

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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4 PATRICIA ANTHONY and  
WILLIAM ANTHONY

5 Appellants,

SUPREME COURT

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Elizabeth A. Brown  
Clerk of Supreme Court

7 vs.

CASE NO.: CV17-00843

DEPT. NO.: 8

8 FEDERAL NATIONAL MORTGAGE  
9 ASSOCIATION,

10 Respondent.

11 \_\_\_\_\_/  
12 Appeal from the Second Judicial District Court  
State of Nevada  
13 District Court Case No.: CV17-00843

14 **APPELLANTS' EXCERPT OF RECORD**

15 **VOL. 3**

16 **Document No. 13 through Document No. 21**

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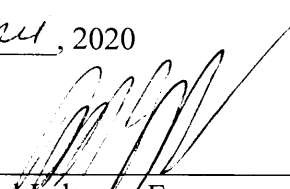
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**AFFIRMATION**  
**Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document filed in case herein does not contain the social security number of any person.

DATED this 6 day of April, 2020

  
\_\_\_\_\_  
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April, 2020 I emailed a true copy of the within **APPELLANTS' EXCERPT OF RECORD VOL. 3 Document No . 13 through Document No. 21** to the following:

Dolores Stigall  
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**DOCUMENT "13"**

**DOCUMENT "13"**

2645

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**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR THE COUNTY OF WASHOE**

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff,

v.

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or Occupants 1-5,

Defendants.

PATRICIA ANTHONY, WILLIAM  
ANTHONY,

Counterclaimant,

v.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Counterdefendant.

Case No.: Case No. CV17-00843

Dept. No.: 8

**FEDERAL NATIONAL MORTGAGE  
ASSOCIATION'S OPPOSITION TO  
PATRICIA ANTHONY AND WILLIAM  
ANTHONY'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

Plaintiff/ counter-defendant Federal National Mortgage Association (**Fannie Mae or plaintiff**) submits the within opposition to the motion for partial summary judgment by defendants/counter-claimants Patricia Anthony and William Anthony (**Anthonys or defendants**).

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

The Anthonys seek partial summary judgment on the issue of liability and damages under Nevada's equivalent of Title 9 of the UCC. For a number of reasons discussed below, summary judgment must be denied.

The Anthonys purchased two manufactured homes, connected them to each other to form one single family home, and made this home a permanent improvement to land by affixing the one, connected, manufactured home to the land by removing the wheels, groove, tongue and by attaching a porch and utilities. After converting these two manufactured homes into one home affixed to real property, with one legal address, in 2002 they presented this property to their lender as one single family home for a refinance loan in the amount of \$214,400. The loan was secured by a deed of trust.

Seven years later, in 2009, the Anthonys defaulted on the loan and shortly thereafter, in 2012, a non-judicial foreclosure pursuant to the deed of trust was completed. Fannie Mae obtained title of the property in April 2012 and a judgment of possession in November 2012. Fannie Mae obtained writs of restitution in 2013 and 2016. Despite the judgment of title and contested unlawful detainer action awarding possession of the property to Fannie Mae, the Anthonys refused to vacate the property.

The Anthonys are now seeking damages against Fannie Mae for the foreclosure sale of one of the manufactured homes, the 1996 Fuqua, but not the connected second manufactured home or the land on which the connected manufactured homes are affixed. *See* Motion for Partial Summary Judgment (**Motion**) at 2-3. According to the Anthonys, Fannie Mae violated the UCC in the sale of 1996 Fuqua because either: (1) the Fuqua was secured collateral and Fannie Mae failed to properly describe the property in the foreclosure sale in 2012; or (2) the Fuqua was unsecured and Fannie Mae filed a false transfer statement and wrongfully converted title to the Fuqua in 2015. Incredulously they seek damages based on the full value of a loan which was extended for the entire property, the connected manufactured homes which were affixed to real property, valued at \$270,000.

As discussed below, summary judgment must be denied. The Anthonys concede for purposes of the motion only that they believed the 1996 Fuqua was personal property collateral for the loan.

1 However, they ignore the fact that the 1996 Fuqua is connected to another manufactured home, was  
2 presented to the lender as one home, and is affixed to the land as real property.

3 The Anthonys cannot establish as a matter of law either a violation of the UCC or their  
4 entitlement to damages. Moreover, even assuming there were UCC violations, which Fannie Mae  
5 denies, recovery for any alleged violation is barred by the statute of limitations, estoppel and/or  
6 application of the statute, or reduced as appropriate based on the terms of the loan and what it secured.

7 **II. STATEMENT OF DISPUTED AND UNDISPUTED FACTS.**

8 **A. The Anthonys Presented The Property, Including Both Connected Manufactured**  
9 **Homes, As Real Property Collateral For The Loan.**

10 1. In late 2000, the Anthonys purchased two manufactured homes (**manufactured home**)  
11 from Trinity Homes, Inc., their employer for over 20 years: a 1996 Fuqua Golden Eagle, Serial no.  
12 15233AC, 38'6" by 66'8" (**1996 Fuqua**) and 1997 Fuqua Eagle Ridge, Serial no. 15470, 25'8" by 48'  
13 (**1997 Fuqua**). **Exhibit 1, Title and Report of Sale.**

14 2. On November 17, 2000, William Anthony, on behalf of Trinity Homes, Inc., filed a  
15 "Dealer's Report of Sale" with the Manufacture Housing Division of Nevada's Department of Business  
16 and Industry. **Exhibit 1, Title and Report of Sale.** The Report of Sale only references serial number  
17 15233AC (the 1997 Fuqua), but it also provides the trade name of "Eagle Pointe" and "Golden Eagle  
18 953", which is the name of the 1996 Fuqua. Mr. Anthony signed the "Affidavit of Dealer" on behalf  
19 of Trinity, certifying the cost of the structure as \$129,274.76. **Exhibit 1, Title and Report of Sale.**

20 3. The manufactured homes were attached to each other and physically located at 3705  
21 Anthony Place, Sun Valley, Nevada. The Anthonys recorded one "Affidavit of Conversion of  
22 Manufactured/Manufactured Home to Real Property", on November 22, 2000, as Doc. # 2502064.  
23 **Exhibit 2, Affidavit of Conversion.**

24 4. The Affidavit of Conversion included both manufactured homes as the property to be  
25 converted. Though only the year "1997" and model name "Eagle Ridge" are identified, the serial  
26 numbers for each manufactured home and the dimensions for each are included as descriptions of the  
27 property reflecting that both manufactured homes were attached to each other forming one unit. *See*  
28 **Exhibit 2, Affidavit of Conversion.**



5. In June 2002, the Anthonys obtained a refinance loan in the amount of \$214,400 from Capitol Commerce Mortgage Co. **Exhibit 3, Promissory Note.**

6. The Loan Application indicates that the Anthonys were seeking a loan not for vacant land, but for their residence, built in 2000. **Exhibit 4, Loan Application.** The Application states they purchased the home for \$270,000.

7. The Anthonys authorized an interior appraisal of the home at the time of the loan, further evidencing their intent to encumber the residence. **Exhibit 5, Appraisal.**

8. The appraisal reflects that the home pledged is one manufactured home that had multiple upgrades. The total square footage was listed at 3,798 square feet. The appraisal noted that the home included 7 bedrooms and 4 bathrooms, an attached porch, and crawl space underneath. Utilities were attached. Photographs attached to the appraisal reflect one unit with one address number placed on the front of the home. **Exhibit 5, Appraisal.**

9. The appraisal noted that the tongue and groove were removed to make the manufactured home a fixture on the property. **Exhibit 5, Appraisal.**

10. The appraisal specifically notes it does not include personal property in determining the value, which is \$268,000. **Exhibit 5, Appraisal.**

11. When the Anthonys refinanced their existing loan, they had worked for the manufactured home company for more than twenty years. **Exhibit 4, Loan Application.** The application also showed the Anthonys owned 8 other properties. *Id.* These are sophisticated borrowers who logistically know how to title the property.

**B. The Anthonys Sign the DOT, Default on the Loan, and Fannie Mae Forecloses.**

12. Based on the application and the appraisal, the Anthonys were approved for a loan in the amount of \$214,400, evidenced by a promissory note and secured by a deed of trust recorded against the property commonly described as 3705 Anthony Place, Sun Valley, Nevada (**the Property**). **Exhibit 3, Note; Exhibit 6, Deed of Trust.**

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13. In signing the deed of trust, the Anthonys granted to the trustee under the deed of trust the power of sale for the property that includes the land:

"TOGETHER WITH all the improvements now or hereafter erected on the property.

All of the foregoing is referred to in this Security Instrument as the 'Property'. ..."

**Exhibit 6, Deed of Trust at 3.**

14. The Anthonys also signed a Certificate of Occupancy stating they intended to reside in the home as their primary residence. **Exhibit 15.**

15. Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP has serviced the loan since July 26, 2002.

16. A notice of default was recorded, followed by a notice of sale. **Exhibit 7, Notice of Default, Exhibit 8, Notice of Sale.**

17. A foreclosure sale was completed in 2012 wherein Fannie Mae became the owner of the property by way of a credit bid. The Trustee Deed Upon Sale was recorded April 26, 2012. **Exhibit 9, Trustee Deed Upon Sale.**

**C. Fannie Mae Initiates an Unlawful Detainer Action.**

18. After obtaining title to the property at the foreclosure sale, Fannie Mae brought an unlawful detainer action on June 6, 2012. **See Exhibit 10, Order on MJOP in 12-SCV-0936.**

19. In the unlawful detainer action, in granting Fannie Mae's motion for judgment on the pleadings, the court noted that the Anthonys appeared and had an opportunity to challenge Fannie Mae's title of the Property. They were notified that Fannie Mae sought possession of the home by way of the foreclosure action, yet did not challenge it or present any defenses. **See Exhibit 10, Order on MJOP in 12-SCV-0936, at pg. 6 ¶¶4-5.**

20. Fannie Mae obtained a judgment of possession and a permanent writ of restitution on February 6, 2013 and again on July 6, 2016. **Ex. 11, Writs of Restitution Issued in 12-SCV-0936.**

21. The Anthonys refuse to vacate the property.

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1       **D.     The Anthonys Claim Title Six Months After the 2012 Foreclosure.**

2           22.     In October 2012, six months after the foreclosure sale, William Anthony filed an  
3     Affidavit Application for Certificate of Ownership of the 1996 Fuqua, claiming the title company lost  
4     the statement of origin. **Exhibit 12, Affidavit for Certificate of Ownership.**

5       **E.     Fannie Mae Files This Action To Obtain An Order Of Trespass To Remove The**  
6       **Anthonys and Obtain Permanent Injunctive Relief and the Anthonys File Their**  
7       **Answer and Counter-Claims.**

8           23.     Because the Anthonys would not vacate the property, on May 2, 2017, plaintiff brought  
9     this action to obtain an order of trespass and injunctive relief to prevent the Anthonys from interfering  
10    with the removal of their personal belongings from the home and preventing the Anthonys from re-  
11    entering the premises or interfering with plaintiff's quiet enjoyment.

12           24.     The parties agreed to an injunction allowing the Anthonys to continue to reside in the  
13    property in exchange for \$800 per month and payment of insurance and taxes. The Anthonys have  
14    continued to make those payments.

15           25.     On August 21, 2017, the Anthonys filed their counterclaim for Violation of Article  
16    Nine of the UCC, Conversion, and Abuse of Process/ Excessive Attachment.

17       **III.    LEGAL STANDARD**

18           "Summary judgment is appropriate . . . when the pleadings, depositions, answers to  
19    interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that  
20    no genuine issue of material fact exists, and that the moving party is entitled to judgment as a matter  
21    of law." *Wood v. Safeway, Inc.*, 121 P.3d 1026, 1031 (Nev. 2005). "While the pleadings and other  
22    evidence must be construed in the light most favorable to the nonmoving party, that party has the  
23    burden to 'do more than simply show that there is some metaphysical doubt' as to the operative facts  
24    to defeat a motion for summary judgment." *Id.* at 1031 (quoting *Matsushita Elec. Indus. Co. v. Zenith*  
25    *Radio*, 475 U.S. 574, 586 (1986)).

26       **IV.    REQUEST FOR JUDICIAL NOTICE**

27           Some of the preceding facts are supported by judicially noticeable facts that are either  
28    "generally known" or that "can be accurately and readily determined from sources whose accuracy  
   cannot reasonably be questioned." NRS 47.130.

1 Fannie Mae requests the Court take judicial notice of the publicly recorded instruments cited  
2 in the statement of undisputed facts, as well as the public pleadings filed in prior actions, Exhibits 6,  
3 7, 8, 9, 10, and 11. Facts derived from the publicly available records of the Washoe County Recorder  
4 and Washoe County Court records are judicially noticeable. *See Disabled Rights Action Comm. v.*  
5 *Las Vegas Events, Inc.*, 375 F.3d 861, 866 & n.1 (9th Cir. 2004) (court may take judicial notice of the  
6 records of state agencies and other undisputed matters of public record under Fed. R. Evid. 201);  
7 *Harlow v. MTC Fin. Inc.*, 865 F. Supp. 2d 1095, 1097 (D. Nev. 2012) ("When ruling on a motion for  
8 summary judgment, the Court may take judicial notice of matters of public record, including recorded  
9 documents.").

10 **V. ARGUMENT.**

11 **A. Both Manufactured Homes Were Pledged As Collateral For The Loan and**  
12 **Converted to Real Property.**

13 The Anthonys argue that the 1996 Fuqua is personal property that is either secured or  
14 unsecured. Motion at 2:8-10. However, both manufactured homes had been connected to each other  
15 at that time and converted to real property. The Affidavit of Conversion recorded in November 2000,  
16 reflects that that the manufactured homes were connected to each other and also converted to real  
17 property. **Ex. 2, 4, 5.** Moreover, the Anthonys clearly intended the connected manufactured homes  
18 to be real property for the security of the loan. The Anthonys supplied the connected manufactured  
19 homes, affixed to the land, as collateral to obtain the Loan. Their application specifically states that  
20 the loan is for the entire property, including the connected manufactured homes that the Anthonys  
21 stated they purchased in 2000. They provided an appraisal that included the interior and that appraisal  
22 reflects that the manufactured homes are connected, and states that personal property is not included  
23 in the appraisal and reflects that the single family manufactured home is affixed to the land by the  
24 removal of the wheels, the tongue and groove and the attachment to the land, the porch, the  
25 underpinnings, and the utilities.

1        **B. Assuming arguendo the 1996 Fuqua was personal property, the non-judicial**  
2        **foreclosure sale was permitted by the UCC**

3        Despite the Anthonys' argument to the contrary, even if the 1996 Fuqua was personal property,  
4        Fannie Mae complied with the UCC in the non-judicial foreclosure sale because it was secured by the  
5        deed of trust. *See* Motion at 5-8. Where a security agreement covers both personal and real property,  
6        a secured party may proceed "[a]s to both the personal property and the real property in accordance  
7        with the rights with respect to the real property, in which case the other provisions of this part do not  
8        apply." NRS 104.9604(1)(b). The deed of trust defines the secured property to include permanent  
9        improvements. **Ex. 6.**

10       The manufactured homes were attached to each other, the tongue and groove removed, utilities  
11       attached, a porch, one addresses given for the single family home, and a security instrument recorded  
12       against the property; thus, the manufactured homes qualify as permanent improvements. **Ex. 5.**  
13       *Cf. Matter of Colver*, 13 B.R. 521, 524-25 (Bankr. D. Nev. 1981) (in determining whether mobile  
14       home was real property for purposes of homestead exemption, court looked to whether the mobile  
15       home was legally severable from the land in finding the mobile home at issue was personal property:  
16       the creditor only had a security interest in the mobile home by way of an installment contract for the  
17       purchase of the mobile home, not the land on which the mobile home was located, the debtor had  
18       defaulted on the installment contract, the creditor sought a writ of possession by an action of replevin,  
19       a remedy for personal property, the mobile home was situated on leased space in a mobile home park,  
20       on jacks without wheels attached and adjacent to paved driveway and concrete patio with attached  
21       aluminum awning, and the space was rented by month from the mobile home park).

22       The Anthonys argue the manufactured home is not an "improvement" sufficiently described to  
23       satisfy NRS 104.9302 because it is "mobile", like an expensive car parked on the land, rather than a  
24       stick built house. *See* Motion at 8. On the contrary; as discussed above, the 1996 Fuqua was attached  
25       to a second manufactured home and affixed to the property by the removal of the wheels, tongue and  
26       groove, and attached to the utilities, with a porch, similar to a stick built house. It was not mobile, to  
27       be easily moved like car parked on the land. *See Yee v. City of Escondido*, 503 U.S. 519, 523, 112  
28       S.Ct. 1522, 118 L.Ed.2d 153 (1992) (manufactured homes are "largely immobile as a practical matter,

1 because the cost of moving one is often a significant fraction of the value of the mobile home itself.  
2 They are generally placed permanently in parks; once in place, only about 1 in every 100 mobile homes  
3 is ever moved."); *Laurel Park Cmty., LLC v. City of Tumwater*, 698 F.3d 1180, 1184  
4 (9th Cir. 2012) (accord).

5 Fannie Mae proceeded with the non-judicial foreclosure pursuant to the deed of trust. The  
6 Anthonys concede they do not challenge the foreclosure sale itself. Because the security instrument  
7 covered the real property, and the 1996 Fuqua (to the extent the 1996 was considered personal property  
8 rather than real property), the "other provisions" of the UCC did not apply. NRS 104.9604(1)(b).  
9 Thus, Fannie Mae was not required to comply with provisions such as NRS 104.614 and NRS  
10 104.9613, describing the contents required for a notice of sale of personal property. *See* Motion at 5-  
11 6. Nor can Fannie Mae have violated provision NRS 104.619(1) in filing the transfer statement. *See*  
12 Motion at 8-9.

13 **C. Any claim for violation of the UCC is time barred.**

14 As noted in the Motion, the statute of limitations for a claim for violation of Article 9 of the  
15 UCC is 3 years. *See* Motion at 7-8; NRS 11.190(3)(a)<sup>1</sup>. Thus, the Anthonys' claims that Fannie Mae  
16 violated the UCC in the 2012 sale of the property is barred by the three year statute of limitations.  
17 NRS 11.190. The Anthonys concede this. They rely on a Fifth Circuit case regarding the statute of  
18 limitations for a TILA claim to argue that the statute of limitations does not apply when the time barred  
19 claims are asserted as an off-set or recoupment. Motion at 8, citing *Coxson v. Commonwealth*  
20 *Mortgage Company*, 43 F. 3d 189 (5<sup>th</sup> Cir. 1995). This argument fails.

21 Recoupment is "[a] right of the defendant to have a deduction from the amount of the plaintiff's  
22 damages, for the reason that the plaintiff has not complied with the cross-obligations or independent  
23 covenants arising under the same contract." *Black's Law Dictionary* 1275 (6th ed.1990). Recoupment  
24 is available where the same parties and concerns the same transaction. It does not apply "when the  
25

26 <sup>1</sup> A claim based on a statute, like the alleged violations of the UCC here, is subject to the three-year statute of limitations  
27 in the absence of a specific limitation period providing otherwise. While limitation periods are provided for in a number  
28 of Articles under Nevada's version of the UCC (*see, e.g.*, NRS 104.5115, 1 year), there is no limitation period for a violation  
of Article 9 concerning secured transactions. *See* NRS 104.9101, et seq. As such, the three-year limitation period under  
NRS 11.190(1) applies.

1 defendant's allegations arise out of a transaction 'extrinsic to the plaintiff's cause of action.'" *Schettler*  
2 *v. RalRon Capital Corp.*, 128 Nev. 209, 222, 275 P.3d 933, 941 (2012) (recoupment available where  
3 claim sought to "challenge the foundation of the plaintiff's claim").

4 Fannie Mae's 2017 action is one for trespass for the Anthonys continued possession of the  
5 property. Fannie Mae has already obtained title to and possession of the property by way of the  
6 foreclosure in April 2012 and judgment of possession in November 2012. **Ex. 9, 10.** If there was a  
7 violation of NRS 104.9601 in attempting to collect the property without a right to do so, assuming it  
8 was not at the foreclosure sale, it was in obtaining the judgment of possession in November 2012. **Ex.**  
9 **10.** Fannie Mae is not seeking quiet title, or any title of the property, at this point. It has that.  
10 Recoupment under the UCC would arguably have been available to the Anthonys to challenge Fannie  
11 Mae's actions to obtain title or possession. *See Schettler*. However, that is not the case here. This  
12 action is not one for sale of the property and does not trigger the UCC, whether the 1996 is real or  
13 personal property. Claims that Fannie Mae violated the UCC are extrinsic to this action.

14 Additionally, cases in the Ninth Circuit have disapproved of *Coxson*. *See, e.g., Patino v.*  
15 *Franklin Credit Mgmt. Corp.*, No. 16-CV-02695-LB, 2017 WL 2289192, at \*5 (N.D. Cal. May 25,  
16 2017) (collecting cases)<sup>2</sup>. In *Coxson*, the court allowed the otherwise time barred TILA claim for  
17 recoupment because the creditor was seeking recovery of the property and had filed a proof of claim  
18 in the bankruptcy. Thus, the court found the creditor was seeking enforcement of the debt and the  
19 debtor was allowed to assert TILA defensively. *Coxson* is further distinguishable because in  
20 California, and Nevada, non-judicial foreclosure is not an action to collect the debt under TILA. *See,*

21  
22 <sup>2</sup> *Patino*, at 5; *Lima v. Wachovia Mortg. Corp.*, No. C09-04798 TEH, 2010 WL 1223234, at \*5 (N.D. Cal. Mar. 25, 2010)  
23 (collecting cases); *see also Harris v. Wells Fargo Home Mortg.*, No. CV10-09496 ODW (CWx), 2011 WL 1134216, at  
24 \*3 (C.D. Cal. Mar. 23, 2011) (noting that "[t]he general rule is that when the debtor hales the creditor into court, the claim  
25 by the debtor is affirmative rather than defensive," and, "[s]pecifically, in non-judicial foreclosure cases, federal district  
26 courts in California conclude that non-judicial foreclosures are not 'actions' as contemplated by TILA") (internal quotations  
27 and citations omitted); *Alakozai v. Valley Credit Union*, No. C10-02454 HRL, 2010 WL 5017173, at \*3 (N.D. Cal. Dec.  
28 3, 2010) (holding that "insofar as [the plaintiff] asserts recoupment in response to defendant's non-judicial foreclosure, his  
claim is not properly deemed a 'defense' to an 'action' for purposes of avoiding the applicable statute of limitations");  
*Parcray v. Shea Mortg. Inc.*, No. CV-F-09-1942 OWW/GSA, 2010 WL 1659369, at \*17-\*18 (E.D. Cal. Apr. 23, 2010)  
(denying plaintiff's argument that "her TILA claim is pled defensively to reduce or set-off the amount she owes  
Defendant"); *Carillo v. Citimortgage, Inc.*, No. CV 09-02404 AHM (CWx), 2009 WL 3233534, at \*3 (C.D. Cal. Sept. 30,  
2009) ("A foreclosure action is not an 'action to collect debt' within the meaning of the recoupment exception."); *Ortiz*,  
639 F. Supp. 2d at 1165 ("[N]on-judicial foreclosures are not 'actions' as contemplated by TILA.") (collecting cases).

1 *e.g., Tyson v. TD Servs. Co.*, 690 F. App'x 530, 532 (9th Cir. 2017) (Cal.) (Recoupment not available  
2 for time barred TILA claim because non-judicial foreclosure action was not one to collect a debt);  
3 *Harris v. Wells Fargo Home Mortg.*, No. CV10-09496 ODW CWX, 2011 WL 1134216, at \*2 (C.D.  
4 Cal. Mar. 23, 2011).

5 Here, the Anthonys' claims alleging violation of the UCC stem from the April 2012 foreclosure  
6 sale, or at the latest, the November 2012 judgment of possession. **Ex. 9, 10.** According to the  
7 Anthonys, the debt was extinguished in October 2012 because the foreclosure sale failed to include  
8 the 1996 Fuqua. Pursuant to this theory, because Fannie Mae did not obtain a deficiency judgment,  
9 Fannie Mae did not have a right to the manufactured homes. Yet plaintiff obtained a judgment of  
10 possession of the property (which included the manufactured homes) in November 2012. **Ex. 10.**

11 The Anthonys' claims that plaintiff violated the UCC by acquiring the property at a private sale  
12 (104.9610, Counter-complaint ¶44), failing to properly notice the sale (104.9614, Counter-complaint  
13 ¶45) and filing a statement of transfer of title of the 1996 Fuqua in 2015 (104.9619, Counter-complaint  
14 ¶41) all fail for the same reasons. The sale occurred in April 2012. **Ex. 9.** The notice of sale was  
15 recorded March 30, 2012. **Ex. 8.** While the transfer of title was filed in 2015, as defendants note, the  
16 transfer request was premised on the ownership Fannie Mae alleged it acquired at the foreclosure sale.  
17 *See Ex. 13.* Again, it is the foreclosure sale itself, and judgment of possession at the latest, which are  
18 the alleged wrongful acts that trigger the statute of limitations. Defendants had actual knowledge that  
19 Fannie Mae claimed to obtain title of the property, including the manufactured homes, in April 2012  
20 and used that title to obtain possession of the property in November 2012. Assuming defendants are  
21 correct and Fannie Mae was required to comply with the UCC's provisions related to personal  
22 property, defendants knew, or should have known, that the sale was allegedly not proper in no later  
23 than November 2012, and were required to bring their claims within 3 years, or by November 2015.  
24 The Anthony's didn't plead these claims until August 2017—almost two years too late.

25 **D. Defendants' Counter Claims Are Barred By Claim Preclusion.**

26 Next, the Anthonys cannot prevail on their claims because they are barred by res judicata/claim  
27 preclusion, laches, unclean hands and waiver. The issue as to title of the manufactured homes should  
28 have been brought in Fannie Mae's unlawful detainer action. They were not. Instead, the Anthonys



1 sat on their hands and waited until after Fannie Mae filed this action to bring these claims. Equity  
2 prohibits the Anthonys from recovering for any wrongdoing by Fannie Mae, especially when the  
3 Anthonys were the cause of the wrongs.

4 Defendants' counterclaims are barred here because they are compulsory counter claims that  
5 should have been brought in Fannie Mae's 2012 eviction action. Under NRCP 13(a), a claim is  
6 compulsory "if it arises out of the transaction or occurrence that is the subject matter of the opposing  
7 party's claim." The relevant consideration is whether the pertinent facts of the different claims are so  
8 logically related that issues of judicial economy and fairness mandate all issues be tried in one suit.  
9 *See United States v. Aquavella*, 615 F.2d 12, 22 (2d Cir. 1979).

10 Here, defendants' claims that the foreclosure sale did not include the manufactured homes are  
11 logically related to Fannie Mae's 2012 action for possession of the property, specifically the  
12 manufactured homes. Both claims arise out of the same transaction—the 2012 foreclosure sale. The  
13 defendants allege plaintiff failed to perfect its interest in the property, failed to properly notice the sale,  
14 and questioned whether the manufactured homes are sufficiently described under the security  
15 instrument, the deed of trust. These counterclaims are so logically related to those in the eviction  
16 action, where Fannie Mae sought to evict defendants from the manufactured home, judicial economy  
17 and fairness mandates that defendants bring their counterclaims in the 2012 suit. *See Mendenhall v.*  
18 *Tassinari*, 403 P.3d 364, 370–71 (Nev. 2017). But they were not.

19 Under Nevada law, claim preclusion applies where: (1) "the final judgment is valid," (2) "the  
20 parties or their privies are the same in the instant lawsuit as they were in the previous lawsuit, or the  
21 defendant can demonstrate that he or she should have been included as a defendant in the earlier suit  
22 and the plaintiff fails to provide a good reason for not having done so," and (3) "the subsequent action  
23 is based on the same claims or any part of them that were *or could have been brought* in the first case."  
24 *Weddell v. Sharp*, 350 P.3d 80, 85 (Nev. 2015) (en banc) (quotation and emphasis omitted).

25 Here, there is a valid final judgment in the eviction action between Fannie Mae and defendants.  
26 *See Ex. 10*. These are the exact same parties as in the instant litigation. Defendants' counter claims in  
27 this lawsuit are premised on plaintiff's alleged failure to perfect its interest in the property in the  
28 foreclosure sale and plaintiff's alleged wrongful attempt to obtain possession of the property without

1 first complying with the UCC. The counterclaims also allege plaintiff's underlying debt was  
2 extinguished in its failure to comply with the UCC and therefore plaintiff does not have any rights to  
3 the manufactured homes. Because plaintiff's eviction action sought a judicial determination that  
4 Fannie Mae obtained title to and possession of the property, which it contended included the  
5 manufactured homes, defendants' current claims against plaintiff clearly could have been brought in  
6 that case. *See Ex. 10.*

7 It would be inequitable to allow defendants to delay bringing claims to challenge the  
8 foreclosure until after Fannie Mae potentially loses any rights to collect a judgment or cure the  
9 foreclosure. If the defendants had asserted their claims that the foreclosure was not proper in defense  
10 of Fannie Mae's action confirming title and possession, Fannie Mae would have had an opportunity to  
11 protect its rights by filing a deficiency action if necessary. Instead, plaintiffs delayed challenging the  
12 foreclosure until Fannie Mae is prejudiced. *See Nevada State Bank v. Jamison Family Partnership,*  
13 *801 P.2d 1377, 106 Nev. 792 (1990).*

14 **E. Even Assuming, Arguendo, Fannie Mae Was Required To Comply With The UCC**  
15 **In The Sale Of The Property, The Anthonys Cannot Recover.**

16 NRS 104.9628 provides in pertinent part:

17 3. A secured party is not liable to any person, and a person's liability for a deficiency is  
18 not affected, because of any act or omission arising out of the secured party's reasonable  
19 belief that a transaction is not a consumer-goods transaction or a consumer transaction  
or that goods are not consumer goods, if the secured party's belief is based on its  
reasonable reliance on:

- 20 (a) A debtor's representation concerning the purpose for which collateral was to  
be used, acquired or held; or
- 21 (b) An obligor's representation concerning the purpose for which a secured  
obligation was incurred.

22  
23 The comment to NRS 104.9628 provides:

24 If a secured party reasonably, but mistakenly, believes that a consumer transaction or  
25 consumer-goods transaction is a non-consumer transaction or non-consumer-goods  
26 transaction, and if the secured party's belief is based on its reasonable reliance on a  
27 representation of the type specified in subsection (c)(1) or (c)(2), then this Article  
28 should be applied as if the facts reasonably believed and the representation reasonably  
relied upon were true. For example, if a secured party reasonably believed that a  
transaction was a non-consumer transaction and its belief was based on reasonable  
reliance on the debtor's representation that the collateral secured an obligation incurred  
for business purposes, the secured party is not liable to any person, and the debtor's

1 liability for a deficiency is not affected, because of any act or omission of the secured  
2 party which arises out of the reasonable belief.

3 Nev. Rev. Stat. Ann. § 104.9628, UCC Comment 2, Exculpatory Provisions (West).

4 Here, Fannie Mae reasonably believed the manufactured homes were real property for  
5 purposes of the transaction. *See Exs. 2, 4, 5.* That belief was premised on the borrowers'  
6 representations concerning the purpose of the loan. The manufactured homes had been connected to  
7 each other and represented to the lender as one, they were affixed to the land by having a crawl space,  
8 with the wheels, groove and tongue removed, and were connected to utilities. *See Exs. 2, 4, 5.* The  
9 borrowers also recorded an affidavit of conversion purporting to convert the manufactured homes into  
10 one piece of real property. *Ex. 2.* Moreover, the borrowers' loan application stated they were seeking  
11 to refinance a loan for their home, a home they had built in 2000 for \$270,000. *See Ex. 4.* The lender  
12 relied on all of these things in approving the loan.

13 Because of Fannie Mae's reasonable reliance, the disposition of the property after the default  
14 should proceed as if the UCC does not apply, consistent with the comments to the UCC. Defendants  
15 are not entitled to recover any damages from Fannie Mae under the statute. Fannie Mae reasonably  
16 relied on the Anthonys' statements in the loan application, appraisal, manufactured home documents,  
17 and deed of trust in the belief that the manufactured homes were real property and not personal  
18 property covered by the UCC.

19 Finally, even assuming the UCC statutory damages are available to the Anthonys, they have  
20 failed to establish evidence of the damages. *See Motion at 6-7.* The loan was for the land and the  
21 improvements, not solely for the 1996 Fuqua. *See Exhs. 3-6.* The manufactured homes are connected  
22 to each other and affixed to the land. *Id.* The Anthonys fail to demonstrate that the subject loan was  
23 extended for the 1996 Fuqua only.

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**VI. CONCLUSION**

Based on the above, the Court should deny the Anthonys' motion for partial summary judgment.

DATED this 10<sup>th</sup> of May, 2019

**AKERMAN LLP**

/s/ Jamie K. Combs  
DARREN T. BRENNER, ESQ.  
Nevada Bar No. 8386  
JAMIE K. COMBS, ESQ.  
Nevada Bar No. 13088  
1635 Village Center Circle, Suite 200  
Las Vegas, Nevada 89134

*Attorneys for Federal National Mortgage Association*

**AFFIRMATION**

(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding **FEDERAL NATIONAL MORTGAGE ASSOCIATION'S OPPOSITION TO PATRICIA ANTHONY AND WILLIAM ANTHONY'S MOTION FOR PARTIAL SUMMARY JUDGMENT** filed in this case does not contain the social security number of any person.

DATED this 10<sup>th</sup> of May, 2019**AKERMAN LLP**/s/ Jamie K. Combs

DARREN T. BRENNER, ESQ.

Nevada Bar No. 8386

JAMIE K. COMBS, ESQ.

Nevada Bar No. 13088

1635 Village Center Circle, Suite 200

Las Vegas, Nevada 89134

*Attorneys for Federal National Mortgage Association*

**Index To Exhibits:**

Exhibit	Description
1	Title Documents and Report of Sale Obtained from Nevada's Division of Housing
2	Affidavit of Conversion of Manufactured/ Manufactured Home to Real Property, recorded 11/22/200, Doc. #2502064
3	Promissory Note dated June 21, 2002 in the amount of \$214,400 (redacted)
4	Loan Application dated June 21, 2002 (only relevant portion attached, and redacted)
5	Property Appraisal, March 22, 2002
6	Deed of Trust, June 21, 2002
7	Notice of Default, May 2, 2011
8	Notice of Trustee Sale, March 3, 2012
9	Trustee Deed Upon Sale, April 24, 2012
10	Judgment on Motion for Judgment on the Pleadings in Civil Action 12-SCV-0936, November 20, 2012
11	Writs of Restitution Issued in 12-SCV-0936.
12	Affidavit Application for Certificate of Ownership by William Michael Anthony, October 18, 2012, Obtained from Nevada's Division of Housing
13	Affidavit, Application For Certificate of Ownership by Fannie Mae, November 15, 2015, Obtained from Nevada's Division of Housing
14	3-Day Notice to Quit, and Response
15	Certificate of Occupancy, June 21, 2002

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on this 10<sup>th</sup> day of May, 2019., I caused to be served a true and correct copy of the foregoing **FEDERAL NATIONAL MORTGAGE ASSOCIATION'S OPPOSITION TO PATRICIA ANTHONY AND WILLIAM ANTHONY'S MOTION FOR PARTIAL SUMMARY JUDGMENT**, in the following manner:

**(ELECTRONIC SERVICE)** Pursuant to the Second Judicial District Court's efile e-file and serve system, 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:

Michael Lehnrs, Esq. 429 Marsh Avenue Reno, Nevada 89509 <i>Attorney for Patricia &amp; William Anthony</i>	
--	--

/s/Jill Sallade

An employee of AKERMAN LLP

FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yviloria

**EXHIBIT 1**



1 EXHIBIT 2

2 AFFIDAVIT RE CERTIFICATION OF AUTHENTICITY OF RECORDS

3 I hereby declare under the penalty of perjury that the following statements are  
4 true to the best of my knowledge and belief:

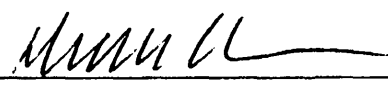
5 1. That I am the duly authorized Custodian of Records in the employ of the  
6 Division of Housing, Manufactured Housing.

7 2. The accompanying records are the original and complete records or an exact  
8 copy thereof of all the original records regarding the *title search and title documents*  
9 *pertaining to a 1996 FUQUA Eagle Mobile Home with Serial Number 15233AC*,  
10 which records are kept in the regular course and scope of my business, or my employer's  
11 business, and constitute ALL of the records *as requested*;

12 3. The entries contained in these original records were made by persons having  
13 actual knowledge thereof immediately or soon after the happening of the events or  
14 incidents which they purport to depict.

15 Dated this 27th day of July, 2018.

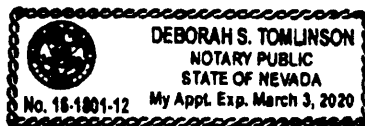
16 By:

  
Diane O'Connor, Program Officer III,  
Division of Housing Manufactured Housing  
Phone: 775.684.2948

17  
18  
19 STATE OF NEVADA }  
20 } ss:  
21 CARSON CITY }

22 This instrument was acknowledged before me on 7/27/18 by Diane O'Connor  
23 as Program Officer III of Division of Housing, Manufactured Housing, on behalf of whom  
24 instrument was executed.

25  
26 Deborah S. Tomlinson



27 Deborah S. Tomlinson  
28 Notary Public

My Commission Expires: March 3, 2020

STATE OF NEVADA—DEPARTMENT OF BUSINESS AND INDUSTRY  
MANUFACTURED HOUSING DIVISION

DEALER'S REPORT OF SALE

1. The Manufacturer's Statement of Origin MUST BE attached if this is a new unit.  
2. Check New or Used Sale: ☒ New ☐ Used  
3. Date of Purchase November 17, 2000  
Month Day Year

IDENTIFICATION OF STRUCTURE

4. SERIAL NUMBER 15233AC  
Enter complete serial number  
5. MANUFACTURER Fuguda  
6. TRADE NAME Eagle Pointe, Golden Eagle 953  
7. TRUE SIZE 38'6" x 66'8" YEAR 1996  
As shown on MCO or Title  
8. Single Wide ☐ Multi Wide ☒

IDENTIFICATION OF OWNER

9. NAME William Michael Anthony Check one box only  
10. NAME Patricia Sanburn Anthony ☐ AND  
11. PHYSICAL LOCATION 3705 Anthony Place ☒ OR  
Sparks Washoe NEVADA 89433 ☐ JTWROS  
City County State Zip  
12. MAIL ADDRESS Same  
location  
City County State Zip

IDENTIFICATION OF LIENHOLDER

13. NAME (none)  
NOTICE: Legal owner's name will be shown on the title certificate as shown above.  
14. MAIL ADDRESS

City State Zip

CERTIFICATION OF COST

15. BASE COST OF STRUCTURE..... \$ 129,274.76  
16. COST OF ACCESSORIES AND MATERIAL..... \$ 6600.00  
17. AMOUNT OF SALES TAX..... \$ 5623.45

AFFIDAVIT OF DEALER

Dealer hereby certifies that the foregoing is true and correct

18. DEALER NAME Trinity Homes, Inc.  
19. LICENSE NO. D1139 MFR. LICENSE NO. \_\_\_\_\_  
20. CC INSIGNIA NO. \_\_\_\_\_

I/we have been informed that the above-described manufactured home or commercial coach is taxable in the county in which it is located. Please contact the county assessor or county treasurer as applicable.

White Copy, Manufactured Housing Division; green copy, assessor where unit is located; pink copy, customer; yellow copy, dealer, to be kept in book.

by William Michael Anthony  
Signature

MH 187704



Manufacturer's  
Statement or Certificate  
OF ORIGIN TO A  
MANUFACTURED HOME  
\*\*DUPLICATE\*\*

The undersigned manufacturer hereby certifies  
that the new Manufactured Home described below, the property  
of said manufacturer has been transferred this 22 day of APRIL  
1997 on Invoice No. 5779  
to TRINITY HOMES  
whose address is 475 E MOANA  
RENO NV 89502

Trade Name of  
Manufactured Home FUQUA Series or  
Model Name 493  
No. Wheels 16  
Width 25 FT. 8 IN.  
Serial No. 15470 Length 48 FT. 0 IN.  
Shipping Weight 48,150  
Date of Manufacture APRIL 1997  
MONTH YEAR  
Other Data: \_\_\_\_\_

Said manufacturer hereby certifies that this written instrument constitutes the  
first conveyance of said vehicle after its manufacture and that the manufacturer's  
serial number set forth above has not been and will not be used by the manufacturer  
on any other vehicle manufactured by said manufacturer, and that there are not  
other manufacturer's certificates issued by the manufacturer for the vehicle  
described above.

**FUQUA HOMES, INC.**

BEND DIVISION

BY: Daniel Smith

(SIGN NAME)

Sales Coord  
(TITLE OR POSITION)

Manufacturer's  
Statement or Certificate  
OF ORIGIN TO A  
MANUFACTURED HOME  
\*\*DUPLICATE\*\*

The undersigned manufacturer hereby certifies  
that the new Manufactured Home described below, the property  
of said manufacturer has been transferred this 18TH day of DECEMBER  
1996 on Invoice No. 5468  
to TRINITY HOMES  
whose address is 475 E MOANA LANE  
RENO, NV 89502

Trade Name of  
Manufactured Home FUQUA Series or  
Model Name 953  
No. Wheels 30  
Width 38 FT. 6 IN.  
Serial No. 15233 Length 66 FT. 8 IN.  
Shipping Weight 84,000  
Date of Manufacture DECEMBER 1996  
MONTH YEAR  
Other Data: \_\_\_\_\_

Said manufacturer hereby certifies that this written instrument constitutes the  
first conveyance of said vehicle after its manufacture and that the manufacturer's  
serial number set forth above has not been and will not be used by the manufacturer  
on any other vehicle manufactured by said manufacturer, and that there are not  
other manufacturer's certificates issued by the manufacturer for the vehicle  
described above.

**FUQUA HOMES, INC.**

BEND DIVISION

BY: Daniel Smith

(SIGN NAME)

Sales Coord  
(TITLE OR POSITION)

FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yviloria

**EXHIBIT 2**

# Exception 18

## AFFIDAVIT

COUNTY OF Washoe

### CONVERSION OF MANUFACTURED/MOBILE HOME TO REAL PROPERTY

NRS 361.244

#### PART I TO BE COMPLETED BY APPLICANT

ASSESSOR'S PARCEL # 026-021-56

#### MANUFACTURED/MOBILE HOME INFORMATION

- Owner/Buyer name William M. and Patricia S. Anthony  
LAND MUST BE OWNED BY THE OWNER OF THE MANUFACTURED/MOBILE HOME.
- Physical location of manufactured/mobile home 3705 Anthony Place Sparks NV. 89433
- Manufactured/mobile home description: Manufacturer Fuqua Model Eagle Ridge  
Model Year 1997 Serial # 15233-15470 Length 66' 7 1/2" Width 26' 2 1/2"
- New lien holder:  
Name Union Planters Bank, National Association  
Address P.O. Box 2137, Memphis, TN. 38101

#### PART II OWNER/BUYER SIGNATURE(S)

The undersigned, as owner(s)/buyer(s) of the above described manufactured/mobile home and real property, affirm that the running gear has been removed per NRS 361.244, the home has been installed in accordance with all state and local building codes and agree(s) to the conversion of the above described home to real property, understanding that any liens or encumbrances on the unit may become a lien on the land.

PERSONAL PROPERTY TAXES MUST BE PAID IN FULL FOR THE CURRENT FISCAL YEAR.

ALL DOCUMENTS RELATING TO THE MANUFACTURED/MOBILE HOME AS PERSONAL PROPERTY MUST BE SURRENDERED TO THE MANUFACTURED HOUSING DIVISION. THIS CONVERSION IS NOT VALID UNTIL ISSUANCE OF A "REAL PROPERTY NOTICE". THE MANUFACTURED/MOBILE HOME WILL THEN BE PLACED ON THE NEXT SUCCEEDING TAX ROLL AS REAL PROPERTY.

