

IN THE SUPREME COURT OF THE STATE OF NEVADA

NATIONSTAR MORTGAGE LLC,

Appellant,

vs.

WEST SUNSET 2050 TRUST,

Respondent.

Case No. 79271

Related Case No. 70754

Electronically Filed
Feb 28 2020 07:12 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

From the Eighth Judicial District Court, Department XIII
The Honorable Elizabeth Gonzalez, District Judge
District Court Case No. A-13-691323-C

**APPENDIX TO OPENING BRIEF¹,
VOLUME IX**

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¹ Documents from Volumes 1-5 are identical to the Joint Appendix Volumes 1-5 of Related Case No. 70754.

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DATED February 28, 2020.

AKERMAN LLP

/s/ Scott R. Lachman

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Attorneys for Appellant

CERTIFICATE OF SERVICE

I certify that I electronically filed on February 28, 2020, the foregoing **APPENDIX TO OPENING BRIEF, VOLUME IX** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[] By placing a true copy enclosed in sealed envelope(s) addressed as follows: Not applicable.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Carla Llarena
An employee of Akerman LLP

EXHIBIT 27

EXHIBIT 27

Bank of America**Home Loans**

P. O. Box 941633
Simi Valley, CA 93094-1633

STEPHANIE TABLANTE
9037 LOGGERS MILL AVE
LAS VEGAS NV 89143-5417

Account No.: [REDACTED] 3271

IMPORTANT MESSAGE ABOUT YOUR LOAN

Effective July 1, 2011, the servicing of home loans by our subsidiary- BAC Home Loans Servicing, LP, transfers to its parent company- Bank of America, N.A. Based upon our records as of July 4, 2011, the home loan account noted above is affected by this servicing transfer. The information contained in this communication does not change or affect any other communications you may have received or will receive regarding this servicing transfer.

IMPORTANT ADDITIONAL INFORMATION

Under the federal Fair Debt Collections Practices Act and certain state laws, Bank of America, N.A. is considered a debt collector. As a result, we are sending you the enclosed Fair Debt Collection Practices Act Notice containing important information about your loan and your rights under applicable federal and state law.

If an attorney represents you in connection with your Bank of America home loan, please provide your attorney a copy of this letter and the enclosed legal notice.

THANK YOU

We appreciate the opportunity to serve your home loan needs. If you have any questions or need assistance regarding this servicing transfer, please call us at 1.877.488.7812 between 8 a.m. and 9 p.m. Eastern, Monday through Friday.

Please Note: This letter is being sent to the address and borrower(s) listed above. If there are other borrowers on this account who receive mail at a different address than above, please share this information with them.

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector attempting to collect a debt, and any information obtained will be used for that purpose. Notwithstanding the foregoing, if you are currently in a bankruptcy proceeding or have received a discharge of the debt referenced above, this notice is for informational purposes only and is not an attempt to collect a debt. If you are represented by an attorney, please provide this notice to your attorney.

Fair Debt Collections Practices Act and State Law Notice

The servicing of your home loan was transferred to Bank of America, N.A., effective July 1, 2011. Bank of America, N.A. is required by law to advise you of the following:

(1.) Under the federal Fair Debt Collections Practices Act and certain state laws, Bank of America, N.A. is considered a debt collector. Bank of America, N.A. must provide certain information to you in order to make sure you are informed when a communication is related to a debt. The purpose of this letter is therefore to provide you with information required by law, including the amount of the debt.

(2.) Debt Validation Notice:

- a) The amount of the debt: As of July 4, 2011, you owe \$169,460.54. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Therefore, if you pay the amount shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you or your agent before accepting the payment for collection. For further information, write to the address provided below or call 1.877.488.7812 between 8 a.m. and 9 p.m. Eastern, Monday through Friday.
- b) The name of the creditor to whom the debt is owed: FHLMC S/A-3DAY ARC-125949
Please note that unless Bank of America, N.A. is listed in 2(b) as the creditor of your loan, Bank of America, N.A. does not own your loan and only services your loan on behalf of your creditor, subject to the requirements and guidelines of your creditor.
- c) Unless you, within thirty (30) days after receipt of this letter, dispute the validity of the debt or any portion of the debt, Bank of America, N.A. will assume the debt to be valid.
- d) If you notify Bank of America, N.A. in writing, at the address provided below within the thirty (30) day period, that the debt, or any portion thereof, is disputed, Bank of America, N.A. will obtain verification of the debt and mail it to you.
- e) Upon your written request within the thirty (30) day period, Bank of America, N.A. will provide you with the name and address of the original creditor if it is different from the current creditor.

Bank of America, N.A.
Customer Service, CA6-919-01-41
Attention: DVN
P.O. Box 1140
Simi Valley, CA 93062-1140

If you have any questions regarding this notification, please call Bank of America, N.A. Customer Service at 1.877.488.7812 between 8 a.m. and 9 p.m. Eastern, Monday through Friday.

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector attempting to collect a debt, and any information obtained will be used for that purpose. Notwithstanding the foregoing, if you are currently in a bankruptcy proceeding or have received a discharge of the home loan debt referenced above, this statement is being furnished for informational purposes only. It should not be construed as an attempt to collect against you personally, Bank of America, N.A. will take no steps to collect from you personally or against the property securing this loan while the bankruptcy's automatic stay remains in effect. In the future, you may receive a discharge in bankruptcy. Under those circumstances, by operation of law, Bank of America, N.A. will retain the ability to enforce its rights against the property securing this loan should there be a default under the terms of your loan documents. If you are represented by an attorney, please provide this notice to your attorney.

SEE REVERSE SIDE

Notice to Colorado Residents: A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.AGO.STATE.CO.US/CADC/CADMAIN.CFM

Notice to California Residents: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

EXHIBIT 30

EXHIBIT 30

STANDARD RESIDENTIAL LEASE AGREEMENT

This Indenture of Lease made this 8 day of July, 2014, by and between
West Sunset 2050 Trust (hereinafter called "LESSOR/LANDLORD"),
and
Spencer Schofield (hereinafter called "LESSEE/TENANT").

That each of the aforesaid parties acknowledges the receipt of valuable consideration from the other and that each acts herein in further consideration of the engagements of the other as stated below:

1. PROPERTY

That the LESSOR/LANDLORD in consideration of the above hereby leases unto the LESSEE/TENANT the premises located at: 7255 W Sunset Rd #2050 Las Vegas NV 89113, in the county of Clark and the city of North Las Vegas and the state of Nevada, with the fixtures and equipment therein and the LESSEE/TENANT receives and accepts said premises and contents and agrees to pay the hereinafter prescribed rent therefore, for a period of time as described below.

2. LEASE PERIOD

To have and to hold said premises unto the LESSEE/TENANT for a period of 12 months to begin on the following date: 7/15/14, and to end on the following date: 7/14/15, and after the term will continue thereafter on a MONTH TO MONTH BASIS.

3. AUTOMATIC RENEWAL

This lease is to be automatically renewed for a MONTH TO MONTH period after the regular term of the lease unless either party notifies the other in writing at least 30 days in advance. Notice to vacate given by LESSEE/TENANT must be received by the LESSOR/LANDLORD no less than thirty (30) days before the next renewal payment due date.

4. RENTAL PAYMENTS

The LESSEE/TENANT in consideration of the premises and covenants and/or agreements contained herein agrees to pay said LESSOR/LANDLORD, his heirs, assigns or representative, as rental for said premises \$ 850.00 (dollars), per month. The first monthly rental payment is due on the date of: 7/15/14. Thereafter each successive monthly payment is due and payable on or before the 15th of each month thereafter throughout the term of this lease agreement.

Unless otherwise notified by LESSOR/LANDLORD,

ALL RENT AND PAYMENTS ARE TO BE MADE PAYABLE TO: BTK Properties LLC

ALL RENT AND PAYMENTS ARE TO BE SENT TO: BTK Properties LLC
PO Box 530541
Henderson, NV 89053

In addition thereto, LESSEE/TENANT agrees to pay when due all utility charges accruing or payable in connection with the LESSEE/TENANT'S use of said leased premises during tenancy.

5. LATE CHARGE

IF LESSEE/TENANT IS MORE THAN FIVE (5) DAYS LATE IN MAKING FULL PAYMENT OF MONTHLY RENT, HE/SHE SHALL BE CHARGED WITH A LATE FEE OF \$50.00. LESSEE/TENANT FURTHER AGREES TO PAY AN ADDITIONAL ADMINISTRATIVE CHARGE OF \$20.00 PER DAY FOR EACH DAY AFTER THE FIFTH DAY LATE THAT RENT IS NOT RECEIVED BY THE OWNER.

Initials of LESSOR/LANDLORD KB

1

Initials of LESSEE/TENANT ASJ

IF RENT HAS NOT BEEN RECEIVED BY LESSOR/LANDLORD BY THE TENTH DAY, THE ACCOUNT WILL BE IMMEDIATELY TURNED OVER FOR EVICTION AND COLLECTION PROCEDURE. LESSOR/LANDLORD RESERVES THE RIGHT TO FILE FOR EVICTION ANYTIME PRIOR TO THE TENTH DAY.

6. DISHONORED CHECKS

LESSEE/TENANT understands and agrees that should LESSEE/TENANT choose to pay rent with a check, and such check should be returned to LESSOR/LANDLORD as dishonored, then a reasonable fee of \$35.00 will be charged to LESSEE/TENANT plus any legal fees, court costs, bank charges, etc., to collect the check. Any payment thereafter received shall be first applied to pay for any such fees incurred, and second to any rent amount that may be owed by LESSEE/TENANT.

In such an event, LESSOR/LANDLORD also reserves the right to demand all future rents and payments thereafter be made in the form of cash or other certified funds, and at his discretion may choose NOT to receive further payments in the form of checks from LESSEE/TENANT.

7. LATE PAYMENTS

LESSEE/TENANT agrees that the LESSOR/LANDLORD may, at his option, extend the time of payment or accept partial payments of monthly rent; however, acceptance of late rental payments, partial payments, or late charges does NOT establish a practice or obligation of accepting future rent and late charges when past due. LESSEE/TENANT understands and agrees that LESSOR/LANDLORD reserves this right, but also understands that LESSOR/LANDLORD rightfully expects ALL monthly rent payments to be made ON TIME and does NOT intend to tolerate otherwise.

8. DEPOSIT

LESSEE/TENANT agrees to make a security deposit with the LESSOR/LANDLORD of \$ 850.00 (dollars) in cash as security for the payment of the rent herein and the faithful performance by the LESSEE/TENANT of all the terms, conditions and covenants of this Lease Agreement, as well as to indemnify the LESSOR/LANDLORD for any costs or expenses to which LESSOR/LANDLORD may be put by reason of any default by LESSEE/TENANT. It is expressly understood that the sum so deposited is not an advance payment of or on account of the rent herein reserved.

In no event shall the LESSEE/TENANT be entitled to the return of said deposit or any part thereof, until the full term of this lease has properly expired and until LESSOR/LANDLORD has inspected the premises for determining whether the terms, covenants and conditions hereof have been fully performed. Any deposit or remainder thereof will then be returned within 10 days from such time that property has been vacated in accordance with the lease and keys have been returned.

It is further agreed that institution of any legal action shall not effect a cancellation of this lease agreement so as to make sooner recoverable the said sum or any part thereof.

9. OCCUPANTS

LESSEE/TENANT agrees that the above premises will be occupied only by the LESSEE/TENANT and those persons listed below, only as a family dwelling place, and for lawful and moral purposes; furthermore, it is hereby agreed that only the following persons may occupy the aforestated premises and if any other persons are found to be living on said premises, LESSOR/LANDLORD may declare this lease violated and re-enter, taking over rightful possession forthwith.

Full names of all people who will be occupying these premises under the terms of this lease:

Initials of LESSOR/LANDLORD KLB

Initials of LESSEE/TENANT ArJ

Guest(s) staying over 15 days without the written consent of OWNER shall be considered a breach of this agreement.

10. PETS

LESSOR/LANDLORD _____ agrees or X does not agree to permit animals to occupy the premises. If the LESSOR/LANDLORD agrees to allow animals to occupy the premises the following animals may occupy the premises: _____, LESSEE/TENANT shall pay an additional deposit in the amount of \$ _____ (dollars) and shall be required to pay an additional monthly rent of \$ _____ (dollars) LESSEE/TENANT agrees to keep all pets in accordance with the Homeowner's Association regulations, including keeping the pets on a leash when outside the home and cleaning up any waste. LESSEE/TENANT also agrees to carry insurance deemed appropriate by LESSOR/LANDLORD to cover possible liability and damages that may be caused by such animals.

11. NOISE

LESSEE/TENANT agrees not to cause or allow any noise or activity on the premises which might disturb the peace and quiet of another LESSEE/TENANT and/or neighbor. Said noise and/or activity shall be a breach of this agreement.

12. NO SUBLETTING

It is hereby agreed that the assignments and/or subletting of this lease, said premises, or any part of same is strictly prohibited without the prior written consent of the LESSOR/LANDLORD.

13. CONDITION OF THE PREMISES

LESSEE/TENANT has examined and knows the conditions of said premises, and has received same in good, clean order and repair, except as herein otherwise specified, and no representations to the conditions or repair thereof has been made by the LESSOR/LANDLORD prior to, or at the execution of this lease that are not herein expressed or endorsed hereon; upon the termination of this lease in any way, LESSEE/TENANT will yield said premises to LESSOR/LANDLORD in good, clean condition, ordinary wear and tear excepted only.

