

Electronically Filed
Aug 05 2019 01:41 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**
2 Doreen Spears Hartwell, Esq.
3 Nevada State Bar No. 7525
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5 Laura Thalacker, Esq.
6 Nevada State Bar No. 5522
7 laura@hartwellthalacker.com
8 HARTWELL THALACKER, LTD
9 11920 Southern Highlands Pkwy #201
10 Las Vegas, Nevada 89141
11 Phone; (702) 850-1074; Fax; (702) 508-9551
12 *Attorneys for Plaintiff-Counterdefendant Daniel Lakes*
13 *In Conjunction with the Legal Aid Center of Southern Nevada*

9
10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 DANIEL LAKES, an individual

13 Plaintiff,

14 v.

15 BANK OF AMERICA, N.A., successor-by-
16 merger to Countrywide Mortgage Ventures,
17 LLC; U.S. BANK TRUST, TRUSTEE FOR
18 LSF9 MASTER PARTICIPATION TRUST;
19 ROGELIO CEDILLO, an individual;
20 PARCELNOMICS, LLC, a Nevada limited
21 liability company d/b/a INVESTMENT
22 DEALS; NOUNE GRAEFF, an individual;
23 DOES I-X, inclusive; and ROE
24 CORPORATIONS, I-X, inclusive,

25 Defendants.

Case No.: A-17-759016-C

Dept. No.: 28

NOTICE OF APPEAL

26 Notice is hereby given in the above-entitled case, that Daniel Lakes hereby appeals to the
27 Supreme Court of Nevada from the Notice of Entry of Findings of Facts, Conclusions of Law and
28 Judgment entered on July 18, 2019.

1 Dated: this 29th day of July, 2019.

2 Hartwell Thalacker, Ltd.

3 /s/Doreen Spears Hartwell

4 Doreen Spears Hartwell, Esq.

5 Nevada Bar. No. 7525

6 Laura J. Thalacker, Esq.

7 Nevada Bar No. 5522

8 11920 Southern Highlands Pkwy, Suite 201

9 Las Vegas, Nevada 89141

10 *Attorneys for Daniel Lakes*

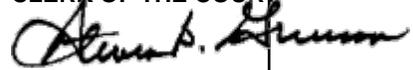
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on July 29, 2019, a true and correct copy of Notice of Appeal was
3 served via Odyssey’s electronic service to the following:
4

5 Abran E. Vigil
6 Nevada Bar No. 7548
7 Joel E. Tasca
8 Nevada Bar No. 14124
9 Holly Ann Priest
10 Nevada Bar No. 13226
11 BALLARD SPAHR, LLC
12 1980 Festival Plaza Drive, Suite 900
13 Las Vegas, Nevada 89135
14 *Attorneys for Defendants U.S. Bank Trust,*
15 *Trustee for LSF9 Master Participation Trust*

16 Sean L. Anderson, Esq.
17 Nevada Bar No.7259
18 P. Chase Pittensbarger, Esq.
19 Nevada Bar No.13740
20 LEACH, KERN, GRUCHOW, ANDERSON, SONG
21 2525 Box Canyon Dr.
22 Las Vegas, Nevada 89128
23 *Attorneys for Counterdefendants Liberty at Huntington*
24 *Homeowners’ Association*

25
26
27
28 s/ Doreen Spears Hartwell
An employee of Hartwell Thalacker, Ltd.



1 **ASTA**
2 Doreen Spears Hartwell, NSB #7525
3 doreen@hartwellthalacker.com
4 Laura J. Thalacker, NSB #5522
5 laura@hartwellthalacker.com
6 Hartwell Thalacker, Ltd.
7 11920 Southern Highlands Pkwy, #201
8 Las Vegas, Nevada 89141
9 Ph: 702-850-1074; Fax: 702-508-9551
10 *Attorneys for Daniel Lakes in Conjunction with*
11 *Legal Aid Center of Southern Nevada.*

8 **EIGHTH JUDICIAL DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

11 Daniel Lakes,

12 Plaintiff,

13 v.

14 BANK OF AMERICA, N.A., successor-
15 by- merger to Countrywide Mortgage
16 Ventures, LLC; U.S. BANK TRUST,
17 TRUSTEE FOR LSF9 MASTER
18 PARTICIPATION TRUST; ROGELIO
19 CEDILLO, an individual;
20 PARCELNOMICS, LLC, a Nevada
21 limited liability company d/b/a
INVESTMENT DEALS; NOUNE
GRAEFF, an individual; DOES I-X,
inclusive; and ROE CORPORATIONS,
I-X, inclusive,

Defendants.

Case No.: A-17-759016-C
Dept. No.: 28

CASE APPEAL STATEMENT

22 1. Name of appellant filing this case appeal statement:

23 **Daniel Lakes**

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

25 **The Honorable Ronald Israel**

26 3. Identify each appellant and the name and address of counsel for each appellant:
27
28

1 **Appellant:** Daniel Lakes

2 **Counsel:** Doreen Spears Hartwell, Esq.
3 Laura J. Thalacker, Esq.
4 Hartwell Thalacker, Ltd
5 11920 Southern Highlands Pkwy #201
6 Las Vegas, NV 89141

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

10 Respondents: U.S. Bank Trust

11 Counsel: Joel E. Tasca, Esq.
12 Joseph P. Sakai, Esq.
13 BALLARD SPAHR LLP
14 1980 Festival Plaza Drive, Suite 900
15 Las Vegas, Nevada 89135
16 Telephone: (702) 471-7000

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

20 6. Indicate whether appellant was represented by appointed or retained counsel in the district
21 court: **Retained Counsel**

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

23 **Retained Counsel**

24 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of
25 entry of the district court order granting such leave: Statement of Legal Aid filed 7/29/19

26 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,
27 indictment, information, or petition was filed): **Complaint filed 07/27/17.**

28 10. Provide a brief description of the nature of the action and result in the district court,

1 including the type of judgment or order being appealed and the relief granted by the district court:

2 This is a quiet title action initiated by Daniel Lakes, a bona fide purchaser, purchased the
3 subject property from an individual without notice of U.S. Bank's unrecorded interest that was
4 obtained a month prior to Mr. Lakes' purchase. Lakes appeals from summary judgment order
5 granted in favor of U.S. Bank Trust.