William M. Anthony 11/17/00  
SIGNATURE-OWNER/BUYER DATE

Patricia S. Anthony 11-17-2000  
SIGNATURE-OWNER/BUYER DATE

William M. Anthony 11-17-00  
PRINT NAME DATE

Patricia S. Anthony 11-17-2000  
PRINT NAME DATE

SIGNATURE-OWNER/BUYER DATE

SIGNATURE-OWNER/BUYER DATE

PRINT NAME DATE

PRINT NAME DATE

On November 17th, 2000, before me the undersigned, a Notary Public, in and for the State of Nevada, County of Washoe personally appeared William M. Anthony and Patricia S. Anthony who acknowledged that he executed this affidavit.

J. Williams Notary Public

J. WILLIAMS  
Notary Public

WHEN RECORDED MAIL TO Stewart Title of Northern Nevada - 1070 Caughlin Crossing, Reno NV 89509  
RECORDER'S USE ONLY

DOC # 2502064

11/22/2000 04:02P Fee: 7.00

BK1

Requested By

STEWART TITLE OF NORTHERN NEVADA

Washoe County Recorder

Kathryn L. Burke - Recorder

Page 1 of 1 RPT 0.00



DISTRIBUTION:  
ORIGINAL TO MANUFACTURED HOUSING DIV.  
COPY TO LIENHOLDER OF OWNER/BUYER  
rev 01/00

**AFFIDAVIT**  
**CONVERSION OF MANUFACTURED/MOBILE HOME TO REAL PROPERTY**  
 NRS 381.244

COUNTY OF Washoe

**PART I TO BE COMPLETED BY APPLICANT**

ASSESSOR'S PARCEL # 026-021-56

**MANUFACTURED/MOBILE HOME INFORMATION**

1. Owner/Buyer name William M. and Patricia S. Anthony
2. Physical location of manufactured/mobile home 3705 Anthony Place Sparks NV, 89433
3. Manufactured/mobile home description: Manufacturer Furukawa Model Engle Ridge  
 Model Year 1997 Serial # 2470 Length 66'6" Width 12'6"
4. Lien holder:  
 Name Union Planters Bank, National Association  
 Address P.O. Box 2137, Memphis, TN, 38101

**PART II OWNER/BUYER SIGNATURE(S)**

The undersigned, as owner(s)/buyer(s) of the above described manufactured/mobile home and real property, that the running gear has been removed per NRS 381.244, the home has been installed in accordance with all state and local building codes and agree(s) to the conversion of the above described home to real property, understanding that any liens or encumbrances on the unit may become a lien on the land.

**PERSONAL PROPERTY TAXES MUST BE PAID IN FULL FOR THE CURRENT FISCAL YEAR.**

**ALL DOCUMENTS RELATING TO THE MANUFACTURED/MOBILE HOME AS PERSONAL PROPERTY MUST BE SURRENDERED TO THE MANUFACTURED HOUSING DIVISION. THIS CONVERSION IS NOT VALID UNTIL ISSUANCE OF A "REAL PROPERTY NOTICE". THE MANUFACTURED/MOBILE HOME WILL THEN BE PLACED ON THE NEXT SUCCEEDING TAX ROLL AS REAL PROPERTY.**

William M. Anthony 11-17-00  
 SIGNATURE-OWNER/BUYER DATE

Patricia S. Anthony 11-17-2000  
 SIGNATURE-OWNER/BUYER DATE

William M. Anthony 11-17-00  
 PRINT NAME DATE

Patricia S. Anthony 11-17-2000  
 PRINT NAME DATE

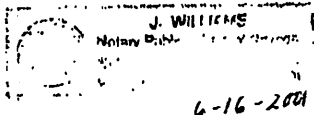
SIGNATURE-OWNER/BUYER DATE

SIGNATURE-OWNER/BUYER DATE

PRINT NAME DATE

PRINT NAME DATE

On November 17th, 2000, before me the undersigned, a Notary Public, in and for the State of Nevada, County of Washoe, personally appeared William M. Anthony and Patricia S. Anthony who acknowledged that they executed this affidavit.



WHEN RECORDED MAIL TO Stewart Title Co  
Northern Nevada - 101 McCullough  
Carson, Nevada NV 89509  
 RECORDER'S USE ONLY

DOC # 280284  
 11/22/2000 04:02P Fee: 7.00  
 Requested By  
 STEWART TITLE OF NORTHERN NEVADA  
 Carson, County Recorder  
 Kathryn L. Morris - Recorder

DISTRIBUTION:  
 ORIGINAL TO MANUFACTURED HOUSING DIV.  
 COPY TO LIENHOLDER OF OWNER/BUYER  
 nv 0100

Description: Washoe, NV Document-Deed 2064 Page: 1 of 1  
 order: test Comment:

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Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 3**

NOTE

MIN #: [REDACTED] 278-9

JUNE 21, 2002  
[Date]

RENO, NEVADA  
[City] [State]

3705 ANTHONY PLACE  
SUN VALLEY, NV 89433  
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 214,400.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is CAPITOL COMMERCE MORTGAGE CO., A CALIFORNIA CORPORATION. I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."



[REDACTED] 5639 N 001 001

12591 25747 C30-PF

MULTISTATE FIXED RATE NOTE — Single Family — Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
DRAW.MX:CVL.FIX.NOTE.1.WPF (0101DOCS\NOTES\CVLMX\F3200.FIX)

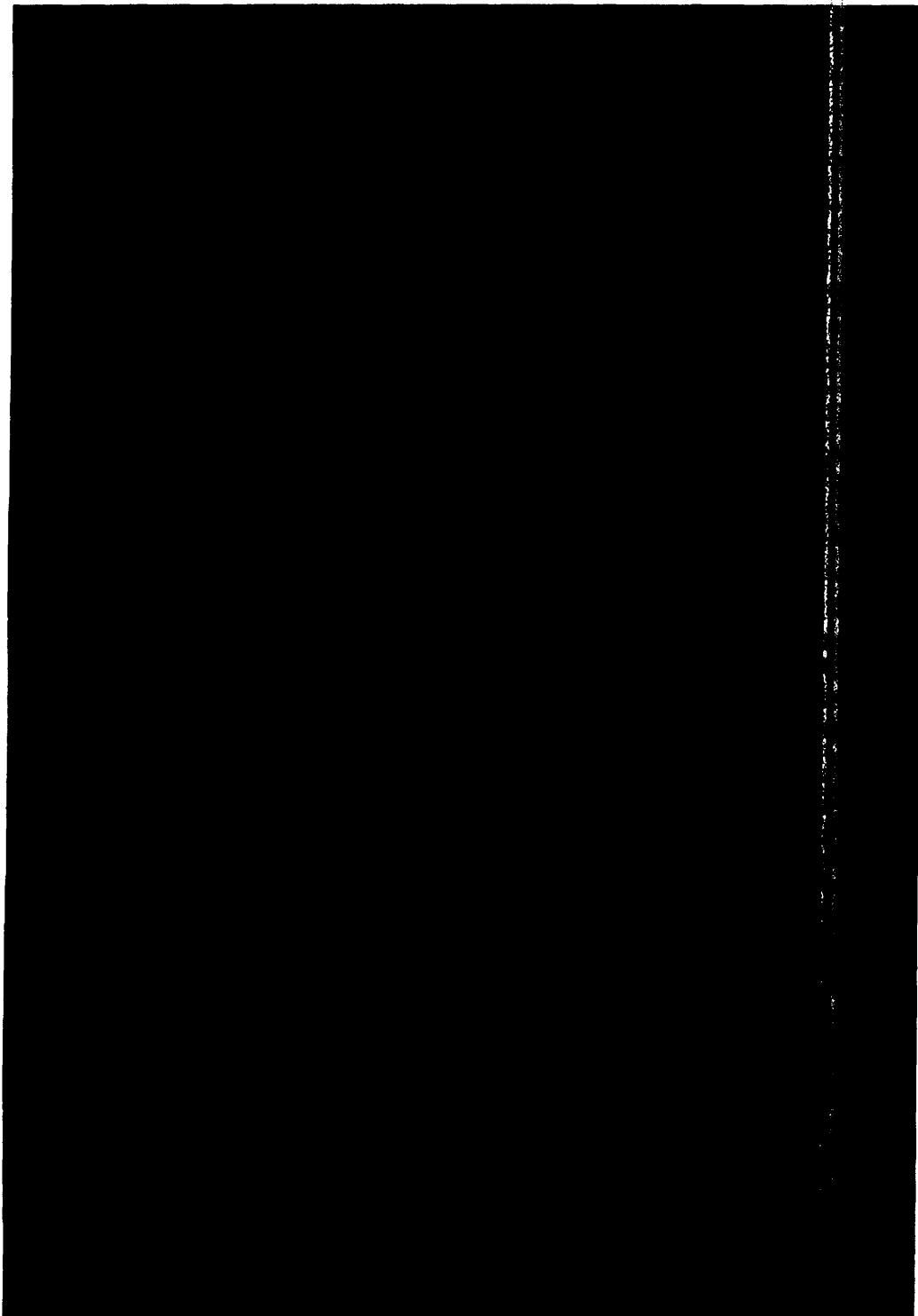
LOAN NO: [REDACTED] 278  
Form 3200 1/01  
(page 1 of 3 pages)





LOAN NO: 278  
Form 3208 1/01  
(page 2 of 3 pages)

12591 35747 C30-FF  
MULTISTATE FIXED RATE NOTE - Single Family - Remake Model/Remake Rate UNIFORM INSTRUMENT  
DRAWING: GVL.FIX.NOTE.1.WPF (01010DOCSNOTES\CYL\MX\F3200.FIX)







WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED

William M. Anthony (Seal)  
WILLIAM M. ANTHONY -Borrower

Patricia S. Anthony (Seal)  
PATRICIA S. ANTHONY -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

[Sign Original Only]

PAY TO THE ORDER OF

WITHOUT RECOURSE  
COUNTRYWIDE HOME LOANS, INC.

BY Fatima Celmeto  
FATIMA CELMETO  
ASSISTANT SECRETARY


MIN# [REDACTED] 278-9

12591 35747 C30-FY  
MULTISTATE FIXED RATE NOTE -- Single Family -- Freddie Mac/Freddie Mac UNIFORM INSTRUMENT  
DRAW.MX.CVL.FIX.NOTE.3.WPF (0101DOCS\NOTES\CVL\MX\FP3200.FIX)

LOAN NO: [REDACTED] 278  
Form 3200 1/01  
(page 3 of 3 pages)

**PAY TO THE ORDER OF**  
COUNTRYWIDE HOME LOANS, INC.

**WITHOUT RECOURSE**  
CAPITOL COMMERCE MORTGAGE CO.  
A CALIFORNIA CORPORATION

  
ANGELA MAYHEW, Assistant Secretary

FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yviloria

**EXHIBIT 4**

# Uniform Residential Loan Application

This application is designed to be completed by the applicant(s) with the Lender's assistance. Applicants should complete this form as "Borrower" or "Co-Borrower," as applicable. Co-Borrower information must also be provided (and the appropriate box checked) when ☒ the income or assets of a person other than the "Borrower" (including the Borrower's spouse) will be used as a basis for loan qualification or ☐ the income or assets of the Borrower's spouse will not be used as a basis for a loan qualification, but his or her liabilities must be considered because the Borrower resides in a community property state, the security property is located in a community property state, or the Borrower is relying on other property located in a community property state as basis for repayment of the loan.

I. TYPE OF MORTGAGE AND TERMS OF LOAN	
Mortgage Applied for: <input type="checkbox"/> V.A. <input checked="" type="checkbox"/> Conventional <input type="checkbox"/> Other:	Agency Case Number
<input type="checkbox"/> FHA <input type="checkbox"/> FmHA	Lender Code Number <b>2278</b>

Amount	Interest Rate	No. of Months
<b>\$ 214,400.00</b>	<b>%</b>	<b></b>

II. PROPERTY INFORMATION AND PURPOSE OF LOAN	
Subject Property Address (street, city, state, ZIP)	No. of Units
<b>3705 ANTHONY PLACE, SUN VALLEY, NV 89433</b>	<b>1</b>
Legal Description of Subject Property (attach description if necessary)	Year Built
	<b>1999</b>

Purpose of Loan <input type="checkbox"/> Purchase <input type="checkbox"/> Construction <input type="checkbox"/> Other (explain):		Property will be: <input checked="" type="checkbox"/> Primary Residence <input type="checkbox"/> Secondary Residence <input type="checkbox"/> Investment	
<input checked="" type="checkbox"/> Refinance <input type="checkbox"/> Construction-Permanent			
Complete this line if construction or construction-permanent loan.			
Year Acquired	Original Cost	Amount Existing Liens	(a) Present Value of Lot (b) Cost of Improvements Total (a + b)
Complete this line if this is a refinance loan.			
Year Acquired	Original Cost	Amount Existing Liens	Purpose of Refinance Describe Improvements <input type="checkbox"/> made <input type="checkbox"/> to be made
<b>2000</b>	<b>\$ 270,000.00</b>	<b>\$ 212,425.00</b>	<b>REFI NO CASH OUT</b> Cost: <b>\$ 0.00</b>

Title will be held in what Name(s)	Manner in which Title will be held	Estate will be held in:
<b>WILLIAM M. ANTHONY AND PATRICIA S. ANTHONY</b>	<b>JTWROS</b>	<input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (show expiration date)
Source of Down Payment, Settlement Charges and/or Subordinate Financing (explain)		

Borrower		Co-Borrower	
Borrower's Name (include Jr. or Sr. if applicable)		Co-Borrower's Name (include Jr. or Sr. if applicable)	
<b>WILLIAM M. ANTHONY</b>		<b>PATRICIA S. ANTHONY</b>	
Social Security Number	Home Phone (incl. area code)	Social Security Number	Home Phone (incl. area code)
<input checked="" type="checkbox"/> Married <input type="checkbox"/> Unmarried (include single, divorced, widowed)	Dependents (not listed by Co-Borrower) no. ages	<input checked="" type="checkbox"/> Married <input type="checkbox"/> Unmarried (include single, divorced, widowed)	Dependents (not listed by Borrower) no. ages
<input type="checkbox"/> Separated		<input type="checkbox"/> Separated	
Present Address (street, city, state, ZIP)	<input checked="" type="checkbox"/> Own <input type="checkbox"/> Rent <b>2</b> No. Yrs.	Present Address (street, city, state, ZIP)	<input checked="" type="checkbox"/> Own <input type="checkbox"/> Rent <b>2</b> No. Yrs.
<b>3705 ANTHONY PLACE SPARKS, NV. 89433</b>		<b>3705 ANTHONY PLACE SPARKS, NV. 89433</b>	

If residing at present address for less than two years, complete the following:	
Former Address (street, city, state, ZIP)	Former Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.
Former Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.	Former Address (street, city, state, ZIP) <input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.

Borrower		Co-Borrower	
Name & Address of Employer		Name & Address of Employer	
<b>TRINITY HOMES, INC. 2900 CLEAR ACRE LANE, SUITE E RENO, NV 89512</b>		<b>TRINITY HOMES INC. 2900 CLEAR ACRE LANE, SUITE E RENO, NV 89512</b>	
<input type="checkbox"/> Self Employed	Yrs. on this job <b>20 yrs, 6 mos</b>	<input type="checkbox"/> Self Employed	Yrs. on this job <b>15 yrs, 6 mos</b>
	Yrs. employed in this line of work/profession <b>27.00</b>		Yrs. employed in this line of work/profession <b>30.00</b>
Position/Title/Type of Business	Business Phone (incl. area code)	Position/Title/Type of Business	Business Phone (incl. area code)
<b>GENERAL MANAGER/REAL ESTATE</b>		<b>MARKETING MANAGER/REAL ESTATE</b>	

If employed in current position for less than two years or if currently employed in more than one position, complete the following:	
Name & Address of Employer	Dates (from - to)
	Monthly Income
Position/Title/Type of Business	Business Phone (incl. area code)
Name & Address of Employer	Dates (from - to)
	Monthly Income
Position/Title/Type of Business	Business Phone (incl. area code)

Borrower's Signature	Date	URLA 1092.1 PRF (URLA_1.PRF)
<b>X William M. Anthony</b>	<b>6/2/02</b>	
Co-Borrower's Signature	Date	
<b>X Patricia S. Anthony</b>	<b>6-21-02</b>	

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CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 5**



**Addendum**



**APPRAISAL OF REAL PROPERTY**

**LOCATED AT:**

3705 ANTHONY PLACE  
LOT 4 PARCEL MAP 2908  
SPARKS, NV 89433

**FOR:**

UNION PLANTERS  
3229 CRANBERRY HIGHWAY  
BUZZARDS BAY, MA 02532

**AS OF:**

MARCH 22ND 2002

**BY:**

MARK B. RASMUSSEN

**This Appraisal conforms to one of the following definitions:**

- ☒ **Complete Appraisal**  
The act or process of estimating value, or an estimate of value, performed without invoking the Departure Provision.
- ☐ **Limited Appraisal**  
The act or process of estimating value, or an estimation of value, performed under and resulting from invoking the Departure Provision.

This Report is one of the following types:

- ☐ **Self Contained Report**  
A written report prepared under Standards Rule 2-2(A) of a complete or limited appraisal performed under Standard 1.
- ☒ **Summary Report**  
A written report prepared under Standards Rule 2-2(B) of a complete or limited appraisal performed under Standard 1.
- ☐ **Restricted Report**  
A written report prepared under Standards Rule 2-2(C) of a complete or limited appraisal performed under Standard 1.

### Comments on Appraisal and Report Identification

**Comments on Appraisal and Report Identification**  
 Note any departures from Standards Rules 1-2, 1-3, 1-4, plus any USPAP-related issues requiring disclosure:

## UNIFORM RESIDENTIAL APPRAISAL REPORT

Property Address 3705 ANTHONY PLACE		City SPARKS		State NV		Zip Code 89433	
Legal Description LOT 4 PARCEL MAP 2908		County WASHOE		File No.			
Assessor's Parcel No. 026-021-56		Tax Year 2001		R.E. Taxes \$ 401.66 (*A)		Special Assessments \$ 0.00	
Borrower ANTHONY, WILLIAM & PATRICIA		Current Owner ANTHONY, WILLIAM & PATRICIA		Occupant <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant			
Property rights appraised <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold		Project Type <input type="checkbox"/> PUD <input type="checkbox"/> Condominium (HUD/VA only)		HDA \$ N/A		M/A	
Neighborhood or Project Name N/A		Map Reference 30		Census Tract 17			
Sale Price \$ REFI		Date of Sale N/A		Description and \$ amount of loan charges/concessions to be paid by seller N/A			
Lender/Client IVY MORTGAGE		Address 3229 CRANBERRY HIGHWAY, BUZZARDS BAY, MA 02532					
Appraiser MARK B. RASMUSSEN		Address 316 CALIFORNIA AVE. #266, RENO, NV 89509					
Location <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural		Predominant occupancy <input checked="" type="checkbox"/> Owner 95 <input checked="" type="checkbox"/> Tenant 5 <input checked="" type="checkbox"/> Vacant (0-5%) <input type="checkbox"/> Vacant (over 5%)		Single family housing PRICE \$(000) 115 Low 0 High 40		Present land use % One family 60 2-4 family 15 Multi-family 5 Commercial 20	
Built up <input type="checkbox"/> Over 75% <input checked="" type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%		Growth rate <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow		Land use change <input type="checkbox"/> Not likely <input type="checkbox"/> Likely			
Property values <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Declining		Demand/supply <input type="checkbox"/> Shortage <input checked="" type="checkbox"/> In balance <input type="checkbox"/> Over supply		To: VACANT TO SFR			
Marketing time <input checked="" type="checkbox"/> Under 3 mos. <input type="checkbox"/> 3-6 mos. <input type="checkbox"/> Over 6 mos.							
<p>Note: Race and the racial composition of the neighborhood are not appraisal factors.</p> <p>Neighborhood boundaries and characteristics: BOUNDED BY HWY 395-WEST, OPEN SPACE-EAST, EL RANCHO DRIVE NORTH, NORTH MCCARRAN BLVD.-SOUTH, PREDOMINANTLY 2-STORY TRACT CUSTOM SFR'S AND SOME CONDOMINIUMS.</p> <p>Factors that affect the marketability of the properties in the neighborhood (proximity to employment and amenities, employment stability, appeal to market, etc.):</p> <p>THE SUBJECT MARKET AREA IS NORTH EAST OF DOWNTOWN RENO AND UNR AND IS AN AREA OF PREDOMINANTLY 2 STORY TRACT AND CUSTOM SFR'S AND SOME CONDOMINIUMS, THE SFR'S ARE OF AVERAGE TO VERY GOOD QUALITY, AND OF COMPATIBLE STYLES, AGES, AMENITIES AND QUALITY. THE SUBJECT MARKET AREA ENJOYS GOOD MARKETABILITY AND DEMAND DUE TO ITS CLOSE PROXIMITY TO ALL GOODS, SERVICES, EMPLOYMENT CENTERS, PUBLIC TRANSPORTATION, SCHOOLS, RECREATION FACILITIES AND FREEWAY ACCESS.</p> <p>Market conditions in the subject neighborhood (including support for the above conclusions related to the trend of property values, demand/supply, and marketing time -- such as data on competitive properties for sale in the neighborhood, description of the prevalence of sales and financing concessions, etc.):</p> <p>THE RENO/SPARKS AREA HAS ENJOYED OVERALL STABILITY OF PRICES OVER THE PAST FEW YEARS. DEMAND IS IN BALANCE WITH SUPPLY. FINANCING HAS BEEN DIVIDED BETWEEN GOVERNMENT AND CONVENTIONAL LOANS WITH NO SPECIAL CONDITIONS, CONCESSIONS, OR BUY DOWNS KNOWN.</p>							
<p>Project Information for PUDs (if applicable) -- Is the developer/builder in control of the Home Owners' Association (HOA)? <input type="checkbox"/> Yes <input type="checkbox"/> No N/A</p> <p>Approximate total number of units in the subject project N/A Approximate total number of units for sale in the subject project N/A</p> <p>Describe common elements and recreational facilities: THE SUBJECT IS NOT IN A PUD.</p>							
Dimensions 163 X 237 X 184 X 154 FT.		Site area .735 ACRE		Corner Lot <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Topography LEVEL & UPSLOPE	
Specific zoning classification and description MDS (ALLOWS FOR MH, 33 AC MIN)		Zoning compliance <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Legal nonconforming (Grandfathered use) <input type="checkbox"/> Illegal <input type="checkbox"/> No zoning		Shape MOSTLY RECTANGULAR		Drainage ADEQUATE	
Highest & best use as improved: <input checked="" type="checkbox"/> Present use <input type="checkbox"/> Other use (explain)		Off-site improvements Type Public Private		View GOOD MTN & GOLF CRSE		Landscaping NONE	
Electricity <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Sanitary sewer <input checked="" type="checkbox"/> Storm sewer <input checked="" type="checkbox"/>		Street ASPHALT		Curb/gutter CONCRETE		Driveway Surface ASPHALT	
Sidewalk NONE		Street lights NONE		FEMA Special Flood Hazard Area <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		FEMA Zone X Map Date 09/94	
Alley NONE		FEMA Map No. 32031C-2984/E		Comments (apparent adverse easements, encroachments, special assessments, slide areas, illegal or legal nonconforming zoning use, etc.): ZONE X DOES NOT REQUIRE FLOOD INSURANCE. NO VISIBLE ADVERSE EASEMENTS, ENCROACHMENTS OR CONDITIONS WERE NOTED. TITLE REPORT NOT REVIEWED.			
GENERAL DESCRIPTION		EXTERIOR DESCRIPTION		FOUNDATION		BASEMENT	
No. of Units ONE		Foundation PIER		Slab NO		Area Sq. Ft. 0	
No. of Stories ONE		Exterior Walls MASONITE		Crawl Space YES		% Finished N/A	
Type (Det./Att.) DETACHED		Roof Surface COMP SHNGL		Basement NO		Ceiling N/A	
Design (Style) MANUFACTURED		Gutters & Downsp. ADOT O.H.		Sump Pump NO		Walls N/A	
Existing/Proposed EXISTING		Window Type VINYL DBLPN		Dampness NONE NOTED		Floor N/A	
Age (Yrs.) 3		Storm/Screen GREENS		Settlement NONE NOTED		Outside Entry N/A	
Effective Age (Yrs.) 3		Manufactured House YES		Infestation NONE NOTED		Unknown	
ROOMS		Foyer Living Dining Kitchen Den Family Rm. Rec. Rm. Bedrooms		# Baths Laundry Other		Area Sq. Ft.	
Basement						0	
Level 1		1 1 2 1 1		7 4		3,798	
Level 2						N/A	
Finished area above grade contains:		13 Rooms: 7 Bedroom(s): 4 Bath(s):		3,798 Square Feet of Gross Living Area			
INTERIOR		HEATING		KITCHEN EQUIP.		ATTIC	
Materials/Condition		Type 3-FAU		Refrigerator <input checked="" type="checkbox"/> None <input type="checkbox"/>		AMENITIES	
Walls GPT/VINYL-GOOD		Fuel NATGAS		Range/Oven <input checked="" type="checkbox"/> Stairs <input type="checkbox"/>		Fireplace(s) # <input type="checkbox"/>	
Trim/Finish WOOD-GOOD		Condition NEW		Disposal <input checked="" type="checkbox"/> Drop Stair <input type="checkbox"/>		Patio <input type="checkbox"/>	
Bath Floor VINYL-GOOD		COOLING NONE		Dishwasher <input checked="" type="checkbox"/> Scuttle <input type="checkbox"/>		Deck 96' CVD <input checked="" type="checkbox"/>	
Bath Wainscot FIBERGLASS-GOOD		Central NONE		Fan/Hood <input checked="" type="checkbox"/> Floor <input type="checkbox"/>		Porch <input type="checkbox"/>	
Doors HC WOOD-GOOD		Other NONE		Microwave <input type="checkbox"/> Heated <input type="checkbox"/>		Fence <input type="checkbox"/>	
		Condition N/A		Washer/Dryer <input type="checkbox"/> Finished <input type="checkbox"/>		Pool <input type="checkbox"/>	
Additional features (special energy efficient items, etc.):		S/P HAS FULLY INSULATED 2X6 CNSTRCTN, SPA TUB IN MASTER BATH, 3 SKYLIGHTS, UPGRADED CARPETS AND SKYLIGHTS, VAULTED CEILINGS, 2 KITCHENS (CONTINUED)					
Condition of the improvements, depreciation (physical, functional, and external), repairs needed, quality of construction, remodeling/additions, etc.:		THE S/P HAS A FUNCTIONAL FLOOR PLAN WITH NORMAL PHYSICAL DEPRECIATION. NO FUNCTIONAL OBSOLESCENCE NOTED. THE S/P EXPERIENCES SOME EXTERNAL OBSOLESCENCE (BUSY STREET). THE SUBJECT IS RATED AT EXCELLENT QUALITY MFG HOUSING CONSTRUCTION WITH AN ESTIMATED 70 YEAR TOTAL ECONOMIC LIFE AND 67 YRS. REMAINING ECONOMIC LIFE.					
Adverse environmental conditions (such as, but not limited to, hazardous wastes, toxic substances, etc.) present in the improvements, on the site, or in the immediate vicinity of the subject property:		NO ADVERSE ENVIRONMENTAL CONDITIONS WERE NOTED AT THE TIME OF INSPECTION.					

Valuation Section

## UNIFORM RESIDENTIAL APPRAISAL REPORT

File No.

ESTIMATED SITE VALUE	735 ACRES	= \$	85,000	Comments on Cost Approach (such as, source of cost estimate, site value, square foot calculation and for HUD, VA and FmHA, the estimated remaining economic life of the property): SEE ATTACHED DIAGRAM FOR GLA. COST BASIS: MARSHALL-SWIFT COST HANDBOOK
ESTIMATED REPRODUCTION COST-NEW OF IMPROVEMENTS:				ABOVE GRADE GLA ADJUSTMENT \$30/S.F., BELOW GRADE GLA ADJUSTMENT (BASEMENTS) \$30/S.F. ROOM COUNT ADJUSTMENT \$2,000 PER BATHROOM. NO ECONOMIC OBSOLESCENCE NOTED BY APPRAISER. VALUE IS NOT BASED ON A PRESCRIBED DOLLAR AMOUNT. THE S/P IS A 1998 FUQUA/GOLDEN EAGLE MFG HOME HUD #1'S IDA103273 & IDA103274 AND A 1998 FUQUA/DESERT POINTE MFG HOME HUD #1'S.
Dwelling	3,798 Sq. Ft. @ \$ 48.00	= \$	182,304	
FOUNDATION	Sq. Ft. @ \$	=	5,000	
CVD DECK		=	1,500	
Garage/Carport	Sq. Ft. @ \$	=		
Total Estimated Cost New		= \$	188,804	
Less	Physical Functional External			
Depreciation	5,664	= \$	5,664	
Depreciated Value of Improvements		= \$	183,140	
*As-Is* Value of Site Improvements	INC. ABOVE	= \$		
INDICATED VALUE BY COST APPROACH		= \$	268,140	

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	3705 ANTHONY PLACE APN #26-021-56	2930 SCOTTSDALE ROAD APN #26-562-21	2710 SCOTTSDALE ROAD APN #26-031-28	725 ARIUS COURT APN #003-451-09
Proximity to Subject		0.59 miles	0.79 miles	2.19 miles (*B)
Sales Price		\$ 280,000	\$ 230,000	\$ 330,000
Price/Gross Living Area		\$ 99.93 /S.F.	\$ 83.03 /S.F.	\$ 87.26 /S.F.
Data and/or Verification Source	INSPECTION PUBLIC RECORD	MLS / PUBLIC RECORD DOC #2607334	MLS / PUBLIC RECORD DOC #2579324	MLS / PUBLIC RECORD DOC #2564652
VALUE ADJUSTMENTS	DESCRIPTION	+(-)\$ Adjust	DESCRIPTION	+(-)\$ Adjust
Sales or Financing Concessions	CONVENTIONAL DOM = 4		CONVENTIONAL DOM = 225	CONVENTIONAL DOM = 859
Date of Sale/Time	10-19-2001		07-27-2001	06-18-2001
Location	AVERAGE		AVERAGE	GOOD
Leasehold/Ten Simple	FEE		FEE	FEE
Site	.735 ACRE	.26 ACRE (*C) +10,000	.25 ACRE (*C) +10,000	.39 ACRE (*C) +10,000
View	GOOD MTN/GLF	XLNT CITY (*C) -20,000	GD CTY/MTN	VG CTY/MTN (*C) -10,000
Design and Appeal	MANUFCTRD/GD	2-STORY/GD	2-STORY/GD	2-STORY/AVG.
Quality of Construction	XLNT MFG	AVERAGE+ (*D)	AVERAGE+ (*D)	GOOD (*D) -38,000
Age	3	4	1	10
Condition	GOOD	GOOD	GOOD	GOOD
Above Grade Room Count	Total: Bdrms: Baths 13 : 7 : 4	Total: Bdrms: Baths 8 : 5 : 3 +3,000	Total: Bdrms: Baths 8 : 5 : 3 +3,000	Total: Bdrms: Baths 10 : 5 : 3 +3,000
Gross Living Area	3,798 Sq. Ft.	2,802 Sq. Ft. +29,880	2,770 Sq. Ft. +30,840	3,782 Sq. Ft.
Basement & Finished Rooms Below Grade	NONE	INC. IN GLA (*E) N/A	INC. IN GLA (*E) N/A	NONE 0
Functional Utility	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Heating/Cooling	3-FAU/NONE	FAU/CAC (*F) -3,500	FAU/NONE	FAU/NONE
Energy Efficient Items	INSUL, DBLWDS	INSUL/DBLWDS	INSUL/DBLWDS	INSUL, DBLWDS
Garage/Carport	OPEN	G-2+/ATT (*G) -10,000	G-2+/ATT (*G) -10,000	G-3+/BLTN (*G) -14,000
Porch, Patio, Deck, Fireplace(s), etc.	CVD PORCH	SUNRM, CVPT (*H) -8,000	CVPT, DK (*H) -3,000	CVPRCH, PAT (*H) -3,000
Fence, Pool, etc.	NONE	CNTVAC, SEC (*H) -5,000	NONE	2-FPL (*H) -5,000
EXTRAS	2 KITCHENS	FNC, FULLNDSCP -8,000	FNC, PRTLNDSCP -3,000	FNC, GD LNDSCP -10,000
Net Adj. (Total)		\$ 11,620	\$ 32,840	\$ 67,000
Adjusted Sales Price of Comparable		\$ 268,380	\$ 262,840	\$ 263,000

Comments on Sales Comparison (including the subject property's compatibility to the neighborhood, etc.): ALL OF THE COMPARABLES ARE LARGER THAN TYPICAL SITE/STICK BUILT SFR'S OF SIMILAR QUALITY AND FUNCTIONAL UTILITY, AS THE SUBJECT, TAKEN FROM THE NORTH RENO/SPARKS MARKET AREA. MOST WEIGHT GIVEN TO COMP #1 AS IT IS THE MOST SIMILAR OVERALL (IN-LAW WITH SEPARATE KITCHEN) AND THE MOST RECENT SALE. THERE WERE NO SALES OF MFG HOMES FOUND THAT WERE ANYWHERE NEAR THE SIZE AND QUALITY OF THE SUBJECT. (SEE ADDENDUM). THE SUBJECT IS CONSIDERED AT THE HIGHER END OF VALUE FOR THE MARKET AREA. THIS IS A COMPLETE SUMMARY REPORT.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Date, Price and Data Source, for prior sales within year of appraisal	NONE	NONE KNOWN	NONE KNOWN	NONE KNOWN
Analysis of any current agreement of sale, option, or listing of subject property and analysis of any prior sales of subject and comparables within one year of the date of appraisal:	THE SUBJECT PROPERTY IS NOT CURRENTLY UNDER CONTRACT OF SALE AND HAS NOT BEEN LISTED FOR SALE OVER THE PAST YEAR. NO PERSONAL PROPERTY WAS INCLUDED IN THE FINAL OPINION OF VALUE.			
INDICATED VALUE BY SALES COMPARISON APPROACH				\$ 268,000

INDICATED VALUE BY INCOME APPROACH (if Applicable) Estimated Market Rent \$ N/A /Mo. x Gross Rent Multiplier N/A = \$

This appraisal is made ☒ as is ☐ subject to the repairs, alterations, inspections or conditions listed below ☐ subject to completion per plans & specifications.

Conditions of Appraisal: THE OPINION OF VALUE IS MADE "AS IS" AND NOT SUBJECT TO ANY REPAIRS, ADDITIONS, MODIFICATIONS, OR ADDITIONS. THE DATES OF SALE ARE THE CLOSING DATES.

Final Reconciliation: THE SALES COMPARISON APPROACH IS BELIEVED TO BE THE BEST SUITED FOR THE APPRAISAL OF MFG HOMES. THE COST APPROACH IS GIVEN EQUAL WEIGHT IN SUPPORT OF THE FINAL OPINION OF VALUE IN COMPLIANCE WITH HUD 4150.1 REV 1, 2-5, 6-1 E & 6-14. THE INCOME APPROACH IS NOT APPLICABLE OR NECESSARY.

The purpose of this appraisal is to estimate the market value of the real property that is the subject of this report, based on the above conditions and the certification, contingent and limiting conditions, and market value definition that are stated in the attached Freddie Mac Form 439/FNMA form 1004B (Revised 6/93).

(WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS REPORT, AS OF 11-10-2001 (WHICH IS THE DATE OF INSPECTION AND THE EFFECTIVE DATE OF THIS REPORT) TO BE \$ 268,000

APPRaiser: MARK B. RASMUSSEN

Signature: *Mark B. Rasmussen*

Name: MARK B. RASMUSSEN

Date Report Signed: NOVEMBER 10TH 2001

State Certification # 00797

Or State License #

SUPERVISORY APPRAISER (ONLY IF REQUIRED):

Signature

Name

Date Report Signed

State Certification #

Or State License #

☐ Did ☐ Did Not Inspect Property

Borrower/Client ANTHONY, WILLIAM & ROSALIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			

## ADDITIONAL FEATURES CONTINUED:

THE S/P HAS 3/4" DUAL PANE LOW E VINYL SLIDE WINDOWS, JENAIRE DOWNDRAFT/ISLAND RANGE, 6 PANEL DOORS, 3-FAU UNITS, 3-H/W HEATERS, 200 AMP ELECTRICAL SERVICE, OAK CABINETS THROUGHOUT, MINI BLINDS THROUGHOUT, 1-8' ROUND WINDOWS, PORCELAIN SINKS, TILE BACK SPLASHES, GARDEN TUB IN THE MASTER BATH AND IS IN NEW CONDITION.

THE SUBJECT IS ATYPICAL AS IT IS A VERY LARGE/EXCELLENT QUALITY MFG HOME IN A MARKET AREA OF PREDOMINANTLY CUSTOM BUILT AND TRACT SITE/STICK BUILT SFR'S, IMMEDIATELY SOUTH OF SUN VALLEY. THE SUBJECT ALSO HAS A SITE SIZE MORE THAN DOUBLE THE TYPICAL SITE SIZE FOR THE AREA AND HAS THE POTENTIAL OF DIVISION INTO TWO SITES.

SOME OF THE SINGLE LINE, NET AND GROSS ADJUSTMENTS EXCEED THE FNMA GUIDELINES OF 10%, 15% AND 25% RESPECTIVELY, PRIMARILY BECAUSE OF THE SUPERIOR SITE SIZE AND VALUE OF THE SUBJECT SITE AND THE LARGE DIFFERENCE IN GLA BETWEEN THE SUBJECT AND THE COMPARABLES. THE SUPERIOR GLA IS LARGELY OFFSET BY BASEMENTS THAT HAVE BEEN ADAPTED TO GLA.

(\*A) THE CURRENT TAXES ARE FOR AN IMPROVED PARCEL OF LAND BUT WILL BE REAPPRAISED AND A SUPPLEMENTAL TAX BILL ISSUED, SUBSEQUENT TO THE CONVERSION OF THE SUBJECT TO REAL PROPERTY.

(\*B) THE DISTANCE, OF THIS COMPARABLE, EXCEEDS 1 MILE AND WAS USED DUE TO THE LARGE SIZE OF THE SUBJECT. THE SUBJECT IS IN AN AREA OF PREDOMINANTLY TRACT AND CUSTOM BUILT SFR'S (TYPICALLY SUBSTANTIALLY SMALLER THAN THE SUBJECT) WHICH COMPARE WELL (FROM THE STANDPOINT OF QUALITY, COMPONENTS OF CONSTRUCTION AND DESIRABILITY) WITH THE EXCELLENT QUALITY OF THE SUBJECT. THE MARKET AREA IS VERY SIMILAR WITH RESPECT TO TOPOGRAPHY, TYPICAL SITE SIZES, VEGETATION AND PROXIMITY TO ALL GOODS, SERVICES AND EMPLOYMENT CENTERS.

(\*C) THE SITE SIZE/VIEW ADJUSTMENT IS BASED ON THE ANALYSIS AND APPLICATION OF LOCAL MARKET RESPONSE TO SITE SIZE/VIEW VARIANCE IN THIS AREA AND DERIVED FROM AREA LAND SALES. TYPICAL .33 ACRE SITES IN SUN VALLEY (IMMEDIATELY TO THE NORTH) SELL FOR \$45,000 - \$55,000. THE SUBJECT IS .741 ACRES, LARGE ENOUGH TO BE DIVIDED INTO 2 BUILDING SITES. THE PREMIUM FOR THE SUPERIOR SITE SIZE WAS DETERMINED BY TWO METHODS: 1) HISTORICAL SALES OF .66 - .99 ACRE (DOUBLE SIZE) SITES IN SUN VALLEY AS COMPARED TO .33 ACRE (SINGLE SIZE) SITES AND 2) THE VALUE OF AN ADDITIONAL SITE MINUS THE COSTS TO DEVELOP THE SITE (SURVEY, PERMITS, WATER/SEWER/ELECTRICAL HOOKUPS, ON SITE/OFF SITE IMPROVEMENTS AND DEVELOPERS PROFIT).

(\*D) THE SUBJECT IS AN EXCELLENT QUALITY MFG HOME, WHICH IS VERY SIMILAR TO AN AVERAGE+ QUALITY SITE/STICK BUILT SFR WITH RESPECT TO QUALITY, COMPONENTS OF CONSTRUCTION, ENERGY EFFICIENCY, GLA, FUNCTIONAL UTILITY AND MARKETABILITY IN THIS MARKET, (A MARKETABLE AND COMPETITIVE SUBSTITUTE FOR A SITE/STICK BUILT SFR). ALL OF THE COMPARABLES ARE SITE/STICK BUILT SFR'S AND WERE USED BECAUSE THERE WERE NOT REALES OF MFG HOMES ANYWHERE NEAR THE SIZE AND QUALITY OF THE SUBJECT. THE ADJUSTMENT FOR QUALITY IS WAS DERIVED FROM THE MARSHALL AND SWIFT RESIDENTIAL COST HANDBOOK AND DEEMED TO BE REPRESENTATIVE OF THE MARKET AND RECOVERABLE IN VALUE. THIS SITE/STICK BUILT SFR WAS USED TO BECAUSE OF ITS SIZE, QUALITY, FUNCTIONAL UTILITY AND AGE.

(\*E) COMPS #1 & #2 HAVE DAYLIGHT/WALKOUT/FULLY FINISHED AND PARTITIONED BASEMENTS THAT HAVE BEEN ADAPTED TO USE AS LIVING AREA WITH CONSIDERABLE UTILITY (APPROXIMATING THAT OF ABOVE GRADE GLA AND APPROACHING THE OVERALL UTILITY OF THE SUBJECT). THERE WERE NO SINGLE STORY SFR'S FOUND WITH SIMILAR GLA. THE ADJUSTMENT FOR THIS AMENITY IS BASED ON THE REPLACEMENT COST, FROM THE MARSHALL & SWIFT RESIDENTIAL COST HANDBOOK, MINUS APPLICABLE DEPRECIATION AND IS DEEMED TO BE RECOVERABLE IN VALUE AS DEMONSTRATED BY ALL OF THE COMPARABLES.

(\*F) CENTRAL AIR CONDITIONING UNITS ARE GIVEN \$1 TO \$1.50 PER SQ. FT. AS A REPLACEMENT COST AND \$750 TO \$1,500 FOR EVAPORATIVE UNITS. THESE FIGURES ARE BASED ON BUILDERS COSTS AND MARSHALL & SWIFT AND ARE CONSIDERED RECOVERABLE IN VALUE BECAUSE THIS IS A COMMON AND DESIREABLE AMENITY IN THIS MARKET AND DESERT CLIMATE.

(\*G) THE ADJUSTMENT FOR GARAGE IS BASED ON THE ADDITIONAL COST OF GARAGE CAR STORAGE SPACE (ATTACHED/BUILT-IN); THIS COST IS DEEMED RECOVERABLE IN VALUE, BECAUSE GARAGE CAR STORAGE IS TYPICAL IN THIS MARKET AREA, AS DEMONSTRATED BY THE COMPARABLES USED.

(\*H) THE ADJUSTMENT FOR THIS AMENITY IS BASED ON THE REPLACEMENT COST, FROM THE MARSHALL & SWIFT RESIDENTIAL COST HANDBOOK, MINUS APPLICABLE DEPRECIATION AND IS DEEMED TO BE RECOVERABLE IN VALUE.

☒ THE FOUNDATION SYSTEM/INSTALLATION IS SUITABLE TO THE SOIL CONDITION. THE FOUNDATION SYSTEM HAS BEEN DESIGNED BY AN ENGINEER TO MEET THE SOIL CONDITIONS OF THE SITE. THIS TYPE OF FOUNDATION SYSTEM IS TYPICAL AND ACCEPTABLE IN THIS MARKETPLACE. THE SUBJECT HAS A PIER FOUNDATION.

