

Case No. 81390

In the Supreme Court of Nevada

TRUDI LEE LYTLE; and JOHN ALLEN LYTLE, as
trustees of the Lytle Trust,
Appellant,

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;
DENNIS A. GEGEN AND JULIE S. GEGEN,
Husband and wife, as joint tenants; ROBERT
Z. DISMAN; and YVONNE A. DISMAN,
Respondents.

Electronically Filed
Mar 15 2021 07:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable TIMOTHY C. WILLIAMS, District Judge
District Court Case Nos. A-16-747800-C and A-17-765372-C

**APPELLANTS' APPENDIX
VOLUME 7
PAGES 1501-1626**

JOEL D. HENRIOD (SBN 8492)
DANIEL F. POLSENBERG (SBN 2376)
DAN R. WAITE (SBN 4078)
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
Attorneys for Appellants

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CERTIFICATE OF SERVICE

I certify that on March 15, 2021, I submitted the foregoing “Appellants’ Appendix” for filing *via* the Court’s eFlex electronic filing system.

Electronic notification will be sent to the following:

Kevin B. Christensen
Wesley J. Smith
CHRISTENSEN JAMES & MARTIN
7740 W. Sahara Avenue
Las Vegas, Nevada 89117

Christina H. Wang
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113

*Attorneys for Respondents Robert Z.
Disman and Yvonne A. Disman*

*Attorneys for Respondents September
Trust, dated March 23, 1972, Gerry R.
Zobrist and Jolin G. Zobrist, as trus-
tees 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*

/s/ Emily D. Kapolnai
An Employee of Lewis Roca Rothgerber Christie LLP

19. In addition, the court may award “reasonable expenses, including, without limitation, attorney’s fees, incurred by the party as a result of the contempt.” NRS 22.100(3).

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 Order to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, as well as the Joinders thereto filed by the Boulden Trust, the Lamothe Trust, and the Dismans, are GRANTED.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust violated the May 2018 Order.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is in contempt of the May 2018 Order.

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust shall pay a \$500 penalty to each movant for violation of the May 2018 Order; specifically, \$500 payable to the September Trust, \$500 payable to the Zobrist Trust, \$500 payable to the Sandoval Trust, \$500 payable to the Gegens, and \$500 payable to the Dismans.

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1 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the September
 2 Trust, Zobrist Trust, Sandoval Trust, Gegens, and Dismans, may file applications for their reasonable
 3 expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt.
 4 The Court will consider such applications on the merits.

5 **IT IS SO ORDERED.**

6 Dated this 22 day of May, 2020.

7 
 8 DISTRICT COURT JUDGE CG

9 **Submitted by:**

10 **CHRISTENSEN JAMES & MARTIN**

11 /s/ Wesley J. Smith

12 Wesley J. Smith, Esq.
 13 Nevada Bar No. 11871
 14 Laura J. Wolff, Esq.
 15 Nevada Bar No. 6869
 16 7440 W. Sahara Ave.
 17 Las Vegas, NV 89117
 18 *Attorneys for Plaintiffs September Trust,*
 19 *Zobrist Trust, Sandoval Trust, and*
 20 *Dennis & Julie Gegen*

Approved as to Form and Content by:

FIDELITY NATIONAL LAW GROUP

/s/ Christina H. Wang

CHRISTINA H. WANG, ESQ.
 Nevada Bar No. 9713
 8363 W. Sunset Road, Suite 120
 Las Vegas, Nevada 89113
Attorneys for Robert & Yvonne Disman

16 **Reviewed by Not Approved by:**

17 **LEWIS ROCA ROTHBERGER CHRISTIE**
 18 **LLP**

19 Reviewed But Not Approved

20 DAN R. WAITE, ESQ.
 21 Nevada Bar 4078
 22 3993 Howard Hughes Parkway, Suite 600
 23 Las Vegas, Nevada 89169
 24 *Attorneys for Lytle Trust*

RE: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause

Wang, Christina <Christina.Wang@fnf.com>

Mon 5/18/2020 9:52 AM

To: Wesley Smith <wes@cjmlv.com>

Cc: Engelman, Lace <Lace.Engelman@fnf.com>

Approved – thanks.

Christina H. Wang

Litigation Counsel

Fidelity National Law Group

8363 W. Sunset Road, Suite 120

Las Vegas, Nevada 89113

702-667-3000 (Main)

702-667-3002 (Direct)

702-938-8721 (Fax)

christina.wang@fnf.com

PLEASE NOTE THAT OUR OFFICE HAS MOVED TO THE ABOVE ADDRESS.

The Law Division of Alamo Title Insurance, Chicago Title Insurance Co., Commonwealth Land Title Insurance Co., Fidelity National Title Insurance Co., and Fidelity National Title Group, Inc.

THIS ELECTRONIC MAIL MESSAGE AND ANY ATTACHMENTS ARE INTENDED ONLY FOR THE USE OF THE ADDRESSEE(S) NAMED ABOVE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU ARE NOT AN INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS E-MAIL TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVED THIS E-MAIL MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY REPLYING TO THIS MESSAGE OR BY TELEPHONE. THANK YOU.

From: Wesley Smith <wes@cjmlv.com>

Sent: Monday, May 18, 2020 9:45 AM

To: Wang, Christina <Christina.Wang@fnf.com>

Cc: Engelman, Lace <Lace.Engelman@fnf.com>

Subject: Re: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause

IMPORTANT NOTICE - This message sourced from an external mail server outside of the Company.

Christina,

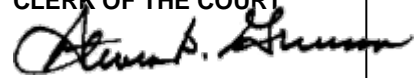
Per our discussion, can you please approve this version which adds the date to footnote 2?

Wes Smith

Christensen James & Martin

39

39



ASTA

JOEL D. HENRIOD
Nevada Bar No. 8492
DANIEL F. POLSENBERG
Nevada Bar No. 2376
DAN R. WAITE
Nevada Bar No. 4078
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
JHenriod@LRRC.com
DPolsenberg@LRRC.com
DWaite@LRRC.com

*Attorneys for Defendants Trudi Lee Lytle and
John Allen Lytle, as Trustees of the Lytle Trust*

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,

v.

TRUDI LEE LYTLE; and JOHN ALLEN
LYTLE, as trustees of the Lytle Trust,
DOES I through X, inclusive, and ROE
CORPORATIONS I through X,

Defendants.

Case No. A-16-747800-C

Dep't No. 16

CASE APPEAL STATEMENT

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,

Plaintiffs,

Consolidated with:

Case No. A-17-765372-C

Dep't No. 16

v.

TRUDI LEE LYTLE; and JOHN ALLEN
LYTLE, as trustees of the Lytle Trust,
JOHN DOES I through V, inclusive, and
ROE ENTITIES I through V, inclusive,

Defendants.

1. Name of appellants filing this case appeal statement:

Defendants Trudi Lee Lytle and John Allen Lytle, as trustees
of the Lytle Trust

2. Identify the judge issuing the decision, judgment, or order appealed from:

The Honorable Timothy C. Williams

3. Identify each appellant and the name and address of counsel for each
appellant:

*Attorneys for Appellants Trudi Lee Lytle and
John Allen Lytle, as Trustees of the Lytle Trust*

JOEL D. HENRIOD
DANIEL F. POLSENBERG
DAN R. WAITE
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

4. Identify each respondent and the name and address of appellate counsel,
if known, for each respondent (if the name of a respondent's appellate
counsel is unknown, indicate as much and provide the name and address
of that respondent's trial counsel):¹

*Attorneys for Respondents 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*

¹ Plaintiffs Marjorie B. Boulden, trustee of the Marjorie B. Boulden Trust, and
Linda Lamothe and Jacques Lamothe, trustees of the Jacques & Linda
Lamothe Living Trust would be listed as respondents, but they filed a
"Withdrawal of Joinder on Plaintiffs September Trust, et al.'s Motion for an
Order to Show Cause Why the Lytle Trust Should Not be Held in Contempt for
Violation of Court Orders" on May 14, 2020 as a result of a settlement
agreement reached with the Lytle Trust. (Ex. A.)

KEVIN B. CHRISTENSEN
 WESLEY J. SMITH
 CHRISTENSEN JAMES & MARTIN
 7440 W. Sahara Avenue
 Las Vegas, Nevada 89117
 (702) 255-1718

Attorneys for Respondents Robert Z. Disman and Yvonne A. Disman

CHRISTINA H. WANG
 FIDELITY NATIONAL LAW GROUP
 8363 W. Sunset Road, Suite 120
 Las Vegas, Nevada 89113
 (702) 667-3000

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

N/A.

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

Retained counsel

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

Retained counsel

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

N/A

9. Indicate the date the proceedings commenced in the district court, e.g., date complaint, indictment, information, or petition was filed:

“Complaint,” filed December 8, 2016 in case no. A-16-7476800-C.

“Complaint,” filed November 30, 2017 in case no. A-17-765372-C.

Case no. A-17-765372-C was consolidated with case no. A-16-7476800-C on February 28, 2018.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

In other lawsuits, the defendant Lytle Trust obtained three judgments (totaling approx. \$1.8 million) against the Rosemere Estate Property Owners Association ("Association"). The Lytle Trust is a member of the Association. This action stems from a dispute over the validity and legal effect of abstracts of judgments the Lytle Trust recorded against certain residential property owned by other Association members. The district court (Judge T. Williams) granted summary judgment in favor of plaintiffs and entered a permanent injunction against the Lytle Trust precluding action to enforce their judgments directly against the other Association members (the "May 2018 order"). The Dismans were added as parties to the litigation when they purchased the Boulden property.

Separately, the Lytle Trust later filed an action in the district court (assigned to Judge J. Kishner) for the appointment of a receiver over the judgment debtor Association ("Receiver Action"). Judge Kishner appointed a Receiver over the Association and empowered the Receiver to, *inter alia*, take action to satisfy its judgment liability to the Lytle Trust. The other Association homeowners, who were not parties to the Receiver Action, filed a motion in the underlying action with Judge Williams seeking to hold the Lytle Trust in contempt for violating the permanent injunction by seeking the appointment of a Receiver.

The Lytle Trust appeals from the post-judgment order holding it in contempt for purportedly violating the May 2018 order by seeking the appointment of a receiver, and awarding penalties and expenses to the September Trust, the Zobrist Trust, the Sandoval Trust, the Gegens, and the Dismans.

11. Indicate whether the case has previously been the subject of an appeal or an original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding.

Lytle v. Boulden, Case No. 73039

Lytle v. September Trust, Dated March 23, 1972, Case No. 76198

Lytle v. September Trust, Dated March 23, 1972, Case No. 77007

Lytle v. Disman, Case No. 79753

Lytle v. Boulden, Case No. 79776

12. Indicate whether this appeal involves child custody or visitation:

This case does not involve child custody or visitation.

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

Undersigned counsel is not aware of any circumstances that make settlement impossible.

1
2 Dated this 22nd day of June, 2020.

3 LEWIS ROCA ROTHGERBER CHRISTIE LLP

4
5 By: /s/Joel D. Henriod

6 JOEL D. HENRIOD (SBN 8492)
7 DANIEL F. POLSENBERG (SBN 2376)
8 DAN R. WAITE (SBN 4078)
9 3993 Howard Hughes Parkway, Suite 600
10 Las Vegas, Nevada 89169
11 (702) 949-8200

12 *Attorneys for Defendants Trudi Lee Lytle and*
13 *John Allen Lytle, as Trustees of the Lytle*
14 *Trust*

- 1
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Daniel T. Foley
FOLEY & OAKES, PC
1210 South Valley View
Boulevard, Suite 208
Las Vegas, Nevada 89102

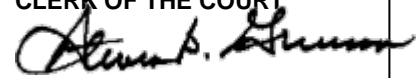
Christina H. Wang
FIDELITY NATIONAL LAW GROUP
1701 Village Center Circle, Suite 110
Las Vegas, Nevada 89134

/s/ Lisa M. Noltie
An Employee of LEWIS ROCA ROTHGERBER CHRISTIE LLP

EXHIBIT A

001511

EXHIBIT A



DANIEL T. FOLEY, ESQ.
Nevada Bar No. 1078
FOLEY & OAKES, PC
1210 S. Valley View Blvd. #208
Las Vegas, NV 89102
Tel.: (702) 384-2070
Fax: (702) 384-2128
Email: dan@foleyoakes.com
*Attorneys for the Boulden and
Lamothe Plaintiffs.*

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 AND JOHN ALLEN
LYTLE, AS TRUSTEES OF THE LYTLE
TRUST, DOES I through X; and ROE
CORPORATIONS I through X

Defendants.

SEPTEMBER TRUST, DATED MARCH 23,
1972; et al,

Plaintiffs

v.

TRUDI LEE LYTLE AND JOHN LYTLE, AS
TRUSTEES OF THE LYTLE TRUST; JOHN
DOES I through V; and ROW ENTITIES I
through I inclusive.

Defendants.

Case No. A-16-747800-C
Dept. No. XVI

**WITHDRAWAL OF JOINDER
ON PLAINTIFFS SEPTEMBER
TRUST ET. AL.'S MOTION FOR
AN ORDER TO SHOW CAUSE
WHY THE LYTLE TRUST
SHOULD NOT BE HELD IN
CONTEMPT FOR VIOLATION
OF COURT ORDERS**

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

1 Plaintiffs Marjorie B. Boulden, Trustee Of The Marjorie B. Boulden Trust (the “Boulden
2 Trust”), Linda Lamothe And Jacques Lamothe, Trustees Of The Jacques & Linda Lamothe
3 Living Trust (“Lamothe Trust”) by and through their attorneys Foley & Oakes, PC, having
4 entered into a settlement agreement with the Lytle Trust with respect to, among other things,
5 resolving the Lytle Trust’s Appeal of this Court’s Order granting the Boulden Trust’s and
6 Lamothe Trust’s Attorneys’ Fees and Costs, hereby provide Notice to the Court and all interested
7 parties that they hereby withdraw their Joinder filed in this case on March 5, 2020, and
8 accordingly waive all relief orally awarded by the Court associated with their Joinder.
9

10 Dated this 14th day of May 2020.

11
12 FOLEY & OAKES, PC

13 **By: /s/ Daniel T. Foley**

14 Daniel T. Foley, Esq.
15 1210 So. Valley View Blvd., Suite # 208
16 Las Vegas, NV 89102
17 (702) 384-2070
18 *Attorneys for the Boulden and*
19 *Lamothe Plaintiffs.*
20
21
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27

CERTIFICATE OF SERVICE

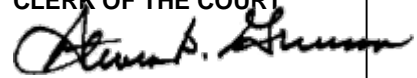
Pursuant to N.R.C.P. Rule 5(b), I certify that I am an employee of Foley & Oakes, PC and that on this 14th day of May 2020, I caused this document to be served pursuant to NEFCR 9, upon all registered parties via the Court's electronic filing system.

I declare that under penalty of perjury under the laws of the State of Nevada that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.

/s/ Liz Gould
An employee of Foley & Oakes PC

40

40



CSERV
JOEL D. HENRIOD
Nevada Bar No. 8492
DANIEL F. POLSENBERG
Nevada Bar No. 2376
DAN R. WAITE
Nevada Bar No. 4078
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
JHenriod@LRRC.com
DPolsenberg@LRRC.com
DWaite@LRRC.com

*Attorneys for Defendants Trudi Lee Lytle and
John Allen Lytle, as Trustees of the Lytle Trust*

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,

v.

TRUDI LEE LYTLE; and JOHN ALLEN
LYTLE, as trustees of the Lytle Trust,
DOES I through X, inclusive, and ROE
CORPORATIONS I through X,

Defendants.

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,

Plaintiffs,

v.

TRUDI LEE LYTLE; and JOHN ALLEN

Case No. A-16-747800-C

Dep't No. 16

AMENDED CERTIFICATE OF SERVICE

Consolidated with:

Case No. A-17-765372-C

Dep't No. 16

LYTLE, as trustees of the Lytle Trust,
JOHN DOES I through V, inclusive, and
ROE ENTITIES I through V, inclusive,

Defendants.

I hereby certify that on June 22, 2020, defendants Trudi Lee Lytle and John Allen Lytle, as trustees of the Lytle Trust, served a “Notice of Appeal” and “Case Appeal Statement” through the Court’s electronic filing system to the persons and addresses listed below:

KEVIN B. CHRISTENSEN
WESLEY J. SMITH
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
KBC@CJMLV.com
Wes@CJMLV.com

Christina H. Wang
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113
Christina.Wang@FNF.com

*Attorneys for Robert Z. Disman and
Yvonne A. Disman*

*Attorneys for 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*

Daniel T. Foley
FOLEY & OAKES, PC
1210 South Valley View Boulevard
Suite 208
Las Vegas, Nevada 89102
Dan@FoleyOakes.com

*Attorneys for Marjorie B. Boulden, trustee
of the Marjorie B. Boulden Trust, and
Linda Lamothe and Jacques Lamothe,
trustees of the Jacques & Linda Lamothe
Living Trust*

/s/ Jessie M. Helm
An Employee of LEWIS ROCA ROTHGERBER CHRISTIE LLP

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A-16-747800-C

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

July 02, 2020

A-16-747800-C Marjorie B. Boulden Trust, Plaintiff(s)
vs.
Trudi Lytle, Defendant(s)

July 02, 2020 09:00 AM Defendant Lytle Trust's Motion for Clarification and Ex Parte
Request for Order Shortening Time

HEARD BY: Williams, Timothy C. COURTROOM: RJC Courtroom 03H

COURT CLERK: Darling, Christopher

RECORDER:

REPORTER:

PARTIES PRESENT:

Christina H. Wang	Attorney for Counter Defendant, Cross Claimant, Other Defendant
Dan R Waite	Attorney for Counter Claimant, Defendant, Trustee
Wesley J. Smith, ESQ	Attorney for Other Plaintiff

JOURNAL ENTRIES

APPEARANCES CONTINUED: Court Reporter, Michael Bouley, present.

All counsel present telephonically. Arguments by counsel. Mr. Waite advised he intends to file supersedeas cash bond relating to recent contempt order. Mr. Smith advised no objection. Court directed Mr. Waite to file appropriate motion in that regard. As to Motion for Clarification, Court stated ITS FINDINGS and ORDERED, Motion DENIED. Court directed Mr. Smith or Ms. Wang to prepare the order and circulate; if parties cannot agree on form and content, may submit competing orders. Proposed order(s) to be submitted electronically to DC16Inbox@clarkcountycourts.us.

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DISTRICT COURT
CLARK COUNTY, NEVADA

MARJORIE B. BOULDEN TRUST,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: A-16-747800-C
)	Dept. No.: 16
)	
TRUDI LYTLE,)	
)	
)	
Defendants.)	
_____)	

BEFORE THE HONORABLE TIMOTHY C. WILLIAMS

TELEPHONIC HEARING ON DEFENDANT LYTLE TRUST'S
MOTION FOR CLARIFICATION AND EX PARTE REQUEST FOR ORDER

SHORTENING TIME

July 2, 2020

9:20 a.m.

REPORTED BY:
MICHAEL A. BOULEY, RMR, RDR
NVCCR #960

1 TELEPHONIC APPEARANCES:

2 On behalf of the Zobrist Trust, September Trust, Sandoval
3 Trust, Dennis and Julie Gegen

4 Mr. Wesley Smith, Esq.

5

6 On behalf of defendant Lytle Trust

7 Mr. Dan Waite, Esq.

8

9 On behalf of Robert and Yvonne Disman

10 Ms. Christina Wang, Esq.

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1 THE COURT: Marjorie B. Boulden Trust versus
2 Trudi Lytle, et al. Let's go ahead, place your
3 appearances on the record.

