Case No. 81604

IN THE SUPREME COURT OF NEVADA

THE BANK OF NEW YORK MELLON, F/K/A THE BANK OF NEW YORK, AS TRUSTEE, FOR THE CERTIFICATEHOLDERS OF CWABS, INC. ASSET-BACKED CERTIFICATES, SERIES 2006-25,

Appellant,

vs.

SFR INVESTMENTS POOL 1, LLC,

Respondent.

APPEAL

From the Eighth Judicial District Court, Clark County
The Honorable DAVID JONES, District Judge
District Court Case No. A-19-790150-C

RESPONDENT'S APPENDIX VOLUME 1 OF 1

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 21st day of April, 2021. Electronic service of the foregoing **RESPONDENT'S APPENDIX VOLUME 1 OF 1** shall be made in accordance with the Master Service List.

DATED: April 21, 2021.

/s/Alexander Loglia
An employee of KIM GILBERT EBRON

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL 1, LLC, a Nevada limited liability company,

Plaintiff,

vs.

THE BANK OF NEW YORK MELLON, FKA THE BANK OF NEW YORK, AS TRUSTEE, FOR THE CERTIFICATEHOLDERS OF CWABS, INC. ASSET-BACKED CERTIFICATES, SERIES 2006-25, a national bank; SABLES, LLC, a foreign limited liability company,

Defendants.

CASE NO.: A-19-790150-C
DEPT NO.: XXIX

ORDER GRANTING TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

[PROPOSED ORDER]

This matter came on for hearing on June 12, 2019 on Plaintiff, SFR Investments Pool 1, LLC's ("SFR") Motion for Temporary Restraining Order and Preliminary Injunction. Having read the briefs and considered argument of counsel, the Court finds and concludes as follows:

1. This matter concerns a title dispute relating to real property located at 4946 Droubay Drive, Las Vegas, Nevada 89122.

2. Defendant The Bank of New York Mellon, FKA The Bank of New York, as Trustee, for the Certificateholders of CWABS, Inc. Asset-Backed Certificates, Series 2006-25 is the current beneficiary of a first-position Deed of Trust recorded against the property on November 22, 2006, securing a loan to Nelson and Susan Pritz ("Borrowers") in the amount of $232,200.00.

3. On September 19, 2012, Squire Village Homeowners Association conducted a non-

judicial foreclosure of the Property, due to the Borrowers' non-payment of their monthly assessments.

4. At the sale, SFR purchased the Property for $5,358.00.

5. On January 16, 2019, Sables, LLC, on behalf of BNYM, recorded a Notice of Breach and Default and of Election to Sell the Real Property Under Deed of Trust in the Clark County Recorder's Office (the "Official Records") as Book and Instrument Number 20190116-0000389.

6. On May 1, 2019, Sables, LLC, on behalf of BNYM, recorded a Notice of Trustee's Sale in the Official Records as Book and Instrument Number 20190501-0002997.

7. The May 1, 2019 Notice of Sale set a sale date of May 24, 2019.

8. At the June 12, 2019 hearing, BNYM represented that by agreement it continued the sale for thirty (30) days to allow for the instant motion to be briefed in the normal course.

9. BNYM subsequently placed the foreclosure on hold and as such, there is no sale date currently set.

9. To obtain a preliminary injunction, SFR must show "a reasonable probability of success on the merits and that the defendant's conduct, if allowed to continue, will result in irreparable harm..." *Pickett v. Comanche Const., Inc.*, 108 Nev. 422, 426 (1992).

10. If the foreclosure sale were permitted to proceed on behalf of BNYM, SFR may be irreparably harmed for which there is no adequate remedy at law.