☒ THE FOOTINGS ARE LOCATED BELOW THE FROST LINE.

☒ ALL WHEELS, AXLES AND TRAILER HITCHES HAVE BEEN REMOVED. THE SUBJECT IS PERMANENTLY ATTACHED TO THE SITE.

☒ THE UNIT HAS SUFFICIENT SQUARE FOOTAGE AND ROOM DIMENSIONS TO BE ACCEPTABLE TO THE TYPICAL PURCHASER IN THE SUBJECT MARKET AREA. (FNMA HAS NO MINIMUM REQUIREMENTS FOR WIDTH, SIZE OR ROOF PITCH FOR MANUFACTURED HOUSING UNITS OTHER THAN SINGLE-WIDE UNITS MUST BE A FNMA APPROVED PROJECT).

☒ THE SUBJECT WILL COMPETE WELL IN THIS MARKET AREA AND IS LEGALLY PERMISSABLE UNDER LOCAL ZONING.

# -----Supplemental Addendum-----

Page #7

File No.

Borrower/Client ANTHONY, WILLIAM & MICHA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			

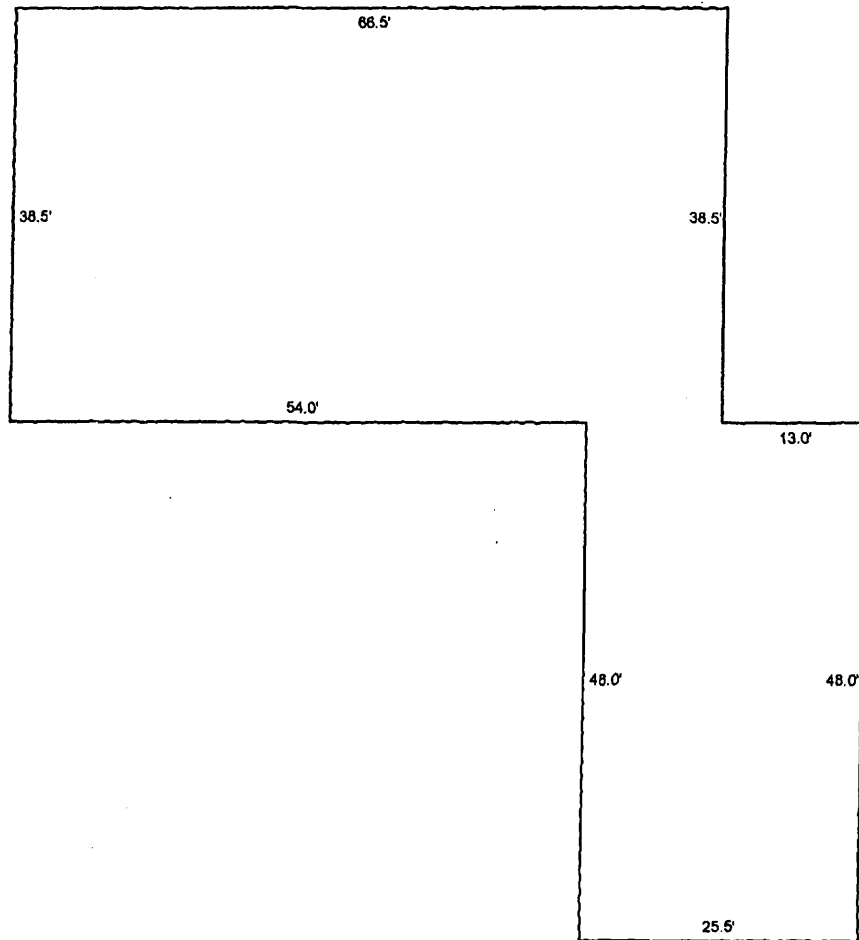
X THE SUBJECT HAS BEEN BUILT UNDER FEDERAL HOME SAFETY STANDARDS, THAT WERE ESTABLISHED BY HUD ON JUNE 15TH 1976, WHICH IS EVIDENCED BY THE HUD TAG #'S INCLUDED IN THE BODY OF THE ORIGINAL APPRAISAL REPORT.

MARK B. RASMUSSEN, CERTIFIED RESIDENTIAL APPRAISER #00797-NV EXP. 10-31-2002.

*Mark B. Rasmussen*

## Building Sketch

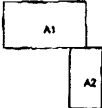
Borrower/Client ANTHONY, WILLIAM & PATRICIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			





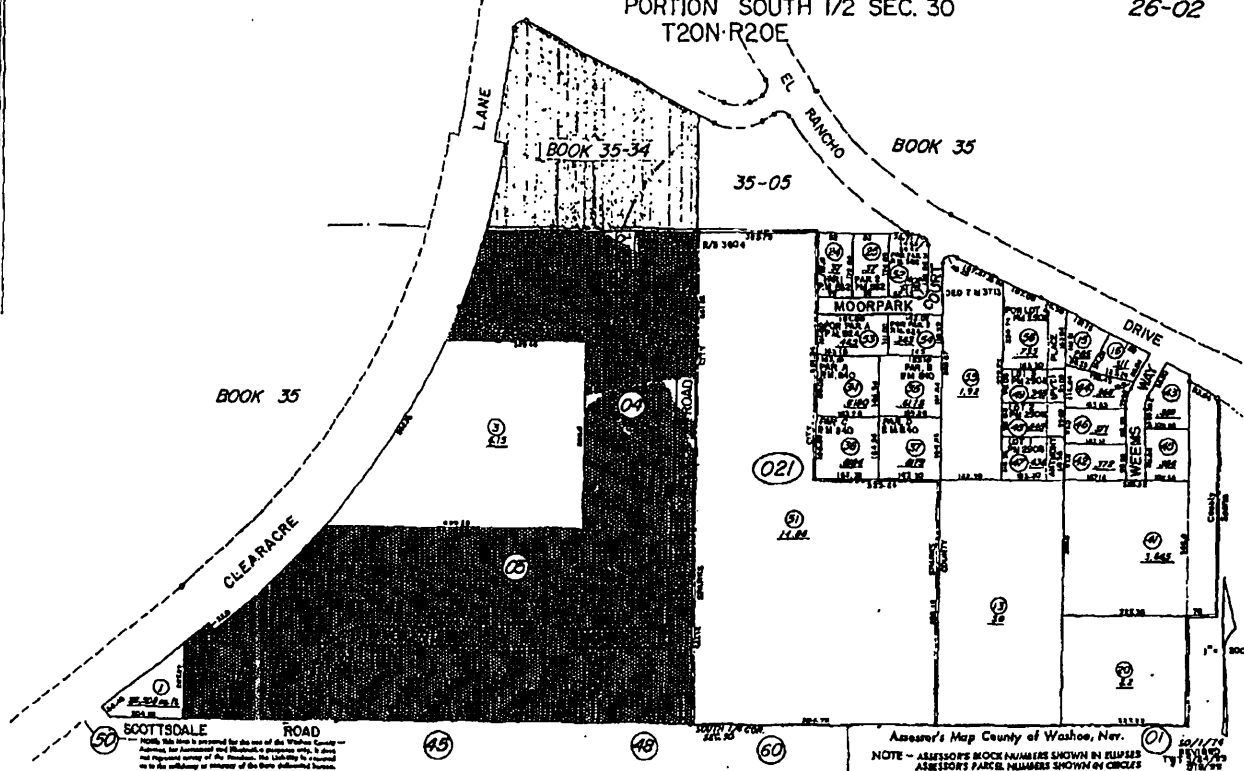
## Building Sketch

Borrower/Client ANTHONY, WILLIAM & PATRICIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			

SKETCH CALCULATIONS	
	A1 : 66.7 x 38.5 = 2566.4
	A2 : 26.7 x 48.0 = 1231.7
	First Floor 3798.1
	Total Living Area 3798.1

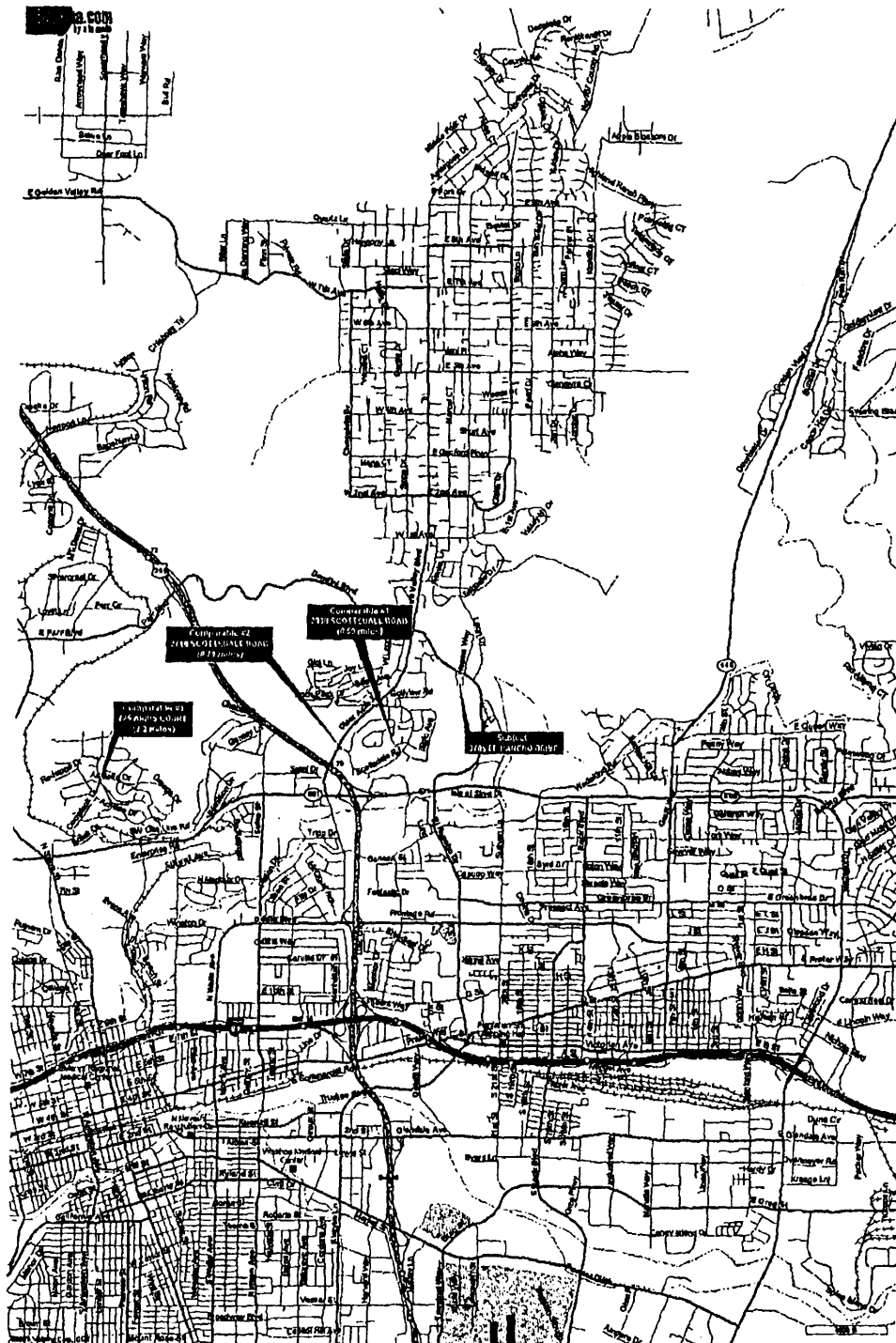
PORTION SOUTH 1/2 SEC. 30  
T20N-R20E

26-02



## Location Map

Borrower/Client ANTHONY, WILLIAM & PATRICIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			



Form MAP.LOC — "TOTAL for Windows" appraisal software by a la mode, Inc. — 1-800-ALAMODE

## Subject Photo Page

Borrower/Client ANTHONY, WILLIAM & PATRICIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			

## Subject Front

3705 ANTHONY PLACE	
Sales Price	REFI
Gross Living Area	3,798
Total Rooms	13
Total Bedrooms	7
Total Bathrooms	4
Location	AVERAGE
View	GOOD MTN/GLF
Site	.735 ACRE
Quality	XLNT MFG
Age	3



## Subject Rear

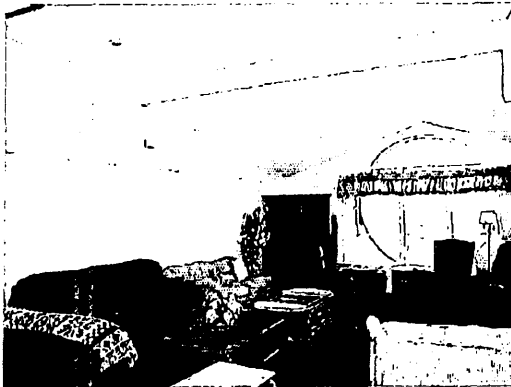


## Subject Street



## Subject Photo Page

Borrower/Client ANTHONY, WILLIAM & PATRICIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			



## Subject Living Room

3705 ANTHONY PLACE  
 Sales Price REFI  
 Gross Living Area 3,798  
 Total Rooms 13  
 Total Bedrooms 7  
 Total Bathrooms 4  
 Location AVERAGE  
 View GOOD MTN/GLF  
 Site .735 ACRE  
 Quality XLNT MFG  
 Age 3



## Subject Kitchen



## Subject Bath

## Subject Photo Page

Borrower/Client ANTHONY, WILLIAM & PATRICIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			

## Subject View

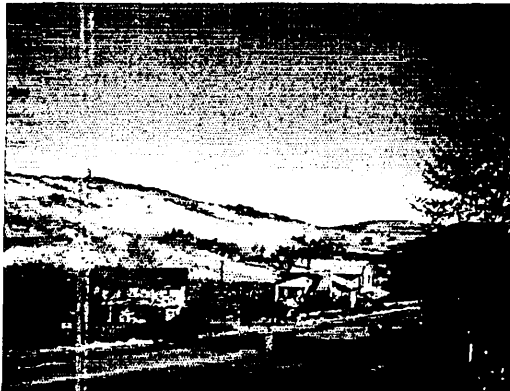
3705 ANTHONY PLACE  
 Sales Price REFI  
 Gross Living Area 3,798  
 Total Rooms 13  
 Total Bedrooms 7  
 Total Bathrooms 4  
 Location AVERAGE  
 View GOOD MTN/GLF  
 Site .735 ACRE  
 Quality XLNT MFG  
 Age 3



## Subject View



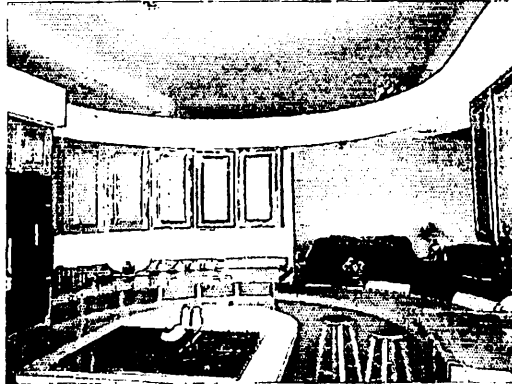
## Subject View



## Subject Photo Page

Borrower/Client ANTHONY, WILLIAM & PATRICIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			

## Subject Kitchen



3705 ANTHONY PLACE  
 Sales Price REFI  
 Gross Living Area 3,798  
 Total Rooms 13  
 Total Bedrooms 7  
 Total Bathrooms 4  
 Location AVERAGE  
 View GOOD MTN/GLF  
 Site .735 ACRE  
 Quality XLNT MFG  
 Age 3

## Subject Dining Room



## Subject Bedroom



## Comparable Photo Page

Borrower/Client	ANTHONY, WILLIAM & PATRICIA			
Property Address	3705 ANTHONY PLACE			
City	SPARKS	County	WASHOE	State NV Zip Code 89433
Lender	IVY MORTGAGE			



## Comparable 1

2930 SCOTTSDALE ROAD  
 Prox. to Subject 0.59 miles  
 Sale Price 280,000  
 Gross Living Area 2,802  
 Total Rooms 8  
 Total Bedrooms 5  
 Total Bathrooms 3  
 Location AVERAGE  
 View XINT CITY (\*C)  
 Site .26 ACRE (\*C)  
 Quality AVERAGE+ (\*D)  
 Age 4



## Comparable 2

Address 2710 SCOTTSDALE ROAD  
 Prox. to Subject 0.79 miles  
 Sale Price 230,000  
 Gross Living Area 2,770  
 Total Rooms 8  
 Total Bedrooms 5  
 Total Bathrooms 3  
 Location AVERAGE  
 View GD CTY/MTN  
 Site .25 ACRE (\*C)  
 Quality AVERAGE+ (\*D)  
 Age 1



## Comparable 3

Address 725 ARIUS COURT  
 Prox. to Subject 2.19 miles (\*B)  
 Sale Price 330,000  
 Gross Living Area 3,782  
 Total Rooms 10  
 Total Bedrooms 5  
 Total Bathrooms 3  
 Location GOOD  
 View VG CTY/MTN (\*C)  
 Site .39 ACRE (\*C)  
 Quality GOOD (\*D)  
 Age 10



# **MULTI-PURPOSE SUPPLEMENTAL ADDENDUM FOR FEDERALLY RELATED TRANSACTIONS**

MARK RASMUSSEN APPRAISALS

Borrower/Client <u>ANTHONY, WILLIAM &amp; PATRICIA</u>			
Property Address <u>3705 ANTHONY PLACE</u>			
City <u>SPARKS</u>	County <u>WASHOE</u>	State <u>NV</u>	Zip Code <u>89433</u>
Lender <u>IVY MORTGAGE</u>			

This Multi-Purpose Supplemental Addendum for Federally Related Transactions was designed to provide the appraiser with a convenient way to comply with the current appraisal standards and requirements of the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of Currency (OCC), The Office of Thrift Supervision (OTS), the Resolution Trust Corporation (RTC), and the Federal Reserve.

**This Multi-Purpose Supplemental Addendum is for use with any appraisal. Only those statements which have been checked by the appraiser apply to the property being appraised.**

☒ **PURPOSE & FUNCTION OF APPRAISAL**

The purpose of the appraisal is to estimate the market value of the subject property as defined herein. The function of the appraisal is to assist the above-named Lender in evaluating the subject property for lending purposes. This is a Federally related transaction.

☒ **EXTENT OF APPRAISAL PROCESS**

- ☒ The appraisal is based on the information gathered by the appraiser from public records, other identified sources, inspection of the subject property and neighborhood, and selection of comparable sales within the subject market area. The original source of the comparables is shown in the Data Source section of the market grid along with the source of confirmation, if available. The original source is presented first. The sources and data are considered reliable. When conflicting information was provided, the source deemed most reliable has been used. Data believed to be unreliable was not included in the report nor used as a basis for the value conclusion.
- ☒ The Reproduction Cost is based on MARSHALL & SWIFT RESIDENTIAL COST HANDBOOK supplemented by the appraiser's knowledge of the local market.
- ☒ Physical depreciation is based on the estimated effective age of the subject property. Functional and/or external depreciation, if present, is specifically addressed in the appraisal report or other addenda. In estimating the site value, the appraiser has relied on personal knowledge of the local market. This knowledge is based on prior and/or current analysis of site sales and/or abstraction of site values from sales of improved properties.
- ☒ The subject property is located in an area of primarily owner-occupied single family residences and the Income Approach is not considered to be meaningful. For this reason, the Income Approach was not used.
- ☐ The Estimated Market Rent and Gross Rent Multiplier utilized in the Income Approach are based on the appraiser's knowledge of the subject market area. The rental knowledge is based on prior and/or current rental rate surveys of residential properties. The Gross Rent Multiplier is based on prior and/or current analysis of prices and market rates for residential properties.
- ☐ For income producing properties, actual rents, vacancies and expenses have been reported and analyzed. They have been used to project future rents, vacancies and expenses.

☒ **SUBJECT PROPERTY OFFERING INFORMATION**

- According to MLS the subject property:
- ☒ has not been offered for sale in the past 30 days.
- ☐ is currently offered for sale for \$ \_\_\_\_\_.
- ☐ was offered for sale within the past 30 days for \$ \_\_\_\_\_.
- ☐ Offering information was considered in the final reconciliation of value.
- ☐ Offering information was not considered in the final reconciliation of value.
- ☐ Offering information was not available. The reasons for unavailability and the steps taken by the appraiser are explained later in this addendum.

☒ **SALES HISTORY OF SUBJECT PROPERTY**

According to MLS AND PUBLIC RECORDS the subject property:

- ☒ has not transferred in the past twelve months. ☐ has not transferred in the past thirty-six months.
- ☐ has transferred in the past twelve months. ☐ has transferred in the past thirty-six months.
- ☐ All prior sales which have occurred in the past twelve months are listed below and reconciled to the appraised value, either in the body of the report or in the addenda.

Date	Sales Price	Document #	Seller	Buyer
06-02-95	VACANT	N/A	N/A	ANTHONY, WILLIAM ET UX

☒ **FEMA FLOOD HAZARD DATA**

- ☒ Subject property is not located in a FEMA Special Flood Hazard Area.
- ☐ Subject property is located in a FEMA Special Flood Hazard Area.

Zone	FEMA Map/Panel #	Map Date	Name of Community
X	32031C-2904/E	09/94	WASHOE COUNTY

- ☐ The community does not participate in the National Flood Insurance Program.
- ☒ The community does participate in the National Flood Insurance Program.
- ☒ It is covered by a regular program.
- ☐ It is covered by an emergency program.

<input checked="" type="checkbox"/> <b>CURRENT SALES CONTRACT</b>	
<input checked="" type="checkbox"/> The subject property is currently <u>not under contract</u> . <input type="checkbox"/> The contract and/or escrow instructions <u>were not available for review</u> . The unavailability of the contract is explained later in the addenda section. <input type="checkbox"/> The contract and/or escrow instructions <u>were reviewed</u> . The following summarizes the contract:	
Contract Date	Amendment Date
Contract Price	Seller
<input type="checkbox"/> The contract indicated that personal property was <u>not</u> included in the sale. <input type="checkbox"/> The contract indicated that personal property was <u>included</u> . It consisted of _____ Estimated contributory value is \$ _____ <input checked="" type="checkbox"/> Personal property was <u>not</u> included in the final value estimate. <input type="checkbox"/> Personal property was <u>included</u> in the final value estimate. <input type="checkbox"/> The contract indicated <u>no</u> financing concessions or other incentives. <input type="checkbox"/> The contract indicated <u>the following</u> concessions or incentives: _____ <input type="checkbox"/> If concessions or incentives exist, the comparables were checked for similar concessions and appropriate adjustments were made, if applicable, so that the final value conclusion is in compliance with the Market Value defined herein.	
<input checked="" type="checkbox"/> <b>MARKET OVERVIEW</b> Include an explanation of current market conditions and trends.	
<u>1-3</u> months is considered a reasonable marketing period for the subject property based on <u>TYPICAL SALES TIME FOR SFR'S</u> <u>WITHIN THE SUBJECT MARKET AREA.</u>	
<input checked="" type="checkbox"/> <b>ADDITIONAL CERTIFICATION</b>	
The Appraiser certifies and agrees that: (1) The analyses, opinions and conclusions were developed, and this report was prepared, in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP), except that the Departure Provision of the USPAP does not apply. (2) Their compensation is not contingent upon the reporting of predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. (3) This appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.	
<input checked="" type="checkbox"/> <b>ADDITIONAL (ENVIRONMENTAL) LIMITING CONDITIONS</b>	
The value estimated is based on the assumption that the property is not negatively affected by the existence of hazardous substances or detrimental environmental conditions unless otherwise stated in this report. The appraiser is not an expert in the identification of hazardous substances or detrimental environmental conditions. The appraiser's routine inspection of and inquiries about the subject property did not develop any information that indicated any apparent significant hazardous substances or detrimental environmental conditions which would affect the property negatively unless otherwise stated in this report. It is possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous substances or detrimental environmental conditions on or around the property that would negatively affect its value.	
<input checked="" type="checkbox"/> <b>ADDITIONAL COMMENTS</b>	
IN ACCORDANCE WITH THE COMPETENCY PROVISION OF USPAP, I HAVE VERIFIED THAT MY KNOWLEDGE AND EXPERIENCE IS SUFFICIENT TO ALLOW ME TO COMPETENTLY COMPLETE THIS APPRAISAL UNLESS OTHERWISE STATED IN THIS REPORT.	
<input checked="" type="checkbox"/> <b>APPRAISER'S SIGNATURE &amp; LICENSE/CERTIFICATION</b>	
Appraiser's Signature <u>Mark B. Rasmussen</u> Effective Date <u>NOV. 10TH 2001</u> Date Prepared <u>NOV. 10TH 2001</u> Appraiser's Name (print) <u>MARK B. RASMUSSEN</u> Phone # <u>( )</u> State <u>NV</u> <input type="checkbox"/> License <input checked="" type="checkbox"/> Certification # <u>00797</u> Tax ID # _____	
<input type="checkbox"/> <b>CO-SIGNING APPRAISER'S CERTIFICATION</b>	
<input type="checkbox"/> The co-signing appraiser has personally inspected the subject property, both inside and out, and has made an exterior inspection of all comparable sales listed in the report. The report was prepared by the appraiser under direct supervision of the co-signing appraiser. The co-signing appraiser accepts responsibility for the contents of the report including the value conclusions and the limiting conditions, and confirms that the certifications apply fully to the co-signing appraiser. <input type="checkbox"/> The co-signing appraiser has <u>not</u> personally inspected the interior of the subject property and: <input type="checkbox"/> has <u>not</u> inspected the exterior of the subject property and all comparable sales listed in the report. <input type="checkbox"/> has <u>inspected</u> the exterior of the subject property and all comparable sales listed in the report. <input type="checkbox"/> The report was prepared by the appraiser under direct supervision of the co-signing appraiser. The co-signing appraiser accepts responsibility for the contents of the report, including the value conclusions and the limiting conditions, and confirms that the certifications apply fully to the co-signing appraiser with the exception of the certification regarding physical inspections. The above describes the level of inspection performed by the co-signing appraiser. <input type="checkbox"/> The co-signing appraiser's level of inspection, involvement in the appraisal process and certification are covered elsewhere in the addenda section of this appraisal.	
<input type="checkbox"/> <b>CO-SIGNING APPRAISER'S SIGNATURE &amp; LICENSE/CERTIFICATION</b>	
Co-Signing Appraiser's Signature _____ Effective Date _____ Date Prepared _____ Co-Signing Appraiser's Name (print) _____ Phone # <u>( )</u> State _____ <input type="checkbox"/> License <input type="checkbox"/> Certification # _____ Tax ID # _____	

**DEFINITION OF MARKET VALUE:** The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions\* granted by anyone associated with the sale.

\* Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgement.

## STATEMENT OF LIMITING CONDITIONS AND APPRAISER'S CERTIFICATION

**CONTINGENT AND LIMITING CONDITIONS:** The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.
3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.
6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
8. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.
9. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that completion of the improvements will be performed in a workmanlike manner.
10. The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower, the mortgagee or its successors and assigns, the mortgage insurer, consultants, professional appraisal organizations, any state or federally approved financial institution, or any department, agency, or instrumentality of the United States or any state or the District of Columbia; except that the lender/client may distribute the property description section of the report only to data collection or reporting service(s) without having to obtain the appraiser's prior written consent. The appraiser's written consent and approval must also be obtained before the appraisal can be conveyed by anyone to the public through advertising, public relations, news, sales, or other media.

**APPRAISER'S CERTIFICATION:** The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.
2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.
3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form.
4. I have no present or prospective interest in the property that is the subject to this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property.
5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.
6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.
7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.
8. I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.
9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and disclosed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

MARK B. RASMUSSEN

**SUPERVISORY APPRAISER'S CERTIFICATION:** If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

**ADDRESS OF PROPERTY APPRAISED:** 3705 ANTHONY PLACE, SPARKS, NV 89433**APPRAISER:**

Signature: Mark B. Rasmussen  
 Name: MARK B. RASMUSSEN  
 Date Signed: NOVEMBER 10TH 2001  
 State Certification #: 00797  
 or State License #: \_\_\_\_\_  
 State: NV  
 Expiration Date of Certification or License: 10/31/2002

**SUPERVISORY APPRAISER (only if required):**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Date Signed: \_\_\_\_\_  
 State Certification #: \_\_\_\_\_  
 or State License #: \_\_\_\_\_  
 State: \_\_\_\_\_  
 Expiration Date of Certification or License: \_\_\_\_\_

☐ Did ☐ Did Not Inspect Property

## RECERTIFICATION OF VALUE

File No.: \_\_\_\_\_

Client: IVY MORTGAGEBorrower: ANTHONY, WILLIAM & PATRICIAOn NOVEMBER 10TH 2002, the property situated at 3705 ANTHONY PLACE, SPARKS, NV 89433was appraised by MARK B. RASMUSSEN  
and valued at \$ 268,000

I have reviewed the appraisal, inspected the property, and reviewed recent sales as shown on the attached supplemental data page of the appropriate FNMA/FHLMC appraisal form.

It is my opinion that the value of the subject property:

- ☐ has INCREASED since the effective date of the original appraisal.
- ☒ has remained STABLE since the effective date of the original appraisal.
- ☐ has DECREASED since the effective date of the original appraisal.

Signature Mark B. Rasmussen  
 Name MARK B. RASMUSSEN  
 Date Signed MARCH 22ND 2002  
 State Certification # 00797 State NV  
 Or State License # \_\_\_\_\_ State \_\_\_\_\_

Signature \_\_\_\_\_  
 Name \_\_\_\_\_  
 Date Signed \_\_\_\_\_  
 State Certification # \_\_\_\_\_ State \_\_\_\_\_  
 Or State License # \_\_\_\_\_ State \_\_\_\_\_

MARK RASMUSSEN APPRAISALS

Form RECVALUE — "TOTAL for Windows" appraisal software by a la mode, inc. — 1-800-ALAMODE

## Subject Photo Page

Borrower/Client ANTHONY, WILLIAM & PATRICIA			
Property Address 3705 ANTHONY PLACE			
City SPARKS	County WASHOE	State NV	Zip Code 89433
Lender IVY MORTGAGE			

## Subject Front



3705 ANTHONY PLACE  
 Sales Price REFI  
 Gross Living Area 3,798  
 Total Rooms 13  
 Total Bedrooms 7  
 Total Bathrooms 4  
 Location AVERAGE  
 View GOOD MTN/GLF  
 Site .735 ACRE  
 Quality XLNT MFG  
 Age 3

## Subject Rear



## Subject Street



FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 6**

#021152  
*Anthony / Capitol Commerce*  
Assessor's Parcel Number:  
026-021-56

Return To:  
CAPITOL COMMERCE MORTGAGE CO.  
P O BOX 276477  
SACRAMENTO, CA 95827-6477

Prepared By:  
CAPITOL COMMERCE MORTGAGE CO.  
P O BOX 276477  
SACRAMENTO, CA 95827-6477

Recording Requested By:  
CAPITOL COMMERCE MORTGAGE CO.  
P O BOX 276477  
SACRAMENTO, CA 95827-6477

STEWART TITLE OF NORTHERN NEVADA hereby  
certifies that this instrument is a true and correct  
copy of the original.  
STEWART TITLE OF NORTHERN NEVADA

By: *Shw*

[Space Above This Line For Recording Data]

Loan No: [REDACTED] 2278

## DEED OF TRUST

MIN: [REDACTED] 278-9

### DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated JUNE 21, 2002 together with all Riders to this document.
- (B) "Borrower" is WILLIAM M. ANTHONY and PATRICIA S. ANTHONY, HUSBAND & WIFE

Borrower is the trustor under this Security Instrument.

(C) "Lender" is CAPITOL COMMERCE MORTGAGE CO., A CALIFORNIA CORPORATION

Lender is a COMPANY organized and existing under the laws of CALIFORNIA  
Lender's address is 3600 AMERICAN RIVER DRIVE SUITE 150, SACRAMENTO, CA 95864

(D) "Trustee" is C.C.M.C CO., A CALIFORNIA CORPORATION, A CALIFORNIA CORPORATION

12591 35747 C30-FF

NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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LOAN NO: [REDACTED] 2278

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(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P. O. Box 2026, Flint, Michigan 48501-2026, tel. (888) 679-MERS.

(F) "Note" means the promissory note signed by Borrower and dated **JUNE 21, 2002**.  
The Note states that Borrower owes Lender

**TWO HUNDRED FOURTEEN THOUSAND FOUR HUNDRED and NO/100-----** Dollars  
(U.S. \$ **214,400.00** ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **JULY 1, 2032**

(G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(H) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

<input type="checkbox"/> Adjustable Rate Rider	<input type="checkbox"/> Condominium Rider	<input type="checkbox"/> Second Home Rider
<input type="checkbox"/> Balloon Rider	<input type="checkbox"/> Planned Unit Development Rider	<input type="checkbox"/> Other(s) [specify]
<input type="checkbox"/> 1-4 Family Rider	<input type="checkbox"/> Biweekly Payment Rider	
<input type="checkbox"/> V. A. Rider		

(J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section 3.

(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(O) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(P) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(Q) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(R) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

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NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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LOAN NO: 2278

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## TRANSFER OF RIGHTS IN THE PROPERTY

The beneficiary of this Security Instrument is MERS (solely as nominee for Lender and Lender's successors and assigns) and the successors and assigns of MERS. This Security Instrument secures to Lender: (i) the repayment of the Loan; and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

County of **WASHOE**

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

**PARCEL 4 OF PARCEL MAP 2908 ACCORDING TO THE MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER, WASHOE COUNTY, STATE OF NEVADA ON JUNE 2, 1995, AS FILE NO. 1897855.**

**EXCEPT ALL THAT PORTION OF SAID LAND LYING WITHIN EL RANCHO DRIVE AS DEDICATED TO THE CITY OF SPARKS BY "DEDICATION MAP OF MOORPARK COURT AND EL RANCHO DRIVE", RECORDED JUNE 28, 1999 AS DOCUMENT NO. 2355346, TRACT MAP NO. 3713.**

which currently has the address of **3705 ANTHONY PLACE**

[Street],

**SUN VALLEY**

[City], Nevada

**89433**

[Zip Code]

("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument; but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is

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NEVADA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

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The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts

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NEVADA--Single Family--Fannie Mae/Freddie Mac UNIFORM INSTRUMENT with MERS  
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disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

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Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

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Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

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If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's

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acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. **Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. **Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. **Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

18. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the Transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses

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in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. **Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

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NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lenders' election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

24. Substitute Trustee. Lender at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. Assumption Fee. If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$ *Maximum Allowed By Law*.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

William M. Anthony (Seal)  
WILLIAM M. ANTHONY -Borrower

Patricia S. Anthony (Seal)  
PATRICIA S. ANTHONY -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

\_\_\_\_ (Seal)  
\_\_\_\_ -Borrower

STATE OF NEVADA,

County ss. Washoe

This instrument was acknowledged before me on

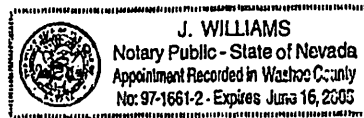
June 21st, 2002

, by

William M. Anthony and Patricia S. Anthony

My Commission Expires:

J. Williams  
J. Williams



6-16-05

WHEN RECORDED MAIL TO:

CAPITOL COMMERCE MORTGAGE CO.  
P O BOX 276477  
SACRAMENTO, CA 95827-6477

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FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvitoria

**EXHIBIT 7**

**FIRST AMERICAN TITLE  
RECORDING REQUESTED BY:  
WHEN RECORDED MAIL TO:  
RECONTRUST COMPANY  
2380 Performance Dr, TX2-984-0407  
Richardson, TX 75082**

NVNOD\_2011.3.02\_03/2011

**TS No. 09-0129656  
Title Order No. 4243586  
APN No. 026-021-56  
Property Address:**

**3705 ANTHONY PLACE  
SUN VALLEY, NV 89433**

**DOC #3998976**

05/02/2011 12:16:04 PM  
Electronic Recording Requested By  
FIRST AMERICAN NATIONAL DEFAULT  
Washoe County Recorder  
Kathryn L. Burke - Recorder  
Fee: \$215.00 RPTT: \$0  
Page 1 of 2

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**NEVADA IMPORTANT NOTICE**

**NOTICE OF DEFAULT/ELECTION TO SELL UNDER DEED OF TRUST**

NOTICE IS HEREBY GIVEN THAT: RECONTRUST COMPANY, N.A., Trustee for the Beneficiary under a Deed of Trust dated 06/21/2002, executed by WILLIAM M. ANTHONY AND PATRICIA S. ANTHONY, HUSBAND & WIFE as Trustor, to secure certain obligations in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. as beneficiary recorded 06/26/2002, as Instrument No. 2703700 (or Book , Page ) of Official Records in the Office of the County Recorder of Washoe County, Nevada. Said obligation including ONE NOTE FOR THE ORIGINAL sum of \$214,400.00. That a breach of, and default in, the obligations for which such Deed of Trust is security has occurred in that payment has not been made of :  
FAILURE TO PAY THE INSTALLMENT OF PRINCIPAL, INTEREST AND IMPOUNDS WHICH BECAME DUE ON 06/01/2009 AND ALL SUBSEQUENT INSTALLMENTS OF PRINCIPAL, INTEREST AND IMPOUNDS, TOGETHER WITH ALL LATE CHARGES, PLUS ADVANCES MADE AND COSTS INCURRED BY THE BENEFICIARY, INCLUDING FORECLOSURE FEES AND COSTS AND/OR ATTORNEYS' FEES. IN ADDITION, THE ENTIRE PRINCIPAL AMOUNT WILL BECOME DUE ON 07/01/2032 AS A RESULT OF THE MATURITY OF THE OBLIGATION ON THAT DATE.

That by reason thereof, the present beneficiary under such deed of trust has deposited with RECONTRUST COMPANY, N.A. such deed of trust and all documents evidencing obligations secured thereby, and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

### NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed Of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. Where reinstatement is possible, if the default is not cured within 35 days following recording and mailing of this Notice to Trustor or Trustor's successor in interest, the right of reinstatement will terminate and the property may thereafter be sold. The Trustor may have the right to bring court action to assert the non existence of a default or any other defense of Trustor to acceleration and sale.

To determine if reinstatement is possible and the amount, if any, to cure the default, contact: BAC Home Loans Servicing, LP, c/o RECONTRUST COMPANY, N.A. 2380 Performance Dr, TX2-984-0407, Richardson, TX 75082, PHONE: (800) 281-8219. Should you wish to discuss possible options for loan modification you may contact the Home Retention Division at 1-800-669-6650. If you meet the requirements of Section NRS 107.085 you may request mediation in accordance with the enclosed Election/Waiver of Mediation Form and Instructions. You may also contact the Nevada Fair Housing Center at 1-702-731-6095 or the Legal Aid Center at 1-702-386-1070 for assistance.

RECONTRUST COMPANY, N.A.

DATED: April 29, 2011

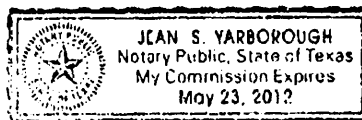
BY: Laura Dalley 429-11  
Laura Dalley, Authorized Signer

STATE OF TEXAS  
COUNTY OF TARRANT

On APR 29 2011, before me Jean S. Yarborough, personally appeared Laura Dalley, Authorized Signer, known to me (or proved to me on the oath of DL or through DL) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

WITNESS MY HAND AND OFFICIAL SEAL

Jean S. Yarborough  
Notary Public's Signature



FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yviloria

**EXHIBIT 8**



03/30/2012 12:38:11 PM  
Electronic Recording Requested By  
FIRST AMERICAN NATIONAL DEFAULT  
Washoe County Recorder  
Kathryn L. Burke - Recorder  
Fee: \$15.00 RPTT: \$0  
Page 1 of 2

WHEN RECORDED MAIL TO:  
RECONTRUST COMPANY  
2380 Performance Dr, TX2-984-0407  
Richardson, TX 75082

TS No. 09-0129656  
Title Order No. 4243586

APN No. 026-021-56

### NEVADA NOTICE OF TRUSTEE'S SALE

YOU ARE IN DEFAULT UNDER A DEED OF TRUST, DATED 06/21/2002. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

Notice is hereby given that RECONTRUST COMPANY, N.A., as duly appointed trustee pursuant to the Deed of Trust executed by WILLIAM M. ANTHONY AND PATRICIA S. ANTHONY, HUSBAND & WIFE, dated 06/21/2002 and recorded 06/26/2002, as Instrument No. 2703700, in Book , Page , of Official Records in the office of the County Recorder of WASHOE County, State of Nevada, will sell on 04/23/2012 at 11:00 AM, at at the South Virginia Street entrance to the Washoe County Courthouse, 75 Court Street Reno, NV at public auction, to the highest bidder for cash (in the forms which are lawful tender in the United States, payable in full at time of sale), all right, title, and interest conveyed to and now held by it under said Deed of Trust, in the property situated in said County and State and as more fully described in the above referenced Deed of Trust. The street address and other common designation, if any, of the real property described above is purported to be: 3705 ANTHONY PLACE, SUN VALLEY, NV 89433. The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designation, if any, shown herein.

The total amount of the unpaid balance with interest thereon of the obligation secured by the property to be sold plus reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is \$249,255.98. It is possible that at the time of sale the opening bid may be less than the total indebtedness due.

In addition to cash, the Trustee will accept cashier's checks drawn on a state or national bank, a check drawn by a state or federal credit union, or a check drawn by a state or federal savings and loan association, savings association, or savings bank specified in Section 5102 of the Financial Code and authorized to do business in this state. In the event tender other than cash is accepted, the Trustee may withhold the issuance of the Trustee's Deed until funds become available to the payee or endorsee as a matter of right. Said sale will be made, in an "AS IS" condition, but without covenant or warranty, express or implied, regarding title, possession or encumbrances, to satisfy the indebtedness secured by said Deed of Trust, advances thereunder, with interest as provided therein, and the unpaid principal of the Note secured by said Deed of Trust with interest thereon as provided in said Note, plus fees, charges and expenses of the Trustee and of the trusts created by said Deed of Trust.

DATED: March 29, 2012  
RECONTRUST COMPANY N.A., Trustee  
2380 Performance Dr., TX 2-984-04-07  
Richardson, TX 75082  
Phone/Sale Information (800)281-8219

By: DeEdra Williams 3/29/12  
DeEdra Williams, Assistant Vice President

RECONTRUST COMPANY NA is a debt collector attempting to collect a debt. Any information obtained will be used for that purpose.

STATE OF Texas  
COUNTY OF Tarrant

On March 29 2012, before me Elsie Kroussakis, personally  
appeared DeEdra Williams, AVP, known to me  
(or proved to me on the oath of N/A or through Personal Knowledge) to be  
the person whose name is subscribed to the foregoing instrument and acknowledged to  
me that he/she executed the same for the purposes and consideration therein expressed.

WITNESS MY HAND AND OFFICIAL SEAL

Elsie Kroussakis  
Notary Public's Signature



FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 9**

DOC #4106420

04/26/2012 09:32:33 AM

Electronic Recording Requested By

DOCUMENT PROCESSING SOLUTIONS

Washoe County Recorder

Kathryn L. Burke - Recorder

Fee: \$16.00 RPTT: \$0

Page 1 of 3

RECORDING REQUESTED BY:

RECONTRUST COMPANY, N. A

AND WHEN RECORDED MAIL TO:

Federal National Mortgage Association

C/O Recontrust Company

400 National Way

Simi Valley, CA 93065

Forward Tax Statements to Address listed above

TS No. 09-0129656

Title Order No. 4243586

026-021-56

**TRUSTEE'S DEED UPON SALE NEVADA**

APN# 026-021-56

The amount of the unpaid debt was \$ 246,399.80

The amount paid by the Grantee was \$ 245,677.85

The property is in the city of SUN VALLEY, County of WASHOE

The documentary transfer tax is \$ 0. The Grantee herein was the beneficiary.

