

## IN THE SUPREME COURT OF THE STATE OF NEVADA

NATIONSTAR MORTGAGE LLC,

Appellant,

vs.

WEST SUNSET 2050 TRUST,

Respondent.

**Supreme Court No. 79271**

District Court Case No. A-19-01325-C  
Electronically Filed  
Aug 15 2019 02:22 p.m.

Elizabeth A. Brown  
Clerk of Supreme Court  
**DOCKETING STATEMENT  
CIVIL APPEALS**

### GENERAL INFORMATION

Appellant must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

### WARNING

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

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

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

1. Judicial District Eighth Department XI  
County Clark Judge Hon. Elizabeth Gonzalez  
District Ct. Case No. A-13-691323-C

**2. Attorney filing this docketing statement:**

Attorney Melanie D. Morgan, Esq. Telephone 702-634-5000

Firm Akerman LLP

Address

1635 Village Center Circle  
Suite 200  
Las Vegas, NV 89134

Client(s) Appellant Nationstar Mortgage LLC

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 Luis A. Ayon Telephone: 702-600-3200

Firm Ayon Law PLLC

Address 8716 Spanish Ridge Avenue, Suite 115, Las Vegas, Nevada 89148

Client(s) Respondent West Sunset 2050 Trust

(List additional counsel on separate sheet if necessary)

**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:

*West Sunset 2050 Trust v. Nationstar Mortgage LLC*, Case No. 70754 – Reversed and remanded on June 28, 2018. (Appeal from February 8, 2016 order granting Nationstar Mortgage LLC’s countermotion for summary judgment and denying West Sunset 2050 Trust’s motion for summary judgment.)

**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:

Other than the underlying trial court action there are no other case or proceedings presently or previously pending related to this appeal.

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

Respondent alleges it owns the property located at 7255 West Sunset Road, Unit 2050, Las Vegas, Nevada 89113, Assessor Parcel No. 176-03-510-102 free and clear of all liens as a result of an HOA foreclosure sale. Respondent filed a complaint for quiet title to have the court declare that respondent took title to the property free and clear of the deed of trust. The district court granted final judgment in favor of respondent after a bench trial before the Honorable Elizabeth Gonzalez. Appellant now appeals the court's Finding of Facts, Conclusions of Law and Judgment.

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

1. Whether the deed of trust remained as an encumbrance to title following the recordation of an unauthorized and fraudulent deed on lieu.
2. Whether the HOA's superpriority lien was satisfied by First 100's payment of an amount equal to the superpriority portion of the HOA's lien when the HOA applied the payment to the homeowner's account and wrote off any remaining amounts due.
3. Whether the district court erred in excluding supplemental evidence, disclosed post-discovery, of Freddie Mac's ownership of the loan at issue.
4. Whether the district court erred in excluding the issue of Freddie Mac's ownership at trial.

**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:

This case is similar to many others pending before the Nevada Supreme Court in that it raises several issues regarding the application of NRS 116.3116 (as it existed before amended by the Nevada legislature in 2015) and, specifically, the effect of presale satisfaction of the superpriority portion of the HOA's lien upon a deed of trust.



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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain:

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter should be retained by the Supreme Court pursuant to NRAP 17(a)(11), as it presents an issue of statewide importance. Further, NRAP 17(b)(6) indirectly supports the Supreme Court retaining jurisdiction because this case centers on a dispute over property with an estimated value in excess of \$75,000.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? 3 days

Was it a bench or jury trial? Bench Trial

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

No.

### **TIMELINESS OF NOTICE OF APPEAL**

**16. Date of entry of written judgment or order appealed from** July 16, 2019  
If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

N/A

**17. Date written notice of entry of judgment or order was served** July 17, 2019  
Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

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

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served  
Was service by: \_\_\_\_\_

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** July 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:

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

NRAP 4(a)(1)

### **SUBSTANTIVE APPEALABILITY**

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

(a)

☒ NRAP 3A(b)(1) ☐ NRS 38.205

☐ NRAP 3A(b)(2) ☐ NRS 233B.150

☐ NRAP 3A(b)(3) ☐ NRS 703.376

☐ Other (specify) \_\_\_\_\_

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

The district court's July 16, 2019 Findings of Facts, Conclusions of Law and Judgment in favor of respondent West Sunset 2050 Trust is the final judgment in the action between the remaining parties.

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

(a) Parties:

1. Appellant Nationstar Mortgage LLC
2. Respondent West Sunset 2050 Trust
3. New Freedom Mortgage Corporation
4. Bank of America, N.A.
5. Cooper Castle Law Firm, LLP
6. Stephanie Tablante

(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:

An order entered on February 3, 2014 granted Cooper Castle Law Firm, LLP's motion to dismiss, dismissing respondent's claims against Cooper Castle Law Firm, LLP only. A stipulation and order entered on June 30, 2017 dismissed respondent's claims against Bank of America, N.A. Appellant voluntarily dismissed its claims against Stephanie Tablante on July 15, 2019. Respondent voluntarily dismissed its claims against New Freedom Mortgage Corporation and Stephanie Tablante on July 17, 2019.

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

Respondent alleged claims against Appellant, New Freedom Mortgage Corporation, Bank of America, N.A., Cooper Castle Law Firm, LLP and Stephanie Tablante for quiet title and declaratory relief asking the court to quiet title in its name and to declare it as the rightful owner of the property free and clear of any and all liens. Appellant alleged claims against respondent and Stephanie Tablante for quiet title and declaratory relief asking the court to quiet title in Stephanie Tablante's name subject to Appellant's deed of trust and voiding the HOA's foreclosure sale. All claims between appellant and respondent were decided in the July 16, 2019 order. Claims against all other parties were disposed of as set forth in response to number 23, above.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(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

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

**27. Attach file-stamped copies of the following documents:**

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

## VERIFICATION

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

Nationstar Mortgage LLC  
Name of Appellant

Melanie D. Morgan, Esq.  
Name of counsel of record

August 15, 2019  
Date

/s/ Melanie D. Morgan  
Signature of Counsel of Record

Clark County, Nevada  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 15th day of August, 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.)

Luis A. Ayon, Esq.  
Ayon Law, PLLC  
8716 Spanish Ridge Avenue, Suite 115,  
Las Vegas, Nevada 89148

Dated this 15 day of August, 2019

/s/ Erin Surguy  
Signature

## CIVIL COVER SHEET

Clark County, Nevada

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)

A- 13 - 691323 - C

XXI

**I. Party Information**

Plaintiff(s) (name/address/phone): WEST SUNSET 2050 TRUST, a Nevada Trust

Attorney (name/address/phone):

Luis A. Ayon, Esq., Margaret E. Schmidt, Esq., Maier Gutierrez Ayon, 2500 W. Sahara Avenue, Suite 106, Las Vegas, NV 89102 (702) 629-7900

Defendant(s) (name/address/phone): NEW FREEDOM MORTGAGE CORPORATION, a Foreign Corporation; BANK OF AMERICA, N.A., a National Association; NATIONSTAR MORTGAGE LLC, a Foreign Limited Liability Company, COOPER CASTLE LAW FIRM, LLP, a Nevada Limited Liability Partnership STEPHANIE TABLANTE, an individual, DOES I through X; and ROE CORPORATIONS I through X, inclusive

Attorney (name/address/phone):

**II. Nature of Controversy** (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input checked="" type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> <b>Negligence</b> <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (Wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> <b>Summary Administration</b> <input type="checkbox"/> <b>General Administration</b> <input type="checkbox"/> <b>Special Administration</b> <input type="checkbox"/> <b>Set Aside Estates</b> <input type="checkbox"/> <b>Trust/Conservatorships</b> <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> <b>Other Probate</b>	<input type="checkbox"/> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> <b>Breach of Contract</b> <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 <input type="checkbox"/> <b>Civil Petition for Judicial Review</b> <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	<input type="checkbox"/> <b>Appeal from Lower Court</b> (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> <b>Civil Writ</b> <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> <b>Other Civil Filing</b> <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

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

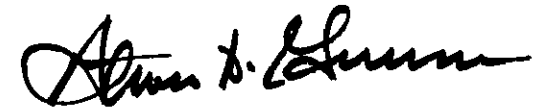
- |   |  |   |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88   | <input type="checkbox"/> Investments (NRS 104 Art. 8)        | <input checked="" type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices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

November 6, 2013

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

**COMP**  
LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
**MAIER GUTIERREZ AYON**  
2500 West Sahara Avenue, Suite 106  
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[mes@mgalaw.com](mailto:mes@mgalaw.com)

*Attorneys for West Sunset 2050 Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust

Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: **A- 13 - 691323 - C**

Dept. No.: **XXI**

**COMPLAINT**

**Arbitration Exemptions:**

- 1. Action for Declaratory Relief**
- 2. Action Concerning Real Property**

Plaintiff WEST SUNSET 2050 TRUST ("Plaintiff" or the "Trust"), by and through its attorneys of record, the law firm MAIER GUTIERREZ AYON, PLLC, hereby demands quiet title against the above named defendants, defendants DOES I through X, and ROE CORPORATIONS I through X (collectively, "Defendants"), as follows:

**GENERAL ALLEGATIONS**

1. This lawsuit involves real property located at 7255 W. Sunset Road, Unit 2050, Las Vegas, Nevada 89113, and bearing Assessor's Parcel Number 176-03-510-102 (the "Property").



2. Plaintiff WEST SUNSET 2050 TRUST ("Plaintiff" or the "Trust") is, and at all times pertinent hereto was, a resident of the State of Nevada.

3. Plaintiff is the present record owner of the Property.

4. The Property is subject to a set of CC&Rs recorded by the Tuscano Homeowners Association ("Tuscano HOA").

5. Plaintiff acquired the Property on or about June 22, 2013, by successfully bidding on the Property at a publicly held foreclosure action in accordance with NRS 116.3116, *et seq.*

6. The foreclosure sale was conducted pursuant to NRS 116.3116, *et seq.*, and all requirements of law regarding the mailing of the copies of the Notice of Default and Election to Sell, and the mailing, posting, and publication of the Notice of Foreclosure Sale have been complied with.

7. Pursuant to NRS 116.3116(2), the entire HOA lien is prior to all other liens and encumbrances of unit except:

1. Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to;
2. A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and
3. Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

8. NRS 116.3116(2) further provides that a portion of the HOA Lien has priority over even a first security interest in the Property.

9. On June 24, 2013, the foreclosure deed was recorded in the Official Records of the Clark County Recorder as Instrument No. 201306240003127 (the "Deed").

10. Since purchasing the Property, Plaintiff has expended significant additional funds and resources in relation to the Property.

11. Upon information and belief, on or about December 7, 2005, Defendant Stephanie Tablante, obtained a mortgage from Defendant New Freedom Mortgage Corporation ("New Freedom Mortgage") for the purchase of the Property.

1           12.     Upon information and belief, Defendant New Freedom Mortgage is foreign  
2 corporation. However, Defendant New Freedom Mortgage is not registered with the Nevada  
3 Secretary of State as a corporation authorized to do business in the State of Nevada.

4           13.     Defendant New Freedom Mortgage recorded a deed of trust with the Clark County  
5 Recorder's office as Instrument No. 200512070002367 on or about December 7, 2005 ("New  
6 Freedom DOT"). Defendant Stephanie Tablante was the borrower under the mortgage and  
7 executed the New Freedom DOT as security for the mortgage.

8           14.     On or about March 3, 2011, Defendant Stephanie Tablante transferred her interest  
9 in the Property to Defendant New Freedom Mortgage via a Deed in Lieu of Foreclosure.  
10 Defendant New Freedom Mortgage recorded the Deed in Lieu of Foreclosure with the Clark  
11 County Recorder's office as Instrument Number 20113030003444.

12           15.     On or about June 21, 2011, the Deed in Lieu of Foreclosure was rerecorded with the  
13 Clark County Recorder's office as Instrument Number 201106210002567.

14           16.     After Defendant Stephanie Tablante signed her interest in the Property over to  
15 Defendant New Freedom Mortgage, Defendant New Freedom Mortgage became the owner of the  
16 Property and was responsible for all the maintenance associated with the Property, including the  
17 homeowner assessments.

18           17.     On or about July 29, 2011, Mortgage Electronic Registration Systems, Inc.  
19 ("MERS") recorded an assignment of deed of trust against the Property with the Clark County  
20 Recorder's office as Instrument Number 201107290000895 ("MERS Assignment").

21           18.     The MERS Assignment purportedly assigned Defendant New Freedom Mortgage's  
22 interest in the New Freedom Mortgage DOT to BAC Home Loans Servicing, LP FKA  
23 Countrywide Home Loan Servicing LP ("BAC Home Loans").

24           19.     Is it unclear why the MERS Assignment occurred because the New Freedom  
25 Mortgage DOT was extinguished after ownership of the Property was transferred to Defendant  
26 New Freedom Mortgage.

27           20.     On or about March 20, 2013, Defendant Bank of America, N.A. ("BANA")  
28 recorded an assignment ("Nationstar Assignment") that purported to transfer BANA's interest to

1 Defendant Nationstar Mortgage LLC (“Nationstar”). The Nationstar Assignment was recorded  
2 with the Clark County Recorder’s office as Instrument Number 201303200000887.

3 21. Defendant New Freedom Mortgage was the owner of the Property at the time the  
4 Nationstar Assignment was made

5 22. On or about September 18, 2013, Defendant Cooper Castle Law Firm, LLP  
6 (“Cooper Castle”), as Trustee under the New Freedom DOT, recorded a Notice of Breach and  
7 Default (“NOD”) against the Property. The NOD was recorded with the Clark County Recorder’s  
8 office as Instrument Number 201309180002103.

9 23. As previously stated, the New Freedom DOT was extinguished after Defendant  
10 Stephanie Tablante transferred her interest in the Property to Defendant New Freedom Mortgage.

11 24. Upon information and belief, each of the defendants sued herein as DOES I through  
12 X, inclusive, are responsible in some manner for the events and happenings herein referred to,  
13 which thereby proximately caused the injuries and damages to plaintiff as alleged herein; that  
14 when the true names and capacities of such defendants become known, plaintiff will ask leave of  
15 this Court to amend this complaint to insert the true names, identities and capacities together with  
16 proper charges and allegations.

17 25. Upon information and belief, each of the defendants sued herein as ROE  
18 CORPORATIONS I thought X, inclusive, are responsible in same manner for the events and  
19 happenings herein referred to, which thereby proximately caused the injuries and damages to  
20 plaintiff as alleged herein; that when the true names and capacities of such defendants become  
21 known, plaintiff will ask leave of this Court to amend this complaint to insert the true names,  
22 identities and capacities together with proper charges and allegations.

23 **FIRST CLAIM FOR RELIEF**

24 **(Declaratory Relief/Quiet Title Pursuant to NRS 30.010 and 116.3116, et seq.**

25 **against all Defendants)**

26 26. Plaintiff repeats and realleges the allegations of the preceding paragraphs of the  
27 complaint as though fully set forth herein and incorporate the same herein by reference.

28 27. This Court has the power and authority to declare the Plaintiff’s rights and interests

1 in the Property, and the resolution of Defendants' adverse claims, if any, to it.

2 28. Plaintiff acquired the Property via a NRS 116 foreclosure sale on or about June 22,  
3 2013. Thereafter, Plaintiff properly recorded the Deed on June 24, 2013.

4 29. Defendant New Freedom Mortgage, as the owner of the Property, was required to  
5 maintain the HOA assessments.

6 30. Defendants were duly notified of the HOA foreclosure sale and failed to act to  
7 protect their interests. Defendants have sat on their rights and effectively have abandoned their  
8 security interests, if any ever legitimately existed.

9 31. Furthermore, an NRS 116 foreclosure sale, like all foreclosure sales, extinguishes  
10 junior security interests. Pursuant to NRS 116.3116, a Homeowners Association ("HOA") lien is  
11 superior in priority to all mortgage encumbrances. Therefore, an NRS 116 foreclosure sale  
12 extinguishes all mortgage encumbrances, if any remained in place.

13 32. Defendants are unable to satisfy the stringent requirements of Nevada Assembly  
14 Bill No. 284, as codified, and effectively have abandoned their security interests.

15 33. Plaintiff is entitled to a declaratory judgment from this Court finding that: (1)  
16 Plaintiff is the owner of the Property; (2) Plaintiff's Deed is valid and enforceable; and (3)  
17 Plaintiff's rights to the Property and interest in the Property are superior to any adverse interest  
18 claimed by Defendants and are therefore extinguished.

19 34. Plaintiff seeks an order from the Court quieting title to the Property in favor of  
20 Plaintiff and extinguishing any interest Defendants may have therein.

21 **SECOND CLAIM FOR RELIEF**

22 **(Preliminary and Permanent Injunction against Defendants Cooper Castle and Nationstar)**

23 35. Plaintiff repeats and realleges the allegations of the preceding paragraphs of the  
24 complaint as though fully set forth herein and incorporate the same herein by reference.

25 36. Defendants may claim an interest in the Property by way of a competing deed of  
26 trust or other interest that was extinguished by the HOA foreclosure sale or otherwise abandoned.

27 37. As such, Defendants may improperly attempt to foreclose upon the Property and  
28 sell it at a trustee's sale.

38. Such a trustee's sale would be invalid as Defendants have lost or otherwise abandoned their interests in the Property.

39. On the basis of the facts described herein, Plaintiff has a reasonable probability of success on the merits of its claims.

40. Plaintiff is entitled to a preliminary and permanent injunction prohibiting Defendants, each of them, from initiating any foreclosure proceedings that would affect the title to the Property.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff WEST SUNSET 2050 TRUST, prays for judgment against Defendants, and each of them, as follows:

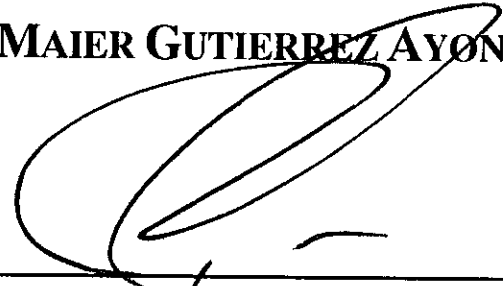
1. For a declaration and determination that Plaintiff is the rightful holder of title to the Property and that Defendants, and each of them, be declared to have no right, title or interest in the Property;

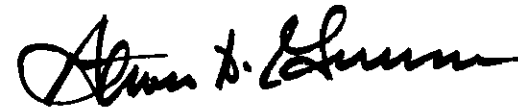
2. For a preliminary and permanent injunction that Defendants, and each of them, are prohibited from initiating foreclosure proceedings on the Property; and

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

DATED this 6<sup>th</sup> day of November, 2013.

**MAIER GUTIERREZ AYON**

  
\_\_\_\_\_  
LUIS AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
2500 W. Sahara Ave, Suite 106  
Las Vegas, Nevada 89102  
*Attorneys for Plaintiff West Sunset 2050 Trust*



CLERK OF THE COURT

1 **ORDR**

2 Jason M. Peck, Esq.  
3 Nevada Bar No.: 10183  
4 THE COOPER CASTLE LAW FIRM, LLP  
5 A Multi-Jurisdictional Law Firm  
6 5275 South Durango Drive,  
7 Las Vegas, Nevada 89113  
8 (702) 435-4175 Telephone  
9 (702) 877-7424 Facsimile  
10 E-Mail: [japeck@ccfirm.com](mailto:japeck@ccfirm.com)  
11 Attorney for The Cooper Castle Law Firm, LLP

12 **EIGHTH JUDICIAL DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 WEST SUNSET 2050 TRUST, a Nevada Trust,

15 Plaintiff,

16 vs.

17 NEW FREEDOM MORTGAGE  
18 CORPORATION, a Foreign Corporation;  
19 BANK OF AMERICA, N.A., a National  
20 Association; NATIONSTAR MORTGAGE  
21 LLC, a Foreign Limited Liability Company,  
22 COOPER CASTLE LAW FIRM, LLP, a Nevada  
23 Limited Liability Partnership; STEPHANIE  
24 TABLANTE, an individual, DOES I through X;  
25 and ROE CORPOARTIONS I THROUGH x,  
26 INCLUSIVE,

27 Defendants.

Case No: A-13-691323-C

Dept. No. XXI

28 **ORDER GRANTING DISMISSAL OF**  
**THE COOPER CASTLE LAW FIRM, LLP**

Defendant The Cooper Castle Law Firm, LLP ("CCLF")'s Motion to Dismiss, having come on for hearing in Department XXI of the Eighth Judicial District Court, Clark County, Nevada; and Defendant CCLF being represented by Jason M. Peck, Esq., and Defendant Bank of America, N.A. being represented by J. Christopher Jorgensen, Esq., and Plaintiff being represented by Margaret E. Schmidt, Esq., and after review and consideration of the points and authorities on file, and the argument of counsel, and good cause therefore;

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**IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss is GRANTED.


Accordingly, all claims against The Cooper Castle Law Firm, LLP are dismissed.

**IT IS FURTHER ORDERED** that The Cooper Castle Law Firm, LLP, as trustee under the deed of trust affecting the real property located at 7255 West Sunset Road, Unit #2050, Las Vegas, Nevada 89113, is to comply with any preliminary injunction orders that may be entered in this matter with respect to the foreclosure of said property.


DATED this 29 day of January, 2014.

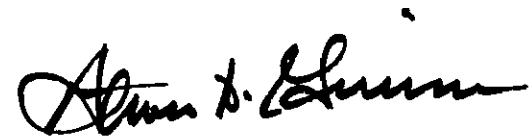
  
DISTRICT COURT JUDGE *sd*

Submitted by:  
  
THE COOPER CASTLE LAW FIRM, LLP

  
Jason M. Peck, Esq.  
Nevada Bar No.: 10183  
5275 South Durango Drive,  
Las Vegas, Nevada 89113  
*Attorney for The Cooper Castle  
Law Firm, LLP*

Approved as to form and content by:  
  
MAIER GUTIERREZ AYON

  
Luis A. Ayon, Esq.  
Nevada Bar No.: 9752  
Margaret E. Schmidt, Esq.  
Nevada Bar No.: 12489  
2500 West Sahara Avenue, Ste 106  
Las Vegas, Nevada 89102  
*Attorney for Plaintiff*



CLERK OF THE COURT

**NOTC**

Jason Peck, Esq.  
Nevada Bar No.: 10183  
THE COOPER CASTLE LAW FIRM, LLP  
A Multi-Jurisdictional Law Firm  
5275 South Durango Drive,  
Las Vegas, Nevada 89113  
(702) 435-4175 Telephone  
(702) 877-7424 Facsimile  
E-Mail: [japeck@ccfirm.com](mailto:japeck@ccfirm.com)  
*Attorney for The Cooper Castle Law Firm, LLP*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,

Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual, DOES I through X;  
and ROE CORPOARTIONS I THROUGH x,  
INCLUSIVE,

Defendants.

Case No: A-13-691323-C

Dept. No. XXI

**NOTICE OF ENTRY OF ORDER**



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DATED this 4<sup>th</sup> day of February, 2014.

*/s/ Jason Peck, Esq.*

---

Jason Peck, Esq.  
Nevada Bar No.: 10183  
5275 South Durango Drive,  
Las Vegas, Nevada 89113  
(702) 435-4175 Telephone  
(702) 877-7424 Facsimile  
*Attorney for The Cooper Castle Law Firm, LLP*

I hereby certify that on the 4<sup>th</sup> day of February, 2014, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** via US Mail, in a sealed envelope, postage fully prepaid, to the following party:

*/s/ Jennifer Shumway*  
An Employee of  
THE COOPER CASTLE LAW FIRM, LLP



CLERK OF THE COURT

1 **ORDR**

2 Jason M. Peck, Esq.  
3 Nevada Bar No.: 10183  
4 THE COOPER CASTLE LAW FIRM, LLP  
5 A Multi-Jurisdictional Law Firm  
6 5275 South Durango Drive,  
7 Las Vegas, Nevada 89113  
8 (702) 435-4175 Telephone  
9 (702) 877-7424 Facsimile  
10 E-Mail: [japeck@ccfirm.com](mailto:japeck@ccfirm.com)  
11 Attorney for The Cooper Castle Law Firm, LLP

12 **EIGHTH JUDICIAL DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 WEST SUNSET 2050 TRUST, a Nevada Trust,

15 Plaintiff,

16 vs.

17 NEW FREEDOM MORTGAGE  
18 CORPORATION, a Foreign Corporation;  
19 BANK OF AMERICA, N.A., a National  
20 Association; NATIONSTAR MORTGAGE  
21 LLC, a Foreign Limited Liability Company,  
22 COOPER CASTLE LAW FIRM, LLP, a Nevada  
23 Limited Liability Partnership; STEPHANIE  
24 TABLANTE, an individual, DOES I through X;  
25 and ROE CORPOARTIONS I THROUGH x,  
26 INCLUSIVE,

27 Defendants.

Case No: A-13-691323-C

Dept. No. XXI

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**THE COOPER CASTLE LAW FIRM, LLP**

Defendant The Cooper Castle Law Firm, LLP ("CCLF")'s Motion to Dismiss, having  
come on for hearing in Department XXI of the Eighth Judicial District Court, Clark County,  
Nevada; and Defendant CCLF being represented by Jason M. Peck, Esq., and Defendant Bank  
of America, N.A. being represented by J. Christopher Jorgensen, Esq., and Plaintiff being  
represented by Margaret E. Schmidt, Esq., and after review and consideration of the points and  
authorities on file, and the argument of counsel, and good cause therefore;

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**IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss is GRANTED.


Accordingly, all claims against The Cooper Castle Law Firm, LLP are dismissed.

**IT IS FURTHER ORDERED** that The Cooper Castle Law Firm, LLP, as trustee under the deed of trust affecting the real property located at 7255 West Sunset Road, Unit #2050, Las Vegas, Nevada 89113, is to comply with any preliminary injunction orders that may be entered in this matter with respect to the foreclosure of said property.


DATED this 29 day of January, 2014.

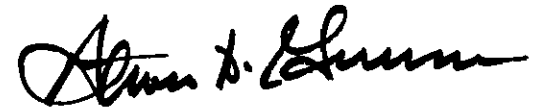
  
DISTRICT COURT JUDGE *sd*

Submitted by:  
  
THE COOPER CASTLE LAW FIRM, LLP

  
Jason M. Peck, Esq.  
Nevada Bar No.: 10183  
5275 South Durango Drive,  
Las Vegas, Nevada 89113  
*Attorney for The Cooper Castle  
Law Firm, LLP*

Approved as to form and content by:  
  
MAIER GUTIERREZ AYON

  
Luis A. Ayon, Esq.  
Nevada Bar No.: 9752  
Margaret E. Schmidt, Esq.  
Nevada Bar No.: 12489  
2500 West Sahara Avenue, Ste 106  
Las Vegas, Nevada 89102  
*Attorney for Plaintiff*



CLERK OF THE COURT

**AACR**  
ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
ALLISON R. SCHMIDT, ESQ.  
Nevada Bar No. 10743  
AKERMAN LLP  
1160 Town Center Drive, Suite 330  
Las Vegas, NV 89144  
Telephone: (702) 634-5000  
Facsimile: (702) 380-8572  
Email: ariel.stern@akerman.com  
Email: allison.schmidt@akerman.com

*Attorneys for Defendant Nationstar  
Mortgage, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

Case No.: A-13-691323-C  
Dept.: XXI

**NATIONSTAR MORTGAGE, LLC'S  
ANSWER, COUNTERCLAIM AGAINST  
WEST SUNSET 2050 TRUST AND CROSS-  
CLAIM AGAINST STEPHANIE  
TABLANTE**

Nationstar Mortgage, LLC, (**Nationstar**), answers plaintiff NEVADA NEW BUILDS LLC's  
complaint as follows:

1. Nationstar lacks sufficient knowledge or information to admit or deny the allegations  
set forth in paragraphs 1-4, 10-13, 34, and 36 of the complaint and denies each allegation contained  
in those paragraphs on that basis.

2. Nationstar denies the allegations set forth in paragraphs 5-7, 14, 16, 19, 21, 23-25, 28-  
33, and 37-40 of the complaint.

3. With respect to paragraph 8 of the complaint, Nationstar responds that the law cited  
{28649609;1}

1 speaks for itself.

2 4. With respect to paragraphs 9, 15, 17, 18, 20, and 22 of the complaint, Nationstar  
3 responds that the recorded documents referenced speak for themselves.

4 5. With respect to paragraph 15 of the complaint, Nationstar denies that plaintiff is  
5 entitled to the relief described therein.

6 6. Paragraph 27 of the complaint is merely a statement of this Court's jurisdiction, and  
7 no response thereto is required.

8 **WHEREFORE**, Nationstar prays for the following:

- 9 1. That plaintiff takes nothing by way of its complaint;  
10 2. For attorney's fees and costs of defending this action; and  
11 3. For such other and further relief as this Court deems just and proper.

12 **AFFIRMATIVE DEFENSES**

13 1. Plaintiff fails to state claims upon which relief may be granted.  
14 2. The foreclosure sale at issue cannot eliminate a senior deed of trust under NRS  
15 116.311635 and NRS 21.130.

16 3. The foreclosure sale at issue cannot eliminate a senior deed of trust because it was  
17 commercially unreasonable.

18 4. The foreclosure sale at issue is void due to lack of proper notice.

19 5. Nationstar acted in good faith at all times.

20 6. Due to plaintiff's own actions, plaintiff is estopped from asserting the claims in the  
21 complaint.

22 7. Plaintiff's claims may be barred by applicable limitations on actions, including the  
23 statute of limitations.

24 8. The liability, if any, of Nationstar must be reduced by the percentage of fault of  
25 plaintiff and others.

26 9. Plaintiff's claims and causes of action are barred, in whole or in part, due to plaintiff's  
27 failure to mitigate, minimize, or otherwise avoid its alleged damages.

10. Plaintiff's claims are barred because any injury it suffered was the result of the actions of an intervening superseding cause over which Nationstar had no control.

11. Plaintiff's claims are barred pursuant to the laches doctrine.

12. Any act or omission on the part of Nationstar was not the proximate cause of the alleged injuries or damages, if any, sustained by plaintiff.

13. The liability of Nationstar, if any, is several and not joint and several, and based upon each defendant's own acts and not the acts of others.

14. Nationstar owed no duty to plaintiff.

15. Nationstar was unaware of any wrongdoing by any other defendant or third party.

16. Nationstar did not ratify the actions of any other defendant.

17. Plaintiff has waived any claims against Nationstar.

18. Plaintiff has released any claims against Nationstar.

19. Plaintiff has failed to do equity.

20. Plaintiff acted with unclean hands.

21. Plaintiff assumed the risks when it purchased the property.

22. Plaintiff has not stated any basis to rescind any instruments or liens encumbering the property.

23. Plaintiff is not a *bona fide* purchaser.

24. Nationstar reserves the right to assert additional affirmative defenses that become apparent during discovery.

### **COUNTERCLAIM AND CROSS-CLAIM**

Nationstar counterclaims against plaintiff West Sunset 2050 Trust (**West Sunset**), and cross-claims against defendant Stephanie Tablante (**Tablante**), as follows:

1. Upon information and belief, West Sunset is a trust and citizen of Nevada.

2. Upon information and belief, Tablante is a resident of the state of Nevada.

3. Nationstar is a Delaware limited liability company with its principal place of business in the State of Texas.

1           4.       Nationstar will seek leave of this Court to add the Tuscano Homeowners Association  
2 (Tuscano HOA) as a party to this action. Upon information and belief, Tuscano HOA is a domestic  
3 non-profit corporation.

4                                   **FACTUAL BACKGROUND**

5           5.       Upon information and belief, Tablante purchased the property located at 7255 W.  
6 Sunset Road, unit 2050, Las Vegas Nevada 89113 in or about December 2005.

7           6.       Tablante financed the purchase of the property by obtaining a mortgage loan in the  
8 amount of \$176,750 from New Freedom Mortgage Corporation.

9           7.       A deed of trust securing the mortgage loan obtained by Tablante was recorded on the  
10 property as instrument no. 200512070002367 in the Clark County official records.

11           8.       Upon information and belief Tablante, or her agent, unilaterally attempted to deed the  
12 property back to New Freedom Mortgage Corporation by creating and recording a false deed in lieu  
13 of foreclosure.

14           9.       The improper deed in lieu of foreclosure was recorded first as instrument no.  
15 201103030003444, and was later re-recorded as instrument no. 201106210002567.

16           10.      Upon information and belief, neither deed in lieu of foreclosure was ever accepted by  
17 New Freedom Mortgage Corporation.

18           11.      Neither deed in lieu of foreclosure bear any signature of New Freedom Mortgage  
19 Corporation.

20           12.      The deeds in lieu of foreclosure do not satisfy the Nevada Statute of Frauds, codified  
21 as NRS 111.220.

22           13.      On or about July 28, 2011, the deed of trust was assigned to BAC Home Loans  
23 Servicing, LP.

24           14.      The assignment to BAC Home Loans Servicing, LP was recorded as instrument no.  
25 201107290000895.

26           15.      On or about February 28, 2013, the deed of trust was assigned to Nationstar.

27           16.      The assignment to Nationstar was recorded as instrument no. 201303200000887.  
28

17. On or about April 4, 2014, Red Rock Financial Services, on behalf of the Tuscano HOA recorded a lien for purported delinquent assessments, which stated that \$2695.10 was due and owing.

18. The assessment lien was addressed to New Freedom Mortgage Company, despite the fact that Tablante was still the property owner, and responsible for the assessments on the property.

19. On or about May 29, 2012 Red Rock Financial Services, on behalf of the Tuscao HOA recorded a notice of default, which claimed that \$4018.40 was due and owing.

20. The notice of default was addressed to New Freedom Mortgage Company, despite the fact that Tablante was still the property owner, and responsible for the assessments on the property.

21. On May 29, 2103, United Legal Service, Inc., on behalf of the Tuscano HOA recorded a notice of sale, claiming that \$7806.42 was due and owing.

22. The notice of sale was addressed to New Freedom Mortgage Company, despite the fact that Tablante was still the property owner, and responsible for the assessments on the property.

23. On or about June 22, 2013, the Tuscano HOA purported to sell the property at foreclosure auction to West Sunset.

24. A trustee's deed upon sale was recorded on June 24, 2013 as instrument no. 201306240003127.

25. The trustee's sale was void as the required notices were not provided in accordance with the requirements of NRS Chapter 116.

26. The trustee's deed failed to contain any recitation of the consideration allegedly given by West Sunset.

### **FIRST CLAIM FOR RELIEF—QUIET TITLE**

#### **(Against West Sunset 2050 Trust and Stephanie Tablante)**

26. Nationstar repeats and realleges each and every allegation contained in paragraphs 1 through 25 of its counterclaim and cross-claim as if fully incorporated herein.

27. Tablante's deeds in lieu of foreclosure were ineffective to transfer title of the property to New Freedom Mortgage Corporation.



28. Because the deeds in lieu of foreclosure were ineffective, Nationstar has a valid and enforceable security interest in the property as the assignee of the deed of trust.

29. The Tuscano HOA foreclosure sale was void because all notices were not provided as required by NRS Chapter 116.

30. Because the HOA foreclosure sale was void, West Sunset possesses no valid interest in the property and is unlawfully asserting a claim to title to the property adverse to that of Nationstar.

31. Nationstar has been required to retain Akerman LLP to prosecute this counterclaim and cross-claim, and Nationstar is entitled to recover its fees and costs.

### **SECOND CLAIM FOR RELIEF—DECLARATORY RELIEF**

#### **(Against West Sunset 2050 Trust and Stephanie Tablante)**

32. Nationstar repeats and realleges each and every allegation contained in paragraphs 1 through 31 of its counterclaim and cross-claim as if fully incorporated herein.

33. A controversy exists as to title to the real property, the validity of Nationstar's security interest, and the validity of the HOA foreclosure sale.

34. Pursuant to NRS 30.010, Nationstar is entitled to an order establishing that Nationstar's deed of trust is a valid encumbrance upon the property, and the June 22, 2013 HOA foreclosure sale was void for lack of notice.

### **THIRD CLAIM FOR RELIEF—SLANDER OF TITLE/VIOLATION OF NRS 239.330**

#### **(Against Stephanie Tablante)**

35. Nationstar repeats and realleges each and every allegation contained in paragraphs 1 through 34 of its counterclaim and cross-claim as if fully incorporated herein.

36. Upon information and belief, the deeds in lieu of foreclosure recorded by Tablante, or her agent, were false and malicious communications.

37. By recording the improper deeds in lieu of foreclosure, Tablante disparaged Nationstar's interest in the property.

38. Tablante's recording of the improper deeds in lieu of foreclosure have resulted in special damages, including but not limited to clouding the title to the property, and possible loss of

1 Nationstar's security interest and its right to foreclose upon the property as a remedy for Tablante's  
2 breach of her mortgage loan agreement. The damages sustained by Nationstar are in excess of  
3 \$10,000.

4 39. Tablante's actions were willful, wanton and malicious and entitle Nationstar to  
5 exemplary damages.

6 **FOURTH CLAIM FOR RELIEF—BREACH OF CONTRACT**

7 **(Against Stephanie Tablante)**

8 40. Nationstar repeats and realleges each and every allegation contained in paragraphs 1  
9 through 39 of its counterclaim and cross-claim as if fully incorporated herein.

10 41. Tablante and Nationstar are parties to the deed of trust, attached hereto as **Exhibit A**.

11 42. The deed of trust prohibits Tablante from transferring any interest in the property  
12 without the beneficiary's consent.

13 43. The deed of trust requires Tablante to perform all obligations under the governing  
14 documents and covenants, codes, and restrictions of the Tuscano HOA.

15 44. Upon information and belief, Tablante breached the terms of the deed of trust by  
16 attempting to convey her interest in the property to New Freedom Mortgage Corporation.

17 45. Upon information and belief, Tablante failed to perform her obligations under the  
18 Tuscano governing documents and covenants, codes, and restrictions, by failing to pay her periodic  
19 assessments as required.

20 46. As a result of Tablante's breach of the deed of trust, Nationstar has sustained damages  
21 in excess of \$10,000.

22 **FOURTH CLAIM FOR RELIEF—BREACH OF THE IMPLIED**

23 **COVENANT OF GOOD FAITH AND FAIR DEALING**

24 **(Against Stephanie Tablante)**

25 47. Nationstar repeats and realleges each and every allegation contained in paragraphs 1  
26 through 46 of its counterclaim and cross-claim as if fully incorporated herein.

27 48. The implied covenant of good faith and fair dealing is required in every contract  
28 under Nevada Law.

1           49.     Tablante and Nationstar are parties to the deed of trust.

2           50.     The purpose of the deed of trust was to secure repayment of Tablante's mortgage  
3 loan, and provide the beneficiary with a foreclosure remedy in the event of Tablante's default.

4           51.     Tablante performed in a way that us unfaithful to the purpose of the deed of trust by  
5 unilaterally attempting to reconvey her interest in the property to New Freedom Mortgage Company.

6           52.     Nationstar's expectations under the deed of trust have been denied.

7           53.     As a result of Tablante's breach of the implied covenant of good faith and fair  
8 dealing, Nationstar has sustained damages in excess of \$10,000.

9                   **FIFTH CLAIM FOR RELIEF—UNJUST ENRICHMENT**

10                   **(Against West Sunset 2050 Trust)**

11           54.     Nationstar repeats and realleges each and every allegation contained in paragraphs 1  
12 through 53 of its counterclaim and cross-claim as if fully incorporated herein.

13           55.     Nationstar has been unable to proceed with foreclosure as a result of West Sunset's  
14 possession of the property.

15           56.     Upon information and belief, West Sunset leases the property to an unknown third  
16 party.

17           57.     West Sunset has retained the rental funds, which should equitably belongs to  
18 Nationstar.

19           58.     As a result of West Sunset's conduct, Nationstar has sustained damages in excess of  
20 \$10,000.

21           **WHEREFORE**, Nationstar prays for relief from this Court as follows:

22           1.     For an Order of the Court quieting title in Tablante's name (subject to Nationstar's  
23 deed of trust), voiding the HOA's foreclosure sale, and upholding the validity and  
24 enforceability of Nationstar's deed of trust;

25           2.     For declaratory relief determining the parties' respective rights and obligations under  
26 NRS 30.010;

27           3.     For general damages in excess of \$10,000;

28           4.     For special damages in excess of \$10,000;

5. For exemplary damages in excess of \$10,000.
6. For reasonable attorney's fees and costs; and
7. For such further relief as this Court deems appropriate.

DATED this 19th day of May, 2014.

**AKERMAN LLP**

*/s/ Allison R. Schmidt*

ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276

ALLISON R. SCHMIDT, ESQ.  
Nevada Bar No. 10743

1160 Town Center Drive, Ste. 330  
Las Vegas, Nevada 89144

*Attorneys for Defendant Nationstar Mortgage, LLC*

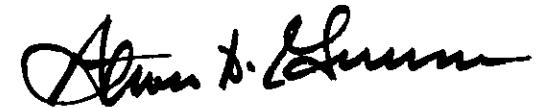
**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of May, 2014 and pursuant to NRCP 5, I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NATIONSTAR MORTGAGE, LLC'S ANSWER, COUNTERCLAIM AGAINST WEST SUNSET 2050 TRUST AND CROSS-CLAIM AGAINST STEPHANIE TABLANTE**, postage prepaid and addressed to:

Luis A. Ayon, Esq.  
Margaret E. Schmidt, Esq.  
MAIER GUTIERREZ AYON  
2500 W. Sahara Ave., Ste. 106  
Las Vegas, NV 89102

*Attorneys for Plaintiff*

/s/ Lucille Chiusano  
An employee of AKERMAN LLP



CLERK OF THE COURT

**MRCN**  
LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
**MAIER GUTIERREZ AYON**  
400 South Seventh Street, Suite 400  
Las Vegas, Nevada 89101  
Telephone: (702) 629-7900  
Facsimile: (702) 629-7925  
E-mail: [laa@mgalaw.com](mailto:laa@mgalaw.com)  
[mes@mgalaw.com](mailto:mes@mgalaw.com)

*Attorneys for Plaintiff/Counterdefendant  
West Sunset 2050 Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust

Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-691323-C

Dept. No.: XXI

**PLAINTIFF'S MOTION FOR  
RECONSIDERATION AND TO ALTER  
AND AMEND ORDER GRANTING  
DEFENDANTS NATIONSTAR  
MORTGAGE LLC AND BANK OF  
AMERICA, N.A.'S COUNTERMOTION  
FOR SUMMARY JUDGMENT**

Plaintiff/Counterdefendant West Sunset 2050 Trust ("Plaintiff" or "West Sunset"), by and through its attorneys of record, the law firm MAIER GUTIERREZ AYON, hereby files this motion for reconsideration of the order granting defendants Nationstar Mortgage LLC ("Nationstar") and Bank of America, N.A. ("BANA") summary judgment entered on February 8, 2016.

This motion is made and based upon EDCR 2.24, the following memorandum of points and

authorities, the pleadings and papers on file herein, the attached affidavit of counsel, and any oral argument of counsel at the time of the hearing.

DATED this 4<sup>th</sup> day of March, 2016.

Respectfully submitted,

MAIER GUTIERREZ AYON

/s/ Luis A. Ayon

LUIS AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
400 South Seventh Street, Suite 400  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff/Counterdefendant West  
Sunset 2050 Trust*

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that the undersigned will bring this **PLAINTIFF'S MOTION FOR RECONSIDERATION AND TO ALTER AND AMEND ORDER GRANTING DEFENDANTS NATIONSTAR MORTGAGE LLC AND BANK OF AMERICA, N.A.'S COUNTERMOTION FOR SUMMARY JUDGMENT** on for a hearing on the 4 day of April, 2016, at In Chambers a.m./p.m., in Department XXI of the above-entitled Court, or as soon thereafter as counsel may be heard.

DATED this 4<sup>th</sup> day of March, 2016.

