

In the Supreme Court of Nevada

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Elizabeth A. Brown
Clerk of Supreme Court

TRUDI LEE LYTLE AND JOHN ALLEN LYTLE,
TRUSTEES OF THE LYTLE TRUST,

Appellants,

vs.

SEPTEMBER TRUST, DATED MARCH 23, 1972;
GERRY R. ZOBRIST AND JOLIN G. ZOBRIST, AS
TRUSTEES OF THE GERRY R. ZOBRIST AND JOLIN
G. ZOBRIST FAMILY TRUST; RAYNALDO G.
SANDOVAL AND JULIE MARIE SANDOVAL
GEGEN, AS TRUSTEES OF THE RAYNALDO G. AND
EVELYN A. SANDOVAL JOINT LIVING AND
DEVOLUTION TRUST DATED MAY 27, 1992; AND
DENNIS A. GEGEN AND JULIE S. GEGEN,
HUSBAND AND WIFE AS JOINT TENANTS

Respondents.

APPELLANTS' OPPOSITION TO RESPONDENTS' MOTION TO DISMISS

Appellants Trudi Lytle and John Lytle, Trustees of the Lytle Trust, oppose the motion to dismiss this appeal. The Lytles are prepared to contest the subject order holding them in contempt via writ petition if necessary. To be prudent, however, they pursue this appeal first because the order holding them in contempt appears to fall within

a jurisdictional gray area. While the contempt order purports merely to enforce a judgment granting injunctive relief, the Lytles contend the district court effectively altered the terms of the underlying injunction in order to find they violated it. Thus, should this Court agree with appellants' interpretation of the contempt order and the injunction the Lytles allegedly violated, those conclusions would render the contempt order appealable.

I.

APPLICABLE LAW

If an order holding a party in contempt also affects the judgment rights or liabilities of a party to the action, the order may be appealable under NRAP 3A(b)(8).

A. A Contempt Order that Affects the Rights of a Party to the Action Growing Out of a Judgment is Appealable

Appellants recognize that simple contempt orders generally are not appealable and instead must be contested via writ petition.

Pengilly v. Rancho Santa Fe Homeowners Ass'n, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000).

As respondents acknowledge, however, an appeal will lie from a contempt order if it “affect[s] the rights of some party to the action,

growing out of the judgment previously entered.” *See Gumm v. Mainor*, 118 Nev. 912, 920, 59 P.3d 1220, 1225 (2002) (citing NRAP 3A(b)(8)); *Vaile v. Vaile*, 133 Nev. 213, 217, 396 P.3d 791, 794-95 (2017) (“if the contempt finding or sanction is included in an order that is otherwise independently appealable, this court has jurisdiction to hear the contempt challenge on appeal”); *c.f.*, *Detwiler v. Baker Boyer Nat’l Bank*, 2020 WL 2214148, *2, 462 P.3d 254 (Nev. 2020) (contempt order was not appealable because it “[did] not affect the judgment rights or liabilities of a party to the action”); *Saiter v. Saiter*, 2018 WL 2096288, 416 P.3d 1056 (2018) (dismissing appeal from order of contempt where appellant “d[id] not demonstrate that the order affect[ed] his rights arising from the final judgment (the divorce decree)”).

B. This Court Generally Looks to Substance over Form

In assessing appellate jurisdiction, this Court frequently looks beyond labels and examines the gravamen and effect of subject orders and other operative documents. For example, in *Gumm v. Mainor*, the Court permitted an appeal from a post-judgment order that, on its face, merely “distributed funds” because it substantively “affected plaintiff’s right to distribution of judgment proceeds.” *Id.* Regardless of the

appealed order's title, this Court reasoned that "the order [was] analogous to orders adjudicating attorney liens and awarding attorney fees and costs," which are appealable. *Id.*, 118 Nev. at 919, 59 P.3d at 1225. Similarly, the Court has examined the contents of post-judgment motions to determine whether to deem them tolling "regardless of label." *See AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 585, 245 P.3d 1190, 1195 (2010).