RECONTRUST COMPANY, N.A., as the duly appointed Trustee, under a Deed of Trust referred to

below, and herein called "Trustee", does hereby grant without covenant or warranty to: FEDERAL

NATIONAL MORTGAGE ASSOCIATION herein called Grantee, the following described real property situated in WASHOE County, Nevada:

**SEE ATTACHED LEGAL DESCRIPTION**

This conveyance is made pursuant to the powers conferred upon Trustee by the Deed of Trust executed by WILLIAM M. ANTHONY AND PATRICIA S. ANTHONY, HUSBAND & WIFE, as Trustor, recorded on 06/26/2002, Instrument Number 2703700 (or Book , Page ) Official Records in the Office of the County Recorder of WASHOE County. All requirements of law regarding the recording and mailing of copies of the Notice of Default and Election to Sell, and the mailing, posting, and publication of the Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's Sale and in exercise of its power under said Deed of Trust sold said real property at public auction on 04/23/2012. Grantee, being highest bidder at said sale became the purchaser of said property for the amount bid, which amount was \$ 245,677.85.

DATED: 4.24.12

RECONTRUST COMPANY, N.A., Successor Trustee

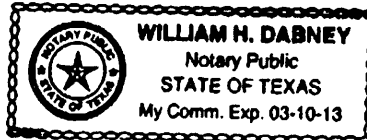
BY: Stephanie Y. King 4-24-12  
Stephanie Y. King AVP

State of: Texas )  
County of: Tarrant )

On 4-24-12 before me William H. Dabney, personally appeared  
Stephanie Y. King AVP, known to me (or proved to me on the oath of  
\_\_\_\_\_ or through \_\_\_\_\_) to be the person whose name is subscribed to the  
foregoing instrument and acknowledged to me that he she executed the same for the purposes and  
consideration therein expressed.

Witness my hand and official seal.

William H. Dabney  
Notary Public's Signature



TS # 09-0129656  
PUB# 1006.74804  
LOAN TYPE: CONV

## **"EXHIBIT A"**

### **LEGAL DESCRIPTION**

PARCEL 4 OF PARCEL MAP 2908 ACCORDING TO THE MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER, WASHOE COUNTY, STATE OF NEVADA ON JUNE 2, 1995, AS FILE NO. 1897855. EXCEPT ALL THAT PORTION OF SAID LAND LYING WITHIN EL RANCHO DRIVE AS DEDICATED TO THE CITY OF SPARKS BY "DEDICATION MAP OF MOORPARK COURT AND EL RANCHO DRIVE", RECORDED JUNE 28, 1999 AS DOCUMENT NO. 2355346, TRACT MAP NO. 3713.

FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 10**

Sparks Justice Court

IN THE JUSTICE COURT OF SPARKS TOWNSHIP  
COUNTY OF WASHOE, STATE OF NEVADA

FILED  
JANINE BAKER, CLERK  
SPARKS JUSTICE COURT  
NOV 20 2012  
By [Signature]  
DEPUTY CLERK

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff,

v.

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or OCCUPANTS 1-5,

Defendants.

Case No.: 12-SCV-0936

ORDER GRANTING MOTION FOR  
JUDGMENT ON THE PLEADINGS  
PURSUANT TO JCRCP 12(c)

A Verified Complaint for an unlawful detainer was filed in the Sparks Justice Court by the Plaintiff, Federal National Mortgage Association, on June 6, 2012, alleging that the Plaintiff had become the owners of certain real property described as 3705 Anthony Place, Sun Valley, NV 89433 due to a foreclosure action which had proceeded in District Court. The Plaintiff attached copies of the trustee's deed upon sale as Exhibit A of the Complaint as well as a Three-Day Notice to Quit the premises as Exhibit B, and an Affidavit of Service of the Notice to Quit. Despite the foreclosure and notice, the Defendants, Patricia and William Anthony (hereinafter "the Anthonys"), refused to vacate the premises. The Plaintiff requested that a Temporary Writ of Restitution be issued, that the Defendants be required to pay reasonable rent until such time as they vacated the premises, and the Court enter an Order for Restitution and Possession of the Premises. Based upon the Verified Complaint and the Affidavit of Support thereof, the Court issued an Order to Show Cause Why a Temporary Writ of Restitution Should Not Issue and set the time of the hearing for August 17, 2012.

///

///



1 The first documents received from the Defendants on July 17, 2012, were copies of the  
2 Summons, Order to Show Cause, and Verified Complaint returned to the Court with certain  
3 annotations made by the Defendants in blue ink on the face indicating they don't recognize or  
4 consent to the proceedings herein. Additional documents sent to the Court by the Defendants  
5 include an affidavit indicating that the Defendants are not artificial persons but in fact living,  
6 breathing human beings and are not amenable to the jurisdiction of the Court.

7 The first cognizable pleading was filed by the Anthonys on July 24, 2012, entitled,  
8 Notice of Motion to Quash and Defective Summons and Service of Process. In it, the  
9 Anthonys argued that appropriate service of process had not occurred in this case.

10 On August 16, 2012, minutes before the scheduled hearing on the Temporary Writ, the  
11 Anthonys filed their Answer to Verified Complaint for Unlawful Detainer and "Order to Show  
12 Cause . . . and Motion to Dismiss and Deny Writ [sic]." In that Answer, the Anthonys again  
13 argued the Court was precluded from hearing the writ, that opposing counsel had not fully  
14 established their authority to appear on behalf of the Plaintiff, that the Judge had taken certain  
15 oaths in this case, and that contrary to the supreme law of the land, a foreclosure had occurred  
16 in this case against the Anthonys. Notably in this Answer, while the Anthonys make numerous  
17 allegations as to the jurisdiction of the Court and the status of counsel for Federal National  
18 Mortgage Association, they never admit or deny that the foreclosure action underlining the case  
19 had occurred or that it was properly held.

20 A hearing on the Application for a Temporary Writ was held on August 16, 2012, at  
21 which time the Court granted the writ instructing counsel for Federal National Mortgage  
22 Association to prepare the appropriate documents.

23 Subsequent to the hearing, the Anthonys continued to send the Court various  
24 documents, many of which the Court could not file as it could not discern whether they were a  
25 pleading or a motion. Those documents include a challenge of jurisdiction received by the

1 Court on August 21, 2012, which was addressed, in part, at the Temporary Writ hearing;  
2 further copies of the Verified Complaint and Detainer originally served upon the Anthonys  
3 with additional annotations in pink ink; and an additional copy of the Notice of Motion to  
4 Quash and Defective Service of Process previously filed and ruled upon by the Court.

5 On August 29, 2012, the Anthonys sent the Court what they have styled as a Stipulated  
6 Order and Judgment in which they believe they can enter into a stipulation binding the Plaintiff  
7 and the Court without the acquiescence of the opposing party (the Plaintiff) or upon order of  
8 the Court.

9 Documents continued to be sent to the Court including copies of lists of other  
10 documents received on August 29, 2012, and a list of documents received on September 11,  
11 2012.

12 The Temporary Writ of Restitution was issued on September 10, 2012, requiring the  
13 Anthonys to remove themselves from the premises effective September 14, 2012.

14 On September 18, 2012, the Anthonys sent additional documents to the Court  
15 concerning their belief as to the application of certain legal acts of 1666 concerning estates and  
16 appointing themselves executors of their own estates. The Court also received a document  
17 entitled, "Injunction Against Temporary Writ of Restitution" drafted by the Anthonys and sent  
18 to the Court where they apparently are attempting to issue their own injunction against the  
19 execution of the writ.

20 Federal National Mortgage Association filed its Notice of Entry of Order on September  
21 20, 2012, notifying the Anthonys of the issuance of the writ.

22 On September 26, 2012, the Court filed a document received from the Anthonys  
23 entitled, "Writ for Revocation of 9/10/2012 Temporary Writ of Restitution/Demand for  
24 Preserved Right of Trial by Jury Before Property is Seized." Pursuant to that request, the Court

25 ///

1 accepted payment of a jury fee on behalf of the Anthonys pending a possible jury trial on the  
2 underlying case.

3 On September 27, 2012, the Court filed the Plaintiff's Opposition to Defendant's  
4 Motion to Quash and Counter-Motion for Judgment on the Pleadings and to Strike Impertinent  
5 Material as well as Opposition to Writ for Revocation of Temporary Writ of Restitution and  
6 Demand for Jury Trial.

7 As this order was being prepared, the Court received several more documents from the  
8 Anthonys concerning this cause of action. On Friday, November 16, 2012, documents were  
9 received from the Anthonys including Lis Pendens and Verified Admissions of Alleged  
10 Plaintiff Attorneys and Firm and Writ of Verified Disqualification for Alleged Plaintiff  
11 Attorneys and Firm; Notice to Court of Applicable NRS and Other Law/Admissions; and,  
12 Mandatory Judicial Notice.

13 The first document, the Lis Pendens and Verified Admissions, seeks to bind counsel for  
14 the Plaintiff with admissions crafted by the Anthonys and previously sent to Plaintiff's counsel.  
15 Parties are simply not free to make up their own admissions, send them to opposing counsel,  
16 and deem them admitted; nor can this Court consider the Anthonys' self-styled lis pendens  
17 inasmuch as they no longer own the property in question. To the extent that this document  
18 offers any defense to the foreclosure sale, it appears that those defenses should have been  
19 proffered in the District Court before or at the time of the foreclosure sale, not after the fact  
20 during the writ of restitution process.

21 The second document received on November 16, Notice to Court of Applicable NRS  
22 and Other Law/Admissions, claims that the Anthonys' loan with Bank of America had been  
23 discharged after they had tendered an instrument to the bank in payment of the debt. Again,  
24 that defense should have been made in the District Court before the foreclosure sale and not  
25 during the writ of restitution process.

1        Additionally, the Anthonys' ongoing statements that they are "living people and not  
2        fictitious artificial corporate (corpse) juristic persons" does not present a cognizable defense.

3        The third document filed on November 16, Mandatory Judicial Notice, advises the  
4        Court of the status of the common law and essentially instructs the Court on how to interpret  
5        that law in the instant case. Quoting the works of John Locke, Ayn Rand, and the Articles of  
6        Confederation, Prohibition Against Titles of Nobility, does not present a defense at the instant  
7        writ of restitution.

8        Having reviewed all the documents received or filed in this matter, having conducted a  
9        hearing on the Temporary Restitution, having considered Federal National Mortgage  
10       Association's Motion for Judgment on the Pleadings, and the Defendants having failed to  
11       respond thereto, the Court makes the following Findings of Fact and Conclusions of Law:

- 12        1. While the Anthonys have taken every opportunity to send statements and documents  
13        concerning their political beliefs and the jurisdiction of this Court or any court to  
14        hear matters concerning their property as well as the status of the United States  
15        government and various ordinances and acts dating back to 1666, they have never  
16        directly addressed in their answer or other documents the fact that a foreclosure was  
17        held in this case, and a Deed of Trust was presented to the Court showing that the  
18        property in question was deeded to Federal National Mortgage Association on April  
19        23, 2012.
- 20        2. At the time of the hearing on the Temporary Writ of Restitution, the Court told the  
21        Anthonys that while it did appear, and counsel for Federal National Mortgage  
22        Association admitted, that the underlying service may not have been sufficient  
23        pursuant to the requirements in complaints for unlawful detainers, by appearing at  
24        the time set for the hearing and making a general appearance by presenting several

25        ///

1 defenses to the Court, any defect in the service of process had been obviated. As the  
2 Court had explained at the time of the hearing, their appearance that day on August  
3 16, 2012, was no longer a special appearance. That motion was renewed after the  
4 hearing and the Court finds once again, that based upon their waiver by appearing,  
5 any errors in the service of process had been rendered moot. See, Indiana Insurance  
6 Company v. Eighth Judicial District Court, 112 Nev. 949, 920 P.2d 514 (1996)  
7 citing, Davis v. District Court, 97 Nev. 332, 335-36, 629 P.2d 1209, 1211-12  
8 (1981), "(request for additional relief in the form of attorney's fees constitutes a  
9 general appearance subjecting a party to the jurisdiction of the Nevada courts)."

10 3. Pursuant to Rule 12(c) of the Justice Court Rules of Civil Procedure:

11 "After the pleadings are closed but within such time as to not delay  
12 the trial, any party may move for judgment on the pleadings. If, on  
13 a motion for judgment on the pleadings, matters outside the pleadings  
14 are presented to and not excluded by the court, the motion shall be  
15 treated as one for summary judgment and disposed of as provided in  
16 Rule 56, and all parties shall be given reasonable opportunity to  
17 present all material made pertinent to such a motion by Rule 56."

18 4. Federal National Mortgage Association has met its burden of proof, pursuant to  
19 NRS 40.255 and 40.300, which allows for unlawful detainers following foreclosure.  
20 Pursuant to NRS 40.300, the bank is obligated to set forth facts explaining why they  
21 are seeking to recover the property. Plaintiff set forth its allegations to show that  
22 pursuant to NRS 40.255, they have perfected the title, provided appropriate notice,  
23 and the time for holding that title had expired. Plaintiff has proffered a copy of the  
24 duly recorded title, has alleged that they have possession of such a title, and the  
25 Defendants never challenged that they do so.

5. The Anthonys' answer failed to counter the Plaintiff's claims or deny them, but  
indeed in many instances seems to have admitted them.

1 6. The Anthonys have failed to respond to the Motion for Judgment on the Pleadings  
2 pursuant to Rule 12(c) of the Justice Court Rules of Civil Procedure. Failure to  
3 respond to the motion gives rise to the presumption that the motion is meritorious  
4 and should be granted in favor of the moving party. See, District Court Rule 13.3,  
5 "Failure of the opposing party to serve and file his written opposition may be  
6 construed as an admission that the motion is meritorious and a consent to granting  
7 the same."

8 Based upon the preceding Findings of Fact and Conclusions of Law,

9 IT IS HEREBY ORDERED that:

- 10 1. The Anthonys' renewed Motion to Quash the Service of Process filed on August 21,  
11 2012, is DENIED.
- 12 2. The Defendants' self-styled "Stipulated Order and Judgment" to the extent that it  
13 constitutes a cognizable motion, is DENIED, noting that the document was never  
14 served upon the Plaintiff.
- 15 3. To the extent that the admission statements and self-appointments of the Defendants  
16 as their own executors is a motion, it is DENIED.
- 17 4. To the extent the Defendants' self-styled Writ for Revocation presents a motion and  
18 asks that the Temporary Writ of Restitution be "revoked, reversed, or suspended," it  
19 is DENIED. The Anthonys' document presents neither a defense nor provides this  
20 Court with any cognizable motion.
- 21 5. The Anthonys' failure to address the allegations made in the Verified Complaint is  
22 deemed to be an admission. Justice Court Rules of Civil Procedure Rule 8(d)  
23 requires that, "Averments in a pleading to which a responsive pleading is required,  
24 other than those as to the amount of damage, are admitted when not denied in the  
25 responsive pleading." The Anthonys never directly addressed the underlying

1 foreclosure or recording of the deed transferring their former property to Federal  
2 National Mortgage Association. Failing to respond or deny those averments deems  
3 them admitted. The Temporary Writ of Restitution was appropriately granted, and  
4 the Anthonys have presented no grounds to reconsider that decision.

- 5 6. To the extent that some of the pleadings may have contained an application to  
6 disqualify this Judge, the Anthonys have failed to comply with the requirements of  
7 NRS 1.235(1), or by providing the appropriate documents before the hearing was  
8 held. Failure to comply with the rule requires that the application, if there is one, be  
9 denied.
- 10 7. The combined failure of the Anthonys to respond to the allegations made in the  
11 Verified Complaint and their failure to respond to the Plaintiff's Motion for  
12 Judgment on the Pleadings, leads this Court to the conclusion that granting the  
13 Motion for Judgment on the Pleadings is appropriate. Plaintiff's motion, pursuant to  
14 Rule 12(c) of the Justice Court Rules of Civil Procedure, is hereby GRANTED.
- 15 8. To the extent that trial on this matter has been set, that date is vacated. This order  
16 constitutes the final judgment in this case, and the Court will not continue to  
17 reconsider decisions already made if the Anthonys persist in repeatedly renewing  
18 prior motions already decided against them.

19 Dated this 20<sup>th</sup> day of November 2012.

20  
21 

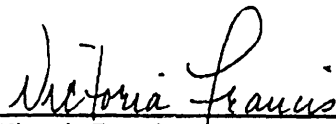
22 \_\_\_\_\_  
23 Kevin Higgins  
24 Justice of the Peace  
25 Department 2

CERTIFICATE OF SERVICE BY MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Sparks Justice Court, in and for the County of Washoe; and that on this 20<sup>th</sup> day of November, 2012, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true and correct copy of the attached document addressed as follows:

GREGORY L. WILDE, ESQ.  
Tiffany & Bosco, P.A.  
212 So. Jones Blvd.  
Las Vegas, NV 89107

PATRICIA ANTHONY & WILLIAM ANTHONY  
3705 Anthony Place  
Sun Valley, NV 89433

  
Victoria Francis  
Judge's Secretary



FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 11**

# ORIGINAL

TIFFANY & BOSCO, P.A.  
212 S. Jones Boulevard  
Las Vegas NV 89107  
Telephone: (702) 258-8200 Fax: (702) 258-8787

1 **TIFFANY & BOSCO, P.A.**  
2 Gregory L. Wilde, Esq.  
3 Nevada Bar No. 4417  
4 212 S. Jones Boulevard  
5 Las Vegas NV 89107  
6 Telephone: (702) 258-8200  
7 Fax: (702) 258-8787

8 Attorney for Plaintiff  
9 12-74506 / L1208TM

## JUSTICE COURT, SPARKS TOWNSHIP

### WASHOE COUNTY, NEVADA

10 Federal National Mortgage Association,

Case No.: 12-SCV-0936

11 Plaintiff,

Dept No.: 2

12 vs.

13 Patricia Anthony, William Anthony, and/or  
14 Occupants 1-5

15 Defendant.

### PERMANENT WRIT OF RESTITUTION

16 TO: THE WASHOE COUNTY SHERIFF, NEVADA:

17 GREETINGS: PATRICIA ANTHONY, WILLIAM ANTHONY, AND/OR

18 OCCUPANTS 1-5

19 YOU ARE HEREBY NOTIFIED that pursuant to a Court Order, Plaintiff is to

20 have peaceable restitution of the real property located at:

21 3705 Anthony Place, Sun Valley, NV 89433.

22 ///

23 ///

24 ///

25

TIFFANY & BOSCO, P.A.  
212 S. Jones Boulevard  
Las Vegas NV 89107  
Telephone: (702) 258-8200 Fax: (702) 258-8787

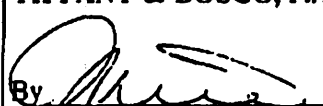
1 YOU ARE THEREFORE COMMANDED, taking with you the force of the  
2 County if necessary, to remove said Defendants, PATRICIA ANTHONY, WILLIAM  
3 ANTHONY, and all persons claiming under them, and that Plaintiff shall have  
4 peaceable restitution of the same.  
5

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

7  
8   
9 JUSTICE COURT JUDGE

10 Submitted by:

11 TIFFANY & BOSCO, P.A.

12  
13 By   
14 GREGORY L. WILDE, ESQ.  
15 Nevada Bar No. 4417  
16 212 S. Jones Boulevard  
17 Las Vegas, Nevada 89107  
18 Attorney for Plaintiff  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# ORIGINAL

## TIFFANY & BOSCO

P.A.  
Gregory L. Wilde, Esq.  
Nevada Bar No. 004417  
212 South Jones Boulevard  
Las Vegas, Nevada 89107  
Telephone: 702 258-8200  
Fax: 702 258-8787  
*Attorneys for Plaintiff*  
TB# 12-74506  
[evictionsnv@tblaw.com](mailto:evictionsnv@tblaw.com)

JUSTICE COURT, SPARKS TOWNSHIP

WASHOE COUNTY, NEVADA

Federal National Mortgage Association,

Plaintiff,

vs.

Patricia Anthony and William Anthony and/or  
Occupants 1-5,

Defendants.

Case No. 12-SCV-0936  
Dept. No. 2

### PERMANENT WRIT OF RESTITUTION

TO: THE WASHOE COUNTY SHERIFF, NEVADA:

GREETINGS: PATRICIA ANTHONY, WILLIAM ANTHONY, AND/OR OCCUPANTS 1-5:

YOU ARE HEREBY NOTIFIED that pursuant to a Court Order, Plaintiff is to have peaceable  
restitution of the real property located at:

3705 Anthony Place , Sun Valley, NV 89433.

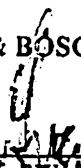
1 YOU ARE THEREFORE COMMANDED, taking with you the force of the County if necessary,  
2 to remove said Defendants PATRICIA ANTHONY, WILLIAM ANTHONY, all persons claiming under  
3 them, and that Plaintiff shall have peaceable restitution of the same.

4 DATED this 6 day of Aug, 2016.

5   
6 JUSTICE COURT JUDGE

7 Submitted by:

8 TIFFANY & BOSCO, P.A.

9   
10 By GREGORY L. WILDE, ESQ.  
11 Nevada Bar No. 44117  
12 212 S. Jones Boulevard  
13 Las Vegas, Nevada 89107  
14 Attorney for Plaintiff

FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 12**

EXHIBIT 2

**AFFIDAVIT RE CERTIFICATION OF AUTHENTICITY OF RECORDS**

I hereby declare under the penalty of perjury that the following statements are true to the best of my knowledge and belief:

1. That I am the duly authorized Custodian of Records in the employ of the Division of Housing, Manufactured Housing.

2. The accompanying records are the original and complete records or an exact copy thereof of all the original records regarding the *title search and title documents pertaining to a 1996 FUQUA Eagle Mobile Home with Serial Number 15233AC*, which records are kept in the regular course and scope of my business, or my employer's business, and constitute ALL of the records as requested;

3. The entries contained in these original records were made by persons having actual knowledge thereof immediately or soon after the happening of the events or incidents which they purport to depict.

Dated this 27th day of July, 2018.

By:

*[Signature]*  
Diane O'Connor, Program Officer III,  
Division of Housing Manufactured Housing  
Phone: 775.684.2948

STATE OF NEVADA       }  
                                      } ss:  
CARSON CITY            }

This instrument was acknowledged before me on 7/27/18 by Diane O'Connor as Program Officer III of Division of Housing, Manufactured Housing, on behalf of whom instrument was executed.



*Deborah S. Tomlinson*

*Deborah S. Tomlinson*  
Notary Public

My Commission Expires: March 3, 2020



STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
MANUFACTURED HOUSING DIVISION

State of Nevada

County of Washoe

AFFIDAVIT  
APPLICATION FOR CERTIFICATE OF  
OWNERSHIP

The undersigned, William Michael Anthony  
Address 3705 Anthony Place City Sparks State NV Zip 89433

upon oath states as part of this application to the Manufactured Housing Division, Department of Business and Industry, for the issuance of a Certificate of Ownership for the structure herein described as follows:

MAKE: Fugha SERIAL # 15233AC  
YEAR: 1996 SIZE: 38'6" x 66'8" TYPE: Golden Eagle 953

That the said structure was obtained on or about the 17 of November, 2000  
(Day) (Month) (Year)  
from Trinity Homes, Inc.

Address 2185 Green Vista Dr. 211 City Sparks State NV Zip 89431, and  
that said structure has been in (my, our) possession since that time. At the time (I, we) acquired this  
structure, the Certificate of Ownership for this structure was not obtained or is not negotiable for the  
following reasons:

The manufacturer's Statement of Origin was lost by  
the title company

That a Certificate of Ownership has been issued in the State of (N.A.)

That said structure is located at: 3705 Anthony Place, Sparks, NV 89433.

(I, We) further state that to (my, our) knowledge, the structure is free and clear of any liens,  
encumbrances, lawful claims and demands of any person whatsoever, and that the structure is not  
involved in any existing or pending litigation, except a lien in favor of

(none)  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
in the sum of \$ \_\_\_\_\_

PLEASE COMPLETE page 2

(2011 Revised)

10/18/12  
PAID  
\$45.00

check # 10063



STATE OF NEVADA DEPARTMENT OF BUSINESS & INDUSTRY  
MANUFACTURED HOUSING DIVISION

AFFIDAVIT

APPLICATION FOR CERTIFICATE OF OWNERSHIP

Page 2 of 2

That (I, we) have good right and lawful authority to request the Division to issue a Certificate of Ownership on said structure to:

NEW REGISTERED OWNER

NEW LIENHOLDER

William Michael Anthony

Patricia Sanburn Anthony

Mailing Address: 3705 Anthony Place Mailing Address: \_\_\_\_\_

Sparks, NV 89433

The statements and declarations herein contained are for the specific purpose of inducing said Division to so do; that (I, we) shall and will assume, fully pay, satisfy and discharge any and all liens, claims or encumbrances disclosed herein or any others that may be shown or proved to be upon or against said structure and indemnify and save harmless said Division and the State of Nevada on account of the issuance of said Certificate of Ownership on said structure as aforesaid.

(I, We) hereby certify under penalty of perjury that the foregoing is true and correct.

IN WITNESS WHEREOF, this instrument has been executed and delivered to said Manufactured Housing Division this 18th of October, 2012.

Day

Month

Year

Signature

William Michael Anthony

Signature

STATE OF NEVADA

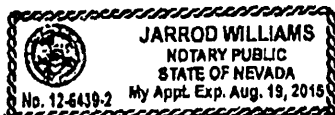
COUNTY OF CARSON CITY

This instrument was acknowledged before me, Jarrod Williams the undersigned Notary Public, on this 18 day of Oct, 2012.

by William Michael Anthony and ONLY \*\*\*

Name of Signor

Name of Signor



Jarrod Williams  
Notary Public

**WARNING:** Endorsement required by county assessor where mobile home is situated that all taxes have been paid before title can be transferred.

Signature of County Assessor

For Tax Year

STATE OF NEVADA  
MANUFACTURED HOUSING DIVISION

B-294000

Certificate of Ownership

WARNING

There may be outstanding liens against this structure which do not appear on the face of the certificate. Interested party(s) should contact the Division.

OFFICE COPY

OWNERS

ANTHONY, WILLIAM MICHAEL, OR  
ANTHONY, PATRICIA SANBURN

ISSUE DATE: 10/18/2012

THIS CERTIFICATE IS EVIDENCE OF LEGAL OWNERSHIP OF THE STRUCTURE (TAX DESCRIPTION)

THIS CERTIFICATE OF TITLE REMAINS IN FORCE AND EFFECT UNTIL ITS CANCELLATION

WARNING

ENDORSEMENT REQUIRED BY COUNTY ASSESSOR WHERE MOBILE HOME IS SITUATED THAT ALL TAXES HAVE BEEN PAID BEFORE TITLE CAN BE TRANSFERRED

Serial No: 15233AC

Year: 1996 Mfg: FUQUA

Size: 38 ft. 6 in. x 66 ft. 8 in.

WILLIAM OR PATRICIA ANTHONY  
3706 ANTHONY PL  
SUN VALLEY, NV 89433

SIGNATURE ASSESSOR OR DEPUTY ASSESSOR

THIS TITLE IS VOIDED IF THERE IS ANY ALTERATION OR IF COLORED BACKGROUND IS ABSENT

FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 13**

EXHIBIT 2

**AFFIDAVIT RE CERTIFICATION OF AUTHENTICITY OF RECORDS**

I hereby declare under the penalty of perjury that the following statements are true to the best of my knowledge and belief:

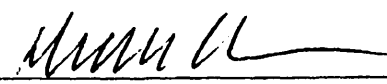
1. That I am the duly authorized Custodian of Records in the employ of the Division of Housing, Manufactured Housing.

2. The accompanying records are the original and complete records or an exact copy thereof of all the original records regarding the *title search and title documents pertaining to a 1996 FUQUA Eagle Mobile Home with Serial Number 15233AC*, which records are kept in the regular course and scope of my business, or my employer's business, and constitute ALL of the records as requested;

3. The entries contained in these original records were made by persons having actual knowledge thereof immediately or soon after the happening of the events or incidents which they purport to depict.

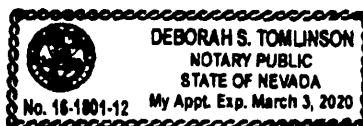
Dated this 27th day of July, 2018.

By:

  
Diane O'Connor, Program Officer III,  
Division of Housing Manufactured Housing  
Phone: 775.684.2948

STATE OF NEVADA       }  
                                      } ss:  
CARSON CITY               }

This instrument was acknowledged before me on 7/27/18 by Diane O'Connor as Program Officer III of Division of Housing, Manufactured Housing, on behalf of whom instrument was executed.



Deborah S. Tomlinson

Deborah S. Tomlinson  
Notary Public

My Commission Expires: March 3, 2020

58-46416



STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
MANUFACTURED HOUSING DIVISION

1830 E. College Pkwy Suite 120, Carson City, NV. 89706  
Phone 775-684-2940; Fax 775-684-2949  
mhd.nv.gov

RECEIVED  
U.S. MAIL

NOV 19 2015

NEVADA DIVISION  
MANUFACTURED HOUSING  
CARSON CITY

State of Pennsylvania  
County of Allegheny

AFFIDAVIT, APPLICATION  
FOR CERTIFICATE OF OWNERSHIP

The undersigned, Federal National Mortgage Association

Mailing Address c/o Puleo Delisle, PLLC, 444 Route 111 City Smithtown State NY Zip 11787

upon oath states as part of this application to the Manufactured Housing Division, Department of Business and Industry, for the issuance of a Certificate of Ownership for the structure herein described as follows:

MAKE: FUQUA MODEL: Eagle Ridge  
YEAR: 1996 SIZE: 38.6 x 66.8  
SERIAL # 15233AC

That the said structure was obtained on or about the 24 of April, 2012  
(Day) (Month) (Year)

from FORECLOSURE  
(Name of Seller or Transferee)

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

And that said structure has been in (my, our) possession since that time. At the time (I, we) acquired this structure, the Certificate of Ownership for this structure was not obtained or is not negotiable for the following reasons:

FORECLOSURE

That a Certificate of Ownership has been issued in the State of Nevada.

That said structure is located at: 3705 Anthony Place  
(Physical location of home)

Sun Valley, Nevada 89433

( C i t y ) ( S t a t e ) ( Z i p )

(I, We) further state that to (my, our) knowledge, the structure is free and clear of any liens, encumbrances, lawful claims and demands of any person whatsoever, and that the structure is not involved in any existing or pending litigation, except a lien in favor of

NONE

(NAME OF LIENHOLDER - IF NONE, STATE "NONE")

Lienholder Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Lien is in the sum of \$ \_\_\_\_\_

PLEASE COMPLETE page 2

RECEIVED  
U.S. MAIL

NOV 19 2015

STATE OF NEVADA DEPARTMENT OF BUSINESS & INDUSTRY  
MANUFACTURED HOUSING DIVISION  
AFFIDAVIT, APPLICATION FOR CERTIFICATE OF OWNERSHIP

NEVADA DIVISION  
MANUFACTURED HOUSING  
CARSON CITY

Page 2 of 2

That (I, we) have good right and lawful authority to request the Division to issue a Certificate of Ownership on said structure to:

NEW REGISTERED OWNER

NEW LIENHOLDER

(Please include vesting i.e. "or", "and", "Jtwros")

Federal National Mortgage Association NONE

Mailing Address: c/o Puleo Delisle, PLLC

Mailing Address: \_\_\_\_\_

444 Route 111, Smithtown, NY 11787

The statements and declarations herein contained are for the specific purpose of inducing said Division to issue a Certificate of Ownership; that (I, we) shall and will assume, fully pay, satisfy and discharge any and all liens, claims or encumbrances disclosed herein or any others that may be shown or proved to be upon or against said structure and indemnify and save harmless said Division and the State of Nevada on account of the issuance of said Certificate of Ownership on said structure as aforesaid.

(I, We) hereby certify under penalty of perjury that the foregoing is true and correct.

IN WITNESS WHEREOF, this instrument has been executed this 16 day of September, 2015.  
(Month) (Year) (Day)

By Stalia M. Soto, Attorney-In-Fact, (AIF), for  
Federal National Mortgage Association

Print Name and Title Stalia M. Soto López, Assistant Vice President (AVP)

STATE OF Pennsylvania COUNTY OF Allegheny

This instrument was acknowledged before me, Yulonda Marie Smith the undersigned  
(Name of Notary Public)

Notary Public, on this 16 day of September, 2015

by Stalia M. Soto López, AVP of BANA  
(Name of Signor)

Yulonda Marie Smith  
Notary Public Signature

stamp or seal:

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL  
YULONDA MARIE SMITH, NOTARY PUBLIC  
CITY OF PITTSBURGH, ALLEGHENY COUNTY  
MY COMMISSION EXPIRES FEB. 10, 2019

**\*\*WARNING:** Endorsement required by county assessor where mobile home is situated that all taxes have been paid before title can be transferred.\*\*

Angelina Phillips  
Signature of County Assessor

For Tax Year 2015/2016

10/13/2015 ID# 3218575

(Revised 06/2014)

FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 14**

1 TIFFANY & BOSCO, P.A.  
2 Gregory L. Wilde, Esq.  
3 Nevada State Bar No. 4417  
4 212 South Jones Boulevard  
5 Las Vegas, Nevada 89107  
6 Telephone: 702 258-8200  
7 Fax: 702 258-8787  
8 12-74506

*Exempt from Levy*  
*This original presentment posted 5/22/2012, despite our*  
*prominently posted NO TRESPASSING, PRIVATE PROPERTY and*  
*Public Notice signs, is timely, conditionally accepted for value and*  
*consideration or performance upon verified*  
*proof of your claims and returned*  
*certified: 1) in accordance*  
*with all assertions of enclosed*  
*lawful notification letter; 2) your*  
*alleged client has verified*  
*unrebutted proof of*  
*ownership that*  
*lawfully*

**THREE DAY NOTICE TO VACATE**

9 TO: Patricia S. Anthony, William M. Anthony and/or (Nonexempt Occupants 1-5)  
10 3705 Anthony Place  
11 Sun Valley, NV 89433

12 YOU ARE HEREBY NOTIFIED that you are unlawfully in possession of the above premises, in that  
13 property you occupy. A Trustee's sale of the above property was held on April 23, 2012, which sale Federal  
14 National Mortgage Association became the owner of the property.

15 YOU ARE FURTHER NOTIFIED that unless you vacate the above premises three days from the date of  
16 the service of this notice, eviction proceedings will be commenced against you for reasonable rents, costs, and  
17 attorney's fees.

18 DATED: May 16, 2012

19 *Supersedes and negates all our*  
20 *verified claims, with complete*  
21 *lawful county-recorded chain of*  
22 *title; 3) you possess lawfully*

Respectfully submitted,

TIFFANY & BOSCO, P.A.

By *[Signature]*  
GREGORY L. WILDE, ESQ.  
Attorneys for Plaintiff

23 *accepted lawful Power of Attorney from*  
24 *verified principal of your alleged client specific to this property matter, verified*  
25 *copy hereby demanded; and 4) tendered negotiable instrument received and*  
26 *accepted by Bank of America on April 16, 2012 from us does NOT*  
*legally discharge alleged debt prior to "Trustee sale"*

*this twenty-third day of May, year of our Lord Yeshua two thousand*  
*twelve by Patricia-Sanbueni Anthony, living woman, authorized*  
*agent for Patricia S. Anthony, and*  
*by William Michael Anthony,*  
*living man, authorized agent for William M. Anthony, peaceful*  
*inhabitants upon the land, in obedience to The Almighty Creator, stewards*  
*taking dominion, to His honor and glory* ☺



1                    SUPPLEMENTAL INFORMATION RE: NOTICE TO VACATE

2    As you now know, the property you occupy has been foreclosed upon and the new owner is seeking to obtain  
3    possession of the property. If you can provide proof that you are a "tenant" of the premises, you may have certain  
4    rights afforded to you. In order to see if you qualify, fax, mail or deliver a written statement detailing your  
5    alleged tenancy to:

6    Tiffany & Bosco, P.A., Attention: "Eviction Department" 212 S. Jones Blvd. Las Vegas, Nevada 89107.  
7    Fax (702) 258-8787

8    PHONE CALLS REGARDING AN ALLEGED TENANCY WILL NOT BE ACCEPTED AND WILL NOT  
9    PRESERVE YOUR POSSIBLE RIGHTS. ATTACH A COPY OF YOUR LEASE OR OTHER WRITTEN  
10    DOCUMENTATION SHOWING A TENANCY.

11    THIS SUPPLEMENTAL INFORMATION DOES NOT APPLY TO PREVIOUS OWNERS OF THE  
12    PROPERTY OR TO OCCUPANTS THAT CANNOT PROVE VALID TENANCY.

13                    TO THOSE THAT CAN PROVE A "BONA-FIDE" TENANCY:

14                    1. The property detailed in the Notice to Vacate has been foreclosed upon and the ownership has changed to  
15                    the entity listed in the Notice to Vacate. You may be entitled to stay in the premises another ninety (90)  
16                    days or until the term expires on your lease depending on the circumstances. This document shall serve  
17                    as your 90 day notice assuming you have a bona-fide lease.

18                    2. The future lease payments must be paid to "Tiffany & Bosco, P.A." at the above address. These rents  
19                    cannot be paid in cash and you should make sure your name and property address is written on the check  
20                    or money order. Failure to pay rent could result in a summary eviction proceeding being initiated against  
21                    you for complete possession of the property.

22                    3. Depending on what the terms of your lease are, you may be responsible for the general upkeep of the  
23                    home and preserving its present condition for as long as you remain in the property. In addition, you are  
24                    responsible for insuring your own personal property and contents of the home, and your own safety and  
25                    the safety of your guests. The new owner shall not be liable for any accidents or damages caused by the  
26                    negligence of tenants or their guests. Your continuing tenancy is conditioned on good and proper conduct  
                         during the tenancy period. Any failures to pay rent or violations of the above conditions are grounds for  
                         prompt eviction.

**IMPORTANT NOTICE TO SERVICEMEMBERS AND THEIR DEPENDENTS:  
PROTECTIONS UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT**

If you are a servicemember on "active duty" or "active service," or a dependent of such a servicemember, you may be entitled to certain legal rights and protections, including protection from eviction, pursuant to the Servicemembers Civil Relief Act (50 USC App. §§ 501-596), as amended, (the "SCRA") and, possibly, certain related state statutes. Eligible service can include:

1. active duty (as defined in section 101(d)(1) of title 10, United States Code) with the Army, Navy, Air Force, Marine Corps, or Coast Guard;
2. active service with the National Guard;
3. active service as a commissioned officer of the National Oceanic and Atmospheric Administration;
4. active service as a commissioned officer of the Public Health Service; or
5. service with the forces of a nation with which the United States is allied in the prosecution of a war or military action.

Eligible service also includes any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

If you are such a servicemember, or a dependent of such a servicemember, you should contact the Evictions Department at [evictionsnv@tblaw.com](mailto:evictionsnv@tblaw.com) to discuss your status under the SCRA.

Gregory L. Wilde and TIFFANY + BOSCO, P.A.

**YOU ARE HEREBY NOTIFIED THAT:**

On December 23, 1913 the United States Congress passed the FEDERAL RESERVE ACT and by that committed the greatest act of TREASON in U.S. history. It surrendered the nation's sovereignty and sold the American people into slavery to a cabal of arch-charlatan bankers who proceeded to plunder, bankrupt, and conquer this nation with a MONEY SWINDLE. The FEDERAL RESERVE is neither federal, nor does it have reserves, apart from what We The People have willingly given with our good faith and sweat equity labor, the only *true* basis of value for our "money".

The "money" the banks issue is merely book keeping entries. It costs them nothing and is not backed by their wealth, efforts, property, or risk. It is not redeemable except in more DEBT paper. The Federal Reserve Act forced us to pay compound interest on thin air. We now use "Federal Reserve Notes" backed by our own credit that we cannot own and are made subject to compelled performance for the "PRIVILEGE."

From 1913 until 1933 the U.S. Paid "interest" with more and more gold. The structured inevitability soon transpired - the Treasury of the United States' government was empty, the debt was greater than ever, and the U.S. Declared bankruptcy. In exchange for using notes belonging to bankers who create them out of NOTHING on our credit, we are forced to repay in substance (labor, property, land, businesses, resources - our Life) in ever-increasing amounts. This IS the GREATEST HEIST AND FRAUD of all time.

When a government goes bankrupt, it loses its sovereignty. In 1933 the U.S. Declared bankruptcy, as expressed in Roosevelt's Executive Order 6073, 6102, 6111, and 6260, House Joint Resolution 192 of June 5, 1933, confirmed in *Perry v. U.S.*, (1935) 294 U.S. 330, 381; 79 L.E.D. 912, also 31 USC 5112, 5119 and 12 USC 95a.

The bankrupt U.S. went into receivership, reorganized in favor of 115 creditors and new owners. In 1913, congress turned over America lock, stock and barrel to a handful of criminals whose avowed intent from the beginning was to plunder, bankrupt, conquer and enslave the people of the United States of America and eliminate the nation from the face of the earth. The goal was, and is, to absorb America into a one-world privately owned commercial government; A "NEW WORLD ORDER."

With the *Erie R.R. v. Thompkins* case of 1938 the Supreme Court confirmed their success. We are now in an international private commercial jurisdiction in colorable admiralty-maritime under the Law Merchant. We have been conned and betrayed out of our sovereignty, rights, property, freedom, common law, Constitutional Article III courts, and our REPUBLIC. The Bill of Rights has been statutized into "civil rights" in commerce.

America has been stolen. We have been made slaves, i.e., permanent debtors, bankrupt, in legal incapacity, rendered commercial "person" (the ALL CAPS NAME one erroneously thinks belongs to oneself), residents, occupants and corporate franchisees know as "citizens of the United States" under the so-called "14th Amendment," which was never ratified - see Congressional Record, June 12, 1967; *Dvett v. Turner* (1968) 439 P.2d 266; *State v. Phillips*, (1975)(affirmed) and created a citizenship for corporations (fictional dead "corpse") statutory entities, which are the products and definitions of the legislature and are fully taxable and regulatable thereby. Thomas Jefferson's prophecy came to pass: "If the American people ever allow private banks to control the issue of currency ... The banks ... Will deprive the people of all property until their children will wake up homeless on the continent their fathers conquered."

Since 1933 what is called the "United States' Government" is a privately owned corporation of the Federal Reserve System/IMF. It is merely an instrument by which the banksters administer their ongoing rape of human freedom. All "public servants," officials, congressmen, politicians, judges, attorneys, law enforcement, States and their various agencies, teachers, etc., are the express agents of these "Foreign Principals" who have stolen the country by clever, intentional, and unrelenting fraud, trickery, treachery, non-disclosure,

misrepresentation, intrigue, coercion, conspiracy, murder, etc.. \* See Foreign Agents Registration Act of 1938; 22 USC 286 et seq. 263a, 185g, 267j; 611(c)(ii) & (iii); Treasury Delegation Order #91.

An insidious aspect of this is that "officials" like you may think you are "public servants," or upholding the "law," or other hoaxes. In truth you are conscientiously and assiduously serving the archenemies of yourselves, your rights, your fellow citizens, continued human rights and life and freedom in general. YOU are seditiously administering the plunder, bankruptcy, impoverishment and injury to human life based upon crimes and lies of such magnitude, depth, and proportions as to be beyond human comprehension.

By so doing, you are committing TREASON AND PERFDY so immense as "to make the angels weep." If you and your fellow "officials" do not understand the real situation you are ignorant, naive, deceived and conned. You are sheer dupes. If you do know and are parties to it you are guilty of evil and heinous "betrayal." You are in such case TRAITORS AND CRIMINALS. This invalidates your "authority" and renders NULL AND VOID absolutely, all moral obligation to pay allegiance or to obey the TREASONOUS SYSTEM you enforce with such mechanical avariciousness, viciousness and malice aforethought.