4 MR. SMITH: This is Wesley Smith for the Zobrist
5 Trust, September Trust, Sandoval Trust, Dennis and Julie
6 Gegen.

7 THE COURT: Okay.

8 MR. WAITE: Good morning, Your Honor. Dan Waite
9 for the defendant Lytle Trust. We would ask this matter
10 be reported.

11 THE COURT: All right. And we'll do that.

12 Who else do we have?

13 MS. WANG: Good morning, Your Honor. This is
14 Christina Wang on behalf of Robert and Yvonne Disman.

15 THE COURT: All right. Good morning.

16 And is that it, Mr. Clerk?

17 THE CLERK: For check-ins, yes.

18 THE COURT: All right. That's it for check-ins.

19 And all right. For the record, it's my
20 understanding that we have a defendant Lytle Trust motion
21 for clarification on a order shortening time.

22 Okay. With that in mind, we'll go ahead. And
23 Mr. Waite, sir?

24 MR. WAITE: Thank you, Your Honor. For the
25 record, this is Dan Waite.

1 Your Honor, as you've read our motion, you've
2 noticed this is not a motion where we're advocating for
3 any particular position. Instead, the Lytle Trust, we
4 are simply looking for some guidance as it tries to go
5 forward and balance the right to collect those judgments
6 that it's obtained with its obligation to, of course,
7 comply with this Court's permanent injunctions.

8 So, Your Honor, I don't really have argument.
9 We're simply asking the Court to assist us to avoid being
10 held in contempt again by clarifying what judgment
11 creditor rights the Lytle Trust can or cannot exercise
12 without violating the permanent injunction. Again, in
13 our moving papers, we included several examples of the
14 kinds of questions we have.

15 I would like to say, Your Honor, that even
16 though the Lytle Trust was held in contempt, the Lytle
17 Trust does respect this Court's permanent injunction, and
18 indeed it is for that very reason and because of that
19 very respect that the Lytle Trust asks for clarification
20 from these questions, so they don't have to act at their
21 own peril, so that they can try to navigate the waters
22 and avoid being held in contempt again.

23 So they would like those questions answered or
24 maybe more generally the Court to clarify the general or
25 guiding opinions so that they can, again, avoid being

1 held in contempt again as they move forward to try to
2 collect their judgment.

3 That's it. I don't really have argument.

4 THE COURT: Thank you, sir.

5 We'll go to counsel on behalf of the plaintiffs.

6 MR. SMITH: Yes, Your Honor.

7 This is Wesley Smith, for the record, counsel
8 for the plaintiffs.

9 We did file opposition to this motion simply
10 because we feel that the Court has already given
11 considerable guidance on what its order means. And we
12 pointed out in our opposition the places in the hearing
13 transcript from the last hearing that we had on this
14 matter where you granted the motion and order to show
15 cause. We pointed out in that transcript where you had
16 clarified and answered the question that the Lytles had,
17 the Lytle Trust had proposed. And then when we submitted
18 a proposed order that incorporated those statements, we
19 feel that also clarified your order as well when you
20 actually signed that order.

21 So we felt that it wasn't necessary to even have
22 this discussion. You gave considerable guidance in that
23 on what to do. And also, we're worried that the Court is
24 being asked to engage in essentially providing legal
25 advice to the Lytle Trust on how to act in the future,

1 which we don't think would be appropriate.

2 THE COURT: All right. I understand, sir.

3 Miss Wang?

4 MS. WANG: Your Honor, we reiterate Mr. Smith's
5 concerns and have nothing to add myself. Thank you.

6 THE COURT: All right. Mr. Waite, you get the
7 last word, sir.

8 MR. WAITE: Thank you, Your Honor.

9 I would point out that the interesting
10 procedural posture of this motion, Mr. Smith is correct
11 in that the motion for clarification was filed before the
12 Court selected between the competing orders and signed
13 the Plaintiff's proposed order. So concerning the
14 Plaintiff's proposed order, I would tend to agree that
15 that part of the motion for clarification seems to have
16 been answered. That portion that seems to have been
17 answered is the question of whether the Court stripped
18 the Lytle Trust with all of its creditor rights. And by
19 signing the Plaintiff's proposed order, it appears the
20 Court has answered that question in the negative; that
21 no, the Court has not stripped the Lytle Trust of all of
22 its judgment creditor rights.

23 But what still remains, Your Honor, it does
24 appear that because the Lytle Trust was held in contempt
25 for seeking the appointment of a receiver, which is a --

1 which is one of many judgment creditor rights that the
2 Court's stripped away from that judgment creditor right.

3 And so the question becomes in trying to, again,
4 I will use the word navigate through these waters as it
5 tries to go forward and collect its judgment while at the
6 same time respecting this Court's order and wanting to
7 comply with it, and avoid being held in contempt of
8 court, there are other judgment creditor rights available
9 to it. It very candidly guessed wrong as it related to
10 the receivership and does not want to act at its peril
11 again.

12 And so we do ask for clarification. We cited
13 some cases. We believe that this is the appropriate
14 approach; that instead of just cavalierly moving forward,
15 that it is appropriate to ask for the Court's guidance.
16 And so we seek that. We seek that guidance.

17 This isn't asking the Court to provide the Lytle
18 Trust with legal advice. That's what I do. This is
19 actually, if anything, it is giving guidance to me as
20 counsel for the Lytle Trust so that I can advise. Quite
21 candidly, at this point, I am at a loss to explain to
22 them why appointment of a receiver was in violation of
23 the order. And if that was in violation of the order,
24 then my assumption would be all other judgment creditor
25 rights would be against the permanent injunction, but

1 that does not appear to be the case in light of the
2 Court's entry of the Plaintiff's proposed order.

3 So I'm just at a loss, very candidly, Your
4 Honor, and we seek that clarification, that guidance,
5 because we do want to comply with this Court's order.

6 THE COURT: And I understand. And to be candid
7 with everyone, I'm kind of at a loss, too. And the
8 reason why I say that is this: From time to time, I get
9 motions for clarification. I sit back and I'm in a
10 general sense a rules person. And what I mean by that is
11 this: Throughout my tenure as a trial judge, I have
12 always tried to follow the mandate of the Nevada Rules of
13 Civil Procedure, or more specifically, any statutes that
14 might impact my decision-making as a trial judge. Right?

15 And understand, just as important, too, I know
16 lawyers will say well, Judge, you should do this or that.
17 And I always look back to the statutes and the Rules of
18 Procedure as a safe haven as a trial judge.

19 Just as important, too, I do understand that if
20 you look at Nevada Rules of Civil Procedure, most of the
21 rules, if not all, are not necessarily self-executing.
22 Probably the one rule that would be self-executing would
23 be statute of limitations. Right? Except for even under
24 certain circumstances, there might be issues of actual or
25 constructive notice.

1 So my point is this: The rules are never
2 clear-cut. There's a lot of discretion given to the
3 trial judges. But just as important, the trial judges
4 can't do whatever he or she wants to do.

5 The reason I bring that up, I have always
6 struggled with what is a motion for clarification.
7 Right? The reason I say that is this: It's nowhere set
8 forth in the Nevada Rules of Civil Procedure. And the
9 reason why I think that's important, understand this,
10 when it comes to issues regarding the exercise of
11 discretion from the trial court, we always have standards
12 we can look to, and look to other cases, and specifically
13 maybe some of the factors that are set forth by the
14 Nevada Supreme Court.

15 You know, and there's countless and countless
16 examples of that. When it comes to, for example, service
17 of process pursuant to (4)(i), and we know if you don't
18 serve within 120 days, your case shall be dismissed, for
19 example. I think they changed this. It's not (4)(i) any
20 more. Might be (4)(b). I forget where it's at. Bottom
21 line is, unless the Court determines that there is good
22 cause.

23 How do I do that? I look to potentially
24 Scrimmer, Saavedra. There is factors I consider, then I
25 make a decision. Right? It's like that throughout all

1 the Rules of Civil Procedure. And so my first point is,
2 what do I do with a motion for clarification when it
3 comes to these issues?

4 Secondly, being really more specific in this
5 case, I did have a chance to go back and have a copy of
6 the order that I issued. But then I look at some of my
7 comments that I made at the prior hearing that were set
8 forth in the opposition, starting at page 3, and I think
9 it's the opposition to the motion to the defendant Lytle
10 Trust's motion for clarification that was filed by
11 Mr. Smith in this matter.

12 And the reason why I bring that up, I mean, for
13 example, he starts setting forth the specific exchanges
14 that were discussed at the time of the hearing, and they
15 start on page 3 of his opposition, and so on. And, when
16 I look at it, it appeared to me that I was pretty clear
17 in my responses as this matter is concerned.

18 And what I mean by that is this, for example. I
19 think starts at line 21, this is from me: Well, the
20 Association wasn't a party.

21 But the bottom line is this: I stripped the
22 Lytle Trust of their ability and right to enforce those
23 judgments vis-a-vis the homeowners association. That
24 seems pretty clear. And then there is other discussions
25 as they kind of go through this.

1 And then I don't want mind telling everybody
2 this, too: If, for example, is it proper for the
3 Court -- and I made a ruling as far as my decision is
4 concerned and that can be appealed and I have no problem
5 with that. I always respect a lawyer's right to do that.
6 But am I asking to be -- determine the rights of parties
7 as a result of this litigation? Is this some sort of
8 declaratory relief request or something like that, right?

9 And, I don't see -- I mean, you know, I'm
10 struggling with that because at the end of the day, what
11 I did in this case, of course I'm going to let everybody
12 comment, because I'm always going to tell you what I'm
13 thinking. I think everybody here has appeared in front
14 of me on multiple occasions. But you know, those are the
15 types of things I think about.

16 And more importantly, as far as this case is
17 concerned, I go back and the thrust and focus of all my
18 decisions in this matter is based upon the historical
19 history of this case, and more specifically, the findings
20 of facts, conclusions of law, and order granting
21 Plaintiff's motion for partial summary judgment that was
22 entered back on April 26, 2017. And so to me, it appears
23 to be pretty clear. Right? And that's just kind of how
24 I see it.

25 But of course I'm not going to preclude anybody

1 from commenting on the record. I always permit lawyers
2 to give their comments and argue their points. But at
3 this point, I'm just wondering what else can I do?
4 Right? Unless --

5 MR. WAITE: Your Honor, Dan Waite. May I
6 respond?

7 THE COURT: That's Mr. Waite. Right? For the
8 court reporter.

9 MR. WAITE: Dan Waite.

10 Within this motion for clarification, I'd like
11 to ask for a technical point of clarification. I believe
12 when you were just referring to the opposition, and I
13 think you were reading from page 3, and you were
14 referring to the vis-a-vis the homeowners language, if I
15 heard Your Honor correctly, I think you said vis-a-vis
16 the homeowners association. And I just want to clarify
17 that that's not what -- that that's not what appears in
18 the brief and that's not what you meant to say, if that's
19 what you said. In other words, I think you added the
20 word association after the word homeowners?

21 THE COURT: Well, whatever's in the brief is in
22 the brief.

23 MR. WAITE: Okay. Thank you. Thank you, Your
24 Honor. I just didn't want anyone to argue later that
25 there was expansion; that the Court clarified by

1 expanding it to include against the Association this
2 morning.

3 Okay. So going to Your Honor's point, Your
4 Honor, you of course have inherent authority to make your
5 orders clear. And with all due respect, you focused on
6 what was in the opposition from the transcript of the
7 hearing. I trust Your Honor has reviewed in the original
8 motion, my original motion for clarification, where I set
9 forth all of the other recitations both before and after
10 the one that is focused on in the opposition. With all
11 due respect, Your Honor, it's not so clear.

12 And that's -- that is the reason for this motion
13 is because it appeared that the Court made comments that
14 could be interpreted in all sorts of different ways. And
15 very candidly, there is also comments by plaintiff's
16 counsel during the hearing that seemed to suggest we had
17 certain rights and not others. And you know, we use the
18 examples and just want to be clear, if there is an
19 exercise of a judgment creditor right that has an
20 indirect impact on the homeowners -- and pause there for
21 a moment because, Your Honor, given the nature of this
22 association, small size and what it is, almost every
23 exercise -- I might be hard-pressed to identify any
24 exercise of a right against the Association itself that
25 wouldn't have an indirect impact upon the homeowners. I

1 use the example of a gate repair that the homeowners
2 contribute to, and the Lytle Trust executes on the
3 Association's bank account and captures those assessments
4 from the homeowners so that the gate doesn't get
5 repaired. Or they have to contribute again and pay
6 again, and that affects them, in which case the Lytle
7 Trust might execute on the Association's bank account
8 again, and repeat itself over and over again.

9 That's just one example. We give several other
10 examples. We are looking for guidance, Your Honor --

11 THE COURT: I have a response.

12 MR. WAITE: -- subject the Lytle Trust to a
13 contempt hearing -- a contempt finding again, or is that
14 okay?

15 THE COURT: Mr. Waite, I'm listening to you but
16 I do have a response for that. Because, for the record,
17 I did go back and look at my April 26, 2017, order. And
18 understand this: At this point of the litigation, that
19 order has been sitting in place for over three years. It
20 was subject to review by the Nevada Supreme Court, and
21 withstood appellate scrutiny. Right? And we can all
22 agree.

23 Here's my point: Take a look at page 7 of the
24 order that was signed by me back on April 25th, 2017.
25 Over three years ago. And it's my understanding that the

1 Lytle Trust, et cetera, they were parties to that order.

2 Correct? We can all agree.

3 And, when you -- I think line 1 of page 7 is
4 crystal clear regarding what actions can and cannot be
5 taken. Because this is what I set forth in the order
6 that was signed over three years ago: Quote, It is
7 hereby further ordered, adjudged, and decreed, that the
8 defendants are permanently enjoined from taking any
9 action in the future against the plaintiffs or their
10 properties based upon the Rosemere LPA litigation.
11 Right? And that, to me, that appears to be pretty clear
12 as to what you can't do.

13 So in this case, what did they do? They went
14 out and took some action by attempting to have a receiver
15 appointed because of the insolvency of the Association, I
16 think. Something like that.

17 But my point is this: They took action. And
18 ultimately, they are attempting, whether direct or
19 indirect, future action against the plaintiff or their
20 properties based upon the Rosemere LPA litigation. To
21 me, that seems pretty clear.

22 MR. WAITE: Your Honor, Dan Waite speaking
23 again.

24 I think that that would be clear. The Lytle
25 benefit, Your Honor, I would interpret what you're just

1 saying, and I think trying to clarify, or at least I'm
2 trying to get clarification, go back to my \$80 fix the
3 gate example, the Lytle Trust could not execute on the
4 Association's bank account in that situation because that
5 would be any action that would be some action that would
6 have an impact on the homeowners under my hypothetical.

7 Am I understanding correctly, Your Honor?

8 THE COURT: I think, I don't know how you're
9 interpreting that, but I think that specific provision
10 under the order is pretty clear because it says this:
11 That defendants are permanently enjoined from taking any
12 action in the future against the plaintiffs or their
13 properties based upon what? The Rosemere LPA litigation.
14 Right?

15 MR. WAITE: And so clearly direct action against
16 the plaintiffs.

17 THE COURT: That's not what I said. It says any
18 action. That's pretty broad.

19 MR. WAITE: Even any action that has an indirect
20 impact upon the homeowners or their properties, is that
21 what I'm to understand?

22 THE COURT: I can only interpret. I'm just
23 looking right here. And this is -- if there was supposed
24 to be some sort of clarification as to the thrust, scope,
25 and nature of my order, that should have been done three

1 years ago. Right? Of course I would have heard a motion
2 for reconsideration.

3 But I think, and I'll let the other parties
4 comment, too, any action means any action. Right? It's
5 pretty broad.

6 MR. WAITE: It's pretty broad and --

7 (Audio garbled.)

8 THE COURT: But sir, say that again. Because I
9 want to make sure the record is clear, because I think
10 you were breaking up in the transmission. As a result,
11 Mr. Waite, the court reporter couldn't get that, your
12 last statement. But I want to make sure we take our
13 time, sir, so you can set that forth for the record.

14 MR. WAITE: Your Honor, I appreciate that.

15 Again, for the record, this is Dan Waite.

16 With all due respect, Your Honor, and I know you
17 respect me. You've said that. And I hope you know that
18 I highly respect you. We have practiced against each
19 other in years gone by. But with all due respect, Your
20 Honor, it's not as clear to me as it seems to be to you
21 what your orders mean. We can all read what they say.
22 But what they mean is what we're trying to get some
23 clarification upon. And based on -- I'm trying to
24 ascertain whether your permanent injunction means that
25 the Lytle Trust -- I don't think there is any doubt the

1 Lytle Trust cannot take any direct action against the
2 homeowners or their properties pursuant to or trying to
3 enforce or record their judgments that they obtained in
4 those litigations.

5 The real question boils down to can they take
6 action to try to collect their judgments if those actions
7 have an indirect impact upon the homeowners. And what
8 Your Honor was just saying and quoting from the 2017
9 order, which I apologize, I don't have in front of me,
10 but you emphasized the any action language. And given
11 the nature and size of this association, I don't believe
12 that there is any action that the Lytle Trust could take
13 in trying to enforce its judgments that would not have an
14 indirect impact on the homeowners or their properties.

15 Therefore, it feels logical to me that the Lytle
16 Trust cannot do anything to enforce its judgments,
17 because anything to enforce its judgment would either
18 have a direct impact or an indirect impact upon the
19 homeowners or the properties, which this Court has
20 enjoined.

21 That's what I'm trying to say, Your Honor.
22 That's what I'm hearing Your Honor say. I'm just not
23 sure if I'm hearing it correctly or understanding it
24 correctly. It's entirely possible that I'm not hearing
25 or understanding it correctly. But it's for that reason

1 that we're seeking clarification.

2 Because I don't want the Lytle Trust to be held
3 in contempt again. I want them to comply with this
4 Court's orders. But I also want them to be able to try
5 to collect their judgments if they can do so. And with
6 all due respect, that is like walking through a land
7 mine. But it can be done. Or maybe Your Honor is saying
8 it cannot be done. I don't know

9 THE COURT: Well, I can tell you this: It's
10 important to read the entire order. I can say that. And
11 for example, if you take a look at the conclusions of law
12 that once again have withstood scrutiny by our Supreme
13 Court, I start out right here on page 4 of my order,
14 paragraph 21, which would be, I guess, statement 2, a
15 limited purpose association NRS 116-3117 is not
16 applicable to the association.

17 Then I go to section 2 -- section 3 that starts
18 I think between 23 and 24. As a result of the Rosemere
19 LPA litigation, the amended CC&Rs were judicially
20 declared to be improperly adopted and recorded. The
21 amended CC&Rs are invalid and have no force and effect,
22 and were declared void ab initio. Void ab initio. Right
23 from the very beginning.

24 Then we go to paragraph number 4 at the last
25 line. The Plaintiffs were not parties to the Rosemere

1 LPA litigation. We go to the next page, number 6, the
2 Plaintiffs were not the losing parties in the Rosemere
3 LPA litigation as per section 25 of the original CC&Rs,
4 period.