Respectfully submitted,

MAIER GUTIERREZ AYON

/s/ Luis A. Ayon

LUIS AYON, ESQ.  
Nevada Bar No. 9752  
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*Attorneys for Plaintiff/Counterdefendant West  
Sunset 2050 Trust*

## MEMORANDUM OF POINTS AND AUTHORITIES

### **I. INTRODUCTION**

Plaintiff requests this Court reconsider its Order denying Plaintiff's motion for summary judgment and granting Defendants' Nationstar Mortgage ("Nationstar") and Bank of America, N.A. ("BANA") counter-motion for summary judgment. *See* Court Minutes and Decision, attached as **Exhibit 1**. The Order was entered on February 8, 2016, and notice of entry of order was entered on February 16, 2016. *See* Order, attached as **Exhibit 2**; Notice of Entry of Order, attached as **Exhibit 3**.

One of the main issues before the Court was whether the Deed in Lieu was fraudulently recorded, and if so, whether Plaintiff as a subsequent bona fide purchaser at the HOA Foreclosure Sale is entitled to have its interest in the Property protected. First, the Court incorrectly concluded that Nationstar was a legitimate holder of the First Deed of Trust and did not receive notice of the HOA delinquency. Exh. 1. Second, the Court found that the rogue filing of a Deed in Lieu of Foreclosure to Defendant New Freedom Mortgage Co. ("New Freedom") did not divest Nationstar of its interest in the property, meaning Plaintiff purchased the property subject to the First Deed of Trust even though Plaintiff was a bona fide purchaser. *Id.* There has been an intervening change in controlling law with the entry of the Nevada Supreme Court's decision in *Shadow Wood Homeowners Ass'n, Inc., et al. v. N.Y. Cmty. Bancorp, Inc.*, 132 Nev. Adv. Op. 5 (2016) ("*Shadow Wood*"), which settles that a third party purchaser who qualifies as bona fide is protected from any latent interest of which he had no notice. Therefore, the Court should reconsider, alter, and amend its Order and enter summary judgment in favor of Plaintiff.

### **II. SUMMARY OF FACTS**

The property at issue in this case is commonly known as 7255 W. Sunset Road, Unit 2050, Las Vegas, NV 89113, and bears Assessor's Parcel Number 176-03-510-102 (the "Property"). The Property is within a common-interest community governed by non-party Tuscano Homeowners Association (the "Association"), a common-interest community association created pursuant to NRS Chapter 116. *See, e.g.*, Declaration of Covenants, Conditions and Restrictions for Tuscano Condominiums ("Tuscano CC&Rs"), attached to Plaintiff's Motion for Summary Judgment



1 (“MSJ”) at Exh. 1, *on file*.

2 Stephanie Tablante purchased the Property on or about December 2, 2005. *See* Grant,  
3 Bargain and Sale Deed (NSM00001-NSM00004), attached to MSJ at Exh. 2. Ms. Tablante  
4 borrowed money from New Freedom Mortgage Corporation (“New Freedom”), in the amount of  
5 \$176,760.00. *See* Deed of Trust (NSM00005–23), attached to MSJ at Exh. 3. A deed of trust  
6 securing the loan was recorded on December 7, 2005, in the Official Records of the Clark County  
7 Recorder as Instrument Number 20051207-0002367 (the “Deed of Trust”). *See id.*, at NSM00005.  
8 The Deed of Trust listed Mortgage Electronic Registration Systems, Inc. (“MERS”), as the  
9 beneficiary. *See id.*, at NSM00006.

10 Five years later, on or about March 1, 2011, the Property records show that Ms. Tablante  
11 transferred the Property to New Freedom in “full satisfaction of all obligations secured by the Deed  
12 of Trust,” by executing a Deed in Lieu of Foreclosure (“Deed in Lieu”). *See* Deed in Lieu of  
13 Foreclosure (NSM00025–29), attached to MSJ at Exh. 4. A few months later, the Deed in Lieu was  
14 corrected to include the legal description of the Property and was re-recorded on June 21, 2011. *See*  
15 Corrected Deed in Lieu of Foreclosure (NSM00030–35), attached to MSJ at Exh. 5. A letter from  
16 the Clark County Assessor’s Office dated March 18, 2011, shows that New Freedom was notified of  
17 the recording of the Deed in Lieu and provided with a copy of the document. *See* Opposition &  
18 Countermotion for Summary Judgment (“Opp’n”) at Exh. A, *on file*.

19 New Freedom—as the owner of record following the Deed in Lieu—failed to pay the  
20 Property’s HOA dues, and the Association through its agent recorded a Lien for Delinquent  
21 Assessments on April 4, 2012. *See* Lien for Delinquent Assessments (NSM00039), attached to MSJ  
22 at Exh. 6. More than thirty (30) days later, on May 29, 2012, the Association recorded a Notice of  
23 Default and Election to Sell Pursuant to the Lien for Delinquent Assessments. *See* Notice of Default  
24 and Election to Sell Pursuant to the Lien for Delinquent Assessments (NSM00040), attached to MSJ  
25 at Exh. 7. More than ninety (90) days following the recording of the Notice of Default and Election  
26 to Sell Under Homeowners Association Lien, May 29, 2013, the Association recorded a Notice of  
27 Foreclosure Sale Under the Lien for Delinquent Assessments, setting the foreclosure sale for June  
28 22, 2013. *See* Notice of Foreclosure Sale Under the Lien for Delinquent Assessments (NSM00043),

1 attached to MSJ at Exh. 8. On that day, the Association sold the Property at public auction to  
2 Plaintiff. *See* Foreclosure Deed Upon Sale (NSM00044-NSM00046), attached to MSJ at Exh. 9.

3 A Foreclosure Deed Upon Sale was properly recorded on June 24, 2013. *See id.* The  
4 Foreclosure Deed recited, in part, that the sale complied with all requirements of law including  
5 proper notice:

6 This conveyance is made pursuant to the powers conferred upon Agent by  
7 NRS Chapter 116, the foreclosing Association's governing documents  
(CC&R's), and the notice of the Lien for Delinquent Assessments, recorded  
8 on April 4, 2012 as instrument 201204040001017 in the Official Records of  
9 the Recorder of Clark County, Nevada. Default occurred as set forth in the  
10 Notice of Default and Election to Sell, recorded on May 29, 2012 as  
11 instrument 201205290001690 in the Official Records of the Recorder of  
12 Clark County, Nevada. **All requirements of law have been complied with,  
including, but not limited to, the elapsing of the 90 days, the mailing of  
copies of the notice of Lien of Delinquent Assessment, and Notice of  
Default, and the mailing, posting, and publication of the Notice of  
Foreclosure Sale.** Agent, in compliance with the Notice of Foreclosure Sale  
and in exercise of its power under NRS § 116.31164, sold the property at  
13 public auction on June 22, 2013.

14 *Id.* (emphasis added). Robert Atkinson, the attorney responsible for conducting the foreclosure  
15 auction, testified that his firm had mailed notice of the Foreclosure Sale to New Freedom, BANA,  
16 Nationstar, and Cooper Castle; and he provided documentation of certified mailing in his deposition.  
17 *See* Deposition of Robert Atkinson, attached as **Exhibit 4** at 23; Exhibit B to Deposition of Robert  
18 Atkinson, at 6, 9, 14.

19 Meanwhile, notwithstanding the fact that all obligations secured by the Deed of Trust had  
20 been satisfied and the Deed of Trust consequently extinguished, on or about July 29, 2011, MERS  
21 purportedly assigned the Deed of Trust to BAC Home Loans Servicing, LP FKA Countrywide  
22 Home Loans Servicing LP ("BANA"). *See* Assignment of Deed of Trust (NSM00036-NSM00037),  
23 attached to MSJ at Exh. 11. BANA substituted The Cooper Castle Law Firm, LLP ("Cooper  
24 Castle"), as the Trustee, *see* Substitution of Trustee (NSM00038), attached to MSJ at Exh. 12, and  
25 then on March 20, 2013, BANA purportedly assigned the deed of trust to Nationstar. *See*  
26 Corporation Assignment of Deed of Trust (NSM00041-42), attached as **Exhibit 5**. At the time of  
27 the assignment to Nationstar, Nationstar was on record notice of the Deed in Lieu of Foreclosure, as  
28 well as the Association's pending foreclosure sale.

On September 18, 2013, Cooper Castle, as Trustee of the Deed of Trust, instituted foreclosure proceedings by filing a Notice of Breach and Default and of Election to Cause Sale of Real Property Under Deed of Trust. *See* Notice of Breach and Default and of Election to Cause Sale of Real Property Under Deed of Trust (NSM00047–51), attached to MSJ at Exh. 14.

### III. PROCEDURAL HISTORY

Plaintiff initiated the above-captioned lawsuit on November 6, 2013 in order to quiet title against the adverse interests in the Property of Defendants New Freedom, BANA, Nationstar, Cooper Castle, and Stephanie Tablante, and for injunctive relief preventing Defendants from continuing foreclosure proceedings on the Property. *See* Complaint, *on file*. On February 3, 20213, this Court dismissed Cooper Castle as a party.

On December 19, 2013, BANA filed its Answer. On May 20, 2014, Nationstar filed its Answer and Counterclaim against Plaintiff, and its Cross-Claim against Stephanie Tablante. Plaintiff filed its Answer to Nationstar’s Counterclaim on June 18, 2014.

On May 22, 2015, Plaintiff filed its Motion for Summary Judgment, arguing that the Deed in Lieu of Foreclosure that was recorded on the Property, and which went uncontested by New Freedom, extinguished any interest Nationstar or BANA had in the Property, that the Association’s foreclosure sale extinguished New Freedom’s interest in the Property, and that regardless of whether or not the Deed in Lieu of Foreclosure was properly recorded, Plaintiff was a bona fide purchaser at the Association’s foreclosure sale and now holds valid title to the Property.

On June 10, 2015, Defendants Nationstar and BANA filed their Opposition and Countermotion to the Motion for Summary Judgment, arguing that Nationstar was never provided notice of the Association’s foreclosure of the Property, that First 100, LLC split the payment rights from the security interest and satisfied the super-priority portion of the HOA’s lien, that Nationstar was denied its due process rights, and that the sale was commercially unreasonable.

On June 18, 2015, Plaintiff filed its Reply in support of the Motion for Summary Judgment, and Opposition to Defendants’ Countermotion for Summary Judgment, arguing that Defendants did not previously disclose many of their exhibits submitted in support of their Opposition and Countermotion, that the recordation of the Deed in Lieu of Foreclosure satisfied the underlying

debt and extinguished the Deed of Trust on the Property, that Defendants have no evidence the Deed in Lieu was fraudulent, and that Plaintiff's title is protected under the bona fide purchaser doctrine.

Following a hearing on the matter, the Court denied Plaintiff's motion for summary judgment, and granted Defendants' countermotion for summary judgment. The Order was entered on February 8, 2016, and notice of entry of order was entered on February 16, 2016. *See* Exh. 2 and Exh. 3.

#### IV. LEGAL ARGUMENT

##### A. LEGAL STANDARD—MOTION FOR RECONSIDERATION

The Nevada Supreme Court has held that district courts have the inherent authority to reconsider their prior orders. *See Trail v. Faretto*, 91 Nev. 401, 403, 536 P.2d 1026, 1027 (1975) ("a court may, for sufficient cause shown, amend, correct, resettle, modify, or vacate, as the case may be, an order previously made and entered on motion in the progress of the cause of proceeding"). Indeed, "the district court is empowered to correct erroneous rulings at any time prior to the entry of final judgment." *Insurance Co. of the West v. Gibson Tile Co., Inc.*, 122 Nev. 455, 134 P.3d 698, fn 4 (2006) (Maupin, J., concurring).

Accordingly, a party may file a motion for reconsideration under EDCR 2.24 when the decision articulated in the court's findings are "clearly erroneous." *Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). Similarly, a party may file a motion for relief of an order entered erroneously pursuant to NRCP 60(b) or to amend a judgment pursuant to NRCP 59(e).

If taken as a Motion under Rule 59(e), it is timely as "[a] motion to alter or amend the judgment shall be filed no later than 10 days after service of written notice of entry of judgment." The Court should grant relief under Rule 59(e) where "(1) the motion is necessary to correct manifest errors of law or fact upon which the judgment is based; (2) the moving party presents newly discovered or previously unavailable evidence; (3) the motion is necessary to prevent manifest injustice; or (4) there is an intervening change in controlling law." *See Turner v. Burlington Northern Santa Fe R.R. Co.*, 338 F.3d 1058, 1063 (9th Cir. 2003). The motion must also

1 satisfy Nev. R. Civ. P. 7(b) and be “in writing, . . . state with particularity [its] grounds [and] set  
2 forth the relief or order sought.” *United Pac. Ins. Co. v. St. Denis*, 81 Nev. 103, 106–07, 399 P.2d  
3 135, 137 (1965) (citing Nev. R. Civ. P. 7(b) and Nev. R. Civ. P. 59(e)).

4 **B. THE COURT ERRED IN ITS ANALYSIS OF THE DEED IN LIEU FILING**

5 The Court held that the “rogue filing of a Deed in Lieu of Foreclosure to New Freedom did  
6 not divest Nation Star of its interest in the property.” *See* Exh. 1. *See also*, Exh. 2 (“Tablante’s  
7 recording of a false deed in lieu of foreclosure did not strip the beneficiary of the senior deed of trust  
8 of its property rights.”). This reasoning led the Court to conclude that because the Association’s  
9 agent never provided any foreclosure notices to Nationstar, the “foreclosure sale did not extinguish  
10 the senior deed of trust.” Exh. 2 at p. 4.

11 However, Deed in Lieu of Foreclosure (Deed in Lieu) has the same effect as any other  
12 foreclosure, thus recordation of the Deed in Lieu provided formal record notice to the world –  
13 including the Association and its agent – that Stephanie Tablante had conveyed absolute title to the  
14 Property to New Freedom in full satisfaction of the debts secured by the Property.

15 A deed in lieu is, for a great many purposes, the functional equivalent of a formal  
16 foreclosure. A deed in lieu essentially involves an alternate method of the collection  
17 of security. The lender accepting a deed in lieu, just like the lender exercising strict  
foreclosure, has the security interest mature into real ownership without any  
requirement of public sale.

18 *Moloney v. Boston Five Cents Sav. Bank FSB*, 422 Mass. 431, 433, 663 N.E.2d 811, 813 (1996).  
19 *See also FH Partners, LLC v. Leany*, No. 2:11-CV-0796-LRH-NJK, 2014 WL 3853806, at \*2 (D.  
20 Nev. Aug. 6, 2014) (a deed in lieu is the functional equivalent of a duly noticed foreclosure sale). In  
21 accordance with this case law, the Deed in Lieu expressly conveyed the Property to New Freedom  
22 with the consideration being “full satisfaction of all obligations secured by the Deeds of Trust  
23 executed by the party of the first part to New Freedom Mortgage Corporation . . . .” MSJ at Exh. 4.  
24 Thus, the Court erred in holding that the recording of the deed in lieu of foreclosure did not strip  
25 Nationstar of its interest in the Property.

26 ///

27 ///

28 ///

**C. THE COURT ERRED IN NOT PROTECTING PLAINTIFF’S RIGHTS TO THE PROPERTY AS A BONA FIDE PURCHASER**

Despite Plaintiff’s briefing of the issue in the summary judgment pleadings, the Court’s Order failed to address Plaintiff’s status as a bona fide purchaser and the rights that accompany that status. Exh. 2. NRS 111.180(1) defines a bona fide purchaser as a purchaser who “purchases an . . . interest in any real property in good faith and for valuable consideration and who does not have actual knowledge, constructive notice of, or reasonable cause to know that there exists a defect in, or adverse rights, title or interest to, the real property.” *See also Hewitt v. Glaser Land & Livestock Co.*, 97 Nev. 207, 208, 626 P.2d 268, 269 (1981) (holding that a bona fide purchaser is someone who purchases a property without notice of outstanding equities).

To be clear, Plaintiff purchased the Property at the HOA foreclosure sale without any notice or reasonable cause to suspect a defect in New Freedom’s title as record owner, and Defendants offered no evidence to dispute this contention. Even if the Deed in Lieu is somehow invalid, that dispute is immaterial because Plaintiff was a bona fide purchaser for value at the Association’s foreclosure sale, and its title should not have been attacked. *See Buhecker v. R.B. Petersen & Sons Const. Co.*, 112 Nev. 1498, 1501, 929 P.2d 937, 939 (1996) (“[W]e conclude that it would be unfair to impute to [the bona fide encumbrancer] constructive notice of the fraud.”).

If the significance of a bona fide purchaser’s status was ever in doubt, an intervening change in controlling law occurred through the Nevada Supreme Court’s decision in *Shadow Wood Homeowners Ass’n, Inc., et al. v. N.Y. Cmty. Bancorp, Inc.*, 132 Nev. Adv. Op. 5 (2016) (“*Shadow Wood*”), which affirmatively settles that a third party purchaser who qualifies as bona fide is protected from any latent interest of which he had no notice. “A subsequent purchaser is bona fide under common-law principles if it takes property ‘for a valuable consideration and without notice of prior equity, and without notice of facts which upon diligent inquiry would be indicated and from which notice would be imputed to him, if he failed to make such inquiry.’” *Shadow Wood* at 22 (quoting *Bailey v. Butner*, 64 Nev. 1, 19 (1947)).

Moreover, if there were any question as to Plaintiff’s ability to rely on the recitals set forth in the Association’s foreclosure deed, which stated that that the sale complied with all requirements of

1 law including proper notice, *Shadow Wood* also effectively confirmed the Nevada Supreme Court's  
2 previous holding in *SFR Investments Pool 1 v. U.S. Bank*, 130 Nev. \_\_\_, 334 P.3d 408 (2014), *reh'g*  
3 *denied* (Oct. 16, 2014) ("*SFR Investments*"), which stated that the foreclosure deed's recitals are  
4 conclusive as to notice.

5 The Nevada Supreme Court held in *SFR Investments* that a foreclosure deed "reciting  
6 compliance with notice provisions of NRS 116.31162 through NRS 116.31168 'is conclusive' as to  
7 the recitals 'against the unit's former owner, his or her heirs and assigns and all other persons.'" *SFR Investments*, 334 P.3d at 411-412 (citing NRS 116.31166(2)). Thus, a purchaser at an HOA  
8 foreclosure sale may rely on specific recitals in the foreclosure deed as "conclusive proof of the  
9 matters recited" as follows: "(a) Default, the mailing of the notice of delinquent assessment, and the  
10 recording of the notice of default and election to sell; (b) The elapsing of the 90 days; and (c) The  
11 giving of notice of sale." NRS 116.31166(1).  
12

13 This sentiment was reaffirmed in *Shadow Wood*, wherein the Court, quoting *Bourne Valley*  
14 *Court Trust v. Wells Fargo Bank, N.A.*, 80 F. Supp. 3d 1131, 1135 (D. Nev. 2015), stated that  
15 "under NRS 116.31166, when a foreclosure deed recited that there was a default, the proper notices  
16 were given, the appropriate amount of time elapsed between notice of default and sale, and the  
17 notice of sale was given, it was 'conclusive proof' that the required statutory notices were  
18 provided." *Shadow Wood* at 10. While the *Shadow Wood* court declined to extend NRS 116.31166  
19 as "conclusively establishing a default," the court did not take issue with the recitals pertaining to  
20 notice. *Id.* Thus, Plaintiff had a right to rely on the recitals contained in the foreclosure deed that  
21 the sale was properly noticed and Defendants provided no evidence indicating Plaintiff had any  
22 notice that the Association's foreclosure sale was in any way improper.

23 Just as the Nevada Supreme Court recognized the purchaser's probable bona fide status in  
24 *Shadow Wood* due to the evidence suggesting a lack of notice, this Court should grant Plaintiff's  
25 Motion here, because any actual defects in the Association sale were entirely unknown to Plaintiff.  
26 *Id.* ("Because the evidence does not show Gogo Way had any notice of the pre-sale dispute between  
27 NYCB and Shadow Wood, the potential harm to Gogo Way must be taken into account and further  
28 defeats NYCB's entitlement to judgment as a matter of law.").

V. CONCLUSION

Based on the foregoing reasons, Plaintiff respectfully requests this Court alter, amend, or reconsider its Order denying Plaintiff's motion for summary judgment and granting Nationstar and BANA's counter-motion for summary judgment.

DATED this 4<sup>th</sup> day of March, 2016.

Respectfully submitted,

MAIER GUTIERREZ AYON

/s/ Luis A. Ayon

LUIS AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
400 South Seventh Street, Suite 400  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff/Counterdefendant West  
Sunset 2050 Trust*



1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of the **MOTION FOR**  
3 **RECONSIDERATION AND TO ALTER AND AMEND ORDER GRANTING**  
4 **DEFENDANTS NATIONSTAR MORTGAGE LLC AND BANK OF AMERICA, N.A.'S**  
5 **COUNTERMOTION FOR SUMMARY JUDGMENT** was electronically filed on the 4<sup>th</sup> day of  
6 March, 2016 and served through the Notice of Electronic Filing automatically generated by the  
7 Court's facilities to those parties listed on the Court's Master Service List and by depositing a true  
8 and correct copy of the same, enclosed in a sealed envelope upon which first class postage was fully  
9 prepaid, in the U.S. Mail at Las Vegas, Nevada, addressed as follows (*Note: All Parties Not*  
10 *Registered Pursuant to Administrative Order 14-2 Have Been Served By Mail.*):

11  
12 Ariel E. Stern, Esq.  
Allison R. Schmidt, Esq.  
AKERMAN LLP  
13 1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144  
14 *Attorneys for Defendant Bank of America, N.A., and Nationstar Mortgage LLC*

15  
16  
17 */s/ Charity Barber*  
18 An Employee of MAIER GUTIERREZ AYON  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT 1**

# **EXHIBIT 1**

DISTRICT COURT  
CLARK COUNTY, NEVADA

Title to Property

COURT MINUTES

July 24, 2015

A-13-691323-C      West Sunset 2050 Trust, Plaintiff(s)  
vs.  
New Freedom Mortgage Corporation, Defendant(s)

July 24, 2015	1:00 PM	Decision	W. Sunset 2050 Trust's Motion for Summary Judgment...Oppositio n to Motion for Summary Judgment and Countermotion for Summary Judgment
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HEARD BY: Adair, Valerie

COURTROOM:

COURT CLERK: Denise Husted

RECORDER:

REPORTER:

PARTIES  
PRESENT:

JOURNAL ENTRIES

- COURT ORDERED, Plaintiff's Motion for Summary Judgment is DENIED; Nation Star's Countermotion for Summary Judgment is GRANTED as it appears from the record that Nation Star, the legitimate holder of the First Deed of Trust did not receive notice of the HOA delinquency. The rogue filing of a Deed in Lieu of Foreclosure to New Freedom did not divest Nation Star of its interest in the property. Accordingly the Plaintiff purchased the property subject to the first Deed of Trust. Nation Star to prepare a detailed Finding of Fact and Decision of Order.

CLERK'S NOTE: Copies of this minute order placed in the attorney folders of:

A-13-691323-C

Luis Ayon (MAIER GUTIERREZ AYON)  
Allison Schmidt (ACKERMAN LLP)

# **EXHIBIT 2**

# **EXHIBIT 2**



CLERK OF THE COURT

**ORDR**

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*Attorneys for Defendant Nationstar  
Mortgage, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

Case No.: A-13-691323-C  
Dept.: XXI

**ORDER GRANTING NATIONSTAR  
MORTGAGE LLC'S COUNTERMOTION  
FOR SUMMARY JUDGMENT AND  
DENYING PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT**

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 - FAX: (702) 380-8572

1 NATIONSTAR MORTGAGE, LLC,  
2 Cross-Claimant,  
3 v.  
4 STEPHANIE TABLANTE,  
5 Cross-Defendant.  
6

7 **ORDER GRANTING NATIONSTAR MORTGAGE LLC'S COUNTERMOTION FOR**  
8 **SUMMARY JUDGMENT AND DENYING PLAINTIFF'S MOTION FOR SUMMARY**  
9 **JUDGMENT**

10 Nationstar Mortgage, LLC's (**Nationstar**) countermotion for summary judgment came on for  
11 hearing before this court on June 24, 2015. Allison R. Schmidt, Esq. appeared on behalf of  
12 Nationstar. Luis Ayon, Esq. appeared on behalf of Plaintiff, West Sunset 2050 Trust. The court,  
13 having reviewed the countermotion and opposition thereto, as well as Plaintiff's competing motion  
14 for summary judgment, the opposition thereto and reply, and good cause appearing hereby grants  
15 summary judgment in favor of Nationstar.

16 **FINDINGS OF FACT**

17 1. Stephanie Tablante (**Tablante**) purchased the property located at 7255 W. Sunset  
18 Road, Unit 2050, Las Vegas, Nevada on or about December 2, 2005.

19 2. To finance the purchase of the property, Tablante obtained a loan from New  
20 Freedom Mortgage Corporation in the amount of \$176,760.00, which was secured by a senior  
21 deed of trust recorded against the property.

22 3. Tablante contacted Bank of America in 2011 in hopes of obtaining a deed in lieu  
23 of foreclosure on her property, but never obtained approval from Bank of America for the deed  
24 in lieu.

25 4. Tablante, through her attorney, unilaterally recorded a false deed in lieu to New  
26 Freedom Mortgage Corporation.

27 5. According to the Utah Secretary of State, New Freedom Mortgage Corporation  
28 no longer existed after 2008, having merged into iFreedom Direct Corporation.

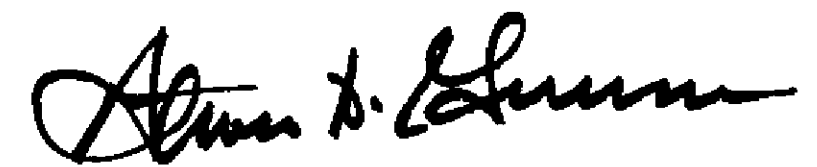






# **EXHIBIT 3**

# **EXHIBIT 3**



CLERK OF THE COURT

1 **NEOJ**  
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13 *Attorneys for Defendant Nationstar Mortgage, LLC*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 WEST SUNSET 2050 TRUST, a Nevada Trust,  
17  
18 Plaintiff,

19 v.

20 NEW FREEDOM MORTGAGE  
21 CORPORATION, a Foreign Corporation;  
22 BANK OF AMERICA, N.A., a National  
23 Association; NATIONSTAR MORTGAGE,  
24 LLC, a Foreign Limited Liability Company;  
25 COOPER CASTLE LAW FIRM, LLP, a Nevada  
26 Limited Liability Partnership; STEPHANIE  
27 TABLANTE, an individual; DOES I through X;  
28 and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

Case No.: A-13-691323-C  
Dept.: XXI

**NOTICE OF ENTRY OF ORDER**

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 – FAX: (702) 380-8572

1 NATIONSTAR MORTGAGE, LLC,  
2 Cross-Claimant,  
3 v.  
4 STEPHANIE TABLANTE,  
5 Cross-Defendant.

6 PLEASE TAKE NOTICE that the Order has been entered on the 8<sup>th</sup> day of February, 2016,  
7 in the above-captioned matter. A copy of said Order is attached hereto as Exhibit A.

8 DATED this 16<sup>th</sup> day of February, 2016.

9 **AKERMAN LLP**

10 */s/ Allison R. Schmidt*

11 ARIEL E. STERN, ESQ.

12 Nevada Bar No. 8276

13 ALLISON R. SCHMIDT, ESQ.

14 Nevada Bar No. 10743

15 1160 Town Center Drive, Suite 330

16 Las Vegas, Nevada 89144

17 *Attorneys for Defendant Nationstar Mortgage, LLC*

**CERTIFICATE OF SERVICE**

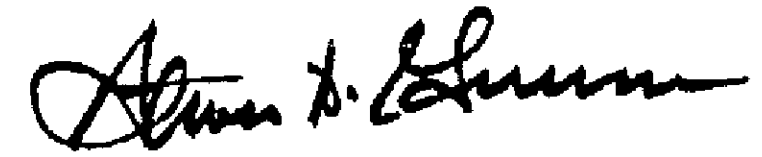
I HEREBY CERTIFY that on this 16th day of February, 2016 and pursuant to NRCP 5(b), I served through this Court's electronic service notification system ("Wiznet") a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** addressed to:

Luis A. Ayon, Esq.  
**MAIER GUTIERREZ AYON PLLC**  
cmb@mgalaw.com  
djb@mgalaw.com  
dtr@mgalaw.com  
jrm@mgalaw.com  
jag@mgalaw.com  
laa@mgalaw.com  
mes@mgalaw.com  
ndv@mgalaw.com  
*Attorneys for West Sunset 2050 Trust*

/s/ Brieanne Siriwan  
An employee of AKERMAN LLP

# EXHIBIT A

# EXHIBIT A



CLERK OF THE COURT

**ORDR**

ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
ALLISON R. SCHMIDT, ESQ.  
Nevada Bar No. 10743  
AKERMAN LLP  
1160 Town Center Drive, Suite 330  
Las Vegas, NV 89144  
Telephone: (702) 634-5000  
Facsimile: (702) 380-8572  
Email: ariel.stern@akerman.com  
Email: allison.schmidt@akerman.com

*Attorneys for Defendant Nationstar  
Mortgage, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,  
  
Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

Case No.: A-13-691323-C  
Dept.: XXI

**ORDER GRANTING NATIONSTAR  
MORTGAGE LLC'S COUNTERMOTION  
FOR SUMMARY JUDGMENT AND  
DENYING PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT**

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 - FAX: (702) 380-8572

1 NATIONSTAR MORTGAGE, LLC,  
2 Cross-Claimant,  
3 v.  
4 STEPHANIE TABLANTE,  
5 Cross-Defendant.  
6

7 **ORDER GRANTING NATIONSTAR MORTGAGE LLC'S COUNTERMOTION FOR**  
8 **SUMMARY JUDGMENT AND DENYING PLAINTIFF'S MOTION FOR SUMMARY**  
9 **JUDGMENT**

10 Nationstar Mortgage, LLC's (**Nationstar**) countermotion for summary judgment came on for  
11 hearing before this court on June 24, 2015. Allison R. Schmidt, Esq. appeared on behalf of  
12 Nationstar. Luis Ayon, Esq. appeared on behalf of Plaintiff, West Sunset 2050 Trust. The court,  
13 having reviewed the countermotion and opposition thereto, as well as Plaintiff's competing motion  
14 for summary judgment, the opposition thereto and reply, and good cause appearing hereby grants  
15 summary judgment in favor of Nationstar.

16 **FINDINGS OF FACT**

17 1. Stephanie Tablante (**Tablante**) purchased the property located at 7255 W. Sunset  
18 Road, Unit 2050, Las Vegas, Nevada on or about December 2, 2005.

19 2. To finance the purchase of the property, Tablante obtained a loan from New  
20 Freedom Mortgage Corporation in the amount of \$176,760.00, which was secured by a senior  
21 deed of trust recorded against the property.

22 3. Tablante contacted Bank of America in 2011 in hopes of obtaining a deed in lieu  
23 of foreclosure on her property, but never obtained approval from Bank of America for the deed  
24 in lieu.

25 4. Tablante, through her attorney, unilaterally recorded a false deed in lieu to New  
26 Freedom Mortgage Corporation.

27 5. According to the Utah Secretary of State, New Freedom Mortgage Corporation  
28 no longer existed after 2008, having merged into iFreedom Direct Corporation.





AKERMAN LLP  
1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 - FAX: (702) 380-8572

1 5. RRFS failed to provide any foreclosure notices to the beneficiary of the senior deed  
2 of trust. As a result, the beneficiary had no opportunity to cure the delinquency in assessment  
3 payments.

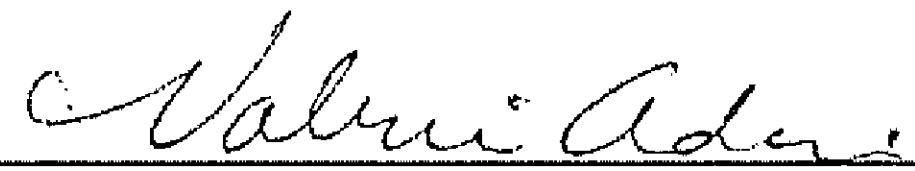
4 6. Because of the failure to provide the required notices to the beneficiary of the senior  
5 deed of trust, the foreclosure sale did not extinguish the senior deed of trust.

6 **ORDER**

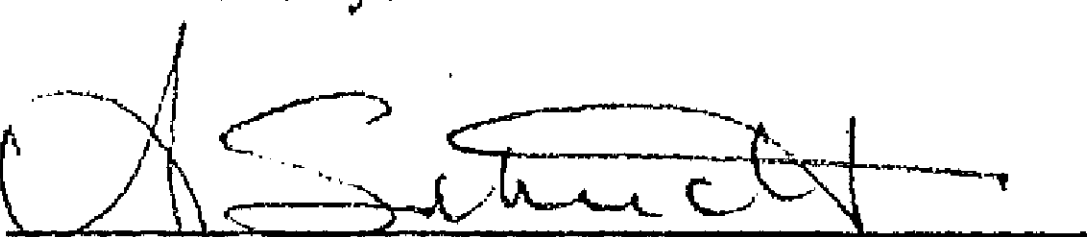
7 IT IS HEREBY ORDERED that Nationstar's Countermotion for Summary Judgment is  
8 GRANTED;

9 IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment is DENIED.

10 DATED this 4<sup>th</sup> day of February, 2016.

11   
12 District Court Judge *atw*

13 Submitted by:

14   
15 ARIEN E. STERN, ESQ.  
16 Nevada Bar No. 8276  
17 ALLISON R. SCHMIDT, ESQ.  
18 Nevada Bar No. 10743  
19 1160 Town Center Drive, Suite 330  
20 Las Vegas, Nevada 89144  
21 *Attorneys for Defendant Nationstar Mortgage, LLC*

22 Approved as to form and content:

23 (provided to plaintiff's counsel but did not sign)

24 Luis A. Ayon, Esq.  
25 Margaret E. Schmidt, Esq.  
26 2500 W. Sahara Ave., Ste. 106  
27 Las Vegas, NV 89102  
28 *Attorneys for Plaintiff*

# **EXHIBIT 4**

# **EXHIBIT 4**

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

WEST SUNSET 2050 TRUST, a )  
Nevada Trust, )

Plaintiff, )

v. )

NEW FREEDOM MORTGAGE )  
CORPORATION, a Foreign )  
Corporation; BANK OF AMERICA, )

N.A., a National Association; )  
NATIONSTAR MORTGAGE, LLC, a )

Foreign Limited Liability )  
Company; COOPER CASTLE LAW )

FIRM, LLP, a Nevada Limited )  
Liability Partnership; )

STEPHANIE TABLANTE, an )  
individual; DOES I through X; )

and ROE CORPORATIONS I )  
through X, inclusive, )

Defendants. )

\_\_\_\_\_  
NATIONSTAR MORTGAGE, LLC, )

Counterclaimant, )

v. )

WEST SUNSET 2050 TRUST, a )  
Nevada Trust, )

Counter-Defendant. )  
\_\_\_\_\_

CASE NO. A-13-691323-C

DEPT. NO. XXI

DEPOSITION OF

30(B)(6) DESIGNEE

UNITED LEGAL SERVICES, LLC

ROBERT ATKINSON, ESQ.

LAS VEGAS, NEVADA

MONDAY, MAY 11, 2015

Reported By Kele R. Smith, NV CCR No. 672, CA CSR No.  
13405

JOB NO.: 245765A

Page 2

1 DEPOSITION OF ROBERT ATKINSON, ESQ.,  
2 taken at 1160 Town Center, Suite 330, Las Vegas, Nevada,  
3 on Monday, May 11, 2015, at 10:14 a.m., before Kele R.  
4 Smith, Certified Court Reporter, in and for the State of  
5 Nevada.  
6  
7 APPEARANCES:  
8 For the Witness:  
9 IN PROPER PERSON  
10 BY: ROBERT ATKINSON, ESQ.  
11 8965 South Eastern Avenue  
12 Suite 260  
13 Las Vegas, Nevada 89123  
14 (702) 614-0600  
15  
16 For the Plaintiff:  
17 MAIER GUTIERREZ AYON  
18 BY: KATHRYN L. BUTLER, ESQ.  
19 2500 West Sahara Avenue  
20 Suite 106  
21 Las Vegas, Nevada 89102  
22 (702) 629-7900  
23 klb@mgalaw.com  
24  
25 For the Defendants NationStar Mortgage:  
AKERMAN  
BY: ALLISON SCHMIDT, ESQ.  
1160 Town Center Drive  
Suite 330  
Las Vegas, Nevada 89144  
(702) 634-5000  
allison.schmidt@akerman.com

Page 3

1 I N D E X  
2  
3 WITNESS: ROBERT ATKINSON, ESQ.  
4  
5 EXAMINATION PAGE  
6 By Ms. Schmidt 4  
7  
8  
9  
10  
11  
12 EXHIBITS  
13 MARKED PAGE  
14 Exhibit A Documents Brought By Witness -  
15 Emails, Statutes, Fee Schedules 8  
16 Exhibit B United Legal Services  
17 Documents 26  
18 Exhibit C Documents From Prior  
19 Collection Agency 55  
20 Exhibit D Documents From Land Records 55  
21  
22 Exhibit E Contracts With HOA and First  
23 100 55  
24 Exhibit F Auction Results 55  
25 Exhibit G Emails 55

Page 4

1 LAS VEGAS, NEVADA; MONDAY, MAY 11, 2015  
2 10:14 A.M.  
3 -oOo-  
4 (The Reporter was relieved of her duties  
5 under NRCP 30(b) (4).)  
6 Whereupon,  
7 ROBERT ATKINSON, ESQ.,  
8 having first been called as a witness, was duly sworn  
9 and testified as follows:  
10  
11 BY MS. SCHMIDT:  
12 Q. Can you state your name and spell your last name  
13 for the record?  
14 A. Robert Atkinson, A-T-K-I-N-S-O-N.  
15 Q. And my name is Allison Schmidt. I'm the attorney  
16 for Bank of America and NationStar Mortgage in the  
17 action designated as Case No. A-13-691323. Have you  
18 been a witness or have you been deposed before today?  
19 A. I am here in my capacity as PMK for United Legal  
20 Services, Inc. I'm also here in an attorney capacity  
21 representing myself. On that basis, I reserve the right  
22 to object to any questions that may arise.  
23 With respect to your specific question: Have I  
24 been subject to a deposition, with respect to United  
25 Legal Services, Inc., no. This is my first one. But I

Page 5

1 have another one scheduled this afternoon, so I think  
2 the wave is starting to hit.  
3 Q. Since you are an attorney, I'll probably waive  
4 your standard admonitions. I assume you understand the  
5 deposition process?  
6 A. I do. And the ground rules.  
7 Q. Okay. Great.  
8 And you understand that since you've designated  
9 yourself as someone with knowledge in this case, you may  
10 be required to give testimony at trial if this case gets  
11 tried?  
12 A. I do.  
13 Q. Okay. And today my purpose is to find out,  
14 essentially, what you would say at trial if this case  
15 gets tried. Do you understand that?  
16 A. I do.  
17 Q. All right. And you understand that the oath you  
18 just took is the same oath you would take in a court of  
19 law?  
20 A. I do.  
21 Q. Okay. Let's see. Is there any reason that  
22 you're not able to give your best and truthful testimony  
23 today?  
24 A. No.  
25 Q. Do you take any medication that might affect your

Page 6

1 testimony?  
 2 A. No.  
 3 Q. Do you feel well today?  
 4 A. I do.  
 5 Q. Okay. All right.  
 6 A. And to qualify that, pursuant to my oath, I am  
 7 testifying to the best of my knowledge and recollection  
 8 as to events which took place almost two years ago.  
 9 Q. When I ask my questions, since you are acting as  
 10 your attorney as well, I'll give you some time to object  
 11 in case you want to make your objection, as I understand  
 12 that that might be the case.  
 13 How did you prepare for this deposition today?  
 14 A. I printed out the documents that I had previously  
 15 provided to you on disk, and I printed out ancillary  
 16 documents related to HOA lien sales that you perhaps  
 17 might have had a question on, and that's it.  
 18 Q. So all the documents that you've reviewed in  
 19 preparation for today's deposition have been provided?  
 20 A. All the documents that were responsive to your  
 21 specific request that were anticipated as part of the  
 22 deposition have been provided.  
 23 Q. Okay. When you say "ancillary documents," what  
 24 are you referring to?  
 25 A. Well, I'm glad you asked. In case the subject

Page 7

1 goes there, one of them is a breakdown of the NAC  
 2 statutory costs. Again, these are small percentage  
 3 items, but in case you had a question on them.  
 4 Another is a printout from the Clark County  
 5 treasurer's office that explains why for all of these  
 6 HOA sales the value shown on the DOV form on the  
 7 foreclosure deed is not equal to the auction value, and  
 8 those are specific instructions from the Clark County  
 9 treasurer.  
 10 And I printed off the relevant statutes from NRS  
 11 116 relating to foreclosure in case we needed them as  
 12 reference during the conversation.  
 13 And lastly is a printout example of request for  
 14 notice that the mortgage companies are doing in the land  
 15 records now, which I do not recall a single one being  
 16 land records back in the day, but now all of the  
 17 mortgage companies are filing requests for land  
 18 documents.  
 19 Q. Would we be able to make copies of those  
 20 documents really quick so she would have a copy and I  
 21 would have a copy as well?  
 22 A. Absolutely. For the ones that are not the  
 23 statutes, this is your copy. Actually, if you want more  
 24 than one copy, there's that. I'm not -- if we get into  
 25 116, we will. If you want we can.

Page 8

1 Q. I don't think we need the 116.  
 2 A. Here is a copy of the Clark County treasurer  
 3 document.  
 4 MS. BUTLER: I'll just look through it real  
 5 quick and I should be fine.  
 6 THE WITNESS: I'm not bringing these because  
 7 I want to lead off with these. I brought these in case  
 8 you asked me.  
 9 MS. SCHMIDT: Got it. Would you mind if I  
 10 mark these as an exhibit to this deposition so when we  
 11 get the transcript, we will have them all together?  
 12 THE WITNESS: That is fine. I brought these  
 13 in case we needed them.  
 14 MS. SCHMIDT: Can we mark all of these as  
 15 Exhibit A.  
 16 (Exhibit A was marked.)  
 17 MS. SCHMIDT: Did you have any questions for  
 18 me before we start?  
 19 THE WITNESS: I do not.  
 20 MS. SCHMIDT: Okay.  
 21 BY MS. SCHMIDT:  
 22 Q. What do you do for a living?  
 23 A. I'm an attorney.  
 24 Q. And who is your employer?  
 25 A. Atkinson Law Associates.

Page 9

1 Q. Okay. And how is Atkinson Law Associates  
 2 affiliated with United Legal Services?  
 3 A. Common ownership. I own 100 percent of both  
 4 firms. The firms themselves have no relationship  
 5 whatsoever to each other. United Legal Services is no  
 6 longer in business and has not been in business for a  
 7 long time now.  
 8 Q. Do you know approximately when United Legal  
 9 Services ceased operations?  
 10 A. With respect to the HOA foreclosure sales, it was  
 11 October of 2013. We almost began another project in  
 12 approximately May or June of 2014 for a commercial HOA,  
 13 but that project aborted, and I did not consider that to  
 14 be a job. So effectively it's October 2013.  
 15 Q. So as of today, are you involved in any HOA  
 16 foreclosures, or has that ceased?  
 17 A. That's ceased. Other than that one aborted  
 18 commercial HOA foreclosure, which is a project we never  
 19 actually ended up doing, it has completely ceased all  
 20 business since October 2013.  
 21 Q. Got it.  
 22 Are you familiar with the property located at  
 23 7255 West Sunset Road, Unit 2050, Las Vegas, Nevada  
 24 89113?  
 25 A. I'm familiar to the extent that I was the

Page 10

1 auctioneer for that property at an auction that was  
2 scheduled and arranged for by United Legal Services.