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that SFR's Motion for Temporary Restraining Order and Preliminary Injunction is **GRANTED.**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that The Bank of New York Mellon fka The Bank of New York as Trustee of the Certificateholders of CWABS, Inc. Asset Backed Certificates, Series 2006-25, and its agents and assigns, including, but not limited to Sables, LLC, are **RESTRAINED AND ENJOINED** from (1) advertising for sale, continuing with foreclosure proceedings, selling, transferring, or otherwise conveying the real property commonly known as 4946 Droubay Drive, Las Vegas, Nevada 89122, APN 161-26-111-133 ("Property") and

(2) entering the Property or disturbing the tenants.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that SFR shall deposit a cash bond in the amount of $1,500 with the clerk of the Court 30 days from entry of this order.

IT IS SO ORDERED.

DATED: Aug. 23, 2019.

DISTRICT COURT JUDGE

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Submitted by:

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DISTRICT COURT

CLARK COUNTY, NEVADA

SFR INVESTMENTS POOL 1, LLC, Plaintiff, vs. BANK OF NEW YORK MELLON, Defendant.	CASE#: A-19-790150-C DEPT. XXIX

BEFORE THE HONORABLE DAVID M. JONES, DISTRICT COURT JUDGE

WEDNESDAY, APRIL 29, 2020

RECORDER'S TRANSCRIPT OF HEARING
FIRST AND FINAL ACCOUNT AND PETITION FOR ORDER ALLOWING A VERIFIED RECORD OF VALUE TO BE FILED IN LIEU OF APPRAISEMENT AND PLAINTIFF SFR INVESTMENTS POOL 1, LLC'S MOTION FOR SUMMARY JUDGMENT

APPEARANCES:

For the Plaintiff: KAREN HANKS, ESQ.

For the Defendant: STEPHEN J. DOLEMBO, ESQ.

RECORDED BY: MELISSA DELGADO-MURPHY, COURT RECORDER

Las Vegas, Nevada, Wednesday, April 29, 2020

[Case called at 9:01 a.m.]

MR. DOLEMBO: Good morning, Your Honor.

MS. HANKS: Good morning.

THE COURT: Good morning. Glad to see someone else's garage looks a lot like mine.

MS. HANKS: This is the only place I think maybe the kids won't interrupt me.

THE COURT: Hey, whatever works. I've had people appear, I think, for sure it's either in their bathroom or their bedroom. I'm just glad that they --

MR. DOLEMBO: That is fantastic.

THE COURT: -- put the camera towards the ceiling.

All right, case number A19-790150, SFR versus Bank of New York Mellon.

Counsel, your appearances for the record?

MS. HANKS: Karen Hanks for SFR.

MR. DOLEMBO: Steve Dolembo for Bank of New York Mellon.

THE COURT: All right. Basically, we've got our motions for summary judgment. I've read through them all.

I'm really -- I can tell you this, counsel. I'm really curious about the *res judicata* argument. There's a case out there called Bowers [sic] versus Harrah's Loss -- or Harrah's Laughlin. It was over in the

biker shooting case.

We tried the actual case in federal court. A jury of peers of the individuals in the state of Nevada ruled in favor of the hotel on liability. The Nevada Supreme Court basically told the federal court that that's not *res judicata*.

So how is that not similar here in regards to that third prong? Because we've met every single one of the third prongs --

MR. DOLEMBO: Your Honor --

THE COURT: -- as far as I was concerned.

MR. DOLEMBO: That's correct, Your Honor. It's Steve Dolembo for Bank of New York Mellon. As far as the claim preclusion goes, I'm not sure if -- how much that really matters with this case, but I do agree, Your Honor.

In the federal court case, the parties were the same. The final judgment was valid, but the claims that were brought in that federal court case are not the same as that -- as were brought here.

In the federal court case, I brought a strict quiet title dec relief action. The claims here are a violation of NRS 107.-- or 106.240. There -- they have no nexus to each other. They're completely unrelated. And for that reason, claim preclusion does not apply in this case.

I looked through SFR's briefing. They didn't address the actual doctrine of claim preclusion. They were still on *res judicata*. They didn't address Five Star Capital versus Ruby.