5 Then we go to number 6. The final judgment in
6 favor of the defendants is not against and is not an
7 obligation of the plaintiffs. It's right there. Right?

8 And this is -- to me, that appears to be pretty
9 clear as to what the order says.

10 And then we look at number 7. Right? The final
11 judgment against the Association is not an obligation or
12 debt owed by the plaintiffs. So that seems pretty clear
13 to me. So why would you attempt to collect a debt
14 owed -- allegedly owed by the plaintiffs when I have
15 ruled as a matter of law that, quote, the final judgment
16 against the Association is not an obligation or debt owed
17 by plaintiffs. I mean that's pretty clear to me.

18 And understand this: I can't change that right
19 now. It seems to me that when you read the entire order,
20 it's pretty clear as to what you can and cannot do.

21 MR. WAITE: So, Your Honor, hypothetically, if
22 the Association won a sweepstakes, and won the
23 sweepstakes and won a million dollars, did not come from
24 the homeowners, it came from some outside source, but it
25 went into -- that million dollars went into the

1 Association's bank account, the Lytle Trust judgment is
2 against the Association. I don't think anyone would
3 disagree that the Lytle Trust could execute on the
4 Association, its judgment debtor's bank account, to
5 attach, to garnish, to execute upon that million dollars
6 that came from the sweepstakes publisher. Because it
7 would be simply trying to collect its judgment against
8 its judgment debtor, the Association. And that is an
9 example, a hypothetical, that would not affect the
10 homeowners or their property. Although some would agree
11 that we could collect some ways indirectly even that
12 would affect the homeowners.

13 But that situation that I'm addressing, Your
14 Honor, the hypothetical homeowners --

15 THE COURT: Mr. Waite, you have to remember,
16 courts don't make decisions based upon hypotheticals.
17 Right? You know, a case has to be ripe for adjudication.
18 It has to be based upon the facts of this case.

19 And so maybe hypothetically if the Association
20 won the Lotto, you know, maybe that's viable. But I
21 don't think they have. And so at the end of the day,
22 this is what I ruled as a matter of law in this case, and
23 I don't know how it can be any clearer than this. Once
24 again, I'm going to provision 6 of the, quote,
25 conclusions of law: The final judgment is in favor --

1 no. The final judgment in favor of the defendants is not
2 against and is not an obligation of the plaintiffs.

3 And that's been sitting there for three years
4 now.

5 And then number 7, a final judgment against the
6 Association is not an obligation or debt owed by the
7 Plaintiffs. It seems pretty clear to me. Then you
8 couple that with, quote: It is hereby ordered -- hereby
9 further ordered, adjudged, and decreed that the
10 defendants are permanently enjoined from taking any
11 action in the future against the plaintiffs or their
12 properties based upon the Rosemere LPA Litigation.

13 I don't know how I could be any clearer than
14 that. Because remember, you can't read this in one line
15 of the order. You have to read the total order to
16 determine what its impact is because I made some
17 conclusion here as a matter of law, they can't take any
18 action.

19 In fact, it goes even further than that. It
20 says the final judgment in favor of defendants is not
21 against and is not an obligation of the plaintiffs. So
22 maybe hypothetically if they won the lottery, maybe they
23 could go against the Association. But they better not go
24 against the plaintiffs in any way. I don't mind saying
25 that.

1 And to be clear, permanently enjoined from
2 taking any action in the future against the plaintiffs or
3 their property.

4 I don't want to overlook counsel on behalf of
5 the opposing parties. Anything you want to add? Then
6 I'll give Mr. Waite the last word.

7 MR. SMITH: Your Honor, I have nothing further.

8 This is Wesley Smith for the plaintiffs. I
9 don't have anything further to add.

10 THE COURT: Miss Wang, I don't ever want to
11 overlook you, ma'am.

12 MS. WANG: Thank you, Your Honor.

13 I just want to simply respond quickly, that
14 based upon the issues that are before the Court and the
15 procedural posture of the case, the Court is not in a
16 position to make global sort of rulings or determinations
17 with respect to what the parties' rights are against
18 their Association. What the parties can and cannot do
19 with respect to the Association is ultimately governed by
20 the CC&Rs that pertain to the Association. And the CC&Rs
21 themselves state what the nature of the Association is,
22 what it can and cannot do, what the parties can and
23 cannot do with respect to their relationship with the
24 Association, as well as respective homeowners.

25 So I don't think that the Court is in a position

1 to define those rights for the homeowners with respect to
2 every given hypothetical. But rather, the parties must
3 look to the CC&Rs to figure out what they can and cannot
4 do.

5 Ultimately with respect to the issues that were
6 before the Court, the Court had to interpret the original
7 CC&Rs as they pertained to the particular set of
8 circumstances that were in front of the Court. And based
9 upon its interpretation of the CC&Rs, which was affirmed
10 by the Nevada Supreme Court on multiple occasions, the
11 Court determined that simply with respect to these
12 particular judgments, that they cannot be collected
13 against the homeowners.

14 So ultimately no matter what happens down the
15 road or what kind of situation may arise, what the
16 parties or what the Association can do, that's governed
17 by the CC&Rs. And to the extent that the Lytle Trust has
18 an issue with understanding their rights under the CC&Rs,
19 whether they can bring a receiver action or what their
20 judgment creditor rights are, again, ultimately I submit
21 that that's governed by the CC&Rs. Because the Court
22 cannot contemplate every single possible situation that
23 might arise.

24 That's all I have to add, Your Honor. Thank
25 you.

1 THE COURT: Okay. Mr. Waite, you get the last
2 word, sir, of course.

3 MR. WAITE: Thank you, Your Honor. Appreciate
4 it.

5 Your Honor, maybe I should just address what
6 Miss Wang just said. We're asking for guidance regarding
7 the CC&Rs. There is a tension that exists between the
8 judgment, the three judgments issued by three other
9 courts, that give rise to judgment creditor rights in the
10 Lytle Trust, and that tension then exists vis-a-vis the
11 permanent injunction that imposes obligations by --
12 through the permanent injunction upon the Lytle Trust.

13 So I would just simply ask for purposes of
14 someone is going to prepare an order, would you
15 articulate whether you are granting the motion for
16 clarification and have clarified it in such and such
17 ways, or you are denying the motion for clarification and
18 are not providing clarification because the prior orders
19 are clear? I would just ask, because someone is going to
20 have to prepare an order here.

21 Lastly, Your Honor, as a totally unrelated
22 issue, Your Honor may be aware that -- we are not hiding
23 the ball or anything -- but we did very recently file a
24 notice of appeal from this Court's contempt order. We
25 would ask to be able to file a cash supersedeas bond.

1 Is there any objection from -- we have done that
2 in the past, and we would propose filing a cash
3 supersedeas bond to obtain a stay while the appeal goes
4 on over.

5 THE COURT: Any comment from the plaintiffs on
6 that issue?

7 MR. SMITH: This is Wesley Smith, plaintiffs'
8 counsel.

9 I think in general they have posted a cash bond
10 in the past. We don't necessarily have an objection to
11 that. I think that Mr. Waite can file a motion on that
12 setting forth the amount of the bond that they are
13 proposing so that we can properly respond to that?

14 THE COURT: And you know what? And I don't want
15 to overlook Miss Wang, but one of the things I have
16 always done historically, I like written motions,
17 calendars, and you know, things set on calendar, and so I
18 can hear and decide based upon the merits. Unless
19 everyone agrees, that's how historically I have handled
20 all issues.

21 And this is important, too, I don't mind saying
22 this: I mean, I expect many times when I make decisions,
23 that there will be appeals. And I've never -- that's
24 never really concerned me. That's what good lawyers do.
25 I've ran a few appeals up from time to time. And I

1 always think about one of the first appeals I ever worked
2 on. That was Gentile versus State Bar of Nevada. And
3 that case ultimately ended up before the United States
4 Supreme Court.

5 MR. WAITE: Yes, it did.

6 THE COURT: And I did briefing on that case.
7 And I don't know if many lawyers can say this, but at the
8 end of the day, the United States Supreme Court agreed
9 with me and not the Supreme Court of the State of Nevada
10 as far as First Amendment issues were concerned.

11 And so my point is, that happens. I have had
12 appeals go up, I have lost. I have had them go up and
13 I've won and I've made case law. It is what it is.
14 That's never a problem. And that's why I always try to
15 make sure everyone has a full and fair opportunity to set
16 forth their respective positions on the record.

17 Because I don't mind sharing this with you, I
18 know this for a fact: When it comes to these records and
19 discussions that we have on the record and when they are
20 transcribed like this, it's extremely valuable to our
21 Nevada Supreme Court. Because I've been in chambers with
22 a justice or two from time to time, and I won't mention
23 their names. But they will have the entire record. They
24 read these transcripts. They do.

25 And that's why from time to time, I wonder why

1 lawyers don't get transcripts. Because to be candid with
2 you, I want my discussions on the record, so just in case
3 Justice Pickering wants to read it and know what I was
4 thinking. Because they read them. They do.

5 And so anyway, Mr. Waite, as far as that's
6 concerned, as far as the appeal, the writ, you can file
7 whatever you need as far as the bond is concerned. We'll
8 deal with that on the merits.

9 As far as today's motion for reconsideration is
10 concerned, what I'm going to do is this: I'm going to
11 deny the motion. And the reason for it is I've had a
12 chance to review the letter -- I'm sorry, the findings of
13 facts, conclusions of law, and order granting plaintiff's
14 motion for partial summary judgment. Also included in
15 here would be the permanent injunction and the like. And
16 to me, it appears pretty clear when you read the entire
17 order as its thrust, scope, and impact is concerned.

18 And just as important, too, I kind of -- and
19 understand this: I've already interpreted the rights
20 vis-a-vis the CC&Rs. I've made decisions in that regard.
21 And that was the purpose of the review. So I don't need
22 to interpret the CC&Rs as far as this case is concerned.
23 I've done that. The Supreme Court agreed with me. When
24 I made the determination that this was not a, quote,
25 Chapter 116 or whatever it is, wherever it's at, this was

1 a limited purpose association, not a traditional
2 homeowners association. So I've done that. And I just
3 feel my order is clear. And so I'm going to deny it.

4 As far as preparing the order, maybe -- who
5 wants -- Mr. Smith, you can, or Miss Wang, one of you can
6 prepare an order. Maybe you want to get a copy of the
7 transcript, the points I pointed out in the record. I
8 have no problem with that being placed in the order as
9 relates to the specific provisions of my order dating
10 back to April 26 of 2017. And make sure you circulate
11 it, and have Mr. Waite look it. He doesn't have to sign
12 off. If he has a problem with it, he can submit a
13 competing order. I have no problem with that.

14 So anyway, that'll be my decision. And with
15 that in mind, everyone enjoy your day.

16 MR. WAITE: Thank you.

17 MR. SMITH: Thank you, Your Honor.

18 MS. WANG: Thank you, Your Honor. Have a
19 wonderful 4th of July weekend.

20 THE COURT: All right. Everyone enjoy your day.
21 Stay safe out there.

22 (Hearing concluded at 10:02 a.m.)

23

24

* * * * *

25

1 I hereby certify that the foregoing proceedings
2 were taken at the time and place herein named; that the
3 transcript is a true record of the proceedings as
4 reported by me, a duly certified shorthand reporter and
5 disinterested person, and was thereafter transcribed into
6 typewriting by computer.

7 I further certify that I am not interested in
8 the outcome of said action, nor connected with, nor
9 related to any of the parties in said action, nor to
10 their respective counsel.

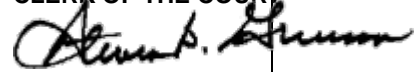
11 In witness whereof, I have hereunto set my hand
12 this 9th day of July, 2020.

13 *Michael A. Bouley*
14 _____

15 Michael A. Bouley, RDR
16 Nevada CCR #960
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NEOJ
CHRISTENSEN JAMES & MARTIN
KEVIN B. CHRISTENSEN, ESQ.
Nevada Bar No. 175
WESLEY J. SMITH, ESQ.
Nevada Bar No. 11871
LAURA J. WOLFF, ESQ.
Nevada Bar No. 6869
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
Tel.: (702) 255-1718
Facsimile: (702) 255-0871
Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com
*Attorneys for September Trust, Zobrist Trust, Sandoval Trust
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.

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

**NOTICE OF ENTRY OF ORDER
DENYING DEFENDANT LYTLE
TRUST'S MOTION FOR
CLARIFICATION AND EX PARTE
REQUEST FOR ORDER
SHORTENING TIME**

Date: July 2, 2020
Time: 9:00 a.m.

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-17-765372-C
Dept. No.: XVI

CONSOLIDATED

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 PLEASE TAKE NOTICE that on July 15, 2020, an Order Denying Defendant Lytle
13 Trust's Motion for Clarification and Ex Parte Request for Order Shortening Time was filed with
14 the Court, a copy of which is attached hereto.

15 DATED this 15th day of July, 2020.

16 **CHRISTENSEN JAMES & MARTIN**

17 By: /s/ Wesley J. Smith, Esq.

18 Wesley J. Smith, Esq.

19 Nevada Bar No. 11871

20 Laura J. Wolff, Esq.

21 Nevada Bar No. 6869

22 7440 W. Sahara Ave.

23 Las Vegas, NV 89117

24 *Attorneys for Plaintiffs September Trust,*

25 *Zobrist Trust, Sandoval Trust, and*

26 *Dennis & Julie Gegen*

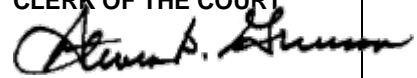
CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin. On July 15, 2020, I caused a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER DENYING DEFENDANT LYTTLE TRUST'S MOTION FOR CLARIFICATION AND EX PARTE REQUEST FOR ORDER SHORTENING TIME, to be served in the following manner:

☒ **ELECTRONIC SERVICE**: electronic transmission (E-Service) through the Court's electronic filing system pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada.

Liz Gould (liz@foleyoakes.com)
Daniel Foley (Dan@foleyoakes.com)
Joel Henriod (JHenriod@LRRC.com)
Daniel Polsenberg (DPolsenberg@LRRC.com)
Dan Waite (DWaite@LRRC.com)
Luz Horvath (lhorvath@lrrc.com)
Lisa Noltie (lnoltie@lrrc.com)
Christina Wang (christina.wang@fnf.com)
FNLG Court Filings (FNLG-Court-Filings-NV@fnf.com)
Maren Foley (maren@foleyoakes.com)
Richard Haskin (rhaskin@gibbsgiden.com)
Robin Jackson (rjackson@gibbsgiden.com)
Shara Berry (sberry@gibbsgiden.com)
Daniel Hansen (dhansen@gibbsgiden.com)

/s/ Natalie Saville
Natalie Saville



1 **ORDR**

2 **CHRISTENSEN JAMES & MARTIN**

3 KEVIN B. CHRISTENSEN, ESQ.

Nevada Bar No. 175

4 WESLEY J. SMITH, ESQ.

Nevada Bar No. 11871

5 LAURA J. WOLFF, ESQ.

Nevada Bar No. 6869

6 7440 W. Sahara Avenue

Las Vegas, Nevada 89117

7 Tel.: (702) 255-1718

Facsimile: (702) 255-0871

8 Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com

Attorneys for September Trust, Zobrist Trust, Sandoval Trust

and Dennis & Julie Gegen

9 **EIGHTH JUDICIAL DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 MARJORIE B. BOULDEN, TRUSTEE OF
12 THE MARJORIE B. BOULDEN TRUST,
13 LINDA LAMOTHE AND JACQUES
14 LAMOTHE, TRUSTEES OF THE
15 JACQUES & LINDA LAMOTHE LIVING
16 TRUST,

17 Plaintiffs,

18 vs.

19 TRUDI LEE LYTLE, JOHN ALLEN
20 LYTLE, THE LYTLE TRUST, DOES I
21 through X, and ROE CORPORATIONS I
22 through X,

23 Defendants.

Case No.: A-16-747800-C

Dept. No.: XVI

**ORDER DENYING DEFENDANT
LYTLE TRUST'S MOTION FOR
CLARIFICATION AND EX PARTE
REQUEST FOR ORDER
SHORTENING TIME**

Date: July 2, 2020

Time: 9:00 a.m.

24 SEPTEMBER TRUST, DATED MARCH 23,
25 1972; GERRY R. ZOBRIST AND JOLIN G.
26 ZOBRIST, AS TRUSTEES OF THE GERRY
27 R. ZOBRIST AND JOLIN G. ZOBRIST
28 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-17-765372-C

Dept. No.: XVI

CONSOLIDATED

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 Defendant Lytle Trust's Motion for Clarification and Ex Parte
13 Request for Order Shortening Time ("Motion for Clarification") and the Opposition filed by the
14 Plaintiffs, and the Reply, which came on for hearing on July 2, 2020 at 9:00 a.m. in Department XVI of
15 the Eighth Judicial District Court, Clark County, Nevada.

16 Wesley J. Smith, Esq. of Christensen James & Martin, Chtd. appeared on behalf of September
17 Trust, dated March 23, 1972, Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the Gerry R. Zobrist
18 and Jolin G. Zobrist Family Trust, Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, as Trustees
19 of the Raynaldo G. and Evelyn A. Sandoval Joint Living and Devolution Trust dated May 27, 1992, and
20 Dennis A. Gegen and Julie S. Gegen, Husband and Wife, as Joint Tenants (collectively the "Plaintiffs").
21 Christina H. Wang, Esq. of Fidelity National Law Group appeared on behalf of Robert Z. Disman and
22 Yvonne A. Disman (the "Dismans"). Dan R. Waite, Esq. of Lewis Roca Rothgerber Christie LLP
23 appeared on behalf of Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust ("Lytle
24 Trust").

25 The Court having considered the Motion, Opposition, and Reply, having heard the arguments of
26 counsel, and with good cause appearing therefore, the Court hereby denies the Motion and enters the
27 following Findings of Fact, Conclusions of Law, and Order:

28 ///

///

///

FINDINGS OF FACT

1
2 1. On May 24, 2018, this Court entered its Order Granting Motion for Summary Judgment
3 or, in the Alternative, Motion for Judgment on the Pleadings and Denying Countermotion for Summary
4 Judgment (“May 2018 Order”) in favor of the September Trust, Zobrist Trust, Sandoval Trust, and
5 Gegens and against the Lytle Trust. The May 2018 Order is hereby incorporated by reference.

6 2. On October 24, 2019, the Lytle Trust filed its Renewed Application for Appointment of
7 Receiver in *Trudi Lee Lytle and John Allen Lytle, as trustees of the Lytle Trust v. Rosemere Estates*
8 *Property Owners’ Association*, Case No. A-18-775843-C, Eighth Judicial District Court, Clark County,
9 Nevada, which case was assigned to Judge J. Kushner (the “Receivership Action”).

10 3. On December 18, 2019, Judge Kushner entered her Order Appointing a Receiver of
11 Defendant Rosemere Property Owners Association (the “Order Appointing Receiver”). Among other
12 rights, powers, and duties, the Order Appointing Receiver instructed the receiver to “[i]ssue and collect a
13 special assessment upon all owners within the Association to satisfy the Lytle Trust’s judgments against
14 the Association.” (Order Appointing Receiver at 2:19-20).