3 Q. And when you say you were the auctioneer, was  
4 United Legal Services just the auctioneer or were they  
5 also the trustee? I'm trying to figure out what that  
6 relationship was at the time of the sale?

7 A. Your question is legally incorrect. There is a  
8 mass of confusion in the industry between NRS 107 and  
9 NRS 116. NRS 116 does not use the word "trustee." It  
10 used the words "agent authorized for sale." However,  
11 other players in the industry, including Alessi &  
12 Koenig, would oftentimes use the language of 107 for  
13 their NRS 116 sales. So you see things like "trustee  
14 foreclosure deeds for HOA sales. We believe that to be  
15 utterly legally incorrect, but people nevertheless would  
16 recognize such deeds as being a valid 116 foreclosure.

17 We always in all capacities were an NRS 116 agent  
18 authorized for sale. And by the way, when I use the  
19 collective word "we," I mean specifically the law firm  
20 United Legal Services.

21 Q. Okay. And so did United Legal Services have the  
22 relationship you just described with the Tuscano HOA?

23 A. Yes. As provided in Section 4 of the documents  
24 that were provided, there is a contract with the HOA.  
25 Have you had a chance to review the document entitled

Page 11

1 Purchase and Sale Agreement?

2 Q. I have, actually. Maybe not with respect to this  
3 case, but I am familiar with the contents --

4 A. It's a generally standard template that was used  
5 for tri-party agreements between an HOA, the company  
6 First 100, LLC, and United Legal Services as agent  
7 authorized for sale. In this document the HOA  
8 specifically has the collections file transferred from  
9 Red Rock Financial Services to United Legal Services.  
10 These files were always transferred after Red Rock had  
11 done the Notice of Lien and had filed a Notice of  
12 Default. The purpose of this Purchase and Sale  
13 Agreement, amongst other purposes, had United Legal  
14 Services act in that final third stage of the sale to  
15 notice up a foreclosure sale and to conduct the auction.

16 Q. Okay. And who would retain United Legal  
17 Services? Was it the HOA or First 100?

18 A. I'm attempting to find the specific clause in the  
19 contract to point you to. Section 7.08 of the contract  
20 is entitled, "Limited Scope of Attorney-Client  
21 Representation. By this contract, an attorney/client  
22 relationship is established between Agent and Seller,  
23 however, Agent is not the general counsel for Seller and  
24 is the attorney-at-law of Seller only for the limited  
25 scope of services described herein and contemplated to

Page 12

1 be performed by Agent under this agreement."

2 So specifically United Legal Services, Inc. is --  
3 step back. I forgot to put the end quote. The quote  
4 ended with the words "under this agreement."

5 United Legal Services is a Nevada law firm, and  
6 so through this contract, the HOAs retained United Legal  
7 Services to perform the scope of services.

8 Q. The contract you're referencing, is that the only  
9 contract that governs the tri-partite relationship you  
10 were describing between Tuscano -- or I should say  
11 amongst Tuscano, First 100, and United Legal Services?

12 A. There is the Purchase and Sale Agreement itself.  
13 The Purchase and Sale Agreement, as with them all,  
14 included what we would call a first batch. It would be  
15 one or more properties that would be subject to the  
16 Purchase and Sale Agreement. Subsequent batches that  
17 would come in -- and I believe on Tuscano there were  
18 four additional batches, and these batches would come in  
19 through a self-executing Exhibit 3 to the Purchase and  
20 Sale Agreement, the examples of which we provided to  
21 you.

22 For example, I believe the -- here's the example  
23 of the subject property coming in simply as a contract  
24 extension. And that contract extension was not a full  
25 new -- brand new Purchase and Sale Agreement but merely

Page 13

1 a signed Exhibit 3, and that sped up the business  
2 considerably.

3 The Purchase and Sale Agreement was the only  
4 contractual legal agreement between United Legal  
5 Services and the HOA. There was a separate purchase  
6 arrangement agreement between United Legal Services and  
7 First 100, LLC whereby First 100, LLC would pay for the  
8 costs of United Legal Services to perform the services.  
9 In other words, it was a zero-cost contract for the HOA.

10 Q. Okay.

11 A. And that document was provided for you as well in  
12 the Section 4.

13 Q. So to make sure I understand, United Legal  
14 Services would be paid for their services by First 100?

15 A. That is correct, and what would happen is we  
16 would get notified that another batch had come in or for  
17 the first batch a PSA had been signed. We would send  
18 out an invoice to First 100, and they initially started  
19 off at \$750, pursuant to the purchase arrangement  
20 agreement, and I provided the invoice showing the  
21 subject property for this deposition as one of those  
22 invoices. This is invoice ULS-016.

23 That covered the NAC costs, so this was a  
24 contractual -- a statutorily defined up-front number,  
25 and I wasn't going to do -- and by "I," I mean in my

Page 14

1 capacity as president of United Legal Services. I was  
2 not going to have United Legal Services do any work  
3 until First 100 paid for the costs. A lot of these were  
4 costs.

5 Q. When you say "the NAC costs," are you referring  
6 to the schedule of costs that you provided today as  
7 well?

8 A. That is correct. If you refer to the schedule of  
9 costs -- may I? In Exhibit A you will see a document  
10 entitled Collections Fees and Costs Scheduled. So these  
11 were broken out. The top section is relating to NOS.  
12 Relating to the Notice of Sale. The bottom section is  
13 relating to sale. So the costs relating to the Notice  
14 of Sale are these seven items. The sum of those seven  
15 items in this schedule is \$800. For most of the  
16 duration of it prior to approximately June 22nd, 2013,  
17 it was \$750.

18 The reason that this changed is because the very  
19 last item, which is the USPS mailing cost, including  
20 certified mail, went up from \$5 to \$55, and the reason  
21 is because there was a statute change that went into  
22 effect approximately June 22nd, 2013, whereas after that  
23 date there are -- you had to send out certified mail to  
24 all of the relevant parties as opposed to regular first  
25 class mail to regular parties. So we bumped up the cost

Page 15

1 to \$800. So the sum from here to here was \$800. At the  
2 time this was implemented it was 750.

3 Q. And that's why the invoice that you just  
4 indicated, it appears that the costs per property were  
5 \$750?

6 A. That is correct. And in addition, that \$750 is  
7 referred to in the Payment Arrangement Agreement between  
8 United Legal Services and First 100 as executed on  
9 December 5th, 2012 in placement for Clark County  
10 properties -- because it differed by county -- was \$750.

11 Q. Thank you. How did the relationship between  
12 United Legal Services and First 100 come about?

13 A. First 100 had contacted me to --

14 MS. BUTLER: You're not going to get into  
15 any client confidentiality?

16 THE WITNESS: No. I'm going through that in  
17 my head.

18 A. First 100 had contacted me to perform and act as  
19 the agent authorized for sale for HOA industry  
20 relationships that they were developing as part of their  
21 business model. The very first auction that I  
22 personally held was in my former law firm, and realizing  
23 that my insurance for that law firm would not cover this  
24 sort of activity, I felt it prudent to start a brand new  
25 law firm whose sole purpose was HOA foreclosure

Page 16

1 auctions, and so I formed United Legal Services for that  
2 purpose.

3 Q. And what was your former law firm that you were  
4 referencing?

5 A. It's a law firm called Kupperlin Law Group, LLC.

6 Q. And can you spell that just?

7 A. K-U-P-P-E-R-L-I-N. My son's name is Cooper.

8 Q. Who at First 100 contacted you?

9 A. My primary point of contact throughout the whole  
10 process was Michelle Sergent. The development of the  
11 Purchase and Sale Agreement was mostly conducted with  
12 Jay Bloom. But after these got going, United Legal  
13 Services had very little interaction with Jay Bloom. It  
14 was more of a volume relationship, and Michelle Sergent  
15 over there was a point of contact, so when a PSA needed  
16 to get executed, she'd send it to me. I'd Email her  
17 back. And I believe we provided some Emails for you as  
18 well. You'll see there that almost all the Emails are  
19 to and from Michelle Sergent.

20 Q. So once United Legal Services is retained to be  
21 the agent, as you put it, for the HOA, what duties does  
22 United Legal Services undertake?

23 A. The typical business process would be to obtain  
24 the collections file from Red Rock, produce a Notice of  
25 Foreclosure Sale, record that document, notice it out

Page 17

1 pursuant to statute, take calls and any payments  
2 proffered, and for those properties for which the lien  
3 was not satisfied as of the date of sale, to conduct the  
4 foreclosure sale.

5 We also provided a notice -- sorry the actual  
6 foreclosure deed to an auction winner for any auction in  
7 which First 100 was the winner. United Legal Services,  
8 who had electronic filing capacity with the Clark County  
9 recorder, we would record those documents as a courtesy,  
10 as an accommodation we call it. For other parties we  
11 would simply provide the foreclosure deed, typically  
12 with a suggested DOV, but I have no idea what the DOV --  
13 what actually got filed for the subject property.

14 Q. And how did United Legal Services calculate the  
15 amount that was owed that's listed in the Notice of  
16 Sale?

17 A. We started with the total amount owed as provided  
18 by Red Rock Financial Services, and the total amount  
19 owed included overdue assessments, plus late fees, plus  
20 collections costs, and excluded any compliance files.  
21 And then we added the cost shown in exhibit -- of  
22 collections costs.

23 Q. Uh-huh?

24 A. But the entire first section, which I believe  
25 added up to \$1,200. Because if someone -- let me --



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1 pull that document back out so I can explain how it  
2 works. We do this very carefully. If -- do you see the  
3 \$1200 number on this exhibit?

4 Q. I do.

5 A. So if the property went for auction, then that  
6 was how much total would have been owed. However, if  
7 somebody attempted to pay it off before auction -- and  
8 quite a few of these properties did get paid off before  
9 the auction -- we would subtract out charges relating to  
10 the auction, as you can see in the second table of this  
11 exhibit. But we would add in the statutorily permitted  
12 additional costs such as recordation and release of  
13 notice. The net on that is minus 146. So if somebody  
14 called in and said, "How much do I owe to pay this off,  
15 we would take a look at the number that was calculated  
16 in the Notice of Foreclosure Sale and subtract \$146.

17 Q. Okay. And for clarity of the record, we were  
18 referring to the document contained in Exhibit A that's  
19 entitled Collection Fees and Costs Schedule.

20 When you indicated that quite a few properties  
21 got paid off prior to auction, how would that come  
22 about?

23 A. We -- we got calls from property owners, many of  
24 whom were quite irate. We occasionally got contacted by  
25 servicers. Very rarely. And occasionally we would be

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1 contacted by confused tenants. At all times we  
2 expressed the need to pay this off prior to auction;  
3 that foreclosure was eminent, and for homeowners that  
4 expressed a desire to pay, it was either done as a  
5 payment in full or if they're able to strike a deal to  
6 be on a shortened payment plan, those would be  
7 accommodated as well. If it was one of the rare  
8 contacts from a mortgage servicer, we accepted any money  
9 that was provided to us. This happened on -- to my  
10 recollection, six occasions out of the between 1 and 200  
11 properties that were placed with us.

12 On all six occasions they tendered just the nine  
13 months assessments with no collections costs. In all  
14 six we recorded notice of partial payment in the land  
15 records prior to the auction. That did not occur in  
16 this case. For the subject property for this lawsuit,  
17 we were not contacted by either the homeowner or a  
18 servicer.

19 Q. Okay. When United Legal Services gets the file  
20 from Red Rock Financial Services, does it take any  
21 independent steps to verify the file is correct, the  
22 work that had been done by Red Rock was correct?

23 A. No. That was the responsibility of the HOA  
24 pursuant to the Purchase and Sale Agreement.

25 Q. So United Legal Services would have no

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1 independent knowledge of whether or not Red Rock  
2 essentially did what it was required to do?

3 A. We had absolutely no knowledge of that. Correct.

4 Q. Okay. In this case you indicated that one of the  
5 duties of United Legal Services was to notice out a  
6 Notice of Sale, provide notice in accordance with the  
7 law. What is your understanding of who is required to  
8 receive notice at the Notice of Sale?

9 A. Let us refer to the statute. Under NRS  
10 116.311635 it says, "The association or other person  
11 conducting the sale shall also, after the expiration of  
12 the 90 days and before selling the unit:

13 "(a) Give notice of the time and place of the  
14 sale in the manner and for a time not less than that  
15 required by law for the sale of real property upon  
16 execution, except that in lieu of following the  
17 procedure for service on a judgment debtor pursuant to  
18 NRS 21.130, service must be made on the unit's owner as  
19 follows:"

20 Subsections 1 and 2 of that talk about mailing it  
21 to the unit and then posting it on the unit. Subsection  
22 B, which I think is relevant for your client, says,  
23 "Mail, on or before the date of first publication of  
24 posting, a copy of the notice by certified or registered  
25 mail, return receipt requested to:"

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1 May I point out that the statute that says "copy  
2 of the notice by certified or registered mail" didn't  
3 always say that. Pursuant to Senate Bill 280, it used  
4 to say first class. Under -- for the subject property,  
5 the pre-amendment statute was in effect, and so the  
6 mailing requirement was only by first class mail to the  
7 parties, which I'm about to express.

8 Continuing with the quotation from the statute,  
9 subsection 1, "Each person entitled to receive a copy of  
10 the Notice of Default and Election to Sale under notice  
11 NRS 3.1163."

12 Subsection 2, "The holder of a recorded security  
13 interest or the purchaser of the unit, if either of them  
14 has notified the association, before the mailing of the  
15 Notice of Sale, of the existence of the security  
16 interest, lease or contract of sale, as applicable."  
17 And 3, "The Ombudsman."

18 We had no knowledge as to which holders of  
19 recorded security interests had notified the  
20 association. It is our legal position that any recorded  
21 security interest, in order to win any case on notice,  
22 would have to provide proof positive that they notified  
23 the association prior to the sale. However, because we  
24 had no knowledge of this, we went ahead and mailed it to  
25 the security interests and assignments as recorded in

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1 the land records out of an abundance of caution.

2 Does that make sense?

3 Q. Yes. Thank you. So to ascertain what security  
4 interests existed on the property, did United Legal  
5 Services obtain a title report, or did they do some  
6 title research?

7 A. United Legal Services performed title research.  
8 I'm also a real estate attorney, and I'm quite familiar  
9 with title and recordation and security instruments, so  
10 what we would do is we would pull a fresh printout from  
11 the Clark County recorder's office, and we would also do  
12 side research on the borrower's names in order to ensure  
13 that there were no security interests on the relevant  
14 parcel that didn't come up when you typed in the parcel  
15 number. We would also, by the way, do bankruptcy  
16 searches, including the day before each sale.

17 And in the Section 2 of the documents I sent you  
18 is a printout of the Clark County recorded documents, a  
19 printout of the Clark County assessor, which indicates  
20 what the mailing address of the deed was at the time, a  
21 printout of the deed itself, and then behind it is the  
22 recorded security interests and any assignments thereof.  
23 I haven't look at this in awhile, so I don't know if  
24 there were any assignments, but we can certainly flip  
25 through it and see if there were.

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1 Q. Do your records show precisely what parties were  
2 provided with the Notice of Sale in this case?

3 A. They do. In Section 3, which is the documents  
4 that were produced by United Legal Services, stepping  
5 through it, you can see -- the first document. Do you  
6 have that with you?

7 Q. I don't have them from your documents, but I did  
8 print us out a copy of the recorded documents.

9 A. Okay. Let's step through this. This is the  
10 unrecorded original Notice of Foreclosure Sale, the  
11 recorded Notice of Foreclosure Sale, the Notice to  
12 Tenants of Property, which was a statutorily required  
13 item. Here is the certified mailing receipt to owner or  
14 occupant. Here's the certified mail to New Freedom  
15 Mortgage Corporation. Here is returned USPS from Cooper  
16 Castle, returned mail from owner or occupant, returned  
17 mail from New Freedom Mortgage Corporation, returned  
18 certified mail from owner/occupant, and then returned  
19 certified mail from New Freedom Mortgage Corporation,  
20 and then you'll see a Form 3877 from the post office.  
21 U.S. Post Office Form 3877 is a bulk certificate of  
22 mailing document. Are you familiar with these?

23 Q. No.

24 A. Okay. There are multiple types of mail:  
25 Regular, first class mail, certified mail, registered

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1 mail, and so forth. A certificate of mail indicates  
2 that you have transmitted to the post office a first  
3 class mail item. It's proof that it got mailed.  
4 There's no proof of receipt. There's no proof of  
5 delivery or anything. It's a certificate of mailing.

6 Now there are individual U.S. postal certificates  
7 of mail for individual pieces, but as we were billed in  
8 volume, we asked the post office if there was an easier  
9 way to do this, and they told us about Form 3877 and how  
10 to fill it out.

11 The way you read this form is each one of the  
12 addresses in the second column is something in which a  
13 U.S. first class mail envelope went out the door. For  
14 example, you can see the Ombudsman on there, and you can  
15 see the transferees and other people that were in the  
16 land records. And then they stamped the whole thing.  
17 The slashes on the bottom are required by the post  
18 office. If we didn't put them in, then the person in  
19 the post office would have to make sure there's a complete  
20 column so that there's no subsequent shenanigans as to  
21 typing in something.

22 So this certificate of mail shows all of the U.S.  
23 first class pieces of mail that went out the door  
24 relevant to the property. In addition, you can see on  
25 the bottom of Form 3877 -- you can see our code, and we

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1 had internal codes for each property, and this is NV,  
2 meaning Nevada, dash T3, which is batch three of  
3 Tuscano, dash 03, which is the subject property.

4 Q. So this form would show that these got mailed,  
5 but not necessarily indicate receipt of those?

6 A. That is correct. We were under no statutory duty  
7 whatsoever to send it out with delivery confirmation or  
8 certified mail or anything.

9 Q. Okay.

10 MS. SCHMIDT: Do you mind if we go off the  
11 record for two seconds?

12 (Discussion off the record.)

13 MS. SCHMIDT: We'll mark as Exhibit B --  
14 this is the Section 3 of documents that we were just  
15 referring to that contain the certified mailing  
16 receipts, the recorded and unrecorded Notice of  
17 Foreclosure Sales, the notice to tenants, and the USPS  
18 Form 3877 that we were just referencing.

19 A. Now you'll notice on the Form 3877 there is a  
20 reference to NationStar Mortgage at the Highland Drive  
21 address. You may ask where did we get that address, and  
22 may I refer you to Bates stamp N as in Nancy SM as in  
23 Mary 0041. This document is the document entitled  
24 Corporation Assignment and Deed of Trust, and it  
25 transfers the beneficial interest in the deed of trust

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1 from Bank of America, N.A. to NationStar Mortgage, and  
2 it provides the same Highland Drive address that you  
3 find on the certificate of mailing.

4 (Exhibit B was marked.)

5 BY MS. SCHMIDT:

6 Q. Looking at the Notice of Foreclosure Sale that's  
7 recorded NSM 00043, was this something that was  
8 generated by United Legal Services?

9 A. Yes.

10 Q. And I see it's executed by a Mia --

11 A. Fregeau.

12 Q. Fregeau. What's her role with United Legal  
13 Services?

14 A. She's no longer employed by United Legal Services  
15 as United Legal Services is no longer in business. At  
16 the time she was a staff employee.

17 Q. And at the time that this was executed, what were  
18 her duties?

19 A. She wore several hats. She posted items on the  
20 property and the public notice postings. She handled  
21 all of the outbound mail such as filling out the  
22 certified mailing receipts. She handled incoming  
23 returned mail and scanned and sorted them. She also  
24 work our call center. We had a very tiny call center,  
25 but we would get calls, and if she was out posting, then

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1 another employee would handle the calls.

2 Q. And what is the amount listed as due and owing on  
3 this document?

4 A. It's found the last word of Paragraph 2, which is  
5 7,806.42.

6 Q. And can you explain to me again how that was  
7 calculated?

8 A. Certainly. It may take a moment to rebuild my  
9 calculation, so hold, please.

10 If you look on the back page of the collections  
11 file that we received from Red Rock Financial Services,  
12 you'll see the last page, Page 6 of 6 of Accounts Detail  
13 a total of \$6487.42. As discussed, that is the sum of  
14 collections costs plus past due assessments. If you add  
15 \$1,150, which was the pre-June 22nd, 2013 amount, you  
16 will get \$7,637.42.

17 Now, the file was transferred as of May 23rd,  
18 2013. The sale is set for June 22nd, 2013, so we had to  
19 add in one more month of unpaid assessments and one more  
20 month of late fees. At the time the monthly assessments  
21 were \$164. At the time the late fees were \$15. So if  
22 you add 179 to 7,637.42, you get 7,806.42, and that's  
23 the number that's in the Notice of Foreclosure Sale.

24 Q. The notice indicates that a sale would be held on  
25 June 22nd, 2013 at 9:00 a.m. Do you agree with that?

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1 A. If by that you mean did that sale for the subject  
2 property occur on that date, I would have to look at  
3 the --

4 Q. Well, preliminarily, do you agree that that's the  
5 date listed on the Notice of Foreclosure Sale?

6 A. Is that your question? Yes. That is the date  
7 listed on the foreclosure sale.

8 Q. Did the sale actually go forward on that date?

9 A. Yes. I say that by referring to the documents,  
10 specifically the Foreclosure Deed on Sale, as well as  
11 the auction results that were provided to you on this  
12 property, which were filled out at the time of the sale.

13 Q. What steps did United Legal Services take to  
14 publicize the sales?

15 A. They were published and posted. It was all done  
16 pursuant to statute. There was no marketing or  
17 advertising done in any manner. However, we had a  
18 regular public auction and people knew about our sales,  
19 and so they were the same cast of characters that you  
20 would find at HOA foreclosures over at Alessi & Koenig.  
21 For example, one of the principals of SFR Investments  
22 commonly showed up.

23 Q. Did United Legal Services ever contact  
24 individual -- I'll say purchasers from the cast of  
25 characters to let them know that that specific sale was

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1 happening?

2 A. Not as a matter of practice. Occasionally it  
3 might have happened, but not as a matter of practice.

4 Q. When you say that the sales were published and  
5 posted according to statute, where would they be  
6 published?

7 A. In the Clark County Legal News. Affidavit of  
8 Publications are in the documents provided. And the  
9 postings took place on the property as well as in three  
10 public locations. The Affidavit of Posting for the  
11 three public locations are provided in the documents.  
12 Those are public boards that are in existence around  
13 town. We were very careful to select those, and the  
14 Affidavit of Service provides the items that were taped  
15 to the unit on the door. And on this one we provided a  
16 photograph of the documents taped to the door. I'm sure  
17 you saw that.

18 Q. And did the investors or purchasers that would  
19 attend these sales ever contact United Legal Services?

20 A. Yes.

21 Q. Did United Legal Services have a website or  
22 something like that where someone could look up upcoming  
23 foreclosure sales?

24 A. No. It's a very small community of people that  
25 buy these things.

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1 Q. Were you personally in attendance of this  
2 auction?

3 A. I called every auction held in Clark County that  
4 United Legal Services did. So the answer to your  
5 question is yes.

6 Q. Do you have any records or memory that indicate  
7 how many individuals attended this particular auction?

8 A. I do not and did not keep an attendance ledger of  
9 any auction. There was at least two individuals, but  
10 there could have been five or six or ten. Sometimes  
11 there was as high as 15.

12 Q. What was the opening bid for this auction?

13 A. You would have to refer to the MP3 of the  
14 auction. On many of the auctions I recorded them for  
15 posterity just in case I needed it, so I provided that  
16 MP3 to you, so you can listen to it.

17 Q. And that was on the CD that you provided?

18 A. Yes. Under Section 5. And you will hear that  
19 there is regular, normal, spirited bidding. This  
20 particular property got up to \$7,800.

21 Q. Was \$7,800 what the property was sold for?

22 A. Correct.

23 Q. If the borrower had wanted to pay off the lien,  
24 let's say at 8:00 a.m. prior to the sale, what would --  
25 how much would they have had to pay to satisfy the lien?

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1 A. I believe I have answered that question. Let me  
2 reiterate my answer. It would have been the amount  
3 shown in the Notice of Foreclosure Sale minus \$146.

4 Q. So that would be the 7,806.42 minus the \$146?

5 A. And the \$146 is shown as Table 2 to the  
6 collections cost document found in Exhibit 1. The  
7 property owner or anyone else did not show up to this  
8 auction. If they had, we absolutely would take that  
9 money.

10 Q. Do you recall who was the high bidder at this  
11 sale?

12 A. A gentleman -- I don't know how to spell his last  
13 name, but it's Jacob Lefkowitz or something like that.  
14 He was a regular. We saw him all the time.

15 Q. Can you estimate about how many properties he has  
16 purchased from United Legal Services auctions?

17 A. It is my understanding that Jacob personally was  
18 a bidder -- so just to clarify your question, I don't  
19 recall Jacob ever taking properties in his personal  
20 name, but instead after the sale and auctions were  
21 concluded, then as part as part of bringing up the  
22 receipt for sale, which you have a copy of, we would ask  
23 for vesting information, and vesting information on this  
24 one happened to be the trust. West Sunset 2050 trust.  
25 I do not recall offhand how many properties for

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1 which Jacob personally was the successful bidder on  
2 behalf of some other entity. Perhaps 5 or 10.

3 You have to understand that a lot of these  
4 properties were lousy properties. I don't know if you  
5 understand the cash flow, but these properties, as part  
6 of the Purchase and Sale Agreement contract were all  
7 contractually obligated to be started with an opening  
8 bid of \$99, and the reason is because most of the  
9 properties sold for just 2 or \$3,000 because they're  
10 crappy little condos.

11 So when you start putting together the cost of  
12 sale, plus the cost of rehab, plus the cost of  
13 litigation, you might be in at \$9,000 just to get a  
14 first deed of trust foreclosure sale stalled out in  
15 court, and on those properties, this is an apartment  
16 unit, it might rent out for \$500. These are not good  
17 parts of town. So at \$500 and you're in it for 9,000,  
18 now you've got a pay-back period of 18 months just to  
19 get your money back. This thing's got a lien amount of  
20 7800. You know? This one probably was a two bedroom.  
21 I don't even know. The reason it went more is because  
22 for the rent you might be able to get \$900 and your  
23 payback period is less.

24 It's my understanding that a lot of these guys  
25 would go buy the property and try to peek in the window

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1 and see if it was in the good shape, and if it was in  
2 good shape, then hey, my rehab cost will be 500 bucks.

3 I was not part of it, but I was aware of the fact  
4 that there were calculations as to how much each  
5 individual bidder was willing to bid up to. It's all --  
6 my understanding is hard cash flow costs.

7 Q. So pursuant to the contract with the HOA and  
8 First 100, do you believe the bidding on this would have  
9 started at \$99?

10 A. Every property that United Legal Services acted  
11 as the agent authorized for sale and was the auctioneer  
12 for began opening bid at \$99. So as a result, this  
13 particular property would have started at \$99 as an  
14 opening bid.

15 Q. So is it possible that a purchaser could buy  
16 these properties for less than the amount of the lien  
17 owed?

18 A. Oh, yes. In fact, that was an explicit part of  
19 the First 100 business model, to my understanding. Have  
20 you ever attended an Alessi & Koenig foreclosure  
21 auction? You personally?

22 Q. Not that I can recall.

23 A. They're very interesting because a third to a  
24 half of them are won by the HOA. Alessi & Koenig sets  
25 the initial opening bid at the lien amount, and these

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1 cash flow investors say, "I'm not going to pay 13,000  
2 for a condo or \$8,000 for a condo," and so there's no  
3 overbid. Now, Alessi & Koenig, back in the day, would  
4 then identify the HOA was the opening bidder as being  
5 the winner. Then the HOAs would become title owner of  
6 the property. What are they going to do with the title  
7 owner of the property? That was really troublesome to  
8 the HOA. Now they had to insure the property. What  
9 were they going to do? Fix it up and rent it out?

10 First 100, it is my understanding, spotted an  
11 opportunity in the business model saying as part of the  
12 multifaceted complex document that is a PSA, said, Hey,  
13 auction this thing off. By setting it at \$99, they were  
14 virtually assured that somebody would overbid because  
15 somebody would take a flier for 100 bucks. Most of them  
16 would offer 2 or 3,000, and that way the HOA could be  
17 comforted that they wouldn't end up being the owner of  
18 the property. And, in fact, on none of our auctions was  
19 the HOA winning bid ever the winning bidder at \$99.

20 And by the way, I don't know if you know this,  
21 but this is entirely hearsay, but it is my understanding  
22 that after awhile, Alessi & Koenig was instructed to  
23 cancel the auction if there was no overbid, which I  
24 found to be an extremely interesting practice, if that's  
25 what they were doing. They would call it at 15,000, the

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1 amount of the lien, no overbids. They would cancel in  
2 order to prevent their HOA from having the take back the  
3 property. That is entirely hearsay. I don't know if  
4 they did that.

5 You can see the pressure the HOAs were under.  
6 Like, Oh, man. I don't want the property. No one is  
7 buying it. Cancel the sale and leave it in the property  
8 owner's name. That \$99 opening bid was a very  
9 attractive part of the First 100 business model.

10 Q. Was there a First 100 agent or representative  
11 that attended the sale?

12 A. Yes. Typically it was Jay Bloom, but sometimes  
13 it was another employee.

14 Q. And if there were no third-party bidders -- and  
15 by third party I mean not the HOA and not First 100 --  
16 what would happen in those instances?

17 A. You can probably listen to and hear for yourself  
18 on the MP3 that was provided. There were three  
19 properties that were auctioned that day. Two of them  
20 were bought by First 100. One for 3,000 and the other  
21 for \$3,000. In the MP3 -- I haven't listened to it in  
22 awhile, but generally the way the bids would go is that  
23 somebody would start off with \$100 or \$500, because if  
24 nobody overbid, why would you overbid yourself?

25 Generally somebody would say \$100, and then

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1 occasionally we'd have one go off for \$100, but  
2 generally there was active bidding because Hey, man, why  
3 not bid \$500? It's still cheap because you never know.  
4 Generally it would go \$100, \$500 as the opening bid, and  
5 somebody else would top that by a 500, and generally bid  
6 in increments of \$500 until you hit a stopping point.  
7 It's a public auction. We found the market value for  
8 it, and the auction ceased.

9 Sometimes -- because everybody walked in with a  
10 number that was their bid cap, because these are very  
11 calculated cash flow kind of guys -- when things got  
12 closer to a bid cap, people would reduce the increment  
13 to less than \$500. So that's probably what happened on  
14 the subject property going off at 7800. You probably  
15 got -- these guys have the same business models, and  
16 somebody was in the 7,000s and then Jay -- I don't know  
17 what his cap was, but he had a higher cap than anyone  
18 else, so he won the property at 7800.

19 Q. Were the sales ever canceled or postponed to  
20 attempt to get more bidders there?

21 A. No. It is United Legal Services' position that  
22 every auction was commercially reasonable.

23 Q. I know you indicated before on the six or so  
24 occasions where the security interest holder paid some  
25 money to United Legal Services it was your practice to

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1 record a Notice of Partial Payment.

2 A. Yes.

3 Q. Would that be information that was announced at  
4 the sale as well?

5 A. Oh, yes. And it, as you might imagine, affects  
6 the purchase price because it would be relevant  
7 information into the calculation of these characters.

8 Q. In your experience did that have an effect of  
9 chilling the bidding on certain properties where the  
10 partial payment had been recorded?

11 THE WITNESS: I object to the form of the  
12 question in the sense that "chilling the bidding" is an  
13 undefined term.

14 A. How I would instead characterize it is that my  
15 understanding is that the price would be less than it  
16 otherwise would have gone for without the presence of  
17 that information.

18 BY MS. SCHMIDT:

19 Q. Prior to calling the sales, does United Legal  
20 Services or I should say did United Legal Services  
21 announce whether or not there was a deed of trust on the  
22 property at all?

23 A. No. That was not anything required by statute.  
24 It was absolute caveat emptor. I mean, you don't hear  
25 that down at regular foreclosure auctions. There was no

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1 need for that. Nor did United Legal Services take any  
2 legal position whatsoever as to the legal effect of an  
3 NRS 116 foreclosure on an extant deed of trust.

4 As a matter of fact, we expressly put that on the  
5 six or so Notice of Partial Payment of Lien. I can  
6 provide an example if you wish. It says, We have no  
7 legal position as to what this payment is, but the payor  
8 intended it to pay off the nine-months super priority.

9 Q. I want to look at the Foreclosure Deed Upon Sale  
10 Bates stamped NSM 0044 and including the Declaration of  
11 Value through NSM 00046.

12 A. Okay.

13 Q. Are you familiar with this document?

14 A. The NSM 0044 and 45 document was produced and  
15 executed by United Legal Services, and the Bates stamp  
16 46 document was a blank deed -- sorry. A blank  
17 Declaration of Value form that was produced but not  
18 executed by United Legal Services. The asterisk by  
19 United Legal Services and then it says at the bottom "as  
20 agent for Tuscano Homeowners' Association," that was  
21 additional language and clarification that was required  
22 by Clark County recorder or these things would get  
23 kicked back unless we put that in.

24 But the actual handwriting in Section 3 of the  
25 DOV form that is not familiar to me, it would have been

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1 somebody on the buyer's side. That's not my  
2 handwriting. It's not Mr. Opdyke's handwriting. We  
3 never fill those out except for First 100 purchases.  
4 And certainly that is not any signature -- the grantee,  
5 as you can see, signed the DOV form.

6 Q. Can you tell me who Robert Opdyke is?

7 A. He's an attorney that is currently an employee of  
8 Atkinson Law Associates, but at the time also did and  
9 worked as a part-time employee at United Legal Services.

10 Q. Can you tell me what his role was in United Legal  
11 Services when he was working there?

12 A. I can answer that two ways. First, he acted in  
13 an attorney capacity. Second is that he assisted with  
14 the production of the documents and in the evaluation of  
15 the land records.

16 Q. Does the foreclosure deed contain the price paid  
17 of the auction?

18 A. No. Nor is there any statutory requirement for  
19 it to do so. There is, in fact, a statutory discussion  
20 of the language for such foreclosure deeds in NRS 116.  
21 Are you familiar with that particular language?

22 Q. Yes.

23 A. You will find that language in there, and the  
24 discussion of the language to be found in the  
25 foreclosure deed in the statutes makes no reference to

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1 any requirement to having to have the sale price  
2 incorporated in the foreclosure deed.

3 Q. Does it anywhere in the Foreclosure Deed Upon  
4 Sale recite the consideration paid for the property?

5 A. No. Nor is there any requirement for it to do  
6 so. Pursuant to the Email from Clark County treasurer  
7 that is found in Exhibit 1, they expressly said that it  
8 should be at market value. There is a statutory basis  
9 for that. I don't know if you're aware of that, but the  
10 Clark County -- the reason for that Email was because  
11 the Clark County recorder was having a conniption fit  
12 over a \$2,000 DOV form, and there's a statute -- it's  
13 like NRS 375 or something. I can look it up -- that  
14 says that in -- for recordation, real property transfer  
15 taxes -- then any transfer which is a gift or of nominal  
16 value shall be at full market value. I forget the exact  
17 language, but the reading that you see is from Georgia  
18 who works in the audit department. They got a readout  
19 from, I think, the DA's office saying that the HOA  
20 foreclosure sales -- we're going to deem them to be  
21 nominal, and therefore they have to be at full market  
22 value. I personally do not believe it to be nominal.  
23 \$2,000 is \$2,000.

24 However, it is my perception it's more of a  
25 revenue grab for the government than anything else

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1 because they knew all these players had money, and if  
2 they could get \$300 out of them instead of \$20 of them,  
3 then they would certainly do that, but that was my  
4 perception.

5 Q. The amount listed on the Declaration of Value,  
6 NSM 00046 is \$63,280. Where would that figure come  
7 from?

8 A. I have no knowledge whatsoever as to how the  
9 buyer obtained that number on the DOV form. We provided  
10 them a blank DOV form. I can guess -- and if you permit  
11 me to -- what we would do for the foreclosure deeds that  
12 we recorded as an accommodation for First 100 sales, we  
13 would go to the land records and call up the assessor's  
14 value on the Clark County treasurer's website because  
15 that's where Clark County recorder pointed us to. I  
16 forget if it was that mail or a subsequent phone call.  
17 They said, Use the assessed value of the current year.  
18 There it is right there. I had no knowledge of it until  
19 today. It's right there on the then current year tax  
20 assessed value on the Clark County treasurer website  
21 printout for the parcel. Do you see that?

22 Q. And for the record, we're indicating on the Clark  
23 County Assessor information under Real Property Assessed  
24 Value is the total taxable value for the year 2013  
25 through '14 and appears to be \$63,280.

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1 A. That was the industry standard.  
 2 Q. So just so I understand, on these declarations of  
 3 value that were not for First 100, the grantee, whoever  
 4 purchased at the sale, would be in charge of  
 5 ascertaining the total value sales price of the property  
 6 and filling them in themselves?  
 7 A. Ascertaining is -- I would instead use the word  
 8 "determining." But because a Clark County recorder had  
 9 set it out as a general rule, then it is my  
 10 understanding that the industry players all knew the  
 11 rule, and per our discovery today, that it appears that  
 12 they did the exact same thing, because that's what  
 13 everybody did. Because otherwise how would you  
 14 determine what a market value is? If the Clark County  
 15 recorder said go to the Clark County website and use the  
 16 assessed value, that's what people did.  
 17 Q. So for this particular declaration of value in  
 18 this case, that information was filled in by the grantee  
 19 and not United Legal Services. Is that correct?  
 20 A. Correct.  
 21 Q. Okay. I believe you indicated previously it was  
 22 the HOA's responsibility to make sure that the work that  
 23 had been done by -- in this case -- Red Rock Financial  
 24 Services was correct?  
 25 A. Yes. It is definitely not United Legal

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1 Services's responsibility to be auditing or inspecting  
 2 the work of Red Rock Financial Services in terms of how  
 3 they did the Notice of Lien and Notice of Default. When  
 4 I say "did," I mean both the compilation and recordation  
 5 of that document, as well as any noticing required by  
 6 the statutes.  
 7 Q. United Legal Services didn't go through  
 8 certificates of mailing that might have been in Red  
 9 Rock's file?  
 10 A. We were under no duty to do so whatever.  
 11 Q. And United Legal Services didn't check to make  
 12 sure that Red Rock Financial Services complied with  
 13 posting requirements?  
 14 A. We were under no duty to do so. If there was a  
 15 flaw in Red Rock's work, you'll have to talk to Red  
 16 Rock.  
 17 Q. Looking at the first page of the Foreclosure Deed  
 18 Upon Sale, NSM 00044, looking at the bottom of the  
 19 paragraph in the middle of it where it says -- I'm  
 20 quoting from the deed. "All requirements of law have  
 21 been complied with, including, but not limited to te  
 22 elapsing of the 90 days, the mailing of copies of the  
 23 Notice of Lien of Delinquent Assessment, and Notice of  
 24 Default, and the mailing, posting, and publication of  
 25 the Notice of Foreclosure Sale."

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1 Based on your testimony -- I should say that's  
 2 the end of the quote. The quote ends with "Notice of  
 3 Foreclosure Sale."  
 4 Based on your testimony, the individual signing  
 5 this for United Legal Services would have no personal  
 6 knowledge that all those requirements had been complied  
 7 with. Is that correct?  
 8 A. Pursuant to my earlier statement, United Legal  
 9 Services had no duty or obligation to inspect or audit  
 10 Red Rock's records. I believe the statement and line of  
 11 argument that you're presenting is conflating two  
 12 different concepts.  
 13 Q. Well, my question is -- I mean, you testified  
 14 that you didn't check whether or not Red Rock Financial  
 15 Services did the correct mailing or the posting or the  
 16 work they did in terms of the creating and recording of  
 17 these documents, so I'm wondering --  
 18 A. The purpose --  
 19 Q. Let me just finish this -- if the individual for  
 20 United Legal Services who executed this would have  
 21 personal knowledge of whether or not those had been  
 22 complied with since it wasn't one of United Legal  
 23 Services's duties to check those things.  
 24 A. You misunderstand the purpose of that language.  
 25 That language is specific language that's found in NRS

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1 116.31166 subsection 1. That statute discusses the  
 2 effects of certain recitals in the deed, and what the  
 3 statutes say is that if those recitals that you read  
 4 about are present in an HOA foreclosure deed -- and by  
 5 HOA foreclosure I mean NRS 116 foreclosure -- then they  
 6 are conclusive proof of the matter's recital.  
 7 Now, I will leave it up to you attorneys to  
 8 explore the various wrinkles of that. Your questions  
 9 are intending for me to form a legal opinion as to what  
 10 it is. My legal opinion is that if the foreclosure deed  
 11 contains the recitals, then by statute they're  
 12 conclusive proof of the matter's recital.  
 13 If you believe that based on my earlier testimony  
 14 relative to United Legal Services' personal knowledge of  
 15 things that United Legal Services performed and lack of  
 16 personal knowledge of things that a prior collections  
 17 agency performed, whether those facts have any sort of  
 18 legal effect on the statutory recitals, is not my fight.  
 19 Q. I understand. What I'm trying to find out here  
 20 is whether or not Robert Opdyke -- and I apologize if  
 21 I'm mispronouncing that to him wherever he is -- whether  
 22 or not he had personal or business records knowledge of  
 23 each and every thing in the recitals.  
 24 A. What we had was the documents we were provided  
 25 from Red Rock Financial Services. So in that document



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1 you can see a lengthy set of assessments as well as  
2 collections efforts. Mr. Opdyke had no personal  
3 knowledge of any activity of Red Rock Financial  
4 Services. United -- nor is he particularly any sort of  
5 target for your investigation. He's simply a signatory  
6 for United Legal Services.

7 I think your question is better: Did United  
8 Legal Services as an entity have any knowledge of any  
9 particular activity of Red Rock Financial Services, and  
10 my response is: We were provided the documents that we  
11 were provided, which comprise the lien, a Notice of  
12 Default, and an accounting ledger. We got no other  
13 documents from Red Rock Financial Services on any of the  
14 accounts, and so we know what was in here and nothing  
15 else.

16 Q. So when the recitals say that all requirements of  
17 law have been complied with -- for instance, the mailing  
18 of copies of the Notice of Delinquent Assessment Lien --  
19 even though United Legal Services is signing that, they  
20 have no personal knowledge that those requirements were  
21 complied with?

22 A. That is correct. We relied on Red Rock Financial  
23 Services to perform their collections activities in a  
24 professional manner, and our assumption is that they  
25 would not have sent over any deficient file. So the

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1 statement was made on the assumption that it was correct  
2 because Red Rock did not flag it as being a troubled or  
3 a redo file.

4 By the way, your line of inquiry is not how I  
5 read that statute.

6 Q. Fair enough.

7 A. That's fine.

8 Q. I know quite a bit of this is up in the air and  
9 subject to all of our interpretation.

10 A. By the way, if you find that Red Rock's files are  
11 in order, then it doesn't matter.

12 Q. In United Legal Services's files for each  
13 property, does it keep copies of any correspondence it  
14 receives related to that property?

15 A. Yes.

16 Q. Does United Legal Services maintain a call log  
17 for properties for -- for instance, if someone called,  
18 would there be a record of that in the file?

19 A. No written record.

20 Q. Did anyone contact United Legal Services to pay  
21 off this particular -- to make a payment on this  
22 particular property prior to sale?

23 A. No.

24 Q. If United Legal Services received contact from a  
25 beneficiary of a first deed of trust who requested a

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1 superpriority payoff, what was United Legal Services'  
2 policy at the time between 2012 to the date of sale,  
3 June 22nd, 2013, in responding to those requests?

4 A. We always had an open-door policy with respect to  
5 any servicer or deed of trust beneficiary that contacted  
6 us. Those contacts were very rare and very far in  
7 between. In general, they would ask how much should  
8 they pay, and we would say, "We cannot provide you with  
9 legal advice."

