

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 NONA TOBIN, as Trustee of the
3 GORDON B. HANSEN TRUST dated
4 8/22/08,

5 Appellants,

6 vs.

7 JOEL A. STOKES and SANDRA F.
8 STOKES, as Trustees of the
9 JIMI JACK IRREVOCABLE TRUST;
10 YUEN K. LEE, an individual, d/b/a
11 Manager, F. BONDURANT, LLC.,
12 SUN CITY ANTHEM COMMUNITY
13 ASSOCIATION, INC.; AND
14 NATIONSTAR MORTGAGE, LLC,

15 Respondents.

Electronically Filed
Dec 19 2019 05:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No.: 79295

District Court Case No A-15-720032-C
Consolidated with A-16-730078-C

16 **APPELLANT'S APPENDIX OF DOCUMENTS**

17 **VOLUME XIII of XIV**

18 Michael R. Mushkin
19 Nevada Bar No. 2421
20 L. Joe Coppedge, Esq.
21 Nevada Bar No. 4954
22 **MUSHKIN & COPPEDGE**
6070 South Eastern Ave. Suite 270
Las Vegas, Nevada 89121
702-454-3333 Telephone
702-386-4979 Facsimile
jcoppedge@mccnvlaw.com

Volume	Document	Bates No.
I	Affidavit of Nona Tobin in Support of Nona Tobin and Steve Hansen's Motion to Intervene	AA 000151 - AA 000163
V	Amended Notice of Entry of Stipulation and Order Reforming Caption	AA 001025 - AA001034
XIV	Amended Transcript of Proceedings of Pretrial Conference to Correct Attorney Name Only 04/25/19	AA 002837 - AA 002860
XIV	Amended Transcript to Correct Title of Motion: Third Parties Nona Tobin and Steve Hansen's Motion to Intervene 09/29/16	AA 002885 - AA 002899
XIV	Case Appeal Statement	AA 002865 - AA 002869
I	Complaint	AA 000001- AA 000009
X	Counterclaimant, Nona Tobin's [Proposed] Findings of Fact and Conclusions of Law	AA 001906 - AA 001921
V	Cross-Claimant Nona Tobin's Opposition to Cross-Defendant Sun City Anthem Community Association's Motion for Summary Judgment	AA 000879 - AA 000994
IV	Cross-Defendant Sun City Anthem Community Association's Answer to Cross-Claims by Nona Tobin, An Individual and Trustee of the Gordon B. Hansen Trust	AA 000644 - AA 000651
IV	Cross-Defendant Sun City Anthem Community Association's Motion for Summary Judgment	AA 000652 - AA 000826
III	Cross-Defendant Sun City Anthem Community Association's Motion to Dismiss Nona Tobin's Cross-Claims	AA 000519 - AA 000529
VIII	Cross-Defendant Sun City Anthem Community Association's Opposition to Cross-Claimant Nona Tobin's Motion for Reconsideration	AA 001356 - AA 001369
V	Cross-Defendant Sun City Anthem Community Association's Reply in Support of its Motion for Summary Judgment	AA 000995 - AA 001008
I	Defendant in Intervention Nationstar Mortgage, LLC's Answer to Plaintiffs' Complaint and Counterclaim	AA 000057 - AA 000126
III	Disclaimer of Interest	AA 000530 - AA 000534
V	Findings of Fact, Conclusions of Law and Order on Cross-Defendant Sun City Anthem Community Association's Motion for Summary Judgment	AA 001035 - AA 001044
III	Initial Appearance Fee Disclosure	AA 000424 - AA 000426
I	Jimijack Irrevocable Trust's Motion to Consolidate Case No. A-16-730078-C and Case No. A-15-720032-C	AA 000136 - AA 000140

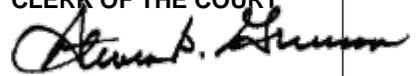
1		Joel Stokes and Sandra F. Stokes, As Trustees of the JimiJack Irrevocable Trust's, Joinder to Sun City Anthem Community Association's Opposition to Nona Tobin's Motion for Reconsideration	AA 001373 - AA 001375
2	VIII		
3	I	Judgment by Default Against Defendant Bank of America	AA 000010 - AA 000011
4	VI	Motion for Reconsideration (Part 1)	AA 001102 - AA 001300
5	VII	Motion for Reconsideration (Part 2)	AA 001301 - AA 001353
6	II	Motion to Intervene into Consolidated Quiet Title Cases A-15-720032-C and Former Case A-16-730078	AA 000164 - AA 000281
7	I	Motion to Substitute Party, Intervene and Set Aside Default Judgment	AA 000012 - AA 000056
8	IV	Nationstar Mortgage, LLC's Limited Joinder to Sun City Anthem Community Association's Motion for Summary Judgment	AA 000827 - AA 000861
9		Nationstar Mortgage, LLC's Limited Joinder to Sun City Anthem Community Association's Opposition to Nona Tobin's Motion for Reconsideration	AA 001370 - AA 001372
10	VIII		
11	I	Nationstar Mortgage, LLC's Non-Opposition to JimiJack Irrevocable Trust's Motion to Consolidate	AA 000141 - AA 000143
12		Nationstar Mortgage, LLC's Response to Nona Tobin's Opposition to Nationstar Mortgage, LLC's Motion for Summary Judgment Against JimiJack and Countermotion for Summary Judgment	AA 001059 - AA 001101
13	V		
14	III	Nona Tobin's Answer to Plaintiff's Complaint and Counterclaim	AA 000386 - AA 000423
15	III	Nona Tobin's Crossclaim Against Thomas Lucas D/B/A Opportunity Homes, LLC	AA 000451 - AA 000509
16	III	Nona Tobin's Crossclaim Against Yuen K. Lee d/b/a F. Bondurant, LLC	AA 000427 - AA 000450
17	II	Nona Tobin's Crossclaim for Quiet Title Against Sun City Anthem Community Association, Inc. (HOA)	AA 000290 - AA 000385
18	XII	Nona Tobin's Declarations in Support of MINV as an Individual	AA 002339 - AA 002550
19	X	Nona Tobin's Motion to Intervene as an Individual Per Rule 24 (Part 1)	AA 001922 - AA 002076
20	XI	Nona Tobin's Motion to Intervene as an Individual Per Rule 24 (Part 2)	AA 002077 - AA 002326
21	XII	Nona Tobin's Motion to Intervene as an Individual Per Rule 24 (Part 3)	AA 002327 - AA 002338
22	XIV	Notice of Appeal	AA 002862 - AA 002864

