

IN THE SUPREME COURT OF THE STATE OF NEVADA

U.S. BANK N.A., AS TRUSTEE FOR
THE SPECIALTY UNDERWRITING
AND RESIDENTIAL FINANCE TRUST
MORTGAGE LOAN ASSET-BACKED
CERTIFICATES SERIES 2006-BC4,
Appellant,
vs.
THUNDER PROPERTIES, INC.; AND
WESTLAND REAL ESTATE
DEVELOPMENT AND INVESTMENTS,
Respondents.

No. 81129

FILED

SEP 11 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

***ORDER ACCEPTING CERTIFIED QUESTIONS, DIRECTING
BRIEFING AND DIRECTING SUBMISSION OF FILING FEE***

This matter involves legal questions certified to this court, under NRAP 5, by the United States Court of Appeals for the Ninth Circuit. Specifically, the Ninth Circuit has certified the following questions to this court:

- (1) When a lienholder whose lien arises from a mortgage for the purchase of a property brings a claim seeking a declaratory judgment that the lien was not extinguished by a subsequent foreclosure sale of the property, is that claim exempt from statute[s] of limitations under *City of Fernley v. Nevada Department of Taxation*, 366 P.3d 699 (Nev. 2016)?
- (2) If the claim described in (1) is subject to a statute of limitations:
 - (a) Which limitations period applies?
 - (b) What causes the limitations period to begin to run?

As no clearly controlling Nevada precedent exists with regard to these legal questions and the answers may determine part of the federal case, we accept these certified questions. See NRAP 5(a); *Volvo Cars of N. Am., Inc. v. Ricci*, 122 Nev. 746, 749-51, 137 P.3d 1161, 1163-64 (2006).

Accordingly, appellant shall have 30 days from the date of this order to file and serve an opening brief addressing the certified questions. Respondents shall have 30 days from the date the opening brief is served to file and serve an answering brief. Appellant shall then have 21 days from the date the answering brief is served to file and serve any reply brief. The parties' briefs shall comply with NRAP 28, 28.2, 31(c), and 32. See NRAP 5(g)(2). The parties shall submit a joint appendix containing any documents necessary for this court to resolve the certified questions. See NRAP 5(d).

Lastly, in any proceeding under NRAP 5, fees "shall be the same as in civil appeals . . . and shall be equally divided between the parties unless otherwise ordered by the certifying court." NRAP 5(e). The Ninth Circuit's order does not address the payment of this court's fees. Accordingly, appellant and respondents shall each tender to the clerk of this court, within 14 days from the date of this order, the sum of \$125, representing half of the filing fee. See NRAP 3(e); NRAP 5(e).

It is so ORDERED.

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

Cadish, J.
Cadish

Silver, J.
Silver

cc: Akerman LLP/Las Vegas
Roger P. Croteau & Associates, Ltd.
Clerk, United States Court of Appeals for the Ninth Circuit