14. MAINTENANCE BY LESSEE/TENANT

LESSEE/TENANT hereby agrees and covenants not to commit or permit any waste whatsoever, nor to create or permit any nuisance to exist on said premises; nor to permit anything to be thrown out the windows or doors from the balconies of said premises. LESSEE/TENANT further agrees that if a nuisance is created, the LESSOR/LANDLORD may declare a breach of this lease and re-enter and take possession of the premises after giving reasonable notice of his intentions.

LESSEE/TENANT hereby agrees and covenants to keep the exterior of the property and landscaping in a clean condition in accordance with the Common Community Regulations specified by the Homeowner's Association and/or others jurisdictions. This includes, but is not limited to, removing weeds from the yard, cutting grass, keeping landscaping stones and/or mulch in place, keeping the yard clear of debris and trash, and not making any changes to the exterior or interior of the property property. If a notice is issued by the Homeowner's Association or any other jurisdiction that any part of the property is not in compliance, for any reason, LESSEE/TENANT agrees to immediately notify LESSOR/LANDLORD of the problem and work to correct the problem before a fine is levied. If the Homeowner's Association or other jurisdiction levies a fine and LESSEE/TENANT did not make LESSOR/LANDLORD aware of the problem in advance and work to diligently correct the problem, LESSEE/TENANT agrees to pay such fine.

It is hereby agreed that changes and/or alterations to the building or premises are prohibited without the prior written consent of the LESSOR/LANDLORD. It is also agreed that LESSEE/TENANT shall not add any alarm systems or change or install any existing or additional locks or locking mechanisms anywhere on premises without prior written consent from LESSOR/LANDLORD.

Initials of LESSOR/LANDLORD KB

3

Initials of LESSEE/TENANT BJF

IT IS HEREBY AGREED THAT ROUTINE REPAIR AND MAINTENANCE OF THE AFORESAID PREMISES IS THE RESPONSIBILITY OF THE LESSEE/TENANT AND THAT THE LESSEE/TENANT SHALL KEEP SAID PREMISES IN GOOD CONDITION AND THE LESSEE/TENANT SHALL BEAR EXPENSE ASSOCIATION WITH NORMAL MAINTENANCE AND REPAIRS INCLUDING, BUT NOT LIMITED TO, MAINTENANCE, REPAIR AND/OR CLEANING OF CARPETS, DRAPES, WINDOW BLINDS, WALLS, CEILINGS, FIXTURES (INCLUDING SINKS AND TOILET BOWLS), WINDOWS, SCREENS, AND SCREEN DOORS. TENANT ALSO AGREES TO BEAR FULL RESPONSIBILITY AND EXPENSE ASSOCIATED WITH THE FOLLOWING IF EVER REQUIRED:

- REPLACEMENT OF BROKEN GLASS
- REPLACEMENT / REPAIR OF BROKEN SCREENS
- REPLACEMENT / REPAIR OF FAULTY FAUCET WASHERS AND FAUCET SEATS

LESSEE/TENANT FURTHER AGREES THAT IN THE EVENT SUCH NORMAL REPAIRS AND MAINTENANCE ARE PROVIDED BY THE LESSOR/LANDLORD, LESSEE/TENANT SHALL REIMBURSE LESSOR/LANDLORD.

LESSEE/TENANT is responsible for the upkeep of any furnace or heater and air conditioning systems including the cleaning and changing of the filters (if applicable) as needed. LESSEE/TENANT understands that damage to heaters, furnaces and central heating and cooling systems which occurs as a result of not properly cleaning or changing filters is strictly the responsibility of the LESSEE/TENANT.

LESSEE/TENANT is responsible for the care and maintenance of the lawn, shrubbery, and landscaping, and shall bear the expense of maintenance of the same.

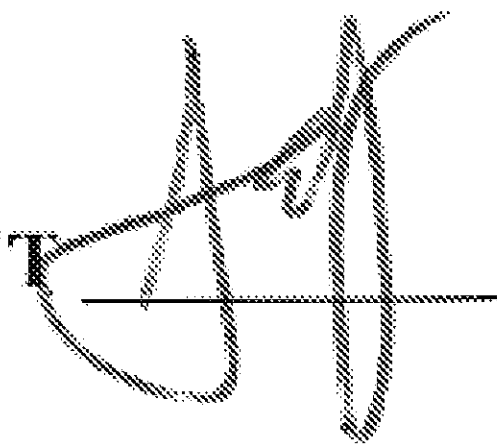
15. SPECIAL MAINTAINANCE AND REPAIRS

If such repairs are required, LESSEE/TENANT shall pay (A) \$150.00 for unstopping commodes, (B) for expenses, damages or repair occasioned by the stopping of waste pipes or overflow from bath tubs, commodes, wash basins or sinks and (C) for damage to window panes, window shades, curtain rods, wall paper or any other damage to the interior of the leased premises and LESSEE/TENANT shall commit and suffer no waste to be committed therein and no change or alterations of the premises shall be made or partitions erected nor walls papered nor any decorating or painting without prior consent in writing of the LESSOR/LANDLORD first had and obtained.

LESSOR/LANDLORD shall not be liable for damage occasioned by failure of LESSEE/TENANT to keep premises in good maintenance and repair as explained herein, and shall also not be liable for any damages done or occasioned by or arising from acts or neglects of co-tenants, or other occupants of the same building, or any owners or occupants of adjacent or continuous property.

I, LESSEE/TENANT, hereby agree and fully understand the meaning of this paragraph.

Initials of LESSEE/TENANT



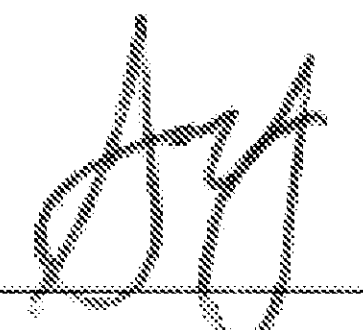
16. LESSOR/LANDLORD INSPECTIONS, REPAIRS AND ACCESS

LESSOR/LANDLORD reserves the right to enter the premises at reasonable hours for inspection and repairs/renovations/alterations, and within the period of sixty (60) days prior to the expiration or termination of this lease in order to show the premises to prospective tenants or prospective buyers. These rights also extend fully to any agents of LESSOR/LANDLORD that he should deem necessary or appropriate.

Initials of LESSOR/LANDLORD



Initials of LESSEE/TENANT



17. FIRE / ELEMENT DAMAGE

If the premises should be wrecked or destroyed by fire or by the elements or other causes so as to render them unfit for occupancy, or if the furnishings, if any, of the LESSOR/LANDLORD be so damaged or destroyed as to be rendered unfit for use, this lease may thereupon be terminated at the option of LESSOR/LANDLORD; but should the LESSOR/LANDLORD elect to repair or reconstruct said premises, and replace or repair said furnishings, he shall do so as speedily as possible. Should the damage be determined to be so extensive as to render the premises untenable, then the rent or a just and proportionate part thereof, according to the nature and extent of the damage shall cease until the same shall be repaired by LESSOR/LANDLORD, but the LESSEE/TENANT shall in no case be entitled to compensation or damage on account of annoyance or inconvenience in making said repairs, or on account of such destruction.

18. SMOKE DETECTORS

LESSEE/TENANT acknowledges the presence of a working smoke detector in the premises, and agrees to test the detector weekly for proper operation, and further agrees to replace any batteries (if so equipped) when necessary. LESSEE/TENANT further acknowledges that he/she understands how to test and operate the smoke detector in this Property. LESSEE/TENANT also agrees to repair or replace any inoperative smoke detector immediately should it fail to operate properly during any test.

Initials of LESSEE/TENANT



19. GENERAL RULES AND REGULATIONS

(a) **Locks and Burglar Alarms:** LESSEE/TENANT is prohibited from adding locks to, changing or in any way altering locks installed on the doors of the Property without written permission of LESSOR/LANDLORD. If the addition or changing of such lock is permitted, it is mandatory that LESSEE/TENANT shall immediately provide LESSOR/LANDLORD with keys to such locks. LESSEE/TENANT is prohibited from installing a burglar alarm, changing or in any way altering any existing burglar alarm installed on the Property without written permission of LESSOR/LANDLORD. If the installation or changing of such burglar alarm is permitted, it is mandatory that LESSEE/TENANT shall immediately provide LESSOR/LANDLORD with all codes to such burglar alarm. LESSEE/TENANT agrees that LESSOR/LANDLORD is not liable for any unauthorized entry into dwelling of any kind whatsoever.

(b) **Utilities:** LESSEE/TENANT is responsible for payment of all utilities, to include but not limited to water, sewage, garbage collection, cable TV, electricity, gas, local telephone service; even if the bills remain in LESSOR/LANDLORD's name. Failing to pay the utility bills will be interpreted as a default and a violation of this Agreement. Any installation costs are the responsibility of LESSEE/TENANT. Any wall jacks, telephone or cable installation shall remain with the Property.

(c) **Telephones:** LESSEE/TENANT shall supply LESSOR/LANDLORD with home, cell and work telephone numbers and agrees to immediately notify LESSOR/LANDLORD of any change of numbers during the term of this Agreement.

(d) **Storage:** No goods or materials of any kind or description which are combustible or would increase fire risk, shall be stored on the Property. Any storage shall be at LESSEE/TENANT's risk and expense, LESSOR/LANDLORD shall not be responsible for any loss or damage.

(e) **Walls:** No nails, screws or adhesive hangers except standard picture hooks, shade brackets and curtain rod brackets may be placed in walls, woodwork, or any part of the Property.

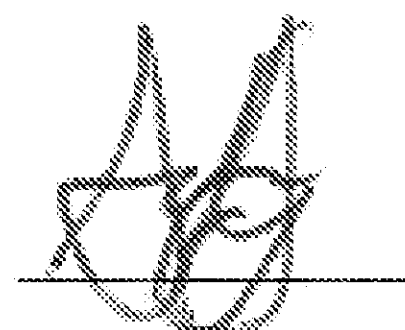
(f) **GOOD HOUSEKEEPING IS EXPECTED OF EVERYONE:** LESSEE/TENANT agrees to keep the Property in a clean and sanitary condition, and to remove any trash or rubbish as it accumulates.

(g) **Pest Control:** LESSEE/TENANT assumes the responsibility for keeping the premises free of all insects and pests, inclusive but not necessarily limited to roaches, water bugs, rodents, raccoons, squirrels, moths, termites or other insect life, and assumes the risk of all damages resulting, and neither the LESSOR/LANDLORD nor the LESSOR/LANDLORD'S agent shall be liable or responsible for damages or injury to the furnishings, wearing apparel or personal belongings or the LESSEE/TENANT or other

Initials of LESSOR/LANDLORD



Initials of LESSEE/TENANT



occupants of this property from such sources.

(h) **Furnace and/or Air Conditioning Systems maintenance:** LESSEE/TENANT shall change furnace filter(s) monthly.

(i) **Smoke alarm:** LESSEE/TENANT shall keep smoke alarm(s) and fire extinguisher (if provided) in working order including replacing the battery as needed. LESSEE/TENANT accepts any liability associated with the use and upkeep of all such devices and understands how to and agrees to test same.

(j) **Kerosene Heaters and Appliances:** LESSEE/TENANT agrees not to use any form of Kerosene space heater in the dwelling.

(k) **Water beds:** LESSEE/TENANT shall not have or keep any water bed or other liquid-filled furnishing in the dwelling without prior written permission of LESSOR/LANDLORD. A condition of approval is a waterbed insurance policy paid by LESSEE/TENANT with LESSOR/LANDLORD listed as loss payee.

(l) **Vehicles:** Vehicles shall NOT be parked on lawn or yard at any time. Non-operative vehicles are not permitted on Property. Any such non-operative vehicle may be removed by LESSOR/LANDLORD at the expense of LESSEE/TENANT, for storage for public or private sale, at LESSOR/LANDLORD's option, and LESSEE/TENANT shall have no right of recourse against LESSOR/LANDLORD thereafter.

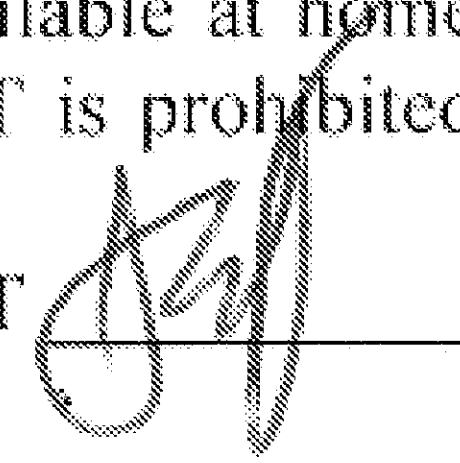
(m) **Yard care:** LESSEE/TENANT will be responsible for maintaining the lawn, bushes, and trees in a neat and attractive manner. If not cared for, LESSOR/LANDLORD has the right to have this done professionally and LESSEE/TENANT herewith agrees to pay the cost for same.

(n) **Gutters:** LESSEE/TENANT shall have gutters cleaned each fall or as needed.

(o) **Basements:** LESSOR/LANDLORD in no way warrants any basement against any leakage of any kind at any time.