1	III	Notice of Appearance of Counsel	AA 000615 - AA 000617
2	XIII	Notice of Entry of Findings of Fact, Conclusions of Law and Judgment	AA 002565 - AA 002580
3	V	Notice of Entry of Findings of Fact, Conclusions of Law and Order on Cross-Defendant Sun City Anthem Community Association's Motion for Summary Judgment	AA 001045 - AA 001058
4	X	Notice of Entry of Order Denying Motion for Reconsideration	AA 001889 - AA 001895
5	III	Notice of Entry of Order Denying Motion for Summary Judgment	AA 000620 - AA 000625
6	II	Notice of Entry of Order Granting Applicant Nona Tobin's Motion to Intervene	AA 000285 - AA 000289
7	I	Notice of Entry of Order Granting in Part Nationstar Mortgage, LLC's Motion to Substitute Party, Intervene and Set Aside Default Judgment	AA 000131 - AA 000135
8	IV	Notice of Entry of Order Granting Thomas Lucas and Opportunity Homes, LLC's Motion for Summary Judgment	AA 000633 - AA 000643
9	V	Notice of Entry of Stipulation and Order for Dismissal Without Prejudice as to Claims Against Opportunity Homes, LLC and F. Bondurant, LLC	AA 000868 - AA 000878
10	X	Notice of Entry of Stipulation and Order for the Dismissal of Nationstar Mortgage, LLC's Claims Against Jimijack Irrevocable Trust with Prejudice	AA 001899 - AA 001905
11	V	Notice of Entry of Stipulation and Order Reforming Caption	AA 001015 - AA 001024
12	XIV	Notice of Hearing	AA 002861
13	I	Notice of Lis Pendens	AA 000127 - AA 000130
14	VIII	Notice of Lis Pendens	AA 001354 - AA 001355
15	III	Opportunity Homes, LLC's Reply to Nationstar Mortgage, LLC's Opposition to Motion for Summary Judgment	AA 000601 - AA 000614
16	III	Opposition to Sun City Anthem's Motion to Dismiss	AA 000535 - AA 000558
17	X	Order Denying Motion for Reconsideration	AA 001885 - AA 001888
18	III	Order Denying Motion for Summary Judgment	AA 000618 - AA 000619
19	II	Order Granting Applicant Nona Tobin's Motion to Intervene	AA 000282 - AA 000284
20	I	Order Granting Motion to Consolidate and Denying Motion for Summary Judgment	AA 000144 - AA 000145
21			
22			

1	IV	Order Granting Thomas Lucas and Opportunity Homes, LLC's Motion for Summary Judgment	AA 000626 - AA 000632
2	XII	Order on Findings of Fact, Conclusions of Law and Judgment	AA 002551 - AA 002564
3	I	Plaintiff, JimiJack Irrevocable Trust's, Opposition to Nona Tobin and Steve Hansen's Motion to Intervene	AA 000146 - AA 000150
4	XIV	Recorder's Transcript Bench Trial Day 2 06/06/19	AA 002926 - AA 002960
5	XIV	Recorder's Transcript of Hearing All Pending Motions 09/26/19	AA 002870 - AA 002884
6	XIV	Recorder's Transcript of Hearing Nona Tobin's Motion to Intervene into Consolidated Quiet Title Cases A-15-720032-C and Former Case A-16-730078-C 12/20/16	AA 002900 - AA 002909
7	XIV	Recorder's Transcript of Hearing Sun City Anthem Community Association's Motion to Dismiss Nona Tobin, an Individual and Trustee of the Gordon B. Hansen Trust's Cross-Claim 03/28/17	AA 002910 - AA 002925
8	XIV	Recorder's Transcript of Hearing: All Pending Motions April 23, 2019	AA 002608 - AA 002640
9	XIII	Recorder's Transcript of Hearing: All Pending Motions April 27, 2017	AA 002581 - AA 002607
10	XIII	Recorder's Transcript of Hearing: All Pending Motions April 27, 2017	AA 002581 - AA 002607
11	VIII	Reply to Cross-Defendant Sun City Anthem Community Association's Opposition to Tobin's Motion for Reconsideration (Part 1)	AA 001376 - AA 001576
12	VIII	Reply to Cross-Defendant Sun City Anthem Community Association's Opposition to Tobin's Motion for Reconsideration (Part 1)	AA 001376 - AA 001576
13	IX	Reply to Cross-Defendant Sun City Anthem Community Association's Opposition to Tobin's Motion for Reconsideration (Part 2)	AA 001577 - AA 001826
14	IX	Reply to Cross-Defendant Sun City Anthem Community Association's Opposition to Tobin's Motion for Reconsideration (Part 2)	AA 001577 - AA 001826
15	X	Reply to Cross-Defendant Sun City Anthem Community Association's Opposition to Tobin's Motion for Reconsideration (Part 3)	AA 001827 - AA001884
16	X	Reply to Cross-Defendant Sun City Anthem Community Association's Opposition to Tobin's Motion for Reconsideration (Part 3)	AA 001827 - AA001884
17	III	Reply to Sun City Anthem Community Association's Reply in Support of its Motion to Dismiss	AA 000559 - AA 000583
18	III	Reply to Sun City Anthem Community Association's Reply in Support of its Motion to Dismiss	AA 000559 - AA 000583
19	IV	Stipulation and Order for Dismissal Without Prejudice as to Claims Against Opportunity Homes, LLC and F. Bondurant LLC	AA 000862 - AA 000867
20	IV	Stipulation and Order for Dismissal Without Prejudice as to Claims Against Opportunity Homes, LLC and F. Bondurant LLC	AA 000862 - AA 000867
21	X	Stipulation and Order for the Dismissal of Nationstar Mortgage, LLC's Claims Against Jimijack Irrevocable Trust with Prejudice	AA 001896 - AA 001898
22	X	Stipulation and Order for the Dismissal of Nationstar Mortgage, LLC's Claims Against Jimijack Irrevocable Trust with Prejudice	AA 001896 - AA 001898
	V	Stipulation and Order Reforming Caption	AA 001009 - AA 001014
	V	Stipulation and Order Reforming Caption	AA 001009 - AA 001014
	III	Sun City Anthem Community Association's Motion to Dismiss Nona Tobin, an Individual and Trustee of the Gordon B. Hansen Trust's Cross-Claim	AA 000510 - AA 000518
	III	Sun City Anthem Community Association's Motion to Dismiss Nona Tobin, an Individual and Trustee of the Gordon B. Hansen Trust's Cross-Claim	AA 000510 - AA 000518
	III	Sun City Anthem Community Association's Reply in Support of its Motion to Dismiss	AA 000584 - AA 000591
	III	Sun City Anthem Community Association's Reply in Support of its Motion to Dismiss	AA 000584 - AA 000591

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

III	Thomas Lucas and Opportunity Homes, LLC's Reply to Nona Tobin's Opposition to Motion for Summary Judgment	AA 000592 - AA 000600
XIII	Transcript of Proceedings: All Pending Motions 01/10/19	AA 002657 - AA 002666
XIII	Transcript of Proceedings: All Pending Motions 03/26/19	AA 002667 - AA 002701
XIII	Transcript of Proceedings: All Pending Motions 05/25/17	AA 002641 - AA 002656
XIII	Transcript of Proceedings: All Pending Motions 05/29/19	AA 002751 - AA 002778
XIV	Transcript of Proceedings: Bench Trial Day 1 06/05/19	AA 002809 - AA 002836
XIV	Transcript of Proceedings: Calendar Call 06/03/19	AA 002779 - AA 002808
XIII	Transcript of Proceedings: Pretrial Conference 04/25/19	AA 002702 - AA 002725
XIII	Transcript of Proceedings: Status Check - Settlement Documents 05/21/19	AA 002726 - AA 002750