6 11. Indicate whether the case has previously been the subject of an appeal to or original writ
7 proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the
8 prior proceeding: **No**

9 12. Indicate whether this appeal involves child custody or visitation: **No**

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

12 HARTWELL THALACKER, LTD

13 /s/Doreen Spears Hartwell
14 Doreen Spears Hartwell, Esq.
15 Nev. State Bar No. 7525
16 Laura J. Thalacker, Esq.
17 Nevada State Bar No. 552
18 11920 Southern Highlands Pkwy,
19 Suite 201
20 Las Vegas, Nevada 89141
21 *Attorneys for Daniel Lakes*

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CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2019, a true and correct copy of CASE APPEAL STATEMENT was served via Odyssey's electronic service to the following:

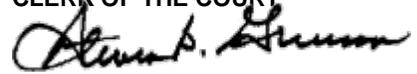
Abran E. Vigil
Nevada Bar No. 7548
Joel E. Tasca
Nevada Bar No. 14124
Holly Ann Priest
Nevada Bar No. 13226
BALLARD SPAHR, LLC
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Las Vegas, Nevada 89135
*Attorneys for Defendants U.S. Bank Trust,
Trustee for LSF9 Master Participation Trust*

Sean L. Anderson, Esq.
Nevada Bar No.7259
P. Chase Pittensbarger, Esq.
Nevada Bar No.13740
LEACH, KERN, GRUCHOW, ANDERSON, SONG
2525 Box Canyon Dr.
Las Vegas, Nevada 89128
*Attorneys for Counterdefendants Liberty at Huntington
Homeowners' Association*

s/ Doreen Spears Hartwell
An employee of Hartwell Thalacker, Ltd.

SOLA
 DOREEN SPEARS HARTWELL, ESQ.
 Nevada Bar No.: 7525
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Attorney for the Daniel Lakes
In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

Electronically Filed
 7/29/2019 12:34 PM
 Steven D. Grierson
 CLERK OF THE COURT



DISTRICT COURT
 CLARK COUNTY, NEVADA

DANIEL LAKES,)
)
 Plaintiff,)
 vs.)
)
 BANK OF AMERICA N.A., successor-bymerger)
 to Countrywide Mortgage Ventures,)
 LLC; U.S. BANK TRUST, Trustee for LSF9)
 Master Participation Trust; ROGELIO)
 CEDILLO, an individual; PARCELNOMICS,)
 LLC, a Nevada limited liability company d/b/a)
 INVESTMENT DEALS; NOUNE GRAEFF,)
 an individual; DOES 1-L0, inclusive; and ROE)
 CORPORATIONS 1-10, inclusive;)
)
 Defendants.)

CASE NO. A-17-759016-C

DEPT. 28

**STATEMENT OF LEGAL AID
 REPRESENTATION
 (PURSUANT TO NRS 12.015)**

Party Filing Statement:	<input checked="" type="checkbox"/> Plaintiff/Petitioner	<input type="checkbox"/> Defendant/Respondent
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STATEMENT	
<p><u>DANIEL LAKES</u>, has qualified and has been accepted for placement as a Pro Bono client or as a direct client of <u>LEGAL AID CENTER OF SOUTHERN NEVADA</u>, a nonprofit organization providing free legal assistance to indigents, and is entitled to pursue or defend this action without costs, including filing fees and fees for service of writ, process, pleading or paper without charge, as set forth in NRS 12.015.</p>	
<p>Dated: <u>June 5, 2019</u>.</p>	
<p><u>BARBARA BUCKLEY, ESQ.</u> Legal Aid Center of Southern Nevada Preparer Nevada Bar No.: <u>3918</u></p>	<p><u>/s/ Barbara E. Buckley</u> Signature of Legal Aid Center of Southern Nevada Preparer</p>

Submitted by:
 Doreen Spears Hartwell, Esq.
 Hartwell Thalacker, Ltd.
 11920 Southern Highland Pkwy. Ste. 201
 Las Vegas, Nevada 89141
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EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-17-759016-C

Daniel Lakes, Plaintiff(s)
vs.
Bank of America N.A., Defendant(s)

§
 §
 §
 §
 §

Location: **Department 28**
 Judicial Officer: **Israel, Ronald J.**
 Filed on: **07/27/2017**
 Cross-Reference Case Number: **A759016**

CASE INFORMATION

Statistical Closures
 06/10/2019 Summary Judgment

Case Type: **Other Title to Property**

Case Status: **06/10/2019 Closed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-17-759016-C
Court	Department 28
Date Assigned	07/27/2017
Judicial Officer	Israel, Ronald J.

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Lakes, Daniel	Hartwell, Doreen M. Spears <i>Retained</i> 702-850-1074(W)
Defendant	Bank of America N.A.	
	Cedillo, Rogelio	
	Graeff, Noune	
	Parcelnomics LLC	
	US Bank Trust	Priest, Holly A. <i>Retained</i> 702-471-7000(W)
Appellant	Lakes, Daniel	Hartwell, Doreen M. Spears <i>Retained</i> 702-850-1074(W)
Counter Claimant	US Bank Trust	Priest, Holly A. <i>Retained</i> 702-471-7000(W)
Counter Defendant	Cedillo, Rogelio	
	Graeff, Noune	
	Lakes, Daniel	Hartwell, Doreen M. Spears <i>Retained</i> 702-850-1074(W)
	Liberty at Huntington Homeowners Association	Anderson, Sean L. <i>Retained</i> 702-538-9074(W)
	Parcelnomics LLC	

DATE

EVENTS & ORDERS OF THE COURT

INDEX

CASE SUMMARY

CASE NO. A-17-759016-C

EVENTS

- 07/27/2017  Complaint
Filed By: Appellant Lakes, Daniel
Complaint
- 07/27/2017  Initial Appearance Fee Disclosure
Filed By: Appellant Lakes, Daniel
Initial Appearance Fee Disclosure
- 08/02/2017  Lis Pendens
Lis Pendens
- 08/08/2017  Summons Electronically Issued - Service Pending
Summons
- 08/08/2017  Summons Electronically Issued - Service Pending
Summons
- 08/08/2017  Summons Electronically Issued - Service Pending
Summons
- 08/08/2017  Summons Electronically Issued - Service Pending
Summons
- 08/08/2017  Summons Electronically Issued - Service Pending
Summons
- 10/11/2017  Affidavit of Service
Affidavit of Service
- 10/11/2017  Affidavit of Service
Affidavit of Service
- 10/11/2017  Affidavit of Due Diligence
Affidavit of Due Diligence
- 10/11/2017  Affidavit of Due Diligence
Affidavit of Due Diligence
- 10/11/2017  Affidavit of Due Diligence
Affidavit of Due Diligence
- 11/22/2017  Motion to Extend Time to Serve
Party: Appellant Lakes, Daniel
Daniel Lakes' Motion to Enlarge Time for Service of Process and for an Order Allowing Service by Publication as to Defendant Rogelio Cedillo
- 11/29/2017  Affidavit of Service
Affidavit of Service
- 12/13/2017  Answer and Counterclaim

CASE SUMMARY

CASE NO. A-17-759016-C

Filed By: Counter Claimant US Bank Trust
U.S. Bank Trust's Answer to Plaintiff's Complaint and Counterclaim

12/13/2017

 Initial Appearance Fee Disclosure

Filed By: Counter Claimant US Bank Trust
Initial Appearance Fee Disclosure

12/13/2017

 Summons Electronically Issued - Service Pending

Party: Counter Claimant US Bank Trust
Summons - Investment Deals

12/13/2017

 Summons Electronically Issued - Service Pending

Party: Counter Claimant US Bank Trust
Summons - Noune Graeff

12/13/2017

 Summons Electronically Issued - Service Pending

Party: Counter Claimant US Bank Trust
Summons - Parcelnomics, LLC

12/13/2017

 Summons Electronically Issued - Service Pending

Party: Counter Claimant US Bank Trust
Summons - Liberty At Huntington Homeowners Association

12/13/2017

 Summons Electronically Issued - Service Pending

Party: Counter Claimant US Bank Trust
Summons - Rogelio Cedillo

12/14/2017

 Notice of Change of Address

Notice of Change of Address (Effective December 18, 2017)

12/22/2017

 Disclaimer of Interest

Filed By: Defendant Bank of America N.A.
Disclaimer of Interest in the Property by Defendant Bank of America, N.A.