10 And then they would say, "We only want to pay  
11 nine months of assessments and not collections costs,"  
12 and I would say, "You are free to do so," and then we  
13 would explain what we would do. And on those rare  
14 occasions when a servicer did contact us to make some  
15 sort of payment, they were always delighted that we  
16 would take payment without demanding collections costs  
17 and we would record the payments in the land record.  
18 Apparently no other NRS 116 foreclosure agent would do  
19 that and so apparently it was a best practice.

20 Q. If a beneficiary called and said, "Can you tell  
21 me what the monthly assessments are or quarterly  
22 assessments," looking at that information so they could  
23 calculate nine months, United Legal Services would give  
24 that to them?

25 A. Certainly. Because the monthly assessment was

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1 found right in the account detail.

2 Q. I usually say "borrower," but I should say unit  
3 owner" -- contacted United Legal Services and wanted to  
4 explore ways to save their home, who would have the  
5 ultimate authority to decide whether or not to enter  
6 into some sort of payment plan with them?

7 A. Typically our policy was to tell them that the  
8 amount shown -- the amount that was required to stop a  
9 sale was the amount shown in the Notice of Foreclosure  
10 Sale minus \$146, and we would inform them that would  
11 have to be paid in full prior to the auction.  
12 Occasionally, homeowners would also contact the HOA  
13 either through the HOA board member or FirstService  
14 Residential, formerly known as RMI, and sometimes we  
15 would get a request from the HOA or RMI to accept a  
16 payment plan for a unit owner, and in those instances we  
17 would put people on payment plans. We would then  
18 postpone auctions to keep them on a short leash, and  
19 when the payment plan was complete, we would cancel the  
20 auction. It didn't happen that often.

21 Q. Would it be the HOA that decided whether or not  
22 to allow the home owner to enter some sort of payment  
23 plan?

24 A. Usually the HOA boards are extremely quiescent in  
25 the sense that they relied heavily on RMI -- now



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1 FirstService Residential -- to perform the day-to-day  
2 management of the HOA community, and so it was very rare  
3 would I actually get contacted by anyone on the HOA  
4 board. It was always through somebody over at RMI.

5 Q. So it was the management company, generally, that  
6 would decide whether or not to allow a payment plan?

7 I'm trying to figure out who has the authority to --

8 A. RMI would clearly have the authority to put  
9 somebody on a payment plan and request that a payment  
10 plan be put on. It was very rare. In general I was  
11 contractually obligated to take this thing for sale. If  
12 somebody called up and said, "I'd like to go on a  
13 payment plan," our standard response is: "You have to  
14 pay it in full before the sale." Why? Because we're  
15 permitted to do that. It's just like a regular deed of  
16 trust auction. I mean, you're in arrearage for \$20,000,  
17 and the answer is no.

18 But you have to realize that this is a fairly  
19 rare event because most of these homeowners were  
20 severely delinquent on the deed of trust, were terribly  
21 underwater. A lot of these condos had a market value of  
22 \$40,000 or \$60,000 and the deed of trust was for  
23 \$210,000 because it was bought in 2005, and the last  
24 thing anybody wanted to do was cough up \$7,000 to save  
25 it from an HOA foreclosure auction, because they knew

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1 the foreclosure date was coming at some point. They  
2 just didn't know who was going to be first: the deed of  
3 trust beneficiary or the HOA. So they had rode it out  
4 sometimes for years before something got foreclosed on.

5 Q. On the properties where there was an agreement  
6 with First 100 and the HOA, would First 100 have any say  
7 over whether or not a payment plan could be entered  
8 into?

9 A. I inquired with Mr. Jay Bloom early on as to what  
10 his perspectives and views were under the three-way  
11 contract, and his perspective was, for example, the  
12 Purchase and Sale Agreement had as a large component of  
13 it the cash flow of the receivables, and so First 100  
14 would typically pay the HOA nine-months worth of  
15 assessments in order to receive all cash flows that  
16 would arise from any monetization event that might occur  
17 on the property that arose as a result of United Legal  
18 Services posting and serving out the Notice of  
19 Foreclosure Sale.

20 So as a result, First 100 was a third-party  
21 beneficiary of any payment stream that would come in off  
22 of a payment plan because those payments would go to  
23 First 100, not to the HOA. So I felt it proper to ask  
24 First 100, "Hey if somebody calls in and wants a \$100 a  
25 month payment plan, what do you say," and the answer

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1 came back, "No payment plans unless the HOA requests it.  
2 Otherwise march it to sale."

3 I believe -- I don't know for sure, but I believe  
4 that it was the concept of: Anybody that's behind on  
5 their deed of trust and the HOA foreclosure would have  
6 said anything to eek out another few months on the  
7 property, and these guys were already horribly behind,  
8 and if they could now live in the property and pay only  
9 \$300 a month, which effectively would have been rent  
10 because you can make \$300 a month for years on a \$7,000  
11 lien, that this was rewarding bad behavior.

12 There was also, I believe, a concept of: Let's  
13 try to flush out the people who actually have money and  
14 do, in fact, want to stay there, and then, Hey, if those  
15 guys cough up 8 grand, then fine. We did see that  
16 occasionally on the few single-family homes we did. All  
17 of a sudden a check for \$12,000 would come in because  
18 people had been living there for four years and had not  
19 paid the deed of trust and actually had the money. But  
20 it was rare.

21 Q. When there was proceeds from a foreclosure sale,  
22 would United Legal Services be responsible for the  
23 application of those proceeds?

24 A. Yes. Correct.

25 Q. And how were the proceeds applied in this case?

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1 A. On the last page of Section 4.

2 Q. Okay. Let me make sure I write this down.

3 A. We produced a Proceeds Reconciliation Report.  
4 United Legal Services would get proceeds in. This is  
5 the Proceeds Reconciliation Report for the subject  
6 property, as well as other activity. So we would  
7 receive money in from auction sales, and then we were to  
8 remit back to First 100 the proceeds, because by  
9 contract we were required to.

10 Now, before we did that, though, we were allowed  
11 to apply the foreclosure sales collections costs  
12 provided in the NAC document that would include  
13 conducting the foreclosure sale and so forth. Do you  
14 see that?

15 Q. Yes.

16 A. So you see \$7,800 came in, and then there were no  
17 excess proceeds because this, as usual, came in less  
18 than the lien amount. And so we would deduct \$125 to  
19 conduct the foreclosure sale. Then \$125 to prepare the  
20 deed. And then there was also something called a  
21 foreclosure fee that was permitted in NAC. Now, I'm in  
22 business to make a buck, so I, of course, charge all of  
23 them, and you can see this is a debits and credits. So  
24 every few days we would remit a chunk of change over to  
25 First 100 as we were required to by contract. So...

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1 Q. In the event that there were excess proceeds,  
2 would United Legal Services be responsible for paying  
3 those out or would First 100?

4 A. Yes. United Legal Services. We did not give any  
5 excess proceeds to First 100. They were not entitled to  
6 it under the law. They were only entitled to the cash  
7 flow up to the lien amount.

8 Q. In the case where there were excess proceeds, how  
9 would those be paid out?

10 A. Typically, we started off by just giving  
11 checks -- very rare by the way. It usually only  
12 happened on Fannie Mae properties where it had already  
13 been foreclosed on. And so in those instances, we would  
14 remit it to Fannie Mae. After awhile, once I began  
15 realizing there was a fight as to whether the deed of  
16 trust -- you know, if there was any dispute as to what  
17 it was, then generally we would just hold on to it as  
18 opposed to remitting it, because it was unclear as a  
19 matter of law as to who was the proper recipient of any  
20 excess proceeds, which there were very, very few of  
21 these.

22 Q. Does United Legal Services -- or I should say did  
23 United Legal Services have a position on what it  
24 believed the amount of the superpriority lien was?

25 A. We had absolutely no legal position on the legal

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1 effect of an NRS 116 foreclosure.

2 MS. SCHMIDT: Can we go off the record  
3 again?

4 \*\*\*

5 (RECESS TAKEN FROM 12:00 P.M. TO 12:08 P.M.)

6 \*\*\*

7 MS. SCHMIDT: We'll mark as Exhibit C what  
8 is labeled as Section 1, Documents From Prior Collection  
9 Agencies, Red Rock Financial Services. Also mark as  
10 Exhibit D what's labeled as Section 2, Documents From  
11 Land Records. And we'll label as Exhibit E Section 4,  
12 Contracts with HOA and First 100. And as Exhibit F,  
13 Section 5. What's marked as Auction Results. And  
14 Exhibit G, what's marked as Section 6, Emails.

15 THE WITNESS: And under the assumption that  
16 those are true and correct copies of the documents so  
17 provided to you, I hereby authenticate at this time.

18 MS. SCHMIDT: Thank you.

19 Do you have any questions that you wanted to  
20 ask?

21 MS. BUTLER: I do not.

22 MS. SCHMIDT: I think we are done here.  
23 (Exhibits C, D, E, F, and G were marked.)  
24 (Proceedings concluded at 12:20 p.m.)  
25

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CERTIFICATE OF REPORTER

1 STATE OF NEVADA )  
2 ) ss:  
3 COUNTY OF CLARK )

4 I, KELE R. SMITH, a duly commissioned  
5 Notary Public, Clark County, State of Nevada, do hereby  
6 certify: That I reported the taking of the deposition  
7 of ROBERT ATKINSON, ESQ., commencing on Monday, May 11,  
8 2015, at 10:14 a.m.

9 That prior to being deposed, the witness was by  
10 me duly sworn to testify to the truth. That I  
11 thereafter transcribed my said shorthand notes into  
12 typewriting and that the typewritten transcript is a  
13 complete, true, and accurate transcription of said  
14 shorthand notes and that witness waived review and  
15 correction of the transcript.

16 I further certify that I am not a relative or  
17 employee of counsel of any of the parties, nor a  
18 relative or employee of the parties involved in said  
19 action, nor a person financially interested in the  
20 action.

21 IN WITNESS WHEREOF, I have set my hand in my  
22 office in the County of Clark, State of Nevada, this  
23 12th day of May, 2015.  
24

25 KELE R. SMITH, NV CCR #672, CA CSR #13405

## Section 3

# United Legal Services documents

EXHIBIT B  
DATE 5-11-19  
BY Atkinson  
PAGE(S)  
B. Smith, CCR No. 672

APN: 176-03-510-102  
ULS#: NV-TU3-03

When recorded mail to:  
United Legal Services Inc.  
*A Nevada Law Firm*  
9484 South Eastern Ave. #163  
Las Vegas, NV 89123  
Phone: (702) 617-3263

**NOTICE OF FORECLOSURE SALE**  
**UNDER THE LIEN FOR DELINQUENT ASSESSMENTS**

**WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-9907.**

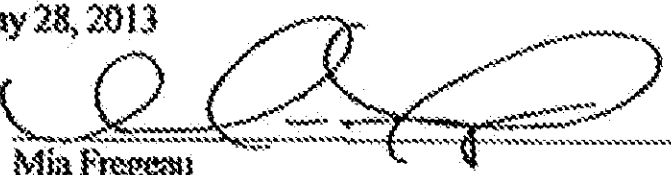
YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Tuscano Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on May 29, 2012 as instrument 201205290001690 in the Official Records. The property owner(s) of record is/are: New Freedom Mortgage Corporation. The total amount necessary to satisfy the lien as of the proposed sale date is \$7,806.42.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

NOTICE IS HEREBY GIVEN THAT on June 22, 2013 at 9:00 AM at 8965 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 116, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: 7255 W Sunset Unit 2050, Las Vegas, Nevada 89113. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 28, 2013

By:

  
Mia Fregeau

An employee of United Legal Services Inc.

*As authorized agent for, and on behalf of, Tuscano Homeowners Association*

APN: 176-03-510-102  
ULS#: NV-TU3-03

When recorded mail to:  
United Legal Services Inc.  
A Nevada Law Firm  
9484 South Eastern Ave. #163  
Las Vegas, NV 89123  
Phone: (702) 617-3263

Inst #: 201305290000306  
Fees: \$17.00  
N/C Fee: \$0.00  
05/29/2013 08:03:04 AM  
Receipt #: 1632393  
Requestor:  
UNITED LEGAL SERVICES INC.  
Recorded By: DXI Pgs: 1  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

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Date: May 28, 2013

By:   
Mia Fregeau  
An employee of United Legal Services Inc.  
As authorized agent for, and on behalf of, Tuscano Homeowners Association

## **NOTICE TO TENANTS OF THE PROPERTY**

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes, eviction proceedings may begin against you after you have been given a notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

- (1) Delivering a copy to you personally in the presence of a witness;
- (2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or
- (3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

- (1) You will be given at least 10 days to answer a summons and complaint;
- (2) If you do not file an answer, an order evicting you by default may be obtained against you;
- (3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and
- (4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

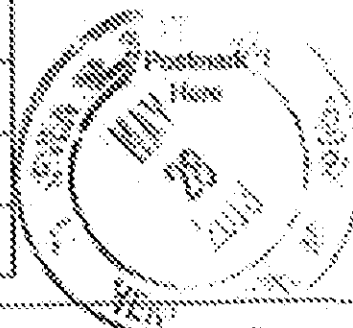
7012 2210 0001 6534 1010  
0101 4539 1000 0123 2101

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only. No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Send To	OWNER OR OCCUPANT
Street, Apt. No., or PO Box No.	7255 W SUNSET RD APT 2050
City, State, ZIP+4	LAS VEGAS NV 89113-1911

PS Form 3800, October 2005 PSN 7530-01-000-9000

U.S. Postal Service<sup>™</sup>

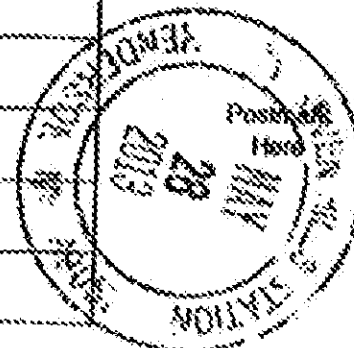
**CERTIFIED MAIL<sup>™</sup> RECEIPT**

*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To

NEW FREEDOM MORTGAGE CORPORATION  
Street, Apt. No., 2353 S FOOTHILL DR  
or PO Box No. SALT LAKE CITY UT 84109-1458  
City, State, ZIP+4

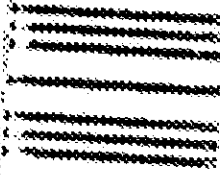
PS Form 3800, August 2006

See Reverse for Instructions

2012 2210 0001 1001 4559 1000 0122 2102



UNITED LEGAL SERVICES INC.  
9484 SOUTH EASTERN AVE #163  
LAS VEGAS, NV 89123



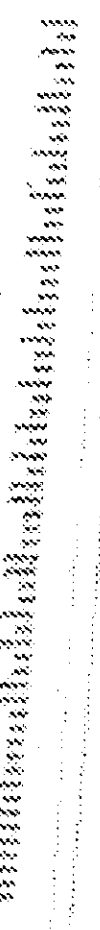
06250008443722  
\$0.460  
US POSTAGE  
FIRST-CLASS  
FROM 89123  
MAY 28 2013  
stamps

THE COOPER CASTLE LAW FIRM  
820 S. VALLEY VIEW BLVD  
LAS VEGAS NV 89107-4411

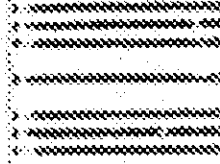
FORWARD TIME EXP 1 3121 00 05/29/13  
THE COOPER CASTLE LAW FIRM  
820 S. VALLEY VIEW BLVD  
LAS VEGAS NV 89107-4411

8912303987

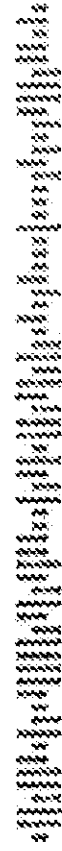
RETURN TO SENDER



UNITED LEGAL SERVICES INC.  
9484 SOUTH EASTERN AVE #163  
LAS VEGAS, NV 89123



0000000443722  
\$0.460  
US POSTAGE  
FIRST-CLASS  
FROM 89123  
MAY 28 2013  
stamps

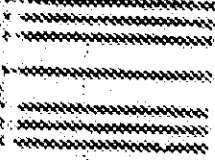


OWNER OR OCCUPANT  
7255 W SUNSET RD APT 2050  
LAS VEGAS NV 89113-1911

MIKE 891 55 1040 0006/27/13  
RETURN TO SENDER  
VACANT  
UNABLE TO FORWARD

EC: 89123302784 \*0879-03146-28-39  
89123302784

UNITED LEGAL SERVICES INC.  
9484 SOUTH EASTERN AVE #163  
LAS VEGAS, NV 89123



09280000143700

**\$0.460**  
US POSTAGE  
FIRST-CLASS  
FROM 09123  
MAY 28 2013

**stamps**

[illegible]

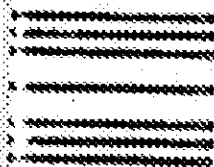
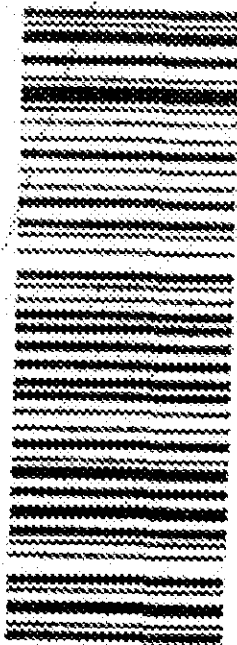
NEW FREEDOM MORTGAGE CORPORATION  
2363 S FOOTHILL DR  
SALT LAKE CITY UT 84109-1458

842 521 00 05/30/13  
RETURN TO SENDER  
REFUSED TO FORWARD

891303927  
 89123032734  
 \*0779-03344-22-39

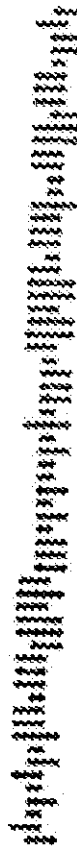
UNITED LEGAL SERVICES INC.  
9484 SOUTH EASTERN AVE #163  
LAS VEGAS, NV 89123

**CERTIFIED MAIL**



06790008443722  
\$6.110  
US POSTAGE  
FIRST-CLASS  
FROM 89123  
MAY 28 2013  
stamps.com

7012 2210 0001 6534 1010



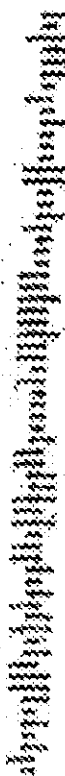
OWNER OR OCCUPANT  
7255 W SUNSET RD APT 2050  
LAS VEGAS NV 89113-1911

*UCC*  
*Canary*

**RETURN RECEIPT  
REQUESTED**

RETURN TO SENDER
ATTEMPTED
NOT RECOVERED

65113151100



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

OWNER OR OCCUPANT  
7255 W SUNSET RD APT 2050  
LAS VEGAS NV 89113-1911

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
**X** Agent ☐ Agent ☐  
Address ☐

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☐ No  
If YES, enter delivery address below

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ G.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

2. Article Number  
(Transfer from service label)

7012 2210 0001 4534 1010

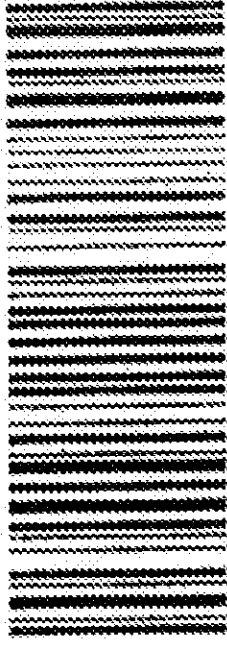
PS Form 3811, February 2004

Domestic Return Receipt

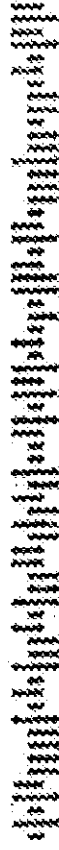
10299-20-00-1010

UNITED LEGAL SERVICES INC.  
9484 SOUTHEASTERN AVE #163  
LAS VEGAS, NV 89123

**CERTIFIED MAIL**



7012 2210 0001 6534 1003

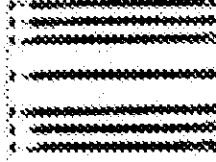


NEW FREEDOM MORTGAGE CORPORATION  
2363 S FOOTHILL DR  
SALT LAKE CITY UT 84109-1458

RETURN RECEIPT  
REQUESTED

06260008443722

\$6.110  
US POSTAGE  
FIRST-CLASS  
FROM 89123  
MAY 28 2013  
stamps.com



REF

841 DE 1040

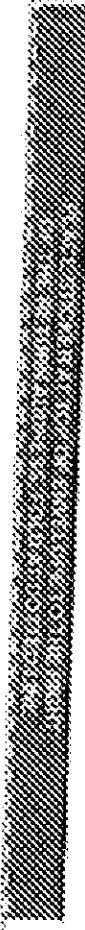
RETURN TO SENDER  
REFUSED  
UNABLE TO FORWARD

\*28F

SC: 89123398784

891233987





**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so the carrier can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article processed for:

NEW FREEDOM MORTGAGE CORPORATION  
2363 S FOOTHILL DR  
SALT LAKE CITY UT 84109-1458

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature ☒ Agent ☐ Address

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes ☒ No  
If YES, enter delivery address below:

3. Service Type

☒ Certified Mail ☐ Express Mail

☐ Registered ☐ Return Receipt for Merchandise

☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☒ No

2210 0001 6534 1003

aka Return Receipt

102000-00-M-1540

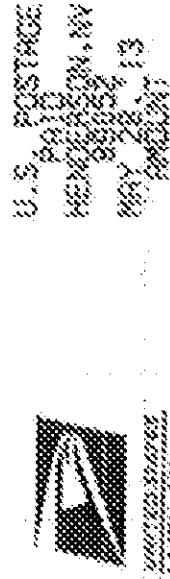
Name and Address of Sender  
UNITED LEGAL SERVICES INC.  
9484 SOUTH EASTERN AVE #163  
LAS VEGAS, NV 89123

Check type of mail or service:

- ☐ Certified  
☐ COD  
☐ Delivery Confirmation  
☐ Express Mail  
☐ Insured  
☐ Registered Delivery (International)  
☐ Registered  
☐ Return Receipt for Merchandise  
☐ Signature Confirmation

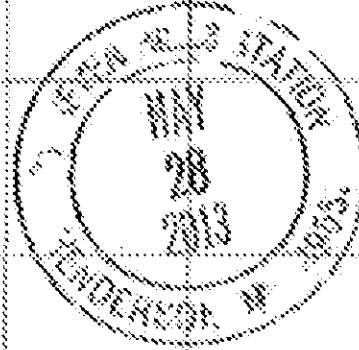
Attach Stamp Here  
(if issued as a  
certificate of mailing,  
or for additional  
copies of this bill,  
Postmark and  
Date of Receipt)

Article Number	Address (Name, Street, City, State, & ZIP Code)	Postage	Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	DC Fee	SC Fee	SH Fee	RO Fee	RR Fee
1.	NEW FREEDOM MORTGAGE CORPORATION 2303 S FOOTHILL DR SALT LAKE CITY UT 84108-1458											
2.	OWNER OR OCCUPANT 7255 W SUNSET RD APT 2050 LAS VEGAS NV 89133-1911											
3.	OFFICE OF THE OMBUDSMAN ATTN: ANNE MOORE LAS VEGAS REAL ESTATE DIVISION 2401 EAST SAHARA AVE SUITE 202 LAS VEGAS NV 89104-4137											
4.	BANK OF AMERICA, N.A. 1757 TAPO CANYON ROAD SUITE 300 SUN VALLEY CA 91353-3320											
5.	NATIONSTAR MORTGAGE, LLC 350 HIGHLAND DRIVE LEWISVILLE TX 75067-4177											
6.	THE COOPER CASTLE LAW FIRM 820 S. VALLEY VIEW BLVD LAS VEGAS NV 89107-4411											
7.												
8.												



\$2.64  
00032844-08

1000



Total Number of Pieces  
Listed by Sender 6

Total Number of Pieces  
Received at Post Office 6

Postmaster, Per (Name of receiving employee)

*[Signature]*

See Privacy Act Statement on Reverse



## AFFIDAVIT OF POSTING

STATE OF NEVADA    )  
                              )  
COUNTY OF CLARK    )    ss:


Mia Fregeau, being duly sworn, says: That at all times herein affiant was and is over 18 years of age.  
That on May 29, 2013, affiant posted a copy of the below listed documents:

- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS  
Regarding 7255 W. Sunset Rd Unit 1173, Las Vegas, Nevada 89113
- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS  
Regarding 7255 W. Sunset Rd Unit 2018, Las Vegas, Nevada 89113
- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS  
Regarding 7255 W. Sunset Rd Unit 2050, Las Vegas, Nevada 89113

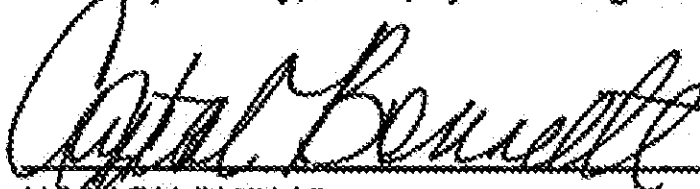
In each the following locations:

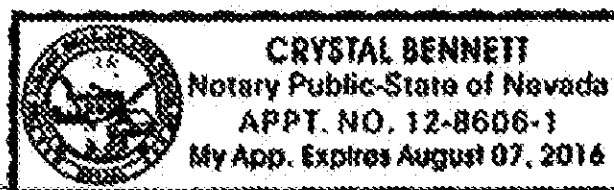
- The public board located near the elevators on the first floor of the Regional Justice Center, 200 Lewis Ave., Las Vegas, Nevada 89101
- The public board located in the Clerk of Court's office for the Eighth Judicial District, located on the third floor of the Regional Justice Center, 200 Lewis Ave., Las Vegas, Nevada 89101
- The public board located on the first floor of the Grant Sawyer Building, 555 East Washington Ave., Las Vegas, Nevada 89101

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

  
MIA FREGEAU

SIGNED and SWORN to before me on  
29th day of May, 2013, by Mia Fregeau

  
NOTARY PUBLIC



**AFFIDAVIT OF SERVICE**

STATE OF NEVADA )  
COUNTY OF CLARK )

ss:

Mia Fregeau, being duly sworn, says: That at all times herein affiant was and is over 18 years of age. That on May 29, 2013, affiant served the below listed documents at the addresses and in the manner stated:

7255 W. Sunset Rd Unit 1173, Las Vegas, Nevada 89113

- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
- NOTICE TO TENANTS OF THE PROPERTY

by posting the Notices conspicuously on the front door of the residence.

7255 W. Sunset Rd Unit 2018, Las Vegas, Nevada 89113

- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
- NOTICE TO TENANTS OF THE PROPERTY

by posting the Notices conspicuously on the front door of the residence.

7255 W. Sunset Rd Unit 2050, Las Vegas, Nevada 89113

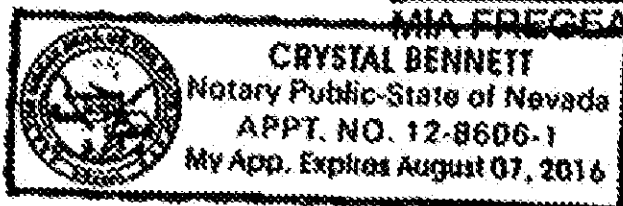
- NOTICE OF FORECLOSURE SALE UNDER THE LIEN FOR DELINQUENT ASSESSMENTS
- NOTICE TO TENANTS OF THE PROPERTY

by posting the Notices conspicuously on the front door of the residence.

I declare under penalty of perjury under the law,  
of the State of Nevada that the foregoing is true and correct

SIGNED and SWORN to before me on  
29<sup>th</sup> day of May 2013, by Mia Fregeau

NOTARY PUBLIC



MIA FREGEAU







NOTICE OF FORECLOSURE SALE  
UNDER THE LIEN FOR  
DELINQUENT ASSESSMENTS

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL UNITED LEGAL SERVICES INC. AT (702) 817-3283. IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (877) 829-0907.

YOU ARE IN DEFAULT UNDER THE LIEN FOR DELINQUENT ASSESSMENTS, notice of which was recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada ("Official Records"), by the Tuscans Homeowners Association. The Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments was recorded on May 29, 2012 as instrument 201205290001890 in the Official Records. The property owner(s) of record is/are: New Freedom Mortgage Corporation. The total amount necessary to satisfy the lien as of the proposed sale date is \$7,808.42.

UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT WILL BE SOLD AT PUBLIC SALE. United Legal Services Inc. ("ULS") has the collections file on this account. Any payments to satisfy the lien must be in cash, cashier's check, or wire transfer, and must be actually received by ULS prior to the sale. If payment in full is not received prior to the date/time below, the property will be auctioned. All auction sales are final and late payments will be returned. If you need an explanation of this notice or its contents, you should contact an attorney.

APN: 178-03-510-102  
ULS# NV-TU3-03

NOTICE IS HEREBY GIVEN THAT on June 22, 2013 at 9:00 AM at 8985 S. Eastern Ave, Suite 350, Las Vegas, NV 89123, United Legal Services Inc., as duly authorized agent for sale pursuant to NRS 118, will sell at public auction to the highest bidder, for lawful money of the United States, all right, title, and interest in the property commonly known as: 7255 W Sunset Unit 2050, Las Vegas, Nevada 89113. Payment by the winning bidder must be made at the conclusion of the auction and in cash or a cashier's check drawn on a bank or credit union authorized to do business in the State of Nevada. The sale will be made without covenant or warranty, expressed or implied, regarding, but not limited to, title, possession, encumbrances, or obligations to satisfy any secured or unsecured liens.

Date: May 28, 2013

By: Mia Frigoau  
An employee of United Legal Services Inc.  
As authorized agent for, and on behalf of, Tuscans Homeowners Association

PUBLISHED  
05/31/2013, 06/07/2013 & 06/14/2013

CLARK COUNTY LEGAL NEWS  
CLARK & NYE COUNTY, NEVADA  
CCLN FILE 130531c.wps


Affidavit of Publication

This is to confirm that, on the aforementioned dates, the attached Legal Notice was published in the Clark County Legal News newspaper, a newspaper of general and subscription circulation in both Clark County, Nevada and Nye County, Nevada.

Per NRS 238.030, the Clark County Legal News newspaper is printed and published in whole or in part in both Clark County and Nye County, Nevada.

WITNESS my hand on this

06-14-13

  
MIRANDA DONOVAN,  
legal notice director,  
Clark County Legal News newspaper

STATE OF NEVADA

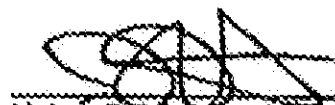
COUNTY OF CLARK

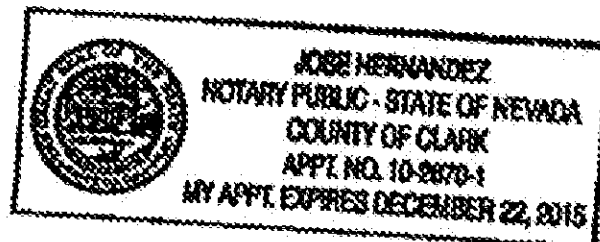
On June 14, 2013, before me,  
the undersigned, a Notary Public in and for  
said State, personally appeared:

Miranda Donovan,

personally known to me (or proved to me on  
the basis of satisfactory evidence) to be the  
person whose name is subscribed to the  
within instrument, and acknowledged to me  
that it was executed by said person.

WITNESS my hand and official seal:

  
Notary Public in and for said State



# RECEIPT OF SALE

United Legal Services Inc.

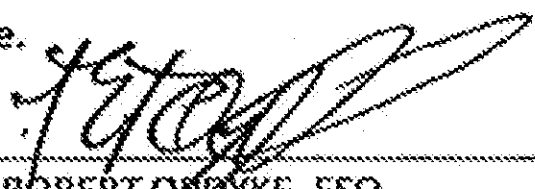
(702) 617-3263

<b>PROPERTY INFORMATION:</b>	
APN	PROPERTY STREET ADDRESS
176-03-510-102	7255 W SUNSET RD UNIT 2050, LAS VEGAS NV 89113

<b>SALE INFORMATION:</b>	
SALE DATE	WINNING BID AMOUNT (\$):
6/22/13	\$7,800

<b>BUYER INFORMATION:</b>	
BUYER (OR REPRESENTATIVE'S) NAME	CONTACT INFORMATION
Kenneth Berberich	P.O. Box 530541 Henderson NV 89053
VESTING -- RECORD TITLE AS SHOWN	West Sunset 2050 Trust

<b>PAYMENT INFORMATION:</b>			
AMOUNT	DRAWN ON (or WIRE FROM)	DATE RECEIVED by AGENT	INITIALS
\$7,800	Ch. Bank	6/24/13	REO

<b>CERTIFICATION OF AGENT:</b>	
I hereby certify that the information above is accurate.	
Signature:  ROBERT O'DYKE, ESQ.	

ALL SALES OF PROPERTY ARE ON ANY "AS IS" BASIS, WITH NO WARRANTIES,  
EXPRESS OR IMPLIED.

APN: 176-03-510-102

Return document and mail tax statements to:

West Sunset 2050 Trust  
P.O. Box 530541  
Henderson NV 89053

### FORECLOSURE DEED UPON SALE

Foreclosing lienholder **TUSCANO HOMEOWNERS ASSOCIATION**, under power of sale pursuant to NRS Chapter 116, does hereby sell, without warranty, expressed or implied, to:

**WEST SUNSET 2050 TRUST**

the real property situated in Clark County, Nevada legally described as:

*SEE EXHIBIT A ATTACHED FOR LEGAL DESCRIPTION*

and commonly known as 7255 W SUNSET RD UNIT 2050, LAS VEGAS NV 89113.

This conveyance is made pursuant to the powers conferred upon Agent by NRS Chapter 116, the foreclosing Association's governing documents (CC&R's), and the notice of the Lien for Delinquent Assessments, recorded on April 4, 2012 as instrument 201204040001017 in the Official Records of the Recorder of Clark County, Nevada. Default occurred as set forth in the Notice of Default and Election to Sell, recorded on May 29, 2012 as instrument 201205290001690 in the Official Records of the Recorder of Clark County, Nevada. All requirements of law have been complied with, including, but not limited to, the elapsing of the 90 days, the mailing of copies of the notice of Lien of Delinquent Assessment, and Notice of Default, and the mailing, posting, and publication of the Notice of Foreclosure Sale. Agent, in compliance with the Notice of Foreclosure Sale and in exercise of its power under NRS § 116.31164, sold the property at public auction on June 22, 2013.

By: \_\_\_\_\_  
Robert Opdyke, Esq.  
United Legal Services Inc.  
*As authorized agent for, and on behalf of, foreclosing Association*

STATE OF NEVADA                     )  
COUNTY OF CLARK                 )

This instrument was acknowledged before me  
on June \_\_\_\_\_, 2013, by: Robert Opdyke.

\_\_\_\_\_  
NOTARY PUBLIC

## EXHIBIT A

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

### PARCEL ONE (1) - UNITS:

UNIT 2050 IN BUILDING 7 AS SHOWN ON THE FINAL PLAT OF TUSCANO CONDOMINIUMS, A CONDOMINIUM COMMUNITY, RECORDED JANUARY 31, 2005, IN BOOK 122, PAGE 11 OF PLATS, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "PLAT"), AND

### PARCEL TWO (2) - COMMON ELEMENTS:

1/352 INTEREST AS A TENANT-IN-COMMON IN THE COMMON ELEMENTS IN ACCORDANCE WITH AND SUBJECT TO THE TERMS OF THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TUSCANO TOWNHOMES RECORDED APRIL 5, 2005 IN BOOK 20050405 AS DOCUMENT NO. 0002422 IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA (THE "DECLARATION").

EXCEPTING THEREFROM, ALL UNITS SHOWN ON THE PLAT.

RESERVING THEREFROM, THE RIGHT TO USE ANY OF THOSE AREAS DESIGNATED AS LIMITED COMMON ELEMENTS IN THE PLAT AND/OR THE DECLARATION.

FURTHER RESERVING THEREFROM, FOR THE BENEFIT OF THE OWNERS OF ALL UNITS SHOWN ON THE PLAT (EXCEPT THE UNIT REFERRED TO IN PARCEL 1 ABOVE) NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS, AS DEFINED IN AND SUBJECT TO THE DECLARATION.

### PARCEL THREE (3) - APPURTENANT EASEMENTS:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS USE, ENJOYMENT AND OTHER PURPOSES ON, OVER AND ACROSS THE COMMON ELEMENTS AS DEFINED IN AND SUBJECT TO THE DECLARATION, WHICH EASEMENTS ARE APPURTENANT TO PARCELS 1,2 ABOVE.

STATE OF NEVADA  
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

- a. 176-03-510-102  
b. \_\_\_\_\_  
c. \_\_\_\_\_  
d. \_\_\_\_\_

2. Type of Property:

- a. ☐ Vacant Land      b. ☐ Single Fam. Res.  
c. ☒ Condo/Twnhse      d. ☐ 2-4 Plex  
e. ☐ Apt. Bldg      f. ☐ Comm'l/Ind'l  
g. ☐ Agricultural      h. ☐ Mobile Home  
☐ Other

FOR RECORDERS OPTIONAL USE ONLY

Book \_\_\_\_\_ Page: \_\_\_\_\_

Date of Recording: \_\_\_\_\_

Notes: \_\_\_\_\_

- 3.a. Total Value/Sales Price of Property \$ \_\_\_\_\_  
b. Deed in Lieu of Foreclosure Only (value of property ( \_\_\_\_\_ )  
c. Transfer Tax Value: \$ \_\_\_\_\_  
d. Real Property Transfer Tax Due \$ \_\_\_\_\_

4. If Exemption Claimed:

- a. Transfer Tax Exemption per NRS 375.090, Section \_\_\_\_\_  
b. Explain Reason for Exemption: \_\_\_\_\_

5. Partial Interest: Percentage being transferred: \_\_\_\_\_ %  
The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature \_\_\_\_\_ Capacity: \_\_\_\_\_

Signature \_\_\_\_\_ Capacity: \_\_\_\_\_

SELLER (GRANTOR) INFORMATION

(REQUIRED)

Print Name: United Legal Services Inc.  
Address: 9484 S. Eastern Ave. #163  
City: Las Vegas  
State: NV Zip: 89123

BUYER (GRANTEE) INFORMATION

(REQUIRED)

Print Name: West Sunset 2050 Trust  
Address: P.O. Box 530541  
City: Henderson  
State: NV Zip: 89053

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

Print Name: \_\_\_\_\_ Escrow #: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED



# **EXHIBIT 5**

# **EXHIBIT 5**

Inst #: 201303200000887  
Fees: \$18.00  
N/C Fee: \$0.00  
03/20/2013 08:28:50 AM  
Receipt #: 1541118  
Requestor:  
CASTLE STAWIARSKI, LLC - NE  
Recorded By: MSH Pgs: 2  
DEBBIE CONWAY  
CLARK COUNTY RECORDER

Tax Parcel: 176-03-510-102

Recording requested by:  
BANK OF AMERICA N.A.,  
SUCCESSOR BY MERGER TO BAC  
HOME LOANS SERVICING, LP FKA  
COUNTRYWIDE HOME LOANS  
SERVICING, LP

When recorded mail to:  
NATIONSTAR MORTGAGE, LLC  
350 HIGHLAND DRIVE  
LEWISVILLE, TX 75067  
Attn: MOSAIC

Mail tax statement to:  
Bank of America, N.A.  
1757 Tapo Canyon Road, #300  
Simi Valley, CA 93063

---

CORPORATION ASSIGNMENT OF DEED OF TRUST

Doc. ID# 95010692327170532  
Commitment# A41682

For value received, the undersigned, BANK OF AMERICA N.A., SUCCESSOR BY  
MERGER TO BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING,  
LP, 1800 TAPO CANYON ROAD, SIMI VALLEY, CA 93063, hereby grants, assigns and  
transfers to:

NATIONSTAR MORTGAGE, LLC  
350 HIGHLAND DRIVE, LEWISVILLE, TX 75067

All beneficial interest under that certain Deed of Trust dated 11/29/05,  
executed by: STEPHANIE TABLANTE, Trustor as per TRUST DEED recorded as  
Instrument No. 20051207-0002367 on 12/07/05 in Book \_\_\_\_\_ Page \_\_\_\_\_  
of official records in the County Recorder's Office of CLARK County,  
NEVADA.

The Trustee is FIRST AMERICAN TITLE CO OF NEV.  
Original Mortgage \$176,760.00  
7255 W SUNSET ROAD #2050, LAS VEGAS, NV 89113

Together with the Note or Notes therein described or referred to, the money  
due and to become due thereon with interest, and all rights accrued or to  
accrue under said Deed of Trust.

CORPORATION ASSIGNMENT OF DEED OF TRUST

Doc. ID# 95010692327170532  
Commitment# A41682

Dated: FEB 28 2013

BANK OF AMERICA N.A., SUCCESSOR BY MERGER TO BAC HOME  
LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS  
SERVICING, LP

By 

CARMEN DENA, ASSISTANT VICE PRESIDENT

State of California  
County of Ventura

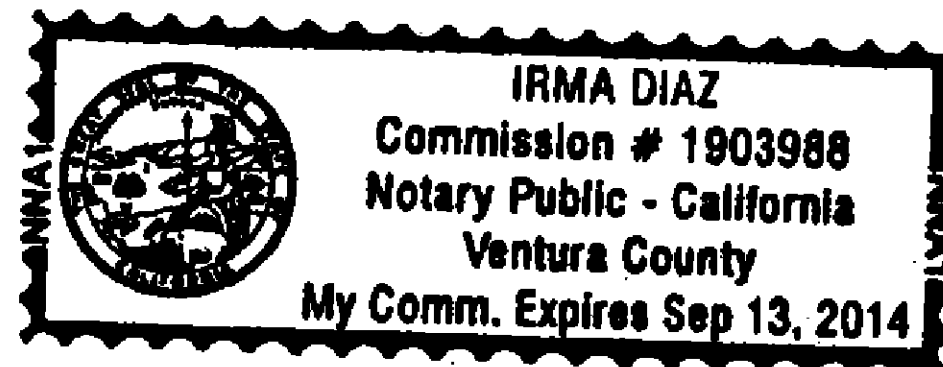
On FEB 28 2013 before me, IRMA DIAZ, Notary Public, personally appeared CARMEN DENA, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

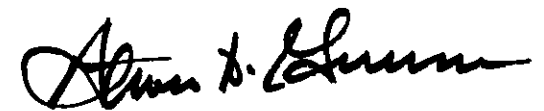
Witness my hand and official seal.

Signature: 

IRMA DIAZ



Prepared by: THANIA ORNELAS  
1800 TAPO CANYON ROAD  
SIMI VALLEY, CA 93063  
Phone#: (213) 345-0979



CLERK OF THE COURT

**ORDR**

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

ALLISON R. SCHMIDT, ESQ.

Nevada Bar No. 10743

AKERMAN LLP

1160 Town Center Drive, Suite 330

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Email: ariel.stern@akerman.com

Email: allison.schmidt@akerman.com

*Attorneys for Defendant Nationstar Mortgage, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,

Plaintiff,

v.

NEW FREEDOM MORTGAGE CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National Association;  
NATIONSTAR MORTGAGE, LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada Limited Liability Partnership;  
STEPHANIE TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X, inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

Case No.: A-13-691323-C

Dept.: XXI

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION AND  
TO ALTER AND AMEND ORDER  
GRANTING NATIONSTAR MORTGAGE  
LLC AND BANK OF AMERICA, N.A.'S  
MOTION FOR SUMMARY JUDGMENT**

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 – FAX: (702) 380-8572

1 NATIONSTAR MORTGAGE, LLC,  
2 Cross-Claimant,  
3 v.  
4 STEPHANIE TABLANTE,  
5 Cross-Defendant.

6  
7 On March 4, 2016, plaintiff West Sunset 2050 trust filed a motion to reconsider and amend  
8 this court's order granting summary judgment in favor of Nationstar Mortgage, LLC and denying  
9 plaintiff's motion for summary judgment. Nationstar filed an opposition on March 22, 2016.


