhibit 6, bate GTS (Wight)0050)

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9 **116 Superpriority Lien, such that when the foreclosure sale occurred,**
10 **the lender's interests were preserved?**

11 Exhibit 30 was used in an attempt to establish that payments made by the
12 homeowner were made in an attempt to satisfy the superpriority portion of the HOA
13 lien. The HOA assessments were apparently \$92.25 quarterly, or \$30.75 per month.
14 Consequently, the superpriority amount of the lien (9 months of assessments) would be
15 \$276.75. Exhibit 30 was used to establish that the homeowner paid more than
16 \$276.75, which was transferred to the HOA, and arguably could have satisfied the
17 superpriority lien. Such an argument is consistent with the Nevada Supreme Court's
18 unpublished opinion in *Saticoy Bay LLC v. JP Morgan Chase Bank (Golden Hill)*, 408
19 P.3d 558 (Nev. 2017, unpublished), in which the Court held that the record contained
20 "undisputed evidence that the former homeowner made payments sufficient to satisfy
21 the superpriority component of the HOA's lien and that the HOA applied those
22 payments to the superpriority component of the former homeowner's outstanding
23 balance." *Id.* The Court further indicated that "at the time of the foreclosure sale, there
24 was no superpriority component of the HOA's lien that could have extinguished
25 respondent's deed of trust." *Id.* In a later case, however, *SFR Investments Pool 1, LLC*
26 *v. Wells Fargo Bank, N.A.*, 432 P.3d 172 (Nev. 2018, unpublished), the Supreme Court
27 indicated that "Assuming a homeowner can satisfy the default as to the superpriority
28 portion of an HOA's lien, the record does not establish that the HOA in this case
allocated or had an obligation to allocate the former homeowner's payments in that
manner." *Id.* Similarly, in the present case, there is insufficient evidence that the
homeowner intended such payments to be applied to the superpriority portion of the
HOA lien, or that the HOA allocated or had an obligation to allocate the payments in
that manner.

1 Consequently, the Court does not find that the homeowner's payments were
2 sufficient to satisfy the Chapter 116 Superpriority Lien, to preserve the lender's interest
3 in the property.

- 4 • **Did the lender's alleged tender of the Superpriority Lien amount to
5 the HOA protect the lender's interests in the property?**

6 On or about December 16, 2011, Bank of America, through its attorneys, Miles,
7 Bauer, tendered a check to the HOA, in the amount of \$276.75, to preserve its super-
8 priority interest in the property. Such amount represented nine months of delinquent
9 assessments recoverable by the HOA. The Miles, Bauer letter dated December 16, 2011,
10 contained the following language:

11 This is a non-negotiable amount and any endorsement of said cashier's check on
12 your part, whether express or implied, will be strictly construed as an
13 unconditional acceptance on your part of the facts stated herein and express
14 agreement that BANA's financial obligations toward the HOA in regards to the
15 real property located at 133 McLaren Street have now been "paid in full."

16 (See Exhibit 14, GTS (Wight) 0138-0139).

17 In *Bank of America, N.A. v. SFR Investments Pool 1, LLC, (Diamond Spur)*, 134
18 Nev. Adv.Op. 72, 427 P.3d 113 (2018), the Nevada Supreme Court cited the exact same
19 language from a Miles, Bauer letter, and concluded that it was a legal right that BANA
20 had a right to insist on, and it was not an improper condition. The Court indicated in
21 that case that when the first deed of trust holder tenders the superpriority amount due,
22 it results in the buyer at foreclosure "taking the property subject to the deed of trust."
23 *Id.*, at 116. This case has facts almost exactly the same as the *Diamond Spur* case.

24 Bank of Nevada tendered the superpriority amount, and it was rejected by the HOA.

25 Based on the Nevada Supreme Court's analysis in the *Diamond Spur* case, this
26 Court must conclude that the bank's tender in the present case, was sufficient to satisfy
27 the super-priority lien amount, and preserved the Bank's interest in the property, such
28 that the purchaser at the foreclosure sale, purchased the property subject to the deed of
trust.

- **Was there a good faith rejection of the Superpriority Lien tender?**

 The purchaser argues that there was a good faith rejection of the bank's tender.
In the *Diamond Spur* case, SFR argued that even if the bank's tender was valid, the
HOA's good faith rejection, under a belief that the bank needed to tender the entire

1 amount of the lien, was a defense to the tender. The Nevada Supreme Court in
2 *Diamond Spur* addressed the “good-faith rejection” argument and rejected it. The
3 Court stated, “We therefore reject SFR’s claim that the HOA’s asserted ‘good faith’ in
4 rejecting Bank of America’s tender allowed the HOA to proceed with the sale, thereby
5 extinguishing Bank of America’s first deed of trust.” *Id.*, at 119. This Court finds no
6 “good-faith rejection of the tender, and concludes that the bank’s tender was sufficient
7 to preserve its interest in the property.