01/11/2018

 Substitution of Attorney

Notice of Substitution

01/12/2018

 Answer to Counterclaim

Filed By: Counter Defendant Liberty at Huntington Homeowners Association
Liberty At Huntington Homeowners Association s Answer To U.S. Bank Trust s Counterclaim

01/12/2018

 Initial Appearance Fee Disclosure

Liberty At Huntington Homeowners Association s Initial Appearance Fee Disclosure

01/12/2018

 Disclosure Statement

Party: Counter Defendant Liberty at Huntington Homeowners Association
Liberty At Huntington Homeowners Association s NRCP 7.1 Disclosure Statement

01/22/2018

 Order Granting Motion

Order Granting Motion to Enlarge Time for Service of Process and for an Order Allowing Service by Publication

01/22/2018

 Stipulation and Order

CASE SUMMARY

CASE NO. A-17-759016-C

Stipulation and Order to Extend Counter-Defendant Daniel Lakes' Time to Answer U.S. Bank's Counterclaim

01/24/2018



Notice of Entry of Order

Notice of Entry of Order to Extend Counter-Defendant Daniel Lakes' Time to Answer U.S. Bank's counterclaim

01/24/2018



Notice of Entry of Order

Notice of Entry of Order Granting Motion to Enlarge Time for Service of Process and for an Order Allowing Service by Publication

01/31/2018



Notice of Entry

Filed By: Defendant Bank of America N.A.

Notice Of Entry Of Disclaimer Of Interest In The Property By Defendant Bank Of America, N.A.

02/07/2018



Answer to Counterclaim

Filed By: Appellant Lakes, Daniel

Answer to Counterclaim

02/14/2018



Joint Case Conference Report

Filed By: Appellant Lakes, Daniel

Joint Case Conference Report

02/15/2018



Affidavit of Service

Filed By: Appellant Lakes, Daniel

Affidavit of Service - Parcelnomics

03/19/2018



Substitution of Attorney

Filed by: Appellant Lakes, Daniel

Substitution of Attorneys

03/29/2018



Scheduling Order

Scheduling Order

03/30/2018



Affidavit of Publication of Summons

Filed By: Appellant Lakes, Daniel; Defendant Bank of America N.A.; Counter Claimant US Bank Trust; Counter Defendant Cedillo, Rogelio; Counter Defendant Parcelnomics LLC; Counter Defendant Graeff, Nouné; Counter Defendant Liberty at Huntington Homeowners Association

Affidavit of Publication of Summons

03/30/2018



Affidavit of Publication of Summons

Filed By: Appellant Lakes, Daniel; Defendant Bank of America N.A.; Counter Claimant US Bank Trust; Counter Defendant Cedillo, Rogelio; Counter Defendant Parcelnomics LLC; Counter Defendant Graeff, Nouné; Counter Defendant Liberty at Huntington Homeowners Association

Affidavit of Publication of Summons

04/10/2018



Order Setting Civil Bench Trial

Order Setting Civil Non-Jury Trial

10/12/2018



Motion for Leave to File

Party: Counter Claimant US Bank Trust

Motion for Leave to File Amended Answer, Counterclaims and Cross Claimes

CASE SUMMARY

CASE NO. A-17-759016-C

- 11/19/2018  Order
Filed By: Counter Claimant US Bank Trust
Order Granting U.S. Bank Trust, Trustee for LSF9 Master Participation Trust's Motion to Amend the Answer, Counterclaims and Crossclaims to Complaint
- 11/19/2018  Notice of Entry of Order
Filed By: Counter Claimant US Bank Trust
Notice of Entry of Order Granting U.S. Bank Trust, Trustee for LSF9 Master Participation Trust's Motion to Amend the Answer, Counterclaims and Crossclaims to Complaint
- 11/26/2018  Answer and Counterclaim
Filed By: Counter Claimant US Bank Trust
U.S. Bank Trust's Amended Answer to Plaintiff's Complaint and Amended Counterclaim
- 11/26/2018  Initial Appearance Fee Disclosure
Filed By: Counter Defendant Liberty at Huntington Homeowners Association
Initial Appearance Fee Disclosure
- 11/26/2018  Notice of Appearance
Party: Counter Defendant Liberty at Huntington Homeowners Association
Notice of Appearance
- 12/04/2018  Substitution of Attorney
Filed by: Counter Defendant Liberty at Huntington Homeowners Association
Substitution of Attorney
- 12/18/2018  Stipulation and Order
Filed by: Counter Claimant US Bank Trust
Stipulation and Order to Continue Trial and Extend Discovery Deadlines (First Request)
- 12/19/2018  Notice of Entry of Stipulation and Order
Filed By: Counter Claimant US Bank Trust
Notice of Stipulation and Order to Continue Trial and Extend Discovery Deadlines (First Request)
- 12/21/2018  Answer
Filed By: Counter Defendant Liberty at Huntington Homeowners Association
Liberty at Huntington Homeowners' Association's Answer to U.S. Bank Trust's Amended Answer to Plaintiff's Complaint and Amended Counterclaim
- 12/21/2018  Response
Filed by: Appellant Lakes, Daniel
Daniel Lakes' Response to US Bank's Amended Answer and Amended Counterclaim
- 03/11/2019  Demand for Prior Discovery
Filed By: Appellant Lakes, Daniel
Daniel Lakes Response to US Bank's First Request for Documents
- 04/10/2019  Motion for Summary Judgment
Filed By: Counter Defendant Liberty at Huntington Homeowners Association
Counterdefendant Liberty at Hungtinton Homeowners' Association's Motion for Summary Judgment (Oral Argument Requested)
- 04/10/2019