15 4. On March 4, 2020, Plaintiffs filed a Motion for Order to Show Cause Why the Lytle
16 Trust Should Not Be Held in Contempt for Violation of Court Orders (“Contempt Motion”), which
17 alleged the Lytle Trust violated the May 2018 Order by seeking the appointment of a receiver over the
18 Rosemere Estates Property Owners’ Association (the “Association”) in the Receivership Action for the
19 purpose of collecting its Judgments through special assessments on the Plaintiffs and other property
20 owners. The Lytle Trust opposed the Contempt Motion.

21 5. The Contempt Motion came on for hearing on April 22, 2020.

22 6. During the hearing held on April 22, 2020, with regard to the scope of the May 2018
23 Order, the following exchange occurred:

24 MR WAITE: And I’ll ask it again, and I’ll ask it maybe not as a rhetorical question.

25 Pending the answer, quite honestly, I may have nothing else to say. I may have
26 nothing that I know of to say. But *did you intend by your Permanent Injunction*

1 *here to strip the Lytle Trust of all of its judgment creditor rights against the*
 2 *judgment debtor association?*

3 THE COURT: Well, the association wasn't a party, but the bottom line is this: **I**
 4 **stripped the Lytle Trust of their ability and right to enforce those judgments vis-**
 5 **a-vis the homeowners in this case.**

6 April 22, 2020 Transcript at 38:25-39:12 (emphasis added).

7 7. At the end of the hearing, the Court entered an oral ruling granting the Contempt Motion.

8 8. On May 18, 2020, the Plaintiffs submitted a proposed order with explanation of the
 9 wording that the Parties could not agree on.

10 9. On May 19, 2020, the Lytle Trust submitted a competing proposed order and filed the
 11 Motion for Clarification seeking to clarify, *inter alia*, what judgment creditor rights the Lytle Trust
 12 could or could not exercise without violating the May 2018 Order.

13 10. On May 22, 2020, this Court entered its Findings of Fact, Conclusions of Law, and Order
 14 Granting Plaintiffs' Motion for Order to Show Cause Why the Lytle Trust Should Not Be Held in
 15 Contempt for Violation of Court Orders ("Contempt Order") against the Lytle Trust. The May 2020
 16 Order is hereby incorporated by reference.

17 11. The Contempt Order entered on May 22, 2020 was the Order proposed by the Plaintiffs.

18 12. The Contempt Order, with regard to the May 2018 Order, stated the following
 19 Conclusions of Law:

20 10. The May 2018 Order's permanent injunction clearly precluded the Lytle
 21 Trust from doing anything as it relates to enforcing and recording the Rosemere
 22 Judgments ***against the Plaintiffs and Dismans or their properties.***

23 11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the
 24 Rosemere Judgments ***from the Plaintiffs or Dismans*** in any way, shape, or form.

25 Contempt Order at 10:23-28 (emphasis added).

26 13. The Defendant's proposed order did not have the language emphasized above and this
 27 difference between the competing orders was highlighted by the parties in their proposals.
 28

14. All of the Court's decisions in this case, including the May 2018 Order and the Contempt Order, are based upon the history of this case, and more specifically, the Findings of Fact, Conclusions of Law, and Order Granting the Boulden Trust and Lamothe Trust's Motion for Partial Summary Judgment entered by the Court on April 26, 2017 ("April 2017 Order") against the Lytle Trust.¹ The April 2017 Order is hereby incorporated by reference.

15. The April 2017 Order has been the ruling of this Court for over three years, was subject to review by the Nevada Supreme Court, and withstood appellate scrutiny.

16. The May 2018 Order referenced the April 2017 Order and borrowed its Findings of Fact and Conclusions of Law.

17. The April 2017 Order states clearly what actions can and cannot be taken by the Lytle Trust, as follows:

18. **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Defendants are permanently enjoined from taking any action in the future against the Plaintiffs or their properties based upon the Rosemere LPA Litigation.

19. April 2017 Order, 7:1-3; July 2017 Order 7:1-3.

20. The April 2017 Order also contains the following:

3. As a result of the Rosemere LPA Litigation, the Amended CC&Rs were judicially declared to have been improperly adopted and recorded, the Amended CC&Rs are invalid and have no force and effect and were declared void ab initio.

4. The Plaintiffs were not parties to the Rosemere LPA Litigation.

5. The Plaintiffs were not "losing parties" in the Rosemere LPA Litigation as per Section 25 of the Original CC&Rs.

6. The Final Judgment in favor of the Defendants is not against, and is not an obligation of, the Plaintiffs.

¹ As noted in the Contempt Order at 3:8-14 and n.1, the April 2017 Order was modified on July 27, 2017 by removing any order on the slander of title claim, which is not at issue in the present Motion and did not impact the language of the April 2017 Order quoted herein.

7. The Final Judgment against the Association is not an obligation or debt owed by the Plaintiffs.

April 2017 Order at 4:23-5:7; July 2017 Order at 4:14-23.

CONCLUSIONS OF LAW

1. The Court made its intentions clear at the April 22, 2020 hearing when it stated “I stripped the Lytle Trust of their ability and right to enforce those judgments vis-a-vis the homeowners in this case.” April 22, 2020 Transcript at 38:25-39:12.

2. Any doubt as to the Court’s intent regarding the May 2018 Order was resolved by entry of the written May 2020 Order after consideration of the competing orders submitted by the Plaintiffs and Defendant, specifically when the Court entered the following Conclusions of Law:

10. The May 2018 Order’s permanent injunction clearly precluded the Lytle Trust from doing anything as it relates to enforcing and recording the Rosemere Judgments ***against the Plaintiffs and Dismans or their properties.***

11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments ***from the Plaintiffs or Dismans*** in any way, shape, or form.

Contempt Order at 10:23-28 (emphasis added).

3. The Court conclusively answered the Lytle Trust’s question by entering the Order prepared by the Plaintiffs that included the emphasized language.

4. The Court did not hold the Lytle Trust in contempt for violating the April 2017 Order and does not expand its Contempt Order to include the April 2017 Order by entering this Order.

5. The thrust and focus of all the Court’s decisions in this matter are based upon the history of this case, including the April 2017 Order entered 3 years ago.

6. The April 2017 Order stating Defendants are permanently enjoined from taking “any action” in the future against the Plaintiffs or their properties based upon the Rosemere LPA Litigation was also clear.

7. The broad and the plain meaning of the term “any action” means any action, whether direct or indirect.

1 8. The April 2017 Order must be looked at in its entirety to determine its thrust, scope and
2 impact with respect to what kind of action can be taken by the Lytle Trust with regard to collecting on
3 its Judgments against the Association.

4 9. The April 2017 Order made clear that the Rosemere Judgments are not against the
5 Plaintiffs or an obligation or debt owed by the Plaintiffs.

6 10. The April 2017 Order also made clear that the Lytle Trust cannot take any action against
7 the Plaintiffs to attempt to collect its Judgments against the Association.

8 11. The May 2018 Order contains nearly identical Findings of Fact, Conclusions of Law, and
9 Orders.

10 12. Therefore, any action by the Lytle Trust to collect its Judgments against the Association
11 that results in payment of the Judgments by the Plaintiffs is a violation of the May 2018 Order.

12 13. This Court cannot make decisions based upon hypothetical situations presented by the
13 Lytle Trust. A case has to be ripe for adjudication and any decision based upon the facts of this case.

14 14. Because the language of the Orders discussed herein is clear, there is no clarification
15 needed or that the Court can provide.

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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 Defendant's Lytle Trust Motion for Clarification and Ex Parte Request for Order Shortening Time is DENIED.

IT IS SO ORDERED.

Dated this 15th day of July, 2020.


DISTRICT COURT JUDGE
CG

Submitted by:

CHRISTENSEN JAMES & MARTIN

/s/ Wesley J. Smith

Wesley J. Smith, Esq.

Nevada Bar No. 11871

Laura J. Wolff, Esq.

Nevada Bar No. 6869

7440 W. Sahara Ave.

Las Vegas, NV 89117

Attorneys for Plaintiffs September Trust,

Zobrist Trust, Sandoval Trust, and

Dennis & Julie Gegen

**Approved as to Form and Content —
Reserving All Appeal Rights – by:**

**LEWIS ROCA ROTHBERGER CHRISTIE
LLP**

/s/ Dan R. Waite

DAN R. WAITE, ESQ.

Nevada Bar 4078

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

Attorneys for Lytle Trust

RE: Dept 16 - A-16-747800-C - Boulden v. Lytle - Proposed Order Denying Motion for Clarification

Waite, Dan R. <DWaite@lrrc.com>

Tue 7/14/2020 9:15 AM

To: Wesley Smith <wes@cjmlv.com>

Thank you, Wes. You have my authorization to include my /s/ electronic signature and to submit the Order to the Court. All the best,

Dan

Dan R. Waite

Partner

702.474.2638 office

702.949.8398 fax

dwaite@lrrc.com

Lewis Roca
ROTHGERBER CHRISTIE

Lewis Roca Rothgerber Christie LLP

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

lrrc.com

From: Wesley Smith <wes@cjmlv.com>

Sent: Tuesday, July 14, 2020 9:10 AM

To: Waite, Dan R. <DWaite@lrrc.com>

Subject: Dept 16 - A-16-747800-C - Boulden v. Lytle - Proposed Order Denying Motion for Clarification

[EXTERNAL]

Dan,

Attached please find the final version of the Proposed Order Denying Motion for Clarification in the above referenced matter. Please review and if it meets your approval, please respond confirming that I have your permission to affix your /s/ electronic signature and submit the Order to the Court.

Thanks,

Wes Smith

Christensen James & Martin

7440 W. Sahara Ave.

Las Vegas, NV 89117

Tel. (702) 255-1718

Fax (702) 255-0871

wes@cjmlv.com

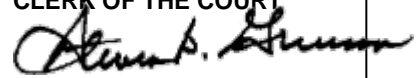
** Licensed in Nevada, Washington & Utah*

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44



1 **ANOA**
2 JOEL D. HENRIOD
3 Nevada Bar No. 8492
4 DANIEL F. POLSENBERG
5 Nevada Bar No. 2376
6 DAN R. WAITE
7 Nevada Bar No. 4078
8 LEWIS ROCA ROTHGERBER CHRISTIE LLP
9 3993 Howard Hughes Parkway, Suite 600
10 Las Vegas, Nevada 89169
11 (702) 949-8200
12 JHenriod@LRRC.com
13 DPolsenberg@LRRC.com
14 DWaite@LRRC.com

15 *Attorneys for Defendants Trudi Lee Lytle and*
16 *John Allen Lytle, as Trustees of the Lytle Trust*

17 DISTRICT COURT
18 CLARK COUNTY, NEVADA

19 MARJORIE B. BOULDEN, trustee of the
20 Marjorie B. Boulden Trust; LINDA
21 LAMOTHE; and JACQUES LAMOTHE,
22 Trustees of the Jacques & Linda
23 Lamothe Living Trust,

24 Plaintiffs,

25 v.

26 TRUDI LEE LYTLE; and JOHN ALLEN
27 LYTLE, as trustees of the Lytle Trust,
28 DOES I through X, inclusive, and ROE
CORPORATIONS I through X,

Defendants.

Case No. A-16-747800-C

Dep't No. 16

AMENDED NOTICE OF APPEAL

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,

Plaintiffs,

v.

TRUDI LEE LYTLE; and JOHN ALLEN

Consolidated with:

Case No. A-17-765372-C

Dep't No. 16

1 LYTLE, as trustees of the Lytle Trust,
2 JOHN DOES I through V, inclusive, and
3 ROE ENTITIES I through V, inclusive,
4 Defendants.

5 Please take notice that defendants Trudi Lee Lytle and John Allen Lytle,
6 as Trustees of the Lytle Trust hereby appeal to the Supreme Court of Nevada
7 from:

8 1. "Order Granting Plaintiffs' Motion for Order to Show Cause Why
9 the Lytle Trust Should Not be Held in Contempt for Violation of Court Orders,"
10 filed May 22, 2020, notice of entry of which was served electronically on May 22,
11 2020 (Exhibit A);

12 2. "Order Denying Defendant Lytle Trust's Motion for Clarification
13 and Ex Parte Request for Order Shortening Time," filed July 15, 2020, notice of
14 entry of which was served electronically on July 15, 2020 (Exhibit B); and

15 3. All judgments, rulings and interlocutory orders made appealable by
16 the foregoing.

17 Dated this 31st day of July, 2020.

18 LEWIS ROCA ROTHGERBER CHRISTIE LLP

19
20 By: /s/Joel D. Henriod

21 JOEL D. HENRIOD (SBN 8492)
22 DANIEL F. POLSENBERG (SBN 2376)
23 DAN R. WAITE (SBN 4078)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

24 *Attorneys for Defendants Trudi Lee Lytle and*
25 *John Allen Lytle, as Trustees of the Lytle*
26 *Trust*

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of July, 2020, I served the foregoing
“Amended Notice of Appeal” on counsel by the Court’s electronic filing system
to the persons and addresses listed below:

KEVIN B. CHRISTENSEN
WESLEY J. SMITH
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
KBC@CJMLV.com
Wes@CJMLV.com

Christina H. Wang
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113
Christina.Wang@FNF.com

*Attorneys for Robert Z. Disman and
Yvonne A. Disman*

*Attorneys for 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*

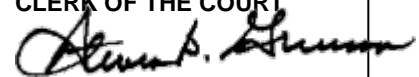
Daniel T. Foley
FOLEY & OAKES, PC
1210 South Valley View Boulevard
Suite 208
Las Vegas, Nevada 89102
Dan@FoleyOakes.com

*Attorneys for Marjorie B. Boulden, trustee
of the Marjorie B. Boulden Trust, and
Linda Lamothe and Jacques Lamothe,
trustees of the Jacques & Linda Lamothe
Living Trust*

/s/ Lisa M. Noltie
An Employee of LEWIS ROCA ROTHGERBER CHRISTIE LLP

45

45



1 **ACAS**
2 JOEL D. HENRIOD
3 Nevada Bar No. 8492
4 DANIEL F. POLSENBERG
5 Nevada Bar No. 2376
6 DAN R. WAITE
7 Nevada Bar No. 4078
8 LEWIS ROCA ROTHGERBER CHRISTIE LLP
9 3993 Howard Hughes Parkway, Suite 600
10 Las Vegas, Nevada 89169
11 (702) 949-8200
12 JHenriod@LRRC.com
13 DPolsenberg@LRRC.com
14 DWaite@LRRC.com

15 *Attorneys for Defendants Trudi Lee Lytle and*
16 *John Allen Lytle, as Trustees of the Lytle Trust*

17
18 DISTRICT COURT
19 CLARK COUNTY, NEVADA

20 MARJORIE B. BOULDEN, trustee of the
21 Marjorie B. Boulden Trust; LINDA
22 LAMOTHE; and JACQUES LAMOTHE,
23 Trustees of the Jacques & Linda
24 Lamothe Living Trust,

25 Plaintiffs,

26 v.

27 TRUDI LEE LYTLE; and JOHN ALLEN
28 LYTLE, as trustees of the Lytle Trust,
DOES I through X, inclusive, and ROE
CORPORATIONS I through X,

Defendants.

Case No. A-16-747800-C

Dep't No. 16

AMENDED CASE
APPEAL STATEMENT

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,

Plaintiffs,

Consolidated with:

Case No. A-17-765372-C

Dep't No. 16

v.

TRUDI LEE LYTLE; and JOHN ALLEN
LYTLE, as trustees of the Lytle Trust,
JOHN DOES I through V, inclusive, and
ROE ENTITIES I through V, inclusive,

Defendants.

1. Name of appellants filing this case appeal statement:

Defendants Trudi Lee Lytle and John Allen Lytle, as trustees
of the Lytle Trust

2. Identify the judge issuing the decision, judgment, or order appealed from:

The Honorable Timothy C. Williams

3. Identify each appellant and the name and address of counsel for each
appellant:

*Attorneys for Appellants Trudi Lee Lytle and
John Allen Lytle, as Trustees of the Lytle Trust*

JOEL D. HENRIOD
DANIEL F. POLSENBERG
DAN R. WAITE
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

4. Identify each respondent and the name and address of appellate counsel,
if known, for each respondent (if the name of a respondent's appellate
counsel is unknown, indicate as much and provide the name and address
of that respondent's trial counsel):¹

*Attorneys for Respondents 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*

¹ Plaintiffs Marjorie B. Boulden, trustee of the Marjorie B. Boulden Trust, and
Linda Lamothe and Jacques Lamothe, trustees of the Jacques & Linda
Lamothe Living Trust would be listed as respondents, but they filed a
"Withdrawal of Joinder on Plaintiffs September Trust, et al.'s Motion for an
Order to Show Cause Why the Lytle Trust Should Not be Held in Contempt for
Violation of Court Orders" on May 14, 2020 as a result of a settlement
agreement reached with the Lytle Trust. (Ex. A.)

27, 1992, and Dennis A. Gegen and Julie S. Gegen, husband and wife, as joint tenants

KEVIN B. CHRISTENSEN
WESLEY J. SMITH
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
(702) 255-1718

Attorneys for Respondents Robert Z. Disman and Yvonne A. Disman

CHRISTINA H. WANG
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113
(702) 667-3000

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

N/A

6. Indicate whether appellant was represented by appointed or retained counsel in the district court:

Retained counsel

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

Retained counsel

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

N/A

9. Indicate the date the proceedings commenced in the district court, e.g., date complaint, indictment, information, or petition was filed:

"Complaint," filed December 8, 2016 in case no. A-16-7476800-C.

"Complaint," filed November 30, 2017 in case no. A-17-765372-C.

Case no. A-17-765372-C was consolidated with case no. A-16-7476800-C on February 28, 2018.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

In other lawsuits, the defendant Lytle Trust obtained three judgments (totaling approx. \$1.8 million) against the Rosemere Estate Property Owners Association ("Association"). The Lytle Trust is a member of the Association. This action stems from a dispute over the validity and legal effect of abstracts of judgments the Lytle Trust recorded against certain residential property owned by other Association members. The district court (Judge T. Williams) granted summary judgment in favor of plaintiffs and entered a permanent injunction against the Lytle Trust precluding action to enforce their judgments directly against the other Association members (the "May 2018 order"). The Dismans were added as parties to the litigation when they purchased the Boulden property.

Separately, the Lytle Trust later filed an action in the district court (assigned to Judge J. Kishner) for the appointment of a receiver over the judgment debtor Association ("Receiver Action"). Judge Kishner appointed a Receiver over the Association and empowered the Receiver to, *inter alia*, take action to satisfy its judgment liability to the Lytle Trust. The other Association homeowners, who were not parties to the Receiver Action, filed a motion in the underlying action with Judge Williams seeking to hold the Lytle Trust in contempt for violating the permanent injunction by seeking the appointment of a Receiver.

The Lytle Trust appealed from the post-judgment order holding it in contempt for purportedly violating the May 2018 order by seeking the appointment of a receiver, and awarding penalties and expenses to the September Trust, the Zobrist Trust, the Sandoval Trust, the Gegens, and the Dismans on June 22, 2020. The Lytle Trust now amends its notice of appeal to include the order denying its motion for clarification.

11. Indicate whether the case has previously been the subject of an appeal or an original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding.

Lytle v. Boulden, Case No. 73039

Lytle v. September Trust, Dated March 23, 1972, Case No. 76198

Lytle v. September Trust, Dated March 23, 1972, Case No. 77007

Lytle v. Disman, Case No. 79753

Lytle v. Boulden, Case No. 79776

12. Indicate whether this appeal involves child custody or visitation:

This case does not involve child custody or visitation.