**C. Where an Order May be Appealable, Prudence
Requires the Aggrieved Party to Initiate an Appeal**

If appellants were to forego an appeal from the underlying order because it ostensibly is a simple contempt order and file a writ petition instead, and this Court were to determine the order is substantively appealable, this Court likely would deny the writ petition on the basis that the order is appealable. *See Pan v. Eighth Judicial Dist. Court*, 120 Nev. 222, 224, 88 P.3d 840, 841 (2004) (applying NRS 34.170). In that event, it would be too late to pursue an appeal. *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987) ("the proper and timely filing of a notice of appeal is jurisdictional"). On the other hand, a petition for extraordinary relief is not subject to a jurisdictional deadline although the doctrine of laches applies. *Moseley v. Eighth*

Judicial Dist. Court, 124 Nev. 654, 659 n. 6, 188 P.3d 1136, 1140 n. 6 (2008) (concluding laches did not bar consideration of a writ petition filed four months after contested order); *Widdis v. Second Judicial Dist. Court*, 114 Nev. 1224, 1227–28, 968 P.2d 1165, 1167 (1998) (concluding that laches did not bar consideration of a writ petition filed seven months after the district court entered its written order).

Were the contempt order to be deemed appealable, appellants also would risk it having issue-preclusive effect by foregoing any appeal. *See Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008), *holding modified by Weddell v. Sharp*, 131 Nev. 233, 350 P.3d 80 (2015) (“the following factors are necessary for application of issue preclusion: “(1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; ... (3) the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation”; and (4) the issue was actually and necessarily litigated”).

II.
APPELLANTS CONTEND THE SUBJECT ORDER
HOLDING THEM IN CONTEMPT EFFECTIVELY AMENDS
THE INJUNCTION THEY PURPORTEDLY VIOLATED

In this case, the Lytles appeal from a recent order holding them in contempt of court ostensibly for violating a judgment entered on May 24, 2018, which granted respondents permanent injunctive relief (“May 2018 injunction”). And respondents’ motion to dismiss is premised on the assumption that the contempt order did not, in fact, expand or otherwise alter the parties’ rights under the May 2018 injunction:

The Contempt Order did not change any rights, but only enforced the prior order which has already been appealed and affirmed by this Court. There is a difference between orders enforcing a judgment (i.e., contempt orders subject to the *Pengilly* rule), which by their nature do not change the rights given in the judgment, and orders affecting (read: changing altering) the rights of the parties previously established the case in the case. * * * Here, the Contempt Order only enforced the rights and obligations of the parties set in the May 2018 Order, and did not affect, change, or alter the rights of any party.

(Respondents’ Motion to Dismiss, at 8.) Appellants disagree, however, with the district court’s and respondents’ interpretation of the May 2018 injunction and the scope of actions it enjoined.

Proper interpretation of the May 2018 injunction is the crux of the issue presented in this appeal. As the Lytles will demonstrate in their opening brief, the May 2018 injunction arose from an action to quiet title. The Lytles had obtained three judgments against a property owners' association (the Rosemere Estate Property Owners' Association) that includes their property and those of respondents. The Lytles then filed liens against respondents' homes to collect on their judgments against the association. Respondents initiated suit to quiet the titles of their properties and enjoin the Lytles from collecting their judgments against the association from them individually, based primarily on the argument that the association was a limited-purpose association and its members not parties in the Lytles' suits against the association. The district court (THE HONORABLE TIMOTHY WILLIAMS) expunged the liens and permanently enjoined the Lytles from collecting their judgments or taking further action "directly against the [respondents] or their properties":

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording and enforcing the [three judgments], or any other judgments obtained against the Association, against the September Property,

Zobrist Property, Sandoval Property or Gegen Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from taking any action in the future directly against the Plaintiffs or their properties based upon the [three lawsuits giving rise to the three judgments].

(See “Order Granting Motion for Summary Judgment or, in the Alternative, Motion for Judgment on the Pleadings and Denying Countermotion for Summary Judgment,” entered May 24, 2018 (attached as Exhibit “1”), at 10:5.) This Court upheld the May 2018 injunction in Case Nos. 76198 and 77007. (Doc. # 20-08333.)