If, You, "public servants" have any shred of humanity, awe, heart, clarity, sanity, access to your true being and conscience left, you might choose to resign your participation and do everything possible to inform the American people of their plight and help us retrieve our rights and our country. Only by such means can you even begin to atone for your endless crimes against humanity and the lives you so arrogantly and mindlessly butcher with the "meat-grinder of the law", which is not aligned or consistent with The Supreme Law on behalf of We The People, its intended beneficiaries, your fellow created men, women and children.

You DID NOT CREATE the lives you "legally" assault. They DO NOT belong to you. Ignorance of the law (moral and natural law) is no excuse. You CANNOT engage in bringing harm to life, and like the Nazi's defense at Nuremberg claim that you were simply doing your duty and following orders. Moral and natural law are NOT obviated by ignorance, hubris and self-righteous militancy. Your entire system - from ground up - is DECEIT AND FRAUD. It is illicit in essence, de facto, and void ab initio. As Broom's Maxims 297, 729 put it: "A right of action cannot arise out of fraud." Honor is earned by honesty and integrity, not under false and fraudulent pretenses. The color of the cloth one wears cannot cover up the usurpations, lies and treachery. "When black is fraudulently declared to be white, not all will live in darkness."

More people are awakening to the truth. What do you think the American people will do as they discover that they have no more country, that they are slaves to mortal enemies, that they have been tricked and betrayed by their "leaders" who sold them out? What do you think they will do when they realize that all their so-called "public servants" are willing or stupidly compliant parties to the plunder, subjugation and ruin of their lives, property, homes, land, rights, liberties and country?

Thomas Jefferson wrote: "An honest man can feel no pleasure in the exercise of power over his fellow citizens." Abraham Lincoln said: "Just as I would not be a slave, neither would I be a master." We will NOT participate in your corrupt, arrant and cruel FRAUD, either as perpetrator nor victim. The great Indian poet Tagore wrote: "Power takes as ingratitude the writhing of its victim."

We will no longer sit here and writhe. The TYRANNY over this nation MUST END! If you continue with this course, you will have natural and moral law and higher powers to answer to, not to mention all those you have wronged under the color of law. You also, will have your own laws turned against you, as you have turned the law against us. To transform the shield of protection into a sword of exploitation, subjugation and plunder is PERFDY. You have now been lawfully and prayerfully NOTICED. All further actions on your part will be willful. Govern yourselves accordingly, as you will be called to account for both your actions and intent.

DATED this 24<sup>th</sup> day of May Year of our Lord Yeshua two thousand twelve

*Patricia Sanbuen Anthony* *William Michael Anthony*

Americans who demand our country back and pray you see The Light of Truth dawn within you and act accordingly in support of We The People, each created with unalienable right to Life, Liberty.....

*From:* Patricia Sanburn Anthony and William Michael Anthony and family      May 23, 2012  
Three thousand seven hundred five Anthony Place  
Sun Valley, Nevada. Non-domestic      sent by USPS Certified mail Receipt number:  
7011 1150 0000 7162 2855

*To:* Gregory L. Wilde 4417  
TIFFANY & BOSCO, P.A.  
212 South Jones Boulevard  
Las Vegas, Nevada 89107

To Gregory L. Wilde, Esq. and TIFFANY & BOSCO, P.A.:

This letter is lawful notification to you, pursuant to The Bill of Rights of the National Constitution, the Supreme Law of the Land, in particular, but not limited to, the Fourth, Fifth, Seventh, and Ninth Amendments, and the Nevada State Constitution, in particular, Article 1, Sections 1, 2, 3, 4, 6, 8, 9, 14, 17, 18, and 20, and pursuant to your oath in compliance with Article 15, Section 2, and requires your written response to us specific to the subject matter. Your failure to respond, within five days, as stipulated, and to rebut, point-by-point, with particularity, everything in this letter with which you disagree, is your lawful, legal and binding agreement with, and your admission to the fact that everything in this letter is true, correct, legal, lawful and binding upon you, in any court, anywhere in America, without your protest or objection or that of those who represent you. Your silence is your acquiescence. See: *Connally v. General Construction Co.*, 269 U.S. 385, 391. Notification of legal responsibility is "the first essential of due process of law." Also, see: *U.S. v. Tweel*, 550 F. 2d. 297. "Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading."

You swore an oath to uphold and support the Constitution of the United States of America and the Constitution of Nevada, and pursuant to your oath, you are required to abide by that oath in the performance of your official duties.

You have no Constitutional or other valid authority to defy the Constitutions, to which you owe your LIMITED authority, delegated to you by and through the People, and to which you swore your oath, yet, by your actions against us, committed while acting as an agent/Officer of the Court for Federal National Mortgage Association, and in so doing, you perjured your oath by violating our Constitutionally-guaranteed Rights, and all aspects of due process of law, in particular, those rights secured in the Bill of Rights, including, but not limited to, our 4th, 5th, 7th and 9th Amendment Rights and those rights guaranteed and protected in the Nevada Constitution Declaration of Rights.

Our property was unlawfully and criminally sold through an unlawful foreclosure process on or about April 23, 2012 (see enclosed REBUTTAL AFFIDAVIT AND VOIDANCE OF RECORDED INSTRUMENTS), and at no time in this unlawful process of "foreclosure" have we waived any of our rights, including those relevant to the National Constitution, specific to the Bill of Rights:

- Article IV - "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated ...";
- Article V - "No person shall be deprived of life, liberty or property without due process of law...."; and per

- Article VII - "In Suits at common law, where the value in controversy shall exceed 20 dollars, the right to trial by jury shall be preserved ..."

Yet, you acted in contradiction to my guaranteed unalienable rights through assisting a fictional entity, under color of law, to make and/or enforce a theft of our property.

Further, it is unlawful for any bank to lend its credit, or to act as guarantor for another. A bank may lend its funds or assets, but not its credit. *See: Title 12 U.S.C. & 24.* Since GREGORY L. WILDE, ESQ. has either acted on his own, or for his alleged client, that party, such as GREGORY L. WILDE, ESQ. and or its alleged client, who alleges its purchase of an extinguished alleged "debt", in violation of law, and shows no evidence or proof of alleged purchase, or of the validity of the alleged "debt", perpetrates fraud and commits numerous crimes.

At all times that we have domiciled in this property we have had and continue to have a vested interest of ownership which we have not released to any party, nor has any party offered or made settlement to us for our interest of at least \$ 468,000.00 in said property (see enclosed NOTICE OF PROPERTY INTEREST BY ... ANTHONYs).

Pursuant to Marbury v. Madison (1803), all laws repugnant to the Constitution are null and void. Your actions are repugnant to both the Nevada and federal Constitutions, and thus, are without the weight of law and without valid authority, as well as are all actions through this unlawful foreclosure process against us.

If you are an attorney, an officer of the court, you are required to have an oath of office on file for public scrutiny, and bonds to guarantee your faithful performance of your duties, pursuant to your oath, as the law requires, as well as malpractice insurance.

We respectfully demand that you send us a certified copy of your timely-filed oath of office, and copies of all bonds that you are required to obtain, according to law, including documented proof of your malpractice insurance. If you fail to provide these to us within five days of receipt of this letter, as requested, then you admit that you have no oath of office, and no bonds as required by law, and no malpractice insurance.

The U.S. Constitution prohibits ex post facto legislation, even in civil matters, and most definitely in criminal matters. *See Article I, Section 9, Clause 3.*

There is no evidence that Gregory L. Wilde, has the requisite credentials required by Nevada State laws, which mandates that all Nevada State Bar members must have a license to practice law, and a certificate of oath. That oath binds them to uphold both the U.S. Constitution and the Nevada State Constitution. An unlicensed corporate officer attempting to appear on behalf of his corporation is not an appearance by the Plaintiff.

Should you persist in your efforts to violate our Rights, then you commit deliberate fraud, which perjures your oath and violates state laws governing attorneys, and the Rules of Professional Conduct. Such actions could subject you to criminal charges, civil action and disciplinary action from the Bar Association and the state Supreme Court, with whom we will file charges against you. In addition, we will notify your malpractice insurer of your unlawful actions in violation of, including, but not limited to, due process of law, which may adversely impact you, and possibly your entire law firm.

Should you fail to properly resolve this matter by immediately ceasing and desisting any and all activities against us, then, be assured that we will take any and all necessary measures against you, as stated above, to protect our private property, to claim and exercise our Constitutionally-guaranteed Rights, to publicly expose your fraud, and see that you are held accountable and liable for your unlawful, fraudulent actions.

If you disagree with anything in this letter, then rebut that with which you disagree, in writing, with particularity, to us, within 5 days of this letter's receipt and delivery to your office, and support your disagreement with evidence, fact and valid Law. You must also include your license with the properly indorsed oath.

Your failure to respond, as stipulated, is your agreement with and admission to the fact that everything in this letter is true, correct, legal, lawful, and is your irrevocable agreement attesting to this, fully binding upon you, in any court in America, without your protest or objection, or that of those who represent you.

Also, this demand does in fact apply to your "appearance attorneys" that operate without any legal basis or valid Law, and shall comply with the terms and requests herein as well, or be subject to the same stipulations, agreement with, and admission to the facts herein.

All Rights Reserved

by Patricia Sanburn Anthony      by William Michael Anthony

Patricia Sanburn Anthony and William Michael Anthony, American Citizens

Enclosure copies: 1) REBUTTAL AFFIDAVIT AND VOIDANCE OF RECORDED INSTRUMENTS; 2) NOTICE OF PROPERTY INTEREST BY ... ANTHONYs; 3) YOU ARE HEREBY NOTIFIED... original legal notice addressed to Gregory Wilde and TIFFANY & BOSCO, P.A.; 4) posted PUBLIC NOTICE; 5) all pages of original THREE DAY NOTICE TO VACATE DATED May 16, 2012 red hand-inscribed by Patricia on behalf of her family and The Almighty Creator, for Whom we are stewards of His earth, over which we are obediently taking lawful dominion: *Exempt from Levy* This original presentment posted 5/22/2012, despite our prominently posted NO TRESPASSING, PRIVATE PROPERTY and PUBLIC NOTICE signs, is timely conditionally accepted for value and consideration or performance upon verified proof of your claims and returned certified: 1) in accordance with all assertions of enclosed lawful notification letter; 2) your alleged client has verified un-rebutted proof of ownership that lawfully supersedes and negates all our verified claims, with complete lawful county-recorded chain of title; 3) you possess lawfully accepted lawful Power of Attorney from verified principal of your alleged client specific to this property matter, verified copy hereby demanded; and 4) Tendered negotiable instrument received and accepted by Bank of America on April 16, 2012 from us does NOT legally discharge alleged debt prior to "Trustee sale"....

# **PUBLIC NOTICE**

**THIS PROPERTY IS NON-  
ABANDONED.**

**NO TRESPASSING BY ANY  
UNAUTHORIZED PERSON.**

**"If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution of Laws of the United States, or because of his having so exercised the same: or**

**If two or more persons go in disguise on the highway, or on the premises of another, with the intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured-**

**They shall be fined not more than \$10,000 or imprisoned not more than ten years or both; and if death results, they shall be subject to imprisonment for any term of years or for life."**

**LAND USE FEE \$5,000 PER  
PERSON**

**PER DAY, OR ANY PART THEREOF**

**Owner phone number: 775-673-1642**



[APN: 026-021-56]  
When Recorded Return to:  
Patricia Sanburn Anthony and  
William Michael Anthony  
c/o Timothy Meade, Notary  
2035 Lenticular Drive  
Sparks, Nevada [89441]

### REBUTTAL AFFIDAVIT AND VOIDANCE OF RECORDED INSTRUMENTS

Come now, Patricia Sanburn Anthony and William Michael Anthony, your living woman and man Affiants, being competent to testify and being over 21 years of age, after first being duly sworn according to law to tell the truth to the facts related herein state they have firsthand knowledge of the facts stated herein and believe these facts to be true to the best of their knowledge.

1. Order Expunging Lis Pendens Doc# 4087127 recorded 02/24/2012 by LEWIS & ROCA is absent any signature to Affirmation Statement on page 1, pertinent to alleged purported "Paralegal Donna Simpson" and was just recently discovered by Affiants, expected notice copy to Affiants on behalf of plaintiffs having not been received.

2. UNITED STATES DISTRICT COURT OF NEVADA [USDC] Case 3:10-cv-00169-RCJ-WGC Document 131 ORDER and accompanying Document 132 JUDGMENT both absent court clerk's attestation, certification and seal were both returned to court (with copies mailed first class to LEWIS & ROCA agents) Affiant – autographed, sealed and court filed as Documents 133 and 134 by Affiants red hand-inscribed: *Exempt from Levy These two original unsealed presentments [Judgment, Order] are timely conditionally accepted for value and consideration or performance upon verified proof of claims: 1) any of alleged attorney's pleadings or motions can be favorably considered by any court absent demanded proof of their verified authorization from defendant principals and any other interested party; 2) original Note and Deed of Trust with all verified recorded assignments are available for full satisfaction by plaintiff agent; 3) plaintiff agents' completed administrative claims and processes with offers to settle alleged debt were insufficient to accomplish legal settlement/discharge and other claims therein; 4) un rebutted recorded affidavit evidence does NOT stand as truth and judgment in commerce; and 5) any judgment order in violation of me the people's Constitutionally-guaranteed rights or due process of law in accordance with judge's sworn oath is not null and void and of no force and effect...*

3. No verified or lawful response was received by Affiants from either USDC or any defendant or representative to 2. above, so Affiants believe USDC ORDER, JUDGMENT and resultant Order Expunging Lis Pendens

Doc# 4087127 recorded 02/24/2012 by LEWIS & ROCA are all null and void upon their face.

4. NOTICE OF "LENDERS" DEFAULT/ PRESERVATION OF INTEREST recorded 06/18/2010 as DOC # 3893548, RESCISSION OF DEED OF TRUST recorded 03/07/2011 as DOC # 3980335, and DECLARATION OF REBUTTAL recorded 06/16/2011 as DOC # 4013903 and related supporting recordings and documents verify alleged "Lenders" verified ADMISSIONS in the public record and that all recordings pertaining to said DoT by "Lender" or alleged assigns (BANK OF AMERICA..., BAC Home Loan Servicing..., RECONTRUST..., FIRST AMERICAN..., COUNTRYWIDE..., MERS, etc.) or STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM are null and void ab initio and of NO force and effect.

5. Affiants notice rebuttal and voidance to both DV-4106420 and DOC #4106450 TRUSTEE'S DEED UPON SALE NEVADA, both recorded 04/26/2012: RECONTRUST COMPANY, N.A., cannot be duly appointed Trustee or Successor Trustee when that position was earlier withdrawn from them by Affiants' verified noticed DEFAULT and verified RESCISSION OF DEED OF TRUST. Any "sale" based upon a rescinded instrument by party not lawfully authorized to perform same is in deed unlawful and void ab initio, of no lawful force or effect. Affiants, with witnesses, did verbally inform sale agent Victoria Blanford purportedly

with NEVADA LEGAL SERVICES... of same on April 23, 2012 on courthouse steps both prior to and after her declared "sale" of property. Affiants also served notice to alleged sale agent Victoria prior to "sale" from superior court QUIET TITLE JUDGMENT and ORDER FOR SALE ESTOPPEL AND SALE VOIDANCE which overturned USDC ORDER and JUDGMENT with other supporting documentation, which she passed on to Mandy Ardans, also with NEVADA LEGAL SERVICES.... Additionally, Stephanie Y. King in her alleged capacity as "AVP" has provided no verified proof of her office, not sworn as first hand witness or upon any oath or under penalty of perjury and her full commercial liability, rendering her assertions of no lawful force or effect;

6. Affiants notice all originals of Notice of Default and Election to Sell and Notice of Trustee's Sale referred to within TRUSTEE'S DEED UPON SALE... were timely returned rebutted by Affiant to party from whence they came.

7. Affiants timely noticed FannieMae, aka FNMA and Federal National Mortgage Association via its alleged assigned real estate agent Pat Schweigert with 4/26/2012 notice of trespass and DEMAND FOR VERIFIED PROOF OF CLAIM... constructive notice of Affiants' claims in opposition to FannieMae's using notary services to verify service of it and subsequent notices. Affiants, receiving no timely verified answer, executed 5/10/2012 Stipulation [FNMA has] no BONA FIDE PROOF of [its] claim and that Affiants' claims are true, correct, legal, binding... In any court...along with EXPRESS NOTICE OF WAIVER OF TORT TO ALL WHO TRESPASS.

8. Affiants notice another party trespassed on May 22, 2012 with posted THREE DAY NOTICE TO VACATE DATED May 16, 2012 signed by alleged attorney Gregory L. Wilde allegedly with TIFFANY & BOSCO, P.A. allegedly representing Federal National Mortgage Association, to whom Affiants will timely serve lawful notification regarding this property and Constitutionally-guaranteed rights matters.

9. Affiants notice and believe alleged Order Expunging Lis Pendens Doc # 4087127 recorded 02/24/2012 by LEWIS & ROCA and alleged Trustee's Deed Upon Sale Nevada DOC #4106450 and associated Declaration of Value DV-4106420 both requested and recorded by DOCUMENT PROCESSING SOLUTIONS 04/26/2012 to be null and void and agents of LEWIS & ROCA..., UNITED STATES DISTRICT COURT OF NEVADA, BANK OF AMERICA..., RECONTRUST..., FIRST AMERICAN TITLE..., NEVADA LEGAL SERVICES..., ERA REALTY..., and TIFFANY & BOSCO, P.A. have grievously trespassed upon Affiants' un rebutted verified claims and some continue to perform same.

Dated this twenty-third day of May, year of our Lord 2012

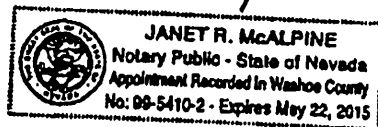
BY: Patricia Sanburn Anthony  
Patricia Sanburn Anthony, living American woman

BY: William Michael Anthony  
William Michael Anthony, living American man

Subscribed and affirmed before me, Janet R. McAlpine, a Notary Public for Washoe county Nevada state on this 23<sup>rd</sup> day of May, 2012, personally appeared Patricia Sanburn Anthony and William Michael Anthony who subscribed and swore to The Almighty Creator the foregoing to be true and correct to the best of their knowledge, and proved on the basis of satisfactory evidence to be the living woman and man who subscribed to REBUTTAL AFFIDAVIT AND VOIDANCE OF RECORDED INSTRUMENTS and acknowledged to me that they executed the instrument of their own free will. I certified under PENALTY OF PERJURY under the laws of the State of NEVADA, the foregoing paragraph is true and correct.

WITNESS my hand and official seal. Signature

(seal)



[APN: 026-021-56]  
When Recorded Return to:  
Patricia Sanburn Anthony and  
William Michael Anthony  
Three thousand seven hundred Anthony Place  
Sun Valley, Nevada.

## NOTICE OF PROPERTY INTEREST BY ... ANTHONYS

STATE OF NEVADA     )  
                                      ) ss  
COUNTY OF WASHOE )

Come now, William Michael Anthony and Patricia-Sanburn: Anthony, loving living man and woman (two minds, bodies and souls covenanted in holy matrimony) Affiants, being competent to testify and being over the age of 21 years of age, after first being duly sworn to The Almighty Creator according to law to tell the truth to the facts related herein state they have firsthand knowledge of the facts stated herein and believe these facts to be true to the best of their knowledge.

1. Affiants entered into an agreement to purchase specific real property on March 1, 1994. Affiants had an agreement specific to said property in which sale price was \$40,000.00.

2. Affiants made a down payment of \$5000.00 paid to the Seller, Daan Eggenberger, via Stewart Title, closing date April 20, 1994.

3. Affiants notice that the location of said remaining property portion is now 3705 Anthony Place, Sun Valley, Nevada where they dwell with their family; legal description: PARCEL 4 OF PARCEL MAP 2908 ACCORDING TO THE MAP THEREOF, FILED IN THE OFFICE OF THE COUNTY RECORDER, WASHOE COUNTY, STATE OF NEVADA ON JUNE 2, 1995, AS FILE NO. 1897855. EXCEPT ALL THAT PORTION OF SAID LAND LYING WITHIN EL RANCHO DRIVE AS DEDICATED TO THE CITY OF SPARKS BY "DEDICATION MAP OF MOORPARK COURT AND EL RANCHO DRIVE", RECORDED JUNE 28, 1999 AS DOCUMENT NO. 2355346, TRACT MAP NO. 3713. [APN: 026-021-56]

4. As of the current date, Affiants have issued payments totaling \$203,286.96 sweat equity lawful money to multiple alleged servicers/ lenders pursuant to the alleged loan agreements specific to the purchase, parceling, refinance and improvements to the above described property with manufactured homes located thereon as personal property, including but not limited to COUNTRYWIDE HOME LOANS, whose alleged successor or assigns may be BANK OF AMERICA, N.A. or FNMA or some other unknown and unrecognized party to Affiants.

5. Affiants, as of this date, have 18 years of acquisition, parceling, development, improvement, home(s) acquisition & building, maintenance and upkeep of said initial and remaining property which has an additional value of \$225,064.74. The total secured

Interest Affiants have in this property as of this twelfth day of March, two thousand twelve is approximately \$468,351.70.

6. To date, no party has made any offer to Affiants to settle Affiants' interest in said property.

7. Affiants notice pursuant to 1) RESCISSION OF DEED OF TRUST (recorded 03/07/2011 as #3980335); 2) DEEDs ACKNOWLEDGEMENT (recorded 02/14/2012 as #4084634); 3) Affidavit of Publication; and 4) QUIET TITLE CERTIFICATE VERIFIED by NON-RESPONSE ASSENT/ AGREEMENT (both 3 and 4 attached as court certified copy of Document # 126 exhibit) by an officer of the court and of the state that there exists no other "lawful claim upon the land and home(s) except for the interest of William and Patricia Anthony, living man and woman or their assigns..."

Further, Affiants sayeth naught.

*William Michael Anthony*  
William Michael Anthony

*Patricia Sanburn Anthony*  
Patricia Sanburn Anthony

Before me, Danielle Fallon, a Notary Public  
Duly authorized by the State of Nevada, personally appeared William  
Michael Anthony and Patricia Sanburn Anthony, living man and woman,  
who have sworn to The Almighty Creator and subscribed in my presence,  
the foregoing document, on this 14 th day of March in the Year 2012.

*Danielle Fallon*  
Notary Public



FILED  
Electronically  
CV17-00843  
2019-05-10 03:39:09 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7265058 : yvilorla

**EXHIBIT 15**

# OCCUPANCY DECLARATION

To: **CAPITOL COMMERCE MORTGAGE CO.**

Re: Borrower: **WILLIAM M. ANTHONY and PATRICIA S. ANTHONY**

Loan No: **278**

Property Address: **3705 ANTHONY PLACE  
SUN VALLEY, NV 89433**

Borrower hereby declares, under penalty of perjury, as follows:

1. xx I/We will occupy the subject property as my/our principal residence as required by, and in compliance with, the terms of the Deed of Trust relating to the subject property;
2. \_\_\_ I/We will occupy the subject property as my/our second residence as required by, and in compliance with, the terms of the Deed of Trust relating to the subject property;
3. \_\_\_ I/We will not occupy the subject property.

Borrower(s) are aware and understand that the Borrower(s) will be in default if it is determined that materially false or inaccurate information or statements were made to the Lender during the loan application process, and/or the Borrower(s) failed to provide material information in connection with the loan evidenced by the Note, including but not limited to representations concerning occupancy of the property as a principal residence

Should the Borrower's plans with respect to occupancy change prior to close of the loan transaction, then it is agreed the Lender will immediately be notified of that fact; Borrower understands that without this declaration, Lender may refuse to make the loan in connection with the subject property.

I declare, under penalty of perjury, that the foregoing declaration is true and correct. If it is determined at any time that the foregoing is untrue, I / we will be subject to prosecution for fraud under applicable laws.

William M. Anthony  
WILLIAM M. ANTHONY

Patricia S. Anthony  
PATRICIA S. ANTHONY

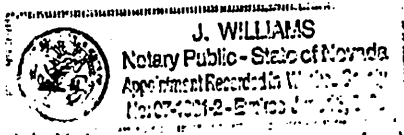
STATE OF Nevada

County ss: Washoe

Subscribed and sworn to before me this

21st day of June, 2002

WITNESS my hand and official seal.



Signature: J. Williams

J. Williams

Name (typed or printed)

My Commission Expires: 6-16-05

OCCUP.DECLARE:WPF(occupdec.wpf)

**DOCUMENT "14"**

**DOCUMENT "14"**

3795

DARREN T. BRENNER, ESQ.

Nevada Bar No. 8386

JAMIE K. COMBS, ESQ.

Nevada Bar No. 13088

**AKERMAN LLP**

1635 Village Center Circle, Suite 200

Las Vegas, Nevada 89134

Telephone:(702) 634-5000

Facsimile:(702) 380-8572

Email: darren.brenner@akerman.com

Email: jamie.combs@akerman.com

*Attorney for Federal National Mortgage Association*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR THE COUNTY OF WASHOE**

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff,

v.

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or Occupants 1-5,

Defendants.

PATRICIA ANTHONY, WILLIAM  
ANTHONY,

Counterclaimant,

v.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Counterdefendant.

Case No.: Case No. CV17-00843

Dept. No.: 8

**FEDERAL NATIONAL MORTGAGE  
ASSOCIATION'S REPLY IN SUPPORT  
OF MOTION FOR SUMMARY  
JUDGMENT**

Plaintiff/ counter-defendant Federal National Mortgage Association (**Fannie Mae or plaintiff**) submits the within reply to the opposition of defendants/counter-claimants Patricia Anthony and William Anthony (**Anthony's or defendants**) to Fannie Mae's Motion for Summary Judgment.

...

...

...



1                                    **MEMORANDUM OF POINTS AND AUTHORITIES**

2        **I.        INTRODUCTION**

3                This case centers on two manufactured homes, connected to each other and affixed to land,  
4        that belong to Fannie Mae, but which the Anthonys refuse to vacate. In 2017, after obtaining title to  
5        the property and a judgment of possession in 2012, Fannie Mae brought this suit to eject the Anthonys  
6        from Fannie Mae's property. In response, the Anthonys counterclaimed, alleging Fannie Mae violated  
7        the UCC in the 2012 sale of one of the manufactured homes, a 1996 Fuqua, and/or, alternatively, in  
8        filing a transfer statement regarding the 1996 Fuqua in 2015.

9                As discussed in Fannie Mae's motion for summary judgment (**Motion**) and its opposition to  
10        the Anthonys' partial motion for summary judgment on the UCC claim, judgment should be entered  
11        for Fannie Mae and against the Anthonys based on the following:

- 12                (1)        The Anthonys converted two connected manufactured homes to real property for  
13                purposes of obtaining a loan in the amount of \$214,400;
- 14                (2)        The loan was secured by a deed of trust recorded against real property that included  
15                improvements to the land; *i.e.*, the connected manufactured homes;
- 16                (3)        In April 2012, Fannie Mae completed a non-judicial foreclosure pursuant to the deed  
17                of trust and the property reverted back to Fannie Mae via a credit bid. Even assuming  
18                *arguendo* the 1996 Fuqua was not real property, the non-judicial foreclosure complied  
19                with the UCC because the manufactured home was an improvement under the deed of  
20                trust;
- 21                (4)        Fannie Mae obtained judgment in the unlawful detainer action in November 2012.
- 22                (5)        Even if the claims are not time-barred by the 3-year statute of limitation, the Anthonys  
23                fail to establish that they are entitled to statutory damages and/or that the 1996 Fuqua  
24                was the sole collateral for the \$214,400 loan.

1     **II.     ARGUMENT**

2     **A.   Both Manufactured Homes Were Pledged As Collateral For The Loan and**  
3     **Converted to Real Property.**

4           The Anthonys argue that the 1996 Fuqua is personal property and Fannie Mae violated the  
5     UCC in the sale or transfer of it. This theory is flawed because both manufactured homes had been  
6     connected to each other at that time and converted to real property. The Affidavit of Conversion  
7     recorded in November 2000, reflects that that the manufactured homes were connected to each other  
8     and also converted to real property. *See MSJ Ex. 2, 4, 5.* Moreover, the Anthonys clearly intended  
9     the connected manufactured homes to be real property for the security of the loan. The Anthonys  
10    presented the connected manufactured homes, affixed to the land, as collateral to obtain the Loan.  
11    Their application specifically states that the loan is for the entire property, including the connected  
12    manufactured homes that the Anthonys stated they purchased in 2000. *See MSJ Ex. 4.* They provided  
13    an appraisal that included the interior and that appraisal reflects that the manufactured homes are  
14    connected, states that personal property is not included in the appraisal and reflects that the single  
15    family manufactured home is affixed to the land by the removal of the wheels, the tongue and groove  
16    and the attachment to the land, the porch, the underpinnings, and the utilities. *See MSJ Ex. 5.*

17    **B.   Assuming Arguendo the 1996 Fuqua Was Personal Property, the Non-Judicial**  
18    **Foreclosure Sale Nevertheless Complied With The UCC**

19           Despite the Anthonys' argument to the contrary, even if the 1996 Fuqua was personal property,  
20    Fannie Mae complied with the UCC in the non-judicial foreclosure sale because it was secured by the  
21    deed of trust. *See Opposition at 2-4.* Where a security agreement covers both personal and real  
22    property, a secured party may proceed "[a]s to both the personal property and the real property in  
23    accordance with the rights with respect to the real property, in which case the other provisions of this  
24    part do not apply." NRS 104.9604(1)(b). The security instrument must reasonably describe the  
25    property secured and, with limited exceptions not relevant here, "a description of personal or real  
26    property is sufficient, whether or not it is specific, if it reasonably identifies what is described." *See*  
27    NRS 104.9108.

28    ...

1 The security instrument here, the deed of trust, defines the secured property to include "3705  
2 Anthony Place ... TOGETHER WITH all the improvements now or hereafter erected on the  
3 property...." **See MSJ Ex. 6** at 3. At the time the parties entered the security agreement, the property  
4 included a single family home (the connected manufactured homes) identified as 3705 Anthony Place.  
5 **See MSJ Exs. 4, 5.**

6 The manufactured homes qualify as permanent improvements: they were attached to each  
7 other, the tongue and groove removed, utilities attached, a porch, one addresses given for the single  
8 family home, and a security instrument recorded against the property. **See MSJ Ex. 5. Cf. Matter of**  
9 **Colver**, 13 B.R. 521, 524-25 (Bankr. D. Nev. 1981). The court in *Colver* examined whether a mobile  
10 home was real property for purposes of homestead exemption. The court applied Nevada law and  
11 determined the issue was whether the mobile home was legally severable from the land. *See id.* The  
12 court found the mobile home in *Colver* was personal property because: (1) the creditor only had a  
13 security interest in the mobile home by way of an installment contract for the purchase of the mobile  
14 home itself, not the land on which the mobile home was located; (2) the debtor had defaulted on the  
15 installment contract and the creditor sought a writ of possession by an action of replevin, a remedy for  
16 personal property; (3) the mobile home was situated on leased space in a mobile home park, on jacks  
17 without wheels attached and adjacent to paved driveway and concrete patio with attached aluminum  
18 awning; (4) and the space was rented by month from the mobile home park).

19 The manufactured home here is nothing like the one in *Colver*. Here, the 1996 Fuqua is  
20 attached to another manufactured home to form one single family home that was affixed to the property  
21 by the removal of the tongue and groove, wheels, attachment to the utilities, and an attached porch,  
22 and crawl space (**See MSJ Exs. 4, 5, 6**), the loan at issue was for the land and the home (**See MSJ Ex.**  
23 **4, 5, 6**), Fannie Mae proceeded with a non-judicial foreclosure and unlawful detainer action to obtain  
24 title and possession of the property rather than an action to collect on the loan itself (**See MSJ Exs. 7,**  
25 **8, 9, 10**), and the manufactured home was not in a mobile home park where the Anthonys were renting  
26 the space month to month (**See MSJ Exs. 4, 5, 6**).

27 In their opposition, the Anthonys argue the 1996 Fuqua is not an "improvement" under the  
28 deed of trust because it was purportedly not converted to real property. *See Opposition* at 3-4. The

1 Anthonys cite to *Matter of Colver*, 13 B.R. 521, 524 (Bankr. D. Nev. 1981), for this theory. Opp. at  
2 3-4. However, the Anthonys are wrong. As discussed *supra*, the court in *Colver* looked to whether  
3 the mobile home was legally severable from the land in determining whether it was real property for  
4 purposes of a homestead exemption. Based on the specific facts in *Colver*, the court found the mobile  
5 home was personal property. Here, the court should find the 1996 Fuqua is an improvement under the  
6 deed of trust regardless of whether the conversion to real property was effective.

7 In their summary judgment motion, the Anthonys argue the manufactured home is not an  
8 "improvement" sufficiently described to satisfy NRS 104.9302 because it is "mobile", like an  
9 expensive car parked on the land, rather than a stick built house. *See* Motion at 8. On the contrary—  
10 the 1996 Fuqua is not easily mobile in the slightest. As discussed above, the 1996 Fuqua was attached  
11 to a second manufactured home and affixed to the property by the removal of the wheels, tongue and  
12 groove, and attached to the utilities, with a porch, similar to a stick built house. It was not mobile, to  
13 be easily moved like car parked on the land. *See Yee v. City of Escondido*, 503 U.S. 519, 523, 112  
14 S.Ct. 1522, 118 L.Ed.2d 153 (1992) (manufactured homes are "largely immobile as a practical matter,  
15 because the cost of moving one is often a significant fraction of the value of the mobile home itself.  
16 They are generally placed permanently in parks; once in place, only about 1 in every 100 mobile homes  
17 is ever moved."); *Laurel Park Cmty., LLC v. City of Tumwater*, 698 F.3d 1180, 1184  
18 (9th Cir. 2012) (accord).

19 Fannie Mae proceeded with the non-judicial foreclosure pursuant to the deed of trust. The  
20 Anthonys concede they do not challenge the foreclosure sale itself. Because the security instrument  
21 covered the real property, and the 1996 Fuqua (to the extent the 1996 was considered personal property  
22 rather than real property), the "other provisions" of the UCC did not apply. NRS 104.9604(1)(b).  
23 Thus, Fannie Mae was not required to comply with provisions such as NRS 104.614 and NRS  
24 104.9613, providing for the contents required for a notice of sale of personal property. *See* Motion at  
25 5-6. Nor can Fannie Mae have violated provision NRS 104.619(1) in filing the transfer statement.  
26 And finally, statutory damages would not be available under NRS 104.9625.

27 ...

28 ...

1           **C. Any claim for violation of the UCC is time barred.**

2           As noted in the Motion, the statute of limitations for a claim for violation of Article 9 of the  
3           UCC is 3 years. *See* Opposition at 6; NRS 11.190(3)(a)<sup>1</sup>. Thus, the Anthonys' claims that Fannie Mae  
4           violated the UCC in the 2012 sale of the property is barred by the three-year statute of limitations.  
5           NRS 11.190. The Anthonys concede this. They rely on a Fifth Circuit case regarding the statute of  
6           limitations for a TILA claim to argue that the statute of limitations does not apply when the time barred  
7           claims are asserted as an off-set, or, recoupment. *See* Opposition at 6, citing *Coxson v. Commonwealth*  
8           *Mortgage Company*, 43 F. 3d 189 (5<sup>th</sup> Cir. 1995).<sup>2</sup> This argument fails.

9           Recoupment is "[a] right of the defendant to have a deduction from the amount of the plaintiff's  
10          damages, for the reason that the plaintiff has not complied with the cross-obligations or independent  
11          covenants arising under the same contract." *Black's Law Dictionary* 1275 (6th ed.1990). Recoupment  
12          is available where the same parties and concerns the same transaction. It does not apply "when the  
13          defendant's allegations arise out of a transaction 'extrinsic to the plaintiff's cause of action.'" *Schettler*  
14          *v. RalRon Capital Corp.*, 128 Nev. 209, 222, 275 P.3d 933, 941 (2012) (emphasis added) (recoupment  
15          permitted in action where claim sought to "challenge the foundation of the plaintiff's claim").

16          Fannie Mae's 2017 action is one for trespass for the Anthonys continued possession of the  
17          property. Fannie Mae has already obtained title to and possession of the property by way of the  
18          foreclosure in April 2012 and judgment of possession in November 2012. *See MSJ Ex. 9, 10*. If there  
19          was a violation of NRS 104.9601 in attempting to collect the property without a right to do so,  
20          assuming it was not at the foreclosure sale, it was in obtaining the judgment of possession in November  
21          2012. *See MSJ Ex. 10*. Fannie Mae is not seeking quiet title, or any title of the property, at this point.  
22          It has that. Fannie Mae wants the Anthonys to vacate the property, which they refuse to do. Thus,  
23          any claim for set-off or recoupment of UCC damages would be subject to the statute of limitations

24  
25          <sup>1</sup> A claim based on a statute, like the alleged violations of the UCC here, is subject to the three-year statute of limitations  
26          in the absence of a specific limitation period providing otherwise. While limitation periods are provided for in a number  
27          of Articles under Nevada's version of the UCC (*see, e.g.*, NRS 104.5115, 1 year), there is no limitation period for a violation  
28          of Article 9 concerning secured transactions. *See* NRS 104.9101, et seq. As such, the three-year limitation period under  
NRS 11.190(1) applies. *See also* Anthonys' Motion for Partial Summary Judgment at 7-8.

<sup>2</sup> *See also* Anthonys' Motion for Partial Summary Judgment at 8, incorporated by the Anthonys in the introduction.

1 for the UCC, three years. Arguably recoupment under the UCC would have been available to the  
2 Anthonys to challenge Fannie Mae's actions to obtain title or possession. *See Schettler*. However,  
3 that is not the case here. The action is not one for sale of the property and does not trigger the UCC,  
4 whether the 1996 is real or personal property. Claims that Fannie Mae violated the UCC are extrinsic  
5 to this action.

6 Additionally, cases in the Ninth Circuit have disapproved of *Coxson*. *See, e.g., Patino v.*  
7 *Franklin Credit Mgmt. Corp.*, No. 16-CV-02695-LB, 2017 WL 2289192, at \*5 (N.D. Cal. May 25,  
8 2017) (collecting cases)<sup>3</sup>. In *Coxson*, the court allowed the otherwise time barred TILA claim for  
9 recoupment because the creditor had been seeking recovery of the property and had filed a proof of  
10 claim in the bankruptcy. Thus, court found the creditor was seeking enforcement of the debt and the  
11 debtor was allowed to assert TILA defensively. *Coxson* is further distinguishable because in  
12 California, and Nevada, non-judicial foreclosure is not an action to collect the debt under TILA. *See,*  
13 *e.g., Tyson v. TD Servs. Co.*, 690 F. App'x 530, 532 (9th Cir. 2017) (Cal.) (Recoupment not available  
14 for time barred TILA claim because non-judicial foreclosure action was not one to collect a debt);  
15 *Harris v. Wells Fargo Home Mortg.*, No. CV10-09496 ODW CWX, 2011 WL 1134216, at \*2 (C.D.  
16 Cal. Mar. 23, 2011).

17 The Anthonys' claims that plaintiff violated the UCC by acquiring the property at a private sale  
18 (104.9610, Counter-complaint ¶44), failing to properly notice the sale (104.9614, Counter-complaint  
19 ¶45) and filing a statement of transfer of title of the 1996 Fuqua in 2015 (104.9619, Counter-complaint  
20  
21

22 <sup>3</sup> *Patino*, at 5; *Lima v. Wachovia Mortg. Corp.*, No. C09-04798 TEH, 2010 WL 1223234, at \*5 (N.D. Cal. Mar. 25, 2010)  
23 (collecting cases); *see also Harris v. Wells Fargo Home Mortg.*, No. CV10-09496 ODW (CWx), 2011 WL 1134216, at  
24 \*3 (C.D. Cal. Mar. 23, 2011) (noting that "[t]he general rule is that when the debtor hales the creditor into court, the claim  
25 by the debtor is affirmative rather than defensive," and, "[s]pecifically, in non-judicial foreclosure cases, federal district  
26 courts in California conclude that non-judicial foreclosures are not 'actions' as contemplated by TILA") (internal quotations  
27 and citations omitted); *Alakozai v. Valley Credit Union*, No. C10-02454 HRL, 2010 WL 5017173, at \*3 (N.D. Cal. Dec.  
28 3, 2010) (holding that "insofar as [the plaintiff] asserts recoupment in response to defendant's non-judicial foreclosure, his  
claim is not properly deemed a 'defense' to an 'action' for purposes of avoiding the applicable statute of limitations");  
*Parcray v. Shea Mortg. Inc.*, No. CV-F-09-1942 OWW/GSA, 2010 WL 1659369, at \*17-\*18 (E.D. Cal. Apr. 23, 2010)  
(denying plaintiff's argument that "her TILA claim is pled defensively to reduce or set-off the amount she owes  
Defendant"); *Carillo v. Citimortgage, Inc.*, No. CV 09-02404 AHM (CWx), 2009 WL 3233534, at \*3 (C.D. Cal. Sept. 30,  
2009) ("A foreclosure action is not an 'action to collect debt' within the meaning of the recoupment exception."); *Ortiz*,  
639 F. Supp. 2d at 1165 ("[N]on-judicial foreclosures are not 'actions' as contemplated by TILA.") (collecting cases).

¶41) all fail for the same reasons. The sale occurred in April 2012. *See MSJ Ex. 9*. The notice of sale was recorded March 30, 2012. *See MSJ Ex. 8*.

Whether the 1996 Fuqua was subject to the security interest, any purported UCC violation naturally flows from the April 2012 foreclosure, or at the latest, the November 2012 judgment in the unlawful detainer action. The statute of limitations for the UCC claim accrues in 2012 and expires in 2015. The Anthonys' August 2017 counterclaims are too late.

The Anthonys would like to extend the accrual date, however, by alleging the UCC violation occurred in 2015 when Fannie Mae recorded the transfer statement. *See Opposition at 5*. According to the Anthonys, that statement was false because Fannie Mac did not obtain the property in the foreclosure action. *See Opposition at 6*. While the transfer of title was filed in 2015, as defendants note, the transfer request was premised on the ownership Fannie Mae alleged it acquired at the foreclosure sale. *See MSJ Ex. 13*. Again, it is the foreclosure sale itself, and judgment of possession at the latest, which are the alleged wrongful acts that trigger the statute of limitations. Defendants had actual knowledge that Fannie Mac claimed to obtain title of the property, including the manufactured homes, in April 2012 and used that title to obtain possession of the property in November 2012. Assuming defendants are correct and Fannie Mac was required to comply with the UCC's provisions related to personal property, defendants knew, or should have known, that the sale was allegedly not proper no later than November 2012, and were required to bring their claims within 3 years, or by November 2015. The Anthony's did not plead these claims until August 2017—almost two years too late.

**D. Estoppel and Equity Bar The Anthonys' Counter Claims.**

Next, the Anthonys cannot prevail on their claims because they are barred by res judicata/claim preclusion, laches, unclean hands and waiver. The issue as to title of the manufactured homes should have been brought in Fannie Mae's unlawful detainer action. They were not. Instead, the Anthonys sat on their hands and waited until after Fannie Mae filed this action to bring these claims. Equity prohibits the Anthonys from recovering for any wrongdoing by Fannie Mac, especially when the Anthonys were the cause of the wrongs.

...

1 The Anthonys argue that equity does not apply here. *See* Opp. at 6-8. First, the Anthonys  
2 argue they could not have brought the claim that Fannie Mae transferred the property in 2015 in the  
3 2012 unlawful detainer action. Opp. at 6. However, as discussed above, the 2015 transfer was  
4 premised on Fannie Mae's statement that it acquired the property at the foreclosure. The Anthonys  
5 knew Fannie Mae had claimed title to the property when it brought its unlawful detainer action. The  
6 alleged wrong occurred in 2012, not in 2015 when Fannie Mae reiterated its title to the property.