CASE SUMMARY

CASE NO. A-17-759016-C

-  Motion for Summary Judgment
Filed By: Counter Claimant US Bank Trust
U.S. Bank Trust, Trustee for LSF9 Master Participation Trust's Motion for Summary Judgment
- 04/10/2019  Appendix
Filed By: Counter Claimant US Bank Trust
Appendix of Exhibits in Support of U.S. Bank Trust's Motion for Summary Judgment
- 04/11/2019  Clerk's Notice of Hearing
Clerk's Notice of Hearing
- 04/24/2019  Response
Filed by: Counter Defendant Liberty at Huntington Homeowners Association
Liberty at Huntington Homeowners' Association's Response to U.S. Bank's Motion for Summary Judgment
- 04/25/2019  Opposition to Motion For Summary Judgment
Filed By: Appellant Lakes, Daniel
Daniel Lakes' Opposition to U.S. Bank Trust's Motion for Summary Judgment
- 05/13/2019  Stipulation and Order
Filed by: Counter Claimant US Bank Trust
Stipulation and Order to Continue Hearing and Extend Dispositive Motion Briefing Schedule
- 05/13/2019  Notice of Entry of Stipulation and Order
Filed By: Counter Claimant US Bank Trust
Notice of Entry of Stipulation and Order
- 05/21/2019  Opposition to Motion For Summary Judgment
Filed By: Counter Claimant US Bank Trust
Defendant U.S. Bank's Opposition to Liberty at Huntington Homeowner's Motion for Summary Judgment
- 05/28/2019  Reply to Opposition
Filed by: Counter Claimant US Bank Trust
Defendant U.S. Bank Trust, N.A., Trustee for LSF9 Master Participation Trust's Reply to Plaintiff Daniel Lakes Opposition to U.S. Bank's Motion for Summary Judgment
- 05/28/2019  Reply to Opposition
Filed by: Counter Claimant US Bank Trust
Defendant U.S. Bank Trust, N.A., Trustee for LSF9 Master Participation Trust's Reply to Cross Defendant Liberty at Huntington Homeowners Association's Opposition to Defendant's Motion for Summary Judgment
- 05/28/2019  Reply
Filed by: Counter Defendant Liberty at Huntington Homeowners Association
Liberty at Huntington Homeowners' Association's Reply in Support of Motion for Summary Judgment
- 05/30/2019  Pre-Trial Disclosure
Party: Counter Defendant Liberty at Huntington Homeowners Association
Liberty at Huntington Homeowners' Association's Pre-Trial Disclosures pursuant to NRC 16.1(a)(3)
- 06/10/2019  Order to Statistically Close Case

CASE SUMMARY

CASE NO. A-17-759016-C

Civil Order To Statistically Close Case

- 07/17/2019  Findings of Fact, Conclusions of Law and Judgment
 Filed by: Counter Claimant US Bank Trust
Findings of Fact and Conclusions of Law on Motions for Summary Judgment

- 07/17/2019  Recorders Transcript of Hearing
Pretrial Conference U.S. Bank Trust, Trustee for LSF9 Master Participation Trust's Motion for Summary Judgment Counterdefendant Liberty at Huntington Homeowners' Association's Motion for Summary Judgment

- 07/18/2019  Notice of Entry
 Filed By: Counter Claimant US Bank Trust
Notice of Entry of Findings of Fact and Conclusions of Law on Motions for Summary Judgment

- 07/29/2019  Statement of Legal Aid Representation and Fee Waiver
 For: Appellant Lakes, Daniel
Statement of Legal Aid Representation and Fee Waiver

- 07/29/2019  Notice of Appeal
 Filed By: Appellant Lakes, Daniel
Notice of Appeal

- 07/29/2019  Case Appeal Statement
 Filed By: Appellant Lakes, Daniel
Case Appeal Statement

DISPOSITIONS

- 07/17/2019 **Summary Judgment** (Judicial Officer: Israel, Ronald J.)
 Debtors: Daniel Lakes (Plaintiff)
 Creditors: US Bank Trust (Defendant)
 Judgment: 07/17/2019, Docketed: 07/17/2019

HEARINGS

- 01/03/2018  **Motion** (3:00 AM) (Judicial Officer: Israel, Ronald J.)
Daniel Lake's Motion to Enlarge Time for Service of Process and For an Order Allowing Service by Publication as to Defendant Rogelio Cedillo
 Granted; Daniel Lake's Motion to Enlarge Time for Service of Process and For an Order Allowing Service by Publication as to Defendant Rogelio Cedillo
 Journal Entry Details:
Upon Court's review, COURT ORDERED, Plaintiff's Motion to Enlarge Time for Service of Process and for an Order Allowing Service by Publication as to Defendant Rogelio Cedillo, GRANTED. Time enlarged to serve Defendants Rogelio Cedillo and Parcelnomics LLC and Counsel to Serve by Publication in Nevada and Arizona. Counsel to prepare the order. Minute order pursuant to Law Clerk. CLERK'S NOTE: A copy of this minute order was e-served to all parties. kk 01/12/18.;

- 10/16/2018  **Status Check: Trial Readiness** (9:45 AM) (Judicial Officer: Israel, Ronald J.)
Status Check: Referral to Settlement Conference // Trial Readiness (Bench Trial 04/22/19)
 Matter Heard; Status Check: Referral to Settlement Conference // Trial Readiness (Bench Trial 04/22/19)
 Journal Entry Details:
Ms. Priest noted she believed the Plaintiff has Pro-Bono counsel and noted they are in discovery and she would be amending pleadings. Ms. Priest further noted this is a Housing and Economic Recovery Act of 2008 (H.E.R.A.) and Tender issue and would not be interested in a settlement conference.;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-17-759016-C

11/15/2018

 **Motion for Leave** (3:00 AM) (Judicial Officer: Israel, Ronald J.)

Motion for Leave to File Amended Answer, Counterclaims and Cross Claims
Granted; Motion for Leave to File Amended Answer, Counterclaims and Cross Claims

Journal Entry Details:

There being no Opposition to the Motion; the time to oppose having passed in accordance with EDCR 2.20 and for good cause shown There being no Opposition to the Motion; the time to oppose having passed in accordance with EDCR 2.20 and for good cause shown that amendment of the Answer is necessary and proper in accordance with applicable law, the Court hereby GRANTS Defendant's Motion to for Leave to File Amended Answer, Counterclaims and Cross Claims both pursuant to EDCR 2.20 and on the merits. The Order has been signed and will be available for pick-up in the department 28 box on the 15th floor of the Regional Justice Center. Defendnat is allowed 30 days to file their newly Amended Answer, Counterclaims, and Cross Claims. CLERK'S NOTE: A copy of this minute order was e-served to counsel. kk 11/16/18.;

03/26/2019

CANCELED Pre Trial Conference (9:30 AM) (Judicial Officer: Israel, Ronald J.)

Vacated

04/09/2019

CANCELED Calendar Call (9:30 AM) (Judicial Officer: Israel, Ronald J.)

Vacated

04/22/2019

CANCELED Bench Trial (1:30 PM) (Judicial Officer: Israel, Ronald J.)

Vacated - per Stipulation and Order

06/04/2019

Pre Trial Conference (9:30 AM) (Judicial Officer: Israel, Ronald J.)

Matter Heard;

06/04/2019

Motion for Summary Judgment (9:30 AM) (Judicial Officer: Israel, Ronald J.)

U.S. Bank Trust, Trustee for LSF9 Master Participation Trust's Motion for Summary Judgment
Granted; U.S. Bank Trust, Trustee for LSF9 Master Participation Trust's Motion for Summary Judgment

06/04/2019

Motion for Summary Judgment (9:30 AM) (Judicial Officer: Israel, Ronald J.)