Following remand, the Lytles commenced a new action for appointment of a receiver over the judgment-debtor association to, among other things, satisfy the judgments¹ (“receivership action”), because the association’s officers had resigned and allowed it to become defunct after the Lytles obtained their judgments. This appeal stems from a subsequent order by Judge Williams on May 22, 2020, holding

¹ See *Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust v. Rosemere Estates Property Owners’ Association*, Eighth Judicial District Court, case no. A-18-775843-C, pending before THE HONORABLE JOANNA S. KISHNER.

the Lytles in contempt of the May 2018 injunction for initiating their receivership action against the association, because an indirect *consequence* of the receivership action might be the association imposing an assessment against its members, including the respondents. (See appellants' docketing statement, Doc. 2020-28913.) Put simply, where the May 2018 injunction enjoined the Lytles from executing their judgments directly against the association's members' properties *because they had not been parties* to the lawsuit between the Lytles and the association, the subject contempt order effectively expands that injunction to include any action against the judgment-debtor association if that would lead the association to exercise whatever rights it may have under the law and relevant agreements to procure funds from the respondents.²

Thus, the Lytles do not merely contend that the contempt order was an abuse of discretion, unfairly penalizing them for an action that did not violate the May 2018 injunction. They also appeal from the contempt order's *effective expansion* of the May 2018 injunction, which

² The association is not a party to this action.

may have issue-preclusive effect on the receivership action. The situation is analogous to a party who procures a judgment against a corporation, is enjoined from executing on that judgment against the corporation's shareholders because they are not judgment-debtors individually, and then is precluded from executing the judgment even against the judgment-debtor corporation itself merely because that may lead the corporation to exercise its right to issue a capital call against the shareholders. Such an expansion would be both an unfair application of the original injunction and effectively a new injunction, prohibiting execution against a different party.

CONCLUSION

It would be premature to dismiss this appeal before consideration of the briefing on the merits. Appellants contend the subject contempt order effectively amends the May 2018 injunction to add the association as a beneficiary, rendering it appealable as “a special order entered after final judgment.” NRAP 3A(b)(8). Respondents disagree with that description of the contempt order. But this Court should not dismiss the appeal based on a prejudgment that respondent's characterization

of the allegedly violated May 2018 injunction is correct, especially where the crux of the appeal is a dispute about that characterization.

Dated this 30th day of November, 2020.

LEWIS ROCA ROTHGERBER LLP

BY: /s/ Joel D. Henriod
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Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 30, 2020, I submitted the foregoing “**APPELLANTS’ OPPOSITION TO RESPONDENTS’ MOTION TO DISMISS**” for filing via the Court’s eFlex electronic filing system.

Electronic notification will be sent to the following:

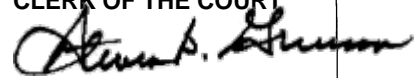
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EXHIBIT 1

EXHIBIT 1



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and Dennis & Julie Gegen*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

MARJORIE B. BOULDEN, TRUSTEE OF
THE MARJORIE B. BOULDEN TRUST,
LINDA LAMOTHE AND JACQUES
LAMOTHE, TRUSTEES OF THE
JACQUES & LINDA LAMOTHE LIVING
TRUST,

Plaintiffs,

vs.

TRUDI LEE LYTLE, JOHN ALLEN
LYTLE, THE LYTLE TRUST, DOES I
through X, and ROE CORPORATIONS I
through X,

Defendants.

AND ALL RELATED COUNTERCLAIMS
AND CROSS-CLAIMS

SEPTEMBER TRUST, DATED MARCH 23,
1972; GERRY R. ZOBRIST AND JOLIN G.
ZOBRIST, AS TRUSTEES OF THE GERRY
R. ZOBRIST AND JOLIN G. ZOBRIST
FAMILY TRUST; RAYNALDO G.
SANDOVAL AND JULIE MARIE
SANDOVAL GEGEN, AS TRUSTEES OF
THE RAYNALDO G. AND EVELYN A.
SANDOVAL JOINT LIVING AND

Case No.: A-16-747800-C
Dept. No.: XVIII

**ORDER GRANTING MOTION FOR
SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, MOTION FOR
JUDGMENT ON THE PLEADINGS
AND DENYING COUNTERMOTION
FOR SUMMARY JUDGMENT**

Date: May 2, 2018
Time: 9:00 a.m.