10 This matter came before the court on April 4, 2016 in chambers. Having reviewed the papers  
11 filed by both parties, and good cause appearing:

12 IT IS HEREBY ORDERED that plaintiff's motion for Reconsideration and to Alter and Amend  
13 Order Granting Nationstar Mortgage LLC and Bank of America, N.A.'s Motion For Summary  
14 Judgment is DENIED.


15 DATED this 23<sup>rd</sup> day of May, 2016

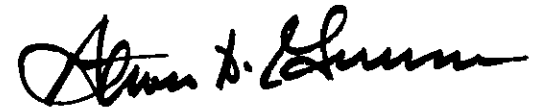
16   
17 DISTRICT COURT JUDGE 

18 Submitted by:  
19 **AKERMAN LLP**

20   
21 ALLISON R. SCHMIDT, ESQ.  
22 Nevada Bar No. 10743  
23 1160 Town Center Drive, Suite 330  
24 Las Vegas, Nevada 89144  
25 Attorneys for Nationstar Mortgage LLC  
26 and Bank of America, NA

27 Approved as to form and content, all rights reserved:  
28 **MAIER GUTIERREZ AYON**

29  #12489 fr  
30 LUIS A. AYON, ESQ.  
31 2500 W. Sahara Ave., Ste. 106  
32 Las Vegas, NV 89102  
33 Attorneys for Plaintiff



CLERK OF THE COURT

**NEOJ**  
ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
ALLISON R. SCHMIDT, ESQ.  
Nevada Bar No. 10743  
AKERMAN LLP  
1160 Town Center Drive, Suite 330  
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Facsimile: (702) 380-8572  
Email: ariel.stern@akerman.com  
Email: allison.schmidt@akerman.com

*Attorneys for Defendant Nationstar Mortgage, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

Case No.: A-13-691323-C  
Dept.: XXI

**NOTICE OF ENTRY OF ORDER  
DENYING PLAINTIFF'S MOTION FOR  
RECONSIDERATION AND TO ALTER  
AND AMEND ORDER GRANTING  
NATIONSTAR MORTGAGE LLC AND  
BANK OF AMERICA, N.A.'S MOTION FOR  
SUMMARY JUDGMENT.**

NATIONSTAR MORTGAGE, LLC,  
Counterclaimant,  
v.  
WEST SUNSET 2050 TRUST, a Nevada Trust,  
Counter-Defendant.

NATIONSTAR MORTGAGE, LLC,  
Cross-Claimant,  
v.  
STEPHANIE TABLANTE,  
Cross-Defendant.

PLEASE TAKE NOTICE that the **ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION AND TO ALTER AND AMEND ORDER GRANTING NATIONSTAR MORTGAGE LLC AND BANK OF AMERICA, N.A'S MOTION FOR SUMMARY JUDGMENT** has been entered on the 31st day of May, 2016, in the above-captioned matter. A copy of said Order is attached hereto as Exhibit A.

DATED this 3rd day of June, 2016.

**AKERMAN LLP**

*/s/ Allison R. Schmidt*

ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
ALLISON R. SCHMIDT, ESQ.  
Nevada Bar No. 10743  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144  
*Attorneys for Nationalstar Mortgage LLC  
and Bank of America, NA*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 3<sup>rd</sup> day of June, 2016 and pursuant to NRCP 5(b), I served through this Court's electronic service notification system ("Wiznet") and/or deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION AND TO ALTER AND AMEND ORDER GRANTING NATIONSTAR MORTGAGE LLC AND BANK OF AMERICA, N.A'S MOTION FOR SUMMARY JUDGMENT** postage prepaid and addressed to:

Charity Barber  
Danielle Barraza  
Darren T. Rodriguez  
Jason Maier  
Joseph Gutierrez  
Luis Ayon  
Margaret E. Schmidt  
Natalie D. Vazquez  
[cmb@mgalaw.com](mailto:cmb@mgalaw.com)  
[djb@mgalaw.com](mailto:djb@mgalaw.com)  
[dtr@mgalaw.com](mailto:dtr@mgalaw.com)  
[jrm@mgalaw.com](mailto:jrm@mgalaw.com)  
[jag@mgalaw.com](mailto:jag@mgalaw.com)  
[laa@mgalaw.com](mailto:laa@mgalaw.com)  
[mes@mgalaw.com](mailto:mes@mgalaw.com)  
[ndv@mgalaw.com](mailto:ndv@mgalaw.com)


/s/ Doug J. Layne

An employee of AKERMAN LLP



# EXHIBIT A

# EXHIBIT A



CLERK OF THE COURT

**ORDR**

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

ALLISON R. SCHMIDT, ESQ.

Nevada Bar No. 10743

AKERMAN LLP

1160 Town Center Drive, Suite 330

Las Vegas, NV 89144

Telephone: (702) 634-5000

Facsimile: (702) 380-8572

Email: ariel.stern@akerman.com

Email: allison.schmidt@akerman.com

*Attorneys for Defendant Nationstar Mortgage, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,

Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

Case No.: A-13-691323-C

Dept.: XXI

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION AND  
TO ALTER AND AMEND ORDER  
GRANTING NATIONSTAR MORTGAGE  
LLC AND BANK OF AMERICA, N.A.'S  
MOTION FOR SUMMARY JUDGMENT**

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 – FAX: (702) 380-8572

1 NATIONSTAR MORTGAGE, LLC,  
2  
3 Cross-Claimant,  
4  
5 v.  
6  
7 STEPHANIE TABLANTE,  
8  
9 Cross-Defendant.

10 On March 4, 2016, plaintiff West Sunset 2050 trust filed a motion to reconsider and amend  
11 this court's order granting summary judgment in favor of Nationstar Mortgage, LLC and denying  
12 plaintiff's motion for summary judgment. Nationstar filed an opposition on March 22, 2016.

13 This matter came before the court on April 4, 2016 in chambers. Having reviewed the papers  
14 filed by both parties, and good cause appearing:

15 IT IS HEREBY ORDERED that plaintiff's motion for Reconsideration and to Alter and Amend  
16 Order Granting Nationstar Mortgage LLC and Bank of America, N.A.'s Motion For Summary  
17 Judgment is DENIED.

18 DATED this 23<sup>rd</sup> day of May, 2016

19   
20 DISTRICT COURT JUDGE 

21 Submitted by:

22 **AKERMAN LLP**

23   
24 ALLISON R. SCHMIDT, ESQ.

25 Nevada Bar No. 10743

26 1160 Town Center Drive, Suite 330

27 Las Vegas, Nevada 89144

28 *Attorneys for Nationstar Mortgage LLC  
and Bank of America, NA*

Approved as to form and content, all rights reserved:

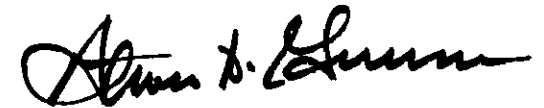
MAIER GUTIERREZ AYON

29  #12489 fr  
30 LUIS A. AYON, ESQ.

2500 W. Sahara Ave., Ste. 106

Las Vegas, NV 89102

*Attorneys for Plaintiff*



CLERK OF THE COURT

**MOT**  
LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
**MAIER GUTIERREZ AYON**  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
Telephone: 702.629.7900  
Facsimile: 702.629.7925  
E-mail: [laa@mgalaw.com](mailto:laa@mgalaw.com)  
[mes@mgalaw.com](mailto:mes@mgalaw.com)

*Attorneys for Plaintiff/Counter-Defendant  
West Sunset 2050 Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust

Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-691323-C  
Dept. No.: XXI

**MOTION FOR FINAL JUDGMENT  
PURSUANT TO RULE 54(B) AND TO  
STAY REMAINING CLAIMS PENDING  
CONCLUSION OF APPEAL ON AND  
ORDER SHORTENING TIME**

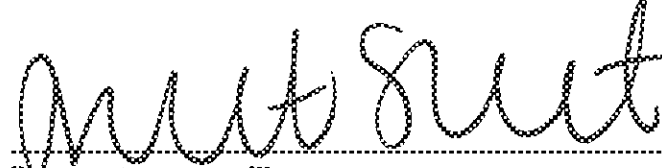
Plaintiff/counter-defendant West Sunset 2050 Trust ("West Sunset"), by and through its counsel of record, the law firm MAIER GUTIERREZ AYON, hereby files this motion for final judgment pursuant to Rule 54(b) and to stay remaining claims pending conclusion of appeal on an order shortening time. This motion is made and based upon the following memorandum of points and

1 authorities, the declaration and exhibits attached hereto, the papers and pleadings on file herewith  
2 and any oral argument of counsel at the time of the hearing.

3 DATED this 28<sup>th</sup> day of September, 2016.

4 Respectfully submitted,

5 MAIER GUTIERREZ AYON

6 

7 LUIS AYON, ESQ.

8 Nevada Bar No. 9752

9 MARGARET E. SCHMIDT, ESQ.

10 Nevada Bar No. 12489

11 8816 Spanish Ridge Avenue

12 Las Vegas, Nevada 89148

13 *Attorneys for Plaintiff/Counter-Defendant*

14 *West Sunset 2050 Trust*

1                    **DECLARATION OF COUNSEL IN SUPPORT OF ORDER SHORTENING TIME**

2                    I, MARGARET E. SCHMIDT, ESQ., hereby declare as follows:

3                    1.        I am an attorney with the law firm of MAIER GUTIERREZ AYON, counsel for West  
4                    Sunset. I am knowledgeable of the facts contained herein and am competent to testify thereto.

5                    2.        I make this declaration pursuant to EDCR 2.26 and Nev. R. Civ. P. 6(d) and in  
6                    support of West Sunset's motion for a final judgment pursuant to Rule 54(b) and to stay remaining  
7                    claims pending conclusion of appeal (the "Motion") on an order shortening time ("OST").

8                    3.        The instant Motion is brought so that the Court may expressly certify the February 8,  
9                    2016 order granting Nationstar Mortgage, LLC's ("Nationstar") countermotion for summary  
10                    judgment and denying West Sunset's motion for summary judgment (the "Order") as final, and to  
11                    stay any remaining claims so that West Sunset may be able to proceed with its appeal.

12                    4.        On November 6, 2013, West Sunset initiated this litigation, alleging claims for: (1)  
13                    declaratory relief/quiet title against New Freedom Mortgage Corporation ("New Freedom"),  
14                    Nationstar, Bank of America, N.A. ("BANA"), The Cooper Castle Law Firm, LLP ("Cooper  
15                    Castle"), and Stephanie Tablante ("Tablante"); and (2) preliminary and permanent injunction  
16                    against Nationstar and Cooper Castle. *See* Complaint, attached hereto as Exhibit 1.

17                    5.        On May 20, 2014, Nationstar answered West Sunset's complaint and alleged  
18                    counterclaims and cross-claims for: (1) quiet title against West Sunset and Tablante; (2) declaratory  
19                    relief against West Sunset and Tablante; (3) slander of title against Tablante; (4) breach of contract  
20                    against Tablante; (5) breach of implied covenant of good faith and fair dealing against Tablante;  
21                    and (6) unjust enrichment against West Sunset. *See* Answer, Counterclaim and Cross-Claim,  
22                    attached hereto as Exhibit 2.

23                    6.        Following Tablante and New Freedom's failure to make an appearance in this  
24                    litigation, defaults were entered against them on July 29, 2015 on West Sunset's claims for relief;  
25                    however, default judgments have not been entered. *See* Defaults, attached hereto as Exhibit 3.

26                    7.        Cooper Castle was dismissed from the case via an order entered by the Court on  
27                    February 3, 2014. *See* Notice of Entry of Order, attached hereto as Exhibit 4.

28                    ///

1           8.       On May 22, 2015, West Sunset filed its motion for summary judgment, arguing that  
2 West Sunset holds superior title to all defendants in this action because the Deed in Lieu and the  
3 HOA foreclosure sale extinguished all other interests the defendants may have previously held.  
4 Therefore, West Sunset requested that summary judgment be entered in its favor on all its claims as  
5 well as all of Nationstar's counterclaims. *See* Motion for Summary Judgment, on file.

6           9.       Nationstar and BANA filed their opposition to West Sunset's motion on June 10,  
7 2015 and counter-moved for entry of summary judgment on Nationstar counterclaims/cross-claims,  
8 arguing in part that the HOA foreclosure sale did not extinguish the Deed of Trust and was void for  
9 being unconstitutional and commercially unreasonable. *See* Opposition and Countermotion for  
10 Summary Judgment, on file.

11          10.      On February 8, 2016, the Court entered its Order denying West Sunset's motion for  
12 summary judgment and granting Nationstar's countermotion for summary judgment, which was  
13 noticed on February 16, 2016. *See* Notice of Entry of Order, attached hereto as **Exhibit 5**.

14          11.      Following a denial of West Sunset's motion for reconsideration, on July 1, 2016,  
15 West Sunset noticed its appeal of the Order.

16          12.      West Sunset's appeal was assigned to the NRAP 16 settlement program; however,  
17 the settlement judge recommended that the appeal be removed from the settlement program and  
18 briefing was reinstated. *See* Order Removing from Settlement Program and Reinstating Briefing,  
19 attached hereto as **Exhibit 6**.

20          13.      On August 29, 2016, the Nevada Supreme Court issued an order to show cause as to  
21 why the appeal should not be dismissed for lack of jurisdiction, as it appears that the Court has not  
22 entered a final written judgment adjudicating all the rights and liabilities of all the parties, and the  
23 Order has not been certified as final pursuant to NRCP 54(b). *See* Order to Show Cause, p. 1,  
24 attached hereto as **Exhibit 7**.

25          14.      The deadline to respond to the order to show cause is September 28, 2016. *Id.* at p.  
26 2.

27          15.      In light of the Nevada Supreme Court's order to show cause, a final judgment is  
28 necessary for West Sunset to proceed with its appeal.

16. Accordingly, I have contacted counsel of record for Nationstar and BANA on numerous occasions requesting a stipulation to certify the Order as a final judgment, and prepared a proposed stipulation for Nationstar and BANA's approval. See Emails, attached hereto as Exhibit 8; *see also* Proposed Stipulation and Order, attached hereto as Exhibit 9.

17. I also informed opposing counsel that I would file the instant Motion if I did not receive her client's approval of the proposed stipulation and order by September 27, 2016; however, to date, opposing counsel has not responded. See Ex. 8.

18. Nationstar and BANA are therefore on notice of the relief being sought herein and their counsel will be emailed a copy of this motion once filed.

19. Moreover, if the requested order shortening time is granted, it will be promptly served along with the instant Motion by an acceptable method on all parties pursuant to the requirements of EDCR 2.26, EDCR 7.26 and Nev. R. Civ. P. 5(b).

20. Based on the foregoing, the requirements of Nev. R. Civ. P. 65(b), NRS 33.010 and EDCR 2.26 have been met and the circumstances described above constitute good cause for the shortening of time to hear West Sunset's Motion.

21. This declaration and Motion is made in good faith and not for purposes of delay.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct to the best of my knowledge, information and belief.

EXECUTED this 28<sup>th</sup> day of September, 2016.

MARGARET E. SCHMIDT, ESO.



ORDER SHORTENING TIME

IT IS HEREBY ORDERED, that the MOTION FOR FINAL JUDGMENT PURSUANT TO RULE 54(B) AND TO STAY REMAINING CLAIMS PENDING CONCLUSION OF APPEAL shall be heard on the 26<sup>th</sup> day of October, 2016, at the hour of 9:30 a.m./p.m., or as soon as the matter may be heard by the Court.

IT IS FURTHER ORDERED that an opposition, if the opposing parties desire to file one, shall be filed and served on or before October 18<sup>th</sup>. A reply shall be filed and served on or before October 21<sup>st</sup>.

DATED this 7<sup>th</sup> day of October, 2016.

Valerie Adams  
DISTRICT COURT JUDGE

EW

Respectfully submitted by:

MAIER GUTIERREZ AYON

[Signature]  
LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
*Attorneys for Plaintiff/Counter-Defendant  
West Sunset 2050 Trust*

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION AND BACKGROUND OF CASE

3 This lawsuit involves disputed title to the real property located at 7255 W. Sunset Road,  
4 Unit 2050, Las Vegas, NV 89113, and bears Assessor's Parcel Number 176-03-510-102 (the  
5 "Property"). On November 29, 2005, Tablante entered into a loan agreement with New Freedom in  
6 the amount of \$176,760.00 for the purchase of the Property. A deed of trust securing the loan was  
7 recorded on December 7, 2005 in the Official Records of the Clark County Recorder as Instrument  
8 Number 20051207-0002367 (the "Deed of Trust").

9 On March 1, 2011, Tablante recorded a deed in lieu of foreclosure ("Deed in Lieu"),  
10 purporting to transfer the Property to New Freedom in "full satisfaction of all obligations secured  
11 by the Deed of Trust." An assignment of the Deed of Trust to BANA was subsequently recorded  
12 on July 29, 2011 and Cooper Castle was designated as the trustee under the Deed of Trust via a  
13 substitution recorded on February 2, 2012. Nationstar acquired its interest in the Deed of Trust by  
14 way of an assignment from BANA recorded on March 20, 2013.

15 On June 22, 2013, West Sunset purchased the Property at the non-judicial foreclosure of an  
16 HOA's lien for delinquent assessments pursuant to NRS 116.3116 *et seq.* and recorded its  
17 foreclosure deed on June 24, 2013.

18 On November 6, 2013, West Sunset initiated the above-captioned litigation, alleging claims  
19 for: (1) declaratory relief/quiet title against New Freedom, Nationstar, BANA, Cooper Castle, and  
20 Tablante; and (2) preliminary and permanent injunction against Nationstar and Cooper Castle. *See*  
21 Ex. 1. On May 20, 2014, Nationstar answered West Sunset's complaint and alleged counterclaims  
22 and cross-claims for: (1) quiet title against West Sunset and Tablante; (2) declaratory relief against  
23 West Sunset and Tablante; (3) slander of title against Tablante; (4) breach of contract against  
24 Tablante; (5) breach of implied covenant of good faith and fair dealing against Tablante; and (6)  
25 unjust enrichment against West Sunset. *See* Ex. 2.

26 Following Tablante and New Freedom's failure to make an appearance in this litigation,  
27 defaults were entered against them on July 29, 2015 on West Sunset's claims for relief; however,  
28 default judgments were never entered. *See* Ex. 3. Cooper Castle was also dismissed from the case

1 via an order entered on February 3, 2014. *See* Ex. 4.

2 On May 22, 2015, West Sunset filed its motion for summary judgment, arguing that West  
3 Sunset holds superior title to all defendants in this action because the Deed in Lieu and the HOA  
4 foreclosure sale extinguished all other interests the defendants may have previously held. Therefore,  
5 West Sunset requested that summary judgment be entered in its favor on all its claims as well as all  
6 of Nationstar's counterclaims. Nationstar and BANA filed their opposition to West Sunset's motion  
7 on June 10, 2015 and counter-moved for entry of summary judgment on Nationstar  
8 counterclaims/cross-claims, arguing in part that the HOA foreclosure sale did not extinguish the  
9 Deed of Trust and was void for being unconstitutional and commercially unreasonable.

10 Following a hearing on the matter, on July 24, 2015, the Court issued a minute order denying  
11 West Sunset's motion for summary judgment, and granting only Nationstar's countermotion for  
12 summary judgment (despite BANA's inclusion as a party in the opposition and countermotion for  
13 summary judgment). The Order memorializing the Court's minute order was filed on February 8,  
14 2016 and noticed on February 16, 2016. *See* Ex. 5.

15 Pursuant to the Order, the Court concluded as follows: (1) Nationstar and BANA were  
16 entitled to receive the HOA foreclosure notices as the Deed of Trust could be effected by the HOA's  
17 sale; (2) Tablante's Deed in Lieu was a false recording and did not strip the beneficiary of the Deed  
18 of Trust of its property rights; (3) the HOA's agent failed to provide any foreclosure notices to the  
19 beneficiary of the Deed of Trust, thereby depriving the beneficiary of the right to cure the  
20 delinquency; and (4) absent the requisite notices, the foreclosure sale did not extinguish the Deed of  
21 Trust. *See* Ex. 5.

22 On March 4, 2016, West Sunset filed a motion for reconsideration pursuant to NRCP 59(e),  
23 which was denied by an order entered on May 31, 2016 and noticed on June 3, 2016. Thereafter, on  
24 July 1, 2016, West Sunset noticed its appeal of the Order. Following assignment of the appeal to the  
25 NRAP 16 settlement program, the settlement judge recommended that the appeal be removed from  
26 the settlement program and briefing was reinstated. *See* Ex. 6.

27 On August 29, 2016, the Nevada Supreme Court issued an order to show cause as to why the  
28 appeal should not be dismissed for lack of jurisdiction, as it appears that the Court has not entered a

1 final written judgment adjudicating all the rights and liabilities of all the parties, and the Order has  
2 not been certified as final pursuant to NRCP 54(b). See Ex. 7, p. 1. In light of the Nevada Supreme  
3 Court's order to show cause, and because multiple parties are involved, a final judgment is  
4 necessary for West Sunset to proceed with its appeal.

## 5 II. LEGAL ARGUMENT

6 The Nevada Supreme Court has jurisdiction to review "a final judgment entered in an action  
7 or proceeding commenced in the court in which the judgment is rendered." NRAP 3A(b)(1).  
8 "[W]hen multiple parties are involved in an action, a judgment is not final unless the rights and  
9 liabilities of all parties are adjudicated." *Rae v. All Am. Life & Cas. Co.*, 95 Nev. 920, 922, 605 P.2d  
10 196, 197 (1979).

11 There is, however, a vehicle under which a plaintiff may obtain a judgment that is  
12 immediately appealable. Rule 54(b) of the Nevada Rules of Civil Procedure provides that "[w]hen  
13 multiple parties are involved, the court may direct the entry of a final judgment as to one or more  
14 but fewer than all of the parties only upon an express determination that there is no just reason for  
15 delay and upon an express direction for the entry of judgment." NRCP 54(b); see also  
16 *Hallicrafters Co. v. Moore*, 102 Nev. 526, 528, 728 P.2d 441, 442 (1986) ("[A] judgment or order  
17 of the district court which completely removes a party or a claim from a pending action may be  
18 certified as final 'only upon an express determination that there is no just reason for delay.'").

19 Upon considering a request to certify a judgment based on the elimination of a party, the  
20 district court should: (1) "consider the prejudice to that party in being forced to wait to bring its  
21 appeal"; and (2) "consider the prejudice to the parties remaining below if the judgment is certified  
22 as final." *Mallin v. Farmers Ins. Exch.*, 106 Nev. 606, 611, 797 P.2d 978, 981 (1990).

23 "Because the district court is in the best position to consider the above factors, a  
24 certification of finality pursuant to NRCP 54(b) based on the elimination of a party will be  
25 presumed valid and will be upheld by this court absent a gross abuse of discretion." *Id.* at 981-82.  
26 In order to prevent piecemeal appeals, "the standard against which a district court's exercise of  
27 discretion is to be judged is the 'interest of sound judicial administration.'" *Curtiss-Wright Corp.*  
28 *v. Gen. Elec. Co.*, 446 U.S. 1, 10, 100 S. Ct. 1460 (1980) (quoting *Sears, Roebuck & Co. v.*

1 *Mackey*, 351 U.S. 427, 437, 76 S. Ct. 895 (1956)).<sup>1</sup> Thus, “the proper role of the court of appeals  
2 is not to reweigh the equities or reassess the facts but to make sure that the conclusions derived  
3 from those weighings and assessments are juridically sound and supported by the record.” *Id.*

4 Here, the Court’s Order entered judgment on all of Nationstar’s counterclaims/cross-claims  
5 as well as West Sunset’s claims against Nationstar, thereby removing Nationstar from the litigation.  
6 Moreover, the conclusions arrived at by the Court in denying West Sunset’s motion for summary  
7 judgment effectively resolved its remaining claim for declaratory relief/quiet title against BANA,  
8 New Freedom and Tablante. Therefore, no important issues remain below that must be resolved  
9 prior to the Nevada Supreme Court’s consideration of the issues on appeal, nor would piecemeal  
10 litigation result by certifying the Order as final.

11 On the other hand, requiring the Parties to continue litigation on such claims whose  
12 resolution has already been determined by reasonable inference of the Court’s Order would be an  
13 inefficient use of judicial resources. Additionally, New Freedom and Tablante have not participated  
14 in this matter and West Sunset has already obtained defaults against them on its claims.  
15 Accordingly, no prejudice will result to the remaining claims pending below and there is no just  
16 reason to delay West Sunset’s appeal. The Court may enter a final appealable judgment pursuant to  
17 Rule 54(b) and stay the remaining claim against BANA, New Freedom and Tablante for declaratory  
18 relief/quiet title pending the outcome of West Sunset’s appeal.

### 19 III. CONCLUSION

20 Based on the foregoing, West Sunset respectfully requests that the Court amend the February  
21 8, 2016 Order to: (1) include a certification of final judgment pursuant to NRCP 54(b); (2) expressly  
22 determine that there is no just reason to delay appellate review and direct that the Order constitute a  
23 final judgment pursuant to Rule 54(b) with respect to fewer than all of the parties in this case; and  
24 (3) stay West Sunset’s remaining claim for declaratory relief/quiet title against BANA, New  
25

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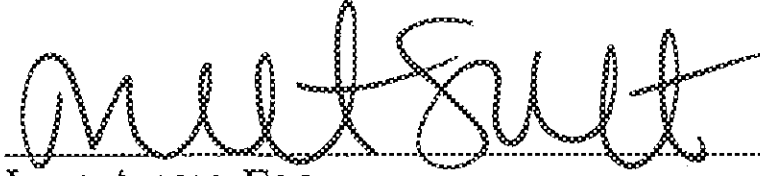
26 <sup>1</sup> The Nevada Supreme Court has held that “[f]ederal cases interpreting the Federal Rules of Civil  
27 Procedure ‘are strong persuasive authority, because the Nevada Rules of Civil Procedure are based  
28 in large part upon their federal counterparts.’” *Executive Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118  
Nev. 46, 53, 38 P.3d 872, 876 (2002) (quoting *Las Vegas Novelty v. Fernandez*, 106 Nev. 113, 119,  
787 P.2d 772, 776 (1990)).

1 Freedom and Tablante pending the conclusion of West Sunset's appeal.

2 DATED this 28<sup>th</sup> day of September, 2016.

3 Respectfully submitted,

4 MAIER GUTIERREZ AYON

5 

6 LUIS AYON, ESQ.

7 Nevada Bar No. 9752

8 MARGARET E. SCHMIDT, ESQ.

9 Nevada Bar No. 12489

10 8816 Spanish Ridge Avenue

11 Las Vegas, Nevada 89148

12 *Attorneys for Plaintiff/Counter-Defendant*

13 *West Sunset 2050 Trust*

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# **EXHIBIT 1**

# **EXHIBIT 1**

## CIVIL COVER SHEET

Clark County, Nevada

Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)

A- 13 - 691323 - C

XXI

**I. Party Information**

Plaintiff(s) (name/address/phone): WEST SUNSET 2050 TRUST, a Nevada Trust

Attorney (name/address/phone):

Luis A. Ayon, Esq., Margaret E. Schmidt, Esq., Maier Gutierrez Ayon, 2500 W. Sahara Avenue, Suite 106, Las Vegas, NV 89102 (702) 629-7900

Defendant(s) (name/address/phone): NEW FREEDOM MORTGAGE CORPORATION, a Foreign Corporation; BANK OF AMERICA, N.A., a National Association; NATIONSTAR MORTGAGE LLC, a Foreign Limited Liability Company, COOPER CASTLE LAW FIRM, LLP, a Nevada Limited Liability Partnership STEPHANIE TABLANTE, an individual, DOES I through X; and ROE CORPORATIONS I through X, inclusive

Attorney (name/address/phone):

**II. Nature of Controversy** (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input checked="" type="checkbox"/> <b>Title to Property</b> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input checked="" type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> <b>Condemnation/Eminent Domain</b> <input type="checkbox"/> <b>Other Real Property</b> <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<b>Negligence</b> <input type="checkbox"/> <b>Negligence – Auto</b> <input type="checkbox"/> <b>Negligence – Medical/Dental</b> <input type="checkbox"/> <b>Negligence – Premises Liability</b> (Slip/Fall) <input type="checkbox"/> <b>Negligence – Other</b>	<input type="checkbox"/> <b>Product Liability</b> <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> <b>Intentional Misconduct</b> <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> <b>Employment Torts</b> (Wrongful termination) <input type="checkbox"/> <b>Other Torts</b> <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> <b>Summary Administration</b> <input type="checkbox"/> <b>General Administration</b> <input type="checkbox"/> <b>Special Administration</b> <input type="checkbox"/> <b>Set Aside Estates</b> <input type="checkbox"/> <b>Trust/Conservatorships</b> <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> <b>Other Probate</b>	<input type="checkbox"/> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> <b>Breach of Contract</b> <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 <input type="checkbox"/> <b>Civil Petition for Judicial Review</b> <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	<input type="checkbox"/> <b>Appeal from Lower Court</b> (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> <b>Civil Writ</b> <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> <b>Other Civil Filing</b> <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

**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 checked="" 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)               |   |

November 6, 2013

Date

Signature of initiating party or representative

See other side for family-related case filings.





CLERK OF THE COURT

**COMP**

LUIS A. AYON, ESQ.

Nevada Bar No. 9752

MARGARET E. SCHMIDT, ESQ.

Nevada Bar No. 12489

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[mes@mgalaw.com](mailto:mes@mgalaw.com)

*Attorneys for West Sunset 2050 Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust

Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: **A- 13 - 691323 - C**

Dept. No.: **XXI**

**COMPLAINT**

**Arbitration Exemptions:**

- 1. Action for Declaratory Relief**
- 2. Action Concerning Real Property**

Plaintiff WEST SUNSET 2050 TRUST ("Plaintiff" or the "Trust"), by and through its attorneys of record, the law firm MAIER GUTIERREZ AYON, PLLC, hereby demands quiet title against the above named defendants, defendants DOES I through X, and ROE CORPORATIONS I through X (collectively, "Defendants"), as follows:

**GENERAL ALLEGATIONS**

1. This lawsuit involves real property located at 7255 W. Sunset Road, Unit 2050, Las Vegas, Nevada 89113, and bearing Assessor's Parcel Number 176-03-510-102 (the "Property").

2. Plaintiff WEST SUNSET 2050 TRUST ("Plaintiff" or the "Trust") is, and at all times pertinent hereto was, a resident of the State of Nevada.

3. Plaintiff is the present record owner of the Property.

4. The Property is subject to a set of CC&Rs recorded by the Tuscano Homeowners Association ("Tuscano HOA").

5. Plaintiff acquired the Property on or about June 22, 2013, by successfully bidding on the Property at a publicly held foreclosure action in accordance with NRS 116.3116, *et seq.*

6. The foreclosure sale was conducted pursuant to NRS 116.3116, *et seq.*, and all requirements of law regarding the mailing of the copies of the Notice of Default and Election to Sell, and the mailing, posting, and publication of the Notice of Foreclosure Sale have been complied with.

7. Pursuant to NRS 116.3116(2), the entire HOA lien is prior to all other liens and encumbrances of unit except:

1. Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to;
2. A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and
3. Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

8. NRS 116.3116(2) further provides that a portion of the HOA Lien has priority over even a first security interest in the Property.

9. On June 24, 2013, the foreclosure deed was recorded in the Official Records of the Clark County Recorder as Instrument No. 201306240003127 (the "Deed").

10. Since purchasing the Property, Plaintiff has expended significant additional funds and resources in relation to the Property.

11. Upon information and belief, on or about December 7, 2005, Defendant Stephanie Tablante, obtained a mortgage from Defendant New Freedom Mortgage Corporation ("New Freedom Mortgage") for the purchase of the Property.

1           12.     Upon information and belief, Defendant New Freedom Mortgage is foreign  
2 corporation. However, Defendant New Freedom Mortgage is not registered with the Nevada  
3 Secretary of State as a corporation authorized to do business in the State of Nevada.

4           13.     Defendant New Freedom Mortgage recorded a deed of trust with the Clark County  
5 Recorder's office as Instrument No. 200512070002367 on or about December 7, 2005 ("New  
6 Freedom DOT"). Defendant Stephanie Tablante was the borrower under the mortgage and  
7 executed the New Freedom DOT as security for the mortgage.

8           14.     On or about March 3, 2011, Defendant Stephanie Tablante transferred her interest  
9 in the Property to Defendant New Freedom Mortgage via a Deed in Lieu of Foreclosure.  
10 Defendant New Freedom Mortgage recorded the Deed in Lieu of Foreclosure with the Clark  
11 County Recorder's office as Instrument Number 20113030003444.

12           15.     On or about June 21, 2011, the Deed in Lieu of Foreclosure was rerecorded with the  
13 Clark County Recorder's office as Instrument Number 201106210002567.

14           16.     After Defendant Stephanie Tablante signed her interest in the Property over to  
15 Defendant New Freedom Mortgage, Defendant New Freedom Mortgage became the owner of the  
16 Property and was responsible for all the maintenance associated with the Property, including the  
17 homeowner assessments.

18           17.     On or about July 29, 2011, Mortgage Electronic Registration Systems, Inc.  
19 ("MERS") recorded an assignment of deed of trust against the Property with the Clark County  
20 Recorder's office as Instrument Number 201107290000895 ("MERS Assignment").

21           18.     The MERS Assignment purportedly assigned Defendant New Freedom Mortgage's  
22 interest in the New Freedom Mortgage DOT to BAC Home Loans Servicing, LP FKA  
23 Countrywide Home Loan Servicing LP ("BAC Home Loans").

24           19.     Is it unclear why the MERS Assignment occurred because the New Freedom  
25 Mortgage DOT was extinguished after ownership of the Property was transferred to Defendant  
26 New Freedom Mortgage.

27           20.     On or about March 20, 2013, Defendant Bank of America, N.A. ("BANA")  
28 recorded an assignment ("Nationstar Assignment") that purported to transfer BANA's interest to

1 Defendant Nationstar Mortgage LLC ("Nationstar"). The Nationstar Assignment was recorded  
2 with the Clark County Recorder's office as Instrument Number 201303200000887.

3 21. Defendant New Freedom Mortgage was the owner of the Property at the time the  
4 Nationstar Assignment was made

5 22. On or about September 18, 2013, Defendant Cooper Castle Law Firm, LLP  
6 ("Cooper Castle"), as Trustee under the New Freedom DOT, recorded a Notice of Breach and  
7 Default ("NOD") against the Property. The NOD was recorded with the Clark County Recorder's  
8 office as Instrument Number 201309180002103.

9 23. As previously stated, the New Freedom DOT was extinguished after Defendant  
10 Stephanie Tablante transferred her interest in the Property to Defendant New Freedom Mortgage.

11 24. Upon information and belief, each of the defendants sued herein as DOES I through  
12 X, inclusive, are responsible in some manner for the events and happenings herein referred to,  
13 which thereby proximately caused the injuries and damages to plaintiff as alleged herein; that  
14 when the true names and capacities of such defendants become known, plaintiff will ask leave of  
15 this Court to amend this complaint to insert the true names, identities and capacities together with  
16 proper charges and allegations.

17 25. Upon information and belief, each of the defendants sued herein as ROE  
18 CORPORATIONS I thought X, inclusive, are responsible in same manner for the events and  
19 happenings herein referred to, which thereby proximately caused the injuries and damages to  
20 plaintiff as alleged herein; that when the true names and capacities of such defendants become  
21 known, plaintiff will ask leave of this Court to amend this complaint to insert the true names,  
22 identities and capacities together with proper charges and allegations.

23 **FIRST CLAIM FOR RELIEF**

24 **(Declaratory Relief/Quiet Title Pursuant to NRS 30.010 and 116.3116, et seq.**

25 **against all Defendants)**

26 26. Plaintiff repeats and realleges the allegations of the preceding paragraphs of the  
27 complaint as though fully set forth herein and incorporate the same herein by reference.

28 27. This Court has the power and authority to declare the Plaintiff's rights and interests

1 in the Property, and the resolution of Defendants' adverse claims, if any, to it.

2 28. Plaintiff acquired the Property via a NRS 116 foreclosure sale on or about June 22,  
3 2013. Thereafter, Plaintiff properly recorded the Deed on June 24, 2013.

4 29. Defendant New Freedom Mortgage, as the owner of the Property, was required to  
5 maintain the HOA assessments.

6 30. Defendants were duly notified of the HOA foreclosure sale and failed to act to  
7 protect their interests. Defendants have sat on their rights and effectively have abandoned their  
8 security interests, if any ever legitimately existed.

9 31. Furthermore, an NRS 116 foreclosure sale, like all foreclosure sales, extinguishes  
10 junior security interests. Pursuant to NRS 116.3116, a Homeowners Association ("HOA") lien is  
11 superior in priority to all mortgage encumbrances. Therefore, an NRS 116 foreclosure sale  
12 extinguishes all mortgage encumbrances, if any remained in place.

13 32. Defendants are unable to satisfy the stringent requirements of Nevada Assembly  
14 Bill No. 284, as codified, and effectively have abandoned their security interests.

15 33. Plaintiff is entitled to a declaratory judgment from this Court finding that: (1)  
16 Plaintiff is the owner of the Property; (2) Plaintiff's Deed is valid and enforceable; and (3)  
17 Plaintiff's rights to the Property and interest in the Property are superior to any adverse interest  
18 claimed by Defendants and are therefore extinguished.

19 34. Plaintiff seeks an order from the Court quieting title to the Property in favor of  
20 Plaintiff and extinguishing any interest Defendants may have therein.

21 **SECOND CLAIM FOR RELIEF**

22 **(Preliminary and Permanent Injunction against Defendants Cooper Castle and Nationstar)**

23 35. Plaintiff repeats and realleges the allegations of the preceding paragraphs of the  
24 complaint as though fully set forth herein and incorporate the same herein by reference.

25 36. Defendants may claim an interest in the Property by way of a competing deed of  
26 trust or other interest that was extinguished by the HOA foreclosure sale or otherwise abandoned.

27 37. As such, Defendants may improperly attempt to foreclose upon the Property and  
28 sell it at a trustee's sale.

38. Such a trustee's sale would be invalid as Defendants have lost or otherwise abandoned their interests in the Property.

39. On the basis of the facts described herein, Plaintiff has a reasonable probability of success on the merits of its claims.

40. Plaintiff is entitled to a preliminary and permanent injunction prohibiting Defendants, each of them, from initiating any foreclosure proceedings that would affect the title to the Property.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff WEST SUNSET 2050 TRUST, prays for judgment against Defendants, and each of them, as follows:

1. For a declaration and determination that Plaintiff is the rightful holder of title to the Property and that Defendants, and each of them, be declared to have no right, title or interest in the Property;

2. For a preliminary and permanent injunction that Defendants, and each of them, are prohibited from initiating foreclosure proceedings on the Property; and

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

DATED this 6<sup>th</sup> day of November, 2013.

**MAIER GUTIERREZ AYON**

LUIS AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
2500 W. Sahara Ave, Suite 106  
Las Vegas, Nevada 89102  
*Attorneys for Plaintiff West Sunset 2050 Trust*

# **EXHIBIT 2**

# **EXHIBIT 2**

  
CLERK OF THE COURT

**AACR**  
ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
ALLISON R. SCHMIDT, ESQ.  
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*Attorneys for Defendant Nationstar  
Mortgage, LLC*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

Case No.: A-13-691323-C  
Dept.: XXI

**NATIONSTAR MORTGAGE, LLC'S  
ANSWER, COUNTERCLAIM AGAINST  
WEST SUNSET 2050 TRUST AND CROSS-  
CLAIM AGAINST STEPHANIE  
TABLANTE**

Nationstar Mortgage, LLC, (**Nationstar**), answers plaintiff NEVADA NEW BUILDS LLC's  
complaint as follows:

1. Nationstar lacks sufficient knowledge or information to admit or deny the allegations  
set forth in paragraphs 1-4, 10-13, 34, and 36 of the complaint and denies each allegation contained  
in those paragraphs on that basis.

2. Nationstar denies the allegations set forth in paragraphs 5-7, 14, 16, 19, 21, 23-25, 28-  
33, and 37-40 of the complaint.

3. With respect to paragraph 8 of the complaint, Nationstar responds that the law cited

{28649609;1}

AKERMAN LLP  
1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 -- FAX: (702) 380-8572



1 speaks for itself.

2 4. With respect to paragraphs 9, 15, 17, 18, 20, and 22 of the complaint, Nationstar  
3 responds that the recorded documents referenced speak for themselves.

4 5. With respect to paragraph 15 of the complaint, Nationstar denies that plaintiff is  
5 entitled to the relief described therein.

6 6. Paragraph 27 of the complaint is merely a statement of this Court's jurisdiction, and  
7 no response thereto is required.

8 **WHEREFORE**, Nationstar prays for the following:

- 9 1. That plaintiff takes nothing by way of its complaint;  
10 2. For attorney's fees and costs of defending this action; and  
11 3. For such other and further relief as this Court deems just and proper.

12 **AFFIRMATIVE DEFENSES**

13 1. Plaintiff fails to state claims upon which relief may be granted.  
14 2. The foreclosure sale at issue cannot eliminate a senior deed of trust under NRS  
15 116.311635 and NRS 21.130.

16 3. The foreclosure sale at issue cannot eliminate a senior deed of trust because it was  
17 commercially unreasonable.

18 4. The foreclosure sale at issue is void due to lack of proper notice.

19 5. Nationstar acted in good faith at all times.

20 6. Due to plaintiff's own actions, plaintiff is estopped from asserting the claims in the  
21 complaint.

22 7. Plaintiff's claims may be barred by applicable limitations on actions, including the  
23 statute of limitations.

24 8. The liability, if any, of Nationstar must be reduced by the percentage of fault of  
25 plaintiff and others.

26 9. Plaintiff's claims and causes of action are barred, in whole or in part, due to plaintiff's  
27 failure to mitigate, minimize, or otherwise avoid its alleged damages.

10. Plaintiff's claims are barred because any injury it suffered was the result of the actions of an intervening superseding cause over which Nationstar had no control.

11. Plaintiff's claims are barred pursuant to the laches doctrine.

12. Any act or omission on the part of Nationstar was not the proximate cause of the alleged injuries or damages, if any, sustained by plaintiff.

13. The liability of Nationstar, if any, is several and not joint and several, and based upon each defendant's own acts and not the acts of others.

14. Nationstar owed no duty to plaintiff.

15. Nationstar was unaware of any wrongdoing by any other defendant or third party.

16. Nationstar did not ratify the actions of any other defendant.

17. Plaintiff has waived any claims against Nationstar.

18. Plaintiff has released any claims against Nationstar.

19. Plaintiff has failed to do equity.

20. Plaintiff acted with unclean hands.

21. Plaintiff assumed the risks when it purchased the property.

22. Plaintiff has not stated any basis to rescind any instruments or liens encumbering the property.

23. Plaintiff is not a *bona fide* purchaser.

24. Nationstar reserves the right to assert additional affirmative defenses that become apparent during discovery.

### COUNTERCLAIM AND CROSS-CLAIM

Nationstar counterclaims against plaintiff West Sunset 2050 Trust (**West Sunset**), and cross-claims against defendant Stephanie Tablante (**Tablante**), as follows:

1. Upon information and belief, West Sunset is a trust and citizen of Nevada.

2. Upon information and belief, Tablante is a resident of the state of Nevada.

3. Nationstar is a Delaware limited liability company with its principal place of business in the State of Texas.

4. Nationstar will seek leave of this Court to add the Tuscano Homeowners Association (Tuscano HOA) as a party to this action. Upon information and belief, Tuscano HOA is a domestic non-profit corporation.