(p) **Septic:** If residence has septic tank, LESSEE/TENANT shall not abuse system; do not deposit tobacco, coffee grounds or unnecessary food or other wastes or materials, including diapers and sanitary napkins, down sinks or commodes. LESSEE/TENANT shall regularly add septic tank treatment, available at home supply stores, to the system to keep it operating properly and efficiently. LESSEE/TENANT is prohibited from adding a garbage disposal to any house, which has a septic system.

Initials of LESSEE/TENANT



20. DEPARTURE

LESSEE/TENANT hereby agrees to deliver the premises to the LESSOR/LANDLORD at the expiration or termination of this lease agreement in good order and condition and to make good any and all damages to said premises inclusive of carpets if applicable. LESSOR/LANDLORD expects LESSEE/TENANT to deliver premises at such time in good condition comparable to its original state at the beginning date of this lease agreement — ordinary wear and tear excepted only.

In the event the premises are vacated prior to the expiration or termination of this lease, or any extension thereof LESSEE/TENANT agrees to pay LESSOR/LANDLORD all rents which would have been due had LESSEE/TENANT occupied said premises until the expiration or termination of this lease and further agrees to indemnify the LESSOR/LANDLORD for any expenses incurred as a result of LESSEE/TENANT'S early departure.

21. DEFINITION OF DEPARTURE


Departure is CONSTRUED as one of the following:

1. Utilities have been removed from the name of the LESSEE/TENANT.
2. LESSEE/TENANT has not occupied the property for 15 days; thus departure has been established by abandonment.
3. LESSEE/TENANT notified LESSOR/LANDLORD of date they would cease to occupy the property. It will be construed that departure has occurred on this date.
4. Other unusual circumstances that may be construed at the LESSOR/LANDLORD'S discretion that departure has occurred.

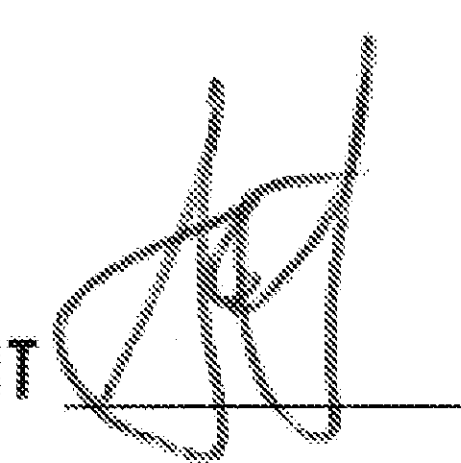
22. LESSEE/TENANT'S POSSESSIONS

It is hereby agreed that during the terms of this lease, LESSOR/LANDLORD does not assume responsibility for any of LESSEE/TENANT'S furnishings or possessions, wherever they may be kept on the premises, for any cause whatsoever.

Initials of LESSOR/LANDLORD



Initials of LESSEE/TENANT



LESSEE/TENANT acknowledges that LESSOR/LANDLORD'S does NOT have insurance to cover personal property damage caused by fire, theft, rain, war, acts of God, acts of others, and/or any other causes, nor shall LESSOR/LANDLORD be held liable for such losses. LESSOR/LANDLORD strongly recommends that LESSEE/TENANT purchase at LESSEE/TENANT'S expense an insurance policy commonly known as a "Renter's Insurance Policy" on behalf of and to help protect any of the LESSEE/TENANT'S furnishings or possessions from theft, damage, or any other unwanted occurrence.

It is also hereby agreed that after departure from premises, the LESSOR/LANDLORD is not responsible for any LESSEE/TENANT'S possessions, and LESSEE/TENANT waives claim for damages suffered.

LESSEE/TENANT also agrees not to remove or attempt to remove any personal property on the premises while there remains unpaid any portion of the rent, whether due or to become due; but if any attempt is made to remove any of the personal property referred to, the LESSOR/LANDLORD shall be authorized and empowered to seize and retain such property until he is fully paid for such rent as is or shall become due under the terms of this lease.

23. RECOVERY OF POSSESSIONS

After departure, LESSOR/LANDLORD may enter unit and remove any and all possessions of LESSEE/TENANT; and after making a reasonable attempt to observe any of the conditions herein made, assumed by him, including his covenant and agreement to pay rent, this lease may be forfeited and voided at the option of the LESSOR/LANDLORD or his agent, without any demand or notice of the LESSEE/TENANT. DEMAND AND NOTICE HEREBY EXPRESSLY WAIVED unless otherwise provided by law.

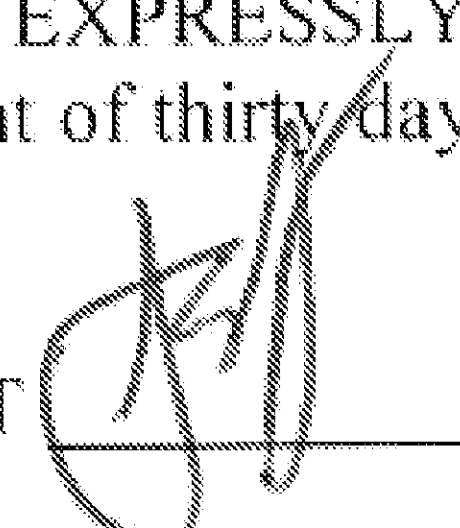
24. NOTICES

LESSOR/LANDLORD may serve any notice, required or desired to be given hereunder, on LESSEE/TENANT personally, by posting said notice on a conspicuous place on the property or by sending the same through the United States Postal Service, postage prepaid, to the address of the property listed in this agreement.

25. WAIVER OF NOTICE

All covenants, agreements, and obligations herein are also to be construed as conditions. If LESSEE/TENANT should fail to perform or observe any of the conditions herein made, assumed by him, including his covenant and agreement to pay rent, this lease may be forfeited and voided at the option of the LESSOR/LANDLORD or his agent, without any demand or notice to the LESSEE/TENANT. DEMAND AND NOTICE HEREBY EXPRESSLY WAIVED unless otherwise provided by law. Lessee/Tenant and/or all other occupants waive the right of thirty day notice of eviction.

Initials of LESSEE/TENANT



26. COLLECTION OF EXPENSES

In the event that LESSEE/TENANT should fail to pay any rent, fees or charges owed to LESSOR/LANDLORD, or to comply with any of the other covenants or conditions of this lease or of the Rules and Regulations governing tenancy, or to default on the terms of this lease agreement in any way, if action should be brought or notice served on account thereof to enforce the payment or rent herein, or to recover possession of the premises, or to enforce any provision of this lease, or to obtain damages, LESSEE/TENANT AGREES TO PAY LESSOR/LANDLORD REASONABLE COSTS AND EXPENSES IN SAID ACTION OR FOR SAID NOTICE, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, COLLECTION FEES, PROCESS SERVICE FEES, ETC., WHETHER OR NOT SUCH ACTION PROCEEDS TO JUDGMENT.

27. TRANSFER OF LEASE

This lease shall transfer to any new owner of the property during the duration of its validity. The new owner shall assume all rights and responsibilities of LESSOR/LANDLORD and LESSEE/TENANT shall retain all rights and entitlements hereunder, as specified by applicable Federal, State, and Local laws.

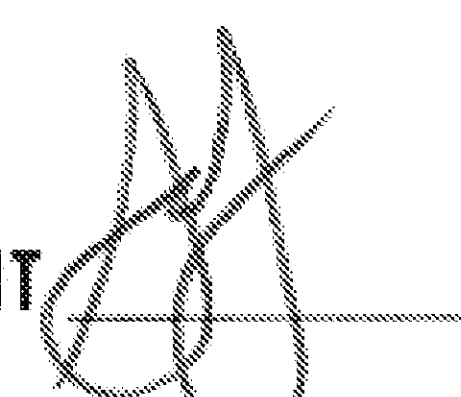
28. RENTAL INCREASES

It is understood that the LESSOR/LANDLORD may increase the amount of the monthly rent at the expiration of this lease by giving thirty (30) days written notice to the LESSEE/TENANT prior to the effective date of the

Initials of LESSOR/LANDLORD



Initials of LESSEE/TENANT



increased rental. It is further understood that should LESSEE/TENANT not wish to remain on premises under the increased rental, then he may terminate this agreement by giving thirty (30) days written notice to the LESSOR/LANDLORD prior to the effective date of the increased rent. It is further agreed that if within fifteen (15) days from the giving of any rental increase notice by LESSOR/LANDLORD, the LESSEE/TENANT has not provided appropriate written notice to the LESSOR/LANDLORD of his refusal to accept the change in rent and of his intention to terminate this contract and vacate the premises at the end of the time specified in the notice from the LESSOR/LANDLORD, then the LESSEE/TENANT shall be bound by the change in rent contained in the notice from the LESSOR/LANDLORD, and the balance of this RENTAL AGREEMENT shall remain in full force and effect as if no other changes had been made.

29. INVENTORY

The following items are contained on the premises and are NOT owned by, but may be used by LESSEE/TENANT during the term of this lease agreement:

30. CO-TENANTS JOINTLY & SEVERALLY

Where this lease agreement is signed by more than one person as "LESSEE/TENANT", all such persons shall be both jointly and severally liable for the payment of the agreed rents and fees and for the performance of all covenants to be kept by LESSEE/TENANT hereunder. Each party acknowledges that he had read this lease and agrees to the terms herein contained, and hereby acknowledges receipt of a copy of this lease agreement.

31. PARTIAL INVALIDITY

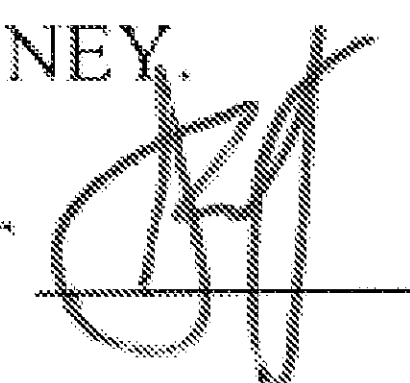
Nothing contained in this Agreement shall be construed as waiving any of the LESSOR/LANDLORD'S or LESSEE/TENANT'S rights under the law. If any part of this Agreement shall be in conflict with the law, that part shall be void to the extent that it is in conflict, but shall not invalidate this Agreement nor shall it affect the validity or enforceability of any other provision of this Agreement.

32. SPECIAL NOTICE

LESSEE/TENANT hereby agrees that after signing the above lease and making appropriate deposit, if for any reason LESSEE/TENANT fails to carry through with the terms of this lease agreement, LESSEE/TENANT fully forfeits the entire deposit amount of \$ 850.00.

IN OTHER WORDS, SIMPLY STATED, LESSEE/TENANT FULLY UNDERSTANDS AND AGREES THAT HIS DEPOSIT IS ENTIRELY NON-REFUNDABLE UNLESS HE FULFILLS THE TERMS OF THIS LEASE AGREEMENT IN ITS ENTIRETY AND FOR THE FULL TERM OF THE LEASE. IF LESSEE/TENANT PAYS HIS DEPOSIT, THEN ATTEMPTS TO BACK OUT, THE LESSEE/TENANT WILL LOSE HIS MONEY.

Initials of LESSEE/TENANT



33. REPORT TO CREDIT/TENANT AGENCIES

You are hereby notified that a nonpayment, late payment or breach of any of the terms of this rental agreement may be submitted/reported to a credit and/or tenant reporting agency, and may create a negative credit record on your credit report.

34. LEAD, ASBESTOS, MOLD AND/OR RADON NOTIFICATION REQUIREMENT

If Property was constructed prior to 1980 it may contain lead and/or asbestos containing materials. This shall serve as constructive notice that this Property was constructed in approximately _____. LESSEE/TENANT may have Property tested for lead, asbestos, mold and/or radon levels prior to occupancy. Should LESSEE/TENANT determine that the levels of lead, asbestos, mold and/or radon are unacceptable to LESSEE/TENANT, he/she may void this Agreement prior to taking possession of Property, but not later than three (3) days after entering into this Agreement with LESSOR/LANDLORD. LESSEE/TENANT herewith acknowledges receipt of the Federal

Initials of LESSOR/LANDLORD



Initials of LESSEE/TENANT



Pamphlet *Protect Your Family From Lead in Your Home* if property was constructed prior to 1980.

Initials of LESSEE/TENANT

[Handwritten initials]

35. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between LESSOR/LANDLORD and LESSEE/TENANT. No oral agreements have been entered into, and all modifications or notices shall be in writing to be valid.

IN TESTIMONY WHEREOF, LESSOR/LANDLORD AND LESSEE/TENANT EXECUTED this instrument of which LESSEE/TENANT has a copy on this 8th day of July, 2014.

LESSEE/TENANT SIGNATURE

DATE

LESSEE/TENANT Printed Name

LESSEE/TENANT SIGNATURE

DATE

LESSEE/TENANT Printed Name

LESSEE/TENANT SIGNATURE

DATE

LESSEE/TENANT Printed Name

LESSOR/LANDLORD (Authorized Representative)

DATE

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT

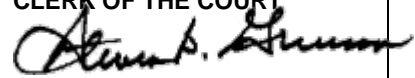
If not fully understood, please seek the advice of an attorney before signing.

Initials of LESSOR/LANDLORD

[Handwritten initials]

Initials of LESSEE/TENANT

[Handwritten initials]



NVD

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

DONNA WITTIG, ESQ.

Nevada Bar No. 11015

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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.

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

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 15th 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

1737

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"/> Verdict Reached
<input type="checkbox"/> Other -	<input type="checkbox"/> Other -
<input type="checkbox"/> Non-Jury	<input type="checkbox"/> Disposed After Trial Start
<input checked="" type="checkbox"/> Non-Jury	<input checked="" type="checkbox"/> Judgment Reached
<input type="checkbox"/> Transferred before Trial	<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;¹ 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 NRC 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.