But at the end of the day, this case is, you know, one for

cancellation of instrument. And, you know, so the -- I guess what I'm trying to say is that the doctrine of claim preclusion kind of comes in at the end. And I think that what it's going to do is impact the language of the order more than anything else.

THE COURT: Okay.

MS. HANKS: And, Your Honor, if I may?

THE COURT: Absolutely.

MS. HANKS: I think the problem in this case is comparing the claim brought by SFR and what the bank is trying do.

So let's break it down here. What the bank is trying to do is they're trying to say as a defense to 106.240, right, because there's only -- there's two distinct claims.

THE COURT: Right.

MS. HANKS: And one claim is based on NRS 106.240. And what they're trying to say is I get to slip in a defense of tender to a 106.240 claim.

You don't. You could have tendered in some other world for some other event. That does not negate the 106.240 argument.

So they're trying to do something, I think, that is a *res judicata* principle. They -- in fact, they even came to you and asked for affirmative relief despite the fact that they have no claim. They have zero claims before you. You have no jurisdiction to adjudicate the association sale and whether it was valid or not.

And yet, that is the entire premise of their Motion for Summary Judgment. So you can call it whatever you want, but that's where I was

getting at, that they cannot use SFR's claims, particularly the 106.240 and back door in a claim that was precluded or will be precluded under Nevada law or should be, because that was adjudicated by the federal court. And it was a motion to dismiss and it was dismissed with prejudice.

So while I didn't cite Five Star, I cited every case that said exactly the same elements of Five Star. And that case was particular to say a dismissal without prejudice wouldn't be a preclusion.

We have a dismissal with prejudice. So it was adjudicated on the merits. I cited the case law that says even though technically speaking you don't get into the merits of every single part of the case, case law interprets a dismissal with prejudice based on the statute of limitations as an adjudication on the merits.

So that's where the claim preclusion comes in. It's not that our claim is precluded. What I'm saying is you don't get to argue the effect of the association sale and try to claim that that's a defense to 106. It's not.

The only question with 106.240 is did the debt become wholly due at some point in time? And whatever that point in time was, has 10 years lapsed? That's it.

But they're trying to back door in the adjudication of the association sale. And I believe that *res judicata* would preclude that. That's the claim that's kind of precluded.

It's weird though, because they didn't actually plead a claim, but that was the point of my argument, but that's essentially what they're

trying to do. They're trying to have this Court adjudicate a claim that they never pled and that was already adjudicated by the federal court.

So, really, we should only be looking at 106.240 and that's why I said only Section A and B of their opposition was the only relevant argument that this Court could consider.

THE COURT: Okay, thank you, counsel.

Rebuttal of that?

MR. DOLEMBO: Yeah, Your Honor. Actually, the Court doesn't need to make a determination as to the effect of the HOA sale, Bank of New York Mellon's deed of trust. It just doesn't. It's not necessarily germane to what's before the Court.

What we've got here is an alleged violation of NRS 106.240. They're trying to say that my deed of trust became wholly due or that 106.240 means that essentially the date that a notice of default was recorded, you take 10 years out from that. It extinguishes the loan. That's not the case.

THE COURT: Well, counsel, it's not just the notice of default. It's the fact that you -- your client sent a statement to the borrower, said your payment is due now. It's over. 100 percent, pay us up.

I mean, how much more clear is it that that's not a 106.240 argument when the lender sends a notice to the borrower and says guess what? You violated the terms of the contract. It's due now, 100 percent paid in full.

How is that not exactly --

MR. DOLEMBO: Right, Your Honor.

THE COURT: -- what 106.240 was designed to do?

MR. DOLEMBO: Well, first of all, let me be clear that we didn't send a notice of acceleration in 2008. We just recorded a notice of default. That was in April of 2008.

And that is -- I've got the exhibit. In any event, Your Honor, I'll see if I can track down the exhibit number --

THE COURT: Yeah, I see it. It's basically your section where it says that you recorded notice of default. Is notice of default --

MR. DOLEMBO: In --

THE COURT: -- not a notice to the world and to the borrower?