Counterdefendant Liberty at Huntington Homeowners' Association's Motion for Summary Judgment

Moot; Counterdefendant Liberty at Huntington Homeowners' Association's Motion for Summary Judgment

06/04/2019

 **All Pending Motions** (9:30 AM) (Judicial Officer: Israel, Ronald J.)

All Pending Motions (06/04/19)

Matter Heard;

Journal Entry Details:

PRE-TRIAL CONFERENCE...US BANK TRUST TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST'S MOTION FOR SUMMARY JUDGMENT...COUNTERDEFENDANT LIBERTY AT HUNTINGTON HOMEOWNERS' ASSOCIATION'S MOTION FOR SUMMARY JUDGMENT: Court noted this case is a Federal foreclosure & a tender issue. Mr. Sakai noted he had received information regarding Freddie Mack non-interest and therefore would withdraw the Federal foreclosure issue. Arguments by Counsel regarding the tender issue. Mr. Sakai stated the check was sent and cashed and they still had the foreclosure sale, it should have been a junior sale. Ms. Hartwell noted her client was the purchaser in January 2016 and noted there was three different transactions. Colloquy regarding the transfers of sale, NRS 116.125, bona fide purchaser, tender and sub-priority sale. Court finds the tender was made the sale was a sub-priority, mortgage was in place and Plaintiff, Mr. Lakes bought the property subject to the mortgage. Court finds there was no failure to record. COURT ORDERED, US Bank Trustee's Motion for Summary Judgment, GRANTED and FURTHER COURT ORDERED, Liberty at Huntington Homeowner's Association's Motion for Summary Judgment, MOOT. Trial Dates, VACATED. Court noted the issue of the fair market value would not be decided at this time. Court directed the State to prepare the order and pass it by Counsel.;

06/18/2019

CANCELED Calendar Call (9:30 AM) (Judicial Officer: Israel, Ronald J.)

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-17-759016-C

07/01/2019	<i>Vacated - per Judge</i> CANCELED Bench Trial (1:30 PM) (Judicial Officer: Israel, Ronald J.) <i>Vacated - per Judge</i>
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DATE	FINANCIAL INFORMATION
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Counter Defendant	Liberty at Huntington Homeowners Association	
	Total Charges	646.00
	Total Payments and Credits	646.00
	Balance Due as of 7/31/2019	0.00
Counter Claimant	US Bank Trust	
	Total Charges	423.00
	Total Payments and Credits	423.00
	Balance Due as of 7/31/2019	0.00
Appellant	Lakes, Daniel	
	Total Charges	304.00
	Total Payments and Credits	304.00
	Balance Due as of 7/31/2019	0.00

DISTRICT COURT CIVIL COVER SHEET

Clark

County, Nevada

Department 28

Case No

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Daniel Patrick Lakes 548 Primrose Hill Avenue Las Vegas, Nevada 89128 (702) 659-4752	Defendant(s) (name/address/phone): Bank of America N.A.; U.S. Bank Trust; Rogelio Cedillo; Parcelnomics, LLC; Nouna Graeff; ROE Corporations
Attorney (name/address/phone): Lauron A. Davis, Esq. SNSLP 411 East Bonneville Avenue, Suite 310 Las Vegas, Nevada 89101 (702) 229-6596	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

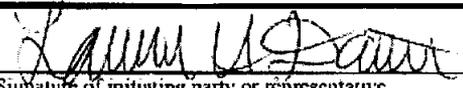
Civil Case Filing Types

<p>Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input checked="" type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p>Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p>Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p>Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p>Probate</p> <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<p>Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p>Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p>Civil Writ</p> <p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum	<p>Civil Writ</p> <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<p>Other Civil Filing</p> <p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

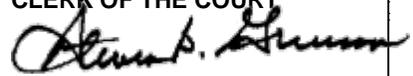
Business Court filings should be filed using the Business Court civil coversheet.

July 25, 2017

Date


 Signature of initiating party or representative

See other side for family-related case filings.



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7 *Attorneys for Defendants U.S. Bank Trust,*
Trustee for LSF9 Master Participation Trust

8
9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 DANIEL LAKES, an Individual;
12 Plaintiff,

Case No.: A-17-759016-C

Dept. No.: 28

13 v.

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15 merger to Countrywide Mortgage
Ventures, LLC; et. al.

16 Defendants.

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18 LSF9 MASTER PARTICIPATION
TRUST;

19 Counter-claimant,

20 v.

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23 GRAEFF, an individual; INVESTMENT
24 DEALS; REGELIO CEDILLO, an
individual; LIBERTY AT HUNTINGTON
HOMEOWNERS ASSOCIATION,

25 Counter-defendants.

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<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

7/18/19



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2 successors and assigns, recorded an assignment of the Deed of Trust to Ocwen.

3 At the time of the HOA Sale on August 25, 2015, Ocwen was the servicer of the Loan
4 for Freddie Mac.

5 3. On December 6, 2015, U.S. Bank acquired the Loan from Freddie Mac.
6 On May 27, 2016, Ocwen recorded an assignment of the Deed of Trust to U.S. Bank.
7 U.S. Bank is currently the beneficiary of record of the Deed of Trust and owner of the
8 Loan.

9 *The HOA Foreclosure Sale and Plaintiff's Acquisition of the Property*

10 4. In July 2008 through April 2015, the HOA recorded a Lien for
11 Delinquent Assessments concerning past-due assessments, followed by a Notice of
12 Default and Election to Sell, and a Notice of Foreclosure Sale against the Property.

13 5. On August 25, 2015, the HOA foreclosed on its lien and sold the
14 Property to Parcelnomics, LLC, which paid \$4,470.00 according to the Foreclosure
15 Deed recorded on September 1, 2015.

16 6. On September 1, 2015, Parcelnomics recorded a Grant, Bargain, Sale
17 Deed purporting to convey its interest in the property to Investment Deals.

18 7. On October 23, 2015, Noune Graeff purchased the property from
19 Investment Deals pursuant to a recorded Grant, Bargain, Sale Deed.

20 8. Lakes purchased the property for Noune Graeff for \$112,000 on January
21 20, 2016.

22 9. Lakes recorded the Grant, Bargain, Sale Deed for the property on
23 January 20, 2016, without knowledge of U.S. Bank's unrecorded 12/6/15 assignment
24 of Deed of Trust.,

25 *Ocwen's Superpriority Tender to the HOA*

26 8. After the HOA recorded its notice of default and prior to the foreclosure
27 sale, Ocwen, then servicer of the Loan, tendered the super-priority portion of the
28 HOA lien to the HOA.