¹ 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. 201103030003444.²

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,³ 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

² 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.

³ 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, 2013,⁴ the HOA sale took place, and at the sale, Plaintiff placed the
- 6 highest cash bid of \$7,800.⁵
- 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 ⁴ 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 ⁵ 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.⁶

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.

⁶ 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.

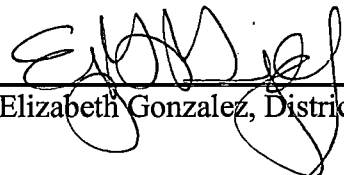
24 2. IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Deed of
25 Trust was extinguished by the HOA's non-judicial foreclosure sale.

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.

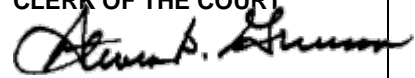
5 DATED this 16th day of July, 2019.

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.

14 
15 Dan Kutinac
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NEFF
ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
MELANIE D. MORGAN, ESQ.
Nevada Bar No. 8215
DONNA M. WITTIG, ESQ.
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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,
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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"/> Verdict Reached
<input type="checkbox"/> Other -	<input type="checkbox"/> Other -
<input type="checkbox"/> Non-Jury	<input type="checkbox"/> Disposed After Trial Start
<input checked="" type="checkbox"/> Non-Jury	<input checked="" type="checkbox"/> Judgment Reached
<input type="checkbox"/> Transferred before Trial	<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;¹ 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.

¹ 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. 201103030003444.²

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,³ 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

² 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.

³ 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, 2013,⁴ the HOA sale took place, and at the sale, Plaintiff placed the
- 6 highest cash bid of \$7,800.⁵
- 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 ⁴ 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 ⁵ 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.⁶

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.

⁶ 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.

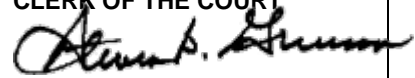
5 DATED this 16th day of July, 2019.

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.

14 
15 Dan Kutinac



NTC

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

MELANIE D. MORGAN, 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.: XI

**NATIONSTAR MORTGAGE LLC'S
NOTICE OF FILING OF PROPOSED
SUPPLEMENTAL FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
JUDGMENT**

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

NATIONSTAR MORTGAGE LLC,

Cross-Claimant,

v.

STEPHANIE TABLANTE,

Cross-Defendant.

Nationstar Mortgage LLC submits its proposed Supplemental Findings of Fact, Conclusions of Law, and Judgment attached hereto as Exhibit A, previously submitted to Department XI on July 10, 2019.

Respectfully submitted this 17th day of July, 2019

AKERMAN LLP

/s/ Melanie D. Morgan

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

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 17th day of July, 2019, I caused to be served a true and correct copy of the foregoing **NATIONSTAR MORTGAGE LLC'S NOTICE OF FILING OF PROPOSED SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT**, 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

EXHIBIT A

FFCL

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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.: XI

**NATIONSTAR MORTGAGE LLC'S
PROPOSED SUPPLEMENTAL FINDINGS
OF FACT, CONCLUSIONS OF LAW, AND
JUDGMENT**

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 This matter came before the court on a bench trial June 6, 2019, July 3, 2019, and July 12,
8 2019, Luis A. Ayon, Esq. and Steven H. Burke, Esq. of Ayon Law, PLLC appeared on behalf of
9 plaintiff West Sunset 2050 Trust and Melanie D. Morgan, Esq. and Ariel E. Stern, Esq. of Akerman
10 LLP appeared on behalf of defendant Nationstar Mortgage LLC. Having reviewed and considered
11 the facts, testimony of witnesses and arguments of counsel, for the reasons stated on the record, and
12 good cause appearing, the court makes the following findings of fact and conclusions of law:

13 **I. FINDINGS OF FACT**

14 1. On or about November 29, 2005, Stephanie Tablante financed purchase of the
15 property at 7255 West Sunset Road #2050, Las Vegas, Nevada 89113, APN: 176-03-510-102
16 (**property**) through a \$176,760 loan from New Freedom Mortgage Company (**loan**). (Tr. Exs. 1-2).

17 2. The loan is secured by a deed of trust by a first deed of trust listing Mortgage
18 Electronic Registration Systems, Inc. (**MERS**) as the beneficiary for lender and lender's successors
19 and assigns. The deed of trust was recorded with the Clark County Recorder on December 7, 2005 as
20 instrument number 20051207-0002367. (Tr. Ex. 2).

21 3. On March 3, 2011, Ms. Tablante, through the law office of John Peter Lee, Ltd.
22 recorded a deed in lieu of foreclosure whereby Ms. Tablante purported to convey any interest in the
23 property to New Freedom Mortgage. The deed in lieu states that "there are no agreements, oral or
24 written, other than this deed between the parties hereto with respect to the property hereby
25 conveyed." The deed in lieu is not signed by any party other than Ms. Tablante herself, and the
26 cover page of the deed clearly indicated the "deed in lieu" was to be returned to Ms. Tablante's
27 counsel upon recording, *not* New Freedom Mortgage Corporation. (Tr. Exs. 3-4).

28 ...

1 4. BAC Home Loans Servicing, LP¹ never approved Ms. Tabalente for a deed in lieu of
2 foreclosure. (Tr. Testimony of M. Labrie).

3 5. On July 29, 2011, MERS, acting solely as nominee for lender and lender's successors
4 and assigns, recorded an assignment of the deed of trust to BAC Home Loans Servicing, LP. (Tr.
5 Ex. 5).

6 6. On March 20, 2013, Bank of America, N.A. (**BANA**) assigned its interest in the deed
7 of trust to Nationstar. (Tr. Ex. 9).

8 7. The property is within the Tuscano Homeowners Association (the **HOA**) and is
9 governed by the HOA's CC&Rs recorded April 5, 2005. (Tr. Ex. 24).

10 8. At all relevant times, the HOA charged monthly assessments of \$164. (Tr. Ex. 14;
11 HOA; Tr. Testimony of K. Greengrass and Julia Thompson).

12 9. Ms. Tablante defaulted on her obligations to pay the HOA monthly assessment and
13 Red Rock Financial Services (**Red Rock**), on behalf of the HOA, recorded a Lien for Delinquent
14 Assessments on April 4, 2012 stating the HOA was owed \$2,695.10. (Tr. Ex. 7).

15 10. On May 29, 2012, Red Rock, on behalf of the HOA, recorded a Notice of Default and
16 Election to Sell stating the HOA was owed \$4,018.40. (Tr. Ex. 8).

17 11. Red Rock never provided BANA with a copy the notice of the default. (Tr. Ex. 20;
18 Tr. Testimony of M. Labrie).

19 12. Had BANA received notice of default, it would have followed its routine business
20 practice and procedure of requesting a payoff ledger from the HOA trustee to calculate the super-
21 priority portion of the HOA's lien and make or tender payment of the same. (Tr. Testimony of M.
22 Labrie).

23 13. BANA serviced the loan secured by first deed of trust until February 16, 2013, when
24 servicing transferred to Nationstar. (Tr. Ex. 28; Tr. Testimony of M. Labrie and A. Richardson).

25 14. In or about March 2013, the HOA contracted to sell its right to payment on a number
26 of liens, including its lien in this case, to First 100, LLC (**Factoring Agreement**). (Tr. Ex. 15).

27
28 ¹ BACHLS merged into Bank of America, N.A. in July 2011.

1 15. The Factoring Agreement required First 100 to pay the HOA \$1,476 for payment
2 rights under the plan. *Id.*, at § 2.02, and Ex, 3, NSM000309 (reference to 7255 W. Sunset Rd.,
3 #2205).

4 16. The HOA accepted the \$1,476 payment, equal to nine months of assessments, applied
5 it to the assessment account, and wrote off the remaining balance. (Tr. Testimony of K.
6 Greengrass).

7 17. On May 29, 2013, United Legal Services, Inc. (**ULS**) on the HOA's behalf, recorded a
8 notice of sale stating the HOA was owed \$7,806.42. (Tr. Ex. 10).

9 18. The notice of sale states the sale would be made "without covenant or warranty,
10 expressed or implied regarding, but not limited to, title or possession, or encumbrances, or
11 obligations to satisfy any secured or unsecured liens." *Id.*

12 19. The notice of sale did not indicate whether it was a superpriority sale and did not list
13 the superpriority payoff amount. *Id.*

14 20. Although ULS purports to have mailed a copy of the notice of sale to Nationstar,
15 Nationstar has no evidence of ever having received the notice of sale. (Tr. Testimony of A.
16 Richardson).

17 21. There was no evidence introduced showing nuisance abatement or maintenance
18 charges on the account throughout the relevant period.

19 22. On June 22, 2013, a Saturday, ULS sold the property at an auction sale. (Tr. Ex. 11;
20 Tr. Testimony of R. Atkinson).

21 23. There were only two or three bidders at the auction. (Tr. Testimony of J. Lefkowitz).

22 24. West Sunset 2050 Trust (**West Sunset**) purchased the property for \$7,800, an amount
23 less than the HOA's lien amount. (Tr. Ex. 11).

24 25. The Foreclosure Deed Upon Sale was recorded on June 24, 2013. The deed provides
25 the value of \$63,280 at the time of the sale. (*Id.*, Decl. of Value Form; *see also* Tr. Testimony of J.
26 Lefkowitz).

27 ...

28 ...

26. At the time of the HOA foreclosure sale, Nationstar serviced the loan on behalf of its owner. Nationstar has never owned the loan at any time, including the time of the HOA foreclosure sale. (Tr. Ex. 26; Tr. Ex. 28, NSM000832; Tr. Testimony of A. Richardson).

II. CONCLUSIONS OF LAW

A. Burdens of Proof

1. As explained by the Nevada supreme court on multiple occasions, "the burden of proof rests with the party seeking to quiet title in its favor." *Shadow Wood Homeowners Ass'n, Inc. v. N.Y. Cmty. Bancorp.*, 366 P.3d 1105 (2016) (citing *Breliant v. Preferred Equities Corp.*, 112 Nev. 663, 669, 918 P.2d 314, 318 (1996)). Plaintiff/purchaser bears the burden of proof on all its claims against the lender.

2. If, however, the court decides this matter in equity, it is lender's burden to establish that the equities favor setting aside the sale. *See Nationstar Mortgage LLC, v. Saticoy Bay LLC Series 2227 Shadow Canyon*, 405 P.3d 641, 646 (Nev. 2017) (***Shadow Canyon***) (citing *Shadow Wood*, 366 P.3d at 1114).

3. The owner of a deed of trust or its servicer bears the burden to prove any defenses to extinguishment of the deed of trust, including application of the Federal Foreclosure Bar, 12 U.S.C. § 4617(j) (although a third-party purchaser who argues that the FHFA consented to the extinguishment of a deed of trust owned by an Enterprise (as defined herein) has the burden to prove consent).

B. First 100's Payment Satisfied the Superpriority, Preserving the Deed of Trust

4. First 100's payment to the HOA in an amount equal to nine months' worth of assessments, and the HOA's acceptance of that payment, satisfied the superpriority portion of the HOA's lien, preserving the deed of trust by operation of law.

5. The Nevada supreme court explains that "NRS 116.3116 gives a homeowners' association (HOA) a superpriority lien on an individual homeowners' property for up to nine months of unpaid HOA dues." *SFR Investments Pool 1, LLC v. U.S. Bank, N.A.*, 334 P.3d 408, 409 (2014).

6. *SFR Investments* further provides a deed of trust can be preserved where the superpriority portion of the HOA's lien is paid before the HOA foreclosure sale. *Id.* at 418; *clarified*

1 *later in Horizons at Seven Hills v. Ikon Holdings*, 373 P.3d 66, 72 (Nev. 2016) (holding the
2 superpriority portion of the HOA's lien is limited to nine months assessments, plus nuisance and
3 abatement charges).

4 7. Most recently, the Nevada supreme court considered further clarified the doctrine of
5 superpriority lien satisfaction in *Bank of America v. SFR Investments Pool 1, LLC*, 427 P.3d 113,
6 118 (Nev. 2018) (hereinafter ***Diamond Spur***). The *Diamond Spur* case resolved, among other
7 questions of law not relevant here, issues surrounding the legal result of a superpriority payment and
8 the effect on a third-party purchaser. *Diamond Spur* held: (1) a payment sent to the HOA Trustee for
9 nine months' worth of assessments operates to discharge the superpriority portion of the lien and
10 preserve the first priority position of the deed of trust, *id.* at 117-18; and (2) bona fide purchaser
11 status is irrelevant in cases where such tender has been made, *id.* at 121.

12 8. That First 100 is not a deed of trust holder is of no significance. While the *SFR*
13 *Investments* discussed satisfaction of the superpriority payment by the first deed of trust holder, the
14 Nevada supreme court has not been so limiting. See e.g., *Saticoy Bay Series 2141 Golden Hill v. JP*
15 *Morgan Chase Bank, N.A.*, No. 71246, 2017 WL 6597154 (Nev. Dec. 22, 2017) (recognizing a
16 homeowner's right to satisfy the superpriority).