1 **NEFF**
2 JOSEPH Y. HONG, ESQ.
3 State Bar No. 005995
4 HONG & HONG LAW OFFICE
5 1980 Festival Plaza Drive, Suite 650
6 Las Vegas, Nevada 89135
7 Telephone No.: (702) 870-1777
8 Facsimile No.: (702) 870-0500
9 E-mail: yosuphonglaw@gmail.com
10 Attorney for Counter-Defendant
11 *JOEL A. STOKES and SANDRA F. STOKES,*
12 *as trustees of the JIMJACK IRREVOCABLE TRUST*

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

11 NONA TOBIN, as Trustee of the GORDON B.
12 HANSEN TRUST, dated 8/22/08,

13 Counterclaimant,

14 vs.

15 JOEL A. STOKES and SANDRA F. STOKES, as
16 Trustees of the JIMJACK IRREVOCABLE
17 TRUST; YEUN K. LEE, an individual, d/b/a
18 Manager, F. BONDURANT, LLC.,

18 Counter-Defendants.

Case No. : A-15-720032-C
Dept. No. : XXXI

Consolidated with: A-16-730078-C

19 **NOTICE OF ENTRY OF FINDINGS OF FACTS,**
20 **CONCLUSIONS OF LAW AND JUDGMENT**

21 TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:

22 ///

23 ///

24 ///

25 ///

26
27
28

AA 002565

1 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that FINDINGS OF
2 FACTS, CONCLUSIONS OF LAW AND JUDGMENT was entered in the above-entitled matter,
3 and filed on the 24th day of June, 2019, a copy of which is attached hereto.

4 DATED this 24th day of June, 2019.

5 HONG & HONG LAW OFFICE

6
7 /s/ Joseph Y. Hong

8 JOSEPH Y. HONG, ESQ.

9 State Bar No. 005995

10 1980 Festival Plaza Drive, Suite 650

11 Las Vegas, Nevada 89135

12 Attorney for Counter-Defendant

13 *JOEL A. STOKES and SANDRA F.*

14 *STOKES, as trustees of the JIMI JACK*
15 *IRREVOCABLE TRUST*

16 **CERTIFICATE OF ELECTRONIC SERVICE**

17 Pursuant to NRCP 5(b)(2)(D), I certify that I am an employee of Joseph Y. Hong, Esq., and
18 that on this 24th day of June, 2019, I served a true and correct copy of the foregoing **NOTICE OF**
19 **ENTRY OF FINDINGS OF FACTS, CONCLUSIONS OF LAW AND JUDGMENT** by
20 electronic transmission through the Eighth Judicial District Court EFP system (Odyssey eFileNV)
21 pursuant to NEFCR 9 upon each party in this case who is registered as an electronic case filing
22 user with the Clerk.

23 By/s/ Debra L. Batesel

24 An employee of Joseph Y. Hong, Esq.

25
26
27
28 AA 002566



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDR

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

NONA TOBIN, as Trustee of the
GORDON B. HANSEN TRUST dated
8/22/08,

Counterclaimant,

vs.

JOEL A. STOKES AND SANDRA F.
STOKES, as Trustees of the JIMI JACK
IRREVOCABLE TRUST; YUEN K.
LEE, an individual, d/b/a
Manager, F. BONDURANT, LLC.,

Counter-Defendants.

Case No.: A-15-720032-C

Consolidated with A-16-730078-C

FINDINGS OF FACTS, CONCLUSIONS OF LAW AND JUDGMENT¹

This matter, having come on for Bench Trial commencing on June 5th and
6th, 2019, with L. Joe Coppedge appearing on behalf of Counterclaimant, the
Gordon B. Hansen Trust, dated 8/22/08; and Joseph Hong appearing on behalf
of all Counter-Defendants. All parties having an opportunity to present their

¹ The consolidated cases commenced with multiple parties being named and the initial caption read in part, "Joel A. Stokes and Sandra F. Stokes as trustees of the Jimijack Irrevocable Trust Plaintiffs, vs. Bank of America N.A. Defendants, et. al". All claims by all other parties, other than those of the Counterclaimant against Counter-Defendants have either been resolved or eliminated due to rulings of the Court. Thus, the only claims that were asserted to remain for trial were the Counterclaimant's claims against Counter-Defendants. Accordingly, the caption, as set forth above, correctly sets forth the parties that were asserted to have remained for purposes of trial.

1 case, the Court having considered the evidence, the previous Orders and
2 Judgments in this case, and good cause appearing therefore, enters the
3 following Findings of Fact and Conclusions of Law:

4 **FINDINGS OF FACTS**

5
6 1. Counterclaimant, the Gordon B. Hansen Trust Dated 8/22/08
7 ("Hansen Trust") claims in intervention against Counter-Defendants, Joel A.
8 Stokes and Sandra F. Stokes, as Trustees of the Jimijack Irrevocable Trust
9 ("Jimijack"); and Yuen K. Lee, an individual d/b/a Manager F. Bondurant, LLC.
10 ("Lee"), involving a real property commonly known as 2763 White Sage Drive,
11 Henderson, Nevada 89052, APN 191-13-811-052 (the "Subject Property") were
12 the only remaining claims set for trial to commence on June 5, 2019.

13
14 2. On January 11, 2017, the Hansen Trust intervened in the present
15 action via Order, with Notice of Entry thereof, filed on January 12, 2017. The
16 Hansen Trust alleged claims of Quiet Title and Equitable Relief, Civil Conspiracy,
17 Fraudulent Conveyance, Unjust Enrichment, and Breach of Contract against the
18 Sun City Anthem Community Association ("HOA"). The Hansen Trust alleged
19 claims for Quiet Title and Equitable Relief, Fraudulent Re-conveyance, Unjust
20 Enrichment, Civil Conspiracy, and Injunctive Relief against Jimijack. The Hansen
21 Trust alleged claims for Fraudulent Conveyance, Quiet Title and Equitable Relief,
22 and Civil Conspiracy against Lee d/b/a F. Boudurant. The Hansen Trust
23 alleged claims for Quiet Title and Equitable Relief, Breach of Contract, Equitable
24 Relief (stet) and Civil Conspiracy against Opportunity Homes and Thomas Lucas.
25
26