1 assessments are entitled to this “super-priority” status. NRS § 116.3116(2)(b)-(c). The
2 Nevada Supreme Court in *SFR Investments*, applying the plain language of the
3 statute, explained “[a]s to first deeds of trust, NRS § 116.3116(2) thus splits an HOA
4 lien into two pieces, a superpriority piece and a subpriority piece.” *SFR Investments*
5 *Pool 1, LLC v. U.S. Bank, N.A.*, 334 P.3d 408, 411 (Nev. 2014). As explained by the
6 *SFR* Court, “NRS 116.3116 gives a homeowners’ association (HOA) a superpriority
7 lien on an individual homeowners’ property for up to nine months of unpaid HOA
8 dues.” *Id.* at 409 (emphasis added). The *SFR* Court further provides the beneficiary of
9 record of a deed of trust can preserve its interest by “determining the precise
10 superpriority amount” and tendering it “in advance of the sale.” *Id.* at 418.

11 4. Since the *SFR Investments* decision, the Nevada Supreme Court held—
12 again as a matter of statutory interpretation—the superpriority portion of an HOA
13 lien does *not* include collection fees and foreclosure costs incurred by an HOA.
14 *Horizons at Seven Hills Homeowners Ass’n v. Ikon Holdings*, 373 P.3d 66, 71–72
15 (Nev. 2016). The *Ikon Holdings* court confirmed the superpriority amount is “limited
16 to an amount equal to the common expense assessments due during the nine months
17 before foreclosure.” *Id.*

18 5. Here, Ocwen tendered 9 months of monthly assessments – the full
19 superpriority debt - entitled to superpriority protection which totaled \$3241.52. Upon
20 receipt of the check from Ocwen, the HOA, through it’s agent, Red Rocks, accepted
21 Ocwen’s tender and negotiated the check. It cannot be disputed that U.S. Bank’s
22 predecessor in interest, Ocwen, did exactly what it was required to under Nevada law
23 to protect the Deed of Trust.

24 ***The HOA Conducted a Sub-Priority Sale***

25 6. Because Ocwen satisfied the superpriority debt, the HOA foreclosed a
26 subpriority lien and passed title subject to the Deed of Trust.

27 7. Under NRS 116.3116, an association's lien is split "into two pieces, a
28 superpriority piece and a sub-priority piece.” *SFR Investments Pool 1, LLC v. U.S.*

1 *Bank, N.A.*, 130 Nev. Adv. Op. 75, 334 P.3d 408, 410 (2014). "The superpriority piece"
2 is "prior to a first deed of trust." *Id.* "The subpriority piece, consisting of all other
3 HOA fees or assessments, is subordinate to a first deed of trust." *Id.*

4 8. The Nevada supreme court has made clear an association can choose to
5 foreclose on either the subpriority or superpriority portion of its lien. *See Shadow*
6 *Wood Homeowners Ass'n v. New York Cmty. Bancorp, Inc.*, 132 Nev. Adv. Op. 5, 366
7 P.3d 1105, 1116 (2016) ("And if the association forecloses on its superpriority lien
8 portion, the sale also would extinguish other subordinate interests in the property.")
9 (emphasis added); *Stone Hollow Ave. Trust v. Bank of America, N.A.*, 382 P.3d 911
10 (Table), 2016 WL 4543202 (Nev. 2016) (vacated on other grounds) (*Stone Hollow II*).
11 An association's foreclosure of its subpriority lien does not extinguish a senior deed of
12 trust. *See Stone Hollow*, 382 P.3d at 911.

13 9. The Nevada supreme court's holding in *SFR Investments* that an
14 association's foreclosure of its superpriority lien could extinguish a senior deed of
15 trust does not mean every association's foreclosure has such an effect – only proper
16 superpriority foreclosures do.

17 10. Here, the evidence shows the HOA conducted a subpriority foreclosure,
18 which could not extinguish the Deed of Trust. Accordingly, Plaintiff purchased the
19 Property subject to BANA's Deed of Trust.

20 11. Lakes argument that U.S. Bank's interest in the Deed of Trust is void
21 and unenforceable as to him pursuant to N.R.S. § 111.325 is without merit because
22 the timing of the Assignment is immaterial to the HOA Sale not extinguishing the
23 Deed of Trust. .

24 ***Remaining Issues***

25 12. U.S. Bank dropped its federal foreclosure bar arguments as being not
26 applicable based on the chronology of events in this matter.

27 13. Any remaining issues raised in U.S. Bank's motion for summary
28 judgment against Plaintiff are moot.

1 14. U.S. Bank's motion for summary judgment against the HOA is also
2 moot.

3 15. The HOA's motion for summary judgment against U.S. Bank is also
4 moot.

5 *The Deed of Trust Remains a Valid, Secured Encumbrance*

6 16. The HOA Sale did not extinguish the Deed of Trust.

7 17. The Deed of Trust remains a valid, secured encumbrance against the
8 Property.

9 18. All persons or entities whom were granted title or an interest in the
10 Property through the HOA Sale took such title or interest subject to the Deed of
11 Trust.

12 19. U.S. Bank's Motion for Summary Judgment against Plaintiff is granted.

13 20. U.S. Bank's Motion for Summary Judgment against the HOA is denied
14 as moot.

15 21. The HOA's Motion for Summary Judgment against U.S. Bank is denied
16 as moot.

17 *Rule 54(b) Certification*

18 There being no reason for delay, this Order should be certified as final
19 pursuant to NRCP 54(b). Accordingly, this Order is a final judgment for purposes of
20 appeal.

21 DATED: this 12 day of July, 2019.

22 
23 _____
24 DISTRICT COURT JUDGE MF
25 RONALD J. ISRAEL
26 A-17-759016-C
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Respectfully submitted by:

Dated this ____ day of July, 2019

Ballard Spahr LLP

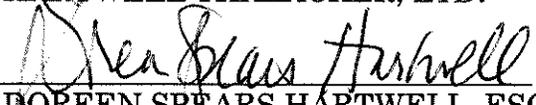
By: _____
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Joseph P. Sakai, Esq.
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*Attorneys for U.S. Bank Trust,
Trustee for LSF9 Master Participation
Trust*

Approved as to form by:

Dated this ____ day of July, 2019.

HARTWELL THALACKER, LTD.


DOREEN SPEARS HARTWELL, ESQ.
Hartwell Thalacker, Ltd.
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Las Vegas, NV 89141

*Attorney for Plaintiff/Counter-
Defendant,, Daniel Lakes*

Approved as to form by:

Dated this ____ day of July 2019:

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ANDERSON SONG

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*Attorney for Cross-Defendant Liberty at
Huntington Homeowners' Association*

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Respectfully submitted by:

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By:

Joel E. Tasca, Esq.
Joseph P. Sakai, Esq.
1980 Festival Plaza Drive, Suite 900
Las Vegas, Nevada 89134

*Attorneys for U.S. Bank Trust,
Trustee for LSF9 Master Participation
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*Attorney for Plaintiff/Counter-
Defendant,, Daniel Lakes*

Approved as to form by:

Dated this 10 day of July 2019:

LEACH KERN GRUCHOW
ANDERSON SONG



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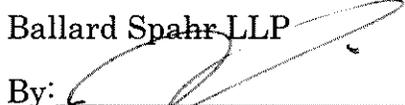
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By: 
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*Attorneys for U.S. Bank Trust,
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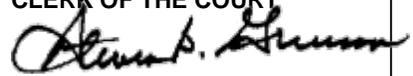
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6 sakaij@ballardspahr.com

7 *Attorneys for Defendants U.S. Bank Trust,*
8 *Trustee for LSF9 Master Participation Trust*

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 DANIEL LAKES, an Individual;

12 Plaintiff,

13 v.