17 9. No restrictions exist that limit who may satisfy the superpriority portion of the HOA's
18 lien. The purpose of the statutory superpriority is to ensure prompt receipt of a limited amount of
19 assessments by the HOA. UCIOA § 3-116 cmt. 2. Such was the purpose of the Factoring
20 Agreement—to cure the HOA's deficient assessments. First 100 paid the HOA an amount equal to
21 nine months of common assessments, extinguishing the superpriority portion of the lien and
22 satisfying the goal of the Nevada Legislature in creating the superpriority lien.

23 10. Because First 100's satisfaction of the superpriority portion of the HOA's lien
24 preserved the deed as a matter of law, the Court need not determine whether West Sunset qualifies
25 for the protections of a *bona fide* purchaser. *Diamond Spur, supra*.

26 11. On this basis, judgment is entered in Nationstar's favor.

27 ...

28 ...

1 **C. The HOA Deprived BANA from Tendering the Superpriority, Rendering the Sale Unfair**

2 12. In *Shadow Canyon*, the Nevada supreme court confirmed that a grossly low sales
3 price may invalidate a sale when coupled with irregularities amounting to fraud, unfairness or
4 oppression. *Id.* at 646-47.

5 13. The greater the disparity between the sales price and the fair market value, the less
6 additional evidence of unfairness or oppression is required to justify setting aside the sale. *Shadow*
7 *Canyon, Id.* at 648 (discussing *Golden v. Tomiyasu*, 79 Nev. 503, 515, 387 P.2d 989, 995 (1963)).
8 As the *Shadow Canyon* court reiterated Nevada's long-standing rule, quoting *Golden*,

9 [I]nadequacy of price is a circumstance of greater or less weight to be
10 considered in connection with other circumstances impeaching the
11 fairness of the transaction . . . [W]here the inadequacy is palpable and
12 great, very slight additional evidence of unfairness or irregularity is
13 sufficient to authorize . . . the relief sought.

14 405 P.3d at 648 (quoting 387 P.2d 989, 995 (Nev. 1963)).

15 14. The Court finds Nationstar met its burden in showing the sale should be equitably set
16 aside. *Shadow Canyon*, 405 P.3d at 646-47.

17 **1. West Sunset Purchased the Property for a Grossly Inadequate Sales Price**

18 15. The price "inadequacy" in this case "is palpable and great." *See Shadow Canyon*, 405
19 P.3d at 648 (internal quotations omitted). West Sunset purchased the property for \$7,800, which
20 was 12.3% of its fair market value and an amount less than the amount owed as listed on the HOA's
21 notice of sale. *See* NRS 361.225, 361.227 (tying the taxable value to the fair market value of the
22 property). This is a grossly inadequate price. *Shadow Wood*, 366 P.3d at 1112 (acknowledging the
23 Restatement definition of "[g]ross inadequacy" as approximately 20% of fair market value).

24 16. Since West Sunset purchased the property for a grossly inadequate price, the Court
25 need only find "very slight additional evidence of unfairness" to reform or set the sale aside.
26 *Shadow Canyon*, 405 P.3d at 648.

27 **2. The Evidence Demonstrates Fraud, Unfairness or Oppression**

28 17. Despite being the beneficiary of record, Red Rock never sent a copy of the notice of
default to BANA.

...

1 18. *Shadow Canyon* also listed a set of "irregularities that may rise to the level of fraud,
2 unfairness, or oppression," and justify setting aside an HOA foreclosure. *Id.* at 16 n.11. These
3 include, "an HOA's failure to mail a deed of trust beneficiary the statutorily required notices."

4 19. Red Rock's failure to mail the notice of default to BANA prejudiced BANA,
5 Nationstar, and ultimately the owner of the loan. In 2012, at the time the notice of default was
6 recorded, BANA's routine practice and procedure was to retain counsel to tender the superpriority
7 portion of the HOA's lien to the HOA's collection agent for the specific purpose of preserving the
8 deed of trust.

9 20. Specifically, BANA would retain the law firm of Miles Bauer Bergstrom & Winters
10 LLP to send an initial letter to the collection agent who recorded the notice of default requesting
11 information on the amount of the superpriority portion of the HOA's lien.

12 21. If Miles Bauer received a ledger in response, as Red Rock generally provided, Miles
13 Bauer would calculate the amount of the superpriority portion of the HOA's lien, obtain a check for
14 that amount, and tender the superpriority payment to the collection agent.

15 22. In failing to mail the notice of default to BANA, BANA lacked knowledge the HOA
16 was foreclosing. Without knowledge of the HOA's foreclosure sale, Red Rock deprived BANA of
17 the opportunity to know its deed of trust was at risk of extinguishment and to retain Miles Bauer to
18 calculate and tender the superpriority amount it needed to preserve the deed of trust.

19 23. Had Red Rock mailed the notice of default to BANA, BANA could have acted to
20 preserve the deed of trust. The deprivation of this opportunity constitutes sufficient prejudice
21 justifying the setting aside of the sale under *Shadow Canyon*.

22 24. In addition, Nationstar's representative, Aaryn Richardson, testified there is no
23 evidence in Nationstar's system of record of it having received the HOA's notice of sale. Thus, the
24 servicers of the loan secured by the deed of trust never received any of the HOA's notices as required
25 by NRS 116.

26 25. The circumstances surrounding the Factoring Agreement provide further evidence of
27 unfairness. First 100's agreement mandated that ULS act as the foreclosure trustee. ULS set the sale
28

1 on a Saturday to reduce the amount of traffic that would interfere with Robert Atkinson's law
2 practice. (Tr. Testimony of R. Atkinson).

3 26. First 100 and ULS, by agreement, established an opening bid of \$99.00, an artificial
4 amount in no way tied to any amount owed to the HOA. There were only two or three bidders at the
5 sale, one of which was from First 100. These circumstances unfairly suppressed the amount fetched
6 at the auction because the party who owns the obligation, First 100, is participating in the very
7 bidding it orchestrated to commence at \$99.00.

8 27. Considering the fact that Red Rock did not provide the statutorily required notice of
9 default to BANA, BANA's resulting prejudice in its in ability to tender, and First 100's self-serving
10 Saturday auction with a \$99.00 opening bid and only two or three bidders, one of which was First
11 100, ample evidence of unfairness exists to support this Court's finding that the sale did not
12 extinguish the deed of trust under equitable principles.

13 28. West Sunset is not a *bona fide* purchaser. Jacob Lefkowitz testified that he
14 understood a quiet title action would be necessary in order to obtain title insurance. He understood
15 that sale was made without warranty, expressed or implied. Moreover, West Sunset purchased the
16 property for an amount less than the amount owed to the HOA as set forth in the recorded notice of
17 sale.

18 29. For these reasons, the Court finds equity demands the HOA foreclosure sale did not
19 extinguish the deed of trust. The deed of trust remained a valid, secured encumbrance against the
20 property that was not extinguished by the HOA sale.

21 **ORDER AND JUDGMENT**

22 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the deed of trust was not
23 extinguished by the HOA's foreclosure sale;

24 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the deed of trust
25 recorded December 7, 2007, as Instrument No. 20051207-0002367, remains a valid lien
26 encumbering the property located at 7255 W Sunset Rd Unit 2050, Las Vegas, NV 89113, APN 176-
27 03-510-102;

[proposed order only / unsigned]
DISTRICT COURT JUDGE

AKERMAN LLP

ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
MELANIE D. MORGAN, ESQ.
Nevada Bar No. 8215
DONNA WITTIG, ESQ.
Nevada Bar No. 11015
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134

Attorneys for Defendant Nationstar Mortgage LLC

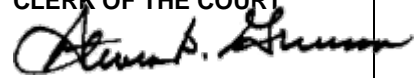
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this ____ day of _____, 2019, I caused to be served a true and correct copy of the foregoing **NATIONSTAR MORTGAGE LLC'S PROPOSED 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>	
---	--

An employee of AKERMAN LLP



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
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 17th 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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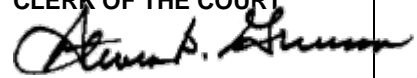
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AYON LAW, PLLC and that on this 17th 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

Las Vegas, Nevada 89148

Telephone: (702) 600-3200

Facsimile: (702) 447-7936

E-Mail: laa@ayonlaw.com
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 17th 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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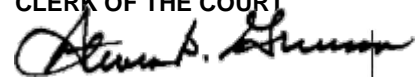
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AYON LAW, PLLC and that on this 17th 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



MEMC
LUIS A. AYON, ESQ.
Nevada Bar No. 9752
STEVEN H. BURKE, ESQ.
Nevada Bar No. 14037
AYON LAW, PLLC
8716 Spanish Ridge Ave., Suite 115
Las Vegas, Nevada 89148
Telephone: (702) 600-3200
Facsimile: (702) 947-7110
E-Mail: laa@ayonlaw.com
Attorney for Plaintiff,
WEST SUNSET 2050 TRUST

**EIGHTH JUDICIAL DISTRICT COURT
DISTRICT OF 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 ACTIONS

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

**MEMORANDUM OF COSTS AND
DISBURSEMENTS**

MEMORANDUM OF COSTS AND DISBURSEMENTS

COMES NOW, Plaintiff, WEST SUNSET 2050 TRUST, by and through its attorneys,
Luis A. Ayon, Esq. and Steven H. Burke, Esq. of AYON LAW, PLLC, and hereby submits the
following Memorandum of Costs and Disbursements itemized herein:

1778

1	<u>DESCRIPTION</u>	<u>COST</u>
2	Filing Fee of Complaint	\$270.00
3	Filing Fee for MSJ, Request for Judicial Notice and other	\$200.00
4	Filing Fee Notice of Appeal, Case Appeal Statement and other	\$24.00
5	Filing of Substitution of Attorney	\$03.50
6	Scanning	\$00.16
7	Printing	\$90.16
8	Photocopies	\$88.00
9	Parking for Court	\$12.00
10	Printing	\$01.92
11	Scanning	\$00.96
12	Printing	\$00.16
13	Parking for Court	\$09.00
14	Filing Fee of Pre Trial Disclosures	\$03.50
15	Filing Fee of Plaintiff's Objection to First Amended Disclosures	\$03.50
16	Filing Fee of Plaintiff's Objection to Second Amended Disclosures	\$03.50
17	Filing Fee of Plaintiff's Opposition to MIL	\$03.50
18	Filing Fee of Notice of Appearance	\$03.50
19	Parking for Court	\$12.00
20	Filing Fee for Trial Brief	\$03.50
21	Scanning	\$01.44
22	Printing	\$00.80
23	Parking for Court	\$15.00
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Filing Fee Notice of Voluntary Dismissal

\$07.00

TOTAL

\$757.10

Dated this 22nd day of July, 2019.

AYON LAW, PLLC

/s/ Steven H. Burke, Esq.
LUIS A. AYON, ESQ.
Nevada Bar No. 9752
STEVEN H. BURKE, ESQ.
Nevada Bar No. 14037
8716 Spanish Ridge Ave., Suite 115
Las Vegas, Nevada 89148
Attorney for Plaintiff, WEST SUNSET 2050 TRUST

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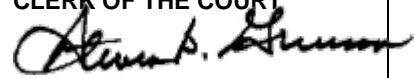
DECLARATION

State of Nevada)
)
County of Clark) ss.

Steven H. Burke, being duly sworn, states, per NRS 53.405, that affiant is the attorney that represents the Plaintiff and has personal knowledge of the above costs and disbursements expended; that the items contained in the above memorandum are true and correct, to the best of this affiant's knowledge and belief; and that the said disbursements have been actually and necessarily incurred, provided in this action.



Steven H. Burke, Esq.



1 **NOAS**
2 ARIEL E. STERN, ESQ.
3 Nevada Bar No. 8276
4 MELANIE D. MORGAN, ESQ.
5 Nevada Bar No. 8215
6 DONNA M. WITTIG, ESQ.
7 Nevada Bar No. 11015
8 AKERMAN LLP
9 1635 Village Center Circle, Suite 200
10 Las Vegas, NV 89134
11 Telephone: (702) 634-5000
12 Facsimile: (702) 380-8572
13 Email: ariel.stern@akerman.com
14 Email: melanie.morgan@akerman.com
15 Email: donna.wittig@akerman.com

16 *Attorneys for Defendant Nationstar Mortgage LLC*

17 **EIGHTH JUDICIAL DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 WEST SUNSET 2050 TRUST, a Nevada Trust,

20 Plaintiff,

21 v.

22 NEW FREEDOM MORTGAGE
23 CORPORATION, a Foreign Corporation;
24 BANK OF AMERICA, N.A., a National
25 Association; NATIONSTAR MORTGAGE,
26 LLC, a Foreign Limited Liability Company;
27 COOPER CASTLE LAW FIRM, LLP, a Nevada
28 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 APPEAL**

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

NATIONSTAR MORTGAGE LLC,

Cross-Claimant,

v.

STEPHANIE TABLANTE,

Cross-Defendant.

TO: ALL PARTIES OF RECORD AND THEIR COUNSEL:

Notice is hereby given that Defendant Nationstar Mortgage LLC appeals to the Supreme Court of Nevada from this Court’s Findings of Fact and Conclusions of Law, for which a notice of entry of which was entered on July 17, 2019, and all interlocutory orders incorporated therein.

DATED July 22nd, 2019.