Case No.: A-17-765372-C
Dept. No.: XXVIII

CHRISTENSEN JAMES & MARTIN
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PH: (702) 255-1718 & FAX: (702) 255-0871

1 DEVOLUTION TRUST DATED MAY 27,
2 1992; and DENNIS A. GEGEN AND JULIE
3 S. GEGEN, HUSBAND AND WIFE, AS
4 JOINT TENANTS,

5 Plaintiffs,

6 vs.

7 TRUDI LEE LYTLE AND JOHN ALLEN
8 LYTLE, AS TRUSTEES OF THE LYTLE
9 TRUST; JOHN DOES I through V; and ROE
10 ENTITIES I through V, inclusive,

11 Defendants.

12 Presently before the Court is Plaintiffs' Motion for Summary Judgment or, in the
13 Alternative, Motion for Judgment on the Pleadings filed by the September Trust, dated March
14 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the Gerry R.
15 Zobrist and Jolin G. Zobrist Family Trust ("Zobrist Trust"), Raynaldo G. Sandoval and Julie
16 Marie Sandoval Gegen, as Trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and
17 Devolution Trust dated May 27, 1992 ("Sandoval Trust"), and Dennis A. Gegen and Julie S.
18 Gegen, Husband and Wife, as Joint Tenants ("Dennis & Julie Gegen") (collectively the
19 "Plaintiffs") in Case No. A-17-765372-C, and Defendants' Countermotion for Summary
20 Judgment filed by Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust ("Lytle
21 Trust") in Case No. A-17-765372-C, which came on for hearing on March 21, 2018 at 9:00 a.m.
22 and May 2, 2018 at 9:00 a.m. in Department XVIII of the Eighth Judicial District Court, Clark
23 County, Nevada.

24 Wesley J. Smith, Esq. of Christensen James & Martin appeared on behalf of the Plaintiffs
25 September Trust, Zobrist Trust, Sandoval Trust, and Dennis & Julie Gegen. Richard Haskin,
26 Esq. of Gibbs Giden Locher Turner Senet & Wittbrodt LLP appeared on behalf of the Lytle
27 Trust. Daniel T. Foley, Esq. of Foley & Oakes, PC appeared on behalf of Marjorie B. Boulden,
28 Trustee of the Marjorie B. Boulden Trust, amended and restated dated July 17, 1996 ("Boulden

1 Trust”) and Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda Lamothe
2 Living Trust (“Lamothe Trust”). Christina H. Wang, Esq. of Fidelity Law Group appeared on
3 behalf of Robert Z. Disman and Yvonne A. Disman (“Robert & Yvonne Disman”).

4 The Court having considered the Motions and exhibits, having heard the arguments of
5 counsel, for all the reasons contained in the Plaintiffs’ Motion for Summary Judgment or, in the
6 Alternative, Motion for Judgment on the Pleadings, and with good cause appearing therefore, the
7 Court hereby enters the following Order:

8
9 **FINDINGS OF FACT**

10 1. The September Trust is the owner of the residential property in Clark County,
11 Nevada known as 1861 Rosemere Court, Las Vegas, Nevada 89117, Assessor’s Parcel No. 163-
12 03-313-004 (“September Property”).

13 2. The Zobrist Trust is the owner of the residential property in Clark County,
14 Nevada known as 1901 Rosemere Court, Las Vegas, Nevada 89117, Assessor’s Parcel No. 163-
15 03-313-005 (“Zobrist Property”).

16 3. The Sandoval Trust is the owner of the residential property in Clark County,
17 Nevada known as 1860 Rosemere Court, Las Vegas, Nevada 89117, Assessor’s Parcel No. 163-
18 03-313-001 (“Sandoval Property”).