## FACTUAL BACKGROUND

5. Upon information and belief, Tablante purchased the property located at 7255 W. Sunset Road, unit 2050, Las Vegas Nevada 89113 in or about December 2005.

6. Tablante financed the purchase of the property by obtaining a mortgage loan in the amount of \$176,750 from New Freedom Mortgage Corporation.

7. A deed of trust securing the mortgage loan obtained by Tablante was recorded on the property as instrument no. 200512070002367 in the Clark County official records.

8. Upon information and belief Tablante, or her agent, unilaterally attempted to deed the property back to New Freedom Mortgage Corporation by creating and recording a false deed in lieu of foreclosure.

9. The improper deed in lieu of foreclosure was recorded first as instrument no. 201103030003444, and was later re-recorded as instrument no. 201106210002567.

10. Upon information and belief, neither deed in lieu of foreclosure was ever accepted by New Freedom Mortgage Corporation.

11. Neither deed in lieu of foreclosure bear any signature of New Freedom Mortgage Corporation.

12. The deeds in lieu of foreclosure do not satisfy the Nevada Statute of Frauds, codified as NRS 111.220.

13. On or about July 28, 2011, the deed of trust was assigned to BAC Home Loans Servicing, LP.

14. The assignment to BAC Home Loans Servicing, LP was recorded as instrument no. 201107290000895.

15. On or about February 28, 2013, the deed of trust was assigned to Nationstar.

16. The assignment to Nationstar was recorded as instrument no. 201303200000887.

17. On or about April 4, 2014, Red Rock Financial Services, on behalf of the Tuscano HOA recorded a lien for purported delinquent assessments, which stated that \$2695.10 was due and owing.

18. The assessment lien was addressed to New Freedom Mortgage Company, despite the fact that Tablante was still the property owner, and responsible for the assessments on the property.

19. On or about May 29, 2012 Red Rock Financial Services, on behalf of the Tuscao HOA recorded a notice of default, which claimed that \$4018.40 was due and owing.

20. The notice of default was addressed to New Freedom Mortgage Company, despite the fact that Tablante was still the property owner, and responsible for the assessments on the property.

21. On May 29, 2103, United Legal Service, Inc., on behalf of the Tuscano HOA recorded a notice of sale, claiming that \$7806.42 was due and owing.

22. The notice of sale was addressed to New Freedom Mortgage Company, despite the fact that Tablante was still the property owner, and responsible for the assessments on the property.

23. On or about June 22, 2013, the Tuscano HOA purported to sell the property at foreclosure auction to West Sunset.

24. A trustee's deed upon sale was recorded on June 24, 2013 as instrument no. 201306240003127.

25. The trustee's sale was void as the required notices were not provided in accordance with the requirements of NRS Chapter 116.

26. The trustee's deed failed to contain any recitation of the consideration allegedly given by West Sunset.

### **FIRST CLAIM FOR RELIEF—QUIET TITLE**

#### **(Against West Sunset 2050 Trust and Stephanie Tablante)**

26. Nationstar repeats and realleges each and every allegation contained in paragraphs 1 through 25 of its counterclaim and cross-claim as if fully incorporated herein.

27. Tablante's deeds in lieu of foreclosure were ineffective to transfer title of the property to New Freedom Mortgage Corporation.

1           28.     Because the deeds in lieu of foreclosure were ineffective, Nationstar has a valid and  
2 enforceable security interest in the property as the assignee of the deed of trust.

3           29.     The Tuscano HOA foreclosure sale was void because all notices were not provided as  
4 required by NRS Chapter 116.

5           30.     Because the HOA foreclosure sale was void, West Sunset possesses no valid interest  
6 in the property and is unlawfully asserting a claim to title to the property adverse to that of  
7 Nationstar.

8           31.     Nationstar has been required to retain Akerman LLP to prosecute this counterclaim  
9 and cross-claim, and Nationstar is entitled to recover its fees and costs.

10                   **SECOND CLAIM FOR RELIEF—DECLARATORY RELIEF**

11                   **(Against West Sunset 2050 Trust and Stephanie Tablante)**

12           32.     Nationstar repeats and realleges each and every allegation contained in paragraphs 1  
13 through 31 of its counterclaim and cross-claim as if fully incorporated herein.

14           33.     A controversy exists as to title to the real property, the validity of Nationstar's  
15 security interest, and the validity of the HOA foreclosure sale.

16           34.     Pursuant to NRS 30.010, Nationstar is entitled to an order establishing that  
17 Nationstar's deed of trust is a valid encumbrance upon the property, and the June 22, 2013 HOA  
18 foreclosure sale was void for lack of notice.

19                   **THIRD CLAIM FOR RELIEF—SLANDER OF TITLE/VIOLATION OF NRS 239.330**

20                   **(Against Stephanie Tablante)**

21           35.     Nationstar repeats and realleges each and every allegation contained in paragraphs 1  
22 through 34 of its counterclaim and cross-claim as if fully incorporated herein.

23           36.     Upon information and belief, the deeds in lieu of foreclosure recorded by Tablante, or  
24 her agent, were false and malicious communications.

25           37.     By recording the improper deeds in lieu of foreclosure, Tablante disparaged  
26 Nationstar's interest in the property.

27           38.     Tablante's recording of the improper deeds in lieu of foreclosure have resulted in  
28 special damages, including but not limited to clouding the title to the property, and possible loss of

1 Nationstar's security interest and its right to foreclose upon the property as a remedy for Tablante's  
2 breach of her mortgage loan agreement. The damages sustained by Nationstar are in excess of  
3 \$10,000.

4 39. Tablante's actions were willful, wanton and malicious and entitle Nationstar to  
5 exemplary damages.

6 **FOURTH CLAIM FOR RELIEF—BREACH OF CONTRACT**

7 **(Against Stephanie Tablante)**

8 40. Nationstar repeats and realleges each and every allegation contained in paragraphs 1  
9 through 39 of its counterclaim and cross-claim as if fully incorporated herein.

10 41. Tablante and Nationstar are parties to the deed of trust, attached hereto as **Exhibit A**.

11 42. The deed of trust prohibits Tablante from transferring any interest in the property  
12 without the beneficiary's consent.

13 43. The deed of trust requires Tablante to perform all obligations under the governing  
14 documents and covenants, codes, and restrictions of the Tuscano HOA.

15 44. Upon information and belief, Tablante breached the terms of the deed of trust by  
16 attempting to convey her interest in the property to New Freedom Mortgage Corporation.

17 45. Upon information and belief, Tablante failed to perform her obligations under the  
18 Tuscano governing documents and covenants, codes, and restrictions, by failing to pay her periodic  
19 assessments as required.

20 46. As a result of Tablante's breach of the deed of trust, Nationstar has sustained damages  
21 in excess of \$10,000.

22 **FOURTH CLAIM FOR RELIEF—BREACH OF THE IMPLIED**

23 **COVENANT OF GOOD FAITH AND FAIR DEALING**

24 **(Against Stephanie Tablante)**

25 47. Nationstar repeats and realleges each and every allegation contained in paragraphs 1  
26 through 46 of its counterclaim and cross-claim as if fully incorporated herein.

27 48. The implied covenant of good faith and fair dealing is required in every contract  
28 under Nevada Law.

1           49.     Tablante and Nationstar are parties to the deed of trust.

2           50.     The purpose of the deed of trust was to secure repayment of Tablante's mortgage  
3 loan, and provide the beneficiary with a foreclosure remedy in the event of Tablante's default.

4           51.     Tablante performed in a way that us unfaithful to the purpose of the deed of trust by  
5 unilaterally attempting to reconvey her interest in the property to New Freedom Mortgage Company.

6           52.     Nationstar's expectations under the deed of trust have been denied.

7           53.     As a result of Tablante's breach of the implied covenant of good faith and fair  
8 dealing, Nationstar has sustained damages in excess of \$10,000.

9                   **FIFTH CLAIM FOR RELIEF—UNJUST ENRICHMENT**

10                   **(Against West Sunset 2050 Trust)**

11           54.     Nationstar repeats and realleges each and every allegation contained in paragraphs 1  
12 through 53 of its counterclaim and cross-claim as if fully incorporated herein.

13           55.     Nationstar has been unable to proceed with foreclosure as a result of West Sunset's  
14 possession of the property.

15           56.     Upon information and belief, West Sunset leases the property to an unknown third  
16 party.

17           57.     West Sunset has retained the rental funds, which should equitably belongs to  
18 Nationstar.

19           58.     As a result of West Sunset's conduct, Nationstar has sustained damages in excess of  
20 \$10,000.

21           **WHEREFORE**, Nationstar prays for relief from this Court as follows:

22           1.     For an Order of the Court quieting title in Tablante's name (subject to Nationstar's  
23 deed of trust), voiding the HOA's foreclosure sale, and upholding the validity and  
24 enforceability of Nationstar's deed of trust;

25           2.     For declaratory relief determining the parties' respective rights and obligations under  
26 NRS 30.010;

27           3.     For general damages in excess of \$10,000;

28           4.     For special damages in excess of \$10,000;

5. For exemplary damages in excess of \$10,000.
6. For reasonable attorney's fees and costs; and
7. For such further relief as this Court deems appropriate.

DATED this 19th day of May, 2014.

**AKERMAN LLP**

*/s/ Allison R. Schmidt*

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

ALLISON R. SCHMIDT, ESQ.

Nevada Bar No. 10743

1160 Town Center Drive, Ste. 330

Las Vegas, Nevada 89144

*Attorneys for Defendant Nationstar Mortgage, LLC*



**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of May, 2014 and pursuant to NRCP 5, I deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NATIONSTAR MORTGAGE, LLC'S ANSWER, COUNTERCLAIM AGAINST WEST SUNSET 2050 TRUST AND CROSS-CLAIM AGAINST STEPHANIE TABLANTE**, postage prepaid and addressed to:

Luis A. Ayon, Esq.  
Margaret E. Schmidt, Esq.  
MAIER GUTIERREZ AYON  
2500 W. Sahara Ave., Ste. 106  
Las Vegas, NV 89102

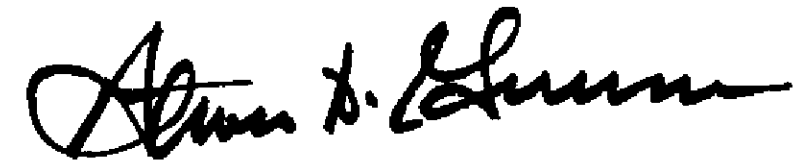
*Attorneys for Plaintiff*

/s/ Lucille Chiusano

An employee of AKERMAN LLP

# EXHIBIT 3

# EXHIBIT 3



CLERK OF THE COURT

1 DFLT  
LUIS A. AYON, ESQ.  
2 Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
3 Nevada Bar No. 12489  
MAIER GUTIERREZ AYON  
4 400 South Seventh Street, Suite 400  
Las Vegas, Nevada 89101  
5 Telephone: (702) 629-7900  
Facsimile: (702) 629-7925  
6 E-mail: [laa@mgalaw.com](mailto:laa@mgalaw.com)  
[mes@mgalaw.com](mailto:mes@mgalaw.com)

7  
8 *Attorneys for Plaintiff/Counterdefendant*  
*West Sunset 2050 Trust*

9  
10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

12 WEST SUNSET 2050 TRUST, a Nevada Trust  
13 Plaintiff,

14 vs.

15 NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
16 BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
17 LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
18 Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
19 DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,  
20

21 Defendants.

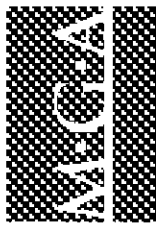
22 AND ALL RELATED CLAIMS.  
23

Case No.: A-13-691323-C  
Dept. No.: XXI

DEFAULT AGAINST STEPHANIE  
TABLANTE

24 It appearing from the files and records in the above-entitled action that STEPHANIE  
25 TABLANTE, the defendant herein, having been duly served with a copy of the summons and  
26 complaint by publication in the Nevada Legal News on September 10, 2014, September 17, 2014,  
27 September 24, 2014, October 1, 2014 and October 8, 2014 and mailed to defendant on September 9,  
28 2014 by U.S. Mail to the last known addresses; that more than twenty (20) days, exclusive of the

MAIER GUTIERREZ AYON PLLC  
ATTORNEYS AT LAW



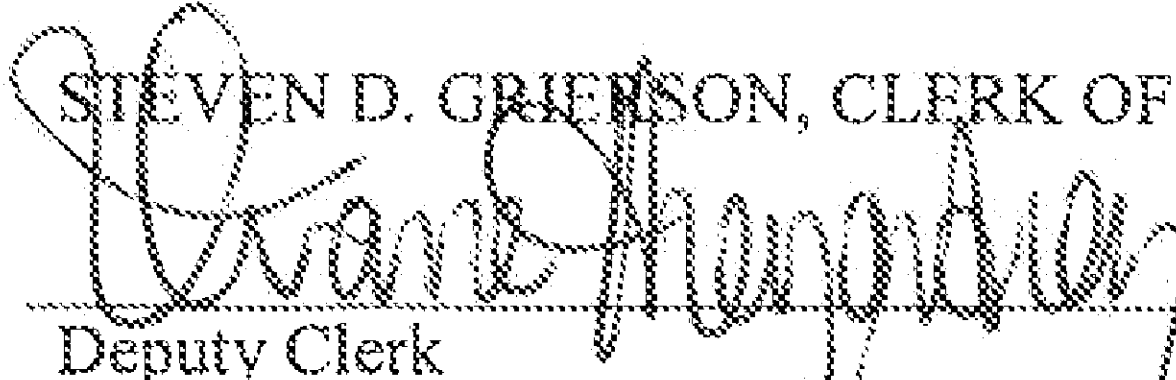
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JUL 24 2015

CLERK OF THE COURT

1 final date of publication, having expired since service upon the defendant by publication; that no  
2 answer or other appearance having been filed and no further time having been granted, the default of  
3 defendant STEPHANIE TABLANTE for failing to answer or otherwise plead to plaintiff West  
4 Sunset 2050 Trust's complaint is hereby entered.

5 STEVEN D. GRIERSON, CLERK OF THE COURT

6   
7 Deputy Clerk

8 Regional Justice Court

9 200 Lewis Avenue

Las Vegas, Nevada 89155

JUL 27 2018

Date

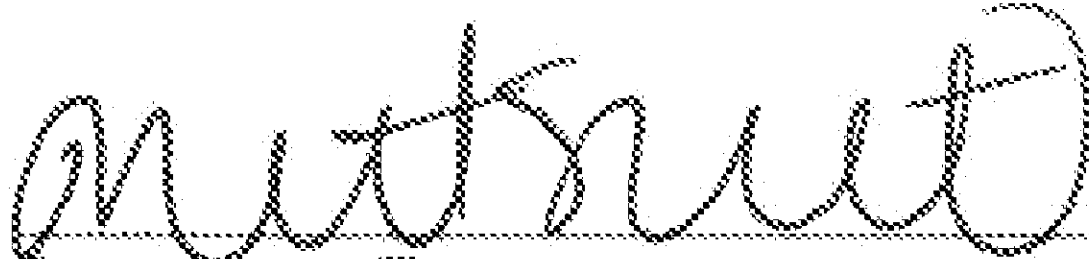
VONNE HERNANDEZ

AWA1323

10 The undersigned hereby requests and directs the entry of default.

11 Respectfully submitted,

12 MAIER GUTIERREZ AYON

13 

14 LUIS AYON, ESQ.

15 Nevada Bar No. 9752

16 MARGARET E. SCHMIDT, ESQ.

17 Nevada Bar No. 12489

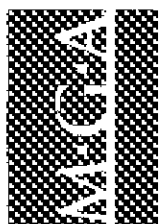
18 400 South Seventh Street, Suite 400

19 Las Vegas, Nevada 89101

20 Attorneys for Plaintiff/Counterdefendant West

21 Sunset 2050 Trust

MAIER GUTIERREZ AYON PLLC  
ATTORNEYS AT LAW



AFFP  
A 691323

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CLERK OF THE COURT

## Affidavit of Publication

STATE OF NEVADA }  
COUNTY OF CLARK } SS

DISTRICT COURT  
CLARK COUNTY, NEVADA  
Case No.: A 691323 Dept. No.: XXI

WEST SUNSET 2050 TRUST, a Nevada Trust Plaintiff,  
vs. NEW FREEDOM MORTGAGE CORPORATION, a Foreign Corporation; BANK  
OF AMERICA, N.A., a National Association; NATIONSTAR MORTGAGE LLC, a  
Foreign Limited Liability Company, COOPER CASTER LAW FIRM, LLP, a Nevada  
Limited Liability Partnership STEPHANIE TABLANTE, an individual, DOES I through  
X; and RDE CORPORATIONS I through X, inclusive, Defendants.

### SUMMONS - CIVIL

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU  
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.  
READ THE INFORMATION BELOW. STEPHANIE TABLANTE A civil Complaint has  
been filed by the Plaintiff against you for the relief set forth in the Complaint. Object  
of Action: This is a Complaint for Title to Property - Quiet Title. 1. If you intend to  
defend this lawsuit, within 20 days after this Summons is served on you, exclusive of  
the day of service, you must do the following: (a) File with the Clerk of the Court,  
whose address is shown below, a formal written response to the Complaint in  
accordance with the rules of the Court, with the appropriate filing fee. (b) Serve a  
copy of your response upon the attorney whose name and address is shown below.  
2. Unless you respond, your default will be entered upon application of the Plaintiffs  
and failure to so respond will result in a judgment of default against you for the relief  
demanded in the Complaint, which could result in the taking of money or property or  
other relief requested in the Complaint. 3. If you intend to seek the advice of an  
attorney in this matter, you should do so promptly so that your response may be filed  
on time. 4. The State of Nevada, its political subdivisions, agencies, officers,  
employees, board members, commission members and legislators each have 45  
days after service of this Summons within which to file and Answer or other  
responsive pleading to the Complaint. CLERK OF THE COURT, s/ Joshua Raak,  
Deputy Clerk, Date 11-7-13, Regional Justice Court, 200 Lewis Avenue, Las Vegas,  
Nevada 89155, MAIER GUTIERREZ AYON, s/ LUIS A. AYON, ESQ., Nevada Bar  
No. 9762, MARGARET E. SCHMIDT, ESQ., Nevada Bar No. 12489, 2500 West  
Sahara Avenue, Suite 108, Las Vegas, Nevada 89102. Telephone: (702) 629-7900,  
Facsimile: (702) 629-7925, E-mail: laa@mgalaw.com, mes@mgalaw.com, Attorneys  
for West Sunset 2050 Trust  
Published in Nevada Legal News  
September 10, 17, 24, October 1, 8, 2014

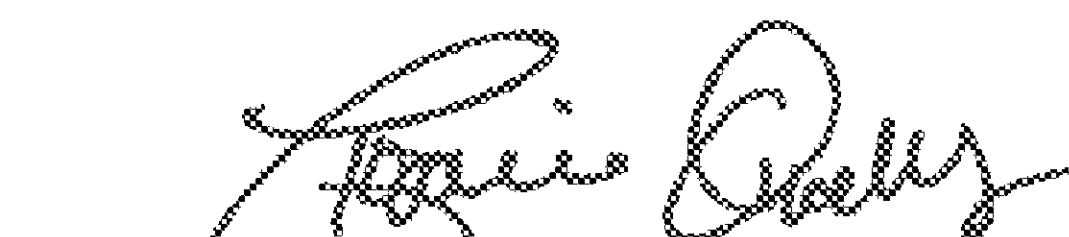
I, Rosalie Qualls state:

That I am Assistant Operations Manager of the Nevada  
Legal News, a daily newspaper of general circulation,  
printed and published in Las Vegas, Clark County,  
Nevada; that the publication, a copy of which is attached  
hereto, was published in the said newspaper on the  
following dates:

Sep 10, 2014  
Sep 17, 2014  
Sep 24, 2014  
Oct 01, 2014  
Oct 08, 2014

That said newspaper was regularly issued and circulated  
on those dates. I declare under penalty of perjury that the  
foregoing is true and correct.

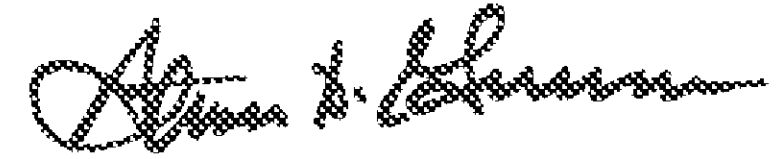
DATED: Oct 08, 2014



Rosalie Qualls

04108253 00381302 702-629-7925

MAIER GUTIERREZ AYON  
400 SOUTH SEVENTH STREET  
SUITE 400  
LAS VEGAS, NV 89101



CLERK OF THE COURT

1 CSERV  
LUIS A. AYON, ESQ.  
2 Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
3 Nevada Bar No. 12489  
MAIER GUTIERREZ AYON  
4 400 South Seventh Street, Suite 400  
Las Vegas, Nevada 89101  
5 Telephone: (702) 629-7900  
Facsimile: (702) 629-7925  
6 E-mail: [laa@mgalaw.com](mailto:laa@mgalaw.com)  
[mes@mgalaw.com](mailto:mes@mgalaw.com)  
7  
8 *Attorneys for West Sunset 2050 Trust*

9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 WEST SUNSET 2050 TRUST, a Nevada Trust  
12  
13 Plaintiff,

14 vs.

15 NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
16 BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
17 LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
18 Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
19 DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

20 Defendants.  
21

Case No.: A-13-691323-C  
Dept. No.: XXI

**CERTIFICATE OF SERVICE**

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on the 9<sup>th</sup> day of September, 2014, I served a copy of the summons and  
24 complaint by depositing a true and correct copy of the same, enclosed in a sealed envelope upon  
25 which first class postage was fully prepaid, certified U.S. Mail, return receipt requested, deposited  
26 with the United States Postal Service in Las Vegas, Nevada, addressed as follows:

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Stephanie Tablante  
708 Kelso Way  
Las Vegas, Nevada 89107

/s/ Charity Barber  
An Employee of MAIER GUTIERREZ AYON

# ALIER GUTIERREZ AYON P.L.C.

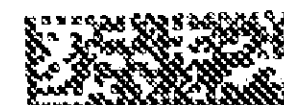
ATTORNEYS AT LAW

400 South Seventh Street • Suite 400  
Las Vegas, Nevada 89101

\$6.69

US POSTAGE  
FIRST-CLASS  
06250007955296  
89101

5271 800588



Stephanie Tablante  
708 Kelso Way  
Las Vegas, Nevada 89107

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Stephanie Tablante  
708 Kelso Way  
Las Vegas, NV 89107

## COMPLETE THIS SECTION ON DELIVERY

A. Signature ☐ Agent  
☒ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number

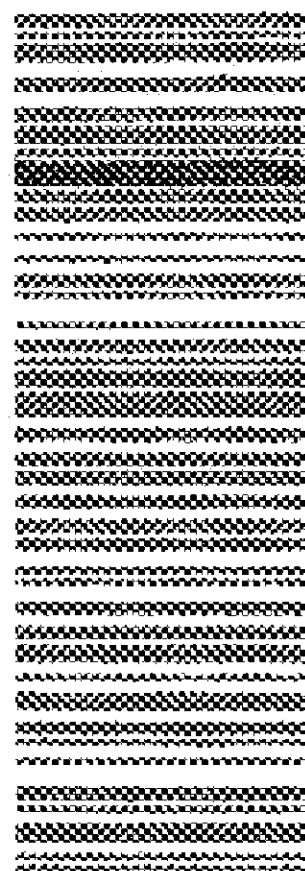
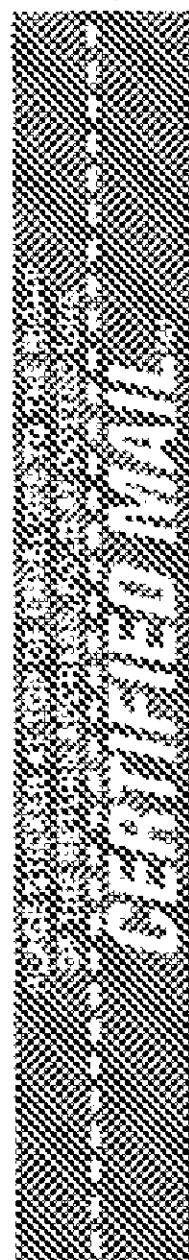
(Transfer from service label)

7012 1640 0000 7761 1089

PS Form 3811, February 2004

Domestic Return Receipt

102593-02-02-1840



7012 1640 0000 7761 1089  
7012 1640 0000 7761 1089

## U.S. Postal Service CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit us online at [usps.com](http://usps.com)

## OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
Here

Sent to: Stephanie Tablante  
Street Apt. P.O. Box No. 708 Kelso Way  
City, State, ZIP+4 Las Vegas, NV 89107



## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Stephanie Tablante  
716 Kelso Way  
Las Vegas, NV 89107

2. Article Number

(transfer from service label)

7012 1640 0000 7761 1089

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-154

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

SEP 15 2014

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

CLERK OF THE COURT

1 DFLT  
LUIS A. AYON, ESQ.  
2 Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
3 Nevada Bar No. 12489  
MAIER GUTIERREZ AYON  
4 400 South Seventh Street, Suite 400  
Las Vegas, Nevada 89101  
5 Telephone: (702) 629-7900  
Facsimile: (702) 629-7925  
6 E-mail: [laa@mgalaw.com](mailto:laa@mgalaw.com)  
[mes@mgalaw.com](mailto:mes@mgalaw.com)

7  
8 *Attorneys for Plaintiff/Counterdefendant*  
*West Sunset 2050 Trust*

9  
10 DISTRICT COURT  
11 CLARK COUNTY, NEVADA

12 WEST SUNSET 2050 TRUST, a Nevada Trust  
13 Plaintiff,

14 vs.

15 NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
16 BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
17 LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
18 Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
19 DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,  
20

21 Defendants.

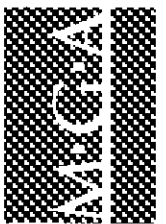
22 AND ALL RELATED CLAIMS.  
23

Case No.: A-13-691323-C  
Dept. No.: XXI

DEFAULT AGAINST NEW FREEDOM  
MORTGAGE CORPORATION

24 It appearing from the files and records in the above-entitled action that NEW FREEDOM  
25 MORTGAGE CORPORATION, the defendant herein, having been duly served with a copy of the  
summons and complaint on November 25, 2013; that more than twenty (20) days, exclusive of the  
day of service having since expired upon the defendant; that no answer or other appearance having  
been filed and no further time having been granted, the default of defendant NEW FREEDOM

MAIER GUTIERREZ AYON PLLC  
ATTORNEYS AT LAW



RECEIVED

JUL 24 2015

CLERK OF THE COURT

1 MORTGAGE CORPORATION for failing to answer or otherwise plead to plaintiff West Sunset  
2 2050 Trust's complaint is hereby entered.

3 STEVEN D. GRIERSON, CLERK OF THE COURT

4  
5 Deputy Clerk  
6 Regional Justice Court  
7 200 Lewis Avenue  
8 Las Vegas, Nevada 89155

IVYONNE HERNANDEZ Date

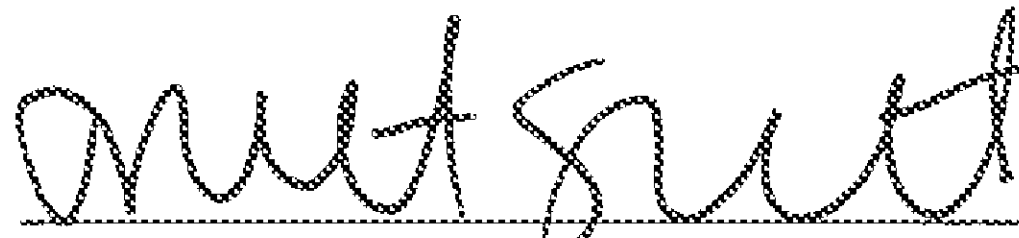
JUL 27 2015

A691323

8 The undersigned hereby requests and directs the entry of default.

9 Respectfully submitted,

10 MAIER GUTIERREZ AYON

11 

12 LUIS AYON, ESQ.

13 Nevada Bar No. 9752

14 MARGARET E. SCHMIDT, ESQ.

15 Nevada Bar No. 12489

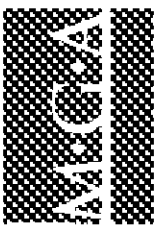
16 400 South Seventh Street, Suite 400

17 Las Vegas, Nevada 89101

18 Attorneys for Plaintiff/Counterdefendant West

19 Sunset 2050 Trust

MAIER GUTIERREZ AYON P.C.  
ATTORNEYS AT LAW



# AFFIDAVIT OF SERVICE

State of NEVADA

County of CLARK

District Court

Case Number: A-13-691323-C

Electronically Filed  
12/11/2013 02:05:28 PM

Plaintiff:

WEST SUNSET 2050 TRUST

vs.

Defendant:

NEW FREEDOM MORTGAGE CORPORATION; BANK OF AMERICA, N.A.;  
NATIONSTAR MORTGAGE LLC; COOPER CASTLE LAW FIRM, LLC;  
STEPHANIE TABLANTE; DOES I THROUGH X; AND ROE CORPORATIONS I  
THROUGH X

For:

SUMM

Las Vegas, NV 89129

Received by AM:PM LEGAL SOLUTIONS on the 22nd day of November, 2013 at 2:17 pm to be served on NEW FREEDOM MORTGAGE CORPORATION, 2363 SOUTH FOOTHILL DRIVE, SALT LAKE CITY, UT 84109.

I, GRANT ROLL, being duly sworn, depose and say that on the 25th day of November, 2013 at 11:50 am, I:

SERVED the within named CORPORATION by delivering a true copy of the SUMMONS & COMPLAINT with the date and hour of service endorsed thereon by me to ELIZABETH CARDENAS as AUTHORIZED LEGAL AGENT of the within named corporation, in compliance with state statutes.

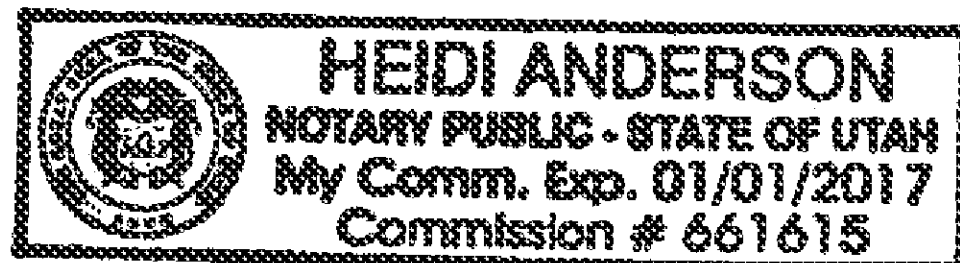
Additional Information pertaining to this Service:

Attempted Service: 2363 SOUTH FOOTHILL DRIVE, SALT LAKE CITY, UT 84109

11-25-13 11:50am served Elizabeth Cardenas/Authorized

I am over the age of 21 and have no interest in the above action.

UCA 78B-5-705. I declare under criminal penalty that the foregoing is true and correct.



Subscribed and Sworn to before me on the 25th day of November, 2013 by the affiant who is personally known to me.

A handwritten signature in cursive script, appearing to read "Heidi Anderson", written over a horizontal line.

NOTARY PUBLIC

A handwritten signature in cursive script, appearing to read "Grant Roll", written over a horizontal line.

GRANT ROLL

Private Investigator A103235

AM:PM LEGAL SOLUTIONS

520 S. 7th St.

Ste. B

Las Vegas, NV 89101

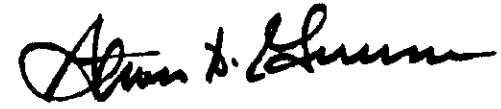
(702) 385-2676

Our Job Serial Number: AND-2013005006

Ref: 5111

# EXHIBIT 4

# EXHIBIT 4



CLERK OF THE COURT

1 **NOTC**

2 Jason Peck, Esq.  
3 Nevada Bar No.: 10183  
4 THE COOPER CASTLE LAW FIRM, LLP  
5 A Multi-Jurisdictional Law Firm  
6 5275 South Durango Drive,  
7 Las Vegas, Nevada 89113  
8 (702) 435-4175 Telephone  
9 (702) 877-7424 Facsimile  
10 E-Mail: [japeck@ccfirm.com](mailto:japeck@ccfirm.com)  
11 *Attorney for The Cooper Castle Law Firm, LLP*

12 **EIGHTH JUDICIAL DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 WEST SUNSET 2050 TRUST, a Nevada Trust,

15 Plaintiff,

16 vs.

17 NEW FREEDOM MORTGAGE  
18 CORPORATION, a Foreign Corporation;  
19 BANK OF AMERICA, N.A., a National  
20 Association; NATIONSTAR MORTGAGE  
21 LLC, a Foreign Limited Liability Company,  
22 COOPER CASTLE LAW FIRM, LLP, a Nevada  
23 Limited Liability Partnership; STEPHANIE  
24 TABLANTE, an individual, DOES I through X;  
25 and ROE CORPOARTIONS I THROUGH x,  
26 INCLUSIVE,

27 Defendants.

Case No: A-13-691323-C  
Dept. No. XXI

**NOTICE OF ENTRY OF ORDER**

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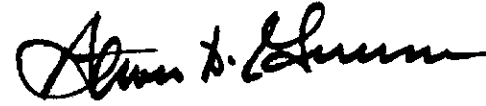
DATED this 4<sup>th</sup> day of February, 2014.

/s/ Jason Peck, Esq.  
Jason Peck, Esq.  
Nevada Bar No.: 10183  
5275 South Durango Drive,  
Las Vegas, Nevada 89113  
(702) 435-4175 Telephone  
(702) 877-7424 Facsimile  
*Attorney for The Cooper Castle Law Firm, LLP*

16  
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Luis Ayon, Esq.  
MAIER GUTIERREZ AYON  
400 South Seventh Street, Ste 400  
Las Vegas, Nevada 89101

24  
25  
26  
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28



CLERK OF THE COURT

1 **ORDR**

2 Jason M. Peck, Esq.  
3 Nevada Bar No.: 10183  
4 THE COOPER CASTLE LAW FIRM, LLP  
5 A Multi-Jurisdictional Law Firm  
6 5275 South Durango Drive,  
7 Las Vegas, Nevada 89113  
8 (702) 435-4175 Telephone  
9 (702) 877-7424 Facsimile  
10 E-Mail: [japeck@ccfirm.com](mailto:japeck@ccfirm.com)  
11 Attorney for The Cooper Castle Law Firm, LLP

12 **EIGHTH JUDICIAL DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 WEST SUNSET 2050 TRUST, a Nevada Trust,

15 Plaintiff,

16 vs.

17 NEW FREEDOM MORTGAGE  
18 CORPORATION, a Foreign Corporation;  
19 BANK OF AMERICA, N.A., a National  
20 Association; NATIONSTAR MORTGAGE  
21 LLC, a Foreign Limited Liability Company,  
22 COOPER CASTLE LAW FIRM, LLP, a Nevada  
23 Limited Liability Partnership; STEPHANIE  
24 TABLANTE, an individual, DOES I through X;  
25 and ROE CORPOARTIONS I THROUGH x,  
26 INCLUSIVE,

27 Defendants.

Case No: A-13-691323-C

Dept. No. XXI

28 **ORDER GRANTING DISMISSAL OF**  
**THE COOPER CASTLE LAW FIRM, LLP**

Defendant The Cooper Castle Law Firm, LLP ("CCLF")'s Motion to Dismiss, having  
come on for hearing in Department XXI of the Eighth Judicial District Court, Clark County,  
Nevada; and Defendant CCLF being represented by Jason M. Peck, Esq., and Defendant Bank  
of America, N.A. being represented by J. Christopher Jorgensen, Esq., and Plaintiff being  
represented by Margaret E. Schmidt, Esq., and after review and consideration of the points and  
authorities on file, and the argument of counsel, and good cause therefore;



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**IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss is GRANTED.

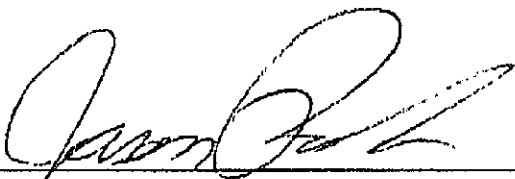
Accordingly, all claims against The Cooper Castle Law Firm, LLP are dismissed.

**IT IS FURTHER ORDERED** that The Cooper Castle Law Firm, LLP, as trustee under the deed of trust affecting the real property located at 7255 West Sunset Road, Unit #2050, Las Vegas, Nevada 89113, is to comply with any preliminary injunction orders that may be entered in this matter with respect to the foreclosure of said property.

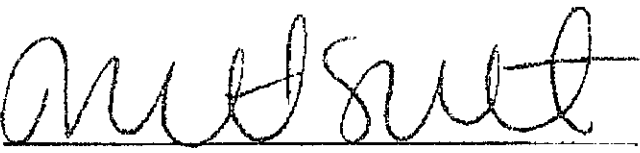
DATED this 29 day of January, 2014.

  
DISTRICT COURT JUDGE 

Submitted by:  
  
THE COOPER CASTLE LAW FIRM, LLP


  
Jason M. Peck, Esq.  
Nevada Bar No.: 10183  
5275 South Durango Drive,  
Las Vegas, Nevada 89113  
*Attorney for The Cooper Castle  
Law Firm, LLP*

Approved as to form and content by:  
  
MAIER GUTIERREZ AYON

  
Luis A. Ayon, Esq.  
Nevada Bar No.: 9752  
Margaret E. Schmidt, Esq.  
Nevada Bar No.: 12489  
2500 West Sahara Avenue, Ste 106  
Las Vegas, Nevada 89102  
*Attorney for Plaintiff*

# EXHIBIT 5

# EXHIBIT 5



CLERK OF THE COURT

1 **NEOJ**  
2 ARIEL E. STERN, ESQ.  
3 Nevada Bar No. 8276  
4 ALLISON R. SCHMIDT, ESQ.  
5 Nevada Bar No. 10743  
6 AKERMAN LLP  
7 1160 Town Center Drive, Suite 330  
8 Las Vegas, NV 89144  
9 Telephone: (702) 634-5000  
10 Facsimile: (702) 380-8572  
11 Email: ariel.stern@akerman.com  
12 Email: allison.schmidt@akerman.com

13 *Attorneys for Defendant Nationstar Mortgage, LLC*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 WEST SUNSET 2050 TRUST, a Nevada Trust,  
17  
18 Plaintiff,

19 v.

20 NEW FREEDOM MORTGAGE  
21 CORPORATION, a Foreign Corporation;  
22 BANK OF AMERICA, N.A., a National  
23 Association; NATIONSTAR MORTGAGE,  
24 LLC, a Foreign Limited Liability Company;  
25 COOPER CASTLE LAW FIRM, LLP, a Nevada  
26 Limited Liability Partnership; STEPHANIE  
27 TABLANTE, an individual; DOES I through X;  
28 and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

Case No.: A-13-691323-C  
Dept.: XXI

**NOTICE OF ENTRY OF ORDER**

1 NATIONSTAR MORTGAGE, LLC,  
2 Cross-Claimant,  
3 v.  
4 STEPHANIE TABLANTE,  
5 Cross-Defendant.

6 PLEASE TAKE NOTICE that the Order has been entered on the 8<sup>th</sup> day of February, 2016,  
7 in the above-captioned matter. A copy of said Order is attached hereto as Exhibit A.

8 DATED this 16<sup>th</sup> day of February, 2016.

9 **AKERMAN LLP**

10 */s/ Allison R. Schmidt*

11 ARIEL E. STERN, ESQ.

12 Nevada Bar No. 8276

13 ALLISON R. SCHMIDT, ESQ.

14 Nevada Bar No. 10743

15 1160 Town Center Drive, Suite 330

16 Las Vegas, Nevada 89144

17 *Attorneys for Defendant Nationstar Mortgage, LLC*

**CERTIFICATE OF SERVICE**

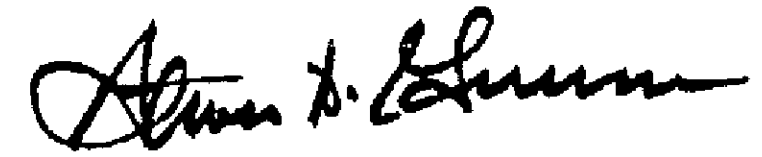
I HEREBY CERTIFY that on this 16th day of February, 2016 and pursuant to NRCP 5(b), I served through this Court's electronic service notification system ("Wiznet") a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** addressed to:

Luis A. Ayon, Esq.  
**MAIER GUTIERREZ AYON PLLC**  
cmb@mgalaw.com  
djb@mgalaw.com  
dtr@mgalaw.com  
jrm@mgalaw.com  
jag@mgalaw.com  
laa@mgalaw.com  
mes@mgalaw.com  
ndv@mgalaw.com  
*Attorneys for West Sunset 2050 Trust*

/s/ Brieanne Siriwan  
An employee of AKERMAN LLP

# EXHIBIT A

# EXHIBIT A



CLERK OF THE COURT

**ORDR**

ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
ALLISON R. SCHMIDT, ESQ.  
Nevada Bar No. 10743  
AKERMAN LLP  
1160 Town Center Drive, Suite 330  
Las Vegas, NV 89144  
Telephone: (702) 634-5000  
Facsimile: (702) 380-8572  
Email: ariel.stern@akerman.com  
Email: allison.schmidt@akerman.com

*Attorneys for Defendant Nationstar  
Mortgage, LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,  
  
Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

Case No.: A-13-691323-C  
Dept.: XXI

**ORDER GRANTING NATIONSTAR  
MORTGAGE LLC'S COUNTERMOTION  
FOR SUMMARY JUDGMENT AND  
DENYING PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT**

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 - FAX: (702) 380-8572

1 NATIONSTAR MORTGAGE, LLC,  
2 Cross-Claimant,  
3 v.  
4 STEPHANIE TABLANTE,  
5 Cross-Defendant.  
6

7 **ORDER GRANTING NATIONSTAR MORTGAGE LLC'S COUNTERMOTION FOR**  
8 **SUMMARY JUDGMENT AND DENYING PLAINTIFF'S MOTION FOR SUMMARY**  
9 **JUDGMENT**

10 Nationstar Mortgage, LLC's (**Nationstar**) countermotion for summary judgment came on for  
11 hearing before this court on June 24, 2015. Allison R. Schmidt, Esq. appeared on behalf of  
12 Nationstar. Luis Ayon, Esq. appeared on behalf of Plaintiff, West Sunset 2050 Trust. The court,  
13 having reviewed the countermotion and opposition thereto, as well as Plaintiff's competing motion  
14 for summary judgment, the opposition thereto and reply, and good cause appearing hereby grants  
15 summary judgment in favor of Nationstar.

16 **FINDINGS OF FACT**

17 1. Stephanie Tablante (**Tablante**) purchased the property located at 7255 W. Sunset  
18 Road, Unit 2050, Las Vegas, Nevada on or about December 2, 2005.

19 2. To finance the purchase of the property, Tablante obtained a loan from New  
20 Freedom Mortgage Corporation in the amount of \$176,760.00, which was secured by a senior  
21 deed of trust recorded against the property.

22 3. Tablante contacted Bank of America in 2011 in hopes of obtaining a deed in lieu  
23 of foreclosure on her property, but never obtained approval from Bank of America for the deed  
24 in lieu.

25 4. Tablante, through her attorney, unilaterally recorded a false deed in lieu to New  
26 Freedom Mortgage Corporation.

27 5. According to the Utah Secretary of State, New Freedom Mortgage Corporation  
28 no longer existed after 2008, having merged into iFreedom Direct Corporation.



6. The deed in lieu that was recorded by Tablante is not signed by either New Freedom Mortgage Corporation or Bank of America, NA.

7. The cover page of the deed in lieu recorded by Tablante indicated the documents was to be returned to the offices of John Peter Lee, Esq. upon recording.