1 The essence of the Hansen Trust's claims in the consolidated cases was
2 asserted to be that it sought to void the HOA foreclosure sale of the Subject
3 Property. In each of the pleadings filed against each of the respective parties,
4 the Hansen Trust set forth that Nona Tobin was the Trustee of the Hansen Trust
5 dated 8/22/08, and that the claims were brought by the Trustee of the Hansen
6 Trust on behalf of the Trust. Given it was asserted in all of the claims in the
7 respective pleadings that the Hansen Trust was the purported owner of the
8 property at issue at the time of the foreclosure sale, and that Ms. Tobin was the
9 successor Trustee, the Court finds that the pleadings are consistent with the
10 intention of the Court's Order granting intervention by the Hansen Trust. There
11 was no intention by the Court to grant intervention to Ms. Tobin as an individual
12 as there was no assertion in the January 2017 Motion to Intervene or in what
13 were titled "cross-claims" and "counter-claims" that anyone or entity had asserted
14 any joint or other form of ownership right with the Hansen Trust at the time of the
15 foreclosure at issue.²
16
17
18
19

20 ² The Court notes that on May 24, 2019, less than two weeks before trial was to commence,
21 Counterclaimant filed a "Supplement" without leave of Court which had a "quitclaim deed" dated
22 March 27, 2017 attached. It was contended that Ms. Tobin as the successor trustee of the
23 Hansen Trust quitclaimed to herself as an individual effective March 27, 2017 whatever interest
24 the Hansen Trust had in the subject property for no consideration. While the Court takes no
25 position as to whether the quitclaim deed was proper within the terms of the trust as the Court
26 was not shown the trust nor did anyone testify as to the language of the trust, the Court notes that
27 the Court Record shows that in a prior pleading there were representations by Counterclaimant
28 through its Trustee, Ms. Tobin, that she was one of two beneficiaries of the Trust. Second, even
if the Court were to view the Supplement and its attachment as allowable, from a chronological
standpoint, the purported transfer of ownership rights (whatever they were purported to be) did
not take place until about two months after there was Notice of Entry of the Order on the Motion
to Intervene which granted intervention to the Hansen Trust only in the present case. Thus,
regardless of whether the "quitclaim deed" was valid or not, Ms. Tobin was not a proper party to
the instant litigation as there was no timely request for her to intervene or any legal authority.

1 3. After the Hansen Trust filed what it asserted to be "cross-claims"
2 and a "counter-claim", various pleadings were filed by the Intervenor Hansen
3 Trust in which the phrase "Nona Tobin as an individual" was set forth in the
4 caption and in some cases in the body of the document, despite the fact the
5 Motion to Intervene was filed by the Trustee on behalf of the Trust and
6 Intervention was only granted to the Hansen Trust. From a review of the Court
7 Record, it appears that other parties to the action also included the incorrect
8 caption that had been used by Intervenor Hansen Trust in some of their
9 pleadings. It was not until a couple of months before trial was to commence in
10 2019 that the error was brought to the attention of the Court. In 2019³, the Court
11 was informed, and the Odyssey Record of the Eighth Judicial District confirms,
12 that contrary to the scope of the Intervention granted by the Court, at some point
13 in 2017 the Hansen Trust inserted Ms. Tobin's name incorrectly in the caption
14 and then used her name in an individual capacity at some points in pleadings. In
15 those same pleadings, however, the nature of the actions relating to the
16 ownership of the property which was purportedly was owned by the Hansen
17
18
19
20

21 presented to the Court that she could intervene on her own behalf after she contended that she
22 quitclaimed whatever interest the Hansen Trust purportedly had on or about March 27, 2017. As
23 intervention by Ms. Tobin as an individual as distinct from her role as trustee was not timely or
24 properly presented and hence was not granted, the Court finds that the trial properly commenced
25 and concluded between the only parties that remained in the case.

26 ³ Indeed, at hearing(s) in 2019 after the Court was put on notice of what had occurred, in the
27 presence of Ms. Tobin who was present as Trustee of the Hansen Trust with her counsel, the
28 Court reminded all parties that it needed to strike pleadings that had been filed by Ms. Tobin
herself. The Court confirmed with the parties that Ms. Tobin's role was solely as Trustee of the
Hansen Trust and the Hansen Trust was represented by counsel. See, e.g. Hearing of April 23,
2019, where the Court was informed, and then subsequent hearings where Ms. Tobin was
present with her counsel where the issue was again communicated.

1 Trust at the time of the foreclosure remained the same. Further, there was no
2 request of the Court, nor any grant of intervention by the Court, to allow Ms.
3 Tobin to appear as an individual. Instead, Ms. Tobin's role was as Trustee of the
4 Hansen Trust.

5
6 4. On April 27, 2017, the Court heard Lucas and Opportunity Homes
7 Motions for Summary Judgment and ruled thereon. There were other pending
8 Motions including the HOA Motion to Dismiss the Hansen Trust's claims and
9 related countermotions, which at the request of those who were present, were
10 continued. The Court was informed that the Hansen Trust was not represented
11 by counsel as required by EDCR 7.42. The remaining hearings were then reset
12 to May 23rd and then May 25th to allow the Hansen Trust to obtain counsel and
13 be prepared. On May 25th, 2017, the parties withdrew some of the pending
14 Motions and requested that the ruling on others, including the HOA's Motion to
15 Dismiss as to all of the Hansen's Trust's claims, be deferred as some of the
16 parties were seeking NRED mediation.
17

18 5. At the parties' request, the Court did not rule on those pending
19 Motions. On September 19, 2017, the parties filed a Stipulation and Order and
20 the following day they filed Notice of Entry Thereof. The Stipulation addressed
21 all of the Counterclaimant Hansen Trust's claims with the HOA. Pursuant to the
22 Stipulation and Order, the HOA's Motion, as it applied to the Hansen Trust (and
23 to the extent that Ms. Tobin asserted at the time she was a party), was dismissed
24
25
26
27
28

1 other than the quiet title claim.⁴ The Stipulation filed on September 17th provided:

- 2
- 3 1. That all claims against the HOA be dismissed without
4 prejudice for the parties to attend mediation.
- 5 2. That the Court does not make a decision as to the quiet
6 title claim at this time.
- 7 3. That the Court does not make any determination as to
8 actions taken after the filing of the HOA's Motion at this
9 time.
- 10 4. That the Counter-Motion(s) filed by Nona Tobin an
11 Individual and Trustee of the Gordon B Hansen Trust be
12 withdrawn without prejudice at this time.

13 **ORDER**

14 Based on the stipulations of the parties:

15 **THE COURT ORDERS:** All claims against Sun City
16 Anthem Community Association are dismissed without
17 prejudice to attend NRED mediation, except for the
18 quiet title claim.

19 **THE COURT ORDERS** the counter-motions filed March
20 3, 2017 and March 31, 2017 be **WITHDRAWN**
21 **WITHOUT PREJUDICE.**

22 **THE COURT FUTHER ORDERS** the Motion to Dismiss
23 is **GRANTED**, pursuant to a stipulation of the parties to
24 all claims other than quiet title

25 ⁴ At the time of the Stipulation in 2017, the Court had not been informed that Ms. Tobin was not a
26 proper party but merely an individual who had incorrectly been added to the caption. Placing
27 oneself on a caption or in a pleading does not confer party status on that individual when
28 intervention is only granted to the entity who claimed an interest in the property at the time of the
foreclosure.