1 13. If this is a civil case, indicate whether this appeal involves the possibility
2 of settlement:

3 Not applicable, as this appeal already has been removed from
4 the Court's settlement program.

5 Dated this 31st day of July, 2020.

6 LEWIS ROCA ROTHGERBER CHRISTIE LLP

7 By: /s/Joel D. Henriod

8 JOEL D. HENRIOD (SBN 8492)
9 DANIEL F. POLSENBERG (SBN 2376)
10 DAN R. WAITE (SBN 4078)
11 3993 Howard Hughes Parkway, Suite 600
12 Las Vegas, Nevada 89169
13 (702) 949-8200

14 *Attorneys for Defendants Trudi Lee Lytle and*
15 *John Allen Lytle, as Trustees of the Lytle*
16 *Trust*

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of July, 2020, I served the foregoing “Case Appeal Statement” on counsel by the Court’s electronic filing system to the persons and addresses listed below:

KEVIN B. CHRISTENSEN
WESLEY J. SMITH
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
KBC@CJMLV.com
Wes@CJMLV.com

Christina H. Wang
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113
Christina.Wang@FNF.com

*Attorneys for Robert Z. Disman and
Yvonne A. Disman*

*Attorneys for 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*

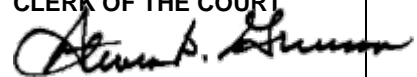
Daniel T. Foley
FOLEY & OAKES, PC
1210 South Valley View Boulevard
Suite 208
Las Vegas, Nevada 89102
Dan@FoleyOakes.com

*Attorneys for Marjorie B. Boulden, trustee
of the Marjorie B. Boulden Trust, and
Linda Lamothe and Jacques Lamothe,
trustees of the Jacques & Linda Lamothe
Living Trust*

/s/ Lisa M. Noltie
An Employee of LEWIS ROCA ROTHGERBER CHRISTIE LLP

46

46



ERR

JOEL D. HENRIOD
Nevada Bar No. 8492
DANIEL F. POLSENBERG
Nevada Bar No. 2376
DAN R. WAITE
Nevada Bar No. 4078
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
JHenriod@LRRC.com
DPolsenberg@LRRC.com
DWaite@LRRC.com

*Attorneys for Defendants Trudi Lee Lytle and
John Allen Lytle, as Trustees of the Lytle Trust*

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,

v.

TRUDI LEE LYTLE; and JOHN ALLEN
LYTLE, as trustees of the Lytle Trust,
DOES I through X, inclusive, and ROE
CORPORATIONS I through X,

Defendants.

Case No. A-16-747800-C

Dep't No. 16

**ERRATA TO
AMENDED NOTICE OF APPEAL**

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,

Plaintiffs,

v.

TRUDI LEE LYTLE; and JOHN ALLEN

Consolidated with:

Case No. A-17-765372-C

Dep't No. 16

1 LYTLE, as trustees of the Lytle Trust,
2 JOHN DOES I through V, inclusive, and
3 ROE ENTITIES I through V, inclusive,

4 Defendants.

5 The exhibits to defendants' July 31, 2020, "Amended Notice of Appeal"
6 were inadvertently omitted. They are attached here.

7 Dated this 4th day of August, 2020.

8 LEWIS ROCA ROTHGERBER CHRISTIE LLP

9
10 By: /s/Joel D. Henriod

11 JOEL D. HENRIOD (SBN 8492)
12 DANIEL F. POLSENBERG (SBN 2376)
13 DAN R. WAITE (SBN 4078)
14 3993 Howard Hughes Parkway, Suite 600
15 Las Vegas, Nevada 89169
16 (702) 949-8200

17 *Attorneys for Defendants Trudi Lee Lytle and*
18 *John Allen Lytle, as Trustees of the Lytle*
19 *Trust*

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of August, 2020, I served the foregoing
“Errata to Amended Notice of Appeal” on counsel by the Court’s electronic
filing system to the persons and addresses listed below:

KEVIN B. CHRISTENSEN
WESLEY J. SMITH
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
KBC@CJMLV.com
Wes@CJMLV.com

Christina H. Wang
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113
Christina.Wang@FNF.com

*Attorneys for Robert Z. Disman and
Yvonne A. Disman*

*Attorneys for 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*

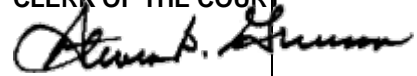
Daniel T. Foley
FOLEY & OAKES, PC
1210 South Valley View Boulevard
Suite 208
Las Vegas, Nevada 89102
Dan@FoleyOakes.com

*Attorneys for Marjorie B. Boulden, trustee
of the Marjorie B. Boulden Trust, and
Linda Lamothe and Jacques Lamothe,
trustees of the Jacques & Linda Lamothe
Living Trust*

/s/ Jessie M. Helm
An Employee of LEWIS ROCA ROTHGERBER CHRISTIE LLP

EXHIBIT A

EXHIBIT A



NEOJ
CHRISTENSEN JAMES & MARTIN
KEVIN B. CHRISTENSEN, ESQ.
Nevada Bar No. 175
WESLEY J. SMITH, ESQ.
Nevada Bar No. 11871
LAURA J. WOLFF, ESQ.
Nevada Bar No. 6869
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
Tel.: (702) 255-1718
Facsimile: (702) 255-0871
Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com
*Attorneys for September Trust, Zobrist Trust, Sandoval Trust,
and Dennis & Julie Gegen*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

MARJORIE B. BOULDEN, TRUSTEE OF
THE MARJORIE B. BOULDEN TRUST, *et*
al.,

Plaintiffs,

vs.

TRUDI LEE LYTLE, *et al.*,

Defendants.

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

**NOTICE OF ENTRY OF ORDER
GRANTING PLAINTIFFS'
MOTION FOR ORDER TO SHOW
CAUSE WHY THE LYTLE TRUST
SHOULD NOT BE HELD IN
CONTEMPT FOR VIOLATION OF
COURT ORDERS**

SEPTEMBER TRUST, DATED MARCH 23,
1972, *et al.*,

Plaintiffs,

vs.

TRUDI LEE LYTLE AND JOHN ALLEN
LYTLE, AS TRUSTEES OF THE LYTLE
TRUST, *et al.*,

Defendants.

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

CONSOLIDATED

NOTICE IS HEREBY GIVEN, that an Order Granting Plaintiffs' Motion for Order to
Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders

1 was entered in the above-captioned matter on May 22, 2020. A copy of the Order is attached
2 hereto.

3 DATED this 22nd day of May 2020.

CHRISTENSEN JAMES & MARTIN

4
5 By: /s/ Wesley J. Smith
6 Wesley J. Smith, Esq.
7 Nevada Bar No. 11871
8 *Attorneys for September Trust, Zobrist*
9 *Trust, Sandoval Trust and Gegen*
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CHRISTENSEN JAMES & MARTIN
7440 WEST SAHARA AVE., LAS VEGAS, NEVADA 89117
PH: (702) 255-1718 & FAX: (702) 255-0871

CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin. On May 22, 2020, I caused a true and correct copy of the foregoing Notice of Entry of Order Granting Plaintiffs' Motion for Order to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, to be served in the following manner:

☒ **ELECTRONIC SERVICE**: electronic transmission (E-Service) through the Court's electronic filing system pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada.

Liz Gould (liz@foleyoakes.com)
 Daniel Foley (Dan@foleyoakes.com)
 Maren Foley (maren@foleyoakes.com)
 Jennifer Martinez (jennifer.martinez@fnf.com)
 Christina Wang (christina.wang@fnf.com)
 Mia Hurtado (mia.hurtado@fnf.com)
 Richard E. Haskin, Esq. (rhaskin@gibbsgiden.com)
 Robin Jackson (rjackson@gibbsgiden.com)
 Shara Berry (sberry@gibbsgiden.com)
 Daniel Hansen (dhansen@gibbsgiden.com)
 Joel D. Henriod (JHenriod@LRRC.com)
 Daniel F. Polsenberg (DPolsenberg@LRRC.com)
 Dan R. Waite (DWaite@LRRC.com)

☐ **UNITED STATES MAIL**: depositing a true and correct copy of the above-referenced document into the United States Mail with prepaid first-class postage, addressed to the parties at their last-known mailing address(es):

☐ **FACSIMILE**: By sending the above-referenced document via facsimile as follows:

☐ **E-MAIL**: electronic transmission by email to the following address(es):

/s/ Natalie Saville
 Natalie Saville

ORDR

CHRISTENSEN JAMES & MARTIN

KEVIN B. CHRISTENSEN, ESQ.

Nevada Bar No. 175

WESLEY J. SMITH, ESQ.

Nevada Bar No. 11871

LAURA J. WOLFF, ESQ.

Nevada Bar No. 6869

7440 W. Sahara Avenue

Las Vegas, Nevada 89117

Tel.: (702) 255-1718

Facsimile: (702) 255-0871

Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com

Attorneys for September Trust, Zobrist Trust, Sandoval Trust

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.

Case No.: A-16-747800-C

Dept. No.: XVI

**ORDER GRANTING PLAINTIFFS'
MOTION FOR ORDER TO SHOW
CAUSE WHY THE LYTLE TRUST
SHOULD NOT BE HELD IN
CONTEMPT FOR VIOLATION OF
COURT ORDERS**

Date: April 22, 2020

Time: 9:00 a.m.

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-17-765372-C

Dept. No.: XVI

CONSOLIDATED

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 Order to Show Cause Why the Lytle Trust
13 Should Not Be Held in Contempt for Violation of Court Orders ("Motion") filed by the September Trust,
14 dated March 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the
15 Gerry R. 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. Gegen,
18 Husband and Wife, as Joint Tenants ("Dennis & Julie Gegen") (collectively the "Plaintiffs"), the Joinders
19 filed by Marjorie B. Boulden, Trustee of the Marjorie B. Boulden Trust, amended and restated dated July
20 17, 1996 ("Boulden Trust") and Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda
21 Lamothe Living Trust ("Lamothe Trust") and Robert Z. Disman and Yvonne A. Disman (the "Dismans"),
22 and the Opposition and Reply thereto, which came on for hearing on April 22, 2020 at 9:00 a.m. in
23 Department XVI of the Eighth Judicial District Court, Clark County, Nevada.

24 Wesley J. Smith, Esq. of Christensen James & Martin, Chtd. appeared on behalf of the Plaintiffs.
25 Daniel T. Foley, Esq. of Foley & Oakes, PC appeared on behalf of the Boulden Trust and Lamothe Trust.
26 Christina H. Wang, Esq. of Fidelity National Law Group appeared on behalf of the Dismans. Dan R.
27 Waite, Esq. of Lewis Roca Rothgerber Christie LLP and Richard Haskin, Esq. of Gibbs Giden Locher
28 Turner Senet & Wittbrodt LLP appeared on behalf of Trudi Lee Lytle and John Allen Lytle, as Trustees
of the Lytle Trust ("Lytle Trust"). Patricia Lee, Esq. of Hutchison & Steffen was present on behalf of
Kevin Singer, court appointed Receiver over the Rosemere Estates Property Owners Association

1 (“Association”), in Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property*
 2 *Owners’ Association* (“Receivership Action”).

3 The Court having considered the Motion, Joinders, Opposition, and Reply, together with the
 4 Exhibits thereto, having heard the arguments of counsel, and with good cause appearing therefore, the
 5 Court hereby grants the Motion and Joinders and enters the following Findings of Fact, Conclusions of
 6 Law, and Order:

7 **FINDINGS OF FACT**

8 1. On April 26, 2017, this Court entered its Findings of Fact, Conclusions of Law, and Order
 9 Granting the Boulden Trust and Lamothe Trust’s Motion for Partial Summary Judgment (“April 2017
 10 Order”) against the Lytle Trust. On the Lytle Trust’s Motion for Reconsideration or, in the alternative,
 11 Motion to Alter or Amend Judgment, on July 27, 2017, this Court entered its Order Granting Motion to
 12 Alter or Amend Findings of Fact and Conclusions of Law (“July 2017 Order”) in favor of the Boulden
 13 Trust and the Lamothe Trust on their Motion for Partial Summary Judgment.¹ The July 2017 Order is
 14 hereby incorporated by reference.

15 2. In the July 2017 Order, the Court concluded, in part, that: the Association is a “limited
 16 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117
 17 is not applicable to the Association; as a result of the Rosemere Litigation I (referred to in the July 2017
 18 Order as the Rosemere LPA Litigation) between the Lytle Trust and the Association, the Amended
 19 CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were invalid,
 20 have no force and effect, and were declared *void ab initio*; the Boulden Trust and Lamothe Trust were
 21 not parties to the Rosemere Litigation I; the Boulden Trust and Lamothe Trust were not “losing parties”
 22 in the Rosemere Litigation I per Section 25 of the Original CC&Rs; the Final Judgment in the Rosemere
 23 Litigation I against the Association in favor of the Lytle Trust is not against, and is not an obligation of,
 24
 25

26 ¹ The April 2017 Order included an order that the Lytle Trust had slandered title. The Court
 27 subsequently determined that it had not made findings of fact or conclusions of law on this issue and
 28 amended accordingly by entering the July 2017 Order without any order on the slander of title claim.
 The slander of title claim was later dismissed by stipulation between the parties. *See* Notice of Entry of
 Stipulation and Order to Dismiss All Remaining Claims Without Prejudice filed on January 14, 2019.

1 the Boulden Trust and Lamothe Trust; and the Final Judgment against the Association in the Rosemere
 2 Litigation I is not an obligation or debt owed by the Boulden Trust and Lamothe Trust.

3 3. The July 2017 Order also included the following permanent injunction at page 7:

4 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants
 5 are permanently enjoined from recording and enforcing the Final Judgment from the Rosemere
 6 LPA Litigation or any abstracts related thereto against the Boulden Property or the Lamothe
 7 Property.

8 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants
 9 are permanently enjoined from taking any action in the future against the Plaintiffs or their
 10 properties based upon the Rosemere LPA Litigation.

11 4. The Court ordered the Lytle Trust to expunge the Abstracts of Judgment that it had
 12 recorded against properties owned by the Boulden Trust and Lamothe Trust. The Lytle Trust released
 13 the Abstracts of Judgment, but immediately recorded two *lis pendens* against the Boulden Trust and
 14 Lamothe Trust properties. Thereafter, the Lytle Trust refused to voluntarily expunge the *lis pendens* and
 15 the Boulden Trust and Lamothe Trust were forced to file a Motion to Expunge *Lis Pendens*. This Court
 16 summarily granted the Motion on June 23, 2017 and the *lis pendens* were ordered stricken, but the Lytle
 17 Trust was not held in contempt.

18 5. The Lytle Trust appealed the July 2017 Order and the Nevada Supreme Court issued an
 19 Order of Affirmance on December 4, 2018 in Case No. 73039, *Trudi Lee Lytle v. Marjorie B. Boulden*
 20 (“First Order of Affirmance”).²

21 6. After entry of the July 2017 Order, the September Trust, Zobrist Trust, Sandoval Trust,
 22 and Gegens, which also own property within the Rosemere Subdivision, approached the Lytle Trust and
 23 requested that it release the Abstracts of Judgment recorded against their properties as well. After the
 24 Lytle Trust refused to release the Abstracts of Judgment as to their properties, the September Trust,
 25 Zobrist Trust, Sandoval Trust, and Gegens filed a Complaint against the Lytle Trust in Case No. A-17-
 26 765372-C, which was consolidated with this Case (Case No. A-16-747900-C) on February 21, 2018.

27 ² The Boulden Trust sold its property to the Dismans on August 4, 2017. This Court subsequently held,
 28 in an Order entered on or about December 26, 2018, that the July 2017 Order likewise applied to the
 Rosemere Litigation II Judgment, which the Lytle Trust sought to enforce against the Lamothe Trust
 and the Dismans’ and their properties after entry of the July 2017 Order.

1 7. On May 24, 2018, this Court entered its Order Granting Motion for Summary Judgment
2 or, in the Alternative, Motion for Judgment on the Pleadings and Denying Countermotion for Summary
3 Judgment (“May 2018 Order”) in favor of the September Trust, Zobrist Trust, Sandoval Trust, and
4 Gegens and against the Lytle Trust. The May 2018 Order is hereby incorporated by reference.

5 8. In the May 2018 Order, the Court concluded, in part, that: the Association is a “limited
6 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117,
7 the statute upon which the Lytle Trust relied to record the Abstracts of Judgment, is not applicable to the
8 Association; as a result of the Rosemere Litigation I between the Lytle Trust and the Association, the
9 Amended CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were
10 invalid, have no force and effect, and were declared *void ab initio*; the September Trust, Zobrist Trust,
11 Sandoval Trust, and Gegens were not parties to the Rosemere Litigation I, Rosemere Litigation II, or
12 Rosemere Litigation III; the September Trust, Zobrist Trust, Sandoval Trust, and Gegens were not
13 “losing parties” in the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III per
14 Section 25 of the Original CC&Rs; the Judgments issued in the Rosemere Litigation I, Rosemere
15 Litigation II, or Rosemere Litigation III (collectively the “Rosemere Judgments”) against the Association
16 in favor of the Lytle Trust are not against, and are not an obligation of, the September Trust, Zobrist
17 Trust, Sandoval Trust, or Gegens to the Lytle Trust; and the Rosemere Judgments against the Association
18 are not an obligation or debt owed by the September Trust, Zobrist Trust, Sandoval Trust, or Gegens to
19 the Lytle Trust.

20 9. The May 2018 Order, at page 10, lines 10-19, contained the following permanent
21 injunction:

22 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust
23 is permanently enjoined from recording and enforcing the Judgments obtained from the
24 Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other
judgments obtained against the Association, against the September Property, Zobrist Property,
Sandoval Property or Gegen Property.

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

1 10. On June 19, 2018, the Lytle Trust appealed the May 2018 Order to the Nevada Supreme
2 Court, Case No. 76198, *Trudi Lee Lytle v. September Trust, Dated March 23, 1972*. This appeal was
3 consolidated with the Lytle Trust's subsequent appeal of an award of attorney's fees and costs in favor
4 of the September Trust, Zobrist Trust, Sandoval Trust, and Gegens under NRS 18.010(2)(b), Case No.
5 77007. The Supreme Court entered its Order of Affirmance affirming the May 2018 Order and
6 subsequent fees order on March 2, 2020 ("Second Order of Affirmance").

7 11. On June 8, 2018, the Lytle Trust filed a new action, Case No. A-18-775843-C, *Trudi Lee*
8 *Lytle et al. v. Rosemere Estates Property Owners' Association* ("Receivership Action"), asserting claims
9 against the Association for (a) Declaratory Judgment, and (b) Breach of Contract/Easement Agreement.
10 The prayer for relief in the Receivership Action sought:

11 a. an Order declaring that the Association must continue to operate as required by the
12 CC&Rs and Chapters 82 and 116 of the Nevada Revised Statutes, which includes, but is not limited
13 to: 1) maintaining the landscaping in the exterior wall planters; 2) maintaining the exterior
14 perimeter and frontage; 3) maintaining the entrance gate; 4) maintaining the private drive and
15 sewer system; 5) ensuring that homeowners are paying their assessments; 6) seeking collection
16 activity against any homeowners that have failed to pay their assessments; 7) paying known
17 creditors of the Association; 8) specially assessing the homeowners to ensure that enough proceeds
18 exist within the HOA funds to pay all known creditors assessing; and 9) any other activity required
19 under Nevada law.