8. Red Rock Financial Services (**RRFS**) recorded a notice of delinquent assessment lien on April 4, 2012.

9. Later, RRFS recorded a Notice of Default on May 29, 2013.

10. RRFS did not provide any foreclosure notices to Bank of America, which was the record beneficiary of the senior deed of trust.

11. Prior to the foreclosure sale, the senior deed of trust was assigned to Nationstar.

12. A foreclosure sale was held by United Legal Services on June 22, 2013, where the property was sold to Plaintiff for \$7,800.

13. The declaration of value recorded with the trustee's deed lists the value of the property at the time of the sale as \$63,280.00.

## CONCLUSIONS OF LAW

1. Under Nev. R. Civ. P. 56, a motion for summary judgment should be granted "when the pleadings and other evidence on file demonstrate that no 'genuine issue as to any material fact [remains] and that the moving party is entitled to judgment as a matter of law.'" *Wood v. Safeway*, (2005) 121 Nev. 724, 729; 121 P.3d 1026, 1029; NRCP 56(c).

2. Materiality is dependent on the underlying substantive law, and includes only those factual disputes that could change the ultimate outcome of a case. *Id.* All evidence and inferences are viewed in a light most favorable to the non-moving party on a summary judgment motion. *Id.*

3. Nationstar and its predecessor in interest, Bank of America, was entitled to receive the foreclosure notices as the senior deed of trust could be effected by the foreclosure sale. NRS 116.31168, NRS 116.31163(2); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 94 L.Ed. 865 (1950).

4. Tablante's recording of a false deed in lieu of foreclosure did not strip the beneficiary of the senior deed of trust of its property rights.

1           5.       RRFS failed to provide any foreclosure notices to the beneficiary of the senior deed  
2 of trust. As a result, the beneficiary had no opportunity to cure the delinquency in assessment  
3 payments.

4           6.       Because of the failure to provide the required notices to the beneficiary of the senior  
5 deed of trust, the foreclosure sale did not extinguish the senior deed of trust.

6                               ORDER

7           IT IS HEREBY ORDERED that Nationstar's Countermotion for Summary Judgment is  
8 GRANTED;

9           IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment is DENIED.

10          DATED this 4<sup>th</sup> day of February, 2016.

11                               Valerie Adams  
12                               District Court Judge     atw

13          Submitted by:

14                       A. Stern  
15          ARIEN E. STERN, ESQ.  
16          Nevada Bar No. 8276  
17          ALLISON R. SCHMIDT, ESQ.  
18          Nevada Bar No. 10743  
19          1160 Town Center Drive, Suite 330  
20          Las Vegas, Nevada 89144  
21          Attorneys for Defendant Nationstar Mortgage, LLC

22          Approved as to form and content:

23          (provided to plaintiff's counsel but did not sign)

24          Luis A. Ayon, Esq.  
25          Margaret E. Schmidt, Esq.  
26          2500 W. Sahara Ave., Ste. 106  
27          Las Vegas, NV 89102  
28          Attorneys for Plaintiff

# **EXHIBIT 6**

# **EXHIBIT 6**

IN THE SUPREME COURT OF THE STATE OF NEVADA

WEST SUNSET 2050 TRUST, A  
NEVADA TRUST,  
Appellant,  
vs.  
NATIONSTAR MORTGAGE, LLC, A  
FOREIGN LIMITED LIABILITY  
COMPANY,  
Respondent.

No. 70754

FILED

AUG 15 2016

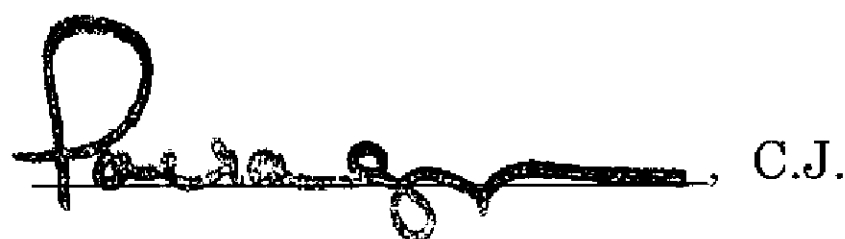
TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

*ORDER REMOVING FROM SETTLEMENT PROGRAM  
AND REINSTATING BRIEFING*

Pursuant to the recommendation of the settlement judge and good cause appearing, this appeal is removed from the settlement program. See NRAP 16. Accordingly, we reinstate the deadlines for requesting transcripts and filing briefs.

Appellant shall have 15 days from the date of this order to file and serve a transcript request form. See NRAP 9(a).<sup>1</sup> Further, appellant shall have 90 days from the date of this order to file and serve the opening brief and appendix.<sup>2</sup> Thereafter, briefing shall proceed in accordance with NRAP 31(a)(1).

It is so ORDERED.

 C.J.

<sup>1</sup> If no transcript is to be requested, appellant shall file and serve a certificate to that effect within the same time period. NRAP 9(a).

<sup>2</sup> In preparing and assembling the appendix, counsel shall strictly comply with the provisions of NRAP 30.

cc: Craig A. Hoppe, Settlement Judge  
Maier Gutierrez Ayon, PLLC  
Akerman LLP/Las Vegas

# **EXHIBIT 7**

# **EXHIBIT 7**

IN THE SUPREME COURT OF THE STATE OF NEVADA

WEST SUNSET 2050 TRUST, A  
NEVADA TRUST,  
Appellant,

vs.

NATIONSTAR MORTGAGE, LLC, A  
FOREIGN LIMITED LIABILITY  
COMPANY,  
Respondent.

No. 70754

**FILED**

AUG 29 2016

FRANK K. JUNGEMAN  
CLERK OF SUPREME COURT  
BY *[Signature]*  
DEPUTY CLERK

*ORDER TO SHOW CAUSE*

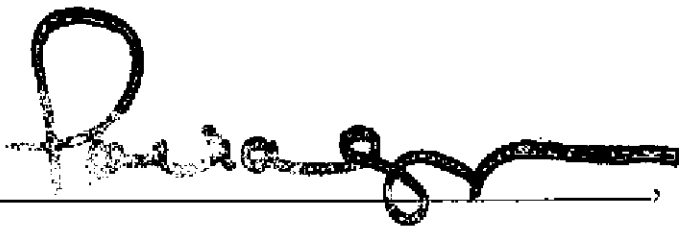
This is an appeal from an order granting a motion for summary judgment and denying a countermotion for summary judgment. Our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(g) reveals a potential jurisdictional defect. Specifically, it appears that the district court has not entered a final written judgment adjudicating all the rights and liabilities of all the parties, and the district court did not certify its order as final pursuant to NRCP 54(b). *Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000); *KDI Sylvan Pools v. Workman*, 107 Nev. 340, 810 P.2d 1217 (1991); *Rae v. All American Life & Cas. Co.*, 95 Nev. 920, 605 P.2d 196 (1979). The following claims and parties appear to remain below: West Sunset's claims against New Freedom Mortgage Corporation, Bank of American, N.A., and Stephanie Tablante for declaratory relief, quiet title, and preliminary and permanent injunction.

Accordingly, appellant shall have 30 days from the date of this order within which to show cause why this appeal should not be dismissed for lack of jurisdiction. In responding to this order, appellant should submit documentation that establishes this court's jurisdiction including,

16-26836

but not necessarily limited to, an order properly certifying the order as final pursuant to NRCP 54(b). We caution appellant that failure to demonstrate that this court has jurisdiction may result in this court's dismissal of this appeal. The preparation of transcripts and the briefing schedule in this appeal shall be suspended pending further order of this court. Respondent may file any reply within ten days from the date that appellant's response is served.

It is so ORDERED.

 C.J.

cc: Maier Gutierrez Ayon, PLLC  
Akerman LLP/Las Vegas



# EXHIBIT 8

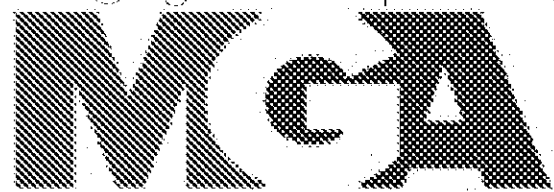
# EXHIBIT 8

---

**From:** Margaret Schmidt  
**Sent:** Tuesday, September 27, 2016 1:48 PM  
**To:** 'allison.schmidt@akerman.com'  
**Cc:** Luis Ayon; Charity Johnson  
**Subject:** RE: West Sunset 2050 Trust v. Nationstar Mortgage; Case No. A-13-691323-C; Appeal No. 70754  
**Attachments:** SAO for Rule 54(b) Certification & BANA Dismissal.docx  
**Importance:** High

Following up on this. Our deadline to file the response to the order to show cause is tomorrow, so I'll need to file the motion today if your client is not agreeable to the stipulation.

Margaret E. Schmidt | Associate  
**MAIER GUTIERREZ AYON**  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
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**MAIER GUTIERREZ AYON**  
ATTORNEYS AT LAW

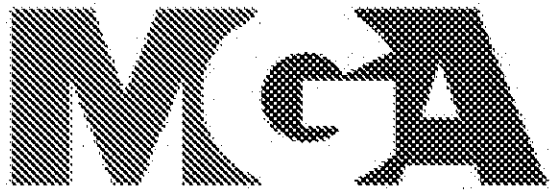
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**From:** Margaret Schmidt  
**Sent:** Monday, September 26, 2016 4:54 PM  
**To:** 'allison.schmidt@akerman.com' <allison.schmidt@akerman.com>  
**Cc:** Luis Ayon <laa@mgalaw.com>; Charity Johnson <cmj@mgalaw.com>  
**Subject:** RE: West Sunset 2050 Trust v. Nationstar Mortgage; Case No. A-13-691323-C; Appeal No. 70754

Hi Allison, we're fine with BANA's dismissal if they're agreeable to disclaim any interest in the property and allow us to conduct non-party discovery against them should the appeal be remanded. I combined these provisions into the attached stipulation, but let me know if you have any suggested changes.

Thanks!

Margaret E. Schmidt | Associate  
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---

**From:** [allison.schmidt@akerman.com](mailto:allison.schmidt@akerman.com) [mailto:[allison.schmidt@akerman.com](mailto:allison.schmidt@akerman.com)]

**Sent:** Monday, September 26, 2016 3:45 PM

**To:** Margaret Schmidt <[mes@mgalaw.com](mailto:mes@mgalaw.com)>

**Cc:** Luis Ayon <[laa@mgalaw.com](mailto:laa@mgalaw.com)>; Charity Johnson <[cji@mgalaw.com](mailto:cji@mgalaw.com)>

**Subject:** RE: West Sunset 2050 Trust v. Nationstar Mortgage; Case No. A-13-691323-C; Appeal No. 70754

Can we get BANA out of this one through the stipulation? They don't have an interest in the property anymore. If we can do that I am also fine with 54(b)

**Allison R. Schmidt**

Associate, Consumer Financial Services Practice Group  
Akerman, LLP | 1160 Town Center Drive | Suite 330 | Las Vegas, NV 89144  
Dir: 702.634.5007 | Main: 702.634.5000 | Fax: 702.380.8572  
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---

**From:** Margaret Schmidt [mailto:[mes@mgalaw.com](mailto:mes@mgalaw.com)]

**Sent:** Monday, September 26, 2016 3:45 PM

**To:** Schmidt, Allison (Assoc-Las)

**Cc:** Luis Ayon; Charity Johnson

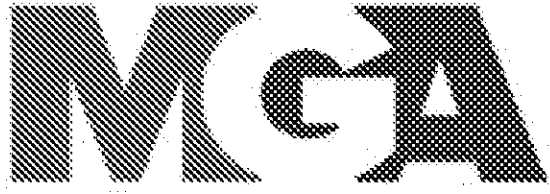
**Subject:** RE: West Sunset 2050 Trust v. Nationstar Mortgage; Case No. A-13-691323-C; Appeal No. 70754

Hi Allison – following up on whether you're agreeable to a Rule 54(b) certification of the order in this matter. A proposed stipulation is attached for your review. Please let me know if you are agreeable, otherwise, I will be filing a motion for a final judgment on an OST tomorrow.

Thanks,

Margaret E. Schmidt | Associate  
MAIER GUTIERREZ AYON

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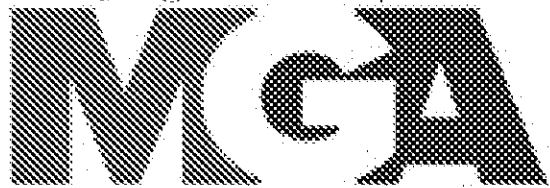
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**From:** Margaret Schmidt  
**Sent:** Monday, August 01, 2016 2:43 PM  
**To:** [allison.schmidt@akerman.com](mailto:allison.schmidt@akerman.com)  
**Cc:** Luis Ayon <[laa@mgalaw.com](mailto:laa@mgalaw.com)>; Charity Barber <[cmb@mgalaw.com](mailto:cmb@mgalaw.com)>; Natalie Vazquez <[ndv@mgalaw.com](mailto:ndv@mgalaw.com)>  
**Subject:** West Sunset 2050 Trust v. Nationstar Mortgage; Case No. A-13-691323-C; Appeal No. 70754

Hi Allison – as you’re probably aware, the order appealed from in this case did not resolve all of my client’s claims against Bank of America, Stephanie Tablante and New Freedom Mortgage. Accordingly, attached for your review is a stipulation and order for Rule 54(b) certification. Please let me know if you are agreeable, or if any changes need to be.

Thanks!

Margaret E. Schmidt | Associate  
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# EXHIBIT 9

# EXHIBIT 9

**SAO**  
LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
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*Attorneys for Plaintiff/Counter-Defendant  
West Sunset 2050 Trust*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust  
Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-691323-C  
Dept. No.: XXI

**STIPULATION AND ORDER FOR FINAL  
JUDGMENT PURSUANT TO RULE 54(B)  
AND TO STAY REMAINING CLAIMS  
PENDING CONCLUSION OF APPEAL**

Plaintiff/counter-defendant West Sunset 2050 Trust (“West Sunset”), defendant Bank of America, N.A. (“BANA”) and defendant/counterclaimant/cross-claimant Nationstar Mortgage, LLC (“Nationstar”) (collectively the “Parties”), by and through their undersigned counsel of record, hereby stipulate and agree as follows:

1           1.       This lawsuit involves the real property located at 7255 W. Sunset Road, Unit 2050,  
2 Las Vegas, NV 89113, and bears Assessor's Parcel Number 176-03-510-102 (the "Property").

3           2.       On November 29, 2005, Stephanie Tablante ("Tablante") entered into a loan  
4 agreement with New Freedom Mortgage Corporation ("New Freedom") in the amount of  
5 \$176,760.00 for the purchase of the Property.

6           3.       A deed of trust securing the loan was recorded on December 7, 2005 in the Official  
7 Records of the Clark County Recorder as Instrument Number 20051207-0002367 (the "Deed of  
8 Trust").

9           4.       Tablante's grant, bargain, sale deed was also recorded against the Property on  
10 December 7, 2005.

11          5.       On March 1, 2011, Tablante recorded a deed in lieu of foreclosure ("Deed in Lieu").

12          6.       An assignment of the Deed of Trust to BANA was subsequently recorded on July 29,  
13 2011.

14          7.       The Cooper Castle Law Firm, LLP ("Cooper Castle") was designated as the trustee  
15 under the Deed of Trust via a substitution recorded on February 2, 2012.

16          8.       Nationstar claims to be the current beneficiary of the Deed of Trust via assignment  
17 recorded on March 20, 2013.

18          9.       On June 22, 2013, West Sunset purchased the Property at the non-judicial foreclosure  
19 of an HOA's lien for delinquent assessments pursuant to NRS 116.3116 *et seq.* and recorded its  
20 foreclosure deed on June 24, 2013.

21          10.      On November 6, 2013, West Sunset initiated this litigation, alleging claims for: (1)  
22 declaratory relief/quiet title against New Freedom, Nationstar, BANA, Cooper Castle, and Tablante;  
23 and (2) preliminary and permanent injunction against Nationstar and Cooper Castle.

24          11.      BANA answered West Sunset's complaint on December 19, 2013.

25          12.      On May 20, 2014, Nationstar answered West Sunset's complaint and alleged  
26 counterclaims and cross-claims for: (1) quiet title against West Sunset and Tablante; (2) declaratory  
27 relief against West Sunset and Tablante; (3) slander of title against Tablante; (4) breach of contract  
28 against Tablante; (5) breach of implied covenant of good faith and fair dealing against Tablante; and

1 (6) unjust enrichment against West Sunset.

2 13. Following Tablante and New Freedom's failure to make an appearance in this  
3 litigation, defaults were entered against them on July 29, 2015 on West Sunset's claims for relief;  
4 however, default judgments were never entered.

5 14. Cooper Castle was dismissed from the case via an order entered on February 3, 2014.

6 15. On May 22, 2015, West Sunset filed its motion for summary judgment, arguing that  
7 West Sunset holds superior title to all defendants in this action because the Deed in Lieu and the  
8 HOA foreclosure sale extinguished all other interests the defendants may have previously held.  
9 Therefore, West Sunset requested that summary judgment be entered in its favor on all its claims as  
10 well as all of Nationstar's counterclaims.

11 16. On June 10, 2015, Nationstar and BANA filed their opposition to West Sunset's  
12 motion and counter-moved for entry of summary judgment in favor of Nationstar, arguing in part  
13 that the HOA foreclosure sale did not extinguish the Deed of Trust and was void for being  
14 unconstitutional and commercially unreasonable.

15 17. On February 8, 2016, the Court entered its order denying West Sunset's motion for  
16 summary judgment and granting Nationstar's countermotion for summary judgment (the "Order").

17 18. Pursuant to the Order, the Court concluded as follows: (1) Nationstar and BANA  
18 were entitled to receive the HOA foreclosure notices as the Deed of Trust could be effected by the  
19 HOA's sale; (2) Tablante's Deed in Lieu was a false recording and did not strip the beneficiary of  
20 the Deed of Trust of its property rights; (3) the HOA's agent failed to provide any foreclosure  
21 notices to the beneficiary of the Deed of Trust, thereby depriving the beneficiary of the right to cure  
22 the delinquency; and (4) absent the requisite notices, the foreclosure sale did not extinguish the  
23 Deed of Trust.

24 19. On March 4, 2016, the Trust filed a motion for reconsideration pursuant to NRCP  
25 59(e), which was denied by an order entered on May 31, 2016 and noticed on June 3, 2016.

26 20. West Sunset noticed its appeal on July 1, 2016.

27 21. On August 29, 2016, the Nevada Supreme Court issued an order to show cause as to  
28 why the appeal should not be dismissed for lack of jurisdiction, as it appears that the Court has not



1 entered a final written judgment adjudicating all the rights and liabilities of all the parties, and the  
2 Order has not been certified as final pursuant to NRCP 54(b).

3 22. In light of the Nevada Supreme Court's order to show cause, a final judgment is  
4 necessary for West Sunset to proceed with its appeal.

5 23. The Nevada Supreme Court has jurisdiction to review "a final judgment entered in an  
6 action or proceeding commenced in the court in which the judgment is rendered." NRAP 3A(b)(1).

7 24. There is, however, a vehicle under which a plaintiff may obtain a judgment that is  
8 immediately appealable. Rule 54(b) of the Nevada Rules of Civil Procedure provides that "[w]hen  
9 multiple parties are involved, the court may direct the entry of a final judgment as to one or more  
10 but fewer than all of the parties only upon an express determination that there is no just reason for  
11 delay and upon an express direction for the entry of judgment." Nev. R. Civ. P. 54(b).

12 25. A certification of finality pursuant to Rule 54(b) will be presumed valid and will be  
13 upheld on review absent a gross abuse of discretion. *Mallin v. Farmers Ins. Exch.*, 106 Nev. 606,  
14 611, 797 P.2d 978, 981-82 (1990).

15 26. Here, the Court's Order entered judgment on all of Nationstar's counterclaims/cross-  
16 claims as well as West Sunset's claims against Nationstar, thereby removing Nationstar from the  
17 litigation.

18 27. Moreover, the Court's decision effectively resolved all of the remaining claim  
19 brought by West Sunset against BANA, New Freedom and Tablante for declaratory relief/quiet title.

20 28. Requiring the Parties to continue litigation on such claims whose resolution has  
21 already been determined by reasonable inference of the Court's Order would be an inefficient use of  
22 judicial resources.

23 29. Accordingly, no prejudice will result to the remaining claims pending below and  
24 there is no just reason to delay West Sunset's appeal.

25 Accordingly,

26 IT IS HEREBY STIPULATED AND AGREED that the Order be amended to include a  
27 certification of final judgment pursuant to NRCP 54(b).

28 ///

1 IT IS FURTHER STIPULATED AND AGREED that the Court expressly determine that  
2 there is no just reason to delay appellate review and direct that this judgment constitutes a final  
3 order pursuant to Rule 54(b) with respect to fewer than all of the parties in this case.

4 IT IS FINALLY STIPULATED AND AGREED that West Sunset's remaining claim for  
5 declaratory relief/quiet title against BANA, New Freedom and Tablante be stayed pending the  
6 conclusion of West Sunset's appeal. This provision also shall not preclude a negotiated settlement  
7 between any or all of the Parties, or entry of any Court orders applicable to such a settlement.

8 DATED this \_\_\_\_ day of September, 2016.

DATED this \_\_\_\_ day of September, 2016.

9 MAIER GUTIERREZ AYON

AKERMAN LLP

11 \_\_\_\_\_  
12 LUIS AYON, ESQ.  
13 Nevada Bar No. 9752  
14 MARGARET E. SCHMIDT, ESQ.  
15 Nevada Bar No. 12489  
16 8816 Spanish Ridge Avenue  
17 Las Vegas, Nevada 89148  
18 *Attorneys for Plaintiff/Counter-Defendant West*  
19 *Sunset 2050 Trust*

\_\_\_\_\_

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Nevada Bar No. 8276  
ALLISON R. SCHMIDT, ESQ.  
Nevada Bar No. 10743  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144  
*Attorneys for Defendant Bank of America,*  
*N.A. and Defendant/Counterclaimant/Cross-*  
*Claimant Nationstar Mortgage LLC*

### 20 **ORDER**

21 Based upon the stipulation of the parties, and for good cause appearing,

22 IT IS HEREBY ORDERED, ADJUDGED and DECREED that the Order is amended to  
23 include a certification of final judgment pursuant to NRCP 54(b).

24 IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Court expressly  
25 determines that there is no just reason to delay appellate review and directs that this judgment  
26 constitutes a final order pursuant to Rule 54(b) with respect to fewer than all of the parties in this  
27 case.

28 IT IS FURTHER ORDERED, ADJUDGED and DECREED that West Sunset's remaining  
claim for declaratory relief/quiet title against BANA, New Freedom and Tablante be stayed pending

1 the conclusion of West Sunset's appeal. This provision shall not preclude a negotiated settlement  
2 between any or all of the Parties, or entry of any Court orders applicable to such a settlement.

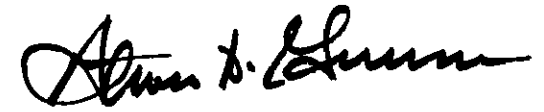
3 DATED this \_\_\_\_ day of \_\_\_\_\_, 2016.

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

7  
8 Respectfully submitted by:

9 **MAIER GUTIERREZ AYON**

10  
11 \_\_\_\_\_  
12 LUIS A. AYON, ESQ.  
13 Nevada Bar No. 9752  
14 MARGARET E. SCHMIDT, ESQ.  
15 Nevada Bar No. 12489  
16 8816 Spanish Ridge Avenue  
17 Las Vegas, Nevada 89148  
18 *Attorneys for Plaintiff/Counter-Defendant West*  
19 *Sunset 2050 Trust*  
20  
21  
22  
23  
24  
25  
26  
27  
28



CLERK OF THE COURT

**ORDR**

LUIS A. AYON, ESQ.

Nevada Bar No. 9752

MARGARET E. SCHMIDT, ESQ.

Nevada Bar No. 12489

MAIER GUTIERREZ AYON

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*Attorneys for Plaintiff/Counter-Defendant  
West Sunset 2050 Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,

Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-13-691323-C

Dept. No.: XXI

**ORDER GRANTING MOTION FOR  
FINAL JUDGMENT PURSUANT TO RULE  
54(B) AND TO STAY REMAINING  
CLAIMS PENDING CONCLUSION OF  
APPEAL**

Hearing Date: October 26, 2016

Hearing Time: 9:30 a.m.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

vs.

WEST SUNSET 2050 TRUST,

Counter-Defendant.



1 NATIONSTAR MORTGAGE, LLC,

2 Cross-Claimant,

3 vs.

4 STEPHANIE TABLANTE,

5 Cross-Defendant.  
6

7 This matter came on for hearing before the Court on October, 2016 at 9:30 a.m., on  
8 plaintiff/counter-defendant West Sunset 2050 Trust's ("West Sunset") motion for final judgment  
9 pursuant to Rule 54(b) and to stay remaining claims pending conclusion of appeal on an order  
10 shortening time. West Sunset was represented at the hearing by Margaret E. Schmidt, Esq., of the  
11 law firm MAIER GUTIERREZ AYON. The Court, having reviewed the papers and pleadings on file  
12 herein, and there being no opposition filed pursuant to EDCR 2.20 and 2.23, makes the following  
13 findings of facts and conclusions of law:

14 1. This lawsuit involves disputed title to real property, which was purchased at the non-  
15 judicial foreclosure of an HOA's lien for delinquent assessments pursuant to NRS 116.3116 *et seq.*

16 2. On November 6, 2013, West Sunset initiated this litigation, naming New Freedom  
17 Mortgage Corporation ("New Freedom"), Nationstar Mortgage, LLC ("Nationstar"), Bank of  
18 America, N.A., The Cooper Castle Law Firm, LLP ("Cooper Castle"), and Stephanie Tablante  
19 ("Tablante") as defendants. The specific causes of action alleged therein were for: (1) declaratory  
20 relief/quiet title against all the defendants; and (2) preliminary and permanent injunction against  
21 Nationstar and Cooper Castle only.

22 3. On May 20, 2014, Nationstar answered West Sunset's complaint and alleged  
23 counterclaims and cross-claims for: (1) quiet title against West Sunset and Tablante; (2) declaratory  
24 relief against West Sunset and Tablante; (3) slander of title against Tablante; (4) breach of contract  
25 against Tablante; (5) breach of implied covenant of good faith and fair dealing against Tablante; and  
26 (6) unjust enrichment against West Sunset.

27 4. On July 29, 2015, defaults were entered against Tablante and New Freedom on West  
28 Sunset's claims for relief; however, default judgments have not been entered.



1           5.       Cooper Castle was dismissed from the case via an order entered on February 3, 2014.

2           6.       On May 22, 2015, West Sunset filed its motion for summary judgment, arguing that  
3 West Sunset holds superior title to the defendants and requested that summary judgment be entered  
4 in its favor on all causes of action as well as all of Nationstar's counterclaims.

5           7.       On June 10, 2015, Nationstar and BANA filed their opposition to West Sunset's  
6 motion and counter-moved for entry of summary judgment in favor of Nationstar, arguing in part  
7 that the HOA foreclosure sale was void for being unconstitutional and commercially unreasonable.

8           8.       Following a hearing on the matter, on February 8, 2016, the Court entered its order  
9 denying West Sunset's motion for summary judgment and granting Nationstar's countermotion for  
10 summary judgment (the "Order"), which was noticed on February 16, 2016.

11          9.       The Court's Order was based in part on its finding that the HOA's agent failed to  
12 provide the requisite notices of foreclosure; therefore, BANA and Nationstar's security interest was  
13 not extinguished by the HOA foreclosure sale.

14          10.      On March 4, 2016, West Sunset filed a motion for reconsideration pursuant to NRCP  
15 59(e), which was denied by an order entered on May 31, 2016 and noticed on June 3, 2016.

16          11.      On July 1, 2016, West Sunset noticed its appeal of the Order.

17          12.      On August 29, 2016, the Nevada Supreme Court issued an order to show cause as to  
18 why the appeal should not be dismissed for lack of jurisdiction, stating that "it appears that the  
19 district court has not entered a final written judgment adjudicating all the rights and liabilities of all  
20 the parties, and the district court did not certify its order as final pursuant to NRCP 54(b)."

21          13.      In light of the Nevada Supreme Court's order to show cause, West Sunset filed the  
22 instant motion, seeking a final judgment as to all of its claims and a stay of any remaining claims.

23          14.      Rule 54(b) of the Nevada Rules of Civil Procedure provides that "[w]hen multiple  
24 parties are involved, the court may direct the entry of a final judgment as to one or more but fewer  
25 than all of the parties only upon an express determination that there is no just reason for delay and  
26 upon an express direction for the entry of judgment." NRCP 54(b).

27          15.      Upon considering a request to certify a judgment based on the elimination of a party,  
28 the district court should weigh: (1) the prejudice to that party in being forced to wait to bring its

1 appeal; and (2) any prejudice to the parties remaining if the judgment is certified as final. *Mallin v.*  
2 *Farmers Ins. Exch.*, 106 Nev. 606, 611, 797 P.2d 978, 981 (1990). If the prejudice to the eliminated  
3 party would be greater than the prejudice to the parties remaining below, the court should certify the  
4 judgment as final. *Id.*

5 16. In this matter, the Court entered judgment on all of Nationstar's counterclaims/cross-  
6 claims as well as West Sunset's claims against Nationstar, thereby completely removing Nationstar  
7 from the litigation.

8 17. Moreover, the conclusions arrived at by the Court in denying West Sunset's motion  
9 for summary judgment effectively resolved the remaining claim for declaratory relief/quiet title  
10 against BANA, New Freedom and Tablante.

11 18. No important issues remain below that must be resolved prior to the Nevada Supreme  
12 Court's consideration of the issues on appeal, nor would piecemeal litigation result by certifying the  
13 Order as final.

14 19. On the other hand, requiring the parties to continue litigation on such claims whose  
15 resolution has already been determined by reasonable inference of the Court's Order would be an  
16 inefficient use of judicial resources.

17 20. Thus, taking into account the equities involved, no prejudice will result to the  
18 remaining parties if the Order is certified as final, and there exists no reason to make West Sunset  
19 wait until the conclusion of the entire case to file an appeal.

20 Accordingly, for good cause appearing, the Court hereby rules as follows:

21 IT IS HEREBY ORDERED that West Sunset's Motion is GRANTED.

22 IT IS FURTHER ORDERED that the Order is amended to include a certification of final  
23 judgment pursuant to NRCP 54(b).

24 IT IS FURTHER ORDERED that the Court expressly determines that there is no just reason  
25 to delay appellate review and directs that the Order constitute a final judgment pursuant to NRCP  
26 54(b) with respect to fewer than all of the parties in this case.

27 ///

28 ///

1 IT IS FINALLY ORDERED that West Sunset's remaining claim for declaratory relief/quiet  
2 title against BANA, New Freedom and Tablante be stayed pending the conclusion of West Sunset's  
3 appeal.

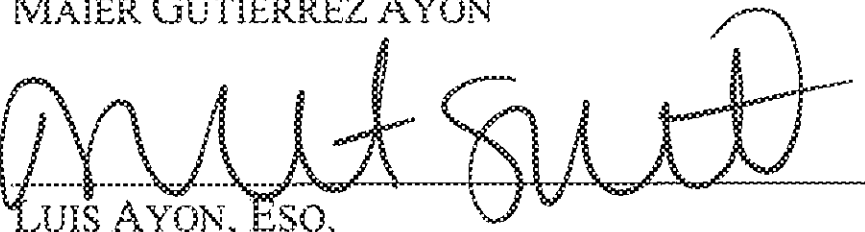
4 DATED this 1st day of November, 2016.

5   
6 DISTRICT COURT JUDGE

7 *AW*

8 Respectfully submitted,

9 MAIER GUTIERREZ AYON

10 

11 LUIS AYON, ESQ.

12 Nevada Bar No. 9752

13 MARGARET E. SCHMIDT, ESQ.

14 Nevada Bar No. 12489

15 8816 Spanish Ridge Avenue

16 Las Vegas, Nevada 89148

17 Attorneys for Plaintiff/Counter-Defendant

18 West Sunset 2050 Trust

19

20

21

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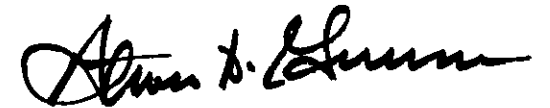
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28







CLERK OF THE COURT

**NEOJ**  
LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
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*Attorneys for Plaintiff/Counter-Defendant  
West Sunset 2050 Trust*

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust  
Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-691323-C  
Dept. No.: XXI

**NOTICE OF ENTRY OF ORDER  
GRANTING MOTION FOR FINAL  
JUDGMENT PURSUANT TO RULE 54(B)  
AND TO STAY REMAINING CLAIMS  
PENDING CONCLUSION OF APPEAL**

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

YOU AND EACH OF YOU will please take notice that an ORDER GRANTING  
MOTION FOR FINAL JUDGMENT PURSUANT TO RULE 54(B) AND TO STAY  
REMAINING CLAIMS PENDING CONCLUSION OF APPEAL was hereby entered on the 9<sup>th</sup>

1 day of November, 2016. A copy of which is attached hereto.

2 DATED this 10<sup>th</sup> day of November, 2016.

3 Respectfully submitted,

4 **MAIER GUTIERREZ AYON**

5 \_\_\_\_\_  
6 /s/ Margaret E. Schmidt

7 LUIS AYON, ESQ.

8 Nevada Bar No. 9752

9 MARGARET E. SCHMIDT, ESQ.

10 Nevada Bar No. 12489

11 8816 Spanish Ridge Avenue

12 Las Vegas, Nevada 89148

13 *Attorneys for Plaintiff/Counter-Defendant*

14 *West Sunset 2050 Trust*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of the **NOTICE OF ENTRY OF**  
3 **ORDER GRANTING MOTION FOR FINAL JUDGMENT PURSUANT TO RULE 54(B)**  
4 **AND TO STAY REMAINING CLAIMS PENDING CONCLUSION OF APPEAL** was  
5 electronically filed on the 10<sup>th</sup> day of November, 2016 and served through the Notice of Electronic  
6 Filing automatically generated by the Court's facilities to those parties listed on the Court's  
7 Master Service List and by depositing a true and correct copy of the same, enclosed in a sealed  
8 envelope upon which first class postage was fully prepaid, in the U.S. Mail at Las Vegas, Nevada,  
9 addressed as follows (*Note: All Parties Not Registered Pursuant to Administrative Order 14-2*  
10 *Have Been Served By Mail.*):

11  
12 Ariel E. Stern, Esq.  
13 Allison R. Schmidt, Esq.  
14 AKERMAN LLP  
15 1160 Town Center Drive, Suite 330  
16 Las Vegas, Nevada 89144  
17 *Attorneys for Defendant Bank of America, N.A., and*  
18 *Defendant/Counterclaimant/Cross-Claimant Nationstar Mortgage LLC*

19 /s/ Charity Johnson  
20 An Employee of MAIER GUTIERREZ AYON  
21  
22  
23  
24  
25  
26  
27  
28



CLERK OF THE COURT

**ORDER**

LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
MARGARET E. SCHMIDT, ESQ.  
Nevada Bar No. 12489  
MAIER GUTIERREZ AYON  
8816 Spanish Ridge Avenue  
Las Vegas, Nevada 89148  
Telephone: 702.629.7900  
Facsimile: 702.629.7925  
E-mail: [laa@mgalaw.com](mailto:laa@mgalaw.com)  
[mes@mgalaw.com](mailto:mes@mgalaw.com)

*Attorneys for Plaintiff/Counter-Defendant  
West Sunset 2050 Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Plaintiff,

vs.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company,  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership  
STEPHANIE TABLANTE, an individual,  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-13-691323-C  
Dept. No.: XXI

**ORDER GRANTING MOTION FOR  
FINAL JUDGMENT PURSUANT TO RULE  
54(B) AND TO STAY REMAINING  
CLAIMS PENDING CONCLUSION OF  
APPEAL**

Hearing Date: October 26, 2016  
Hearing Time: 9:30 a.m.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

vs.

WEST SUNSET 2050 TRUST,

Counter-Defendant.



1 NATIONSTAR MORTGAGE, LLC,

2 Cross-Claimant,

3 vs.

4 STEPHANIE TABLANTE,

5 Cross-Defendant.  
6

7 This matter came on for hearing before the Court on October, 2016 at 9:30 a.m., on  
8 plaintiff/counter-defendant West Sunset 2050 Trust's ("West Sunset") motion for final judgment  
9 pursuant to Rule 54(b) and to stay remaining claims pending conclusion of appeal on an order  
10 shortening time. West Sunset was represented at the hearing by Margaret E. Schmidt, Esq., of the  
11 law firm MAIER GUTIERREZ AYON. The Court, having reviewed the papers and pleadings on file  
12 herein, and there being no opposition filed pursuant to EDCR 2.20 and 2.23, makes the following  
13 findings of facts and conclusions of law:

14 1. This lawsuit involves disputed title to real property, which was purchased at the non-  
15 judicial foreclosure of an HOA's lien for delinquent assessments pursuant to NRS 116.3116 *et seq.*

16 2. On November 6, 2013, West Sunset initiated this litigation, naming New Freedom  
17 Mortgage Corporation ("New Freedom"), Nationstar Mortgage, LLC ("Nationstar"), Bank of  
18 America, N.A., The Cooper Castle Law Firm, LLP ("Cooper Castle"), and Stephanie Tablante  
19 ("Tablante") as defendants. The specific causes of action alleged therein were for: (1) declaratory  
20 relief/quiet title against all the defendants; and (2) preliminary and permanent injunction against  
21 Nationstar and Cooper Castle only.

22 3. On May 20, 2014, Nationstar answered West Sunset's complaint and alleged  
23 counterclaims and cross-claims for: (1) quiet title against West Sunset and Tablante; (2) declaratory  
24 relief against West Sunset and Tablante; (3) slander of title against Tablante; (4) breach of contract  
25 against Tablante; (5) breach of implied covenant of good faith and fair dealing against Tablante; and  
26 (6) unjust enrichment against West Sunset.

27 4. On July 29, 2015, defaults were entered against Tablante and New Freedom on West  
28 Sunset's claims for relief; however, default judgments have not been entered.

1           5.       Cooper Castle was dismissed from the case via an order entered on February 3, 2014.

2           6.       On May 22, 2015, West Sunset filed its motion for summary judgment, arguing that  
3 West Sunset holds superior title to the defendants and requested that summary judgment be entered  
4 in its favor on all causes of action as well as all of Nationstar's counterclaims.

5           7.       On June 10, 2015, Nationstar and BANA filed their opposition to West Sunset's  
6 motion and counter-moved for entry of summary judgment in favor of Nationstar, arguing in part  
7 that the HOA foreclosure sale was void for being unconstitutional and commercially unreasonable.

8           8.       Following a hearing on the matter, on February 8, 2016, the Court entered its order  
9 denying West Sunset's motion for summary judgment and granting Nationstar's countermotion for  
10 summary judgment (the "Order"), which was noticed on February 16, 2016.

11          9.       The Court's Order was based in part on its finding that the HOA's agent failed to  
12 provide the requisite notices of foreclosure; therefore, BANA and Nationstar's security interest was  
13 not extinguished by the HOA foreclosure sale.

14          10.      On March 4, 2016, West Sunset filed a motion for reconsideration pursuant to NRCP  
15 59(e), which was denied by an order entered on May 31, 2016 and noticed on June 3, 2016.

16          11.      On July 1, 2016, West Sunset noticed its appeal of the Order.

17          12.      On August 29, 2016, the Nevada Supreme Court issued an order to show cause as to  
18 why the appeal should not be dismissed for lack of jurisdiction, stating that "it appears that the  
19 district court has not entered a final written judgment adjudicating all the rights and liabilities of all  
20 the parties, and the district court did not certify its order as final pursuant to NRCP 54(b)."

21          13.      In light of the Nevada Supreme Court's order to show cause, West Sunset filed the  
22 instant motion, seeking a final judgment as to all of its claims and a stay of any remaining claims.

23          14.      Rule 54(b) of the Nevada Rules of Civil Procedure provides that "[w]hen multiple  
24 parties are involved, the court may direct the entry of a final judgment as to one or more but fewer  
25 than all of the parties only upon an express determination that there is no just reason for delay and  
26 upon an express direction for the entry of judgment." NRCP 54(b).

27          15.      Upon considering a request to certify a judgment based on the elimination of a party,  
28 the district court should weigh: (1) the prejudice to that party in being forced to wait to bring its

1 appeal; and (2) any prejudice to the parties remaining if the judgment is certified as final. *Mallin v.*  
2 *Farmers Ins. Exch.*, 106 Nev. 606, 611, 797 P.2d 978, 981 (1990). If the prejudice to the eliminated  
3 party would be greater than the prejudice to the parties remaining below, the court should certify the  
4 judgment as final. *Id.*

5 16. In this matter, the Court entered judgment on all of Nationstar's counterclaims/cross-  
6 claims as well as West Sunset's claims against Nationstar, thereby completely removing Nationstar  
7 from the litigation.

8 17. Moreover, the conclusions arrived at by the Court in denying West Sunset's motion  
9 for summary judgment effectively resolved the remaining claim for declaratory relief/quiet title  
10 against BANA, New Freedom and Tablante.

11 18. No important issues remain below that must be resolved prior to the Nevada Supreme  
12 Court's consideration of the issues on appeal, nor would piecemeal litigation result by certifying the  
13 Order as final.

14 19. On the other hand, requiring the parties to continue litigation on such claims whose  
15 resolution has already been determined by reasonable inference of the Court's Order would be an  
16 inefficient use of judicial resources.

17 20. Thus, taking into account the equities involved, no prejudice will result to the  
18 remaining parties if the Order is certified as final, and there exists no reason to make West Sunset  
19 wait until the conclusion of the entire case to file an appeal.

20 Accordingly, for good cause appearing, the Court hereby rules as follows:

21 IT IS HEREBY ORDERED that West Sunset's Motion is GRANTED.

22 IT IS FURTHER ORDERED that the Order is amended to include a certification of final  
23 judgment pursuant to NRCP 54(b).

24 IT IS FURTHER ORDERED that the Court expressly determines that there is no just reason  
25 to delay appellate review and directs that the Order constitute a final judgment pursuant to NRCP  
26 54(b) with respect to fewer than all of the parties in this case.

27 ///

28 ///

1 IT IS FINALLY ORDERED that West Sunset's remaining claim for declaratory relief/quiet  
2 title against BANA, New Freedom and Tablante be stayed pending the conclusion of West Sunset's  
3 appeal.

4 DATED this 1st day of November, 2016.

5   
6 DISTRICT COURT JUDGE AW

7  
8 Respectfully submitted,

9 MAIER GUTIERREZ AYON

10 

11 LUIS AYON, ESQ.

12 Nevada Bar No. 9752

13 MARGARET E. SCHMIDT, ESQ.

14 Nevada Bar No. 12489

15 8816 Spanish Ridge Avenue

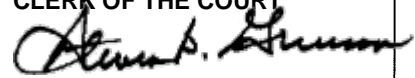
16 Las Vegas, Nevada 89148

17 Attorneys for Plaintiff/Counter-Defendant

18 West Sunset 2050 Trust  
19  
20  
21  
22  
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26  
27  
28







1 **SAO**

2 ARIEL E. STERN, ESQ.

3 Nevada Bar No. 8276

4 THERA A. COOPER, ESQ.

5 Nevada Bar No. 13468

6 **AKERMAN LLP**

7 1160 Town Center Drive, Suite 330

8 Las Vegas, NV 89144

9 Telephone: (702) 634-5000

10 Facsimile: (702) 380-8572

11 Email: ariel.stern@akerman.com

12 Email: thera.cooper@akerman.com

13 *Attorneys for Defendant Bank of America, NA*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 WEST SUNSET 2050 TRUST, a Nevada Trust,

17 Plaintiff,

18 v.