7 The Anthonys next contend that the court in the unlawful detainer action lacked jurisdiction to  
8 hear any claims concerning the UCC because, at the time, the amount in controversy would have  
9 exceeded the jurisdictional limits of the justice court. Assuming the Anthonys' claims regarding  
10 damages are true and the amount in controversy would have exceeded the justice court's jurisdiction,  
11 they had the opportunity to transfer the matter to the district court. They did not. Nor did they bring  
12 any UCC defense that Fannie Mae did not obtain legal title, which the court noted they did not do.

13 Finally, the Anthonys contend Article 9 damages are not related to the subject of possession in  
14 an unlawful detainer matter. Opposition at 8. The plaintiff in an unlawful detainer action must  
15 establish title to the property or entitlement to possession. As noted by the judgment, the court found  
16 that Fannie Mae established title to the property by producing, among other things, the trustee deed  
17 after the foreclosure. *See MSJ Ex. 10*. The Article 9 damages claim stems directly from Fannie Mae's  
18 allege title to the property.

19 As discussed in the Motion, a claim is compulsory "if it arises out of the transaction or  
20 occurrence that is the subject matter of the opposing party's claim." The relevant consideration is  
21 whether the pertinent facts of the different claims are so logically related that issues of judicial  
22 economy and fairness mandate all issues be tried in one suit. *See United States v. Aquavella*, 615 F.2d  
23 12, 22 (2d Cir. 1979).

24 The Anthonys' claims that the foreclosure sale did not include the manufactured homes are  
25 logically related to Fannie Mae's 2012 action for possession of the property, specifically the  
26 manufactured homes. Both claims arise out of the same transaction—the 2012 foreclosure sale. The  
27 defendants allege plaintiff failed to perfect its interest in the property, failed to properly notice the sale,  
28 and questioned whether the manufactured homes are sufficiently described under the security



1 instrument, the deed of trust. These counterclaims are so logically related to those in the eviction  
2 action, where Fannie Mae sought to evict defendants from the manufactured home, judicial economy  
3 and fairness mandates that defendants bring their counterclaims in the 2012 suit. *See Mendenhall v.*  
4 *Tassinari*, 403 P.3d 364, 370–71 (Nev. 2017). But they were not.

5 The claims are barred by claim preclusion. Here, there is a valid final judgment in the eviction  
6 action between Fannie Mae and defendants. *See MSJ Ex. 10*. These are the exact same parties as in  
7 the instant litigation. Defendants' counter claims in this lawsuit are premised on plaintiff's alleged  
8 failure to perfect its interest in the property in the foreclosure sale and plaintiff's alleged wrongful  
9 attempt to obtain possession of the property without first complying with the UCC. The counterclaims  
10 also allege plaintiff's underlying debt was extinguished in its failure to comply with the UCC and  
11 therefore plaintiff does not have any rights to the manufactured homes. Because plaintiff's eviction  
12 action sought a judicial determination that Fannie Mae obtained title to and possession of the property,  
13 which it contended included the manufactured homes, defendants' current claims against plaintiff  
14 clearly could have been brought in that case. *See Ex. 10. Weddell v. Sharp*, 350 P.3d 80, 85 (Nev.  
15 2015) (en banc).

#### 16 **E. The Anthonys Fail to Establish They are Entitled to UCC Damages.**

17 The Anthonys cannot establish they are entitled to UCC damages. NRS 104.9625 provides:

18 1. If it is established that a secured party is not proceeding in accordance with  
19 this article, a court may order or restrain collection, enforcement or  
disposition of collateral on appropriate terms and conditions.

20 2. Subject to subsections 3, 4 and 6, a person is liable for damages in the  
21 amount of any loss caused by a failure to comply with this article. Loss caused  
22 by a failure to comply may include loss resulting from the debtor's inability to  
obtain, or increased costs of, alternative financing.

23 3. Except as otherwise provided in NRS 104.9628:

24 (a) A person that, at the time of the failure, was a debtor, was an obligor or  
held a security interest in or other lien on the collateral may recover damages  
under subsection 2 for its loss; and

25 (b) *If the collateral is consumer goods, a person that was a debtor or a*  
26 *secondary obligor at the time a secured party failed to comply with this part*  
27 *may recover for that failure in any event an amount not less than the credit*  
28 *service charge plus 10 percent of the principal amount of the obligation or the*  
*time-price differential plus 10 percent of the cash price.*

4. A debtor whose deficiency is eliminated under NRS 104.9626 may recover  
damages for the loss of any surplus. However, a debtor or secondary obligor

whose deficiency is eliminated or reduced under that section may not otherwise recover under subsection 2 for noncompliance with the provisions of this part relating to collection, enforcement, disposition or acceptance.

5. In addition to any damages recoverable under subsection 2, the debtor, consumer obligor or person named as a debtor in a filed record, as applicable, may recover \$500 in each case from a person that:

- (a) Fails to comply with NRS 104.9208;
- (b) Fails to comply with NRS 104.9209;
- (c) Files a record that he or she is not entitled to file under subsection 1 of NRS 104.9509;
- (d) Fails to cause the secured party of record to file or send a termination statement as required by subsection 1 or 3 of NRS 104.9513;
- (e) Fails to comply with paragraph (a) of subsection 2 of NRS 104.9616 and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or
- (f) Fails to comply with paragraph (b) of subsection 2 of NRS 104.9616.

6. A debtor or consumer obligor may recover damages under subsection 2 and, in addition, \$500 in each case from a person that, without reasonable cause, fails to comply with a request under NRS 104.9210. A recipient of a request under that section which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

7. If a secured party fails to comply with a request regarding a list of collateral or a statement of account under NRS 104.9210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

Emphasis added.

Regardless of whether the safe have provision applies, the Anthonys fail to establish they are entitled to the damages they seek under NRS 104.9625(3)(b). First, the Anthonys fail to establish the 1996 Fuqua was the sole collateral for the \$214,400 loan. Likewise they fail to establish that Fannie Mae is a secured creditor under the UCC. Their evidence consists of a promissory note and deed of trust that defines, according to them, the collateral to be securitized as only the land itself. *See* Opposition at 3. Though the Anthonys will concede the 1996 Fuqua was collateral, but not sufficiently described in the deed of trust, what they fail to acknowledge is that the 1996 Fuqua was attached to another manufactured home to create a single family unit that was affixed to the land. *See MSJ Ex. 4, 5, 6.* The 1996 Fuqua was not the sole security for the \$214,400 loan, which is the figure the Anthony's premise their alleged statutory damages in the amount of \$304,000 on.

As the evidence demonstrates, Fannie Mae reasonably believed the manufactured homes were real property for purposes of the transaction. *See MSJ Exs. 2, 4, 5.* That belief was further premised

1 on the borrowers' representations concerning the purpose of the loan. *See MSJ Exs. 4, 5, 6.* The  
2 manufactured homes had been connected to each other and represented to the lender as one, they were  
3 affixed to the land by having a crawl space, with the wheels, groove and tongue removed, and were  
4 connected to utilities. *See MSJ Exs. 2, 4, 5.* The borrowers also recorded an affidavit of conversion  
5 purporting to convert the connected manufactured homes into one piece of real property. **Ex. 2.**  
6 Moreover, the borrowers' loan application stated they were seeking to refinance a loan for their home,  
7 a home they had built in 2000 for \$270,000. *See MSJ Ex. 4.* The lender relied on all of these things  
8 in approving the loan in the amount of \$214,400.

9 Thus, even assuming the UCC statutory damages are available to the Anthonys, they have  
10 failed to establish evidence of the damages. *See Mot. at 6-7.* The loan was for the land and the  
11 improvements, not solely for the 1996 Fuqua. *See MSJ Exhs. 3-6.* The Anthony's cannot rest their  
12 evidence of damages on the entire loan balance.

13 **VI. CONCLUSION**

14 Based on the above, the Court should enter judgment in favor of Fannie Mae on its claim for  
15 trespass and on the Anthonys counterclaims for UCC, conversion and abuse of process/ excessive  
16 attachment.

17 DATED this 13<sup>th</sup> of May, 2019

18 **AKERMAN LLP**

19 /s/ Jamie K. Combs

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21 Nevada Bar No. 8386

22 JAMIE K. COMBS, ESQ.

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26 *Attorneys for Federal National Mortgage Association*

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**AFFIRMATION**  
(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding **FEDERAL NATIONAL MORTGAGE ASSOCIATION'S REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** filed in this case does not contain the social security number of any person.

DATED this 13<sup>th</sup> of May, 2019

**AKERMAN LLP**

/s/ Jamie K. Combs  
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*Attorneys for Federal National Mortgage Association*

1                                    **CERTIFICATE OF SERVICE (WASHOE COUNTY)**

2            I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on this 13<sup>th</sup> day of  
3 May, 2019, I caused to be served a true and correct copy of the foregoing **FEDERAL NATIONAL**  
4 **MORTGAGE ASSOCIATION'S REPLY IN SUPPORT OF MOTION FOR SUMMARY**  
5 **JUDGMENT**, in the following manner:

6            **(ELECTRONIC SERVICE)** Pursuant to the Second Judicial District Court's efile e-file and  
7 serve system, the above-referenced document was electronically filed on the date hereof and served  
8 through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties  
9 listed on the Court's Master Service List as follows:

10           Michael Lehnert, Esq.  
11           429 Marsh Avenue  
12           Reno, Nevada 89509  
13           *Attorney for Patricia & William Anthony*

14  
15  
16           /s/ Patricia Larsen

17           An employee of AKERMAN LLP  
18  
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**DOCUMENT "15"**

**DOCUMENT "15"**

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Attorney for Defendants-Counterclaimants  
Patricia Anthony and William Anthony

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE  
o0o

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,  
Plaintiff,

Case No. CV17-00843

Dept. No. 8

vs.

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or Occupants 1-5,

DEFENDANTS' REPLY TO FANNIE  
MAE'S OPPOSITION TO  
DEFENDANT'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT

Defendants.

PATRICIA ANTHONY, WILLIAM  
ANTHONY

Counterclaimant

vs.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION

Counterdefendant

Defendants Patricia Anthony and William Anthony (Anthony) file the following Reply to  
Fannie Mae's Opposition to Defendants' Motion for Partial Summary Judgment.

**1. Background**

The parties have filed cross motions for summary judgment. The issues have been more  
fully briefed in the cross motions and cross oppositions. This will be a summary of the  
arguments raised by Fannie Mae and the Anthony's opposition.

1       **2.     Argument**

2           **I.     THE MANUFACTURED HOMES WERE PLEDGED AS COLLATERAL**  
3           **FOR THE NOTE AND DEED OF TRUST.**

4           Fannie Mae argues the FUQUA was affixed to the land by the removal of the wheels,  
5           tongue, groove, porch, underpinnings and utilities.

6           Affixation of a mobile home to real property is governed by statute. See NRS  
7           361.244(2). There are four conditions, all of which must be met, to legally convert the FUQUA  
8           to real property:

- 9           (a)    The assessor has received verification from the Housing Division of the  
10           Department of Business and Industry that the mobile or manufactured  
11           home has been converted to real property;
- 12           (b)    The unsecured personal property tax has been paid in full for the current  
13           fiscal year;
- 14           (c)    An affidavit of conversion of the mobile or manufactured home from  
15           personal to real property has been recorded in the county recorder's office  
16           of the county in which the mobile or manufactured home is located; and
- 17           (d)    The dealer or owner has delivered to the Division a copy of the recorded  
18           affidavit of conversion and all documents relating to the mobile or  
19           manufactured home in its former condition as personal property.

20           The removal of certain parts, attaching utilities and a porch may make it more difficult to  
21           remove, but it did not affix it to the real property. It was personal property at all times.

22           **II.    THE NON-JUDICIAL FORECLOSURE SALE WAS PERMITTED BY**  
23           **THE UCC ASSUMING THE FUQUA WAS PERSONAL PROPERTY**

24           Section Six of Article Nine permits personal property collateral to be sold. A condition  
25           of sale is the personal property must be collateral. For personal property to be collateral, the  
26           secured creditor must comply with NRS 104.9203.

27           NRS 104.9203(2)(c)(1) requires a description of the personal property collateral to be  
28           included in the written security agreement. The argument that the mobile home is an  
"improvement" to the real property, and hence subject to the deed of trust, fails. It is titled  
property, and it can not be an improvement until the owner has fully complied with the statutory  
requirements set forth in NRS 361.244(2).



1           The FUQUA was never personal property collateral. Fannie Mae violated Section Six of  
2 Article Nine when it filed a false transfer statement and thereafter making a disposition of the  
3 personal property to itself by converting to real property it already owned.

4           III. ANY CLAIM FOR VIOLATING THE UCC IS TIME BARRED

5           NRS 11.190(3)(a) creates a three year statute of limitation for liability created by statute.

6           On September 16, 2015 Fannie Mae executed and filed an application for duplicate  
7 ownership certificate with Nevada's Department of Manufactured Housing with respect to the  
8 1996 Fuqua mobile home. At page one of that document, Fannie Mae identifies itself as  
9 lienholder with respect to the 1996 Fuqua.

10          Also on September 16, 2015 Fannie Mae executed and filed a form "Affidavit,  
11 Application for Certificate of Ownership". This document is a Transfer Statement" as that term  
12 is used in NRS 104.9619.

13          In its September 16, 2015 Affidavit, Application for Certificate of Ownership, Fannie  
14 Mae falsely stated that the 1996 Fuqua had been foreclosed on April 24, 2012, and that it had  
15 been in Fannie Mae's possession ever since.

16          Based upon Fannie Mae's assertion that it held a security interest in the 1996 Fuqua, and  
17 that it had held exclusive possession since April 24, 2012, the Department of Manufactured  
18 Housing issued a certificate of title to Fannie Mae on November 23, 2015.

19          On or about November 18, 2015 Fannie Mae executed and filed an application to  
20 convert the 1996 Fuqua to real property.

21          These facts are not in dispute. Fannie Mae violated Section Six of Article Nine by filing  
22 a false transfer statement and disposing of the personal property by conveying it to itself to  
23 become a part of the real property it already owned. The litigation was commenced on May 2,  
24 2017. The UCC action is timely.

25          As a side note, if the mobile home was collateral, then the sale in 2012 was defective.  
26 The only notice of sale was the Trustee's notice of sale, which is Exhibit "2" to Anthony's  
27  
28

1 motion for summary judgment. With respect to NRS 104.614, it is defective in the following  
2 respects:

- 3 1. It fails to identify the FUQUA as collateral;
- 4 2. It fails to inform Anthony of their right to an accounting,
- 5 3. It fails to give a description of any liability for a deficiency of the person to  
6 which the notification is sent

7 While an action under the UCC for a defective notice of sale is time barred, that does not  
8 deprive Anthony of a remedy. When a statute has passed on affirmative recovery of statutory  
9 damages, then those time barred damages can be asserted as offset or recoupment. See *Coxson*  
10 *v. Commonwealth Mortgage Company* 43 F.3d 189, 194 (5th Cir. 1995) holding that time  
11 barred Truth in Lending Claims could be asserted defensively against secured creditor.  
12 Therefore, if the value of the real property is \$100,000.00, then Anthony can use \$100,000.00  
13 of their statutory damages as offset for Fannie Mae's claim. This would result in their ability to  
14 regain title to the real property.

#### 15 IV. THE SAFE HARBOR RULE IN NRS 104.9628 DOES NOT APPLY

16 Fannie Mae cites Article Nine's safe harbor rule. It is set forth in NRS 104.9628. The  
17 statutory damages under UCC 9-§625 are only available in consumer transactions. They do not  
18 apply in commercial or business transactions. Where the secured creditor fails to comply with  
19 Section Six of Article Nine in a commercial transaction, UCC 9-§626 applies. It, in turn, creates  
20 a rebuttable presumption that had the secured creditor complied with Article Nine, there would  
21 not be any deficiency. See NRS 104.9626 which provides in relevant part:

22 (c) Except as otherwise provided in NRS 104.9628, if a secured party fails  
23 to prove that the collection, enforcement, disposition or acceptance was  
24 conducted in accordance with the provisions of this part relating to collection,  
25 enforcement, disposition or acceptance, the liability of a debtor or a secondary  
26 obligor for a deficiency is limited to an amount by which the sum of the secured  
27 obligation, expenses and attorney's fees exceeds the greater of: . . .

28 (2) The amount of proceeds that would have been realized had the  
noncomplying secured party proceeded in accordance with the provisions of  
this part relating to collection, enforcement, disposition or acceptance.

(d) For purposes of subparagraph (2) of paragraph (c), the amount of  
proceeds that would have been realized is equal to the sum of the secured

1 obligation, expenses and attorney's fees unless the secured party proves that the  
2 amount is less than that sum.

3 Subsection (c) limits the deficiency to the actual proceeds or the proceeds that would  
4 have been received, had the secured creditor complied with Article Nine. Subsection (d) makes  
5 the presumption of no deficiency a rebuttable one.

6 NRS 104.9626(1)(c) cross references NRS 104.9628, which is cited by Fannie Mae.  
7 Specifically NRS 104.9628(3) says statutory damages are not allowed where the secured  
8 creditor holds a reasonable belief that the transaction is not a consumer goods transaction or the  
9 goods are not consumer goods based upon a representation of the debtor.

10 Consumer goods are defined as goods that are used or bought for use primarily for  
11 personal, family or household purposes. NRS 104.9102(1)(w). A consumer goods transaction  
12 means a consumer transaction to the extent that: (1) A natural person incurs an obligation  
13 primarily for personal, family or household purposes; and (2) A security interest in consumer  
14 goods or in consumer goods and software that is held or acquired primarily for personal, family  
15 or household purposes secures the obligation. NRS 104.9102(1)(x).

16 Fannie Mae argues that it believed in good faith that the manufactured homes were real  
17 property for the purposes of this transaction. That is an irrelevant belief. NRS 104.9628(3)'s  
18 safe harbor references a representation by the debtor that the transaction is commercial, not  
19 consumer, in nature. Whatever property Fannie Mae believed was included within the scope of  
20 the security interest is not relevant. It is the nature of the transaction which forms the safe  
21 harbor.

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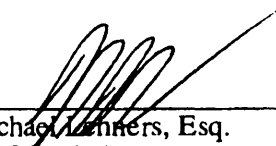
1       **3. Conclusion**

2               In light of the foregoing, summary judgment in favor of the Anthonys is warranted.

3                               **Affirmation**  
4                               **Pursuant to NRS 239B.030**

5               The Undersigned does hereby affirm that the preceding document filed in the case herein  
6               does not contain the social security number of any person.

7                               Dated: This 17 day of May, 2019

8     
9                               By: \_\_\_\_\_  
10                               Michael Lenners, Esq.  
11                               429 Marsh Ave.  
12                               Reno, Nevada 89509  
13                               Nevada Bar Number 003331

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**DEFENDANTS' REPLY TO FANNIE MAE'S OPPOSITION TO MOTION FOR**  
**PARTIAL SUMMARY JUDGMENT**, addressed as follows:

A copy of document was also served to all parties through the Court's Eflex program.

419

**DOCUMENT "16"**

**DOCUMENT "16"**

IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Case No. CV17-00843

Dept. No. 8

Plaintiff,

v.

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or Occupants 1-5,

Defendants,

\_\_\_\_\_  
PATRICIA ANTHONY, WILLIAM  
ANTHONY,

Counterclaimants,

v.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Counterdefendant.  
\_\_\_\_\_

**ORDER AFTER HEARING**

The Court heard argument on competing motions for summary judgment on July 8, 2019. Darren T. Brenner, Esq., appeared for Plaintiff/Counterdefendant, Federal National Mortgage Association's ("FNMA") and Michael Lehnars, Esq.,

1 appeared for Defendants/Counterclaimants Patricia Anthony and William Anthony  
2 ("the Anthonys").

3 Having reviewed the record and having considered the authorities and  
4 positions advanced by counsel, the Court GRANTS FNMA's *Motion for Summary*  
5 *Judgment* on its claim against the Anthonys for trespass; and GRANTS FNMA's  
6 *Motion for Summary Judgment* against the Anthonys on their counterclaims. The  
7 Anthonys' *Motion for Partial Summary Judgment* is accordingly DENIED.

8 Accordingly, and good cause appearing,

9 Counsel for FNMA is ORDERED to prepare proposed "Findings of Fact,  
10 Conclusions of Law and Judgment" consistent with its points and authorities and  
11 as argued on the record July 8, 2019. It shall also include the granting of a  
12 permanent injunction against the Anthonys' further occupation of the subject  
13 premises. The document is to be prepared and served upon counsel for the  
14 Anthonys for review as to form no later than July 26, 2016.

15 Counsel are ORDERED to personally confer on any issues or concerns raised  
16 by Anthonys' counsel no later than August 2, 2019.

17 Counsel for FNMA is ORDERED to file a proposed final version with the Court  
18 no later than August 7, 2019, as well as email the document to chambers in "Word"  
19 format. Counsel for the Anthonys may file any objections to the proposed Findings  
20 of Fact and Conclusions of Law and Judgment no later than August 9, 2019.

21 The Court will thereafter review and enter Findings of Fact, Conclusions of  
22 Law and Judgment as set forth above.

23  
24 / / /

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26 / / /



1  
2 Unless otherwise agreed to in writing by the parties and approved by the  
3 Court, the pending orders regarding injunctive relief and payment of rent shall  
4 expire on the date the Court files the Findings of Fact, Conclusions of Law and  
5 Judgment.

6 IT IS SO ORDERED.

7 DATED this 10 day of July, 2019.

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10 BARRY L. BRESLOW  
11 DISTRICT JUDGE  
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DARREN T. BRENNER, ESQ.  
MICHAEL LEHNERS, ESQ.

attf

**DOCUMENT "17"**

**DOCUMENT "17"**

1 MICHAEL LEHNERS, ESQ.  
2 Nevada State Bar No.: 3331  
3 429 Marsh Avenue  
4 Reno, NV 89509  
5 (775) 786-1695  
6 Attorney for Defendants

7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR COUNTY OF WASHOE

9 oOo

10 FEDERAL NATIONAL MORTGAGE  
11 ASSOCIATION,

12 Plaintiff,

13 vs.

CASE NO.: CV17-00843  
DEPT. NO.: 8

14 PATRICIA ANTHONY, WILLIAM ANTHONY  
15 and/or Occupants, 1-5,

16 Defendants.

17 **NOTICE OF APPEAL**

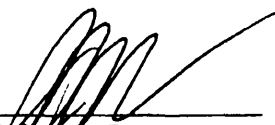
18 Notice is hereby given that Defendants, PATRICIA ANTHONY and WILLIAM ANTHONY,  
19 by and through their Attorney, Michael Lehnerns, Esq., hereby appeals to the Supreme Court of  
20 the State of Nevada from the Order After Hearing entered in the above-entitled matter on July  
21 10, 2019. A copy of the Order is attached hereto.

22 **Affirmation**

23 **Pursuant to NRS 239B.030**

24 The Undersigned does hereby affirm that the preceding document filed in the case herein does not contain the social  
25 security number of any person.

26 Dated: This 24 day of July, 2019

27   
28 Michael Lehnerns, Esq.  
Attorney for Defendants  
Patricia and William Anthony

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7 IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
8 IN AND FOR THE COUNTY OF WASHOE

9 FEDERAL NATIONAL MORTGAGE  
10 ASSOCIATION,

Case No. CV17-00843

Dept. No. 8

11 Plaintiff,

12 v.

13 PATRICIA ANTHONY, WILLIAM  
14 ANTHONY, and/or Occupants 1-5,

15 Defendants,

16 PATRICIA ANTHONY, WILLIAM  
17 ANTHONY,

18 Counterclaimants,

19 v.

20 FEDERAL NATIONAL MORTGAGE  
21 ASSOCIATION,

22 Counterdefendant.

23  
24 **ORDER AFTER HEARING**

25 The Court heard argument on competing motions for summary judgment on  
26 July 8, 2019. Darren T. Brenner, Esq., appeared for Plaintiff/Counterdefendant,  
27 Federal National Mortgage Association's ("FNMA") and Michael Lehnert, Esq.,  
28

1 appeared for Defendants/Counterclaimants Patricia Anthony and William Anthony  
2 ("the Anthonys").

3 Having reviewed the record and having considered the authorities and  
4 positions advanced by counsel, the Court GRANTS FNMA's *Motion for Summary*  
5 *Judgment* on its claim against the Anthonys for trespass; and GRANTS FNMA's  
6 *Motion for Summary Judgment* against the Anthonys on their counterclaims. The  
7 Anthonys' *Motion for Partial Summary Judgment* is accordingly DENIED.

8 Accordingly, and good cause appearing,

9 Counsel for FNMA is ORDERED to prepare proposed "Findings of Fact,  
10 Conclusions of Law and Judgment" consistent with its points and authorities and  
11 as argued on the record July 8, 2019. It shall also include the granting of a  
12 permanent injunction against the Anthonys' further occupation of the subject  
13 premises. The document is to be prepared and served upon counsel for the  
14 Anthonys for review as to form no later than July 26, 2016.

15 Counsel are ORDERED to personally confer on any issues or concerns raised  
16 by Anthonys' counsel no later than August 2, 2019.

17 Counsel for FNMA is ORDERED to file a proposed final version with the Court  
18 no later than August 7, 2019, as well as email the document to chambers in "Word"  
19 format. Counsel for the Anthonys may file any objections to the proposed Findings  
20 of Fact and Conclusions of Law and Judgment no later than August 9, 2019.

21 The Court will thereafter review and enter Findings of Fact, Conclusions of  
22 Law and Judgment as set forth above.

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Unless otherwise agreed to in writing by the parties and approved by the Court, the pending orders regarding injunctive relief and payment of rent shall expire on the date the Court files the Findings of Fact, Conclusions of Law and Judgment.

IT IS SO ORDERED.

DATED this 10 day of July, 2019.

  
BARRY L. BRESLOW  
DISTRICT JUDGE

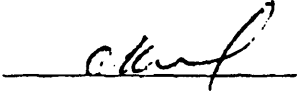
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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; and that on this date I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DARREN T. BRENNER, ESQ.  
MICHAEL LEHNERS, ESQ.


DATED this 10 day of July, 2019.

A handwritten signature in black ink, appearing to be "Clark", written over a horizontal line.



[illegible]

Darren Brenner, Esq.  
Akerman, LLP  
1635 Village Center Circle  
Suite 200  
Las Vegas, Nv 89134

  
Dolores Stigall

**DOCUMENT "18"**

**DOCUMENT "18"**

DARREN T. BRENNER, ESQ.  
Nevada Bar No. 8386  
JAMIE K. COMBS, ESQ.  
Nevada Bar No. 13088  
**AKERMAN LLP**  
1635 Village Center Circle, Suite 200  
Las Vegas, Nevada 89134  
Telephone: (702) 634-5000  
Facsimile: (702) 380-8572  
Email: darren.brenner@akerman.com  
Email: jamie.combs@akerman.com

*Attorney for Federal National Mortgage Association*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR THE COUNTY OF WASHOE**

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff,

v.

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or Occupants 1-5,

Defendants.

PATRICIA ANTHONY, WILLIAM  
ANTHONY,

Counterclaimant,

v.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Counterdefendant.

Case No.: Case No. CV17-00843  
Dept. No. 8

**B43**  
**(PROPOSED) FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER  
ON PARTIES' MOTIONS FOR  
SUMMARY JUDGMENT**

This matter came for decision on plaintiff/ counter-defendant Federal National Mortgage Association (**Fannie Mae or plaintiff**) and defendants/counter-claimants PATRICIA ANTHONY and WILLIAM ANTHONY (**Antonys or defendants**)'s Motions for Summary Judgment. The Court, having reviewed the papers and pleadings on file, being fully advised of the grounds for relief therein, and good cause appearing therefore, finds and concludes as follows:

...

**FINDINGS OF FACTS**

***The Anthonys Presented The Property, Including Both Manufactured Homes, As Real Property Collateral For The Loan.***

1. In late 2000, the Anthonys purchased two manufactured homes from Trinity Homes, Inc., their employer for over 20 years. The bigger manufactured home is a 1996 Fuqua Golden Eagle, Serial no. 15233AC, 38'6" by 66'8". (1996 Fuqua). The smaller manufactured home is a 1997 Fugua Eagle Ridge, Serial no. 15470, 25'8" by 48'. (1997 Fuqua). Plaintiff's MSJ, at Exhibit 1.

2. On November 17, 2000, William Anthony, on behalf of Trinity Homes, Inc., filed a "Dealer's Report of Sale" with the Manufacture Housing Division of Nevada's Department of Business and Industry. Plaintiff's MSJ at Exhibit 1. The Report of Sale only references serial number 15233AC (the 1997 Fuqua), but it also provides the trade name of "Eagle Pointe" and "Golden Eagle 953". William Anthony signed the "Affidavit of Dealer" on behalf of Trinity, certifying the cost of the structure as \$129,274.76. Plaintiff's MSJ at Exhibit 1.

3. The manufactured homes were physically located at 3705 Anthony Place, Sun Valley, Nevada and they were attached to each other. The Anthonys recorded one "Affidavit of Conversion of Manufactured/Manufactured Home to Real Property", on November 22, 2000 as Doc. # 2502064. Plaintiff's MSJ at Exhibit 2. Though the Affidavit of Conversion only identifies the "Eagle Ridge" model and model year "1997" for the structure they were seeking to convert, the Anthonys provided each manufactured home's serial number and the dimensions for each—indicating again that both manufactured homes were one.

4. The Affidavit of Conversion included both manufactured homes as the property to be converted. Though only the year "1997" and model name "Eagle Ridge" are identified, the serial numbers for each manufactured home and the dimensions for each are included as descriptions of the property. Plaintiff's MSJ at Exhibit 2.

5. In June 2002, the Anthonys obtained a refinance loan in the amount of \$214,400 from Capitol Commerce Mortgage Co. Plaintiff's MSJ at Exhibit 3.

...

...

1           6.       The Loan Application indicates the Anthonys were seeking a loan not for vacant land,  
2 but for their residence, built in 2000. Plaintiff's MSJ at Exhibit 4. The Application states they  
3 purchased the home for \$270,000.

4           7.       The Anthonys authorized an interior appraisal of the home at the time of the loan,  
5 further evidencing their intent to encumber the residence. Plaintiff's MSJ at Exhibit 5.

6           8.       The appraisal reflects one manufactured home that had multiple upgrades. The total  
7 square footage was listed at 3,798 square feet. The appraisal noted that the home included 7 bedrooms  
8 and 4 bathrooms, an attached porch, and crawl space underneath. Utilities were attached. Photographs  
9 attached to the appraisal reflect one unit with one address number placed on the front of the home.  
10 Plaintiff's MSJ at Exhibit 5.

11           9.       The appraisal noted that the tongue and groove were removed to make the  
12 manufactured homes a fixture on the property. Plaintiff's MSJ at Exhibit 5.

13           10.      The appraisal specifically noted it did not include personal property in determining the  
14 appraised value, which was \$268,000. Plaintiff's MSJ at Exhibit 5.

15           11.      When the Anthonys refinanced they had worked for the manufactured home company  
16 for more than twenty years. Plaintiff's MSJ at Exhibit 4. The application also showed the Anthonys  
17 owned 8 other properties. *Id.* These are sophisticated borrowers who know how to title the property.

18       ***The Anthonys Sign the DOT, Default on the Loan, and Fannie Mae Forecloses.***

19           12.      The Anthonys were approved for a loan in the amount of \$214,400, evidenced by a  
20 promissory note and secured by a deed of trust recorded against the property commonly described as  
21 3705 Anthony Place, Sun Valley, Nevada (**the Property**). Plaintiff's MSJ at Exhibit 3, and Exhibit 6.

22           13.      In signing the deed of trust, the Anthonys granted the trustee under the deed of trust the  
23 power of sale for the property that includes the land:

24                "TOGETHER WITH all the improvements now or hereafter erected on the property.  
25                All of the foregoing is referred to in this Security Instrument as the 'Property'. ...."

26       Plaintiff's MSJ at Exhibit 6, p. 3.

27           14.      The Anthonys also signed a Certificate of Occupancy stating they intended to reside in  
28 the home as their primary residence. Plaintiff's MSJ at Exhibit 15.

1 15. Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP  
2 serviced the loan since July 26, 2002.

3 16. A notice of default was recorded, followed by a notice of sale. Plaintiff's MSJ at Ex. 7.

4 17. Fannie Mae completed its foreclosure sale in 2012 and became the owner of the  
5 property by way of a credit bid. The Trustee Deed Upon Sale was recorded April 26, 2012. Plaintiff's  
6 MSJ at Exhibit 9.

7 ***Fannie Mae Initiates an Unlawful Detainer Action.***

8 18. After obtaining title to the property at the foreclosure sale, Fannie Mae brought an  
9 unlawful detainer action on June 6, 2012. Plaintiff's MSJ at Exhibit 10.

10 19. The court granted summary judgment for Fannie Mae in the unlawful detainer action.  
11 In doing so, the court noted that the Anthonys appeared and had an opportunity to challenge Fannie  
12 Mae's title to the Property. They were notified that Fannie Mae sought possession of the home by way  
13 of the foreclosure action, yet did not challenge it or present any defenses. Plaintiff's MSJ at Exhibit 10  
14 at pg. 6 ¶¶4-5.

15 20. Fannie Mae obtained a judgment of possession and a permanent writ of restitution on  
16 February 6, 2013 and again on July 6, 2016. Plaintiff's MSJ at Exhibit 11.

17 21. The Anthonys refuse to vacate the property.

18 ***Post-Foreclosure Activity Regarding Title.***

19 22. In October 2012, six months after the foreclosure sale, William Anthony filed an  
20 Affidavit Application for Certificate of Ownership of the 1996 Fuqua, claiming the title company lost  
21 the statement of origin. Plaintiff's MSJ at Exhibit 12.

22 23. In October 2015, Fannie Mae recorded an Affidavit Conversion of Manufactured/  
23 Manufactured Home to Real Property as document number 4523526 concerning the 1996 Fuqua.  
24 Plaintiff's MSJ at Exhibit 13.

25 ***Plaintiff Files This Action To Obtain An Order Of Trespass To Remove The Anthonys and Obtain***  
26 ***Permanent Injunctive Relief.***

27 24. Because the Anthonys would not vacate the property, on May 2, 2017, Fannie Mae  
28 brought this action to obtain an order of trespass and injunctive relief to prevent the Anthonys from

1 interfering with the removal of their personal belongings from the home and preventing the Anthonys  
2 from re-entering the premises or interfering with plaintiff's quiet enjoyment.

3 25. The parties agreed to a temporary injunction allowing the Anthonys to continue to  
4 reside in the property in exchange for \$800 per month and payment of insurance and taxes. The  
5 Anthonys have continued to make those payments.

6 26. On August 21, 2017, the Anthonys filed their counterclaim for Violation of Article  
7 Nine of the UCC, Conversion, and Abuse of Process/ Excessive Attachment.

### 8 CONCLUSIONS OF LAW

#### 9 *Legal Standard*

10 1. "Summary judgment is appropriate . . . when the pleadings, depositions, answers to  
11 interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that  
12 no genuine issue of material fact exists, and that the moving party is entitled to judgment as a matter  
13 of law." *Wood v. Safeway, Inc.*, 121 P.3d 1026, 1031 (Nev. 2005). "While the pleadings and other  
14 evidence must be construed in the light most favorable to the nonmoving party, that party has the  
15 burden to 'do more than simply show that there is some metaphysical doubt' as to the operative facts  
16 to defeat a motion for summary judgment." *Id.* at 1031 (quoting *Matsushita Elec. Indus. Co. v. Zenith*  
17 *Radio*, 475 U.S. 574, 586 (1986)).

#### 18 *Fannie Mae is Entitled to Summary Judgment on its Claim for Trespass*

19 2. To establish a cause of action for trespass, one must show that a property right was  
20 invaded. *Lied v. Clark Cty.*, 94 Nev. 275, 278-79, 579 P.2d 171, 173-74 (1978). Interference with  
21 the "exclusive right to the possession of his land and complete control thereof to the exclusion of any  
22 right of another to enter upon it... [that] is vested in [every property owner]" constitutes trespass. *Flick*  
23 *v. Nev. Fish and Game Commission*, 75 Nev. 100, 103, 335 P.2d 422, 423 (1959). Thus, one is liable  
24 to another for trespass, irrespective of whether he thereby causes harm to any legally protected interest  
25 of the other, if he intentionally:

- 26 (a) enters land in the possession of the other, or causes a thing or a third
- 27 person to do so, or
- 28 (b) remains on the land, or
- (c) fails to remove from the land a thing which he is under a duty to remove.

1 Restatement (Second) of Torts § 158 (1965) (emphasis added); *see also id.* at comment (i).

2 3. Fannie Mae obtained title to the property in April 2012 via the foreclosure sale pursuant  
3 to the deed of trust. In signing the deed of trust, the Anthonys permitted the trustee under the deed of  
4 trust to sell the property, which included all improvements to the land. Plaintiff's MSJ at Ex. 6. The  
5 improvements included the entire home (the connected manufactured homes).

6 4. The undisputed evidence demonstrates the manufactured homes were the purpose and  
7 collateral of the loan. Plaintiff's MSJ at Ex. 4, 5.

8 5. There is no genuine dispute of material fact that the Anthonys entered onto Fannie  
9 Mae's Property in 2012, and remained in possession of the property without consent despite having no  
10 right to be on the property. The court therefore grants summary judgment in favor of Fannie Mae on  
11 its trespass cause of action.

12 ***Fannie Mae is Entitled to Summary Judgment on the Counter Claims.***

13 6. The Court enters summary judgment in favor of Fannie Mae and against Defendants  
14 on each of their counterclaims. Defendants claim Fannie Mae: (1) sold the manufactured homes in  
15 violation of the UCC in 2012; (2) attempted possession of the manufactured homes in 2013 and 2016  
16 without legal rights; and (3) converted title of the 1996 Fuqua to Fannie Mae from the defendants in  
17 2015. The undisputed facts demonstrate that Fannie Mae properly foreclosed on the property,  
18 including the manufactured homes. Even if that were not the case, each of these three claims would  
19 be barred by the three year statute of limitations under NRS 11.190.

20 ***Conversion***

21 6. Defendants allege Fannie Mae converted the property when it attempted possession in  
22 2013 and 2016 and in 2015 when it applied to have the title changed. Conversion is "a distinct act of  
23 dominion wrongfully exerted over another's personal property in denial of, or inconsistent with his  
24 title or rights therein or in derogation, exclusion, or defiance of such title or rights." *Wantz v. Redfield*,  
25 74 Nev. 196, 198, 326 P.2d 413, 414 (1958). The Anthonys cannot succeed on a claim for conversion  
26 based on the undisputed facts.

27 7. Fannie Mae obtained title and possession of the property, including the manufactured  
28 homes, through its non-judicial foreclosure proceeding, followed by an unlawful detainer action.



1 Plaintiff's MSJ, Exs. 9, 10. It did not convert, or wrongfully take, the property. Fannie Mae properly  
2 foreclosed on the property, including the manufactured homes, which were permanently attached to  
3 the property and therefore constituted real property. However, even if the manufactured homes were  
4 personal property, Fannie Mae still properly foreclosed under NRS 104.9604(1)(b), which states that  
5 where a security agreement covers both personal and real property, a secured party may foreclose "[a]s  
6 to both the personal property and the real property in accordance with the rights with respect to the  
7 real property, in which case the other provisions of this part do not apply." NRS 104.9604(1)(b).

8 8. Further, Defendant's claim for conversion is time-barred. A cause of action for  
9 conversion accrues with the unauthorized sale/conversion of property. *See* N.R.S. 11.190(3)(c) and  
10 (3)(d); *Palludan v. Bergin*, 375 P.2d 544, 78 Nev. 441 (1962) (action for conversion barred by the  
11 statute of limitations where it was not commenced until more than three years after alleged  
12 unauthorized sale of the property).

13 9. Any conversion cause of action would have arisen in April 2012 at the earliest and  
14 November 2012 at the latest when the sale was completed and judgment of possession entered in favor  
15 of Fannie Mae. *See* Exs. 9, 10, 11 to Plaintiff's MSJ. Fannie Mae informed the defendants it claimed  
16 title to the property and possession of the premises in April 2012 when it recorded the trustee's deed  
17 upon sale. Fannie Mae then began eviction proceedings, advising defendants to vacate the premises  
18 because a foreclosure sale had been completed. *See* Ex. 14 to Plaintiff's MSJ. Fannie Mae obtained  
19 judgment for possession in November 2012. Ex. 10 to Plaintiff's MSJ.

20 10. Thus, any claims premised on Fannie Mae's assertion of ownership and possession of  
21 the property, including the home, would have accrued in November 2012 at the latest, when the  
22 judgment for possession was entered in favor of Fannie Mae. Ex. 10 to Plaintiff's MSJ. As the counter  
23 claims were not filed until August 2017, the conversion claim is almost two years too late.

#### 24 *UCC Violations*

25 11. A claim based on a statute, like the alleged violations of the UCC here, is subject to the  
26 three-year statute of limitations in the absence of a specific limitation period providing otherwise.  
27 While limitation periods are provided for in a number of Articles under Nevada's version of the UCC  
28 (*see, e.g.*, NRS 104.5115, 1 year), there is no limitation period for a violation of Article 9 concerning

1 secured transactions. *See* NRS 104.9101, et seq. As such, the three-year limitation period under NRS  
2 11.190(1) applies.

3 12. Here, all of the Anthony's counterclaims alleging violation of the UCC stem from the  
4 April 2012 foreclosure sale, or at the latest, the November 2012 judgment of possession. Ex. 9, 10 to  
5 Plaintiff's MSJ. Defendants had actual knowledge Fannie Mae claimed to obtain title to the property,  
6 including the manufactured homes, in April 2012 and used that title to obtain possession of the  
7 property in November 2012.

8 13. Assuming Defendant's had any viable claim for breach of the UCC, they were required  
9 to bring those claims within three years of Fannie Mae's possession of the property, or by November  
10 2015. The Anthony's didn't plead these claims until August 2017—almost two years too late.

11 14. Even if the claim was not barred by the statute of limitations, the claim fails because  
12 the UCC permitted the sale of the manufactured homes even if the manufactured home did constitute  
13 personal property. Where a security agreement covers both personal and real property, a secured party  
14 may proceed "[a]s to both the personal property and the real property in accordance with the rights  
15 with respect to the real property, in which case the other provisions of this part do not apply." NRS  
16 104.9604(1)(b). Therefore, no violation of the UCC occurred.

17 ***Excessive Attachment / Abuse of Process***

18 15. Abuse of process is "an intentional tort that requires proof of two elements: (1) an  
19 ulterior purpose for bringing a legal action other than resolving a dispute, and (2) a willful act in the  
20 use of the legal process not proper in the regular conduct of the proceeding." *Las Vegas Fetish &*  
21 *Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 182 P.3d 764, 767 (Nev. 2008) (citing *Posados*  
22 *v. City of Reno*, 109 Nev. 448, 457, 851 P.2d 438, 444-445 (1993)).

23 16. In the instant case, there are no facts to establish a claim for abuse of process. Fannie  
24 Mae argued in the prior unlawful detainer action that it obtained title via a foreclosure sale of the deed  
25 of trust which included the manufactured homes as real property improvements. Plaintiff's MSJ at Ex.  
26 10. Defendants in that action had the opportunity to dispute Fannie Mae's claims. To the extent they  
27 disagreed with the results, they could have appealed. They did not. The Anthonys do not present any  
28

1 facts demonstrating Fannie Mae had an ulterior motive for bringing this action other than to resolve a  
2 valid legal dispute due to the Anthony's refusal to vacate the property.

3 17. Moreover, this claim is also barred by the three year statute of limitations, as it is also  
4 based on Defendant's claim that Fannie Mae violated the UCC in foreclosing on the property.

5 ***Claim Preclusion Bars the Anthonys' Counter Claims***

6 18. Defendants' counterclaims are also barred here because they are compulsory counter  
7 claims that should have been brought in Fannie Mae's 2012 eviction action.