MR. DOLEMBO: Not pursuant to Section 1 -- or 22 of the deed of trust, Your Honor. And what we need to do after is we need to see that so the notice of default was recorded in April of 2008.

In August 2008, there was a finalized loan modification entered into with the borrowers that completely re-set the terms of the deed of trust. Okay, the borrowers then filed bankruptcy in 2010.

THE COURT: Correct.

MR. DOLEMBO: And it wasn't until September of 2013, where we actually ended up sending the notice of acceleration pursuant to paragraph 22 of the deed of trust, so even if --

THE COURT: When did she get discharged from bankruptcy?

MS. HANKS: It would have been in 2011. Let me see if I can --

THE COURT: Okay, so why the wait for two years to do

anything?

MR. DOLEMBO: You know what, Your Honor, I don't know. And I don't know if they were continuing to work out.

I know that there were -- there was a subsequent loan modification that didn't end up going through, but that doesn't really matter, you know, for the analysis of 106.240.

106.240 says that the debt is presumed satisfied 10 years after it becomes due pursuant to the terms of the loan documents, not pursuant to the terms of the notice of default.

In this case, I've got a maturity date of December 1, 2046. And that's page 2 on the deed of trust. That's Exhibit 1 to my request for judicial notice.

Essentially what you have to do at that point is you have to add an additional 10 years. That would put it at December 1, 2056 as the earliest date when NRS 106.240 would kick in.

The next thing you'd have to do is see if there were any extensions. We don't have any here. So the presumption under NRS 106.240 kicks in December 1, 2056. That's it. You know the Pro Max case supports my position.

And like I said, even if, you know, SFR's argument is correct that the trigger date was the first notice of default in April 2008, again, I've got the finalized loan modification. That's my opposition to their motion for summary judgment at Exhibit 1.

I've got the borrower's bankruptcy, which would have equitably tolled anything. And that was filed on October 15th, 2017.

And, finally, my notice of acceleration, which is notice to the borrower that the terms of the loan have become accelerated was sent on September 17th, 2013.

You know, I think it's important to note, too, that SFR's argument is based on when the loan is wholly due. Now even if I sent a notice of acceleration, that doesn't mean the loan is wholly due. You're still going to incur late fees, charges, things like that.

That's not what NRS 106.240 was -- is intended to address. I mean, this is a statute that's been on the books in the same form since 1917.

THE COURT: Okay --

MR. DOLEMBO: As far as their third cause of action --

THE COURT: -- so what's the argument that it's not good law? I mean, I'm confused with that argument.

MR. DOLEMBO: No, I'm not -- no, I'm sorry, Your Honor, I'm not saying it's not good law. I'm just saying that it's not -- when it was enacted, it wasn't enacted to address concerns like what we've got here.

As far as the third cause of action goes, that one is violation of NRS 107.028 --

THE COURT: Right.

MR. DOLEMBO: -- alleged against Sables [phonetic]. Sables filed a declaration of nonmonetary status under NRS 1.029. SFR didn't object to it. And that one should be out as well.

THE COURT: Okay, thank you, counsel.

Quick reply to that, counsel?

MS. HANKS: Yeah, I want to address counsel is talking about paragraph 2 of the -- 22 of the deed of trust. They did exactly what the deed of trust contemplates. They accelerated the loan via the notice of default at a minimum.

Normally, I've seen cases where maybe they might send letters before the notice of default, but at a minimum, the notice of default does it. It even says in the language does -- has and does hereby declare the sums immediately due and payable.

So that is the instrument at the very least that --

THE COURT: Okay, now let's --

MS. HANKS: Now --

THE COURT: Let me see if I agree with that. What happens then when the borrower goes back to the bank and says I want to renegotiate this and we now do a loan mod?

MS. HANKS: Right.

THE COURT: Does that loan mod not wipe out the previous action?