19 NEW FREEDOM MORTGAGE  
20 CORPORATION, a Foreign Corporation;  
21 BANK OF AMERICA, N.A., a National  
22 Association; NATIONSTAR MORTGAGE,  
23 LLC, a Foreign Limited Liability Company;  
24 COOPER CASTLE LAW FIRM, LLP, a Nevada  
25 Limited Liability Partnership; STEPHANIE  
26 TABLANTE, an individual; DOES I through X;  
27 and ROE CORPORATIONS I through X,  
28 inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Counter-Defendant.

NATIONSTAR MORTGAGE, LLC,

Cross-Claimant,

v.

STEPHANIE TABLANTE,

Cross-Defendant

Case No.: A-13-691323-C

Dept.: XXI

**STIPULATION AND ORDER FOR  
DISCLAIMER OF INTEREST AND  
DISMISSAL OF BANK OF AMERICA, NA**

{41741745;1}

PLEASE TAKE NOTICE that defendant Bank of America, NA disclaims any present interest in the property located at 7255 W. Sunset Rd., Unit 2050, Las Vegas, NV 89113, which property is the subject of this lawsuit.

IT IS HEREBY STIPULATED AND AGREED between the parties that Bank of America, NA shall be dismissed from this action with each party to bear its own attorneys' fees and costs. Defendants Cooper Castle Law Firm and Stephanie Tablante have not appeared in this action.

DATED May 22, 2017.

AKERMAN LLP

DARREN T. BRENNER, ESQ.  
Nevada Bar No. 8386  
THERA A. COOPER, ESQ.  
Nevada Bar No. 13468  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144

*Attorneys for Bank of America, NA*

DATED May 22, 2017.

AYON LAW, PLLC

LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
9205 W. Russell Road  
Building 3, Suite 240  
Las Vegas, Nevada 89148

*Attorneys for Plaintiff*

**ORDER**

Based on the stipulation of the parties, and good cause appearing:

IT IS HEREBY ORDERED that defendant Bank of America, NA is dismissed from this action, with each party to bear its own fees and costs.

DATED <sup>June</sup> ~~May~~ 26, 2017

  
DISTRICT COURT JUDGE *Ky*

Submitted by:

**AKERMAN LLP**

  
\_\_\_\_\_  
DARREN T. BRENNER, ESQ.

Nevada Bar No. 8386

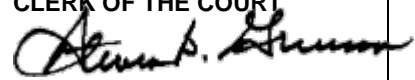
THERA A. COOPER, ESQ.

Nevada Bar No. 13468

1160 Town Center Drive, Suite 330

Las Vegas, Nevada 89144

*Attorneys for Bank of America, NA*



**NEOJ**  
ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
THERA A. COOPER, ESQ.  
Nevada Bar No. 13468  
**AKERMAN LLP**  
1160 Town Center Drive, Suite 330  
Las Vegas, NV 89144  
Telephone: (702) 634-5000  
Facsimile: (702) 380-8572  
Email: ariel.stern@akerman.com  
Email: thera.cooper@akerman.com

*Attorneys for Defendant Bank of America, NA*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

NATIONSTAR MORTGAGE, LLC,

Cross-Claimant,

v.

STEPHANIE TABLANTE,

Cross-Defendant.

Case No.: A-13-691323-C  
Dept.: VII

**NOTICE OF ENTRY OF STIPULATION  
AND ORDER FOR DISCLAIMER OF  
INTEREST AND DISMISSAL OF BANK OF  
AMERICA, NA**

{42200386;1}

1 PLEASE TAKE NOTICE that a **STIPULATION AND ORDER FOR DISCLAIMER OF**  
2 **INTEREST AND DISMISSAL OF BANK OF AMERICA, NA** has been entered by this Court on  
3 the 26<sup>th</sup> day of June, 2017, in the above-captioned matter. A copy of said Order is attached hereto as  
4 **Exhibit A.**

5 Dated this 3<sup>rd</sup> day of July, 2017.

6 **AKERMAN LLP**

7 /s/ Thera Cooper

8 ARIEL E. STERN, ESQ.

9 Nevada Bar No. 8276

10 THERA A. COOPER, ESQ.

11 Nevada Bar No. 13468

12 1160 Town Center Drive, Suite 330

13 Las Vegas, Nevada 89144

14 *Attorneys for Defendant Bank of America, N.A*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 3<sup>rd</sup> day of July, 2017, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER FOR DISCLAIMER OF INTEREST AND DISMISSAL OF BANK OF AMERICA, NA**, in the following manner:

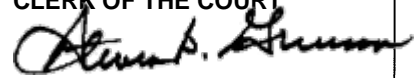
**(ELECTRONIC SERVICE)** Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as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

<p>Luis A. Ayon, Esq. Ayon Law, PLLC 9205 W. Russell Road Building 3, Suite 240 Las Vegas, NV 89148 <a href="mailto:laa@ayonlaw.com">laa@ayonlaw.com</a></p> <p><i>Attorneys for West Sunset 2050 Trust</i></p>	
---	--

/s/ Carla Llarena  
An employee of AKERMAN LLP

**EXHIBIT A**

**EXHIBIT A**



1 **SAO**

2 ARIEL E. STERN, ESQ.

3 Nevada Bar No. 8276

4 THERA A. COOPER, ESQ.

5 Nevada Bar No. 13468

6 **AKERMAN LLP**

7 1160 Town Center Drive, Suite 330

8 Las Vegas, NV 89144

9 Telephone: (702) 634-5000

10 Facsimile: (702) 380-8572

11 Email: ariel.stern@akerman.com

12 Email: theracooper@akerman.com

13 *Attorneys for Defendant Bank of America, NA*

14 **EIGHTH JUDICIAL DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 WEST SUNSET 2050 TRUST, a Nevada Trust,

17 Plaintiff,

18 v.

19 NEW FREEDOM MORTGAGE  
20 CORPORATION, a Foreign Corporation;  
21 BANK OF AMERICA, N.A., a National  
22 Association; NATIONSTAR MORTGAGE,  
23 LLC, a Foreign Limited Liability Company;  
24 COOPER CASTLE LAW FIRM, LLP, a Nevada  
25 Limited Liability Partnership; STEPHANIE  
26 TABLANTE, an individual; DOES I through X;  
27 and ROE CORPORATIONS I through X,  
28 inclusive,

Defendants.

NATIONSTAR MORTGAGE, LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,  
Counter-Defendant.

NATIONSTAR MORTGAGE, LLC,

Cross-Claimant,

v.

STEPHANIE TABLANTE,

Cross-Defendant

Case No.: A-13-691323-C

Dept.: XXI

**STIPULATION AND ORDER FOR  
DISCLAIMER OF INTEREST AND  
DISMISSAL OF BANK OF AMERICA, NA**

{41741745;1}

AKERMAN LLP

1160 TOWN CENTER DRIVE, SUITE 330  
LAS VEGAS, NEVADA 89144  
TEL.: (702) 634-5000 - FAX: (702) 380-8572



PLEASE TAKE NOTICE that defendant Bank of America, NA disclaims any present interest in the property located at 7255 W. Sunset Rd., Unit 2050, Las Vegas, NV 89113, which property is the subject of this lawsuit.

IT IS HEREBY STIPULATED AND AGREED between the parties that Bank of America, NA shall be dismissed from this action with each party to bear its own attorneys' fees and costs. Defendants Cooper Castle Law Firm and Stephanie Tablante have not appeared in this action.

DATED May 22, 2017.

AKERMAN LLP

DARREN T. BRENNER, ESQ.  
Nevada Bar No. 8386  
THERA A. COOPER, ESQ.  
Nevada Bar No. 13468  
1160 Town Center Drive, Suite 330  
Las Vegas, Nevada 89144

*Attorneys for Bank of America, NA*

DATED May 22, 2017.

AYON LAW, PLLC

LUIS A. AYON, ESQ.  
Nevada Bar No. 9752  
9205 W. Russell Road  
Building 3, Suite 240  
Las Vegas, Nevada 89148

*Attorneys for Plaintiff*

**ORDER**

Based on the stipulation of the parties, and good cause appearing:

IT IS HEREBY ORDERED that defendant Bank of America, NA is dismissed from this action, with each party to bear its own fees and costs.

DATED <sup>June</sup> ~~May~~ 26, 2017

  
DISTRICT COURT JUDGE *Ky*

Submitted by:

**AKERMAN LLP**

  
\_\_\_\_\_  
DARREN T. BRENNER, ESQ.

Nevada Bar No. 8386

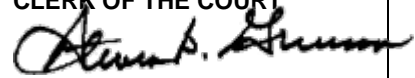
THERA A. COOPER, ESQ.

Nevada Bar No. 13468

1160 Town Center Drive, Suite 330

Las Vegas, Nevada 89144

*Attorneys for Bank of America, NA*



**NVD**

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

DONNA WITTIG, ESQ.

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1635 Village Center Circle, Suite 200

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Email: ariel.stern@akerman.com

Email: melanie.morgan@akerman.com

Email: donna.wittig@akerman.com

*Attorneys for Defendant Nationstar Mortgage LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,

Plaintiff,

v.

NEW FREEDOM MORTGAGE CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National Association;  
NATIONSTAR MORTGAGE, LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada Limited Liability Partnership;  
STEPHANIE TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-13-691323-C

Dept.: XI

**NATIONSTAR MORTGAGE LLC'S  
NOTICE OF VOLUNTARY DISMISSAL OF  
CLAIMS AGAINST STEPHANIE  
TABLANTE WITHOUT PREJUDICE**

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

1 NATIONSTAR MORTGAGE LLC,  
2  
3 Cross-Claimant,  
4 v.  
5 STEPHANIE TABLANTE,  
6 Cross-Defendant.

7 **NATIONSTAR MORTGAGE LLC'S NOTICE OF VOLUNTARY DISMISSAL OF CLAIMS**  
8 **AGAINST STEPHANIE TABLANTE WITHOUT PREJUDICE**

9 PLEASE TAKE NOTICE that, pursuant to Nev. R. Civ. P. 41(a)(1)(i),  
10 defendant/counterclaimant/cross-claimant Nationstar Mortgage LLC hereby dismisses its claims in  
11 this action against cross-defendant Stephanie Tablante without prejudice.

12 Nationstar filed its answer, counterclaim and cross-claim on May, 20, 2014. Stephanie  
13 Tablante has not served a responsive pleadings or filed a summary judgment motion.

14 This matter may be dismissed without prejudice under Nev. R. Civ. P. 41(a)(1)(i) and  
15 without and order from the court. All parties will bear their own fees and costs.

16  
17 DATED July 15, 2019.

18 **AKERMAN LLP**

19 */s/ Melanie D. Morgan*

20 ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
21 MELANIE D. MORGAN, ESQ.  
Nevada Bar No. 8215  
22 DONNA WITTIG, ESQ.  
Nevada Bar No. 11015  
23 1635 Village Center Circle, Suite 200  
24 Las Vegas, Nevada 89134

25 *Attorneys for Defendant Nationstar Mortgage LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 15<sup>th</sup> day of July, 2019, I caused to be served a true and correct copy of the foregoing **NATIONSTAR MORTGAGE LLC'S NOTICE OF VOLUNTARY DISMISSAL OF CLAIMS AGAINST STEPHANIE TABLANTE 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 and 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 as follows:

Luis A. Ayon, Esq. Ayon Law, PLLC 8716 Spanish Ridge Ave., #115 Las Vegas, NV 89148  <i>Attorneys for West Sunset 2050 Trust</i>	
---	--

/s/ Patricia Larsen

An employee of AKERMAN LLP

*Steven D. Grierson*

1 FFCL

2  
3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5 WEST SUNSET 2050 TRUST, a Nevada  
6 Trust,  
7 Plaintiff,

Case No.: A-13-691323-C

8 v.

Dept.: XI

9 NEW FREEDOM MORTGAGE  
10 CORPORATION, a Foreign Corporation;  
11 BANK OF AMERICA, N.A., a National  
12 Association; NATIONSTAR MORTGAGE,  
13 LLC, a Foreign Limited Liability Company;  
14 COOPER CASTLE LAW FIRM, LLP, a  
15 Nevada Limited Liability Partnership;  
16 STEPHANIE TABLANTE, an individual;  
17 DOES I through X; and ROE  
18 CORPORATIONS I through X, inclusive,

19 Defendants.

20 NATIONSTAR MORTGAGE LLC,

21 Counterclaimant,

22 v.

23 WEST SUNSET 2050 TRUST, a Nevada  
24 Trust,

25 Counter-Defendant

26 NATIONSTAR MORTGAGE LLC,

27 Cross-claimant,

28 v.

STEPHANIE TABLANTE

Cross-defendants.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter having come on for non-jury trial before the Honorable Elizabeth Gonzalez

RECEIVED

JUL 16 2019

CLERK OF THE COURT

<input type="checkbox"/> Jury	<input type="checkbox"/> Disposed After Trial Start
<input type="checkbox"/> Jury	<input type="checkbox"/> Judgment Reached
<input type="checkbox"/> Other -	<input type="checkbox"/> Transferred before Trial

beginning on June 6, 2019, and continuing day to day, until its completion on July 12, 2019; Luis Ayon, Esq. appeared on behalf of Plaintiff, West Sunset 2050 Trust; Ariel Stern, Esq. and Melanie Morgan, Esq. of Akerman LLP appeared on behalf of Defendant, Nationstar Mortgage, LLC.; the Court having read and considered the pleadings filed by the parties;<sup>1</sup> having reviewed the evidence admitted during the trial; having heard and carefully considered the testimony of the witnesses called to testify; having considered the oral and written arguments of counsel, and with the intent of rendering a decision on all remaining claims before the Court, pursuant to NRCP 52(a) and 58; the Court makes the following findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. The property at issue in this case is commonly known as 7255 W. Sunset Road, Unit 2050, Las Vegas, Nevada 89113 and bears APN 176-03-510-102 (the "Property").

2. The Property is located within a common-interest community governed by Tuscano Homeowners Association ("HOA") which is governed by certain covenants, conditions and restrictions ("CC&Rs") recorded April 5, 2005.

3. The CC&Rs include the requirement that members of the HOA pay periodic assessments to benefit the common-interest community.

4. At all relevant times, the HOA charged monthly assessments of \$164.

5. On or about November 29, 2005, Stephanie Tablante financed the purchase of the property at 7255 West Sunset Road #2050, Las Vegas, Nevada 89113, APN 176-03-510-102 through a \$176,760 loan from New Freedom Mortgage Company ("the Loan"). A Deed of Trust securing the Loan for such purchase was recorded on December 7, 2005 as Instrument No.

---

<sup>1</sup> At the closing arguments, the remaining claims against New Freedom Mortgage and Stephanie Tablante were voluntarily dismissed.

20051207-0002367 and identified New Freedom Mortgage Corporation ("New Freedom") as the lender, and Mortgage Electronic Registration Systems, Inc. ("MERS") as nominee-beneficiary.

6. On March 1, 2011, Tablante transferred the Property to New Freedom in "full satisfaction of all obligations secured by the Deed of Trust" by executing a Deed in Lieu of Foreclosure, which was recorded as Instrument No. 201103030003444.<sup>2</sup>

7. Notwithstanding the fact that all obligations secured by the Deed of Trust had been satisfied and the Deed of Trust consequently extinguished by virtue of the merger doctrine, on or about July 29, 2011, MERS purportedly assigned the Deed of Trust to BAC Home Loans Servicing, LP ("BANA").

8. New Freedom, the record owner of the Property, failed to pay the HOA assessments, and as a result, on April 4, 2012, the HOA recorded a Lien for Delinquent Assessments ("Lien").

9. The Lien stated the amount of the assessments due and other sums due; described the Property against which the lien was imposed, named the record owner of the Property, and was mailed to New Freedom.

10. More than thirty (30) days later, on May 29, 2012, Red Rock, on behalf of the HOA,<sup>3</sup> recorded a Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments ("NOD") stating New Freedom Mortgage owed \$4,018.40.

11. The NOD stated the amount of assessments and other sums due; it described the deficiency in payment; described the Property against which the Lien was imposed; named the

---

<sup>2</sup> Issues related to the validity of this Deed in Lieu have been raised; however, no credible explanation for the Court to disregard this recorded document was presented.

<sup>3</sup> The on site manager for the HOA testified that after 60 days, Red Rock, who had access to the computer database, took over for collection purposes and the amount disappeared from his record; he waited for the money to come in; and started a fresh account record. This is not evidence that the superpriority portion of the lien was satisfied.



1 recorded owner of the Property; stated the name and address of the person authorized by the HOA  
2 to enforce the Lien by sale; and contained language in 14-point bold type as follows:

3 **“WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU**  
4 **COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!”**

5  
6 12. In March of 2013, the HOA contracted to sell its right to future payment on a  
7 number of liens, including its lien in this case, to First 100, LLC (“Agreement”).

8 13. The Agreement required First 100 to pay the HOA \$1,476 for the rights.

9 14. On March 20, 2013, BANA purportedly assigned its interest, if any, in the Deed of  
10 Trust to Nationstar.

11 15. After at least 90 days had elapsed from the date of mailing of the Notice of  
12 Default, United Legal Services, Inc. (“ULS”) on the HOA's behalf, recorded a Notice of  
13 Foreclosure Sale on May 29, 2013 (“NOS”) stating New Freedom Mortgage owed \$7,806.42 to  
14 the HOA. The NOS included the amount necessary to satisfy the Lien; gave the time and place of  
15 the sale; and contained the following warning in 14-point bold type:

16  
17 **WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY**  
18 **THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU**  
19 **COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST**  
20 **ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL**  
21 **UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE,**  
22 **PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN’S OFFICE,**  
23 **NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY.**

24 16. The NOS was mailed to New Freedom, BANA, Nationstar and the Ombudsman,  
25 among others. The NOS was posted in three public places, posted on the Property, and published  
26 in a newspaper for three consecutive weeks.

27 17. The NOS states the sale would be made "without covenant or warranty, expressed  
28 or implied regarding, but not limited to, title or possession, or encumbrances, or obligations to  
satisfy any secured or unsecured liens."

- 1           18.    The NOS did not indicate whether it was a superpriority sale.
- 2           19.    The NOS did not list the superpriority payoff amount.
- 3           20.    There was no evidence introduced showing nuisance abatement or maintenance
- 4 charges on the account throughout the period.
- 5           21.    On June 22, 2013,<sup>4</sup> the HOA sale took place, and at the sale, Plaintiff placed the
- 6 highest cash bid of \$7,800.<sup>5</sup>
- 7
- 8           22.    At the time of the purchase Plaintiff was unaware of the Agreement.
- 9           23.    Plaintiff was a bona fide purchaser for value.
- 10          24.    The HOA foreclosure sale was conducted pursuant to the NOS. The HOA Lien
- 11 contained super-priority amounts.
- 12          25.    A Foreclosure Deed conveying title to the Property to Plaintiff was recorded on
- 13 June 24, 2013. As recited in the Foreclosure Deed, “[a]ll requirements of law have been
- 14 complied with, including, but not limited to, the elapsing of 90 days, mailing of copies of notice
- 15 of Lien of Delinquent Assessment and Notice of Default, and the mailing, posting and publication
- 16 of the Notice of Foreclosure Sale.”
- 17
- 18          26.    Prior to the sale, no entity paid the super-priority portion of the HOA’s lien.
- 19          27.    At the time of the sale, the property had an undisputed fair market value of
- 20 \$63,280.
- 21
- 22          28.    The Foreclosure Deed Upon Sale was recorded on June 24, 2013. The deed
- 23 identifies the property value as \$63,280 at the time of the sale.
- 24

---

25           <sup>4</sup>     Mr. Atkinson testified he conducts the sales on Saturday so bidders will not be present at

26 his law office during business hours. Conducting a sale on Saturday in and of itself is not

27 unreasonable.

28           <sup>5</sup>     A representative from First 100 was an unsuccessful bidder at the auction.

29. At the time of the HOA's foreclosure sale, Nationstar serviced the remaining interest in the loan, if any.<sup>6</sup>

30. If any findings of fact are properly conclusions of law, they shall be treated as if appropriately identified and designated.

## CONCLUSIONS OF LAW

1. The HOA, through its agents, recorded and mailed, in compliance with and pursuant to NRS Chapter 116 and all applicable Nevada law, the following notices related to the Property; Notice of Delinquent Assessment Lien on April 4, 2012; Notice of Default and Election to Sell Under Homeowners Association Lien on May 29, 2012; and Notice of Foreclosure Sale on May 29, 2013.

2. The recitals as contained in the Foreclosure Deed serve as conclusive proof that the statutory requirements have been complied with as to the notice provisions of NRS 116.31162 through 116.31168, which concern the occurrence of default, notice, and publication of the foreclosure sale. The conclusiveness of the recitals as contained in the Foreclosure Deed can only be challenged via post-sale equitable claims supported by a finding of unfairness of the sale.

3. The only portion of the HOA's lien that is prior to the first deed of trust's interest is that amount for nine months of assessments.

4. First 100's payment to the HOA for the creditor's rights under the Agreement did not satisfy the superpriority portion of the HOA's lien.

5. In an action for quiet title, the Court must determine who holds superior title to real property.

<sup>6</sup> As a result of a very late disclosure of the identity of the true owner of the property, the Court denied the motion filed by Defendants to permit them to raise all issues related to a Freddie Mac ownership interest. While the Court recognizes additional defenses which might have been brought may have been case determinative, the Defendants failure to make this disclosure for five years and after close of the discovery period after remand is a textbook example of laches.

1           6.       When considering a quiet title claim, the record title is presumed valid.

2           7.       Here, Plaintiff met its burden by producing the Foreclosure Deed. Nationstar did  
3 not meet its burden and failed to rebut the validity of the Foreclosure Deed and the foreclosure  
4 sale. Plaintiff holds superior title because the Deed in Lieu of Foreclosure extinguished the  
5 interests of Tablante and New Freedom under the merger doctrine.  
6

7           8.       Merger may occur when the fee interest and a charge, such as a deed of trust  
8 encumbrance, vest in the possession of one person.

9           9.       Here, by virtue of the Deed in Lieu of Foreclosure, New Freedom became both the  
10 fee simple owner of the Property and holder of the Deed of Trust. As such, the Deed of Trust was  
11 extinguished by way of merger.

12           10.      Even without the merger doctrine, the Deed of Trust was extinguished by the  
13 foreclosure sale. The undisputed evidence establishes the HOA complied in all respects with NRS  
14 Chapter 116, and at the time of the foreclosure, the Lien contained amounts with super-priority  
15 status.  
16

17           11.      If any Conclusions of Law are properly Findings of Fact, they shall be treated as  
18 though appropriately identified and designated.

19                 Based upon the foregoing Findings of Fact and Conclusions of Law IT IS HEREBY  
20 ORDERED, ADJUDGED AND DECREED as follows:  
21

22           1.       IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Deed of  
23 Trust was extinguished by the Deed in Lieu of Foreclosure under the merger doctrine.

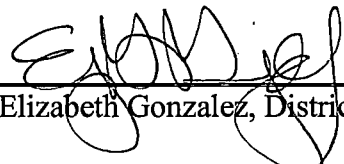
24           2.       IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Deed of  
25 Trust was extinguished by the HOA's non-judicial foreclosure sale.

26           3.       IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that title to real  
27 property located at 7255 W. Sunset Road, Unit 2050, Las Vegas, Nevada 89113 and bears APN  
28

1 176-03-510-102 is quieted in favor of West Sunset 2050 Trust.

2 4. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Nationstar, its  
3 assigns, successors, agents or any entity acting on its behalf, is permanently enjoined from any  
4 and all actions that would interfere or affect West Sunset 2050 Trust's title to the Property.

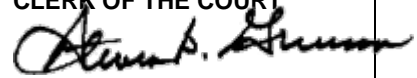
5 DATED this 16<sup>th</sup> day of July, 2019.

6  
7  
8   
9 Elizabeth Gonzalez, District Court Judge

10 **Certificate of Service**

11 I hereby certify that on the date filed, this Order was electronically served, pursuant to  
12 N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing  
13 Program.

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15 Dan Kutinac  
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**VDSM**

LUIS A. AYON, ESQ.

Nevada Bar No. 9752

STEVEN H. BURKE, ESQ.

Nevada Bar No. 14037

**AYON LAW, PLLC**

8716 Spanish Ridge Avenue, Suite 115

Las Vegas, Nevada 89148

Telephone: (702) 600-3200

Facsimile: (702) 447-7936

E-Mail: [laa@ayonlaw.com](mailto:laa@ayonlaw.com)  
[shb@ayonlaw.com](mailto:shb@ayonlaw.com)

*Attorneys for Plaintiff/Counter-Defendant,  
West Sunset 2050 Trust*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,

Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership;  
STEPHANIE TABLANTE, an individual;  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-691323-C

Dept. No.: XI

**NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANT NEW FREEDOM  
MORTGAGE CORPORATION WITHOUT PREJUDICE**

COMES NOW, Plaintiff, WEST SUNSET 2050 TRUST, by and through its attorneys of  
record, LUIS A. AYON, ESQ., and STEVEN H. BURKE, ESQ., of the law firm of AYON LAW,

///

///

1 PLLC, and pursuant to NRCP 41(a)(1), and hereby gives Notice of Voluntary Dismissal of all  
2 claims against Defendant, NEW FREEDOM MORTGAGE CORPORATION, without prejudice.

3 DATED this 17<sup>th</sup> day of July, 2019.

4 **AYON LAW, PLLC**

5 /s/ Steven H. Burke

6 LUIS A. AYON, ESQ.

7 Nevada Bar No. 9752

8 STEVEN H. BURKE, ESQ.

9 Nevada Bar No. 14037

10 8716 Spanish Ridge Ave., Suite 115

11 Las Vegas, Nevada 89148

12 *Attorneys for Plaintiff/Counter-Defendant,*  
13 *West Sunset 2050 Trust*

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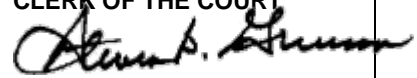
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of AYON LAW, PLLC and that on this 17<sup>th</sup> day of July, 2019, I did cause a true copy of the foregoing **NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANT NEW FREEDOM MORTGAGE CORPORATION WITH PREJUDICE**, to be e-filed/served to all parties and counsel as identified on the Court-generated Notice of Electronic filing via CME/CF Electronic Filing.

Ariel E. Stern, Esq.  
Melanie D. Morgan, Esq.  
ACKERMAN LLP  
1635 Village Center Circle, Suite 200  
Las Vegas, Nevada 89134  
*Attorneys for Nationstar Mortgage, LLC*

/s/ Coreene Drose  
An Employee of Ayon Law, PLLC





**VDSM**

LUIS A. AYON, ESQ.

Nevada Bar No. 9752

STEVEN H. BURKE, ESQ.

Nevada Bar No. 14037

**AYON LAW, PLLC**

8716 Spanish Ridge Avenue, Suite 115

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E-Mail: [laa@ayonlaw.com](mailto:laa@ayonlaw.com)  
[shb@ayonlaw.com](mailto:shb@ayonlaw.com)

*Attorneys for Plaintiff/Counter-Defendant,  
West Sunset 2050 Trust*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,

Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a  
Nevada Limited Liability Partnership;  
STEPHANIE TABLANTE, an individual;  
DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND ALL RELATED CLAIMS.

Case No.: A-13-691323-C

Dept. No.: XI

**NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANT STEPHANIE  
TABLANTE WITHOUT PREJUDICE**

COMES NOW, Plaintiff, WEST SUNSET 2050 TRUST, by and through its attorneys of  
record, LUIS A. AYON, ESQ., and STEVEN H. BURKE, ESQ., of the law firm of AYON LAW,

///

///

1 PLLC, and pursuant to NRCP 41(a)(1), and hereby gives Notice of Voluntary Dismissal of all  
2 claims against Defendant, STEPHANIE TABLANTE, without prejudice.

3 DATED this 17<sup>th</sup> day of July, 2019.

4 **AYON LAW, PLLC**

5 /s/ Steven H. Burke

6 LUIS A. AYON, ESQ.

7 Nevada Bar No. 9752

8 STEVEN H. BURKE, ESQ.

9 Nevada Bar No. 14037

10 8716 Spanish Ridge Ave., Suite 115

11 Las Vegas, Nevada 89148

12 *Attorneys for Plaintiff/Counter-Defendant,*  
13 *West Sunset 2050 Trust*

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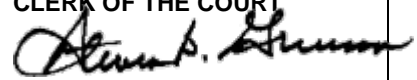
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of AYON LAW, PLLC and that on this 17<sup>th</sup> day of July, 2019, I did cause a true copy of the foregoing **NOTICE OF VOLUNTARY DISMISSAL OF DEFENDANT STEPHANIE TABLANTE WITH PREJUDICE**, to be e-filed/served to all parties and counsel as identified on the Court-generated Notice of Electronic filing via CME/CF Electronic Filing.

Ariel E. Stern, Esq.  
Melanie D. Morgan, Esq.  
ACKERMAN LLP  
1635 Village Center Circle, Suite 200  
Las Vegas, Nevada 89134  
*Attorneys for Nationstar Mortgage, LLC*

/s/ Coreene Drose  
An Employee of Ayon Law, PLLC



**NEFF**  
ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
MELANIE D. MORGAN, ESQ.  
Nevada Bar No. 8215  
DONNA M. WITTIG, ESQ.  
Nevada Bar No. 11015  
AKERMAN LLP  
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Email: ariel.stern@akerman.com  
Email: melanie.morgan@akerman.com  
Email: donna.wittig@akerman.com

*Attorneys for Defendant Nationstar Mortgage LLC*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WEST SUNSET 2050 TRUST, a Nevada Trust,

Plaintiff,

v.

NEW FREEDOM MORTGAGE  
CORPORATION, a Foreign Corporation;  
BANK OF AMERICA, N.A., a National  
Association; NATIONSTAR MORTGAGE,  
LLC, a Foreign Limited Liability Company;  
COOPER CASTLE LAW FIRM, LLP, a Nevada  
Limited Liability Partnership; STEPHANIE  
TABLANTE, an individual; DOES I through X;  
and ROE CORPORATIONS I through X,  
inclusive,

Defendants.

Case No.: A-13-691323-C

Dept.: XI

**NOTICE OF ENTRY OF FINDINGS OF  
FACT AND CONCLUSIONS OF LAW**

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

NATIONSTAR MORTGAGE LLC,  
  
Cross-Claimant,  
  
v.  
  
STEPHANIE TABLANTE,  
  
Cross-Defendant.

**TO: ALL PARTIES OF RECORD AND THEIR COUNSEL:**

PLEASE TAKE NOTICE that the Findings Of Fact And Conclusions Of Law has been entered on July 16, 2019, a copy of which is attached hereto.

DATED July 17, 2019.

**AKERMAN LLP**

*/s/ Donna M. Wittig, Esq.*

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

DONNA M. WITTIG, ESQ.

Nevada Bar No. 11015

1635 Village Center Circle, Suite 200

Las Vegas, Nevada 89134

*Attorneys for Defendant Nationstar Mortgage LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this \_\_\_\_ day of July, 2019, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW**, in the following manner:

**(ELECTRONIC SERVICE)** Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and 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 as follows:

Luis A. Ayon, Esq. AYON LAW, PLLC 8716 Spanish Ridge Ave., #115 Las Vegas, NV 89148  <i>Attorneys for West Sunset 2050 Trust</i>	
---	--

/s/ Allen G. Stephens

An employee of AKERMAN LLP

**EXHIBIT A**

**EXHIBIT A**

*Steven D. Grierson*

1 FFCL

2  
3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5 WEST SUNSET 2050 TRUST, a Nevada  
6 Trust,  
7 Plaintiff,

Case No.: A-13-691323-C

8 v.

Dept.: XI

9 NEW FREEDOM MORTGAGE  
10 CORPORATION, a Foreign Corporation;  
11 BANK OF AMERICA, N.A., a National  
12 Association; NATIONSTAR MORTGAGE,  
13 LLC, a Foreign Limited Liability Company;  
14 COOPER CASTLE LAW FIRM, LLP, a  
15 Nevada Limited Liability Partnership;  
16 STEPHANIE TABLANTE, an individual;  
17 DOES I through X; and ROE  
18 CORPORATIONS I through X, inclusive,

19 Defendants.

20 NATIONSTAR MORTGAGE LLC,

21 Counterclaimant,

22 v.

23 WEST SUNSET 2050 TRUST, a Nevada  
24 Trust,

25 Counter-Defendant

26 NATIONSTAR MORTGAGE LLC,

27 Cross-claimant,

28 v.

STEPHANIE TABLANTE

Cross-defendants.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter having come on for non-jury trial before the Honorable Elizabeth Gonzalez

RECEIVED

JUL 16 2019

CLERK OF THE COURT

<input type="checkbox"/> Jury	<input type="checkbox"/> Disposed After Trial Start
<input type="checkbox"/> Jury	<input type="checkbox"/> Judgment Reached
<input type="checkbox"/> Other -	<input type="checkbox"/> Transferred before Trial



beginning on June 6, 2019, and continuing day to day, until its completion on July 12, 2019; Luis Ayon, Esq. appeared on behalf of Plaintiff, West Sunset 2050 Trust; Ariel Stern, Esq. and Melanie Morgan, Esq. of Akerman LLP appeared on behalf of Defendant, Nationstar Mortgage, LLC.; the Court having read and considered the pleadings filed by the parties;<sup>1</sup> having reviewed the evidence admitted during the trial; having heard and carefully considered the testimony of the witnesses called to testify; having considered the oral and written arguments of counsel, and with the intent of rendering a decision on all remaining claims before the Court, pursuant to NRCP 52(a) and 58; the Court makes the following findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. The property at issue in this case is commonly known as 7255 W. Sunset Road, Unit 2050, Las Vegas, Nevada 89113 and bears APN 176-03-510-102 (the "Property").

2. The Property is located within a common-interest community governed by Tuscano Homeowners Association ("HOA") which is governed by certain covenants, conditions and restrictions ("CC&Rs") recorded April 5, 2005.

3. The CC&Rs include the requirement that members of the HOA pay periodic assessments to benefit the common-interest community.

4. At all relevant times, the HOA charged monthly assessments of \$164.

5. On or about November 29, 2005, Stephanie Tablante financed the purchase of the property at 7255 West Sunset Road #2050, Las Vegas, Nevada 89113, APN 176-03-510-102 through a \$176,760 loan from New Freedom Mortgage Company ("the Loan"). A Deed of Trust securing the Loan for such purchase was recorded on December 7, 2005 as Instrument No.

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<sup>1</sup> At the closing arguments, the remaining claims against New Freedom Mortgage and Stephanie Tablante were voluntarily dismissed.

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6. On March 1, 2011, Tablante transferred the Property to New Freedom in "full satisfaction of all obligations secured by the Deed of Trust" by executing a Deed in Lieu of Foreclosure, which was recorded as Instrument No. 201103030003444.<sup>2</sup>

7. Notwithstanding the fact that all obligations secured by the Deed of Trust had been satisfied and the Deed of Trust consequently extinguished by virtue of the merger doctrine, on or about July 29, 2011, MERS purportedly assigned the Deed of Trust to BAC Home Loans Servicing, LP ("BANA").

8. New Freedom, the record owner of the Property, failed to pay the HOA assessments, and as a result, on April 4, 2012, the HOA recorded a Lien for Delinquent Assessments ("Lien").

9. The Lien stated the amount of the assessments due and other sums due; described the Property against which the lien was imposed, named the record owner of the Property, and was mailed to New Freedom.

10. More than thirty (30) days later, on May 29, 2012, Red Rock, on behalf of the HOA,<sup>3</sup> recorded a Notice of Default and Election to Sell Pursuant to the Lien for Delinquent Assessments ("NOD") stating New Freedom Mortgage owed \$4,018.40.

11. The NOD stated the amount of assessments and other sums due; it described the deficiency in payment; described the Property against which the Lien was imposed; named the

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<sup>2</sup> Issues related to the validity of this Deed in Lieu have been raised; however, no credible explanation for the Court to disregard this recorded document was presented.

<sup>3</sup> The on site manager for the HOA testified that after 60 days, Red Rock, who had access to the computer database, took over for collection purposes and the amount disappeared from his record; he waited for the money to come in; and started a fresh account record. This is not evidence that the superpriority portion of the lien was satisfied.

1 recorded owner of the Property; stated the name and address of the person authorized by the HOA  
2 to enforce the Lien by sale; and contained language in 14-point bold type as follows:

3 **“WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU**  
4 **COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!”**

5  
6 12. In March of 2013, the HOA contracted to sell its right to future payment on a  
7 number of liens, including its lien in this case, to First 100, LLC (“Agreement”).

8 13. The Agreement required First 100 to pay the HOA \$1,476 for the rights.

9 14. On March 20, 2013, BANA purportedly assigned its interest, if any, in the Deed of  
10 Trust to Nationstar.

11 15. After at least 90 days had elapsed from the date of mailing of the Notice of  
12 Default, United Legal Services, Inc. (“ULS”) on the HOA's behalf, recorded a Notice of  
13 Foreclosure Sale on May 29, 2013 (“NOS”) stating New Freedom Mortgage owed \$7,806.42 to  
14 the HOA. The NOS included the amount necessary to satisfy the Lien; gave the time and place of  
15 the sale; and contained the following warning in 14-point bold type:  
16

17 **WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY**  
18 **THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU**  
19 **COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST**  
20 **ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL**  
21 **UNITED LEGAL SERVICES INC. AT (702) 617-3263. IF YOU NEED ASSISTANCE,**  
22 **PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN’S OFFICE,**  
23 **NEVADA REAL ESTATE DIVISION, AT 1-877-829-9907 IMMEDIATELY.**

24 16. The NOS was mailed to New Freedom, BANA, Nationstar and the Ombudsman,  
25 among others. The NOS was posted in three public places, posted on the Property, and published  
26 in a newspaper for three consecutive weeks.

27 17. The NOS states the sale would be made "without covenant or warranty, expressed  
28 or implied regarding, but not limited to, title or possession, or encumbrances, or obligations to  
satisfy any secured or unsecured liens."

- 1           18.    The NOS did not indicate whether it was a superpriority sale.
- 2           19.    The NOS did not list the superpriority payoff amount.
- 3           20.    There was no evidence introduced showing nuisance abatement or maintenance
- 4 charges on the account throughout the period.
- 5           21.    On June 22, 2013,<sup>4</sup> the HOA sale took place, and at the sale, Plaintiff placed the
- 6 highest cash bid of \$7,800.<sup>5</sup>
- 7
- 8           22.    At the time of the purchase Plaintiff was unaware of the Agreement.
- 9           23.    Plaintiff was a bona fide purchaser for value.
- 10          24.    The HOA foreclosure sale was conducted pursuant to the NOS. The HOA Lien
- 11 contained super-priority amounts.
- 12          25.    A Foreclosure Deed conveying title to the Property to Plaintiff was recorded on
- 13 June 24, 2013. As recited in the Foreclosure Deed, “[a]ll requirements of law have been
- 14 complied with, including, but not limited to, the elapsing of 90 days, mailing of copies of notice
- 15 of Lien of Delinquent Assessment and Notice of Default, and the mailing, posting and publication
- 16 of the Notice of Foreclosure Sale.”
- 17
- 18          26.    Prior to the sale, no entity paid the super-priority portion of the HOA’s lien.
- 19          27.    At the time of the sale, the property had an undisputed fair market value of
- 20 \$63,280.
- 21
- 22          28.    The Foreclosure Deed Upon Sale was recorded on June 24, 2013. The deed
- 23 identifies the property value as \$63,280 at the time of the sale.
- 24

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25           <sup>4</sup>     Mr. Atkinson testified he conducts the sales on Saturday so bidders will not be present at

26 his law office during business hours. Conducting a sale on Saturday in and of itself is not

27 unreasonable.

28           <sup>5</sup>     A representative from First 100 was an unsuccessful bidder at the auction.

29. At the time of the HOA's foreclosure sale, Nationstar serviced the remaining interest in the loan, if any.<sup>6</sup>

30. If any findings of fact are properly conclusions of law, they shall be treated as if appropriately identified and designated.

## CONCLUSIONS OF LAW

1. The HOA, through its agents, recorded and mailed, in compliance with and pursuant to NRS Chapter 116 and all applicable Nevada law, the following notices related to the Property; Notice of Delinquent Assessment Lien on April 4, 2012; Notice of Default and Election to Sell Under Homeowners Association Lien on May 29, 2012; and Notice of Foreclosure Sale on May 29, 2013.

2. The recitals as contained in the Foreclosure Deed serve as conclusive proof that the statutory requirements have been complied with as to the notice provisions of NRS 116.31162 through 116.31168, which concern the occurrence of default, notice, and publication of the foreclosure sale. The conclusiveness of the recitals as contained in the Foreclosure Deed can only be challenged via post-sale equitable claims supported by a finding of unfairness of the sale.

3. The only portion of the HOA's lien that is prior to the first deed of trust's interest is that amount for nine months of assessments.

4. First 100's payment to the HOA for the creditor's rights under the Agreement did not satisfy the superpriority portion of the HOA's lien.

5. In an action for quiet title, the Court must determine who holds superior title to real property.

<sup>6</sup> As a result of a very late disclosure of the identity of the true owner of the property, the Court denied the motion filed by Defendants to permit them to raise all issues related to a Freddie Mac ownership interest. While the Court recognizes additional defenses which might have been brought may have been case determinative, the Defendants failure to make this disclosure for five years and after close of the discovery period after remand is a textbook example of laches.

1           6.       When considering a quiet title claim, the record title is presumed valid.

2           7.       Here, Plaintiff met its burden by producing the Foreclosure Deed. Nationstar did  
3 not meet its burden and failed to rebut the validity of the Foreclosure Deed and the foreclosure  
4 sale. Plaintiff holds superior title because the Deed in Lieu of Foreclosure extinguished the  
5 interests of Tablante and New Freedom under the merger doctrine.  
6

7           8.       Merger may occur when the fee interest and a charge, such as a deed of trust  
8 encumbrance, vest in the possession of one person.

9           9.       Here, by virtue of the Deed in Lieu of Foreclosure, New Freedom became both the  
10 fee simple owner of the Property and holder of the Deed of Trust. As such, the Deed of Trust was  
11 extinguished by way of merger.

12           10.      Even without the merger doctrine, the Deed of Trust was extinguished by the  
13 foreclosure sale. The undisputed evidence establishes the HOA complied in all respects with NRS  
14 Chapter 116, and at the time of the foreclosure, the Lien contained amounts with super-priority  
15 status.  
16

17           11.      If any Conclusions of Law are properly Findings of Fact, they shall be treated as  
18 though appropriately identified and designated.

19                 Based upon the foregoing Findings of Fact and Conclusions of Law IT IS HEREBY  
20 ORDERED, ADJUDGED AND DECREED as follows:  
21

22           1.       IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Deed of  
23 Trust was extinguished by the Deed in Lieu of Foreclosure under the merger doctrine.

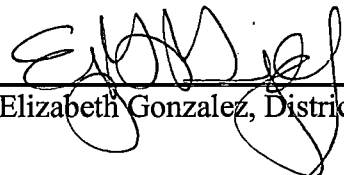
24           2.       IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Deed of  
25 Trust was extinguished by the HOA's non-judicial foreclosure sale.

26           3.       IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that title to real  
27 property located at 7255 W. Sunset Road, Unit 2050, Las Vegas, Nevada 89113 and bears APN  
28

1 176-03-510-102 is quieted in favor of West Sunset 2050 Trust.

2 4. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Nationstar, its  
3 assigns, successors, agents or any entity acting on its behalf, is permanently enjoined from any  
4 and all actions that would interfere or affect West Sunset 2050 Trust's title to the Property.

5 DATED this 16<sup>th</sup> day of July, 2019.

6  
7  
8   
9 Elizabeth Gonzalez, District Court Judge

10 Certificate of Service

11 I hereby certify that on the date filed, this Order was electronically served, pursuant to  
12 N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing  
13 Program.

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15 Dan Kutinac  
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