20 b. specific performance requiring the Association to comply with the CC&Rs, as well
21 as other Nevada law, with respect to the Association's maintenance and day-to-day activities;

22 c. injunctive relief preventing the Association from violating the terms of the CC&RS,
23 as well as other Nevada law, moving forward;

24 d. appointment of a receiver to handle the maintenance obligations and day-to-day
25 activities, including the financial activities regarding assessments and creditors, until a duly
26 constituted board may be instituted and power transitioned thereto; and
27
28

e. reasonable attorneys' fees, costs of suit and litigation, and such other and further relief as the Court deems just and proper

12. The Complaint in the Receivership Action alleges that the Association is not functioning, that the common elements of the community are not being maintained, and that “the Association has not paid known creditors of the Association, which includes, but is not limited to, the annual dues to the Nevada Secretary of State or the Nevada Department of Real Estate or the Lytles, which hold multiple judgments against the Association.” Complaint at ¶ 21.

13. In a Renewed Application for Appointment of Receiver filed by the Lytle Trust on October 24, 2019 (“Application”) in the Receivership Action, the Lytle Trust asserts that one reason for a Receiver over the Association was due to the Association’s refusal to pay the Rosemere Judgments, including its refusal to assess Association members, including the Plaintiffs, so the Association could pay the Rosemere Judgments. Application at 3:2-4, 5:17-18 (“Additional grounds exist because the Association is refusing to pay and refusing to assess Association members related to various monetary judgments awarded to the Lytles against the Association”), 13:19-28 (“A receiver may be appointed...[a]fter judgment, to carry the judgment into effect” (quoting NRS 32.010(3))), 14:1-2, 16-28 (“the Lytle Trust obtained judgments against the Association and a Receiver is needed to carry those judgments into effect”), 15:20-25 (“the Association has a duty...to pay its debts, including the Judgments obtained by the Lytle Trust”), 16:17-22 (“the Association is without any governing body to assess the homeowners and pay the judgments”).

14. The Lytle Trust disclosed to the judge in the Receivership Action (the “Receivership Court”) that the Amended CC&Rs had been judicially declared *void ab initio* and of no force or effect. *Id.* at 8:11-12 (the District “Court determined that the Amended CC&Rs were not properly adopted or recorded, that the Amended CC&Rs are invalid, and that the Amended CC&Rs have no force or effect”); 8 at n.3 (“Note, Rosemere 2 Litigation commenced more than six years *before* the Court in Rosemere 1 Litigation ruled that the Amended CC&Rs were invalid.”) (emphasis in original); 9:13-17 (“In granting the Lytle Trust’s Motion for Attorneys’ Fees, the district court in the Rosemere 1 and Rosemere 2 Litigations . . . held that the Lytle Trust could recover attorneys’ fees under the Amended CC&Rs because

1 that document, while declared *void ab initio* by the district court, was in effect and enforced by the
2 Association against the Lytle Trust at all times during the underlying litigation.”).

3 15. However, The Lytle Trust further argued in the Application that the Amended CC&Rs
4 provide authority for a receiver to make special assessments on the Plaintiffs’ and other owners’
5 properties to collect funds to pay the Rosemere Judgments. *Id.* at 11:4-28, 13:1-17, 17:1-9. The Lytle
6 Trust’s Application included a section heading in its Statement of Fact section titled “The Amended
7 CC&Rs Grant the Association Authority to Assess Each Unit for Payment of Judgments Against the
8 Association.” *Id.* at 11:4-5. The Lytle Trust also represented that “the District Court already ruled that
9 the Association is liable for attorneys’ fees, costs and damages pursuant to the Amended CC&Rs, which
10 provide the Association with the ability to specially assess each property (unit) for the costs of the
11 judgments. Amended CC&Rs ¶ 10.11, Exhibit 16.” *Id.* at 17:6-9.

12 16. The Lytle Trust did not inform the Receivership Court about this Case, the July 2017 Order,
13 May 2018 Order, or the Orders of Affirmance.³ The Lytle Trust did not inform the Receivership Court
14 that this Court had issued permanent injunctions against the Lytle Trust relating to enforcement of the
15 Rosemere Judgments against the Plaintiffs, the Boulden Trust, the Lamothe Trust, the Dismans, or their
16 properties.

17 17. On December 18, 2019, based on the Lytle Trust’s Application, the Receivership Court
18 entered an Order Appointing a Receiver of Defendant Rosemere Property Owners Association (“Order
19 Appointing Receiver”). The Order Appointing Receiver, drafted by the Lytle Trust, directs the Receiver
20 to “[i]ssue and collect a special assessment upon all owners within the Association to satisfy the Lytle
21 Trust’s judgments against the Association.” Order Appointing Receiver at 2:19-20. It further empowers
22 the Receiver with “the authority to assess all Association unit owners to pay for any operation costs or
23 to pay for judgments against the Association. If an Association member does not pay an assessment then
24 the Receiver may proceed to foreclose on said member’s ownership interest in the property.” *Id.* at 6:4-
25 7.

27 ³ The Court notes that the Second Order of Affirmance was issued after entry of the Order Appointing
28 Receiver and the Lytle Trust could not have informed the Receivership Court of it prior to entry of the
Order Appointing Receiver.

18. On or around January 22, 2020, the Plaintiffs and the Dismans⁴ each received a letter from Kevin Singer of Receivership Specialists regarding the appointment of Mr. Singer as the Receiver in the Receivership Action (“Receiver Letter”). In the Receiver Letter, Mr. Singer states that “[t]he appointment of the receivership is predicated on judgments against the HOA in the approximate amount of \$1,481,822 by the Lytle family (“the Plaintiff”).... These judgments need to be paid and the Court agreed with the Plaintiff by appointing a Receiver to facilitate the satisfying of the judgments.... We would like to meet with title holding members of the HOA...[to] share three ideas we have to pay these judgments.”

19. On January 29, 2020, counsel for Plaintiffs sent a letter to the Receiver, with a copy to counsel for the Lytle Trust, notifying the Receiver that the Orders and Permanent Injunctions issued in this Case prevent further effort to collect the Rosemere Judgments from the Plaintiffs or other property owners. The Plaintiffs expressed their belief this effort to assess the property owners to pay the Rosemere Judgments violated this Court’s Orders and demanded that the Receiver cease and desist.

20. On March 4, 2020, the Plaintiffs filed the instant Motion informing the Court about the Lytle Trust’s actions and seeking sanctions for violation of this Court’s May 2018 Order. The Boulden Trust and Lamothe Trust filed a Joinder to the Motion on March 5, 2020.⁵ The Dismans filed a Joinder to the Motion on March 6, 2020.

21. The Association has never been a party to this Case.

CONCLUSIONS OF LAW

1. This case has a history, such as the filing of the *lis pendens* against the Boulden Trust and Lamothe Trust properties after the Court had ordered the expungement of the Abstracts of Judgment and continued enforcement of the Abstracts of Judgment against the September Trust, Zobrist Trust, Sandoval Trust, and Gegens’ properties after entry of the July 2017 Order, that demonstrates that the Lytle Trust does not respect this Court’s Orders.

⁴ At the time, the Boulden Trust and Lamothe Trust no longer held title to any property within the Rosemere Subdivision, having sold their properties on August 4, 2017, and May 1, 2019, respectively.

⁵ After the hearing on the Motion but prior to entry of this Order, the Boulden Trust and the Lamothe Trust withdrew their Joinders pursuant to a settlement with the Lytle Trust. Therefore, the Boulden Trust and Lamothe Trust are no longer considered movants for purposes of the relief granted herein.

2. This Court has inherent power to enforce its decrees, orders and judgments. A party is required to adhere to court orders, even disagreeable or erroneous orders, until terminated or overturned.

3. The proper course of action if a party disagrees with a Court order is to appeal.

4. The May 2018 Order must be obeyed by the Lytle Trust.

5. Each paragraph, each finding of fact, and each conclusion of law in the May 2018 Order must be given its plain meaning, and each paragraph of that Order's permanent injunction must be obeyed by the Lytle Trust.

6. As a result of the Findings of Fact and Conclusions of Law in the May 2018 Order, there were specific orders which are not mutually exclusive. Each issue ordered by the Court should be given its meaning, and they are not in conflict.

7. The Court's factual determinations and conclusions of law culminated with the permanent injunction language starting at Page 10, Line 10 of the May 2018 Order, which stated:

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, 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 Rosemere Litigation I, Rosemere Litigation II or Rosemere Litigation III.

8. These paragraphs are not mutually exclusive and each must be obeyed by the Lytle Trust.

9. The Findings of Fact, Conclusions of Law, and Orders contained in the May 2018 Order, including the permanent injunctions, are clear, specific and unambiguous as to what the parties could and could not do in this case. Further, the terms of the permanent injunction are specific and definite so that the Lytle Trust could readily know exactly what duties or obligations were imposed on it.

10. The May 2018 Order's permanent injunction clearly precluded the Lytle Trust from doing anything as it relates to enforcing and recording the Rosemere Judgments against the Plaintiffs and Dismans or their properties.

11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments from the Plaintiffs or Dismans in any way, shape, or form.

1 **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that Plaintiffs' Motion for Order
2 to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, as
3 well as the Joinders thereto filed by the Boulden Trust, the Lamothe Trust, and the Dismans, are
4 GRANTED.

5 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust
6 violated the May 2018 Order.

7 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust
8 is in contempt of the May 2018 Order.

9 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust
10 shall pay a \$500 penalty to each movant for violation of the May 2018 Order; specifically, \$500 payable
11 to the September Trust, \$500 payable to the Zobrist Trust, \$500 payable to the Sandoval Trust, \$500
12 payable to the Gegens, and \$500 payable to the Dismans.

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1 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the September
 2 Trust, Zobrist Trust, Sandoval Trust, Gegens, and Dismans, may file applications for their reasonable
 3 expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt.
 4 The Court will consider such applications on the merits.

5 **IT IS SO ORDERED.**

6 Dated this 22 day of May, 2020.

7 
 8 DISTRICT COURT JUDGE CG

9 **Submitted by:**

10 **CHRISTENSEN JAMES & MARTIN**

11 /s/ Wesley J. Smith

12 Wesley J. Smith, Esq.
 13 Nevada Bar No. 11871
 14 Laura J. Wolff, Esq.
 15 Nevada Bar No. 6869
 16 7440 W. Sahara Ave.
 17 Las Vegas, NV 89117
 18 *Attorneys for Plaintiffs September Trust,*
 19 *Zobrist Trust, Sandoval Trust, and*
 20 *Dennis & Julie Gegen*

Approved as to Form and Content by:

FIDELITY NATIONAL LAW GROUP

/s/ Christina H. Wang

CHRISTINA H. WANG, ESQ.
 Nevada Bar No. 9713
 8363 W. Sunset Road, Suite 120
 Las Vegas, Nevada 89113
Attorneys for Robert & Yvonne Disman

16 **Reviewed by Not Approved by:**

17 **LEWIS ROCA ROTHBERGER CHRISTIE**
 18 **LLP**

19 Reviewed But Not Approved

20 DAN R. WAITE, ESQ.
 21 Nevada Bar 4078
 22 3993 Howard Hughes Parkway, Suite 600
 23 Las Vegas, Nevada 89169
 24 *Attorneys for Lytle Trust*

RE: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause

Wang, Christina <Christina.Wang@fnf.com>

Mon 5/18/2020 9:52 AM

To: Wesley Smith <wes@cjmlv.com>

Cc: Engelman, Lace <Lace.Engelman@fnf.com>

Approved – thanks.

Christina H. Wang

Litigation Counsel

Fidelity National Law Group

8363 W. Sunset Road, Suite 120

Las Vegas, Nevada 89113

702-667-3000 (Main)

702-667-3002 (Direct)

702-938-8721 (Fax)

christina.wang@fnf.com

PLEASE NOTE THAT OUR OFFICE HAS MOVED TO THE ABOVE ADDRESS.

The Law Division of Alamo Title Insurance, Chicago Title Insurance Co., Commonwealth Land Title Insurance Co., Fidelity National Title Insurance Co., and Fidelity National Title Group, Inc.

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From: Wesley Smith <wes@cjmlv.com>

Sent: Monday, May 18, 2020 9:45 AM

To: Wang, Christina <Christina.Wang@fnf.com>

Cc: Engelman, Lace <Lace.Engelman@fnf.com>

Subject: Re: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause

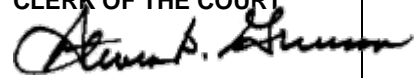
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Christina,

Per our discussion, can you please approve this version which adds the date to footnote 2?

Wes Smith

Christensen James & Martin



ORDR
CHRISTENSEN JAMES & MARTIN
KEVIN B. CHRISTENSEN, ESQ.
Nevada Bar No. 175
WESLEY J. SMITH, ESQ.
Nevada Bar No. 11871
LAURA J. WOLFF, ESQ.
Nevada Bar No. 6869
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
Tel.: (702) 255-1718
Facsimile: (702) 255-0871
Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com
*Attorneys for September Trust, Zobrist Trust, Sandoval Trust
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.

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

**ORDER GRANTING PLAINTIFFS'
MOTION FOR ORDER TO SHOW
CAUSE WHY THE LYTLE TRUST
SHOULD NOT BE HELD IN
CONTEMPT FOR VIOLATION OF
COURT ORDERS**

Date: April 22, 2020
Time: 9:00 a.m.

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-17-765372-C
Dept. No.: XVI

CONSOLIDATED

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 Order to Show Cause Why the Lytle Trust
13 Should Not Be Held in Contempt for Violation of Court Orders ("Motion") filed by the September Trust,
14 dated March 23, 1972 ("September Trust"), Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the
15 Gerry R. 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. Gegen,
18 Husband and Wife, as Joint Tenants ("Dennis & Julie Gegen") (collectively the "Plaintiffs"), the Joinders
19 filed by Marjorie B. Boulden, Trustee of the Marjorie B. Boulden Trust, amended and restated dated July
20 17, 1996 ("Boulden Trust") and Linda Lamothe and Jacques Lamothe, Trustees of the Jacques and Linda
21 Lamothe Living Trust ("Lamothe Trust") and Robert Z. Disman and Yvonne A. Disman (the "Dismans"),
22 and the Opposition and Reply thereto, which came on for hearing on April 22, 2020 at 9:00 a.m. in
23 Department XVI of the Eighth Judicial District Court, Clark County, Nevada.

24 Wesley J. Smith, Esq. of Christensen James & Martin, Chtd. appeared on behalf of the Plaintiffs.
25 Daniel T. Foley, Esq. of Foley & Oakes, PC appeared on behalf of the Boulden Trust and Lamothe Trust.
26 Christina H. Wang, Esq. of Fidelity National Law Group appeared on behalf of the Dismans. Dan R.
27 Waite, Esq. of Lewis Roca Rothgerber Christie LLP and Richard Haskin, Esq. of Gibbs Giden Locher
28 Turner Senet & Wittbrodt LLP appeared on behalf of Trudi Lee Lytle and John Allen Lytle, as Trustees
of the Lytle Trust ("Lytle Trust"). Patricia Lee, Esq. of Hutchison & Steffen was present on behalf of
Kevin Singer, court appointed Receiver over the Rosemere Estates Property Owners Association

1 (“Association”), in Case No. A-18-775843-C, *Trudi Lee Lytle et al. v. Rosemere Estates Property*
 2 *Owners’ Association* (“Receivership Action”).

3 The Court having considered the Motion, Joinders, Opposition, and Reply, together with the
 4 Exhibits thereto, having heard the arguments of counsel, and with good cause appearing therefore, the
 5 Court hereby grants the Motion and Joinders and enters the following Findings of Fact, Conclusions of
 6 Law, and Order:

7 **FINDINGS OF FACT**

8 1. On April 26, 2017, this Court entered its Findings of Fact, Conclusions of Law, and Order
 9 Granting the Boulden Trust and Lamothe Trust’s Motion for Partial Summary Judgment (“April 2017
 10 Order”) against the Lytle Trust. On the Lytle Trust’s Motion for Reconsideration or, in the alternative,
 11 Motion to Alter or Amend Judgment, on July 27, 2017, this Court entered its Order Granting Motion to
 12 Alter or Amend Findings of Fact and Conclusions of Law (“July 2017 Order”) in favor of the Boulden
 13 Trust and the Lamothe Trust on their Motion for Partial Summary Judgment.¹ The July 2017 Order is
 14 hereby incorporated by reference.

15 2. In the July 2017 Order, the Court concluded, in part, that: the Association is a “limited
 16 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117
 17 is not applicable to the Association; as a result of the Rosemere Litigation I (referred to in the July 2017
 18 Order as the Rosemere LPA Litigation) between the Lytle Trust and the Association, the Amended
 19 CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were invalid,
 20 have no force and effect, and were declared *void ab initio*; the Boulden Trust and Lamothe Trust were
 21 not parties to the Rosemere Litigation I; the Boulden Trust and Lamothe Trust were not “losing parties”
 22 in the Rosemere Litigation I per Section 25 of the Original CC&Rs; the Final Judgment in the Rosemere
 23 Litigation I against the Association in favor of the Lytle Trust is not against, and is not an obligation of,

24
 25
 26 ¹ The April 2017 Order included an order that the Lytle Trust had slandered title. The Court
 27 subsequently determined that it had not made findings of fact or conclusions of law on this issue and
 28 amended accordingly by entering the July 2017 Order without any order on the slander of title claim.
 The slander of title claim was later dismissed by stipulation between the parties. *See* Notice of Entry of
 Stipulation and Order to Dismiss All Remaining Claims Without Prejudice filed on January 14, 2019.

1 the Boulden Trust and Lamothe Trust; and the Final Judgment against the Association in the Rosemere
 2 Litigation I is not an obligation or debt owed by the Boulden Trust and Lamothe Trust.

3 3. The July 2017 Order also included the following permanent injunction at page 7:

4 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants
 5 are permanently enjoined from recording and enforcing the Final Judgment from the Rosemere
 6 LPA Litigation or any abstracts related thereto against the Boulden Property or the Lamothe
 7 Property.

8 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Defendants
 9 are permanently enjoined from taking any action in the future against the Plaintiffs or their
 10 properties based upon the Rosemere LPA Litigation.

11 4. The Court ordered the Lytle Trust to expunge the Abstracts of Judgment that it had
 12 recorded against properties owned by the Boulden Trust and Lamothe Trust. The Lytle Trust released
 13 the Abstracts of Judgment, but immediately recorded two *lis pendens* against the Boulden Trust and
 14 Lamothe Trust properties. Thereafter, the Lytle Trust refused to voluntarily expunge the *lis pendens* and
 15 the Boulden Trust and Lamothe Trust were forced to file a Motion to Expunge *Lis Pendens*. This Court
 16 summarily granted the Motion on June 23, 2017 and the *lis pendens* were ordered stricken, but the Lytle
 17 Trust was not held in contempt.