1 THE COURT FURTHER ORDERS the Motion to
2 Dismiss is DENIED WITHOUT PREJUDICE in regards
3 to the quiet title claim.

4 6. In light of the parties Stipulation to attend NRED mediation, the
5 case was pending until the Court received notice that the NRED mediation had
6 been completed. A Notice of completion of mediation was filed in November
7 2017. Thereafter, in April 2018, the HOA filed an Answer to the only remaining
8 claim between it and the Hansen Trust—i.e. Quiet Title. That was the only
9 remaining claim pursuant to the parties Stipulation the preceding September.

10 7. In February 2019, the HOA filed a Motion for Summary Judgment
11 with a limited Joinder by Nationstar.⁵ At the request of the parties, the matter
12 was heard on March 26, 2019. After a full oral argument, and taking fully into
13 account the pleadings as well as the allowable evidence and oral argument, the
14 Court GRANTED the HOA's Motion and Nationstar's limited Joinder thereto. The
15 Court set forth its reasoning in open Court and then detailed its reasoning in the
16 Findings of Fact and Conclusions of Law and Judgment thereon, which were filed
17 on or about April 17, 2019 ("FFCL"). Notice of Entry was filed on April 18, 2019.

18 8. In its ruling on the HOA's Motion for Summary Judgment, the Court
19 expressly found that "the totality of the facts evidence that the HOA properly
20 followed the process and procedures in foreclosing upon the Property." See
21 *FFCL filed on April 17, 2019, page 9, lines 5-6*. The Court, therefore, granted the
22
23
24

25 ⁵ That same month Nationstar, Opportunity Homes, and F. Bonderant filed a Stipulation to
26 Dismiss with respect to their claims vis a vis each other. The parties also filed a Stipulation to
27 Reform the Caption.

1 HOA's Motion for Summary Judgment as to the Hansen Trust's claim against the
2 HOA for Quiet Title and Equitable Relief in seeking to void the HOA foreclosure
3 sale. See FFCL filed on April 17, 2019.

4
5 9. On April 23, 2019, at the hearing for Nationstar's Motion for
6 Summary Judgment, the Court was informed that the only parties remaining in
7 the case due to rulings and resolutions were Counterclaimant Hansen Trust, the
8 Stokes on behalf of Jimijack and Lee d/b/a F. Bondurant. The Court was
9 informed that prior captions had incorrectly set forth that Ms. Tobin was a party in
10 her individual capacity. The Court was further informed and shown that
11 Intervenor status had only been granted to the Hansen Trust which Ms. Tobin
12 acted in the capacity of Trustee. Ms. Tobin, according to the official record of the
13 consolidated cases, had never been granted leave to intervene as an individual.
14 In light of the fact there was a pending resolution between various entities, but
15 there were still counterclaims outstanding involving the Hansen Trust, the Pre-
16 Trial Conference set for April 25, 2019, remained on calendar so that the trial
17 could be set with respect to the remaining claims of the Hansen Trust.
18

19 10. At that same April 23rd hearing, due to the fact that Ms. Tobin had
20 filed documents on her own whilst the Trust was represented by counsel, those
21 purported pleadings filed by Ms. Tobin were considered rogue documents. Since
22 they were rogue documents, they were stricken in accordance with the rules.
23

24 11. On April 29, 2019, the Hansen Trust filed a Motion for
25 Reconsideration of the Court's ruling on the HOA's Motion for Summary
26

1 Judgment. The hearing on the Motion was held on May 29, 2019. After full oral
2 argument and a review of the pleadings, the Motion was denied.⁶ On May 30,
3 2019, the Court entered its Order Denying the Hansen Trust's Motion for
4 Reconsideration of its ruling granting Summary Judgment in favor of the HOA.
5 The denial was based both on procedural and substantive grounds. The Order
6 Denying the Motion for Reconsideration was filed on May 31, 2019, and the
7 Notice of Entry of same was filed on May 31, 2019.

9 12. On June 5, 2019, the Bench Trial commenced. Ms. Tobin testified
10 on behalf of Counterclaimant. Counterclaimant did not call any other witnesses.
11 After a full trial on the merits of the case, and taking into account the evidence
12 the Court can take into account, the Court finds that Counterclaimant did not
13 meet her burden by a preponderance of the evidence on any of her claims for
14 Quiet Title and Equitable Relief, Fraudulent Reconveyance, Unjust Enrichment,
15 Civil Conspiracy and Injunctive Relief as alleged against Jimijack.

17 8. After a full trial on the merits of the case, and taking into account
18 the evidence the Court can take into account, the Court further finds that
19 Counterclaimant did not meet her burden by a preponderance of the evidence on
20 any of her claims for Fraudulent Conveyance, Quiet Title and Equitable Relief
21 and Civil Conspiracy against Lee on behalf of F. Bonderant.

22 CONCLUSIONS OF LAW

23
24
25 ⁶ At that hearing, the Court again reminded Ms. Tobin and her counsel that it was not proper for
26 Ms. Tobin, who was represented by counsel, to file documents on her own and also that her role
in the consolidated cases was as Trustee for the Hansen Trust consistent with the Court's ruling
in 2017 on the Motion to Intervene.

1 detailed and precisely focused argument subsequently made after reflection
2 upon the previous proceedings." *Hall v. State*, 91 Nev. 314, 316, 535 P.2d 797,
3 799 (1975). The Court's FFCL granting Summary Judgment in favor of the HOA
4 that was filed on April 17, 2019, is the law of the case as to the Hansen Trust's
5 claim for Quiet Title and Equitable Relief in seeking to void the HOA sale. The
6 Hansen Trust, therefore, cannot avoid the doctrine of the law of the case which
7 not only precludes its Quiet Title and Equitable Relief claims but since its other
8 claims against Jimijack and Lee and contingent upon a finding in its favor on the
9 quiet title claim or the premises upon which it is built, those claims fail as well.

11 4. In addition to the claims already being precluded given there is
12 both issue preclusion through law of the case, in the present matter, the Court
13 had also denied the Counterclaimant's Motion for Reconsideration shortly before
14 the trial commenced. Thus, the Court had already reviewed its decision both
15 procedurally and substantively. Accordingly, the law of the case in the present
16 action would apply for the independent reason that the underlying decision had
17 already been reviewed and re-affirmed by the Court.