AKERMAN LLP

/s/ Donna M. Wittig

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

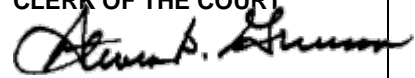
I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 22nd day of July, 2019, I caused to be served a true and correct copy of the foregoing **NATIONSTAR MORTGAGE LLC'S NOTICE OF APPEAL**, in the following manner:

(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/ Jill Sallade

An employee of AKERMAN LLP



ASTA
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
1635 Village Center Circle, Suite 200
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Telephone: (702) 634-5000
Facsimile: (702) 380-8572
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 CASE
APPEAL STATEMENT**

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

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

7 Defendant Nationstar Mortgage LLC submits its Case Appeal Statement pursuant to NRAP
8 3(f)(3).

9 1. The appellant filing this case appeal statement is Nationstar Mortgage LLC
10 (**Appellant**).

11 2. The order appealed is the Findings of Fact and Conclusions of Law. A Notice of
12 Entry of Order was entered on July 17, 2019.

13 3. Counsel for Appellant are Ariel E. Stern, Esq., Melanie D. Morgan, Esq., and Donna
14 M. Wittig, Esq. of AKERMAN LLP, 1635 Village Center Circle, Suite 200, Las Vegas, Nevada
15 89134.

16 4. Counsel for Respondent West Sunset 2050 Trust (**Respondent**) is Luis A. Ayon, Esq.
17 of AYON LAW, PLLC, 8716 Spanish Ridge Ave., Suite 115, Las Vegas, Nevada 89148.

18 5. Counsel for Appellant is licensed to practice law in Nevada. Counsel for Respondent
19 is licensed to practice law in Nevada.

20 6. Appellant is represented by retained counsel in the district court.

21 7. Appellant is represented by retained counsel on appeal.

22 8. Appellant was not granted leave to proceed in forma pauperis by the district court.

23 9. The date proceedings commenced in the district court was November 6, 2013.

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1 10. In this action, Appellant alleges that its Deed of Trust on the property located at 7255
2 West Sunset Road #2050, Las Vegas, Nevada 89113, Assessor Parcel No. 176-03-510-102 (the
3 **Property**) was not extinguished by the HOA sale. Respondent alleges that it owns the property free
4 and clear of all liens as a result of the HOA foreclosure sale. On July 16, 2019, the District Court
5 entered Findings of Fact and Conclusions of Law, granting judgment in Respondents' favor
6 following a bench trial.

7 11. This case has previously been the subject of an appeal to or original writ proceeding
8 in the Supreme Court: *West Sunset 2050 Trust v. Nationstar Mortgage LLC*, Case No. 70754. The
9 Nevada Supreme Court reversed and remanded after finding "Nationstar's rights were not prejudiced
10 by the HOA's failure to serve the Notice of Default upon Bank of America, the district court erred in
11 holding that defective notice Nationstar's deed of trust to survive the HOA foreclosure sale," and
12 remanded for further proceedings. Order of Reversal and remand filed June 28, 2018.

13 12. This appeal does not involve child custody or visitation.

14 13. This appeal does not involve the possibility of settlement.

15 DATED July 22nd, 2019.

16 **AKERMAN LLP**

17 /s/Donna M. Wittig

18 ARIEL E. STERN, ESQ.

19 Nevada Bar No. 8276

20 MELANIE D. MORGAN, ESQ.

21 Nevada Bar No. 8215

22 DONNA M. WITTIG, ESQ.

23 Nevada Bar No. 11015

24 1635 Village Center Circle, Suite 200

25 Las Vegas, Nevada 89134

26 Attorneys for Defendant Nationstar Mortgage LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 22nd day of July, 2019, I caused to be served a true and correct copy of the foregoing **NATIONSTAR MORTGAGE LLC'S CASE APPEAL STATEMENT**, 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:

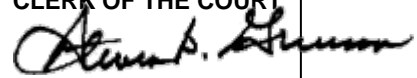
Luis A. Ayon, Esq. AYON LAW, PLLC 8716 Spanish Ridge Ave., #115 Las Vegas, NV 89148 <i>Attorneys for West Sunset 2050 Trust</i>	
---	--

/s/Jill Sallade

An employee of AKERMAN LLP

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
7/26/2019 3:47 PM
Steven D. Grierson
CLERK OF THE COURT



West Sunset 2050 Trust, Plaintiff(s)
vs.
New Freedom Mortgage Corporation,
Defendant(s)

Case No.: A-13-691323-C

Department 11

NOTICE OF HEARING

Please be advised that the Nationstar Mortgage LLC's Motion to Retax in the above-entitled matter is set for hearing as follows:

Date: August 30, 2019
Time: Chambers
Location: Chambers
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

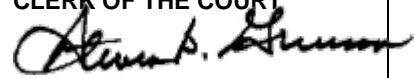
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Ondina Amos
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Ondina Amos
Deputy Clerk of the Court



MRTX
ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
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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
MOTION TO RETAX**

Hearing Requested

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

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

7
8 Nationstar Mortgage LLC, pursuant to N.R.S. 18.110(4), moves the Court for an order
9 retaxing and settling Plaintiff West Sunset 2050 Trust's (the **Trust**) costs and disbursements to only
10 allow those costs which are allowable by statute and properly supported with appropriate supporting
11 documentation, which is none.

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. INTRODUCTION**

14 The Trust's memorandum of costs seeks \$757.10 without any documentation supporting the
15 costs or proper itemization. The Trust's costs must be denied in its entirety, as required by Nevada
16 supreme court authority. To the extent the Trust eventually submits documentation supporting its
17 costs, costs must be reduced to the extent the costs are not properly itemized or do not relate to
18 Nationstar, requiring a reduction in costs of at least \$458.10.

19 **II. ARGUMENT**

20 **A. Authority to Retax & Scope of Recoverable Costs.**

21 Where a party seeks recovery of costs, NRS 18.110(4) allows the opposing party to move to
22 retax and settle costs upon notice. It provides:

23 Within 3 days after service of a copy of the memorandum, the adverse party may
24 move the court, upon two days' notice, to retax and settle the costs, notice of
25 which motion shall be filed and served upon the prevailing party claiming costs.
Upon hearing of the motion the court or judge shall settle costs.

26 NRS 18.110(4).

27 The costs that a prevailing party is allowed to recover are limited and set forth by statute.
28 The exhaustive list of recoverable costs includes:

1. Clerk's fees.
 2. Reporter's fees for depositions, including a reporter's fee for one copy of each deposition.
 3. Jurors' fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.
 4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.
 5. Reasonable fees of not more than five expert witnesses in an amount of not more than \$1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee.
 6. Reasonable fees of necessary interpreters.
 7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.
 8. Compensation for the official reporter or reporter pro tempore.
 9. Reasonable costs for any bond or undertaking required as part of the action.
 10. Fees of a court bailiff or deputy marshal who was required to work overtime.
 11. Reasonable costs for telecopies.
 12. Reasonable costs for photocopies.
 13. Reasonable costs for long distance phone calls.
 14. Reasonable costs for postage.
 15. Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.
 16. Fees charged pursuant to NRS 19.0335.
 17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.
- NRS 18.005.

"The determination of allowable costs is within the sound discretion of the trial court."
Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals, 114 Nev. 1348, 1352 (1998).
"Statutes permitting the recovery of costs are to be strictly construed because they are in derogation of the common law." *Id.*

...

...

1 Here, the Trust fails to categorize its costs, supply any invoices showing the costs were
2 actually incurred, or describe or justify the costs incurred. The Nevada supreme court requires costs
3 be denied where the prevailing party fails to demonstrate they were actually incurred, fails to provide
4 supporting documentation, and fails to itemize the costs.

5 The party claiming costs must show how the costs were necessary to and incurred in the
6 action and provide sufficient justifying documentation and specific itemization to demonstrate the
7 reasonableness and the accuracy of the costs claimed. *Waddell v. L.V.R.V. Inc.*, 122 Nev. 15, 25-26,
8 125 P.3d 1160, 1166-67 (2006). Such documentation must substantiate the reason for the claimed
9 cost, rather than merely provide the amount of cost incurred. *Village Builders 96, L.P. v. U.S.*
10 *Laboratories, Inc.*, 121 Nev. 261, 277, 112 P.3d 1082, 1093 (2005). *See also Bobby Berosini*, 114
11 Nev. at 1352 ("statutes permitting the recovery of costs are to be strictly construed because they are
12 in derogation of the common law We have held that 'reasonable costs' must be actual and
13 reasonable."); *Gibellini v. Klindt*, 110 Nev. 1201, 1205-06, 885 P.2d (1994).

14 Because the Trust failed to provide any itemization or any support whatsoever for any of its
15 costs, all of its costs must be denied. **Total reduction requested: \$757.10**

16 To the extent the court may allow costs without proper documentation, the Trust's costs must
17 still be reduced by a minimum of \$486.10, as follows.

18 **1. Scanning/Printing/Photocopying**

19 Reasonable expenses for photocopies are recoverable under NRS § 18.005(12); expenses for
20 printing and scanning are not. Because statutes permitting the recovery of costs are in derogation of
21 the common law they must be strictly construed. *Bobby Berosini, Ltd*, 114 Nev. at 1352. Printing
22 and scanning costs should be denied (\$95.44).

23 Moreover, the Trust unfairly lists these costs in a manner that prevents the court or Nationstar
24 from evaluating the propriety and reasonableness of its request of \$183.60. The Nevada supreme
25 court requires the prevailing party to supply appropriate documentation justifying its request. *Bobby*
26 *Berosini*, 114 Nev. at 1352-53 (denying photocopy costs because the prevailing party "failed to
27 provide sufficient justifying documentation beyond the date of each photocopy and the total
28 photocopying charge."). While Nationstar does not suggest the Trust account for every photocopy, it

1 must provide at least some evidence that would allow the court and parties to evaluate the
2 reasonableness or necessity of the charges. The Trust's documentation does not describe the number
3 of photocopies, the price per copy or for what filing the costs were incurred. The entire cost should
4 be denied. **Total reduction requested: \$138.60**

5 **B. Parking Fees**

6 Nevada statute does not allow a prevailing party to seek recovery of its parking costs. *See*
7 NRS 18.005. The Trust asks to recover \$48.00 in parking fees, with no receipts, no itemization as to
8 dates, no itemization to determine whether counsel was at court those days for other hearings for
9 which Nationstar should not be responsible. Neither Nationstar nor the court can determine the
10 reasonableness of the request. **Total reduction requested: \$48.00**

11 **C. Filing Fees**

12 The Trust provides no support to show when and for what the filing fee costs were incurred.
13 Further, the lack of specification of the Trusts costs prevents consideration of whether the costs
14 should be taxed against Nationstar. *Village Builders*, 121 Nev. at 277 (explaining such
15 documentation must substantiate the reason for the claimed cost, rather than merely provide the
16 amount of cost incurred).

17 The Trust obtained judgment against Nationstar only. Yet, a number of costs the Trust seeks
18 to recover pertain to other parties, or other activities not involving Nationstar. For example, the
19 Trust seeks recovery of the entire \$270 cost for filing the complaint, yet Nationstar was only one of
20 five defendants named. Nationstar's portion of the costs should be limited to \$54.00. Nationstar
21 should also not be responsible for any costs related to other parties or counsel's personal substitution
22 and notice of appearance costs. These costs total \$10.50; \$3.50 each for substitution of counsel,
23 notice of appearance and voluntary dismissal of another defendant). **Total reduction requested:**
24 **\$226.50**

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CERTIFICATE OF SERVICE

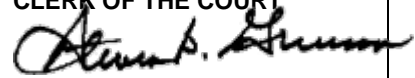
I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 26th day of July, 2019, I caused to be served a true and correct copy of the foregoing **NATIONSTAR MORTGAGE LLC'S MOTION TO RETAX**, in the following manner:

(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/ Jill Sallade

An employee of AKERMAN LLP



1 **NPP**

2 ARIEL E. STERN, ESQ.

3 Nevada Bar No. 8276

4 MELANIE D. MORGAN, ESQ.

5 Nevada Bar No. 8215

6 DONNA M. WITTIG, ESQ.

7 Nevada Bar No. 11015

8 AKERMAN LLP

9 1635 Village Center Circle, Suite 200

10 Las Vegas, NV 89134

11 Telephone: (702) 634-5000

12 Facsimile: (702) 380-8572

13 Email: ariel.stern@akerman.com

14 Email: melanie.morgan@akerman.com

15 Email: donna.wittig@akerman.com

16 *Attorneys for Defendant Nationstar Mortgage LLC*

17 **EIGHTH JUDICIAL DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 WEST SUNSET 2050 TRUST, a Nevada Trust,

20 Plaintiff,

21 v.

22 NEW FREEDOM MORTGAGE
23 CORPORATION, a Foreign Corporation;
24 BANK OF AMERICA, N.A., a National
25 Association; NATIONSTAR MORTGAGE,
26 LLC, a Foreign Limited Liability Company;
27 COOPER CASTLE LAW FIRM, LLP, a Nevada
28 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 POSTING OF BOND ON
APPEAL**

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

NATIONSTAR MORTGAGE LLC,

Cross-Claimant,

v.

STEPHANIE TABLANTE,

Cross-Defendant.

TO ALL PARTIES AND TO ALL INTERESTED PARTIES HEREIN:

Nationstar Mortgage LLC, by and through its attorneys of record, the law firm of Akerman, LLC, hereby lodges with this Court an APPEAL BOND in the amount of Five Hundred Dollars and No Cents (\$500.00) with the Clerk of the Court, a copy of the receipt is attached hereto as **Exhibit A**.

DATED: July 30, 2019.