18 5. The Lytle Trust appealed the July 2017 Order and the Nevada Supreme Court issued an
 19 Order of Affirmance on December 4, 2018 in Case No. 73039, *Trudi Lee Lytle v. Marjorie B. Boulden*
 20 (“First Order of Affirmance”).²

21 6. After entry of the July 2017 Order, the September Trust, Zobrist Trust, Sandoval Trust,
 22 and Gegens, which also own property within the Rosemere Subdivision, approached the Lytle Trust and
 23 requested that it release the Abstracts of Judgment recorded against their properties as well. After the
 24 Lytle Trust refused to release the Abstracts of Judgment as to their properties, the September Trust,
 25 Zobrist Trust, Sandoval Trust, and Gegens filed a Complaint against the Lytle Trust in Case No. A-17-
 26 765372-C, which was consolidated with this Case (Case No. A-16-747900-C) on February 21, 2018.

27 ² The Boulden Trust sold its property to the Dismans on August 4, 2017. This Court subsequently held,
 28 in an Order entered on or about December 26, 2018, that the July 2017 Order likewise applied to the
 Rosemere Litigation II Judgment, which the Lytle Trust sought to enforce against the Lamothe Trust
 and the Dismans’ and their properties after entry of the July 2017 Order.

1 7. On May 24, 2018, this Court entered its Order Granting Motion for Summary Judgment
2 or, in the Alternative, Motion for Judgment on the Pleadings and Denying Countermotion for Summary
3 Judgment (“May 2018 Order”) in favor of the September Trust, Zobrist Trust, Sandoval Trust, and
4 Gegens and against the Lytle Trust. The May 2018 Order is hereby incorporated by reference.

5 8. In the May 2018 Order, the Court concluded, in part, that: the Association is a “limited
6 purpose association” as referenced in NRS 116.1201(2); as a limited purpose association, NRS 116.3117,
7 the statute upon which the Lytle Trust relied to record the Abstracts of Judgment, is not applicable to the
8 Association; as a result of the Rosemere Litigation I between the Lytle Trust and the Association, the
9 Amended CC&Rs at issue were judicially declared to have been improperly adopted and recorded, were
10 invalid, have no force and effect, and were declared *void ab initio*; the September Trust, Zobrist Trust,
11 Sandoval Trust, and Gegens were not parties to the Rosemere Litigation I, Rosemere Litigation II, or
12 Rosemere Litigation III; the September Trust, Zobrist Trust, Sandoval Trust, and Gegens were not
13 “losing parties” in the Rosemere Litigation I, Rosemere Litigation II, or Rosemere Litigation III per
14 Section 25 of the Original CC&Rs; the Judgments issued in the Rosemere Litigation I, Rosemere
15 Litigation II, or Rosemere Litigation III (collectively the “Rosemere Judgments”) against the Association
16 in favor of the Lytle Trust are not against, and are not an obligation of, the September Trust, Zobrist
17 Trust, Sandoval Trust, or Gegens to the Lytle Trust; and the Rosemere Judgments against the Association
18 are not an obligation or debt owed by the September Trust, Zobrist Trust, Sandoval Trust, or Gegens to
19 the Lytle Trust.

20 9. The May 2018 Order, at page 10, lines 10-19, contained the following permanent
21 injunction:

22 IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust
23 is permanently enjoined from recording and enforcing the Judgments obtained from the
24 Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, or any other
judgments obtained against the Association, against the September Property, Zobrist Property,
Sandoval Property or Gegen Property.

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

1 10. On June 19, 2018, the Lytle Trust appealed the May 2018 Order to the Nevada Supreme
2 Court, Case No. 76198, *Trudi Lee Lytle v. September Trust, Dated March 23, 1972*. This appeal was
3 consolidated with the Lytle Trust's subsequent appeal of an award of attorney's fees and costs in favor
4 of the September Trust, Zobrist Trust, Sandoval Trust, and Gegens under NRS 18.010(2)(b), Case No.
5 77007. The Supreme Court entered its Order of Affirmance affirming the May 2018 Order and
6 subsequent fees order on March 2, 2020 ("Second Order of Affirmance").

7 11. On June 8, 2018, the Lytle Trust filed a new action, Case No. A-18-775843-C, *Trudi Lee*
8 *Lytle et al. v. Rosemere Estates Property Owners' Association* ("Receivership Action"), asserting claims
9 against the Association for (a) Declaratory Judgment, and (b) Breach of Contract/Easement Agreement.
10 The prayer for relief in the Receivership Action sought:

11 a. an Order declaring that the Association must continue to operate as required by the
12 CC&Rs and Chapters 82 and 116 of the Nevada Revised Statutes, which includes, but is not limited
13 to: 1) maintaining the landscaping in the exterior wall planters; 2) maintaining the exterior
14 perimeter and frontage; 3) maintaining the entrance gate; 4) maintaining the private drive and
15 sewer system; 5) ensuring that homeowners are paying their assessments; 6) seeking collection
16 activity against any homeowners that have failed to pay their assessments; 7) paying known
17 creditors of the Association; 8) specially assessing the homeowners to ensure that enough proceeds
18 exist within the HOA funds to pay all known creditors assessing; and 9) any other activity required
19 under Nevada law.

20 b. specific performance requiring the Association to comply with the CC&Rs, as well
21 as other Nevada law, with respect to the Association's maintenance and day-to-day activities;

22 c. injunctive relief preventing the Association from violating the terms of the CC&RS,
23 as well as other Nevada law, moving forward;

24 d. appointment of a receiver to handle the maintenance obligations and day-to-day
25 activities, including the financial activities regarding assessments and creditors, until a duly
26 constituted board may be instituted and power transitioned thereto; and
27
28

e. reasonable attorneys' fees, costs of suit and litigation, and such other and further relief as the Court deems just and proper

12. The Complaint in the Receivership Action alleges that the Association is not functioning, that the common elements of the community are not being maintained, and that “the Association has not paid known creditors of the Association, which includes, but is not limited to, the annual dues to the Nevada Secretary of State or the Nevada Department of Real Estate or the Lytles, which hold multiple judgments against the Association.” Complaint at ¶ 21.

13. In a Renewed Application for Appointment of Receiver filed by the Lytle Trust on October 24, 2019 (“Application”) in the Receivership Action, the Lytle Trust asserts that one reason for a Receiver over the Association was due to the Association’s refusal to pay the Rosemere Judgments, including its refusal to assess Association members, including the Plaintiffs, so the Association could pay the Rosemere Judgments. Application at 3:2-4, 5:17-18 (“Additional grounds exist because the Association is refusing to pay and refusing to assess Association members related to various monetary judgments awarded to the Lytles against the Association”), 13:19-28 (“A receiver may be appointed...[a]fter judgment, to carry the judgment into effect” (quoting NRS 32.010(3))), 14:1-2, 16-28 (“the Lytle Trust obtained judgments against the Association and a Receiver is needed to carry those judgments into effect”), 15:20-25 (“the Association has a duty...to pay its debts, including the Judgments obtained by the Lytle Trust”), 16:17-22 (“the Association is without any governing body to assess the homeowners and pay the judgments”).

14. The Lytle Trust disclosed to the judge in the Receivership Action (the “Receivership Court”) that the Amended CC&Rs had been judicially declared *void ab initio* and of no force or effect. *Id.* at 8:11-12 (the District “Court determined that the Amended CC&Rs were not properly adopted or recorded, that the Amended CC&Rs are invalid, and that the Amended CC&Rs have no force or effect”); 8 at n.3 (“Note, Rosemere 2 Litigation commenced more than six years *before* the Court in Rosemere 1 Litigation ruled that the Amended CC&Rs were invalid.”) (emphasis in original); 9:13-17 (“In granting the Lytle Trust’s Motion for Attorneys’ Fees, the district court in the Rosemere 1 and Rosemere 2 Litigations . . . held that the Lytle Trust could recover attorneys’ fees under the Amended CC&Rs because

1 that document, while declared *void ab initio* by the district court, was in effect and enforced by the
2 Association against the Lytle Trust at all times during the underlying litigation.”).

3 15. However, The Lytle Trust further argued in the Application that the Amended CC&Rs
4 provide authority for a receiver to make special assessments on the Plaintiffs’ and other owners’
5 properties to collect funds to pay the Rosemere Judgments. *Id.* at 11:4-28, 13:1-17, 17:1-9. The Lytle
6 Trust’s Application included a section heading in its Statement of Fact section titled “The Amended
7 CC&Rs Grant the Association Authority to Assess Each Unit for Payment of Judgments Against the
8 Association.” *Id.* at 11:4-5. The Lytle Trust also represented that “the District Court already ruled that
9 the Association is liable for attorneys’ fees, costs and damages pursuant to the Amended CC&Rs, which
10 provide the Association with the ability to specially assess each property (unit) for the costs of the
11 judgments. Amended CC&Rs ¶ 10.11, Exhibit 16.” *Id.* at 17:6-9.

12 16. The Lytle Trust did not inform the Receivership Court about this Case, the July 2017 Order,
13 May 2018 Order, or the Orders of Affirmance.³ The Lytle Trust did not inform the Receivership Court
14 that this Court had issued permanent injunctions against the Lytle Trust relating to enforcement of the
15 Rosemere Judgments against the Plaintiffs, the Boulden Trust, the Lamothe Trust, the Dismans, or their
16 properties.

17 17. On December 18, 2019, based on the Lytle Trust’s Application, the Receivership Court
18 entered an Order Appointing a Receiver of Defendant Rosemere Property Owners Association (“Order
19 Appointing Receiver”). The Order Appointing Receiver, drafted by the Lytle Trust, directs the Receiver
20 to “[i]ssue and collect a special assessment upon all owners within the Association to satisfy the Lytle
21 Trust’s judgments against the Association.” Order Appointing Receiver at 2:19-20. It further empowers
22 the Receiver with “the authority to assess all Association unit owners to pay for any operation costs or
23 to pay for judgments against the Association. If an Association member does not pay an assessment then
24 the Receiver may proceed to foreclose on said member’s ownership interest in the property.” *Id.* at 6:4-
25 7.

26
27 ³ The Court notes that the Second Order of Affirmance was issued after entry of the Order Appointing
28 Receiver and the Lytle Trust could not have informed the Receivership Court of it prior to entry of the
Order Appointing Receiver.

2. This Court has inherent power to enforce its decrees, orders and judgments. A party is required to adhere to court orders, even disagreeable or erroneous orders, until terminated or overturned.

3. The proper course of action if a party disagrees with a Court order is to appeal.

4. The May 2018 Order must be obeyed by the Lytle Trust.

5. Each paragraph, each finding of fact, and each conclusion of law in the May 2018 Order must be given its plain meaning, and each paragraph of that Order's permanent injunction must be obeyed by the Lytle Trust.

6. As a result of the Findings of Fact and Conclusions of Law in the May 2018 Order, there were specific orders which are not mutually exclusive. Each issue ordered by the Court should be given its meaning, and they are not in conflict.

7. The Court's factual determinations and conclusions of law culminated with the permanent injunction language starting at Page 10, Line 10 of the May 2018 Order, which stated:

IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED that the Lytle Trust is permanently enjoined from recording and enforcing the Judgments obtained from the Rosemere Litigation I, Rosemere Litigation II and Rosemere Litigation III, 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 Rosemere Litigation I, Rosemere Litigation II or Rosemere Litigation III.

8. These paragraphs are not mutually exclusive and each must be obeyed by the Lytle Trust.

9. The Findings of Fact, Conclusions of Law, and Orders contained in the May 2018 Order, including the permanent injunctions, are clear, specific and unambiguous as to what the parties could and could not do in this case. Further, the terms of the permanent injunction are specific and definite so that the Lytle Trust could readily know exactly what duties or obligations were imposed on it.

10. The May 2018 Order's permanent injunction clearly precluded the Lytle Trust from doing anything as it relates to enforcing and recording the Rosemere Judgments against the Plaintiffs and Dismans or their properties.

11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments from the Plaintiffs or Dismans in any way, shape, or form.

19. In addition, the court may award “reasonable expenses, including, without limitation, attorney’s fees, incurred by the party as a result of the contempt.” NRS 22.100(3).

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

1 **IT IS HEREBY ORDERED ADJUDGED AND DECREED** that Plaintiffs' Motion for Order
2 to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders, as
3 well as the Joinders thereto filed by the Boulden Trust, the Lamothe Trust, and the Dismans, are
4 GRANTED.

5 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust
6 violated the May 2018 Order.

7 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust
8 is in contempt of the May 2018 Order.

9 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Lytle Trust
10 shall pay a \$500 penalty to each movant for violation of the May 2018 Order; specifically, \$500 payable
11 to the September Trust, \$500 payable to the Zobrist Trust, \$500 payable to the Sandoval Trust, \$500
12 payable to the Gegens, and \$500 payable to the Dismans.

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28

1 **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the September
 2 Trust, Zobrist Trust, Sandoval Trust, Gegens, and Dismans, may file applications for their reasonable
 3 expenses, including, without limitation, attorney's fees, incurred by the party as a result of the contempt.
 4 The Court will consider such applications on the merits.

5 **IT IS SO ORDERED.**

6 Dated this 22 day of May, 2020.

7 
 8 DISTRICT COURT JUDGE CG

9 **Submitted by:**

10 **CHRISTENSEN JAMES & MARTIN**

11 /s/ Wesley J. Smith

12 Wesley J. Smith, Esq.
 13 Nevada Bar No. 11871
 14 Laura J. Wolff, Esq.
 15 Nevada Bar No. 6869
 16 7440 W. Sahara Ave.
 17 Las Vegas, NV 89117
 18 *Attorneys for Plaintiffs September Trust,*
 19 *Zobrist Trust, Sandoval Trust, and*
 20 *Dennis & Julie Gegen*

Approved as to Form and Content by:

FIDELITY NATIONAL LAW GROUP

/s/ Christina H. Wang

CHRISTINA H. WANG, ESQ.
 Nevada Bar No. 9713
 8363 W. Sunset Road, Suite 120
 Las Vegas, Nevada 89113
Attorneys for Robert & Yvonne Disman

16 **Reviewed by Not Approved by:**

17 **LEWIS ROCA ROTHBERGER CHRISTIE**
 18 **LLP**

19 Reviewed But Not Approved

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 23 Las Vegas, Nevada 89169
 24 *Attorneys for Lytle Trust*

RE: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause

Wang, Christina <Christina.Wang@fnf.com>

Mon 5/18/2020 9:52 AM

To: Wesley Smith <wes@cjmlv.com>

Cc: Engelman, Lace <Lace.Engelman@fnf.com>

Approved – thanks.

Christina H. Wang

Litigation Counsel

Fidelity National Law Group

8363 W. Sunset Road, Suite 120

Las Vegas, Nevada 89113

702-667-3000 (Main)

702-667-3002 (Direct)

702-938-8721 (Fax)

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The Law Division of Alamo Title Insurance, Chicago Title Insurance Co., Commonwealth Land Title Insurance Co., Fidelity National Title Insurance Co., and Fidelity National Title Group, Inc.

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From: Wesley Smith <wes@cjmlv.com>

Sent: Monday, May 18, 2020 9:45 AM

To: Wang, Christina <Christina.Wang@fnf.com>

Cc: Engelman, Lace <Lace.Engelman@fnf.com>

Subject: Re: Case No. A-16-747800-C - Boulden v. Lytle - ORDR - Proposed Order Granting Plaintiffs' Motion for Order to Show Cause

IMPORTANT NOTICE - This message sourced from an external mail server outside of the Company.

Christina,

Per our discussion, can you please approve this version which adds the date to footnote 2?

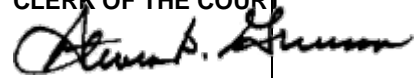
Wes Smith

Christensen James & Martin

EXHIBIT B

001606

EXHIBIT B



NEOJ

CHRISTENSEN JAMES & MARTIN

KEVIN B. CHRISTENSEN, ESQ.

Nevada Bar No. 175

WESLEY J. SMITH, ESQ.

Nevada Bar No. 11871

LAURA J. WOLFF, ESQ.

Nevada Bar No. 6869

7440 W. Sahara Avenue

Las Vegas, Nevada 89117

Tel.: (702) 255-1718

Facsimile: (702) 255-0871

Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com

*Attorneys for September Trust, Zobrist Trust, Sandoval Trust
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.

Case No.: A-16-747800-C

Dept. No.: XVI

**NOTICE OF ENTRY OF ORDER
DENYING DEFENDANT LYTLE
TRUST'S MOTION FOR
CLARIFICATION AND EX PARTE
REQUEST FOR ORDER
SHORTENING TIME**

Date: July 2, 2020

Time: 9:00 a.m.

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-17-765372-C

Dept. No.: XVI

CONSOLIDATED

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 PLEASE TAKE NOTICE that on July 15, 2020, an Order Denying Defendant Lytle
13 Trust's Motion for Clarification and Ex Parte Request for Order Shortening Time was filed with
14 the Court, a copy of which is attached hereto.

15 DATED this 15th day of July, 2020.

16 **CHRISTENSEN JAMES & MARTIN**

17 By: /s/ Wesley J. Smith, Esq.

18 Wesley J. Smith, Esq.

19 Nevada Bar No. 11871

20 Laura J. Wolff, Esq.

21 Nevada Bar No. 6869

22 7440 W. Sahara Ave.

23 Las Vegas, NV 89117

24 *Attorneys for Plaintiffs September Trust,*

25 *Zobrist Trust, Sandoval Trust, and*

26 *Dennis & Julie Gegen*

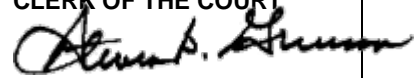
CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin. On July 15, 2020, I caused a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER DENYING DEFENDANT LYTTLE TRUST'S MOTION FOR CLARIFICATION AND EX PARTE REQUEST FOR ORDER SHORTENING TIME, to be served in the following manner:

☒ **ELECTRONIC SERVICE**: electronic transmission (E-Service) through the Court's electronic filing system pursuant to Rule 8.05 of the Rules of Practice for the Eighth Judicial District Court of the State of Nevada.

Liz Gould (liz@foleyoakes.com)
Daniel Foley (Dan@foleyoakes.com)
Joel Henriod (JHenriod@LRRC.com)
Daniel Polsenberg (DPolsenberg@LRRC.com)
Dan Waite (DWaite@LRRC.com)
Luz Horvath (lhorvath@lrrc.com)
Lisa Noltie (lnoltie@lrrc.com)
Christina Wang (christina.wang@fnf.com)
FNLG Court Filings (FNLG-Court-Filings-NV@fnf.com)
Maren Foley (maren@foleyoakes.com)
Richard Haskin (rhaskin@gibbsgiden.com)
Robin Jackson (rjackson@gibbsgiden.com)
Shara Berry (sberry@gibbsgiden.com)
Daniel Hansen (dhansen@gibbsgiden.com)

/s/ Natalie Saville
Natalie Saville



1 **ORDR**

2 **CHRISTENSEN JAMES & MARTIN**

3 KEVIN B. CHRISTENSEN, ESQ.

Nevada Bar No. 175

4 WESLEY J. SMITH, ESQ.

Nevada Bar No. 11871

5 LAURA J. WOLFF, ESQ.

Nevada Bar No. 6869

6 7440 W. Sahara Avenue

Las Vegas, Nevada 89117

7 Tel.: (702) 255-1718

Facsimile: (702) 255-0871

8 Email: kbc@cjmlv.com; wes@cjmlv.com; ljw@cjmlv.com

Attorneys for September Trust, Zobrist Trust, Sandoval Trust

and Dennis & Julie Gegen

9 **EIGHTH JUDICIAL DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 MARJORIE B. BOULDEN, TRUSTEE OF
12 THE MARJORIE B. BOULDEN TRUST,
13 LINDA LAMOTHE AND JACQUES
14 LAMOTHE, TRUSTEES OF THE
15 JACQUES & LINDA LAMOTHE LIVING
16 TRUST,

17 Plaintiffs,

18 vs.