19 5. Even if Counterclaimant could try to contend that any of its claims
20 were not barred by issue and claim preclusion, then Counterclaimant's claims all
21 still fail as it failed to meet its burden of proof on any of its claims. Specifically,
22 Ms. Tobin as Trustee for the Hansen Trust conceded on direct examination that
23 the house had been subject to multiple short sale potential escrows as the
24 house was in default with the lender. She also conceded that there was a late
25

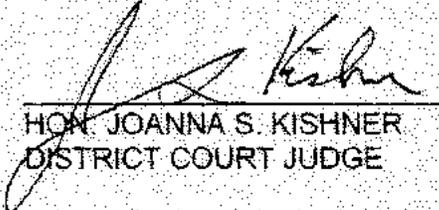
1 payment to the HOA. Thus, at least \$25.00 was owed to the HOA at some
2 point. While she disagreed whether the HOA could assess the charges that she
3 asserted were added to the Hansen Trust account as a result of the Hansen
4 Trust's failure to pay its dues on time, she provided no evidence that the charges
5 were inaccurate or impermissible. She also testified that she received a Notice
6 of Foreclosure Sale on the property. She failed to identify any individuals with
7 whom the Hansen Trust had a contract with or any individuals who engaged in a
8 purported conspiracy. Thus, the testimony of the Trustee of the Hansen Trust
9 demonstrated that the Hansen Trust could not meet its burden on any of the
10 claims asserted against any of the Counter-Defendants. The failure of
11 Counterclaimant to meet its burden of proof is an independent basis which
12 requires the Court to find in favor of Counter-Defendants and against
13 Counterclaimant.
14
15

16 **THEREFORE, PURSUANT TO THE ABOVE FINDINGS OF FACT AND**
17 **CONCLUSIONS OF LAW, IT IS HEREBY ORDERED, ADJUDGED, AND**
18 **DECREED** that Judgment shall be entered in favor of Jimijack and Lee and
19 against the Hansen Trust as to all claims alleged against them by the Hansen
20 Trust.
21

22 **IT IS FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED**
23 that the Lis Pendens recorded against the Subject Property by the Hansen Trust
24 shall be cancelled and expunged.
25
26
27

1 Counsel for Counter-Defendants is directed pursuant to NRCP 58 (b) and
2 (e) to file and serve Notice of Entry of the Court's findings and Judgment within
3 fourteen days hereof.

4 IT IS SO ORDERED this 24th day of June, 2019.

5
6
7 
8 HON. JOANNA S. KISHNER
9 DISTRICT COURT JUDGE

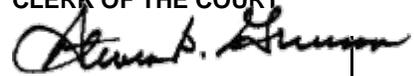
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of this Order was served via Electronic Service to all counsel/registered parties, pursuant to the Nevada Electronic Filing Rules, and/or served via in one or more of the following manners: fax, U.S. mail, or a copy of this Order was placed in the attorney's file located at the Regional Justice Center:

ALL PARTIES SERVED VIA E-SERVICE


TRACY L. CORDOBA-WHEELER
Judicial Executive Assistant



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

JIMI JACK IRREVOCABLE TRUST,)	
)	
Plaintiff,)	CASE NO. A-15-720032-C
)	CASE NO. A-16-730078-C
vs.)	
)	DEPT. NO. XXXI
BANK OF AMERICA, NA, et al.,)	
)	
Defendants.)	

And all related claims/cases.

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE
THURSDAY, APRIL 27, 2017

**RECORDER'S TRANSCRIPT OF HEARING:
ALL PENDING MOTIONS**

APPEARANCES:

FOR THE PLAINTIFF:	MICHAEL S. KELLEY, ESQ.
FOR THE DEFENDANTS:	DAVID OCHOA, ESQ. JAKUB P. MEDRALLA, ESQ.
FOR COUNTER CLAIMANT NONA TOBIN:	NONA TOBIN Pro Se

RECORDED BY: RACHELLE HAMILTON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, THURSDAY, APRIL 27, 2017

2 (Case called at 10:29 A.M.)

3 THE COURT: -- Irrevocable Trust versus Bank of
4 America, 720032. Okay. Counsel, could I get appearances,
5 please?

6 MR. MEDRALLA: Good morning, Your Honor. Jakub
7 Medralla on behalf of Mr. Tom Lucas, as well as Opportunity
8 Homes, LLC. And I have my client, Mr. Lucas, with me.

9 MR. OCHOA: David Ochoa on behalf of Sun City
10 Anthem.

11 MS. TOBIN: Nona Tobin, Pro Se.

12 MR. KELLEY: Michael Kelley for Nationstar.

13 THE COURT: Okay. Feel free to sit down.

14 Okay. I've got cross defendant, Sun City Anthem's
15 Association's Motion to Dismiss Nona Tobin, an Individual, and
16 Trustee of the Gordon B. Hansen Cross-Claims. I've got an
17 Opposition. Now, -- and I've got Thomas Lucas's and
18 Opportunity Homes' Motion for Summary Judgment.

19 And I have untimely -- well, replies and motions on
20 some of these. So where the Court really has a concern is
21 some of these things -- we got last minute filings on some of
22 this and we didn't even get courtesy copies on some.

23 So I'm teed up and ready to go on what I have copies
24 of. So counsel, who wishes to be heard first?

25 MR. OCHOA: Well, I would like to go first, I guess.

1 THE COURT: Okay.

2 MR. OCHOA: Do you know if there was any of our
3 pleadings that you're missing?

4 THE COURT: I prefer not to point out people --

5 MR. OCHOA: Okay.

6 THE COURT: -- in open court. I prefer to use that
7 as a general friendly reminder --

8 MR. OCHOA: All right. Well --

9 THE COURT: -- to the people that if we don't have
10 your courtesy copies then it's kind of hard to, you know, go
11 fishing through the files to see what you may wish us to
12 consider. But, go ahead, counsel.

13 MR. OCHOA: I understand, Your Honor.

14 We're here on our Motion to Dismiss. Under Guerin
15 v. Guerin a Trust needs to be represented by an attorney.
16 Non-attorney representation amounts to the unauthorized
17 practice of law, which is void ab initio.

18 We understand steps have been taken to perhaps
19 request an exception. However, Nevada law does not allow for
20 that exception.

21 Additionally, it's undisputed that Steven Hansen had
22 an interest in the Trust at the times the pleadings were filed
23 and we therefore would say that the representation of that
24 interest is void ab initio.

25 We would request that the claims against Sun City

1 Anthem be dismissed, that the pleadings be stricken. It's my
2 understanding those are the only claims against Sun City
3 Anthem at this time, so we would also request dismissal from
4 the case.

5 The last issue is even if they were properly filed
6 by an attorney, there's a jurisdictional bar under NRS 38.310,
7 and with that, we'll submit to Your Honor.

8 THE COURT: Okay.

9 MS. TOBIN: It's my position that the Motion to
10 Dismiss, their second Motion to Dismiss for my not having an
11 attorney was untimely.

12 Also, I think it --

13 THE COURT: Untimely, because of why, please?

14 MS. TOBIN: They -- they turned it in on the 22nd of
15 -- of March.

16 THE COURT: Um-hum.

17 MS. TOBIN: And in -- on January 12th, this Court
18 granted my Motion to Intervene as a pro se, and as the trustee
19 of the Trust, per Eighth District Court Rule 7.42.