8 19. Under NRCP 13(a), a claim is compulsory "if it arises out of the transaction or  
9 occurrence that is the subject matter of the opposing party's claim." The relevant consideration is  
10 whether the pertinent facts of the different claims are so logically related that issues of judicial  
11 economy and fairness mandate all issues be tried in one suit. *See United States v. Aquavella*, 615 F.2d  
12 12, 22 (2d. Cir. 1979).

13 20. Here, defendants' claims that the foreclosure sale did not include the manufactured  
14 homes are logically related to Fannie Mae's 2012 action for possession of the property, specifically  
15 the manufactured homes. Both claims arise out of the same transaction—the 2012 foreclosure sale.  
16 The defendants allege plaintiff failed to perfect its interest in the property, failed to properly notice the  
17 sale, and questioned whether the manufactured homes are sufficiently described under the security  
18 instrument, the deed of trust. These counterclaims are so logically related to those in the eviction  
19 action, where Fannie Mae sought to evict defendants from the manufactured home, judicial economy  
20 and fairness mandates that defendants bring their counterclaims in the 2012 suit. *See Mendenhall v.*  
21 *Tassinari*, 403 P.3d 364, 370–71 (Nev. 2017). But they were not.

22 21. Under Nevada law, claim preclusion applies where: (1) "the final judgment is valid,"  
23 (2) "the parties or their privies are the same in the instant lawsuit as they were in the previous lawsuit,  
24 or the defendant can demonstrate that he or she should have been included as a defendant in the earlier  
25 suit and the plaintiff fails to provide a good reason for not having done so," and (3) "the subsequent  
26 action is based on the same claims or any part of them that were *or could have been brought* in the  
27 first case." *Weddell v. Sharp*, 350 P.3d 80, 85 (Nev. 2015) (en banc) (quotation and emphasis omitted).

1           22.     Here, there is a valid final judgment in the eviction action between Fannie Mae and  
2 defendants. *See* Plaintiff's MSJ at Ex. 10. These are the same parties as in the instant litigation.  
3 Defendants' counterclaims in this lawsuit are premised on Fannie Mae's alleged failure to perfect its  
4 interest in the property in the foreclosure sale and Fannie Mae's alleged wrongful attempt to obtain  
5 possession of the property without first complying with the UCC.

6           23.     The counterclaims also allege Fannie Mae's underlying debt was extinguished in its  
7 failure to comply with the UCC and therefore Fannie Mae does not have any rights to the manufactured  
8 homes. Because Fannie Mae's eviction action sought a judicial determination that Fannie Mae obtained  
9 title to and possession of the property, which included the manufactured homes, defendants' current  
10 claims against Fannie Mae clearly could have been brought in that case. *See* Plaintiff's MSJ at Ex. 10.

11           24.     It would be inequitable to allow Defendants to delay bringing claims to challenge the  
12 foreclosure until after Fannie Mae potentially loses any rights to collect a judgment or cure the  
13 foreclosure. If the Defendants had asserted their claims that the foreclosure was not proper in defense  
14 of Fannie Mae's action confirming title and possession, Fannie Mae would have had an opportunity to  
15 protect its rights by filing a deficiency action if necessary. Instead, plaintiffs delayed challenging the  
16 foreclosure until Fannie Mae is prejudiced. *See Nevada State Bank v. Jamison Family Partnership*,  
17 801 P.2d 1377, 106 Nev. 792 (1990).

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**ORDER**

Based on the foregoing findings of fact and conclusions of law,


IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff Federal National Mortgage Association's Motion for Summary Judgment is GRANTED and that Patricia Anthony and William Anthony's Partial Motion for Summary Judgment is DENIED. Judgment is entered in favor of Federal National Mortgage Association on all of Plaintiff's claims, and against Defendants on all of Defendants' counterclaims.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that William and Patricia Anthony are hereby PERMANENTLY ENJOINED from further occupying the property located at 3705 Anthony Place, Sun Valley, Nevada, APN No. 026-021-56, including the attached 1996 and 1997 Fuqua manufactured homes, identified with serial number 15233AC and serial number 15470.

IT IS FURTHER ORDERED that the Lis Pendens filed by Plaintiffs and referencing this litigation action is void and invalid, and is hereby expunged. This Order may be recorded in the office of the Las Vegas County Recorder.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the pending orders regarding injunctive relief and payment of rent shall expire on the date the Court files the Findings of Fact, Conclusions of Law and Judgment.

DATED: Aug 16, 2019

  
DISTRICT COURT JUDGE  
CV17-00843

*Respectfully Submitted by:*

Dated: August 16, 2019

**AKERMAN LLP**

~~DARREN T. BRENNER, ESQ.  
Nevada Bar No. 8386  
JAMIE K. COMBS, ESQ.  
Nevada Bar No. 13088  
1635 Village Center Circle, Suite 200  
Las Vegas, Nevada 89134~~

*Attorney for Fannie Mae*

*Approved as to form and content by:*

Dated: August 16, 2019

~~MICHAEL LEHNERS, ESQ.  
Nevada State Bar No.: 3331  
429 Marsh Avenue  
Reno, Nevada 89509~~

*Attorneys for Patricia and William Anthony*

**DOCUMENT "19"**

**DOCUMENT "19"**

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

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Case No. CV17-00843

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Dept. No. 8

Plaintiff,

vs.

ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANTS'  
MOTION TO STAY PENDING  
APPEAL

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or Occupants 1-5,

Defendants.

PATRICIA ANTHONY, WILLIAM  
ANTHONY

Counterclaimant

vs.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION

Counterdefendant

THIS MATTER came before the Court on the motion of the Defendants seeking a stay pending appeal. Michael Lehnert, Esq. appeared on behalf of the Defendants. Darren Brenner, Esq. appeared on behalf of the Plaintiff. The Court reviewed the matters before it. Good cause appearing therefore, the Court finds and Orders as follows:

IT IS HEREBY ORDERED that the Motion to Stay Pending Appeal is granted pursuant to the following conditions:

- 1 The Anthonys make payments of \$1,200 per month to Fannie Mae. The first \$1,200.00 payment is due

1 September 9, 2019. All subsequent payments are due on  
2 the first of each following month and deemed late if not  
3 paid by the 5th of the month. In addition, the Anthonys  
4 shall immediately send to Fannie Mae the \$800.00 held  
5 in their counsel's trust account representing the August  
6 of 2019 payment. An agreement by Fannie Mae to  
7 permit a late payment does not waive the Anthonys'  
8 obligation to make all other payments by the 1st of the  
9 month.

10 2 No matter what the outcome of the appeal, Fannie Mae  
11 shall be entitled to keep all payments made to it by the  
12 Anthonys.

13 3 The Anthonys will be responsible for paying all  
14 expenses, fees, costs that may arise during their  
15 possession of the property, including hazard insurance,  
16 property taxes, HOA dues (if any), code violations (if  
17 any), as well as any other charges (e.g., mechanics liens,  
18 judgment liens, etc.) that could result in the imposition of  
19 a lien or encumbrance on the property

20 4 The Anthonys will agree to maintain the property and  
21 not permit damage to it other than normal wear and tear

22 5 The Anthonys agree not to sell or transfer the property

23 6 The Anthonys agree that the agreed stay does not  
24 constitute a lease nor creates a landlord-tenant  
25 relationship with Fannie Mae

26 7 The Anthonys agree to permit Fannie Mae, upon  
27 reasonable notice, to inspect the property. An inspection  
28 can be made no more than once every three months.

8 The Anthonys agree that so long as they are in  
possession of the property, they solely possess and  
exercise dominion and control of the property to the  
exclusion of Fannie Mae, and agree to indemnify Fannie  
Mae from any third party claims arising out of their  
possession of the property

9 If any of the Anthonys' obligations in the agreed order  
are not satisfied, then Fannie Mae can petition the Court



1 to dissolve the agreed stay (and the parties agree that  
2 the court retain jurisdiction over the stay for purposes of  
3 enforcing it).

- 4 10. The Anthonys, within 30 days, shall post a \$5,000.00  
5 bond in favor of Fannie Mae. The purpose of this Bond is  
6 to protect Fannie Mae in the event of a default. Should  
7 the Court make a finding that Anthonys defaulted with  
8 respect to any of the the terms of this Order, then Fannie  
9 Mae shall be entitled to collect the full \$5,000.00 bond as  
10 damages. This shall not limit Fannie Mae's ability to seek  
11 additional damages if it demonstrates harm in excess of  
12 this amount.

13 IT IS FURTHER ORDERED that the proposals for the terms and  
14 conditions of a stay pending appeal sent between counsel for each party  
15 did not constitute an agreement between the parties for a stay pending  
16 appeal.

17 Dated: September 25<sup>TH</sup>, 2019

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19 DISTRICT JUDGE  
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**DOCUMENT "20"**

**DOCUMENT "20"**

1 MICHAEL LEHNERS, ESQ.  
2 Nevada State Bar No.: 3331  
3 429 Marsh Avenue  
4 Reno, NV 89509  
5 (775) 786-1695  
6 Attorney for Defendants

7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

8 IN AND FOR COUNTY OF WASHOE

9 oOo

10 FEDERAL NATIONAL MORTGAGE  
11 ASSOCIATION,

12 Plaintiff,

13 vs.

CASE NO.: CV17-00843  
DEPT. NO.: 8

14 PATRICIA ANTHONY, WILLIAM ANTHONY  
15 and/or Occupants, 1-5,

16 Defendants.  
17 \_\_\_\_\_/

18 **AMENDED NOTICE OF APPEAL**

19 Notice is hereby given that Defendants, PATRICIA ANTHONY and  
20 WILLIAM ANTHONY, by and through their Attorney, Michael Lehnern, Esq.,  
21 hereby file an Amended Notice of Appeal.

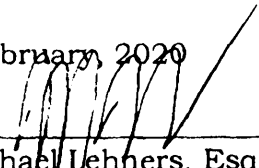
22 The Notice of Appeal of the District Court's July 10, 2019 that was filed  
23 on July 24, 2019. While that order did resolve all issues between all parties, it  
24 also directed the Plaintiff to prepare findings of fact and they were adopted by  
25 the District Court and filed on August 16, 2019. This Amended Notice of  
26 Appeal is being filed to include an appeal of the August 16, 2019 Findings of  
27 Fact, Conclusion of Law and Order in addition to the District Court's July 10,  
28 2019 Order.

1 Counsel wishes to advise the court that no Notice of Entry of the August  
2 16, 2019 Findings of Fact, Conclusion of Law and Order of Parties Motion for  
3 Summary Judgment has been filed with this court, so the appeal of those  
4 findings is timely. Copies of both the July 10, 2019 Order and August 16, 2019  
5 supplemental Findings are attached hereto.  
6

7  
8 **Affirmation**  
**Pursuant to NRS 239B.030**

9 The Undersigned does hereby affirm that the preceding document filed in the case herein does not contain the social  
10 security number of any person.

11 Dated: This 16 day of February, 2020


12   
13 Michael Lehnert, Esq.  
14 Attorney for Defendants  
15 Patricia and William Anthony  
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3 **CERTIFICATE OF SERVICE BY MAIL**  
4

5 Pursuant to Nevada Rule of Civil Procedure 5(b), I certify that on the 11  
6 day of February, 2020 I deposited for mailing in the United States Post Office in  
7 Reno, Nevada, with postage thereon fully prepaid, a true copy of the within  
8 **AMENDED NOTICE OF APPEAL** addressed as follows:

9  
10 Darren Brenner, Esq.  
11 Akerman, LLP  
12 1635 Village Center Circle  
13 Suite 200  
14 Las Vegas, Nv 89134

15 A copy of this Notice is also served upon Ackerman, LLP through the  
16 court's Eflex System.  
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20 Dolores Stigall  
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IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Case No. CV17-00843

Dept. No. 8

Plaintiff,

v.

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or Occupants 1-5,

Defendants,

PATRICIA ANTHONY, WILLIAM  
ANTHONY,

Counterclaimants,

v.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Counterdefendant.

**ORDER AFTER HEARING**

The Court heard argument on competing motions for summary judgment on July 8, 2019. Darren T. Brenner, Esq., appeared for Plaintiff/Counterdefendant, Federal National Mortgage Association's ("FNMA") and Michael Lehnert, Esq.,

1 appeared for Defendants/Counterclaimants Patricia Anthony and William Anthony  
2 ("the Anthonys").

3 Having reviewed the record and having considered the authorities and  
4 positions advanced by counsel, the Court GRANTS FNMA's *Motion for Summary*  
5 *Judgment* on its claim against the Anthonys for trespass; and GRANTS FNMA's  
6 *Motion for Summary Judgment* against the Anthonys on their counterclaims. The  
7 Anthonys' *Motion for Partial Summary Judgment* is accordingly DENIED.

8 Accordingly, and good cause appearing,

9 Counsel for FNMA is ORDERED to prepare proposed "Findings of Fact,  
10 Conclusions of Law and Judgment" consistent with its points and authorities and  
11 as argued on the record July 8, 2019. It shall also include the granting of a  
12 permanent injunction against the Anthonys' further occupation of the subject  
13 premises. The document is to be prepared and served upon counsel for the  
14 Anthonys for review as to form no later than July 26, 2016.

15 Counsel are ORDERED to personally confer on any issues or concerns raised  
16 by Anthonys' counsel no later than August 2, 2019.

17 Counsel for FNMA is ORDERED to file a proposed final version with the Court  
18 no later than August 7, 2019, as well as email the document to chambers in "Word"  
19 format. Counsel for the Anthonys may file any objections to the proposed Findings  
20 of Fact and Conclusions of Law and Judgment no later than August 9, 2019.

21 The Court will thereafter review and enter Findings of Fact, Conclusions of  
22 Law and Judgment as set forth above.

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Unless otherwise agreed to in writing by the parties and approved by the Court, the pending orders regarding injunctive relief and payment of rent shall expire on the date the Court files the Findings of Fact, Conclusions of Law and Judgment.

IT IS SO ORDERED.

DATED this 10 day of July, 2019.

  
BARRY L. BRESLOW  
DISTRICT JUDGE



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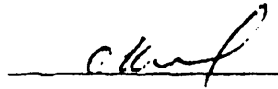
**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; and that on this date I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

DARREN T. BRENNER, ESQ.

MICHAEL LEHNERS, ESQ.

DATED this 10 day of July, 2019.



DARREN T. BRENNER, ESQ.  
Nevada Bar No. 8386  
JAMIE K. COMBS, ESQ.  
Nevada Bar No. 13088  
**AKERMAN LLP**  
1635 Village Center Circle, Suite 200  
Las Vegas, Nevada 89134  
Telephone: (702) 634-5000  
Facsimile: (702) 380-8572  
Email: darren.brenner@akerman.com  
Email: jamie.combs@akerman.com

*Attorney for Federal National Mortgage Association*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

**IN AND FOR THE COUNTY OF WASHOE**

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff,

v.

PATRICIA ANTHONY, WILLIAM  
ANTHONY, and/or Occupants 1-5,

Defendants.

PATRICIA ANTHONY, WILLIAM  
ANTHONY,

Counterclaimant,

v.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Counterdefendant.

Case No.: Case No. CV17-00843  
Dept. No.: 8

**843**  
**(PROPOSED) FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER  
ON PARTIES' MOTIONS FOR  
SUMMARY JUDGMENT**

This matter came for decision on plaintiff/ counter-defendant Federal National Mortgage Association (**Fannie Mae or plaintiff**) and defendants/counter-claimants PATRICIA ANTHONY and WILLIAM ANTHONY (**Anthony's or defendants**)'s Motions for Summary Judgment. The Court, having reviewed the papers and pleadings on file, being fully advised of the grounds for relief therein, and good cause appearing therefore, finds and concludes as follows:

## FINDINGS OF FACTS

### *The Anthonys Presented The Property, Including Both Manufactured Homes, As Real Property Collateral For The Loan.*

1. In late 2000, the Anthonys purchased two manufactured homes from Trinity Homes, Inc., their employer for over 20 years. The bigger manufactured home is a 1996 Fuqua Golden Eagle, Serial no. 15233AC, 38'6" by 66'8". (1996 Fuqua). The smaller manufactured home is a 1997 Fugua Eagle Ridge, Serial no. 15470, 25'8" by 48'. (1997 Fuqua). Plaintiff's MSJ, at Exhibit 1.

2. On November 17, 2000, William Anthony, on behalf of Trinity Homes, Inc., filed a "Dealer's Report of Sale" with the Manufacture Housing Division of Nevada's Department of Business and Industry. Plaintiff's MSJ at Exhibit 1. The Report of Sale only references serial number 15233AC (the 1997 Fuqua), but it also provides the trade name of "Eagle Pointe" and "Golden Eagle 953". William Anthony signed the "Affidavit of Dealer" on behalf of Trinity, certifying the cost of the structure as \$129,274.76. Plaintiff's MSJ at Exhibit 1.

3. The manufactured homes were physically located at 3705 Anthony Place, Sun Valley, Nevada and they were attached to each other. The Anthonys recorded one "Affidavit of Conversion of Manufactured/Manufactured Home to Real Property", on November 22, 2000 as Doc. # 2502064. Plaintiff's MSJ at Exhibit 2. Though the Affidavit of Conversion only identifies the "Eagle Ridge" model and model year "1997" for the structure they were seeking to convert, the Anthonys provided each manufactured home's serial number and the dimensions for each—indicating again that both manufactured homes were one.

4. The Affidavit of Conversion included both manufactured homes as the property to be converted. Though only the year "1997" and model name "Eagle Ridge" are identified, the serial numbers for each manufactured home and the dimensions for each are included as descriptions of the property. Plaintiff's MSJ at Exhibit 2.

5. In June 2002, the Anthonys obtained a refinance loan in the amount of \$214,400 from Capitol Commerce Mortgage Co. Plaintiff's MSJ at Exhibit 3.

...

...

1           6.       The Loan Application indicates the Anthonys were seeking a loan not for vacant land,  
2 but for their residence, built in 2000. Plaintiff's MSJ at Exhibit 4. The Application states they  
3 purchased the home for \$270,000.

4           7.       The Anthonys authorized an interior appraisal of the home at the time of the loan,  
5 further evidencing their intent to encumber the residence. Plaintiff's MSJ at Exhibit 5.

6           8.       The appraisal reflects one manufactured home that had multiple upgrades. The total  
7 square footage was listed at 3,798 square feet. The appraisal noted that the home included 7 bedrooms  
8 and 4 bathrooms, an attached porch, and crawl space underneath. Utilities were attached. Photographs  
9 attached to the appraisal reflect one unit with one address number placed on the front of the home.  
10 Plaintiff's MSJ at Exhibit 5.

11           9.       The appraisal noted that the tongue and groove were removed to make the  
12 manufactured homes a fixture on the property. Plaintiff's MSJ at Exhibit 5.

13           10.      The appraisal specifically noted it did not include personal property in determining the  
14 appraised value, which was \$268,000. Plaintiff's MSJ at Exhibit 5.

15           11.      When the Anthonys refinanced they had worked for the manufactured home company  
16 for more than twenty years. Plaintiff's MSJ at Exhibit 4. The application also showed the Anthonys  
17 owned 8 other properties. *Id.* These are sophisticated borrowers who know how to title the property.

18 ***The Anthonys Sign the DOT, Default on the Loan, and Fannie Mae Forecloses.***

19           12.      The Anthonys were approved for a loan in the amount of \$214,400, evidenced by a  
20 promissory note and secured by a deed of trust recorded against the property commonly described as  
21 3705 Anthony Place, Sun Valley, Nevada (**the Property**). Plaintiff's MSJ at Exhibit 3, and Exhibit 6.

22           13.      In signing the deed of trust, the Anthonys granted the trustee under the deed of trust the  
23 power of sale for the property that includes the land:

24                   "TOGETHER WITH all the improvements now or hereafter erected on the property.  
25 All of the foregoing is referred to in this Security Instrument as the 'Property'. ..."

26 Plaintiff's MSJ at Exhibit 6, p. 3.

27           14.      The Anthonys also signed a Certificate of Occupancy stating they intended to reside in  
28 the home as their primary residence. Plaintiff's MSJ at Exhibit 15.

1 15. Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP  
2 serviced the loan since July 26, 2002.

3 16. A notice of default was recorded, followed by a notice of sale. Plaintiff's MSJ at Ex. 7.

4 17. Fannie Mae completed its foreclosure sale in 2012 and became the owner of the  
5 property by way of a credit bid. The Trustee Deed Upon Sale was recorded April 26, 2012. Plaintiff's  
6 MSJ at Exhibit 9.

7 ***Fannie Mae Initiates an Unlawful Detainer Action.***

8 18. After obtaining title to the property at the foreclosure sale, Fannie Mae brought an  
9 unlawful detainer action on June 6, 2012. Plaintiff's MSJ at Exhibit 10.

10 19. The court granted summary judgment for Fannie Mae in the unlawful detainer action.  
11 In doing so, the court noted that the Anthonys appeared and had an opportunity to challenge Fannie  
12 Mae's title to the Property. They were notified that Fannie Mae sought possession of the home by way  
13 of the foreclosure action, yet did not challenge it or present any defenses. Plaintiff's MSJ at Exhibit 10  
14 at pg. 6 ¶¶4-5.

15 20. Fannie Mae obtained a judgment of possession and a permanent writ of restitution on  
16 February 6, 2013 and again on July 6, 2016. Plaintiff's MSJ at Exhibit 11.

17 21. The Anthonys refuse to vacate the property.

18 ***Post-Foreclosure Activity Regarding Title.***

19 22. In October 2012, six months after the foreclosure sale, William Anthony filed an  
20 Affidavit Application for Certificate of Ownership of the 1996 Fuqua, claiming the title company lost  
21 the statement of origin. Plaintiff's MSJ at Exhibit 12.

22 23. In October 2015, Fannie Mae recorded an Affidavit Conversion of Manufactured/  
23 Manufactured Home to Real Property as document number 4523526 concerning the 1996 Fuqua.  
24 Plaintiff's MSJ at Exhibit 13.

25 ***Plaintiff Files This Action To Obtain An Order Of Trespass To Remove The Anthonys and Obtain***  
26 ***Permanent Injunctive Relief.***

27 24. Because the Anthonys would not vacate the property, on May 2, 2017, Fannie Mae  
28 brought this action to obtain an order of trespass and injunctive relief to prevent the Anthonys from

1 interfering with the removal of their personal belongings from the home and preventing the Anthonys  
2 from re-entering the premises or interfering with plaintiff's quiet enjoyment.

3 25. The parties agreed to a temporary injunction allowing the Anthonys to continue to  
4 reside in the property in exchange for \$800 per month and payment of insurance and taxes. The  
5 Anthonys have continued to make those payments.

6 26. On August 21, 2017, the Anthonys filed their counterclaim for Violation of Article  
7 Nine of the UCC, Conversion, and Abuse of Process/ Excessive Attachment.

### 8 CONCLUSIONS OF LAW

#### 9 *Legal Standard*

10 1. "Summary judgment is appropriate . . . when the pleadings, depositions, answers to  
11 interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that  
12 no genuine issue of material fact exists, and that the moving party is entitled to judgment as a matter  
13 of law." *Wood v. Safeway, Inc.*, 121 P.3d 1026, 1031 (Nev. 2005). "While the pleadings and other  
14 evidence must be construed in the light most favorable to the nonmoving party, that party has the  
15 burden to 'do more than simply show that there is some metaphysical doubt' as to the operative facts  
16 to defeat a motion for summary judgment." *Id.* at 1031 (quoting *Matsushita Elec. Indus. Co. v. Zenith*  
17 *Radio*, 475 U.S. 574, 586 (1986)).

#### 18 *Fannie Mae is Entitled to Summary Judgment on its Claim for Trespass*

19 2. To establish a cause of action for trespass, one must show that a property right was  
20 invaded. *Lied v. Clark Cty.*, 94 Nev. 275, 278-79, 579 P.2d 171, 173-74 (1978). Interference with  
21 the "exclusive right to the possession of his land and complete control thereof to the exclusion of any  
22 right of another to enter upon it... [that] is vested in [every property owner]" constitutes trespass. *Flick*  
23 *v. Nev. Fish and Game Commission*, 75 Nev. 100, 103, 335 P.2d 422, 423 (1959). Thus, one is liable  
24 to another for trespass, irrespective of whether he thereby causes harm to any legally protected interest  
25 of the other, if he intentionally:

- 26 (a) enters land in the possession of the other, or causes a thing or a third  
27 person to do so, or  
28 (b) remains on the land, or  
(c) fails to remove from the land a thing which he is under a duty to remove.

1 Restatement (Second) of Torts § 158 (1965) (emphasis added); *see also id.* at comment (i).

2 3. Fannie Mae obtained title to the property in April 2012 via the foreclosure sale pursuant  
3 to the deed of trust. In signing the deed of trust, the Anthonys permitted the trustee under the deed of  
4 trust to sell the property, which included all improvements to the land. Plaintiff's MSJ at Ex. 6. The  
5 improvements included the entire home (the connected manufactured homes).

6 4. The undisputed evidence demonstrates the manufactured homes were the purpose and  
7 collateral of the loan. Plaintiff's MSJ at Ex. 4, 5.

8 5. There is no genuine dispute of material fact that the Anthonys entered onto Fannie  
9 Mae's Property in 2012, and remained in possession of the property without consent despite having no  
10 right to be on the property. The court therefore grants summary judgment in favor of Fannie Mae on  
11 its trespass cause of action.

12 ***Fannie Mae is Entitled to Summary Judgment on the Counter Claims.***

13 6. The Court enters summary judgment in favor of Fannie Mae and against Defendants  
14 on each of their counterclaims. Defendants claim Fannie Mae: (1) sold the manufactured homes in  
15 violation of the UCC in 2012; (2) attempted possession of the manufactured homes in 2013 and 2016  
16 without legal rights; and (3) converted title of the 1996 Fuqua to Fannie Mae from the defendants in  
17 2015. The undisputed facts demonstrate that Fannie Mae properly foreclosed on the property,  
18 including the manufactured homes. Even if that were not the case, each of these three claims would  
19 be barred by the three year statute of limitations under NRS 11.190.

20 ***Conversion***

21 6. Defendants allege Fannie Mae converted the property when it attempted possession in  
22 2013 and 2016 and in 2015 when it applied to have the title changed. Conversion is "a distinct act of  
23 dominion wrongfully exerted over another's personal property in denial of, or inconsistent with his  
24 title or rights therein or in derogation, exclusion, or defiance of such title or rights." *Wantz v. Redfield*,  
25 74 Nev. 196, 198, 326 P.2d 413, 414 (1958). The Anthonys cannot succeed on a claim for conversion  
26 based on the undisputed facts.

27 7. Fannie Mae obtained title and possession of the property, including the manufactured  
28 homes, through its non-judicial foreclosure proceeding, followed by an unlawful detainer action.

1 Plaintiff's MSJ, Exs. 9, 10. It did not convert, or wrongfully take, the property. Fannie Mae properly  
2 foreclosed on the property, including the manufactured homes, which were permanently attached to  
3 the property and therefore constituted real property. However, even if the manufactured homes were  
4 personal property, Fannie Mae still properly foreclosed under NRS 104.9604(1)(b), which states that  
5 where a security agreement covers both personal and real property, a secured party may foreclose "[a]s  
6 to both the personal property and the real property in accordance with the rights with respect to the  
7 real property, in which case the other provisions of this part do not apply." NRS 104.9604(1)(b).

8 8. Further, Defendant's claim for conversion is time-barred. A cause of action for  
9 conversion accrues with the unauthorized sale/conversion of property. *See* N.R.S. 11.190(3)(c) and  
10 (3)(d); *Palludan v. Bergin*, 375 P.2d 544, 78 Nev. 441 (1962) (action for conversion barred by the  
11 statute of limitations where it was not commenced until more than three years after alleged  
12 unauthorized sale of the property).

13 9. Any conversion cause of action would have arisen in April 2012 at the earliest and  
14 November 2012 at the latest when the sale was completed and judgment of possession entered in favor  
15 of Fannie Mae. *See* Exs. 9, 10, 11 to Plaintiff's MSJ. Fannie Mae informed the defendants it claimed  
16 title to the property and possession of the premises in April 2012 when it recorded the trustee's deed  
17 upon sale. Fannie Mae then began eviction proceedings, advising defendants to vacate the premises  
18 because a foreclosure sale had been completed. *See* Ex. 14 to Plaintiff's MSJ. Fannie Mae obtained  
19 judgment for possession in November 2012. *Ex. 10 to Plaintiff's MSJ.*

20 10. Thus, any claims premised on Fannie Mae's assertion of ownership and possession of  
21 the property, including the home, would have accrued in November 2012 at the latest, when the  
22 judgment for possession was entered in favor of Fannie Mae. *Ex. 10 to Plaintiff's MSJ.* As the counter  
23 claims were not filed until August 2017, the conversion claim is almost two years too late.

#### 24 *UCC Violations*

25 11. A claim based on a statute, like the alleged violations of the UCC here, is subject to the  
26 three-year statute of limitations in the absence of a specific limitation period providing otherwise.  
27 While limitation periods are provided for in a number of Articles under Nevada's version of the UCC  
28 (*see, e.g.,* NRS 104.5115, 1 year), there is no limitation period for a violation of Article 9 concerning



1 secured transactions. See NRS 104.9101, et seq. As such, the three-year limitation period under NRS  
2 11.190(1) applies.

3 12. Here, all of the Anthony's counterclaims alleging violation of the UCC stem from the  
4 April 2012 foreclosure sale, or at the latest, the November 2012 judgment of possession. Ex. 9, 10 to  
5 Plaintiff's MSJ. Defendants had actual knowledge Fannie Mae claimed to obtain title to the property,  
6 including the manufactured homes, in April 2012 and used that title to obtain possession of the  
7 property in November 2012.

8 13. Assuming Defendant's had any viable claim for breach of the UCC, they were required  
9 to bring those claims within three years of Fannie Mae's possession of the property, or by November  
10 2015. The Anthony's didn't plead these claims until August 2017—almost two years too late.

11 14. Even if the claim was not barred by the statute of limitations, the claim fails because  
12 the UCC permitted the sale of the manufactured homes even if the manufactured home did constitute  
13 personal property. Where a security agreement covers both personal and real property, a secured party  
14 may proceed "[a]s to both the personal property and the real property in accordance with the rights  
15 with respect to the real property, in which case the other provisions of this part do not apply." NRS  
16 104.9604(1)(b). Therefore, no violation of the UCC occurred.

17 *Excessive Attachment / Abuse of Process*

18 15. Abuse of process is "an intentional tort that requires proof of two elements: (1) an  
19 ulterior purpose for bringing a legal action other than resolving a dispute, and (2) a willful act in the  
20 use of the legal process not proper in the regular conduct of the proceeding." *Las Vegas Fetish &*  
21 *Fantasy Halloween Ball, Inc. v. Ahern Rentals, Inc.*, 182 P.3d 764, 767 (Nev. 2008) (citing *Posados*  
22 *v. City of Reno*, 109 Nev. 448, 457, 851 P.2d 438, 444-445 (1993)).

23 16. In the instant case, there are no facts to establish a claim for abuse of process. Fannie  
24 Mae argued in the prior unlawful detainer action that it obtained title via a foreclosure sale of the deed  
25 of trust which included the manufactured homes as real property improvements. Plaintiff's MSJ at Ex.  
26 10. Defendants in that action had the opportunity to dispute Fannie Mae's claims. To the extent they  
27 disagreed with the results, they could have appealed. They did not. The Anthonys do not present any  
28

1 facts demonstrating Fannie Mae had an ulterior motive for bringing this action other than to resolve a  
2 valid legal dispute due to the Anthony's refusal to vacate the property.

3 17. Moreover, this claim is also barred by the three year statute of limitations, as it is also  
4 based on Defendant's claim that Fannie Mae violated the UCC in foreclosing on the property.

5 ***Claim Preclusion Bars the Anthonys' Counter Claims***

6 18. Defendants' counterclaims are also barred here because they are compulsory counter  
7 claims that should have been brought in Fannie Mae's 2012 eviction action.

8 19. Under NRCP 13(a), a claim is compulsory "if it arises out of the transaction or  
9 occurrence that is the subject matter of the opposing party's claim." The relevant consideration is  
10 whether the pertinent facts of the different claims are so logically related that issues of judicial  
11 economy and fairness mandate all issues be tried in one suit. *See United States v. Aquavella*, 615 F.2d  
12 12, 22 (2d. Cir. 1979).

13 20. Here, defendants' claims that the foreclosure sale did not include the manufactured  
14 homes are logically related to Fannie Mae's 2012 action for possession of the property, specifically  
15 the manufactured homes. Both claims arise out of the same transaction—the 2012 foreclosure sale.  
16 The defendants allege plaintiff failed to perfect its interest in the property, failed to properly notice the  
17 sale, and questioned whether the manufactured homes are sufficiently described under the security  
18 instrument, the deed of trust. These counterclaims are so logically related to those in the eviction  
19 action, where Fannie Mae sought to evict defendants from the manufactured home, judicial economy  
20 and fairness mandates that defendants bring their counterclaims in the 2012 suit. *See Mendenhall v.*  
21 *Tassinari*, 403 P.3d 364, 370–71 (Nev. 2017). But they were not.

22 21. Under Nevada law, claim preclusion applies where: (1) "the final judgment is valid,"  
23 (2) "the parties or their privies are the same in the instant lawsuit as they were in the previous lawsuit,  
24 or the defendant can demonstrate that he or she should have been included as a defendant in the earlier  
25 suit and the plaintiff fails to provide a good reason for not having done so," and (3) "the subsequent  
26 action is based on the same claims or any part of them that were *or could have been brought* in the  
27 first case." *Weddell v. Sharp*, 350 P.3d 80, 85 (Nev. 2015) (en banc) (quotation and emphasis omitted).

1           22.     Here, there is a valid final judgment in the eviction action between Fannie Mae and  
2 defendants. *See* Plaintiff's MSJ at Ex. 10. These are the same parties as in the instant litigation.  
3 Defendants' counterclaims in this lawsuit are premised on Fannie Mae's alleged failure to perfect its  
4 interest in the property in the foreclosure sale and Fannie Mae's alleged wrongful attempt to obtain  
5 possession of the property without first complying with the UCC.

6           23.     The counterclaims also allege Fannie Mae's underlying debt was extinguished in its  
7 failure to comply with the UCC and therefore Fannie Mae does not have any rights to the manufactured  
8 homes. Because Fannie Mae's eviction action sought a judicial determination that Fannie Mae obtained  
9 title to and possession of the property, which included the manufactured homes, defendants' current  
10 claims against Fannie Mae clearly could have been brought in that case. *See* Plaintiff's MSJ at Ex. 10.

11           24.     It would be inequitable to allow Defendants to delay bringing claims to challenge the  
12 foreclosure until after Fannie Mae potentially loses any rights to collect a judgment or cure the  
13 foreclosure. If the Defendants had asserted their claims that the foreclosure was not proper in defense  
14 of Fannie Mae's action confirming title and possession, Fannie Mae would have had an opportunity to  
15 protect its rights by filing a deficiency action if necessary. Instead, plaintiffs delayed challenging the  
16 foreclosure until Fannie Mae is prejudiced. *See Nevada State Bank v. Jamison Family Partnership*,  
17 801 P.2d 1377, 106 Nev. 792 (1990).

18 ...

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ORDER

Based on the foregoing findings of fact and conclusions of law,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff Federal National Mortgage Association's Motion for Summary Judgment is GRANTED and that Patricia Anthony and William Anthony's Partial Motion for Summary Judgment is DENIED. Judgment is entered in favor of Federal National Mortgage Association on all of Plaintiff's claims, and against Defendants on all of Defendants' counterclaims.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that William and Patricia Anthony are hereby PERMANENTLY ENJOINED from further occupying the property located at 3705 Anthony Place, Sun Valley, Nevada, APN No. 026-021-56, including the attached 1996 and 1997 Fuqua manufactured homes, identified with serial number 15233AC and serial number 15470.

IT IS FURTHER ORDERED that the Lis Pendens filed by Plaintiffs and referencing this litigation action is void and invalid, and is hereby expunged. This Order may be recorded in the office of the Las Vegas County Recorder.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the pending orders regarding injunctive relief and payment of rent shall expire on the date the Court files the Findings of Fact, Conclusions of Law and Judgment.

DATED: Aug 16, 2019

  
DISTRICT COURT JUDGE  
CV17-00843

Respectfully Submitted by:

Approved as to form and content by:

Dated: August 16, 2019

Dated: August 16, 2019

AKERMAN LLP

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Attorney for Fannie Mae

**DOCUMENT "21"**

**DOCUMENT "21"**

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7

IN AND FOR THE COUNTY OF WASHOE

8

HONORABLE BARRY L. BRESLOW

9

FEDERAL NATIONAL  
MORTGAGE ASSOCIATION,

10

Plaintiff,

vs.

Case No. CV17-00843

11

PATRICIA ANTHONY &  
WILLIAM ANTHONY,

Department No. 8

12

Defendants.

-----/

13

PATRICIA ANTHONY &  
WILLIAM ANTHONY,

14

Counterclaimants,

vs.

15

FEDERAL NATIONAL  
MORTGAGE ASSOCIATION,

16

Counterdefendant.

-----/

17

TRANSCRIPT OF PROCEEDINGS

18

Oral arguments

July 8, 2019

19

APPEARANCES:

20

For the Plaintiff/Counterdefendant:

Darren Brenner  
Attorney at law  
Las Vegas, Nevada

21

22

For the Defendants/Counterclaimants:

Michael Lehnert  
Attorney at law  
Reno, Nevada

23

24

Reported by:

Isolde Zihn, CCR #87

1                   RENO, NEVADA, MONDAY, JULY 8, 2019, 2:10 P.M.

2                   THE COURT: Okay. Then the next matter, please come

3 forward, make yourself comfortable.

4                   Federal National Mortgage Association versus Patricia

5 and William Anthony, CV17-00843.

6                   If the plaintiff could please sit next to the jury

7 box, and the defense next to the window.

8                   Mr. Lehnners, how are you today?

9                   MR. LEHNERS: Good morning -- good afternoon, Your

10 Honor.

11                   I'm fine, thank you.

12                   THE COURT: Nice to see you.

13                   And on behalf of plaintiff is who?

14                   MR. BRENNER: Darren Brenner, for Federal National

15 Mortgage Association.

16                   THE COURT: Thank you very much. Welcome. Good

17 afternoon. Please have a seat.

18                   Hello, Mr. Anthony.

19                   MR. ANTHONY: Nice to see you again, sir.

20                   THE COURT: Nice to see you.

21                   All right. Before the Court -- first of all, I know

22 that the parties attempted to resolve this matter. I can see

23 by the fact that you're here, and all the motions that have

24 been filed, it was unsuccessful. But thank you for at least

1 | trying.

2 |       Before the Court are two separate motions for summary  
3 | judgment, oppositions and responses. Plaintiff, I believe,  
4 | filed its first, so I'll hear first from counsel for  
5 | plaintiff as to what you're asking the Court to do, and why  
6 | the Court should do it. I'll then give the defense an  
7 | opportunity to both respond and to counter-move, after which  
8 | I'll give an opportunity for plaintiff's counsel to respond  
9 | to the counter-motion. If there's still issues that the  
10 | Court needs to hear more on, we'll go back and forth a few  
11 | more times until I've heard enough, and then I'll decide what  
12 | to do.

13 |       So starting with counsel for Fannie Mae, please  
14 | proceed.

15 |       MR. BRENNER: Very good, Your Honor.

16 |       And I am going to -- I understand I'll abstain from  
17 | any argument on the counter-motion until I give counsel an  
18 | opportunity to address it.

19 |       THE COURT: Yeah. Good.

20 |       MR. BRENNER: Your Honor, there's going to be much  
21 | discussion, I believe, today about whether the 1996  
22 | manufactured home was foreclosed upon; was it personal  
23 | property; was it real property?

24 |       THE COURT: Which was it?



1           MR. BRENNER: It was real property; and,  
2 alternatively, if it was personal property, it was encumbered  
3 by the deed of trust, and we are allowed to foreclose on it  
4 as an improvement on the land.

5           THE COURT: All right. So, either way, you believe  
6 Fannie Mae wins.

7           MR. BRENNER: Either way, I believe Fannie Mae wins,  
8 Your Honor.

9           Fannie Mae wins no matter what, at least as to the  
10 real property itself, and the 1997 portion of the home. And  
11 I don't want to -- I'm using those phrases a little bit  
12 loosely. They were both purchased in 2000. They were both  
13 purchased by the Anthonys in 2000.

14           I think it's a salient fact that the Anthonys --

15           THE COURT: Just a little slower.

16           Go ahead.

17           MR. BRENNER: Thank you, Your Honor.

18           I tend to talk fast.

19           I think it's a salient fact that the Anthonys  
20 actually worked for the distributor that they purchased the  
21 homes from, and I believe that they have for at least two  
22 decades.

23           THE COURT: And they own eight other homes.

24           MR. BRENNER: And right out of the gate, we're not

1 | dealing with novices. They understand how the system works.

2 |         In November -- I'm not going to go over all the facts  
3 | in our brief, Your Honor, but I wanted to go over some of the  
4 | more salient ones. In November of 2000, the Anthonys filed  
5 | an affidavit of conversion. It's obviously intended to cover  
6 | both the 1996 and the 1997. We know that --

7 |         THE COURT: They say it doesn't, though. They say it  
8 | only covers one.

9 |         MR. BRENNER: Well, they're saying they failed to do  
10 | what they tried to do.

11 |         But if we look at the document itself, it's got the  
12 | serial numbers for both the 1996 and the 1997. Again,  
13 | they're familiar with what they're doing. They signed it. I  
14 | believe it's signed under penalty of perjury. But both of  
15 | the Anthonys signed this document.

16 |         I think it's relevant for two points, Your Honor.

17 |         One, it shows that they were intending to convert  
18 | this to real property.

19 |         It also shows the fact that they did this on one  
20 | form. It's not the only evidence we have. But it shows that  
21 | they were treating this as one single home, not two separate,  
22 | severable homes.

23 |         We know that the Anthonys took out a loan. The loan  
24 | that is at issue in this case, Your Honor, is a refinance

1 | that happened in June of 2002.

2 |       The loan application confirms that the Anthonys were  
3 | seeking a loan for the residence which they said was built in  
4 | 2000, per the loan application itself. They're identifying  
5 | this as their residence.

6 |       THE COURT: Both.

7 |       MR. BRENNER: Both. Both. At this point, it's  
8 | really been -- we might talk about them as separate parts,  
9 | but at this point they've been combined into one single  
10 | residence that they live at.

11 |       As part of the process for obtaining a loan, they  
12 | authorized an interior inspection. And that fact, in and of  
13 | itself, is significant because, if it's not part of the loan,  
14 | why are you letting people into your home to inspect it?

15 |       The interior inspection lists the combined square  
16 | footage of both the 3,700 square feet and change, the  
17 | combined bedroom space, seven bedrooms, and four baths. It  
18 | notes one address, not two separate addresses. Utilities  
19 | were fixed to the home. Tongue-and-groove were removed,  
20 | meaning this was not mobile. You cannot just hop behind the  
21 | wheel, start an engine, and drive it down the street. This  
22 | was placed on the property in multiple ways. The porch was  
23 | affixed to the property.

24 |       The appraisal noted that these were manufactured

1 homes, and also noted there was no personal property being  
2 considered as part of the appraisal.

3 The Anthonys themselves placed the value of their  
4 residence -- not just the property, but their residence -- at  
5 270,000. The appraisal assigned something pretty darn close,  
6 at \$268,000.

7 In essence, the lender and the Anthonys were in  
8 accord of what the money was for, what it was being pledged  
9 for, what the collateral was that secured it, and the loan  
10 was issued.

11 The loan, of course, is encumbered by a deed of  
12 trust. And, importantly, Your Honor, the deed of trust says  
13 that it includes as security -- this is a direct quote --  
14 "all improvements now or hereafter erected on the property.  
15 All of the foregoing is referred to in the security  
16 instrument as 'the property.'"