19 TRUDI LEE LYTLE, JOHN ALLEN
20 LYTLE, THE LYTLE TRUST, DOES I
21 through X, and ROE CORPORATIONS I
22 through X,

23 Defendants.

Case No.: A-16-747800-C

Dept. No.: XVI

**ORDER DENYING DEFENDANT
LYTLE TRUST'S MOTION FOR
CLARIFICATION AND EX PARTE
REQUEST FOR ORDER
SHORTENING TIME**

Date: July 2, 2020

Time: 9:00 a.m.

24 SEPTEMBER TRUST, DATED MARCH 23,
25 1972; GERRY R. ZOBRIST AND JOLIN G.
26 ZOBRIST, AS TRUSTEES OF THE GERRY
27 R. ZOBRIST AND JOLIN G. ZOBRIST
28 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-17-765372-C

Dept. No.: XVI

CONSOLIDATED

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 Defendant Lytle Trust's Motion for Clarification and Ex Parte
13 Request for Order Shortening Time ("Motion for Clarification") and the Opposition filed by the
14 Plaintiffs, and the Reply, which came on for hearing on July 2, 2020 at 9:00 a.m. in Department XVI of
15 the Eighth Judicial District Court, Clark County, Nevada.

16 Wesley J. Smith, Esq. of Christensen James & Martin, Chtd. appeared on behalf of September
17 Trust, dated March 23, 1972, Gerry R. Zobrist and Jolin G. Zobrist, as Trustees of the Gerry R. Zobrist
18 and Jolin G. Zobrist Family Trust, Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, as Trustees
19 of the Raynaldo G. and Evelyn A. Sandoval Joint Living and Devolution Trust dated May 27, 1992, and
20 Dennis A. Gegen and Julie S. Gegen, Husband and Wife, as Joint Tenants (collectively the "Plaintiffs").
21 Christina H. Wang, Esq. of Fidelity National Law Group appeared on behalf of Robert Z. Disman and
22 Yvonne A. Disman (the "Dismans"). Dan R. Waite, Esq. of Lewis Roca Rothgerber Christie LLP
23 appeared on behalf of Trudi Lee Lytle and John Allen Lytle, as Trustees of the Lytle Trust ("Lytle
24 Trust").

25 The Court having considered the Motion, Opposition, and Reply, having heard the arguments of
26 counsel, and with good cause appearing therefore, the Court hereby denies the Motion and enters the
27 following Findings of Fact, Conclusions of Law, and Order:

28 ///

///

///

FINDINGS OF FACT

1. On May 24, 2018, this Court entered its Order Granting Motion for Summary Judgment or, in the Alternative, Motion for Judgment on the Pleadings and Denying Countermotion for Summary Judgment (“May 2018 Order”) in favor of the September Trust, Zobrist Trust, Sandoval Trust, and Gegens and against the Lytle Trust. The May 2018 Order is hereby incorporated by reference.

2. On October 24, 2019, the Lytle Trust filed its Renewed Application for Appointment of Receiver in *Trudi Lee Lytle and John Allen Lytle, as trustees of the Lytle Trust v. Rosemere Estates Property Owners’ Association*, Case No. A-18-775843-C, Eighth Judicial District Court, Clark County, Nevada, which case was assigned to Judge J. Kishner (the “Receivership Action”).

3. On December 18, 2019, Judge Kishner entered her Order Appointing a Receiver of Defendant Rosemere Property Owners Association (the “Order Appointing Receiver”). Among other rights, powers, and duties, the Order Appointing Receiver instructed the receiver to “[i]ssue and collect a special assessment upon all owners within the Association to satisfy the Lytle Trust’s judgments against the Association.” (Order Appointing Receiver at 2:19-20).

4. On March 4, 2020, Plaintiffs filed a Motion for Order to Show Cause Why the Lytle Trust Should Not Be Held in Contempt for Violation of Court Orders (“Contempt Motion”), which alleged the Lytle Trust violated the May 2018 Order by seeking the appointment of a receiver over the Rosemere Estates Property Owners’ Association (the “Association”) in the Receivership Action for the purpose of collecting its Judgments through special assessments on the Plaintiffs and other property owners. The Lytle Trust opposed the Contempt Motion.

5. The Contempt Motion came on for hearing on April 22, 2020.

6. During the hearing held on April 22, 2020, with regard to the scope of the May 2018 Order, the following exchange occurred:

MR WAITE: And I’ll ask it again, and I’ll ask it maybe not as a rhetorical question.

Pending the answer, quite honestly, I may have nothing else to say. I may have nothing that I know of to say. But *did you intend by your Permanent Injunction*

1 *here to strip the Lytle Trust of all of its judgment creditor rights against the*
2 *judgment debtor association?*

3 THE COURT: Well, the association wasn't a party, but the bottom line is this: **I**
4 **stripped the Lytle Trust of their ability and right to enforce those judgments vis-**
5 **a-vis the homeowners in this case.**

6 April 22, 2020 Transcript at 38:25-39:12 (emphasis added).

7 7. At the end of the hearing, the Court entered an oral ruling granting the Contempt Motion.

8 8. On May 18, 2020, the Plaintiffs submitted a proposed order with explanation of the
9 wording that the Parties could not agree on.

10 9. On May 19, 2020, the Lytle Trust submitted a competing proposed order and filed the
11 Motion for Clarification seeking to clarify, *inter alia*, what judgment creditor rights the Lytle Trust
12 could or could not exercise without violating the May 2018 Order.

13 10. On May 22, 2020, this Court entered its Findings of Fact, Conclusions of Law, and Order
14 Granting Plaintiffs' Motion for Order to Show Cause Why the Lytle Trust Should Not Be Held in
15 Contempt for Violation of Court Orders ("Contempt Order") against the Lytle Trust. The May 2020
16 Order is hereby incorporated by reference.

17 11. The Contempt Order entered on May 22, 2020 was the Order proposed by the Plaintiffs.

18 12. The Contempt Order, with regard to the May 2018 Order, stated the following
19 Conclusions of Law:

20 10. The May 2018 Order's permanent injunction clearly precluded the Lytle
21 Trust from doing anything as it relates to enforcing and recording the Rosemere
22 Judgments ***against the Plaintiffs and Dismans or their properties.***

23 11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the
24 Rosemere Judgments ***from the Plaintiffs or Dismans*** in any way, shape, or form.

25 Contempt Order at 10:23-28 (emphasis added).

26 13. The Defendant's proposed order did not have the language emphasized above and this
27 difference between the competing orders was highlighted by the parties in their proposals.
28

14. All of the Court's decisions in this case, including the May 2018 Order and the Contempt Order, are based upon the history of this case, and more specifically, the Findings of Fact, Conclusions of Law, and Order Granting the Boulden Trust and Lamothe Trust's Motion for Partial Summary Judgment entered by the Court on April 26, 2017 ("April 2017 Order") against the Lytle Trust.¹ The April 2017 Order is hereby incorporated by reference.

15. The April 2017 Order has been the ruling of this Court for over three years, was subject to review by the Nevada Supreme Court, and withstood appellate scrutiny.

16. The May 2018 Order referenced the April 2017 Order and borrowed its Findings of Fact and Conclusions of Law.

17. The April 2017 Order states clearly what actions can and cannot be taken by the Lytle Trust, as follows:

18. **IT IS HEREBY FURTHER ORDERED ADJUDGED AND DECREED** that the Defendants are permanently enjoined from taking any action in the future against the Plaintiffs or their properties based upon the Rosemere LPA Litigation.

19. April 2017 Order, 7:1-3; July 2017 Order 7:1-3.

20. The April 2017 Order also contains the following:

3. As a result of the Rosemere LPA Litigation, the Amended CC&Rs were judicially declared to have been improperly adopted and recorded, the Amended CC&Rs are invalid and have no force and effect and were declared void ab initio.

4. The Plaintiffs were not parties to the Rosemere LPA Litigation.

5. The Plaintiffs were not "losing parties" in the Rosemere LPA Litigation as per Section 25 of the Original CC&Rs.

6. The Final Judgment in favor of the Defendants is not against, and is not an obligation of, the Plaintiffs.

¹ As noted in the Contempt Order at 3:8-14 and n.1, the April 2017 Order was modified on July 27, 2017 by removing any order on the slander of title claim, which is not at issue in the present Motion and did not impact the language of the April 2017 Order quoted herein.

7. The Final Judgment against the Association is not an obligation or debt owed by the Plaintiffs.

April 2017 Order at 4:23-5:7; July 2017 Order at 4:14-23.

CONCLUSIONS OF LAW

1. The Court made its intentions clear at the April 22, 2020 hearing when it stated “I stripped the Lytle Trust of their ability and right to enforce those judgments vis-a-vis the homeowners in this case.” April 22, 2020 Transcript at 38:25-39:12.

2. Any doubt as to the Court’s intent regarding the May 2018 Order was resolved by entry of the written May 2020 Order after consideration of the competing orders submitted by the Plaintiffs and Defendant, specifically when the Court entered the following Conclusions of Law:

10. The May 2018 Order’s permanent injunction clearly precluded the Lytle Trust from doing anything as it relates to enforcing and recording the Rosemere Judgments ***against the Plaintiffs and Dismans or their properties.***

11. Indeed, the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments ***from the Plaintiffs or Dismans*** in any way, shape, or form.

Contempt Order at 10:23-28 (emphasis added).

3. The Court conclusively answered the Lytle Trust’s question by entering the Order prepared by the Plaintiffs that included the emphasized language.

4. The Court did not hold the Lytle Trust in contempt for violating the April 2017 Order and does not expand its Contempt Order to include the April 2017 Order by entering this Order.

5. The thrust and focus of all the Court’s decisions in this matter are based upon the history of this case, including the April 2017 Order entered 3 years ago.

6. The April 2017 Order stating Defendants are permanently enjoined from taking “any action” in the future against the Plaintiffs or their properties based upon the Rosemere LPA Litigation was also clear.

7. The broad and the plain meaning of the term “any action” means any action, whether direct or indirect.

1 8. The April 2017 Order must be looked at in its entirety to determine its thrust, scope and
2 impact with respect to what kind of action can be taken by the Lytle Trust with regard to collecting on
3 its Judgments against the Association.

4 9. The April 2017 Order made clear that the Rosemere Judgments are not against the
5 Plaintiffs or an obligation or debt owed by the Plaintiffs.

6 10. The April 2017 Order also made clear that the Lytle Trust cannot take any action against
7 the Plaintiffs to attempt to collect its Judgments against the Association.

8 11. The May 2018 Order contains nearly identical Findings of Fact, Conclusions of Law, and
9 Orders.

10 12. Therefore, any action by the Lytle Trust to collect its Judgments against the Association
11 that results in payment of the Judgments by the Plaintiffs is a violation of the May 2018 Order.

12 13. This Court cannot make decisions based upon hypothetical situations presented by the
13 Lytle Trust. A case has to be ripe for adjudication and any decision based upon the facts of this case.

14 14. Because the language of the Orders discussed herein is clear, there is no clarification
15 needed or that the Court can provide.

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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 Defendant's Lytle Trust Motion for Clarification and Ex Parte Request for Order Shortening Time is DENIED.

IT IS SO ORDERED.

Dated this 15th day of July, 2020.


DISTRICT COURT JUDGE

CG

Submitted by:

CHRISTENSEN JAMES & MARTIN

/s/ Wesley J. Smith

Wesley J. Smith, Esq.

Nevada Bar No. 11871

Laura J. Wolff, Esq.

Nevada Bar No. 6869

7440 W. Sahara Ave.

Las Vegas, NV 89117

Attorneys for Plaintiffs September Trust,

Zobrist Trust, Sandoval Trust, and

Dennis & Julie Gegen

**Approved as to Form and Content —
Reserving All Appeal Rights – by:**

**LEWIS ROCA ROTHBERGER CHRISTIE
LLP**

/s/ Dan R. Waite

DAN R. WAITE, ESQ.

Nevada Bar 4078

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

Attorneys for Lytle Trust

RE: Dept 16 - A-16-747800-C - Boulden v. Lytle - Proposed Order Denying Motion for Clarification

Waite, Dan R. <DWaite@lrrc.com>

Tue 7/14/2020 9:15 AM

To: Wesley Smith <wes@cjmlv.com>

Thank you, Wes. You have my authorization to include my /s/ electronic signature and to submit the Order to the Court. All the best,

Dan

Dan R. Waite

Partner

702.474.2638 office

702.949.8398 fax

dwaite@lrrc.com

Lewis Roca
ROTHGERBER CHRISTIE

Lewis Roca Rothgerber Christie LLP

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

lrrc.com

From: Wesley Smith <wes@cjmlv.com>

Sent: Tuesday, July 14, 2020 9:10 AM

To: Waite, Dan R. <DWaite@lrrc.com>

Subject: Dept 16 - A-16-747800-C - Boulden v. Lytle - Proposed Order Denying Motion for Clarification

[EXTERNAL]

Dan,

Attached please find the final version of the Proposed Order Denying Motion for Clarification in the above referenced matter. Please review and if it meets your approval, please respond confirming that I have your permission to affix your /s/ electronic signature and submit the Order to the Court.

Thanks,

Wes Smith

Christensen James & Martin

7440 W. Sahara Ave.

Las Vegas, NV 89117

Tel. (702) 255-1718

Fax (702) 255-0871

wes@cjmlv.com

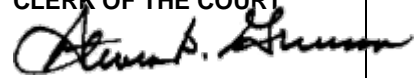
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47

47



ERR

JOEL D. HENRIOD
Nevada Bar No. 8492
DANIEL F. POLSENBERG
Nevada Bar No. 2376
DAN R. WAITE
Nevada Bar No. 4078
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
JHenriod@LRRC.com
DPolsenberg@LRRC.com
DWaite@LRRC.com

*Attorneys for Defendants Trudi Lee Lytle and
John Allen Lytle, as Trustees of the Lytle Trust*

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,

v.

TRUDI LEE LYTLE; and JOHN ALLEN
LYTLE, as trustees of the Lytle Trust,
DOES I through X, inclusive, and ROE
CORPORATIONS I through X,

Defendants.

Case No. A-16-747800-C

Dep't No. 16

**ERRATA TO
AMENDED CASE APPEAL STATEMENT**

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,

Plaintiffs,

v.

TRUDI LEE LYTLE; and JOHN ALLEN

Consolidated with:

Case No. A-17-765372-C

Dep't No. 16

1 LYTLE, as trustees of the Lytle Trust,
2 JOHN DOES I through V, inclusive, and
3 ROE ENTITIES I through V, inclusive,

4 Defendants.

5 The exhibit to defendants' July 31, 2020, "Amended Case Appeal
6 Statement" was inadvertently omitted. It is attached here.

7 Dated this 4th day of August, 2020.

8 LEWIS ROCA ROTHGERBER CHRISTIE LLP

9
10 By: /s/Joel D. Henriod

11 JOEL D. HENRIOD (SBN 8492)
12 DANIEL F. POLSENBERG (SBN 2376)
13 DAN R. WAITE (SBN 4078)
14 3993 Howard Hughes Parkway, Suite 600
15 Las Vegas, Nevada 89169
16 (702) 949-8200

17 *Attorneys for Defendants Trudi Lee Lytle and*
18 *John Allen Lytle, as Trustees of the Lytle*
19 *Trust*

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of August, 2020, I served the foregoing
“Errata to Amended Case Appeal Statement” on counsel by the Court’s
electronic filing system to the persons and addresses listed below:

KEVIN B. CHRISTENSEN
WESLEY J. SMITH
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
KBC@CJMLV.com
Wes@CJMLV.com

Christina H. Wang
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113
Christina.Wang@FNF.com

*Attorneys for Robert Z. Disman and
Yvonne A. Disman*

*Attorneys for 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*

Daniel T. Foley
FOLEY & OAKES, PC
1210 South Valley View Boulevard
Suite 208
Las Vegas, Nevada 89102
Dan@FoleyOakes.com

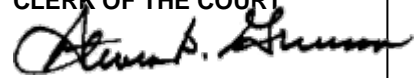
*Attorneys for Marjorie B. Boulden, trustee
of the Marjorie B. Boulden Trust, and
Linda Lamothe and Jacques Lamothe,
trustees of the Jacques & Linda Lamothe
Living Trust*

/s/ Jessie M. Helm
An Employee of LEWIS ROCA ROTHGERBER CHRISTIE LLP

EXHIBIT A

001623

EXHIBIT A



DANIEL T. FOLEY, ESQ.
Nevada Bar No. 1078
FOLEY & OAKES, PC
1210 S. Valley View Blvd. #208
Las Vegas, NV 89102
Tel.: (702) 384-2070
Fax: (702) 384-2128
Email: dan@foleyoakes.com
*Attorneys for the Boulden and
Lamothe Plaintiffs.*

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 AND JOHN ALLEN
LYTLE, AS TRUSTEES OF THE LYTLE
TRUST, DOES I through X; and ROE
CORPORATIONS I through X

Defendants.

SEPTEMBER TRUST, DATED MARCH 23,
1972; et al,

Plaintiffs

v.

TRUDI LEE LYTLE AND JOHN LYTLE, AS
TRUSTEES OF THE LYTLE TRUST; JOHN
DOES I through V; and ROW ENTITIES I
through I inclusive.

Defendants.

Case No. A-16-747800-C
Dept. No. XVI

**WITHDRAWAL OF JOINDER
ON PLAINTIFFS SEPTEMBER
TRUST ET. AL.'S MOTION FOR
AN ORDER TO SHOW CAUSE
WHY THE LYTLE TRUST
SHOULD NOT BE HELD IN
CONTEMPT FOR VIOLATION
OF COURT ORDERS**

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

1 Plaintiffs Marjorie B. Boulden, Trustee Of The Marjorie B. Boulden Trust (the “Boulden
2 Trust”), Linda Lamothe And Jacques Lamothe, Trustees Of The Jacques & Linda Lamothe
3 Living Trust (“Lamothe Trust”) by and through their attorneys Foley & Oakes, PC, having
4 entered into a settlement agreement with the Lytle Trust with respect to, among other things,
5 resolving the Lytle Trust’s Appeal of this Court’s Order granting the Boulden Trust’s and
6 Lamothe Trust’s Attorneys’ Fees and Costs, hereby provide Notice to the Court and all interested
7 parties that they hereby withdraw their Joinder filed in this case on March 5, 2020, and
8 accordingly waive all relief orally awarded by the Court associated with their Joinder.
9

10 Dated this 14th day of May 2020.

11
12 FOLEY & OAKES, PC

13 **By: /s/ Daniel T. Foley**

14 Daniel T. Foley, Esq.
15 1210 So. Valley View Blvd., Suite # 208
16 Las Vegas, NV 89102
17 (702) 384-2070
18 *Attorneys for the Boulden and*
19 *Lamothe Plaintiffs.*
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27

CERTIFICATE OF SERVICE

Pursuant to N.R.C.P. Rule 5(b), I certify that I am an employee of Foley & Oakes, PC and that on this 14th day of May 2020, I caused this document to be served pursuant to NEFCR 9, upon all registered parties via the Court's electronic filing system.

I declare that under penalty of perjury under the laws of the State of Nevada that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.

/s/ Liz Gould
An employee of Foley & Oakes PC