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26 **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW ON**
27 **MOTIONS FOR SUMMARY JUDGMENT**

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PLEASE TAKE NOTICE that on the 17th day of July, 2019, the Clerk of the Court entered a **Findings of Fact and Conclusions of Law on Motions for Summary Judgment**, a copy of which is attached hereto.

DATED this 18th day of July, 2019.

BALLARD SPAHR LLP

By: /s/ Joseph Sakai
Joel E. Tasca
Nevada Bar No. 14124
Joseph P. Sakai
Nevada Bar No. 13578
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Las Vegas, Nevada 89135

*Attorneys for Defendant U.S. Bank Trust, Trustee
for LSF9 Master Participation Trust*

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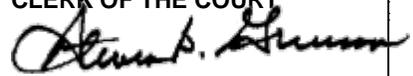
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of July, 2019, and pursuant to N.R.C.P. 5(b), a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW ON MOTIONS FOR SUMMARY JUDGMENT**, was served via the Court's Odyssey E-File and Serve system to the following parties:

Sean L. Anderson, Esq.
T. Chase Pittsenbarger, Esq.
LEACH KERN GRUCHOW ANDERSON SONG
2525 Box Canyon Drive
Las Vegas, Nevada 89128
Attorneys for Liberty at Huntington HOA

Doreen Spears Hartwell, Esq.
HARTWELL THALACKER, LTD
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Las Vegas, Nevada 89141

/s/ M. Carlton
An Employee of BALLARD SPAHR LLP



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4 lien into two pieces, a superpriority piece and a subpriority piece.” *SFR Investments*
5 *Pool 1, LLC v. U.S. Bank, N.A.*, 334 P.3d 408, 411 (Nev. 2014). As explained by the
6 *SFR* Court, “NRS 116.3116 gives a homeowners’ association (HOA) a superpriority
7 lien on an individual homeowners’ property for up to nine months of unpaid HOA
8 dues.” *Id.* at 409 (emphasis added). The *SFR* Court further provides the beneficiary of
9 record of a deed of trust can preserve its interest by “determining the precise
10 superpriority amount” and tendering it “in advance of the sale.” *Id.* at 418.

11 4. Since the *SFR Investments* decision, the Nevada Supreme Court held—
12 again as a matter of statutory interpretation—the superpriority portion of an HOA
13 lien does *not* include collection fees and foreclosure costs incurred by an HOA.
14 *Horizons at Seven Hills Homeowners Ass’n v. Ikon Holdings*, 373 P.3d 66, 71–72
15 (Nev. 2016). The *Ikon Holdings* court confirmed the superpriority amount is “limited
16 to an amount equal to the common expense assessments due during the nine months
17 before foreclosure.” *Id.*

18 5. Here, Ocwen tendered 9 months of monthly assessments – the full
19 superpriority debt - entitled to superpriority protection which totaled \$3241.52. Upon
20 receipt of the check from Ocwen, the HOA, through it’s agent, Red Rocks, accepted
21 Ocwen’s tender and negotiated the check. It cannot be disputed that U.S. Bank’s
22 predecessor in interest, Ocwen, did exactly what it was required to under Nevada law
23 to protect the Deed of Trust.

24 ***The HOA Conducted a Sub-Priority Sale***

25 6. Because Ocwen satisfied the superpriority debt, the HOA foreclosed a
26 subpriority lien and passed title subject to the Deed of Trust.

27 7. Under NRS 116.3116, an association's lien is split "into two pieces, a
28 superpriority piece and a sub-priority piece.” *SFR Investments Pool 1, LLC v. U.S.*

1 *Bank, N.A.*, 130 Nev. Adv. Op. 75, 334 P.3d 408, 410 (2014). "The superpriority piece"
2 is "prior to a first deed of trust." *Id.* "The subpriority piece, consisting of all other
3 HOA fees or assessments, is subordinate to a first deed of trust." *Id.*

4 8. The Nevada supreme court has made clear an association can choose to
5 foreclose on either the subpriority or superpriority portion of its lien. *See Shadow*
6 *Wood Homeowners Ass'n v. New York Cmty. Bancorp, Inc.*, 132 Nev. Adv. Op. 5, 366
7 P.3d 1105, 1116 (2016) ("And if the association forecloses on its superpriority lien
8 portion, the sale also would extinguish other subordinate interests in the property.")
9 (emphasis added); *Stone Hollow Ave. Trust v. Bank of America, N.A.*, 382 P.3d 911
10 (Table), 2016 WL 4543202 (Nev. 2016) (vacated on other grounds) (*Stone Hollow II*).
11 An association's foreclosure of its subpriority lien does not extinguish a senior deed of
12 trust. *See Stone Hollow*, 382 P.3d at 911.

13 9. The Nevada supreme court's holding in *SFR Investments* that an
14 association's foreclosure of its superpriority lien could extinguish a senior deed of
15 trust does not mean every association's foreclosure has such an effect – only proper
16 superpriority foreclosures do.

17 10. Here, the evidence shows the HOA conducted a subpriority foreclosure,
18 which could not extinguish the Deed of Trust. Accordingly, Plaintiff purchased the
19 Property subject to BANA's Deed of Trust.

20 11. Lakes argument that U.S. Bank's interest in the Deed of Trust is void
21 and unenforceable as to him pursuant to N.R.S. § 111.325 is without merit because
22 the timing of the Assignment is immaterial to the HOA Sale not extinguishing the
23 Deed of Trust. .

24 ***Remaining Issues***

25 12. U.S. Bank dropped its federal foreclosure bar arguments as being not
26 applicable based on the chronology of events in this matter.

27 13. Any remaining issues raised in U.S. Bank's motion for summary
28 judgment against Plaintiff are moot.

1 14. U.S. Bank's motion for summary judgment against the HOA is also
2 moot.

3 15. The HOA's motion for summary judgment against U.S. Bank is also
4 moot.

5 *The Deed of Trust Remains a Valid, Secured Encumbrance*

6 16. The HOA Sale did not extinguish the Deed of Trust.

7 17. The Deed of Trust remains a valid, secured encumbrance against the
8 Property.

9 18. All persons or entities whom were granted title or an interest in the
10 Property through the HOA Sale took such title or interest subject to the Deed of
11 Trust.

12 19. U.S. Bank's Motion for Summary Judgment against Plaintiff is granted.

13 20. U.S. Bank's Motion for Summary Judgment against the HOA is denied
14 as moot.

15 21. The HOA's Motion for Summary Judgment against U.S. Bank is denied
16 as moot.

17 *Rule 54(b) Certification*

18 There being no reason for delay, this Order should be certified as final
19 pursuant to NRCP 54(b). Accordingly, this Order is a final judgment for purposes of
20 appeal.