17 2009, the Anthonys default. Non-judicial foreclosure  
18 proceeds. In 2012, the non-judicial foreclosure is  
19 completed.

20 Now, one thing I wanted to point out to the Court.  
21 That's at Exhibit 14. It's not highlighted well in the  
22 briefs, but, in preparation, I think it's salient for the  
23 analysis today.

24 The Anthonys had a document notarized that they call,

1 "The notice of property interest." And this is an attested  
2 document, as well; it's sworn under the penalty of perjury.

3 In this file, which I'll address in a moment in a  
4 little more detail, the Anthonys acknowledge that the  
5 manufactured homes were for -- quote/unquote -- "improvements  
6 on the property." They refer to them as personal property,  
7 but note, in their own words, their own pen in the document  
8 they've prepared, that they consider them to be improvements  
9 on the property.

10 Well, fast-forward a month. As we know, we're still  
11 here today doing this. The Anthonys have declined to vacate  
12 the property.

13 And in June of 2012, Fannie Mae filed an unlawful  
14 detainer action. The Anthonys actively participated, as  
15 there's a very detailed Justice Court order -- and I wanted  
16 to go over parts of it later, maybe not until in rebuttal to  
17 their argument -- but it's a very detailed order that details  
18 all of their filings.

19 It's very clear that the purpose of the unlawful  
20 detainer action is to remove them from the residence and the  
21 property, the entirety. Not for them to take half of the  
22 structure that's now been affixed to the property and leave,  
23 but to remove them from the entirety of the property.

24 Again, they were active participants in that. And as

1 we'll see when we get to rebuttal, no argument was raised  
2 like we see today in that 2012 unlawful detainer action.

3 The Court ultimately -- the Justice Court ultimately  
4 found in Fannie Mae's favor, issued multiple writs of  
5 possession to Fannie Mae. We continue to have noncompliance  
6 with the multiple writs of possession, and which ultimately  
7 led to the filing of this action and the counterclaims.

8 So we have brought a claim for trespass, Your Honor.  
9 And, again, what I was starting to say, and I think I stopped  
10 at the beginning, was, although there was, I believe, a  
11 disagreement in the initial pleadings, when we go to the  
12 summary judgment briefing in the opposition, there's no  
13 dispute that Fannie Mae is the rightful owner of the lot  
14 itself that the home sits on.

15 There's no dispute that Fannie Mae is the owner --

16 THE COURT: Let me stop you there.

17 So what happened to previous orders of the court  
18 where I believe I directed -- or the parties stipulated, and  
19 I signed, too -- pending further developments, rent to be  
20 paid? Did that happen?

21 MR. LEHNERS: Yes, Your Honor.

22 THE COURT: And, if so, where are we on that?

23 MR. LEHNERS: You ordered us to pay \$800 a month.

24 They have been made to my trust account, disbursed

1 every month to Mr. Brenner's firm. They are current.

2 THE COURT: Got it. Thank you for telling the Court.

3 All right. Please proceed.

4 MR. LEHNERS: Yes, Your Honor.

5 MR. BRENNER: But there's no dispute as to the

6 property, and there's no dispute as to -- we'll call it the

7 1997 model portion of the home, that that is Fannie Mae

8 property.

9 And as we sit here today, Your Honor, I think the

10 dispute all stems around this 1996 property, which means

11 summary judgment should be granted at least as to the

12 property itself --

13 THE COURT: So what if I grant summary judgment as to

14 the one unit? What happens? They can't go in that one-half?

15 They're trespassing if they go through their kitchen into --

16 I don't understand.

17 MR. BRENNER: It demonstrates the illogical nature of

18 the argument in the first place that this -- that the entire

19 property wasn't pledged as collateral. Exactly what you're

20 saying demonstrates why it's specious to suggest that the

21 home was severable once it was affixed together, once the

22 porch was built, once the tongue-and-groove were removed,

23 once it was combined.

24 There was a time and place two decades ago when these

1 | were separate units, just like there's a time and place where  
2 | that building over there was separate pieces of bricks and  
3 | glass, and it was combined to be one property.

4 |         The question you're, essentially, asking, I believe,  
5 | answered itself. That this was one structure; it was one  
6 | improvement on the land. It was secured by the deed of  
7 | trust.

8 |         Now, one of the issues that is in conflict, sort of,  
9 | with an asterisk, is the intentions of the Anthonys. I  
10 | wanted to speak on that for a moment, if I may, Your Honor.

11 |         There's, arguably, a little bit of inconsistency  
12 | between the moving papers and the opposition. Maybe not.  
13 | Maybe it's procedural.

14 |         The motion says -- direct quote -- "For the purposes  
15 | of this motion only, Anthonys will concede that they believed  
16 | the loan included the 1996 Fuqua -- if I'm pronouncing that  
17 | right -- "as personal-property collateral."

18 |         The opposition disagrees, at least slightly. It says  
19 | the Anthonys' belief of whether or not the 1996 home was or  
20 | was not partial security for the note and deed of trust is a  
21 | factual issue.

22 |         Starting with their motion, which says it's not a  
23 | factual issue, I think the Court should automatically right  
24 | there assume that that was the intention: that both would be



1 one home, securing the entirety of the collateral with the  
2 lot that sat underneath it.

3 But even if we defer to the opposition and suggest  
4 that you should find that that's an issue of fact, I would  
5 suggest to the Court that the analysis there is  
6 simple: Wood v. Safeway.

7 The statement that's an issue of fact, there's  
8 absolutely no evidence to suggest that there is an issue of  
9 fact. They're not even a self-serving affidavit. Under the  
10 plain language of Wood v. Safeway, that's not enough to  
11 defeat a summary judgment motion.

12 When we move further, even beyond a potential failure  
13 to oppose, and just looking at the facts, there is no  
14 reasonable dispute, based on the factual evidence we  
15 presented when I went over what's in our briefs, that both of  
16 the parties intended that the entirety of the manufactured  
17 home, the two pieces that became one affixed to the property,  
18 would be secured collaterally.

19 We can go back to the affidavit of conversion, the  
20 fact that they sought a loan value that matched the value of  
21 the property with the manufactured homes on it.

22 The appraisal was based on the manufactured homes.  
23 They knew the loan amount that they ultimately received was  
24 based on the value of the property, with the manufactured --

1 combined manufactured home on it.

2       There's also no reasonable dispute that the deed of  
3 trust on its face includes all past, present, and future  
4 improvements to the property.

5       There is no straight-face dispute that putting 4,000  
6 square feet worth of residential property on a vacant lot is  
7 an improvement to the value of the real property. None of  
8 that is ultimately disputed. There are no facts to suggest  
9 otherwise.

10       The essential argument here is that -- a technical  
11 issue, an issue of law. Despite the parties' intentions,  
12 despite the conversion affidavit that the Anthonys filed  
13 themselves, they were not successful because it didn't become  
14 real property until all of the requirements of NRS 361.244,  
15 (2), are satisfied.

16       They offer three arguments, but they all flow out of  
17 that same argument.

18       They similarly say the 2000 affidavit of conversion  
19 was ineffective as to the 1996 portion. Don't dispute that  
20 it's ineffective as to the 1997. But it's ineffective as to  
21 the 1996.

22       And then they argue the property wasn't converted  
23 until 2015, when Fannie Mae recorded its application for  
24 certificate of ownership of the property. That's when they

1 say, finally, you know, somebody complied with the statutes,  
2 and that's what converted it from personal to real property.

3 We disagree with their statement about the 2000  
4 conversion affidavit. It's their own affidavit. They wrote  
5 it in their own hand. They referenced their homes, their  
6 intention. If they made an error, that's their error, not  
7 Fannie's, especially under the circumstances.

8 But, Your Honor, even if we took the 2000 conversion  
9 affidavit completely out of the equation, rip it up, pretend  
10 like it doesn't exist, it doesn't matter. Because when we  
11 look at 361.244, it speaks to conversion of real property --  
12 personal property or real property for taxation purposes.

13 If you look at the chapter -- the title of the  
14 chapter is aptly titled, "Property tax." It's not -- doesn't  
15 have anything to do with securing real property under a deed  
16 of trust. Nowhere in the statutes or anywhere surrounding  
17 them will you find a statement, "Thou shalt not use personal  
18 property or manufactured home used to improve or affix to the  
19 property as security for a deed of trust." It says nothing  
20 of the sort.

21 This is not a dispute about whether the Anthonys paid  
22 appropriate taxes when they owned the property. That has  
23 nothing to do with anything that we're here today to discuss.

24 There's no dispute, in signing the deed of trust,

1 that they granted the power of sale to Fannie Mae.

2 And there's no dispute that the deed of trust, again,  
3 says, "together with all improvements now or hereafter  
4 erected on the property," that that operates as security. No  
5 statement that it has to be converted for tax purposes. It's  
6 simply an agreement between the parties that falls completely  
7 outside of 361.

8 Again, Your Honor, I don't mean to belabor the point.  
9 That is between the Anthonys and the State. How they pay  
10 taxes, whether they pay taxes, is it real property or  
11 personal property, and whether they did so correctly, has  
12 nothing to do with my client.

13 Finally, Your Honor -- and I don't want to bury the  
14 lead, because I think that this is just as important as  
15 everything else that I've said -- as to the UCC argument.  
16 And I'll save the rest of my comments on UCC for rebuttal.

17 We cited both -- well, we cited in our motion, and  
18 our opposition, but I'll speak to the motion, NRS 104.9604,  
19 (1) (b), which states, "If a security agreement covers both  
20 personal and real property, a secured party may proceed as to  
21 both the personal and real property in accordance with the  
22 rights with respect to real property, in which case the other  
23 provisions of this part do not apply."

24 In other words, Your Honor, when we have a situation

1 | like this, where we have real property encumbered by a deed  
2 | of trust -- and let's assume that the conversion failed, at  
3 | least as to the 1996. I think that's the only place there's  
4 | a dispute. And let's assume that it was real property, and  
5 | it maintained the characteristics of real property, despite  
6 | being attached -- I'm sorry -- personal property, despite  
7 | being clearly attached to real property. The UCC doesn't  
8 | apply because we have a deed of trust that undisputably  
9 | encumbers -- or indisputably encumbers real property.

10 |         We cited this, Your Honor, in our briefs. I've  
11 | scoured the Anthonys' briefs, and I do not see anywhere where  
12 | they rebut the point that we've raised. I don't see anywhere  
13 | where they've even addressed the effect of 104.9604.

14 |         The Anthonys effectively ignored the statute, we  
15 | would submit, Your Honor, effectively concede its operation  
16 | and application here that the UCC doesn't apply.

17 |         Now, Your Honor, I think there might be some overlap  
18 | with some of the waiver and estoppel arguments, but they  
19 | probably apply more to the MSJ, so I'm going to reserve on  
20 | those.

21 |         But for the reasons I've mentioned, Your Honor, we're  
22 | seeking summary judgment on the trespass claim.

23 |         THE COURT: Thank you.

24 |         MR. BRENNER: Thank you.

1 THE COURT: Mr. Lehnerns.

2 MR. LEHNERS: Thank you, Your Honor.

3 As you can probably surmise, this is a case of  
4 offsets. We have a claim against them for a violation of  
5 Article 9. They have a claim against us because we're  
6 occupying the real property.

7 What I think I should do first is go over the facts,  
8 because this is very fact-intensive, that are not in dispute.

9 The deed of trust is executed in June of 2002. And  
10 the legal description gives a legal description of the real  
11 property, and it says, "together with all the improvements  
12 now or hereinafter erected on the property," and, now -- in  
13 the future.

14 And the next thing that happens is, on October 18th,  
15 2012, the Department of Manufactured Housing issues a title  
16 to the Fuqua in question -- this Fuqua has the serial number  
17 15233 Albert Charlie -- to the Anthonys.

18 Now, I've attached three exhibits to my motion for  
19 summary judgment. C -- or number 3, is the documents that I  
20 got from the Department of Manufactured Housing. And they  
21 are Bates-stamped, so I will reference them with respect to  
22 the Bates stamp.

23 A copy of the title to the Anthonys, meaning they're  
24 the owner of this personal property, titled, "Personal

1 | property, with no lienholder," is found at Bate 34.

2 |         Then, on March 29th, 2012, the foreclosure trustee  
3 | executed a notice of trustee sale. And the description of  
4 | the property in the notice of sale is incorporated by  
5 | reference to the deed of trust itself.

6 |         And then, on April 24th, a trustee's deed upon sale  
7 | was issued. At that time, the real property belonged to  
8 | Fannie Mae, not the Anthonys.

9 |         Then the next thing that happened is, Fannie Mae  
10 | hires a law firm, Puleo and Delisle. And what they did, on  
11 | behalf of Fannie Mae, pursuant to an affidavit, is they did  
12 | an application for a certificate of ownership with respect to  
13 | the Fuqua. And that's Bates 006. The application describes  
14 | the Fuqua, with the serial number.

15 |         And the affidavit, at page 11, says there's been a  
16 | foreclosure of the Fuqua. And as proof of the foreclosure,  
17 | they attach a copy of what? They attach a copy of the  
18 | trustee's deed upon sale, that being the operative  
19 | foreclosure document.

20 |         Then, on November 23rd, 2015, the Department of  
21 | Manufactured Housing issues a new personal-property title to  
22 | Fannie Mae. Fannie Mae is now shown as a registered owner,  
23 | with no lienholder, replacing the 2012 title that the  
24 | Anthonys had. So now they are on title to the

1 | personal-property Fuqua.

2 |         Then the next thing, and the most critical thing that  
3 | I can implore this Court to pay attention to, is that, on  
4 | November 15th, 2015, Fannie Mae records an affidavit of  
5 | conversion of manufactured home to real property.

6 |         This is important because, under Article 9, if you  
7 | want to trigger the statutory damages, you have to show that  
8 | there's been a disposition of the collateral that did not  
9 | comply with Section 6 of Article 9.

10 |         And we made a lot of hay about that transfer  
11 | statement. Transfer statements are found in Section 619 of  
12 | Article 9. And they, in and of themselves, do not constitute  
13 | a disposition of collateral. They couldn't. Why is that?

14 |         Well, if I repossess your Corvette, but I don't have  
15 | the title, how can I go auction that off in a public sale or  
16 | a private sale? I can't.

17 |         So what 619 does, it allows me to go in and say that  
18 | I have executed my pre-default remedies -- i.e., I've  
19 | repossessed the collateral -- and I need this title so I can  
20 | comply with the rest of my duties under Article 9; those  
21 | duties being a notice of sale has to go out, the sale takes  
22 | place, and then a notice of surplus or deficiency has to be  
23 | issued. Those are found in Section 613 to 616 of Article 9.  
24 | But you have to have the certificate of title in order to



1 sell it.

2           So the fact that they did not -- they were not  
3 accurate when they filled out the affidavit of -- or the  
4 transfer statement is not really what's important. What's  
5 important is that, after they didn't, they did not sell it.  
6 They transferred it to themselves.

7           In other words, it's as if Wells Fargo repossessed  
8 your pickup truck, did not have a sale, and now the president  
9 is driving it as his company car. That is what violates  
10 Article 9 here.

11           Now, I had made my arguments in the alternative. For  
12 example, I conceded the intent to create a security interest  
13 for purposes of summary judgment because I think we can  
14 arrive at summary judgment without the intent. And here's  
15 why.

16           Article 9 is beautifully structured. And I'd like to  
17 start with Section 9109, (1) (a). That's a very important  
18 statute, because what it says, Article 9 applies "to a  
19 transaction, regardless of its form, that creates a security  
20 interest in personal property or fixtures by contract."

21           Now, the question arises: What's the Fuqua? Is it  
22 personal property? Is it real property? Is it an  
23 improvement?

24           Well, in order to see whether or not it's real

1 property or personal property, we have to look at the  
2 statutes.

3 Mr. Brenner made a big point that: Oh, 361.244 is  
4 under the tax section. So, you know, that's not really  
5 applicable here, because if you don't comply with all of it,  
6 well, that's with respect to the County tax, and has nothing  
7 to do with Fannie Mae.

8 But that's a hollow argument because the requirement  
9 of an affidavit that Mr. Brenner vigorously argued is found  
10 there. It's found in Subsection (c), 361.244, Sub (2). It  
11 contains more requirements, all of which must be met to  
12 convert a mobile home to real property. All four must be  
13 met.

14 After (c), "An affidavit of conversion of the mobile  
15 home from personal to real property has been recorded in the  
16 County Recorder's Office and." That's in the conjunctive.  
17 All four must exist.

18 I also cited a case, Matter of Colver. It's a  
19 bankruptcy case out of Nevada. And what it says is, a mobile  
20 home is personal property, unless all of the statutory  
21 requirements have been fulfilled. It doesn't matter if you  
22 find it in the DMV section, the Department of Manufactured  
23 Housing section, or the tax section. That's a codification  
24 process. The Legislative Council Bureau decides where the

1 statutes go. It has nothing to do with the force and effect  
2 of the requirement to convert personal property to real  
3 property. The Anthonys tried. They didn't get there.

4           What's the effect of that? Does it evidence an  
5 intent that they planned on all of the stuff on Anthony Place  
6 to be part of the collateral? Sure it does. We've conceded  
7 that for the purposes of this motion.

8           But, more importantly, what it basically shows is  
9 that, at that time, they did have this Fuqua. It is not  
10 included as a description in the deed of trust. It refers  
11 generally to all improvements. Okay.

12           Well, if one wants to improve the real property by  
13 adding a mobile home to it, one must comply with 361.244, Sub  
14 (2). They didn't do it.

15           So when it comes down to the question of what exactly  
16 happened when the deed of trust was signed, do we look at the  
17 intent? No, we do not. We look at a different section of  
18 Article 9. And that would be Section 203, Sub (2), (c) (1).  
19 And in order for a security interest to attach to anything,  
20 it's not a matter of intent. That's why it's codification,  
21 commercial codification.

22           It's a question of description. Could one look at  
23 the description, and from the description say, "Yeah, that's  
24 what's secured"? Well, here we can't. There are vague and

1 indefinite references.

2           Moreover, the Fuqua is titled property. I can see it  
3 if they had an untitled well put there, or some kind of a  
4 greenhouse where you don't have title. That would be a  
5 fixture; that would be an improvement.

6           But, sir, mobile homes are titled property. They are  
7 personal property, and remain so until all four conditions  
8 have been met.

9           And here the security interest could not have  
10 attached to the Fuqua because it never was in the  
11 description. And, as a result, you have the implausible  
12 situation where the Anthonys have a piece of personal  
13 property that was not foreclosed upon with the deed of trust  
14 sale, and they continue to occupy it. So Fannie Mae owns the  
15 underlying realty. They own the mobile home, at least until  
16 2015, when the mobile home got converted into real property.  
17 And that was what violates Article 9.

18           There was no notice of sale, no notice of surplus or  
19 deficiency, no notices that you have the right to redeem the  
20 collateral, no notice that says you have all of these  
21 safeguards under Section 613 and 614, which are the notices  
22 of sale.

23           So by filing the transfer statement, that gets them  
24 the title to personal property. But by converting it to real

1 | property, that's the disposition that triggers the statutory  
2 | damages.

3 |         And that, in essence, is our case.

4 |         Now, either we have a non-time-barred statute --

5 |         THE COURT: Say that again.

6 |         MR. LEHNERS: We have a non-time-barred claim.

7 |         Because I did the argument in the alternative. I  
8 | believe the real violation is the filing of the transfer  
9 | statement, and then the conversion to real property. That's  
10 | 90 percent of what I'm arguing.

11 |         But I made an argument in the alternative. Well, if  
12 | you believe, in the alternative, that it somehow did attach,  
13 | well, then the notice of sale was defective in the notice of  
14 | trustee's deed.

15 |         And Mr. Brenner does cite Section 9604, which is  
16 | relevant only if it became part of -- in other words, if it  
17 | was included in the collateral description, which it was not.

18 |         So this is why we believe that we have a case for  
19 | statutory damages, either by way of offset against however  
20 | much money that they want, or as an affirmative recovery,  
21 | since the violation took place within two years of the  
22 | Complaint being filed. It's timely.

23 |         But even if it weren't, we do have offset recoupment  
24 | remedies with respect to the defective sale coming out of the

1 notice of trustee sale. So that's kind of where we're going  
2 with this.

3 And none of these facts are in dispute. The  
4 documents we got from the Department of Manufactured Housing  
5 say what they say.

6 So what we have is something where a secured  
7 creditor, who believes it has a security interest in personal  
8 property. It is personal property, because the statutory  
9 formalities haven't been complied with.

10 And for whatever reason, nobody is arguing Fannie Mae  
11 has acted in bad faith; they foreclosed on something that  
12 they don't have the legal right to.

13 Well, this isn't like a wrongful foreclosure under  
14 real property, which is like Tischner versus Countrywide,  
15 where they awarded punitive damages. Instead, this is, you  
16 either followed the rules under Article 9, or you didn't.

17 If you didn't, it's a strict liability statute, and  
18 the statutory damages flow, irrespective of intent. And  
19 that's what the Anthonys have here today.

20 Do you have any questions of me, sir?

21 THE COURT: No.

22 MR. LEHNERS: Thank you.

23 THE COURT: Thank you very much.

24 MR. BRENNER: Your Honor, nowhere --

1           THE COURT: But I will hear from you again, because  
2 I'm sure you're going to want to respond to what Mr. Brenner  
3 says. And I'm going to let Mr. Brenner respond one more  
4 time.

5           Go ahead.

6           MR. BRENNER: Nowhere in that argument did we hear  
7 any dispute that the manufactured homes were an improvement  
8 to real property.

9           Nowhere in that argument did we hear any suggestion  
10 that the parties to the transaction didn't understand that  
11 the manufactured homes were treated as an improvement to real  
12 property.

13           This is not some hypothetical case involving a bona  
14 fide purchaser down the line who is claiming they knew or  
15 they didn't know because parties did or didn't do the proper  
16 filing. These are the parties themselves, who knew exactly  
17 what they were doing, who knew exactly what improvements  
18 meant.

19           I told Your Honor I would get to the issue of the  
20 notice of property interest. This is March of 2012, Your  
21 Honor. This is well over the statute of limitation purposes  
22 res judicata, and what the parties knew and believed and  
23 intended to be secured.

24           They identified the manufactured home as -- quote --

1 "improvements to the above-described property with  
2 manufactured homes."

3 They go on to say, "located thereon as personal  
4 property."

5 There is nothing in the deed of trust, there is  
6 nothing in the statutes, there is nothing in case law that  
7 says personal property cannot be included in the security  
8 instrument, even if we are assuming that the manufactured  
9 homes, by affixing them, hadn't been already converted to  
10 real property.

11 Counsel, essentially, is jumping to a conclusion  
12 about 361. Counsel says you have to -- you have to -- to  
13 improve real property, you have to comply with 361. That's  
14 simply not true.

15 If we look at the text of the statute, "Owners of  
16 manufactured homes can pay taxes and treat it as personal  
17 property," is straight out of the text. And if buyers had a  
18 chance, I would certainly encourage that.

19 You can convert it to real property. And I'm not a  
20 tax attorney. I assume there are benefits and there are  
21 reasons as to why you might want to convert personal property  
22 to real property. But there is nothing in that statute that  
23 says you have got to do this for any purpose other than  
24 taxation. Again, it's telling that the entire chapter is



1 under "Tax purposes" or "Tax code."

2       There's a completely separate chapter for deeds of  
3 trust. That's 107.

4       There's a completely separate chapter for the UCC,  
5 and that's 104.

6       Counsel's arguments -- and I mean this respectfully.  
7 I have great respect for counsel, and I appreciate his  
8 advocacy on behalf of his client. I think he does a great  
9 job. But, respectfully, the 104.9604 argument is circular.

10       The argument is: Well, you first have to comply to  
11 convert it to real property before you can avail yourselves  
12 of the protections of 104.9604, assuming I understood the  
13 argument correctly. That is not what the statute says.

14       In fact, the statute says completely the opposite.  
15 It says, if you have a security instrument that encumbers  
16 both real property and personal property, forget the UCC.  
17 Throw it out the door. You don't have to comply with two  
18 separate articles, with two separate versions. It expressly  
19 says you apply the provisions that apply to the security  
20 instrument in covering real property. That is 107.

21       As counsel acknowledged, we noticed the sale, we  
22 referenced the deed of trust. The deed of trust says,  
23 "Improvements on the property." It all cascades there. The  
24 parties knew exactly what was being referred to, and exactly

1 | what it is that we were dealing with, Your Honor.

2 |         So UCC does not come into play. Let's assume again  
3 | that it's just personal property. We validly foreclosed on  
4 | personal property. But there's an administrative act in 2015  
5 | to notify the world that we are now taking personal property,  
6 | which we are allowed to foreclose on under this deed of trust  
7 | because it's an improvement, that we are allowed to foreclose  
8 | on under 104.9604 because 107 allows it, it's notifying the  
9 | world: Okay. To the extent this wasn't real property  
10 | before, now it is real property.

11 |         And that's just good sense, especially if Fannie Mae  
12 | is going to now own the property and market it. I will  
13 | submit to the Court you're not going to see a lot of houses  
14 | occupied by Fannie Mae, because they don't own homes. They  
15 | foreclose on them; they credit-bid on them. It happens over  
16 | and over again. That's how the industry works. And then  
17 | they put the property in REO, and they sell it to a new  
18 | homeowner.

19 |         And the only reason why that hasn't happened is  
20 | because the Anthonys are disputing ownership, and that's why  
21 | we're here today.

22 |         I want to point out, Your Honor, before I forget,  
23 | there are conversion claims and abuse of process claims in  
24 | the counterclaim. Those have been abandoned. We moved for

1 summary judgment on those. There's no opposition. Those are  
2 gone.

3 In addition to our primary arguments that it was  
4 either real property, or the UCC didn't apply under 9604,  
5 we've also moved on statute of limitations grounds, Your  
6 Honor. And I want to focus the remainder of my arguments on  
7 the alternative reasons, even assuming the UCC does apply.

8 I don't believe I saw any dispute that the statute of  
9 limitations was three years, per statutory violation, under  
10 the catch-all statutory statute of limitations.

11 There can't be any dispute that the Anthonys were  
12 aware of the personal-property improvements/foreclosure issue  
13 at least in March of 2012. And probably earlier. But at  
14 least in March of 2012. Because, again, that's when they  
15 prepare and attest and notarize their own notice of property  
16 interest, where they describe again -- they describe the  
17 manufactured -- combined manufactured home is an improvement  
18 to land and personal property.

19 If that doesn't trigger the statute of limitations,  
20 certainly a month later -- and I said March of 2012; I think  
21 it may have been May -- but, at any rate, if that doesn't  
22 trigger the statute of limitations, it's certainly when  
23 Fannie Mae says, "Get out," in its unlawful detainer action,  
24 saying, "You are occupying a residence space." And that's

1 | what the pleadings say. "You are in our space. You are  
2 | living in our space, and you need to vacate these premises."  
3 | That was certainly notice.

4 |         If the foreclosure wasn't notice, if their own notice  
5 | wasn't notice, the unlawful detainer action was certainly  
6 | notice that Fannie Mae believed that they foreclosed on this  
7 | property, and rightfully did, and it was theirs.

8 |         And this claim isn't filed until five years later, in  
9 | 2017, as a counterclaim, two years past any conceivable  
10 | statute of limitations.

11 |         The Anthonys claim the statute of limitations runs --  
12 | or shouldn't start to run until 215 -- or 2015. But, again,  
13 | they knew that Fannie Mae had foreclosed through all of the  
14 | acts that I previously mentioned, and that Fannie Mae, belt  
15 | and suspenders, for business purposes, were to tell the  
16 | entire world that this was being converted or had been  
17 | converted to real property. There's nothing improper about  
18 | that. It's finality, so you can peddle the property and sell  
19 | it.

20 |         The Anthonys claim in their briefing that, even if  
21 | time-barred, they can assert the UCC violation defensively to  
22 | offset damages. I think their quote is, "While it's true  
23 | that such claim is time-barred" -- and I think they're  
24 | referring to any claim that there wasn't an adequate

1 description in the notice of sale -- "While it's true that  
2 such claim is time-barred, Fannie Mae has not refuted the  
3 right to set off time-barred statutory damage claims against  
4 the damage it is seeking."

5         We would have no reason to refute -- certainly not in  
6 our MSJ, because it is not pled -- there is no affirmative  
7 defense of offset. There is no counterclaim in the Complaint  
8 for offset. It is all seeking compensatory damages. It is  
9 pled only as damages. And, again, those are time-barred.

10         But even if the Court did consider what we believe  
11 would be a procedurally-defective argument, it's not  
12 accurate. It's invalid.

13         They cite one case in support of their position.  
14 It's the Coxson case, coming out of the Fifth Circuit. It's  
15 an entirely different factual scenario, where a creditor in  
16 bankruptcy sought to recover a debt, and the debtor was  
17 allowed to assert the Truth in Lending Act as a defense to  
18 try to offset damages.

19         We're not in bankruptcy. This is not a TILA case.  
20 There's no TILA allegations made. And we are not pursuing a  
21 debt, Your Honor. We already did that. That was back in  
22 2012. That's done. It's over.

23         And on top of that, Your Honor, Coxson has been  
24 rejected by -- I think I counted six or eight authorities

1 coming out of Ninth Circuit District Courts that have  
2 rejected Coxson as, you just can't flip a claim that has a  
3 statute of limitations on it and then turn it into an  
4 affirmative defense.

5 Separate and apart from statute of limitations, Your  
6 Honor, we have claim and issue preclusion. These were issues  
7 that were or could have been litigated in the unlawful  
8 detainer action. They were not, again.

9 I copied, myself, quotes from the unlawful detainer  
10 action to read to Your Honor, but then I am loathe to do it  
11 in court because I know Your Honor knows how to read orders.

12 All I can tell you is that, from my view -- and I'm  
13 happy to read what I think is salient, if you'd like -- from  
14 my view, this is an incredibly detailed unlawful detainer  
15 order where the Court talks about how the Anthonys had every  
16 opportunity to appear to defend themselves, how they made  
17 multiple filings in the case, how they asserted multiple  
18 things in the case, but they never disputed the merits of the  
19 fact that Fannie Mae had the right to foreclose, did  
20 foreclose, and took possession of the property. If there was  
21 a claim to be made based on UCC, that was the time and place  
22 to make it.

23 In fact, you'll see statements in the order where  
24 that court even suggests that certain defenses that were

1 raised in that case should have been made at or around the  
2 time of the foreclosure, not in the unlawful detainer action,  
3 but certainly by the time of the unlawful detainer action.

4 That order was not appealed, Your Honor. I  
5 understand that there's an argument that the unlawful  
6 detainer court wouldn't have had the jurisdiction because its  
7 jurisdiction is limited to \$10,000. Well, cases transfer  
8 between Justice Court and District Court. I don't think that  
9 that's an unusual thing. Certainly, if they want to plead  
10 this as an offset to damages, that isn't an issue about  
11 jurisdiction, if they're not actually claiming damages.

12 And on top of it, though, Your Honor, even if we take  
13 the res judicata element out of it, we still have a claim  
14 preclusion issue. We still have a collateral estoppel issue.

15 And I'm sure Your Honor is aware, under the  
16 collateral estoppel doctrine, facts litigated between parties  
17 to a proceeding are binding and conclusive on those parties  
18 in any future litigation.

19 The facts that were litigated were that Fannie Mae  
20 properly foreclosed, and the Anthonys had to vacate. We  
21 can't re-litigate those here. Your Honor, even if everything  
22 else -- you ruled against me on everything else, you would  
23 have to enter a judgment that there was something improper  
24 about the foreclosure, which would directly contradict the

1 | order that has now been standing for years, a claim that,  
2 | under the collateral estoppel doctrine, is precluded, because  
3 | we have factual findings that say otherwise.

4 |         For similar reasons, Your Honor, we have a waiver. I  
5 | think there are several layers of the waiver. A lot of it  
6 | goes back to what they knew, and when they knew it. I think,  
7 | for similar reasons, there's an estoppel argument. They  
8 | can't claim that there's fault with their own conversion  
9 | filings that they recorded themselves. They can't claim that  
10 | there is an issue where they're the ones who sought to secure  
11 | ties -- or, rather, to pledge the entirety of the  
12 | manufactured home as collateral.

13 |         Again, maybe there's some hypothetical scenario where  
14 | somebody else in some other world could claim they were  
15 | damaged because somebody didn't do something properly. But  
16 | not the Anthonys, not in this case.

17 |         You know, final note on damages, Your Honor, that I  
18 | want to make. They say \$304,000 in damages, based on their  
19 | calculation, which is in consideration of the entire note and  
20 | the deed of trust.

21 |         Well, according to them, the 1996 portion wasn't  
22 | secured by the deed of trust.

23 |         What I'm getting at is, I guess, two points, Your  
24 | Honor.



1           Number one, they can't use a measure of damages that  
2 they disavowed applies. They would have been required to  
3 come to the court with actual evidence of what the value of  
4 this 1996 portion was, assuming that they had severed it from  
5 the land. They haven't done that.

6           And they certainly don't get to bootstrap the  
7 larger -- the value of the larger manufactured home or the  
8 value of the property itself, which is really what they're  
9 saying that they're entitled to do, given that they're saying  
10 that the only thing, really, that was secured was the larger  
11 home and the property itself.

12           So even if all else goes against my client -- and,  
13 obviously, we don't believe it should -- we believe the  
14 Anthonys have failed to evidence actual damages, and their  
15 claim should fail for that reason.

16           THE COURT: Mr. Lehnerns.

17           MR. LEHNERS: Thank you, Your Honor.

18           THE COURT: You're welcome.

19           MR. LEHNERS: A brief rebuttal.

20           The first thing I'd like to talk about is the  
21 improvements.

22           Mr. Brenner is correct. He cites Section -- Article  
23 9, Section -- I believe it's 604 -- that, if you comply with  
24 the requirements of foreclosing on real property, if there's

1 | personal property that's part of the security interest, then  
2 | it can get broomed-in, as well. And that would mean that the  
3 | foreclosure sale was valid as to both the land and as to the  
4 | mobile home, and that, therefore, there is no Article 9  
5 | violation by the foreclosure.

6 |         What this argument overlooks is one very important  
7 | thing. I believe it's 601 of Article 9 that talks about,  
8 | collateral can be sold in lots, or all at once.

9 |         If I have a security interest in five cars, I can  
10 | sell one car one day, another the other. I just have to  
11 | comply with the notice requirements. Well, that's what was  
12 | done here.

13 |         They sold the real property in 2012. That's what the  
14 | notice of trustee sale covered.

15 |         Now, what they did afterwards, in 2015, was, one,  
16 | obtain title to the mobile home, which is personal property;  
17 | and, number two, convert it to the real property. So you  
18 | have a separate action, which is consistent in selling  
19 | collateral in lots.

20 |         Now, this assumes that the deed of trust had an  
21 | adequate enough description for the security interest to  
22 | attach. I do not concede that at all. But if this Court  
23 | should find that it did, then this Court should also find  
24 | from the evidence that the trustee sale sold one lot of real

1 property, and then, when Fannie Mae recorded the affidavit of  
2 conversion, after getting title to the personal property in  
3 its name, sold the second lot.

4           So Mr. Brenner would be correct if both the mobile  
5 home and the land was sold at that moment in time in 2012.  
6 But that's not what happened. The events of 2015 negate  
7 that. So it was a sale to one's self in 2015 of the separate  
8 lot.

9           Oh. And the Court may wonder: Why didn't I reply to  
10 that? Because it was in the reply. I didn't get to reply to  
11 a reply.

12           Now, I think the key in my case is the description,  
13 "Improvements."

14           Does that mean the mobile homes? Well, if one drove  
15 by the property, you might think so. That's a reasonable  
16 assumption.

17           But you have to remember what Article 9 is designed  
18 to do. It's to put other people on notice of what collateral  
19 secures what debt.

20           How do we do that? We look at the description. We  
21 look at perfection.

22           How is this loan perfected? They recorded it in the  
23 Washoe County Recorder's Office, which is how you perfect a  
24 deed of trust.

1           So if one goes down there and says, "The Anthonys are  
2 trying to sell me their Fuqua. I wonder if it's subject to  
3 another security interest," well, if one were to look at the  
4 deed of trust, well, I don't see a title; I don't see a  
5 serial number; I don't see any affidavit of conversion. Why  
6 would I conclude that it includes that?

7           And this is especially true when the creditor is the  
8 drafter of the document itself. If it wanted to have a  
9 security interest in the Fuqua, it could have drafted it as  
10 such. It didn't. It's saying, "Improvements."

11           And in a somewhat joking manner, I said, "Well, if I  
12 park my Porsche on the property, is that an improvement?"

13           I mean, that's kind of ridiculous. It's a ridiculous  
14 argument. But it kind of shows you how this argument of the  
15 improvements can be extended.

16           And the question under Article 9, especially when  
17 you're trying to figure out who has a security interest in  
18 what, is you're supposed to look at the document. Does the  
19 document put you on inquiry notice? Not really. Because  
20 this is titled personal property. If I wanted to know if the  
21 mobile home was subject to a lien in favor of Fannie Mae or  
22 its predecessor, what would I do? I'd go down to the  
23 Department of Manufactured Housing. Okay. Great.

24           What would I have found after 2012? I'd find a title

1 to the Fuqua, a title to Mr. and Mrs. Anthony, with no  
2 lienholder.

3           What would I conclude from that public record? They  
4 never foreclosed on it. They don't have a security interest  
5 in it. That's what I would conclude

6           Also, the date of the title is 2012, which is after  
7 the foreclosure sale.

8           Again, these descriptions are important. Under  
9 Section 203 of Article 9, they're required. If you don't  
10 have it, it doesn't attach. If it doesn't attach, it can't  
11 be enforced.

12           What happens if it can't be enforced? You get in a  
13 lot of trouble if you foreclose on it anyway, because Section  
14 625 of Article 9 says: What do you get? Well, you get the  
15 greater of actual damages or statutory damages, computed  
16 through formula.

17           Section 4 of the drafter's comments makes it clear  
18 that it's mandatory. And it is 10 percent of the principal,  
19 and the amount of the finance charge over the life of the  
20 loan. The math is the math, and it comes out to 304,000, or  
21 thereabouts. Actual damage has nothing to do with it because  
22 the statute says, "the greater of."

23           Now, I'd also like to turn to the res judicata  
24 argument.

1           This was an unlawful detainer proceeding brought in  
2 the Sparks Justice Court, and it was brought in 2012. The  
3 events we complain of took place in 2015. There's no way  
4 they could have brought them in 2012, because they hadn't  
5 happened yet, and the action was based on future events.

6           Moreover, there's a -- I didn't cite this in my  
7 materials, Your Honor, but there's a case called,  
8 "In re: Chapman," and it talks about quasi-in-rem and in-rem  
9 cases. And it held that an unlawful detainer proceeding,  
10 because it's trying to get possession of a thing, is an  
11 in-rem action. Just like a quiet-title action is. And  
12 Chapman had to do with something like which court gets  
13 jurisdiction first. That's what it kind of talks about.

14           But an unlawful detainer proceeding, as conceded by  
15 Mr. Brenner, is simply, we want to get possession of the  
16 property, the thing that's in rem.

17           Article 9 is not in rem. It's in personam. They owe  
18 us, if we can prove that they violated Article 9. This is  
19 the amount of damages that they owe. It's in personam  
20 against them personally. It has nothing to do with property.

21           And Article 9 damages aren't related to the  
22 enforcement of possession. It's based upon compliance with  
23 the rules governing repossessions that are to be fair and  
24 equitable to the debtors. The rules are there for a reason.

1           And while we're not complaining about how the real  
2 property was foreclosed on, you bet we're complaining about  
3 the way the personal property was foreclosed upon. Because  
4 what could Fannie Mae have done? Well, they didn't have a  
5 security interest in it. They could have evicted them. And  
6 then you can declare the mobile homes abandoned under Chapter  
7 487 of the Nevada Revised Statutes. That's what most  
8 creditors do.

9           What Fannie Mae did was a break from what most  
10 creditors do. They went ahead, they retitled the properties,  
11 said, "We've already had a foreclosure sale of this personal  
12 property" -- which they hadn't -- and they went ahead and  
13 converted it to real property, thereby selling it to  
14 themselves.

15           That's not how you proceed. It's just like running a  
16 stoplight. You may be the most virtuous person in the world,  
17 you may be a priest, but you're going to get a ticket.

18           They should get a ticket, Your Honor. They didn't  
19 follow the rules.

20           Any questions?

21           THE COURT: No.

22           MR. LEHNERS: Thank you.

23           THE COURT: I'll hear from each side for just brief  
24 rebuttal, and then the matter will be under submission.

1           Mr. Brenner, final thoughts.

2           MR. BRENNER: Sure, Your Honor.

3           THE COURT: Just give me your three most -- I'll use  
4 your word, "salient" -- I use the word, usually, "important,"  
5 but, okay -- most salient points in response. If you have  
6 three points that you want to make sure I hear before I take  
7 this matter under submission. Please.

8           MR. BRENNER: The most important point is --

9           THE COURT: Yes.

10          MR. BRENNER: -- 104.9604, that authorizes everything  
11 we did, and says the UCC doesn't apply.

12          I think the second point, which is largely -- I don't  
13 know if it's the most important, but I can't help myself but  
14 to address the argument, is this idea that the deed of trust  
15 wasn't descript enough.

16          And I think the words counsel said is, "You have to  
17 ask: Does it put someone on inquiry notice?" They don't  
18 need inquiry notice. They had actual notice. They know what  
19 they did. There's no dispute on that. It's an, effectively,  
20 stipulated fact for the purposes of this case.

21          And then the third thing is, the 2015 file is just --  
22 it's a complete red herring. By 2015, we had already  
23 foreclosed; we had already taken the property; we had already  
24 briefed it up and down in the unlawful detainer action.



1           Another way to look at it, Your Honor, is, by 2015,  
2 there was no standing to claim anything. We still assert  
3 that there was nothing wrong by saying: World at large, to  
4 the extent there's any question about whether this was  
5 converted previously, it's converted now. That doesn't mean  
6 that there's anything wrong with having foreclosed on real  
7 property. I thought I heard counsel concede that you're  
8 allowed to do that, subject to the inquiry notice.

9           I'll stop there.

10          THE COURT: All right. Thank you.

11          MR. LEHNERS: Judge, I --

12          THE COURT: Three points in response.

13          MR. LEHNERS: Judge, I can't emphasize how important  
14 the description is at attachment. That is critical. If you  
15 don't describe it, it doesn't attach.

16          Mr. Brenner has a strong point with Section 9604. I  
17 agree. When I saw that, I thought: Uh-oh. I might have a  
18 problem here.

19          But, again, this is a single disposition that the  
20 statute talks about. That would mean a disposition of both  
21 the Fuqua personal property and the real property in 2012.

22          That's not what happened. We had two dispositions.

23          The first was the trustee's deed upon sale. That's  
24 the disposition of the real property.



1 STATE OF NEVADA )

2 COUNTY OF WASHOE )

3

4 I, ISOLDE ZIHN, a Certified Shorthand Reporter of the  
5 Second Judicial District Court of the State of Nevada, in and  
6 for the County of Washoe, do hereby certify:

7 That I was present in Department 8 of the  
8 above-entitled court on Monday, July 8, 2019, at the hour of  
9 2:10 P.M. of said day, and took verbatim stenotype notes of  
10 the proceedings had upon the matter of FEDERAL NATIONAL  
11 MORTGAGE ASSOCIATION, Plaintiff, versus PATRICIA ANTHONY &  
12 WILLIAM ANTHONY, Defendants, Case No. CV17-00843, and  
13 thereafter reduced to writing by means of computer-assisted  
14 transcription as herein appears;

15 That the foregoing transcript, consisting of pages 1  
16 through 46, all inclusive, contains a full, true and complete  
17 transcript of my said stenotype notes, and is a full, true  
18 and correct record of the proceedings had at said time and  
19 place.

20 Dated at Reno, Nevada, this 23rd day of July, 2019.

21

22

23

24

/s/ Isolde Zihn  
Isolde Zihn, CCR #87