20 And so this motion is really a Motion to Reconsider
21 that under Rule 59, which requires that it be done in 10 days.

22 Okay. So I'm saying, they're untimely on that.
23 They have provided two Motions to Dismiss, but no responsive
24 pleading, either to my original cross claim. They had no
25 mention of this attorney issue in their first Motion to

1 Dismiss in February.

2 And changing attorneys is really no excuse. It just
3 provided them an opportunity to renig on the agreement that I
4 had with the previous attorneys to hold a hearing on the
5 countermotion to void the sale on August 6th.

6 Further, they filed their Motion to Dismiss because
7 of not having an attorney, under Rule 41, saying that I
8 violated Rules of the Court, and 724 -- 7285 NRS unauthorized
9 practice of law.

10 This is kind of outrageous. I mean, it's -- I'm a
11 very reluctant pro se in this matter, and I've tried to retain
12 counsel. Six attorneys have -- I've talked to that have
13 refused.

14 You have realize that in these -- this area, 99
15 percent of the cases involve the banks. And so some attorneys
16 are conflicted out and some, you know, are just going where
17 the money is. It's very difficult to get representation as
18 representing the homeowner that lost the title.

19 Now, these threats that they're making of sanctions,
20 attorney's fees for the unauthorized practice of law are
21 really intimidation tactics. And their -- the case that they
22 present in their claim even says that the purpose of this is
23 to protect the public interest. And there's really nothing in
24 this that is a violation of the public interest.

25 Another thing is that in the cases that they've

1 presented, they all were under the appellate division which
2 has in the NRAP Section 46 which is cited in their -- their
3 case, is a different wording which says that a corporation or
4 other entity may not appear without counsel. The District
5 Court Rule 7.42 only says a corporation. It does not have
6 that additional and other entity.

7 So in addition -- I mean, it is moot. Nobody else
8 is claiming any interest in this property. Steve Hansen has
9 filed two Declarations and a -- has a Disclaimer of Interest
10 also on record and recorded.

11 It's also been Quit Claimed out of the Trust to me
12 as an individual.

13 THE COURT: And therein, can I stop you for one
14 second?

15 MS. TOBIN: Yeah.

16 THE COURT: And therein lies really a question that
17 the Court had; okay? And I have to look at the pleadings.
18 Remember, I have to look at the pleadings, because a Motion to
19 Dismiss under 12(b)(5), I've got to look at the pleadings, on
20 the face of the pleadings as it is asserted.

21 MS. TOBIN: Right.

22 THE COURT: In your actual pleading, does it say
23 that you're -- have the rights as an individual?

24 MS. TOBIN: In the pleading to the Court as a motion
25 it --

1 THE COURT: No, as a -- okay.

2 MS. TOBIN: In the Motion to Intervene it says -- it
3 cites the 7.42 and these other sections of the -- and then
4 none of them were disputed.

5 THE COURT: Let me go back a step. And I looked at
6 the Order. Are you asserting that you as an individual have a
7 right to this property?

8 MS. TOBIN: Yes.

9 THE COURT: Or are you saying that you as a
10 representative of a Trust, are trying to represent the Trust
11 who has a right to the property? That's the distinction I'm
12 trying to --

13 MS. TOBIN: The chain -- the chain of title, it was
14 in the name of the Trust at the time of the sale. When the
15 original grantor died, I became the Trustee of the Trust.

16 THE COURT: Because, I mean, I -- can I --

17 MS. TOBIN: I am now the sole beneficiary and the
18 property is in my --

19 THE COURT: Do you mind if I ask --

20 MS. TOBIN: -- well, in my name insofar as --

21 THE COURT: Do you mind if I ask opposing counsel
22 just a clarification question on their motion so that we make
23 sure we're on the same page?

24 Counsel, if I look at the caption; okay, and the
25 reason why I was asking plaintiffs, and I appreciate you've

1 come into this case, haven't been through the whole history of
2 the entire case from the get-go so --

3 MR. OCHOA: Yeah.

4 THE COURT: So the caption says -- do you pronounce
5 your first name "Nona"?

6 MS. TOBIN: Yes.

7 THE COURT: Okay. Nona Tobin, an individual, and
8 Trustee. She has it as both roles. So does your Motion to
9 Dismiss only go to the role as a Trustee or are you saying as
10 a --

11 MR. OCHOA: It would go to both, Your Honor. Our
12 understanding is there's no individual interest. There
13 couldn't possibly be. It wasn't -- I understand how she --
14 she drew the caption, but there is no individual interest.
15 The interest was in the Trust.

16 THE COURT: And how --

17 MR. OCHOA: And there was two beneficiaries to the
18 Trust, one being Steven Hansen. She represented that interest
19 and it amounts to the unauthorized practice of law.

20 THE COURT: So just so I'm clear, because I'm
21 looking at a Motion to Dismiss standard, where in the
22 pleadings in which you're basing your motion on, does it make
23 that -- where you're going? I appreciate your argument, but
24 I'm looking at a 12(b) motion.

25 Do you want to let her finish and I'll stayed tuned

1 and ask that question in a moment?

2 MR. OCHOA: Yeah.

3 THE COURT: Okay.

4 MR. OCHOA: I would also just like to add, if you
5 look, our motions were timely filed. I know she pointed out
6 that and --

7 THE COURT: Right. That's a different -- yeah,
8 okay. So, okay.

9 So just so you're clear, okay, when you did your
10 Motion to Intervene, remember, you did your Motion to
11 Intervene both in this dual role. The Court was not in any
12 way modifying because the Court has no ability to do so. The
13 rules are the rules. The Court just follows the rules fairly
14 and equitably in each and every case to ensure that there's
15 full and impartial justice for each and every party in each
16 and every case.

17 So I wasn't -- when I granted the Motion to
18 Intervene you had the same assertion that you're having today
19 which is that you individual have a right. And I didn't take
20 any position, nor could I, nor would I, any position at that
21 juncture as to the merits of your claim. I just had to say
22 whether or not, under then, the Motion to Intervene standard,
23 based only on, remember, what I had from the other parties at
24 that time, which the parties have changed, the arguments have
25 changed.

1 So if someone didn't bring something to the
2 attention of the Court at that time, then I can't go back from
3 what somebody's now bringing to the attention of the Court and
4 go back several months and say, you know, because I didn't
5 know it then, right?

6 So remember, Motion to Intervene is only as to the
7 parties requesting. It didn't elevate your status to allow
8 you to represent a Trust in conflict with EDCR 7.42. That was
9 not the Court's intention of the order; okay?

10 Now, I'm -- so to the extent that you're saying that
11 there is any court ruling in that regard, there is a court
12 ruling allowing you to intervene, but not the scope of what
13 you're saying the Court order -- that's not -- okay? Is that
14 making sense what I just said?