AKERMAN LLP

/s/ Donna M. Wittig

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 30th day of July, 2019, I caused to be served a true and correct copy of the foregoing **NOTICE OF POSTING OF BOND ON APPEAL**, 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

EXHIBIT A

OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor
Akerman, LLP

Receipt No.
2019-44913-CCCLK

Transaction Date
07/23/2019

Description	Amount Paid
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On Behalf Of Nationstar Mortgage LLC

A-13-691323-C

West Sunset 2050 Trust, Plaintiff(s) vs. New Freedom Mortgage Corporation, Defendant(s)

Appeal Bond

Appeal Bond
SUBTOTAL

500.00

500.00

PAYMENT TOTAL

500.00

Check (Ref #26001608) Tendered

500.00

Total Tendered

500.00

Change

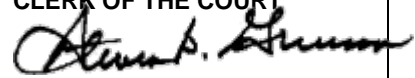
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07/23/2019
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OFFICIAL RECEIPT



REQT

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

DONNA M. WITTIG, ESQ.

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Attorneys for 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

REQUEST FOR TRANSCRIPT OF PROCEEDINGS

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

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

7 TO: Jill Hawkins, court recorder Department 11

8 Nationstar Mortgage LLC (**Nationstar**) requests preparation of a transcript of the
9 proceedings before the district court as follows:

10 Judge: The Honorable Elizabeth Gonzalez

11 Dates of proceeding: June 6, 2019, July 3, 2019, July 12, 2019

12 Portions of transcript requested: Entire transcripts

13 Number of copies required: One

14 I hereby certify that on August 8, 2019, I ordered the transcript listed above. Payment for the
15 transcript will be remitted upon confirmation by the court reporter of the balance owed.

16 DATED August 8, 2019.

17 **AKERMAN LLP**

18 /s/ Donna M. Wittig

19 ARIEL E. STERN, ESQ.

20 Nevada Bar No. 8276

21 MELANIE D. MORGAN, ESQ.

22 Nevada Bar No. 8215

23 DONNA M. WITTIG, ESQ.

24 Nevada Bar No. 11015

25 1635 Village Center Circle, Suite 200

26 Las Vegas, Nevada 89134

27 *Attorneys for Defendant Nationstar Mortgage LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of August, 2019, I caused to be served a true and correct copy of the foregoing **REQUEST FOR TRANSCRIPT OF PROCEEDINGS**, 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:

AYON LAW, PLLC – Attorneys for West Sunset 2040 Trust

Luis Ayon	laa@ayonlaw.com
Steven H. Burke	shb@ayonlaw.com
Coreene Drose	cld@ayonlaw.com
Mariana E. Leon	mel@ayonlaw.com
Evangeline Marquez	eem@swinjurylaw.com

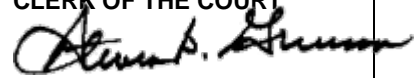
☐ **(UNITED STATES MAIL)** By depositing a copy of the above-referenced document for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, to the parties listed below at their last-known mailing addresses, on the date above written.

☐ **(PERSONAL SERVICE)** By causing to be personally delivered a copy of the above-referenced document to the person(s) listed below:

☐ **(EMAIL)** By emailing a true and correct copy of the above-referenced document to the person(s) listed below:

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Carla Llarena
An employee of AKERMAN LLP



OPPM

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
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

**PLAINTIFF WEST SUNSET 2050 TRUST'S
OPPOSITION TO NATIONSTAR
MORTGAGE LLC'S MOTION TO RETAX**

**PLAINTIFF WEST SUNSET 2050 TRUST'S OPPOSITION TO
NATIONSTAR MORTGAGE LLC'S MOTION TO RETAX**

COMES NOW, Plaintiff, WEST SUNSET 2050 TRUST ("West Sunset" or "Plaintiff", by and through its attorneys of record, LUIS A. AYON, ESQ., and STEVEN H. BURKE, ESQ., of the law firm of AYON LAW, PLLC, and hereby opposes Defendant Nationstar Mortgage LLC's ("Nationstar" or "Defendant") Motion to Retax pursuant to NRS 18.110.

1 This opposition and is made and based upon the following memorandum of points and
2 authorities, and any exhibits attached hereto, the papers and pleadings on file herein, and the
3 arguments of counsel at the time of hearing.

4 DATED this 9^h day of August, 2019.

5 **AYON LAW, PLLC**

6 /s/ Steven H. Burke

7 LUIS A. AYON, ESQ.

8 Nevada Bar No. 9752

9 STEVEN H. BURKE, ESQ.

10 Nevada Bar No. 14037

11 8716 Spanish Ridge Ave., Suite 115

12 Las Vegas, Nevada 89148

13 ***Attorneys for Plaintiff/Counter-Defendant,***
14 ***West Sunset 2050 Trust***

1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. LEGAL ARGUMENT**

4 **A. Defendant's Motion is Procedurally Defective and Has Not Correctly Identified Any**
5 **Coherent Argument**

6 Even if this Court rules that NRS 18.110 is applicable, under NRS 18.110(4), Nationstar
7 had 3 days after service of the memorandum of costs to move to retax. West Sunset's
8 Memorandum of Costs was filed on 7/22/2019. As such, if we add three days for service,
9 Nationstar had to file such Motion by 7/25/2019. Such Motion was not filed until 7/26/2019. Thus,
10 Plaintiff respectfully requests such Motion be denied entirely on that basis alone. However, if such
11 Motion's arguments are examined, each such argument is flawed.

12 Plaintiff's counsel is uniquely aware of the inordinate time that this matter has taken up of
13 this Court's precious time. Thus, Plaintiff's counsel will keep this Opposition short and to the
14 point. If any matter needs further discussion, Plaintiff's counsel respectfully requests the ability to
15 address such concerns at oral argument.

16 Further, the Motion does not correctly point out any flaws in any of the alleged costs.

17 According to NRS 18.005, Plaintiff has not included any costs that where outside the scope
18 of the statute. Thus, the costs that Plaintiff is seeking to recover in the amount of \$757.10 are
19 reasonable under NRS 18.005 and the cited statutes.

20 **1. Plaintiff's Counsel Sufficiently Itemized Scanning, Printing and Photocopies**

21 The photocopies in this matter have been produced over the course of discovery and
22 litigation, as well as for the preparation of trial and the trial exhibit binders. Each cost was laid out
23 and the court has made ruling upon same. West Sunset has assessed such scanning, printing and
24 copying fees at \$183.60, which was was laid out by the Memorandum of Costs. Under *Bergman*
25 *v. Boyce*, 85 Nev. 345, 455, P.2d 31(1993) and statute, each matter was properly itemized. A print-
26 out from Ayon Law PLLC's client management software indicating these costs are attached as
27 "Exhibit 1".

28 ///

2. Plaintiff's Counsel Properly Calculated Mileage and Parking Reimbursement

The mileage and parking fees that Plaintiff's counsel submitted were true and correct. Plaintiff's Counsel drove to several hearings, calendar call and trial, including dates of May 14, 2019, May 28, 2019, June 6, 2019, June 25, 2019, July 3, 2019, and July 12, 2019. Thus, the calculation for driving fees and parking to trial in the amount of \$48.00 is reasonable and correct and West Sunset stands by such memorandum.

3. Plaintiff's Counsel is Entitled to Reimbursement for Filing Fees Incurred

Each filed document was appropriately itemized and calculated correctly. A copy of the Eighth Judicial District Court Odyssey Financial E-filings incurred by West Sunset is attached as **“Exhibit “2”**.

CONCLUSION

Based on the foregoing, West Sunset respectfully requests Nationstar's Motion to Retax Costs Pursuant to NRS 18.110 be denied and costs in the amount of \$757.10 be awarded to West Sunset, or any such relief as this Court deems appropriate.

DATED this 9^h day of August, 2019.

AYON LAW, PLLC

/s/ Steven H. Burke
 LUIS A. AYON, ESQ.
 Nevada Bar No. 9752
 STEVEN H. BURKE, ESQ.
 Nevada Bar No. 14037
 8716 Spanish Ridge Ave., Suite 115
 Las Vegas, Nevada 89148
***Attorneys for Plaintiff/Counter-Defendant,
 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 9th day of August, 2019, I did cause a true copy of the foregoing **PLAINTIFF WEST SUNSET 2050 TRUST'S OPPOSITION TO NATIONSTAR MORTGAGE LLC'S MOTION TO RETAX**, 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

EXHIBIT “1”

Activities Export

08/09/2019

9:07 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
07/22/2019	\$	Filing Fee - Memorandum of Costs and Disbursements ● Unbilled	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Coreene L. Drose	1.00	3.50	-	3.50
07/17/2019	\$	Filing Fee - Notice of Voluntary Dismissal of Stephanie Tablante ● Unbilled	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Coreene L. Drose	1.00	3.50	-	3.50
07/17/2019	\$	Filing Fee - Notice of Voluntary Dismissal of New Freedom Mortgage Corp ● Unbilled	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Coreene L. Drose	1.00	3.50	-	3.50
07/03/2019	\$	Parking for Court ● Unbilled	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	15.00	-	15.00
06/25/2019	\$	Filing Fee - Notice of Appearance ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Coreene L. Drose	1.00	3.50	-	3.50
06/05/2019	\$	Printer Charge ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Evangeline Marquez	1.00	0.80	-	0.80
06/05/2019	\$	Scanner Charge ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Evangeline Marquez	1.00	1.44	-	1.44
05/31/2019	\$	Filing Fees	00028-Berberich Q07002 (2050 West	Luis Ayon	1.00	3.50	-	3.50

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\$280.60
0.0h
1811
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Activities Export

08/09/2019

9:07 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		● Billed invoice	Sunset)(A691323) (NSC 70754)(79271)					
05/31/2019	\$	Filing Fee - Trial Brief ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Coreene L. Drose	1.00	3.50	-	3.50
05/28/2019	\$	Parking for Court ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	12.00	-	12.00
05/23/2019	\$	Filing Fees ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	3.50	-	3.50
05/23/2019	\$	Filing Fee - Opposition to MIL ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Coreene L. Drose	1.00	3.50	-	3.50
05/06/2019	\$	Filing Fees ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	3.50	-	3.50
05/06/2019	\$	Filing Fee - Pltf's Objections to Nationstar's 2nd Amend PTDs ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Coreene L. Drose	1.00	3.50	-	3.50
05/01/2019	\$	Filing Fee ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	3.50	-	3.50

\$0.00 \$280.60

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1812 2/4

Activities Export

08/09/2019

9:07 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
05/01/2019	\$	Filing Fee - Pltf's Objection to Deft Nationstar's 1st Amend PTDs ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Coreene L. Drose	1.00	3.50	-	3.50
04/26/2019	\$	Filing Fee ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	3.50	-	3.50
10/15/2018	\$	Parking for Court ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	9.00	-	9.00
09/03/2018	\$	Printing Charges ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Mariana Leon	1.00	0.16	-	0.16
08/08/2018	\$	Scanning Charges ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Mariana Leon	1.00	0.96	-	0.96
02/28/2018	\$	Printing Charges ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	1.92	-	1.92
02/06/2018	\$	Parking for Court ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	12.00	-	12.00
01/31/2018	\$	Copy Charges ● Billed invoice	00028-Berberich Q07002 (2050 West	Alyssa Garcia	1.00	88.00	-	88.00

\$0.00 \$280.60

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Activities Export

08/09/2019

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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
			Sunset)(A691323) (NSC 70754)(79271)					
01/31/2018	\$	Printing Charges ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Alyssa Garcia	1.00	90.16	-	90.16
01/31/2018	\$	Scanning Charges ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Alyssa Garcia	1.00	0.16	-	0.16
06/04/2017	\$	Filing fee. ● Billed invoice	00028-Berberich Q07002 (2050 West Sunset)(A691323) (NSC 70754)(79271)	Luis Ayon	1.00	3.50	-	3.50
							\$0.00 0.0h	\$280.60 0.0h

EXHIBIT “2”

Financial

West Sunset 2050 Trust

Total Financial Assessment	\$494.00
Total Payments and Credits	\$494.00

11/6/2013	Transaction Assessment	\$270.00
-----------	------------------------	----------

11/6/2013	Efile Payment	Receipt #	West	(\$270.00)
		2013-	Sunset	
		134892-	2050	
		CCCLK	Trust	

5/22/2015	Transaction Assessment	\$200.00
-----------	------------------------	----------

5/22/2015	Efile Payment	Receipt #	West	(\$200.00)
		2015-	Sunset	
		54425-	2050	
		CCCLK	Trust	

7/1/2016	Transaction Assessment	\$24.00
----------	------------------------	---------

7/1/2016	Efile Payment	Receipt #	West	(\$24.00)
		2016-	Sunset	
		63884-	2050	
		CCCLK	Trust	

Bank of America

Total Financial Assessment	\$244.00
Total Payments and Credits	\$244.00

12/16/2013	Transaction Assessment	\$3.50
------------	------------------------	--------

12/16/2013	Efile Payment	Receipt #	Bank of	(\$3.50)
		2013-	America	
		150875-		
		CCCLK		

12/16/2013	Transaction Assessment	\$226.50
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12/16/2013	Efile Payment	Receipt #	Bank of	(\$223.00)
		2013-	America	
		150877-		
		CCCLK		

12/16/2013	Efile Payment	Receipt #	Bank of	(\$3.50)
		2013-	America	
		150878-		
		CCCLK		