MS. HANKS: The problem in this case is the loan modification was actually never paid. In other words, all the documentation was done, but then they immediately didn't make the first payment under the loan modification.

So I believe that creates an issue of was there really truly a lone modification under the law when the party doesn't actually pay the consideration for it and perform under it?

So, in reality, you might have a document and I might agree

that that might do it, might. But not in this case, because all you have is documentation that says we're going to do it and then the borrower doesn't perform. They immediately do not pay the first payment.

And then, we know that because the notice of default that was recorded in 2019 indicates a default date of May 1st, 2009. And that was supposed be the first payment under the loan modification agreement.

So I would argue that that loan modification agreement is just paper. It didn't actually do anything, because the borrower didn't put it into effect, didn't make that installment payment. So the loan really stayed status quo.

I do want to address the bank brought up bankruptcy as far as I could tell in the reply for the first time. And if this Court is needing some additional information, there might be another trigger date for the acceleration absent even the notice of default recorded in 2008.

And I say that because there is bankruptcy law and there's other laws in other states dealing with a similar statute that we have that says when a borrower files bankruptcy, it doesn't toll anything. In fact, it does the opposite of what bank counsel argued. It actually accelerates --

THE COURT: Some people say it accelerates it?

MS. HANKS: Yes. So I didn't put any of that law in there, Your Honor, because they never raised that issue. But if that's even something that we're concerned with, then I would ask for supplemental briefing because I'm familiar with that case law. I've researched it in

other instances.

So I would believe we would have another period of time where you need to measure when this loan was actually wholly due, irrespective of the notice of default recorded in 2008.

And one final point --

THE COURT: Well, the Court was concerned -- counsel, I'm clearly concerned with the bankruptcy. That's why I asked when it was satisfied or when the bankruptcy actually -- was it open and it clearly closed or we still have a pending bankruptcy, because that tolling --

MS. HANKS: Right.

THE COURT: -- time period concerns the Court if it was they opened a bankruptcy and six months later, they said you know what? We're going to walk away from this. I don't know what the status of the bankruptcy even is.

And was it for a prolonged period of time? And then, the bank just basically said, oh, we'll wait and see what happens. Or was it they found out what happened and then they sat and did absolutely nothing for another two years is a concern the Court has.

MS. HANKS: Right, and the other element --

MR. DOLEMBO: Your Honor --

MS. HANKS: The other element with the bankruptcy --

MR. DOLEMBO: Your --

THE COURT: Hold on, let Ms. Hanks finish.

Go ahead.

MS. HANKS: The other element with the bankruptcy in the

case law I was referring to actually dealing with this type of situation when a loan becomes wholly due and basically makes the deed of trust expire, the bankruptcy is unique because those courts have interpreted that once a person files a petition, that debt, the personal debt of that borrower, is completely and wholly due, because that's the only way it can be managed in the bankruptcy.

So it even has a different element besides tolling or any actionable part of the bank. It actually has a legal effect that that's the date that the whole debt becomes due, because you've now filed a petition and put that debt in issue in the bankruptcy.

THE COURT: Bankruptcy, yeah.

MS. HANKS: So that's why I asked if that's even something that's in the Court's mind, I'd like to brief that. Obviously, there's nothing in Nevada, but there are jurisdictions that have these similar issues. In other words, when does the deed of trust expire? And they've interpreted it. And so, I'd like to add that --

THE COURT: Okay.

MS. HANKS: -- if you need it.

THE COURT: Okay, let me hear from the other counsel in regards to that one issue?

MR. DOLEMBO: Sure, Your Honor. That's actually Exhibit G to my Motion for Summary Judgment. It's page 62 of the PDF. The Chapter 7 was filed October 15th, 2010, terminated March 11, 2011.

So even if the Court considers SFR's argument, the deed of trust would not have been presumed to expire until October 15th, 2020,

which is, what, five months from now?

So, either way, I'm entitled to summary judgment on their second cause of action, first cause of action, and third cause of action. Thank you.