19 4. Dennis & Julie Gegen are the owner of the residential property in Clark County,
20 Nevada known as 1831 Rosemere Court, Las Vegas, Nevada 89117, Assessor’s Parcel No. 163-
21 03-313-003 (“Gegen Property”) (hereafter September Property, Zobrist Property, Sandoval
22 Property and Gegen Property may be collectively referred to as “Plaintiffs’ Properties”).
23

24 5. The Plaintiffs’ Properties are located in the Rosemere Estates subdivision
25 (“Rosemere Subdivision” or “Subdivision”) and are subject to the CC&R’s recorded January 4,
26 1994 (the “CC&Rs”).
27
28

1 6. John Allen Lytle and Trudi Lee Lytle are the Trustees of the Lytle Trust
2 (collectively "Lytle Trust") which owns that certain residential property known as parcel number
3 163-03-313-009 (the "Lytle Property"), also located in the Rosemere Subdivision.

4 7. In 2009, the Lytles filed suit against the Rosemere Association directly in the
5 Eighth Judicial District Court, Case No. A-09-593497-C ("Rosemere Litigation I").

6 8. None of the Plaintiffs were ever parties in the Rosemere Litigation I.

7 9. None of the Plaintiffs were a "losing party" in the Rosemere Litigation I as that
8 term is found in Section 25 of the Original CC&Rs.
9

10 10. The Lytles obtained a Summary Judgment for Declaratory Relief from the District
11 Court in the Rosemere Litigation I, which found and ruled as follows:

12 a. The Association is a limited purpose association under NRS 116.1201, is not a
13 Chapter 116 "unit-owners' association," and is relegated to only those specific
14 duties and powers set forth in Paragraph 21 of the Original CC&Rs and NRS
116.1201.

15 b. The Association did not have any powers beyond those of the "property owners
16 committee" designation in the Original CC&Rs - simply to care for the
17 landscaping and other common elements of Rosemere Estates as set forth in
Paragraph 21 of the Original CC&Rs.

18 c. Consistent with the absence of a governing body, the Developer provided each
19 homeowner the right to independently enforce the Original CC&Rs against one
another.

20 d. The Amended and Restated CC&Rs recorded with the Clark County Recorder's
21 Office as Instrument No. 20070703-0001934 (the "Amended CC&Rs") are
22 invalid, and the Amended CC&Rs have no force and effect.

23 11. Pursuant to NRS 116.1201(2) much of NRS Chapter 116 does not apply to the
24 Association because it is a limited purpose association that is not a rural agricultural residential
25 community.

26 12. After obtaining Summary Judgment in the Rosemere Litigation I, the Lytle Trust
27 filed a Motion for Attorneys' Fees and Costs against the Association, and conducted a prove-up
28

1 hearing on damages. After hearing all matters, a Final Judgment was entered in the Lytle Trust's
2 favor against the Association for \$361,238.59, which includes damages, attorneys' fees and costs
3 (the "Final Judgment").

4 13. After obtaining the Attorneys' Fees Judgment, the Lytle Trust, on August 16,
5 2016, recorded with the Clark County Recorder's office an Abstract of Judgment referencing the
6 Final Judgment against the Association, recorded as Instrument No. 20160818-0001198 (the
7 "First Abstract of Judgment").
8

9 14. In the First Abstract of Judgment, the Lytle Trust listed the parcel numbers for all
10 of the Plaintiffs' Properties as properties to which the First Abstract of Judgment and Final
11 Judgment was to attach.

12 15. On September 2, 2016, the Lytle Trust recorded with the Clark County Recorder's
13 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded
14 as Instrument No. 20160902-0002685 (the "Second Abstract of Judgment"). The Second
15 Abstract of Judgment listed the parcel number of the Gegen Property only as the property to
16 which the Judgment was to attach.
17

18 16. On September 2, 2016, the Lytle Trust recorded with the Clark County Recorder's
19 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded
20 as Instrument No. 20160902-0002686 (the "Third Abstract of Judgment"). The Third Abstract of
21 Judgment listed the parcel number of the September Trust Property only as the property to which
22 the Judgment was to attach.
23

24 17. On September 2, 2016, the Lytle Trust recorded with the Clark County Recorder's
25 office an Abstract of Judgment referencing the Final Judgment against the Association, recorded
26 as Instrument No. 20160902-0002687 (the "Fourth Abstract of Judgment"). The Fourth Abstract
27
28

1 of Judgment listed the parcel number of the Zobrist Trust Property only as the property to which
2 the Judgment was to attach.

3 18. In 2010, the Lytle Trust filed another suit against the Rosemere Association
4 directly in Case No. A-10-631355-C ("Rosemere Litigation II"). The Lytle Trust did not name
5 the Plaintiffs as Defendants in the Rosemere Litigation II.

6 19. On or about November 14, 2016, the Lytle Trust was granted Summary Judgment
7 against the Rosemere Association.

8 20. On or about July 20, 2017, the District Court signed an Abstract of Judgment in
9 the amount of \$1,103,158.12. ("Rosemere Judgment II").
10

11 21. The Plaintiffs were not named parties in the Rosemere II Litigation.

12 22. On or about April 2, 2015, the Lytle Trust filed a third case (Case No. A-15-
13 716420-C) against the Association and named as Defendants Sherman L. Kearl ("Kearl") and
14 Gerry G. Zobrist ("Zobrist") ("Rosemere Litigation III"). On April 8, 2015, the Lytles filed an
15 Errata to the Complaint amending it so that all references to Kearl and Zobrist were taken out of
16 the Complaint.
17

18 23. On or about September 13, 2017, the Court in the entered its Order granting
19 Summary Judgment for Declaratory Relief as against the Association ("Rosemere Judgment III").
20 On November 8, 2017, the Rosemere Litigation III Court granted a Motion for Attorney's Fees
21 and Costs.

22 24. On February 24, 2017, the Boulden Trust, owner of Parcel No. 163-03-313-008 in
23 the Rosemere Subdivision, and the Lamothe Trust, owner of Parcel No. 163-03-313-002 in the
24 Rosemere Subdivision, filed a Motion for Partial Summary Judgment in this Court in this Case,
25 Case No. A-16-747900-C.
26
27
28

1 25. This Court granted the Boulden Trust's and Lamothe Trust's Motion for Partial
2 Summary Judgment, and on July 25, 2017, entered its Order Granting Motion to Alter or Amend
3 Findings of Fact and Conclusions of Law ("Order").

4 26. In its Order, the Court found that, among other things, the Association is not
5 subject to NRS 116.3117, the Boulden Trust and Lamothe Trust were not parties to the
6 Rosemere Litigation, the Rosemere Judgment I (referred to as the "Rosemere LP Litigation" in
7 the Order) is not an obligation or debt of the Boulden Trust or the Lamothe Trust and that the
8 Abstracts of Judgment were improperly recorded against their properties and must be expunged
9 and stricken from the record.
10

11 27. After the Court issued its Order, the Lytles released their liens against the
12 Boulden Trust and Lamothe Trust properties.

13 28. On February 21, 2018, Case No. A-17-765372-C was consolidated with Case No.
14 A-16-747900-C.
15

16 CONCLUSIONS OF LAW

17 1. The Court's prior Order with respect to Boulden Trust's and Lamothe Trust's
18 Motion for Partial Summary Judgment, Case No. A-16-747900-C, is the law of the case, to the
19 extent applicable to Plaintiffs' claims.

20 2. The Association is a "limited purpose association" as referenced in NRS
21 116.1201(2).

22 3. As a limited purpose association, NRS 116.3117 is not applicable to the
23 Association.
24

25 4. As a result of the Rosemere Litigation I, the Amended CC&Rs were judicially
26 declared to have been improperly adopted and recorded, the Amended CC&Rs are invalid and
27 have no force and effect and were declared *void ab initio*.
28

1 5. The Plaintiffs were not parties to the Rosemere Litigation I, Rosemere Litigation
2 II or Rosemere Litigation III.

3 6. The Plaintiffs were not “losing parties” in the Rosemere Litigation I, Rosemere
4 Litigation II or Rosemere Litigation III as per Section 25 of the Original CC&Rs.

5 7. Rosemere Judgments I, II and III in favor of the Lytle Trust, are not against, and
6 are not an obligation of the Plaintiffs to the Lytle Trust.

7 8. Rosemere Judgments I, II and III are against the Association and are not an
8 obligation or debt owed by the Plaintiffs to the Lytle Trust.

9 9. The First Abstract of Judgment recorded as Instrument No. 20160818-0001198
10 was improperly recorded against the Plaintiffs’ Properties and constitutes a cloud against each of
11 the Plaintiffs’ Properties.

12 10. The Second Abstract of Judgment recorded as Instrument No. 20160902-0002685
13 was improperly recorded against the Gegen Property and constitutes a cloud against the Gegen
14 Property.
15

16 11. The Third Abstract of Judgment recorded as Instrument No. 20160902-0002686
17 was improperly recorded against the September Trust Property and constitutes a cloud against
18 the September Trust Property.

19 12. The Fourth Abstract of Judgment recorded as Instrument No. 20160902-0002687
20 was improperly recorded against the Zobrist Trust Property and constitutes a cloud against the
21 Zobrist Trust Property.
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ORDER

Based upon the Findings of Fact and Conclusions of Law above, and good cause appearing therefore,

IT IS HEREBY ORDERED ADJUDGED AND DECREED that Plaintiffs' Motion for Summary Judgment is GRANTED.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust's Countermotion for Summary Judgment is DENIED.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust improperly clouded the title to the September Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust improperly clouded the title to the Zobrist Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust improperly clouded the title to the Sandoval Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust improperly clouded the title to the Gegen Property.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the First Abstract of Judgment recorded as Instrument No. 20160818-0001198 in the Clark County Recorder's Office is hereby expunged and stricken from the records of the Clark County Recorder's Office.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Second Abstract of Judgment recorded as Instrument No. 20160902-0002685 in the Clark County Recorder's Office is hereby expunged and stricken from the records of the Clark County Recorder's Office.

1 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
2 Third Abstract of Judgment recorded as Instrument No. 20160902-0002686 in the Clark County
3 Recorder's Office is hereby expunged and stricken from the records of the Clark County
4 Recorder's Office.

5 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
6 Fourth Abstract of Judgment recorded as Instrument No. 20160902-0002687 in the Clark County
7 Recorder's Office is hereby expunged and stricken from the records of the Clark County
8 Recorder's Office.
9

10 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
11 Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from
12 the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other
13 judgments obtained against the Association, against the September Property, Zobrist Property,
14 Sandoval Property or Gegen Property.
15

16 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
17 Lytle Trust is permanently enjoined from taking any action in the future directly against the
18 Plaintiffs or their properties based upon the Rosemere Litigation I, Rosemere Litigation II or
19 Rosemere Litigation III.

20 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the
21 Lytle Trust is hereby ordered to release the First Abstract of Judgment, the Second Abstract of
22 Judgment, the Third Abstract of Judgment and the Fourth Abstract of Judgment recorded with
23 the Clark County Recorder within ten (10) days after the date of Notice of Entry of this Order.
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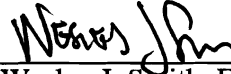
IT IS SO ORDERED.

Dated this ____ day of May, 2018.

DISTRICT COURT JUDGE

Submitted by:

CHRISTENSEN JAMES & MARTIN



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IT IS SO ORDERED.

Dated this ____ day of May, 2018.

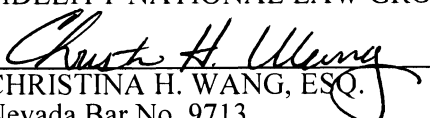
DISTRICT COURT JUDGE

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and Lamothe Trust

1 **IT IS SO ORDERED.**

2
3 Dated this 22 day of May, 2018.

4
5 _____
DISTRICT COURT JUDGE

6 Submitted by:

L. L.

7
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1 **IT IS SO ORDERED.**

2
3 Dated this 28 day of May, 2018.



DISTRICT COURT JUDGE

4
5
6 Submitted by:

7
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