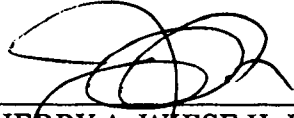
8 The Court finds no merit to the other various arguments asserted by the
9 purchaser, with regard to BFP status, the statute of frauds argument, the request for
10 other equitable relief, etc.

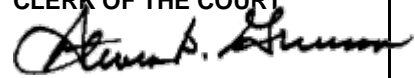
11 Based upon the foregoing, the testimony and evidence presented to the Court,
12 and other good cause appearing, the Court hereby concludes that Fannie Mae did not
13 present sufficient evidence to establish that it had an interest in the subject property,
14 and consequently, the Federal Foreclosure Bar did not prohibit the foreclosure of the
15 subject property in this case. The Court concludes that the homeowner’s payments to
16 the HOA did not satisfy the superpriority lien, as there was no evidence that the
17 homeowner intended, nor that the HOA was obligated to apply the payments from the
18 homeowner to the delinquent assessments. The Court does conclude that the lender’s
19 tender of the superpriority lien amount to the HOA protected the lender’s interest in
20 the property, and consequently, the purchaser purchased the property subject to the
21 Deed of Trust. Finally, the Court does not find that the rejection of the superpriority
22 tender to be in good faith, nor any of the other equitable arguments offered by the
23 purchaser, to be persuasive.

24 **JUDGMENT.**

25 Judgment is hereby entered in favor of the Defendants and against the Plaintiff,
26 insomuch as the Court finds that the purchaser took title to the property subject to the
27 Deed of Trust, and the lender’s interest in the property was preserved by the tender of
28 the superpriority lien amount.

DATED this 25th day of March, 2019.


JERRY A. WIESE II, DIST. CT. JUDGE
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT XXX



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Attorney for plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

SATICOY BAY LLC SERIES 133
MCLAREN,

Plaintiff,

vs.

GREEN TREE SERVICING LLC; THE
BANK OF NEW YORK MELLON FKA THE
BANK OF NEW YORK, AS SUCCESSOR
TRUSTEE TO JPMORGAN CHASE BANK,
N.A., AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWABS
MASTER TRUST, REVOLVING HOME
EQUITY LOAN ASSET BACKED NOTES,
SERIES 2004-T; NATIONAL DEFAULT
SERVICING CORPORATION; CTC REAL
ESTATE SERVICES; CHARLES J. WIGHT;
AND TARA J. WIGHT,

Defendants

AND RELATED CLAIMS

CASE NO.: A-14-693882-C
DEPT NO.: XXX

NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Please take notice the plaintiff, Saticoy Bay LLC Series 133 McLaren, hereby voluntarily dismisses
CHARLES J. WIGHT; and TARA J. WIGHT without prejudice, pursuant to NRCP 41 (a)(1)(I) which
provides:

1 Subject to the provisions of Rule 23(e), of Rule 66, and of any statute, an action may be
2 dismissed by the plaintiff upon repayment of defendants' filing fees, without order of
3 court (i) by filing a notice of dismissal at any time before service by the adverse party
4 of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by
5 filing a stipulation of dismissal signed by all parties who have appeared in the action.
6 Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without
7 prejudice, except that a notice of dismissal operates as an adjudication upon the merits
8 when filed by a plaintiff who has once dismissed in any court of the United States or of
9 any state an action based 6 on or including the same claim.

10 CHARLES J. WIGHT; and TARA J. WIGHT have not served an answer or a motion for
11 summary judgment. CHARLES J. WIGHT; and TARA J. WIGHT's filing fees, if any, will be paid
12 concurrently with service of this notice.

13 Dated this 22nd day of April, 2019.

14 LAW OFFICES OF
15 MICHAEL F. BOHN, ESQ., LTD.

16 By: /s/ Michael F. Bohn, Esq. /
17 Michael F. Bohn, Esq.
18 2260 Corporate Circle, Ste. 480
19 Henderson, Nevada 89074
20 Attorney for plaintiff
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27

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of LAW
3 OFFICES OF MICHAEL F. BOHN., ESQ., and on the 22nd day of August, 2018, an electronic copy of
4 the **NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE** was served on opposing
5 counsel via the Court's electronic service system to the following counsel of record:

6 Darren T. Brenner, Esq.
7 Jared M. Sechrist, Esq.
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12 and Green Tree Servicing, LLC

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Attorney for Nevada Association Services, Inc.

14 /s/ /Marc Sameroff/
15 An Employee of the LAW OFFICES OF
16 MICHAEL F. BOHN, ESQ., LTD.
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