12/19/2013	Transaction Assessment			\$3.50
12/19/2013	Efile Payment	Receipt # 2013-152646-CCCLK	Bank of America	(\$3.50)
1/13/2014	Transaction Assessment			\$3.50
1/13/2014	Efile Payment	Receipt # 2014-04535-CCCLK	Bank of America	(\$3.50)
1/31/2014	Transaction Assessment			\$3.50
1/31/2014	Efile Payment	Receipt # 2014-13129-CCCLK	Bank of America	(\$3.50)
2/3/2014	Transaction Assessment			\$3.50
2/3/2014	Efile Payment	Receipt # 2014-13737-CCCLK	Bank of America	(\$3.50)
Nationstar Mortgage LLC				
	Total Financial Assessment			\$447.00
	Total Payments and Credits			\$447.00
3/26/2014	Transaction Assessment			\$223.00
3/26/2014	Efile Payment	Receipt # 2014-35864-CCCLK	Nationstar Mortgage LLC	(\$223.00)
6/10/2015	Transaction Assessment			\$200.00
6/10/2015	Efile Payment	Receipt # 2015-60655-CCCLK	Nationstar Mortgage LLC	(\$200.00)
7/22/2019	Transaction Assessment			\$24.00

7/22/2019	Efile	Receipt #	Nationstar	(\$24.00)
	Payment	2019-	Mortgage	
		44669-	LLC	
		CCCLK		

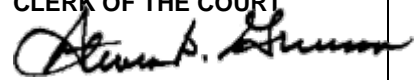
Cooper Castle Law Firm LLP

Total Financial Assessment	\$223.00
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Total Payments and Credits	\$223.00
----------------------------	----------

12/11/2013	Transaction		\$223.00
	Assessment		

12/11/2013	Efile	Receipt #	Cooper	(\$223.00)
	Payment	2013-	Castle	
		148669-	Law Firm	
		CCCLK	LLP	



RIS

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

MELANIE D. MORGAN, 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.: XI

**NATIONSTAR MORTGAGE LLC'S
REPLY IN SUPPORT OF ITS MOTION TO
RETAX COSTS**

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, files this reply in support of its motion to retax excessive and
8 unsupported costs sought by Plaintiff West Sunset 2050 Trust's (the **Trust**). The Trust has not
9 shown that it is entitled to the disputed costs. Nationstar's motion to retax costs should be granted in
10 full.

11 **I. Nationstar's Motion to Retax is Timely.**

12 The Trust claims Nationstar's motion to retax is untimely. *See* opp'n at 3. But the Trust fails
13 to accurately calculate the deadline. The Trust is correct that NRS 18.110(4) provides that a motion
14 to retax must be filed "[w]ithin 3 days after service of a copy of the memorandum [of costs]."
15 However, the Trust does not account for the three (3) calendar days that are added to that period of
16 time in the case of electronic service. *See* EDCR 1.14(c). The Trust's memorandum was served on
17 July 22, 2019. Taking the three days allotted by NRS 18.110(4) and the three extra days for
18 electronic service into account, Nationstar's motion was due Monday, July 29, 2019 – three days
19 after Nationstar filed its motion. Nationstar's motion is timely.

20 **II. The Trust's Costs for Scanning/Printing/Photocopying Must be Denied.**

21 In an attempt to salvage its request for scanning, printing, and photocopying, the Trust for the
22 first time attaches a printout with its purported costs. *See* opp'n at ex. 1. NRS § 18.005(12) allows
23 for reasonable expenses for photocopies but not for printing and scanning. The Trust's invoice lists
24 printing and scanning charges of \$95.60. These must be denied. The Trust's request for the
25 remaining charge of \$88 in copy charges is equally unavailing because the printout provides no
26 detail other than the date and amount. *Bobby Berosini, Ltd. v. PETA*, 114 Nev. 1348, 1352-53, 971
27 P.2d 383, 386 (1998) (denying photocopy costs because the prevailing party "failed to provide
28

1 sufficient justifying documentation beyond the date of each photocopy and the total photocopying
2 charge.")

3 **III. The Trust's Mileage and Parking Fees are Not Recoverable.**

4 The Trust seeks \$48 in fees for mileage and parking. *See* opp'n at 4. Its invoice, however,
5 only lists fees for parking, not mileage. NRS 18.005 does not provide for parking costs nor does the
6 Trust provide any authority supporting this proposition. Even assuming parking fees are recoverable
7 (which they are not), the Trust's request still fails because it provides no receipts, no itemization as to
8 dates, no itemization to determine whether counsel was at court those days for other hearings for
9 which Nationstar should not be responsible, and the reasonableness of the request cannot be
10 determined based on the printout.

11 **IV. The Filing Fees Must be Reduced.**

12 The Trust requests the recovery of \$494. *See* opp'n at ex. 2. The Trust, however, fails to
13 account for the other parties against whom the Trust filed suit in the filing fees it seeks. It seeks to
14 recover fees from Nationstar which also apply to other defendants. As outlined in the motion to
15 retax, Nationstar's portion should be pro-rated reducing the recoverable filing fees against Nationstar
16 by \$226.50. The Trust does not dispute this argument. *See* opp'n at 4.

17 **Conclusion**

18 For the foregoing reasons, the court should deny the Trust's requests for the costs detailed
19 above.

20 DATED August 22, 2019.

21 **AKERMAN LLP**

22 */s/ Donna M. Wittig*

23 ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

24 MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

25 DONNA M. WITTIG, ESQ.

Nevada Bar No. 11015

26 1635 Village Center Circle, Suite 200

27 Las Vegas, Nevada 89134

28 *Attorneys for Defendant Nationstar Mortgage LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 22nd day of August, 2019, I caused to be served a true and correct copy of the foregoing **NATIONSTAR MORTGAGE LLC'S REPLY IN SUPPORT OF ITS MOTION TO RETAX COSTS**, 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/ Erin Surguy

An employee of AKERMAN LLP

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Title to Property

COURT MINUTES

August 30, 2019

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

August 30, 2019

3:00 AM

Nationstar Mortgage LLC's Motion to Retax

HEARD BY: Gonzalez, Elizabeth

COURTROOM: Chambers

COURT CLERK: Dulce Romea

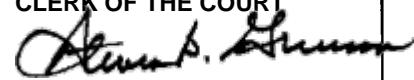
PARTIES None. Minute order only - no hearing held.

PRESENT:

JOURNAL ENTRIES

- The Court having reviewed the Motion to Retax and the related briefing and being fully informed, GRANTS the motion IN PART. Mileage and parking are disallowed. Printing and scanning costs of \$95.60 are disallowed. Counsel for Defendant is directed to submit a proposed order consistent with the foregoing within ten (10) days and distribute a filed copy to all parties involved in this matter. Such order should set forth a synopsis of the supporting reasons proffered to the Court in briefing. This Decision sets forth the Court's intended disposition on the subject but anticipates further order of the Court to make such disposition effective as an order.

CLERK'S NOTE: A copy of this minute order was distributed via Odyssey File and Serve. / dr 9-3-19



ORDR

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

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Email: donna.wittig@akerman.com

Attorneys for 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

**ORDER GRANTING IN PART
NATIONSTAR MORTGAGE LLC'S
MOTION TO RETAX COSTS**

NATIONSTAR MORTGAGE LLC,

Counterclaimant,

v.

WEST SUNSET 2050 TRUST, a Nevada Trust,

Counter-Defendant.

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

7 This matter came before the Court on Nationstar Mortgage LLC (**Nationstar**) Motion to
8 Retax Costs sought by West Sunset 2050 Trust (the **Trust**) in its Memorandum of Costs and
9 Disbursements, timely filed on July 26, 2019. On August 9, 2019, the Trust timely filed its
10 opposition to Nationstar's Motion to Retax. On August 22, 2019, Nationstar timely filed its Reply in
11 Support of Motion to Retax.

12 After reviewing all relevant pleadings in this matter, including the Trust's Memorandum of
13 Costs and Disbursements, Nationstar's Motion to Retax, the Trust's Opposition, and Nationstar's
14 Reply in Support of Motion to Retax, the Court orders as follows:

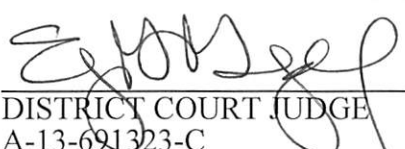
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ORDER

IT IS HEREBY ORDERED that Nationstar's Motion to Retax is GRANTED, IN PART, with respect to (i) the \$48.00 in mileage and parking costs incurred by the Trust, and (ii) the \$95.60 in printing and scanning costs incurred by the Trust.


IT IS FURTHER ORDERED that the Trust's Memorandum of Costs and Disbursements is GRANTED, IN PART, in the reduced amount of \$613.50 as actual costs that were reasonably and necessarily incurred by the Trust in this matter.

DATED: this 1 day of October ~~September~~, 2019.


DISTRICT COURT JUDGE
A-13-691323-C

Respectfully submitted by:

AKERMAN LLP

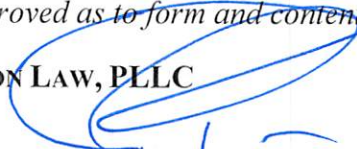


ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
MELANIE D. MORGAN, ESQ.
Nevada Bar No. 8215
DONNA M. WITTIG, ESQ.
Nevada Bar No. 11015
1635 Village Center Circle, Suite 200
Las Vegas, Nevada 89134

Attorneys for Nationstar Mortgage LLC

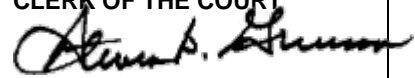
Approved as to form and content by:

AYON LAW, PLLC



LUIS A. AYON, ESQ.
Nevada Bar No. 9752
STEVEN H. BURKE, ESQ.
Nevada Bar No. 14037
8716 Spanish Ridge Avenue, Suite 115
Las Vegas, Nevada 89148

Attorneys for West Sunset 2050 Trust



NEOJ
ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
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Email: donna.wittig@akerman.com

Attorneys for Nationstar Mortgage LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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Plaintiff,

v.

NEW FREEDOM MORTGAGE
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BANK OF AMERICA, N.A., a National
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COOPER CASTLE LAW FIRM, LLP, a Nevada
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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 ORDER
GRANTING IN PART NATIONSTAR
MORTGAGE LLC'S MOTION TO RETAX
COSTS**

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

8 PLEASE TAKE NOTICE that an **ORDER GRANTING IN PART NATIONSTAR**
9 **MORTGAGE LLC'S MOTION TO RETAX COSTS** has been entered by this Court on the 2nd
10 day of October, 2019 in the above-captioned matter. A copy of said Order is attached hereto as
11 **Exhibit A.**

12 DATED this 4th day of October, 2019.

13 **AKERMAN LLP**

14 /s/ Donna M. Wittig

15 ARIEL E. STERN, ESQ.

16 Nevada Bar No. 8276

17 MELANIE D. MORGAN, ESQ.

18 Nevada Bar No. 8215

19 DONNA M. WITTIG, ESQ.

20 Nevada Bar No. 11015

21 1635 Village Center Circle, Suite 200

22 Las Vegas, Nevada 89134

23 *Attorneys for Nationstar Mortgage LLC*

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of AKERMAN LLP, and that on this 4th day of October, 2019, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER GRANTING IN PART NATIONSTAR MORTGAGE LLC'S MOTION TO RETAX COSTS**, 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>	
---	--

I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

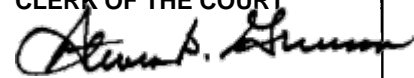
/s/ Carla Llarena
An employee of AKERMAN LLP

AKERMAN LLP

1635 VILLAGE CENTER CIRCLE, SUITE 200
LAS VEGAS, NEVADA 89134
TEL.: (702) 634-5000 – FAX: (702) 380-8572

EXHIBIT A

EXHIBIT A



ORDR

ARIEL E. STERN, ESQ.

Nevada Bar No. 8276

MELANIE D. MORGAN, ESQ.

Nevada Bar No. 8215

DONNA M. WITTIG, ESQ.

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Email: ariel.stern@akerman.com

Email: melanie.morgan@akerman.com

Email: donna.wittig@akerman.com

Attorneys for 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

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NATIONSTAR MORTGAGE LLC'S
MOTION TO RETAX COSTS**

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4 STEPHANIE TABLANTE,
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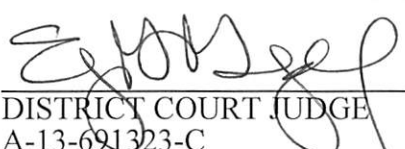
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ORDER

IT IS HEREBY ORDERED that Nationstar's Motion to Retax is GRANTED, IN PART, with respect to (i) the \$48.00 in mileage and parking costs incurred by the Trust, and (ii) the \$95.60 in printing and scanning costs incurred by the Trust.


IT IS FURTHER ORDERED that the Trust's Memorandum of Costs and Disbursements is GRANTED, IN PART, in the reduced amount of \$613.50 as actual costs that were reasonably and necessarily incurred by the Trust in this matter.

DATED: this 1 day of October ~~September~~, 2019.


DISTRICT COURT JUDGE
A-13-691323-C

Respectfully submitted by:

AKERMAN LLP

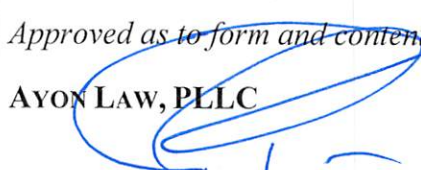


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