THE COURT: Okay, counsel, I think if I understand this argument, basically, is that triggers the date, it would 10 years from there.

Your belief is that there are certain bankruptcy laws out there that would say it's actually that date itself, the second they file their petition. They've now basically put the debt due?

MS. HANKS: If you have nothing else, right.

THE COURT: Right.

MS. HANKS: I don't know, unfortunately, like I said, they raised that in their reply, so I haven't had the opportunity to look at the petition. I don't -- I can't speak as to the dates that counsel just said and I don't want to concede them not having reviewed --

THE COURT: How long is it going to take you to give me a sur-reply in regards to that element only?

MS. HANKS: If I could get two weeks just because I have a petition for re-hearing due by May 4th.

THE COURT: Okay, I'll give you two weeks. Get it submitted to me and I'll have a determination five days thereafter.

MS. HANKS: Okay.

MR. DOLEMBO: Hey, Your Honor?

THE COURT: Yes.

MR. DOLEMBO: Thank you again. I do want to make clear, though, counsel has indicated at least now on two occasions that I've raised it the first time in my reply. It is Exhibit G to my Motion for Summary Judgment.

THE COURT: Yeah, I saw the Exhibit G, but the question is whether or not the argument was part of the --

MS. HANKS: Right.

THE COURT: -- the details what we're talking about, not whether or not there's an exhibit to it.

MS. HANKS: Right.

MR. DOLEMBO: I understand.

THE COURT: But it was a concern I had. Counsel, it's really -- I could tell you this one is a lot different than the -- I mean, we've got -- I've had four or five of these exact same motions.

This one's got some twists to it that are unique to the -- this is the first time I've seen a couple of these arguments. And that's really why I wanted to hear oral arguments anyways is there's a couple tweaks to this as to was the bankruptcy there, what does this loan modification do?

I don't know what the loan modification -- this is the first time I really have an understanding that the loan modification may have not gone through.

My understanding in reading the briefing was the loan mod went through. If the loan mod went through --

MR. DOLEMBO: Your Honor, it would --

THE COURT: -- that's a different argument than they -- I prepared paperwork. That's great.

I mean, I just closed on a house four days ago. And I even got phone calls from the lender the day we closed asking whether or not I was still employed.

And so, they're -- you know, there was some turmoil as to was this loan actually gone through already? I'm like, well, the wire transfer went through. You cashed my check. Is that enough to say I'm now bound to that loan?

That's a real argument for this Court is if the loan modification went through, I can tell you this. My first gut reaction is if the loan modification went through, that killed the prior action.

That would have destroyed any action prior to that in regards to, oh, it's now been -- it's, quote, 100 percent due and think we as a lender said you know what?

Yeah, we have a right to 100 percent of it, because you messed up two years ago, but we now agree to a loan modification. They basically pulled back that right to go after them at that time period because they modified the loan.

So if a modification went through, that's a huge point to this Court versus we did the paperwork and then, oops, we never fulfilled our obligation. And, therefore, it's nothing but a contract that was never really "finalized".

And that's a real concern to this Court. And that's what I want to see any information on. That's what my interests are or that's where I

find this case is completely different than the other typical ones, where there's no -- not a loan modification.

Basically, the person doesn't pay on their note and the bank, you know, waives and does what they do. But this is the first one that this Court has seen where loan modification is an issue because that changes the time table.

MR. DOLEMBO: I understand that. I understand, Your Honor, I will represent to the Court that my witness testified that the loan modification was final.

I believe there were two separate efforts at loan modification that did not go through, but if you'll permit me to file a supplemental brief as well on that, I'll be more than happy to.

THE COURT: Was it -- if I'm not mistaken, your guys' discovery is done on this, isn't it? Doesn't -- don't we handle this material somewhere?

MR. DOLEMBO: It is -- we do. It is done. My witness was deposed on two occasions. The second occasion is when she was asked about the loan modification.

This particular loan modification that I attached that went through on August 25th, 2008 was a finalized loan modification.

THE COURT: Okay, let me ask you that, counsel.

MR. DOLEMBO: Whether or not she made any payments under it --

THE COURT: Counsel, stop.

MR. DOLEMBO: Yes.

THE COURT: Finalized loan modification, that's a term of art. Okay, that's a broker's statement. Finalized, does that mean legally we have a binding contract if one side of the parties does not fulfill their obligation by not making a payment? Did it actually go forward?

MR. DOLEMBO: I believe we do, Your Honor.

THE COURT: What's that?

MR. DOLEMBO: It's a signed contract between two parties, between my client and the borrowers.

THE COURT: Okay, but does that contract require --

MR. DOLEMBO: It's an effective, valid contract.

THE COURT: -- counselor, does that contract require performance in order for it to be as you call it finalized? I have to make at least a payment.

The question is a lot of times in loan modification, part of the consideration, they may have paid up-front money. They may have been required in the loan modification to come up with X amount of dollars up front.

And I don't know that either. If that's the case, then we might have some partial consideration that was paid for the loan modification. You can make an argument that, yeah, they may not have made the first installment, but they actually paid in part of the consideration that was requested of them.

I see a lot of times where loan modification, brokers will not even do the paperwork unless you give them $500, because they're like we're not going to do all this paperwork for nothing and give it, all these

loan mods to you, and you're going to walk away. We want to recover our costs.

And the courts have looked at that and said, okay, is that downpayment, so to speak, that $500, which they get credit for, is that the consideration to make the loan modification a valid contract? That's something I wanted to see when this came up and I still want to see what's going on.

So, counsel, you'll have the same two weeks to get me any documentation that you believe actually answers that question in regards to that the loan modification was finalized, okay?

MR. DOLEMBO: Understood. Now, Your Honor, one point of clarification. That issue only arises if in fact the Court accepts SFR's argument that the notice of default is the trigger date for NRS 106.240. So I just want to make sure that that's the Court's ruling?

THE COURT: That's -- no, it's not -- I don't have a ruling yet, counselor, because it's what I'm contemplating is this is a -- this is an actual trivial thing that I have never seen in any of these cases.

I mean, Ms. Hanks, I think I've seen her almost on a daily basis for the last five years in regards to HOA cases. But this was a -- this is a different twist when you have -- I would say if you didn't have the loan modification, it was an easy case for this Court.

It's the loan modification that's throwing the snafu in my thinking on this matter.

MR. DOLEMBO: Understood, thank you.

THE COURT: Because if you take that loan modification out,

the way I read it, the second basically that time period started is when you guys did the notice of default. That started the time period.

You know, the federal courts have ruled on it that way. I know the Nevada Supreme Court doesn't like to get told what the law is in Nevada from the people across the street.

I learned that in the Bower case, but I think the law is without that loan modification, that thing started the second that the notice of default was filed.

That's what the 106.240 was created to do is once you basically change or modify the terms of the note, and then you just sit on it for 10 years and nothing happens, we need to keep titles clean and that's what the intent was for that thing.

I know why it was done back so long ago because it was done because of mining claims. And there was issues on mining claims. And everybody was jumping all over the place saying, look, no one's done anything on these things for 10 years when you let the "cleaning up the title", okay?

So those are areas I want to hear from. Okay, you got two weeks to have you file the new briefs.

MR. DOLEMBO: Understood. Thank you so much for accommodating us.

THE COURT: Absolutely.

THE CLERK: [Indiscernible.]

THE COURT: What's that?

MR. DOLEMBO: All right, stay healthy.

THE COURT: Within two weeks and I'll have a ruling in chambers five days thereafter.

THE CLERK: May 13th.

MS. HANKS: Thank you.

THE COURT: Thank you, counsels.

MR. DOLEMBO: All right, thank you.

[Proceedings concluded at 9:25 a.m.]

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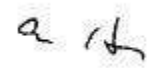
ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



Chris Hwang
Transcriber