21 DATED: this 12 day of July, 2019.

22 
23 _____
24 DISTRICT COURT JUDGE MF
25 RONALD J. ISRAEL
26 A-17-759016-C
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28

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Respectfully submitted by:

Dated this ____ day of July, 2019

Ballard Spahr LLP

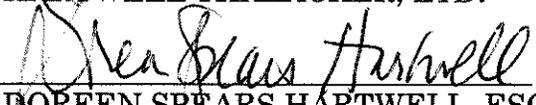
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*Attorneys for U.S. Bank Trust,
Trustee for LSF9 Master Participation
Trust*

Approved as to form by:

Dated this ____ day of July, 2019.

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*Attorney for Plaintiff/Counter-
Defendant,, Daniel Lakes*

Approved as to form by:

Dated this ____ day of July 2019:

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Respectfully submitted by:

Dated this ____ day of July, 2019

Ballard Spahr LLP

By:

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Approved as to form by:

Dated this ____ day of July, 2019.

HARTWELL THALACKER, LTD.

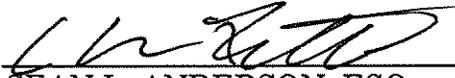
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Approved as to form by:

Dated this 10 day of July 2019:

LEACH KERN GRUCHOW
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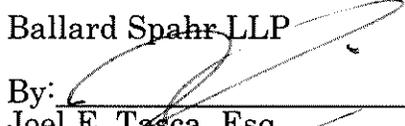
*Attorney for Cross-Defendant Liberty at
Huntington Homeowners' Association*

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Respectfully submitted by:

Dated this 10th day of July, 2019

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Dated this ____ day of July, 2019.

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Dated this ____ day of July 2019:

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*Attorney for Cross-Defendant Liberty at
Huntington Homeowners' Association*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

January 03, 2018

A-17-759016-C Daniel Lakes, Plaintiff(s)
vs.
Bank of America N.A., Defendant(s)

**January 03, 2018 3:00 AM Motion Daniel Lake's Motion
to Enlarge Time for
Service of Process
and For an Order
Allowing Service by
Publication as to
Defendant Rogelio
Cedillo**

HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Upon Court's review, COURT ORDERED, Plaintiff's Motion to Enlarge Time for Service of Process and for an Order Allowing Service by Publication as to Defendant Rogelio Cedillo, GRANTED. Time enlarged to serve Defendants Rogelio Cedillo and Parcelnomics LLC and Counsel to Serve by Publication in Nevada and Arizona. Counsel to prepare the order. Minute order pursuant to Law Clerk.

CLERK'S NOTE: A copy of this minute order was e-served to all parties. kk 01/12/18.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

October 16, 2018

A-17-759016-C Daniel Lakes, Plaintiff(s)
vs.
Bank of America N.A., Defendant(s)

**October 16, 2018 9:45 AM Status Check: Trial
Readiness Status Check:
Referral to
Settlement
Conference // Trial
Readiness (Bench
Trial 04/22/19)**

HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Priest, Holly A. Attorney

JOURNAL ENTRIES

- Ms. Priest noted she believed the Plaintiff has Pro-Bono counsel and noted they are in discovery and she would be amending pleadings. Ms. Priest further noted this is a Housing and Economic Recovery Act of 2008 (H.E.R.A.) and Tender issue and would not be interested in a settlement conference.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

November 15, 2018

A-17-759016-C

Daniel Lakes, Plaintiff(s)

vs.

Bank of America N.A., Defendant(s)

November 15, 2018

3:00 AM

Motion for Leave

**Motion for Leave to
File Amended
Answer,
Counterclaims and
Cross Claims**

HEARD BY: Israel, Ronald J.

COURTROOM: RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- There being no Opposition to the Motion; the time to oppose having passed in accordance with EDCR 2.20 and for good cause shown There being no Opposition to the Motion; the time to oppose having passed in accordance with EDCR 2.20 and for good cause shown that amendment of the Answer is necessary and proper in accordance with applicable law, the Court hereby GRANTS Defendant's Motion to for Leave to File Amended Answer, Counterclaims and Cross Claims both pursuant to EDCR 2.20 and on the merits. The Order has been signed and will be available for pick-up in the department 28 box on the 15th floor of the Regional Justice Center. Defendnat is allowed 30 days to file their newly Amended Answer, Counterclaims, and Cross Claims.

CLERK'S NOTE: A copy of this minute order was e-served to counsel. kk 11/16/18.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Title to Property

COURT MINUTES

June 04, 2019

A-17-759016-C Daniel Lakes, Plaintiff(s)
vs.
Bank of America N.A., Defendant(s)

June 04, 2019 9:30 AM All Pending Motions

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER: Judy Chappell

REPORTER:

PARTIES

PRESENT: Hartwell, Doreen M. Spears Attorney
 Pittsenbarger, Timothy C. Attorney
 Sakai, Joseph P. Attorney

JOURNAL ENTRIES

- PRE-TRIAL CONFERENCE...US BANK TRUST TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST'S MOTION FOR SUMMARY JUDGMENT...COUNTERDEFENDANT LIBERTY AT HUNTINGTON HOMEOWNERS' ASSOCIATION'S MOTION FOR SUMMARY JUDGMENT:

Court noted this case is a Federal foreclosure & a tender issue. Mr. Sakai noted he had received information regarding Freddie Mack non-interest and therefore would withdraw the Federal foreclosure issue. Arguments by Counsel regarding the tender issue. Mr. Sakai stated the check was sent and cashed and they still had the foreclosure sale, it should have been a junior sale. Ms. Hartwell noted her client was the purchaser in January 2016 and noted there was three different transactions. Colloquy regarding the transfers of sale, NRS 116.125, bona fide purchaser, tender and sub-priority sale. Court finds the tender was made the sale was a sub-priority, mortgage was in place and Plaintiff, Mr. Lakes bought the property subject to the mortgage. Court finds there was no failure to record. COURT ORDERED, US Bank Trustee's Motion for Summary Judgment, GRANTED and FURTHER COURT ORDERED, Liberty at Huntington Homeowner's Association's Motion for Summary Judgment, MOOT. Trial Dates, VACATED. Court noted the issue of the fair market value would not be decided at this time. Court directed the State to prepare the order and pass it by

Counsel.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; STATEMENT OF LEGAL AID REPRESENTATION (PURSUANT TO NRS 12.015); DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT AND CONCLUSIONS OF LAW ON MOTIONS FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW ON MOTIONS FOR SUMMARY JUDGMENT; DISTRICT COURT MINUTES

DANIEL LAKES,

Plaintiff(s),

vs.

BANK OF AMERICA, N.A.; U.S. BANK TRUST, TRUSTEE FOR LSF9 MASTER PARTICIPATION TRUST; ROGELIO CEDILLO; PARCELNOMICS, LLC, DBA INVESTMENT DEALS; NOUNE GRAEFF,

Defendant(s),

Case No: A-17-759016-C

Dept No: XXVIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 31 day of July 2019.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk

