

IN THE SUPREME COURT OF NEVADA

NONA TOBIN, AS TRUSTEE OF THE
GORDON B. HANSEN TRUST,
DATED 8/22/08,

Appellant,

vs.

JOEL A. STOKES; SANDRA F.
STOKES, AS TRUSTEE OF THE
JIMIACK IRREVOCABLE TRUST;
YUEN K. LEE, AN INDIVIDUAL,
D/B/A MANAGER; F. BONDURANT,
LLC; SUN CITY ANTHEM
COMMUNITY ASSOCIATION, INC.;
AND NATIONSTAR MORTGAGE,
LLC,

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

Case No. 79295

APPEAL

from the Eighth Judicial District Court, Department XXXI
The Honorable Joanna S.. Kishner, District Judge
District Court Case No. A-15-720032-C

RESPONDENT'S REPLY SUPPORTING MOTION TO DISMISS APPEAL

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Respondent Nationstar Mortgage LLC replies supporting its motion to dismiss Nona Tobin, as Trustee of the Gordon B. Hansen Trust's appeal as to Nationstar. Nona Tobin did not raise any claims against Nationstar in the underlying litigation, and lacks standing to pursue any claims against Nationstar on appeal.

Nona Tobin admits she "has not asserted direct claims against Nationstar" (Opp. at 3), yet argues Nationstar's joinder in respondents' answering brief and its participation in the litigation below supports keeping it in as a party to the appeal. Nona Tobin is incorrect.

First, Nona Tobin fails to recognize the procedural posture of the case and her status as an intervenor. Nationstar was a plaintiff in the original case, and Nona Tobin intervened. That Nationstar filed a limited joinder to Sun City's summary judgment motion (*see* AA Vol. 4, AA 000827-000861) and Sun City's opposition to Nona Tobin's motion for reconsideration (*see* AA Vol. 8, 001370-001372) does not create claims by Nona Tobin against Nationstar. Nationstar joined Sun City's motion to the extent it set forth no genuine issue of material fact Sun City conducted a proper foreclosure of the sub-priority portion of its lien—and to reserve its right to challenge Sun City's sale to the extent any party claimed it extinguished the deed of trust. AA Vol. 4, 0829. As explained in Nationstar's motion to dismiss, the orders granting Sun City's summary judgment motion, insofar as they granted judgment in

Nationstar's favor, did not *aggrieve* Nona Tobin, who raised no claims directly against Nationstar. *See* NRAP 3A.

Second, Nationstar's limited joinder to respondents' answering brief in this appeal does not support Nona Tobin's argument it has actively participated in the appeal and therefore should remain a party. Nationstar filed its limited joinder out of an abundance of caution to argue for affirmance in the event the Court does not grant Nationstar's motion to dismiss. *See* Nationstar's Joinder at 2. Nationstar's limited joinder does not change the fact that this Court of limited jurisdiction cannot entertain an appeal against a party where the appellant never raised claims against that party below.

Third, to the extent Nona Tobin argues Nationstar should be "bound by this Court's reversal," it no longer has an interest in the property. Tobin never sought any type of injunction pending appeal, and Nationstar recorded a reconveyance of its deed of trust on June 3, 2019.

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Nona Tobin cites no precedent to support her opposition. The Court should grant Nationstar's motion and dismiss it from this appeal.

DATED July 22nd, 2020.

AKERMAN LLP

/s/ Melanie D. Morgan

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CERTIFICATE OF SERVICE

I certify that I electronically filed on July 22, 2020, the foregoing **RESPONDENT'S REPLY SUPPORTING MOTION TO DISMISS APPEAL** with the Clerk of the Court for the Nevada Supreme Court by using the Court's electronic file and serve system. I further certify that all parties of record to this appeal are either registered with the Court's electronic filing system or have consented to electronic service and that electronic service shall be made upon and in accordance with the Court's Master Service List.

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

/s/ Carla Llarena

An employee of AKERMAN LLP