15 MS. TOBIN: I have a question. When you said that
16 it's in conflict with 7.42, it is not.

17 THE COURT: I appreciate -- I'm hearing your
18 position. I'm understanding what you're saying.

19 MS. TOBIN: Okay. Okay. So I'm --

20 THE COURT: Okay. Is there anything else you'd like
21 to say? Go ahead.

22 MS. TOBIN: Yeah. Like, SCA is a required party.
23 The sale was conducted in their statutory authority and the
24 quiet title determination can't go forward with the other
25 parties without SCA, because I won't have any ability to

1 protect my title.

2 Now, these attorneys did not get the approval of the
3 Board of Directors to take this position in this case, because
4 there was no properly noticed executive session since this
5 case has been filed that has this as a subject.

6 So if you -- if you still feel, you know, that there
7 needs to be an attorney here, I had requested leave to amend
8 per NRCP 15(a), and their claim that everything has to be
9 erased would be grossly unfair and punitive. And it's -- it's
10 -- it's stopping me from protecting my rights after they've
11 kind of set it up so I had no other way to go, but to court.

12 Now, NRCP 15(a) permits the filings to be amended in
13 two situations applicable here. One, as a matter of course,
14 before a responsive pleading is served, and what I'm asking
15 here, leave of the Court, and it says, "which shall be freely
16 given when justice so requires."

17 THE COURT: Okay. Appreciate it.

18 Okay. Before I go back to you, I'm just realizing,
19 folks, that it's a quarter of 11:00, and I'm realizing that I
20 have my other 9:00 o'clock matter afterwards. If anyone on my
21 9:30 or 10:00 o'clock that's not yet been called, wishes me to
22 reschedule your hearing so that you're not waiting, I'll be
23 glad to do so. You can just touch base with my Marshal and we
24 can get you a new date.

25 (Pause in the proceedings)

1 THE COURT: Okay. Counsel, your responses to your
2 motion? Last word.

3 MR. OCHOA: We believe the unauthorized practice of
4 law is not a correctable issue. It's void ab initio and we
5 would request that the claims be dismissed, Your Honor.

6 THE COURT: Okay.

7 MS. TOBIN: Your Honor?

8 THE COURT: They get last -- remember, if they filed
9 the motion, remember, then you get a chance to respond. They
10 get final word, the same way with every case.

11 Okay. So the Court's going to rule on Sun City
12 Anthem Community Association's Motion to Dismiss cross
13 claimant Nona Tobin as Individual and Trustee of the Gordon B.
14 Hansen's Trust Cross-Claim.

15 The Court is going to grant in part and -- excuse
16 me, defer it in part, and deny it in part; okay?

17 The Court is going to defer it. I'm going to set a
18 Status Check for 15 days to see if there is corporate counsel
19 under EDCR 7.42, with regards to the Trustee role, okay, which
20 is consistent with ensuring that we have a corporate Trustee.

21 I am going to deny it without prejudice with regards
22 to Nona Tobin as an individual, because as an individual, I
23 have to look at the face of what the pleadings are before me,
24 and given the assertions set forth under purely a 12(b)
25 standard, the Court would find it's appropriate to deny

1 without prejudice.

2 So what that means is, I'm going to -- once we
3 finish with the rest of the JimiJack, we address this case,
4 we're going to then set a hearing 15 days out to see a Status
5 Check on corporate counsel. If there is not corporate counsel
6 for the Trustee role, okay, counsel for the movant is correct
7 that, you know, you cannot represent a Trust in an individual
8 capacity under EDCR 7.42; okay?

9 So in that regard, I'm going to do a Status Check on
10 corporate counsel. I'm going to defer the portion of the
11 ruling with regards to the Trustee, for that 15 days, and if
12 we don't have corporate counsel, then I'll tell you that in
13 accordance with their motion, it'd be appropriate to dismiss
14 the Trustee role, you as a Trustee role, okay?

15 But I've denied it without prejudice, of you as an
16 individual. And in so doing the Court takes no position as to
17 the underlying merits. The Court can only rule in the narrow
18 scope of a 12(b) motion, which is what this is.

19 I can't take a lot of what you're asking the Court
20 to take into account, because I'm not going to sua sponte turn
21 it into a Rule 56. It hasn't been teed up that way, it hasn't
22 been presented that way, and it wouldn't be appropriate to do
23 so. Okay?

24 So now, let's move on to the motion. Go ahead,
25 counsel.

1 MR. OCHOA: On the issue of NRS 38.310, would you
2 take that up at the Status Check hearing?

3 THE COURT: Yes.

4 MR. OCHOA: Okay.

5 THE COURT: Okay. So, 15 days -- in a moment, I'm
6 just going to see if there's any other outstanding things
7 before we've -- so, okay, moving on with the Motion for
8 Summary Judgment.

9 MR. MEDRALLA: Yes. Yes, Your Honor.
10 Against Ms. Tobin, right? I understand.

11 THE COURT: Pardon?

12 MR. MEDRALLA: We have to Motions for Summary
13 Judgment. The first one is against Ms. Tobin. The second one
14 is against Nationstar. So I'll start with --

15 THE COURT: Ms. Tobin.

16 MR. MEDRALLA: -- the Motion against Ms. Tobin. And
17 I'll try to be brief, because I don't think it requires a lot
18 of analysis here. Ms. Tobin is making, essentially, two
19 claims in her Complaint. One was for quiet title in this and
20 one is for breach of contract.

21 With regard to the quiet title, we are not claiming,
22 neither Mr. Lucas nor Opportunity Homes is claiming any
23 interest in the property, at least since June of 2015, which
24 is way before any of these lawsuits were filed. And the
25 required element of an action for quiet title is that a party

1 must claim an adverse interest to the plaintiff.

2 So that's why I think this case is simply moot for
3 quiet title, both against Mr. Lucas and Opportunity Homes.
4 And it had been moot since June 4th of 2015, when we executed
5 a Quit Claim Deed that disclaimed any interest in the
6 property.

7 THE COURT: Thank you.

8 MR. MEDRALLA: With regard to the claim for breach
9 of contract, Ms. Tobin is alleging the breach of contract
10 between herself and for Forrest Barbee, a broker of Berkshire
11 Hathaway, she's not even alleging that there was a contract
12 between herself and Mr. Lucas, or Opportunity Homes, yet she
13 brought us here for a breach of contract that we are not a
14 party to.

15 And one of the required elements of a claim for a
16 breach of contract is that the parties have to have a contract
17 with each other, but we don't have this contract.

18 And as a matter of fact, this -- this issue could
19 have been disposed in a Motion to Dismiss, probably, because
20 she didn't even allege that there was a contract between
21 herself and Mr. Lucas.

22 But we filed a Motion for Summary Judgment just to
23 error on the side of caution to kind of force her to produce
24 any contract that she is claiming we're breached.

25 And in response to the motion, she has not produced

1 any contract, let alone a contract that we could have assume a
2 breach, and that's why we're asking for a summary judgment on
3 both of these issues.

4 The last claim, I believe, is for civil conspiracy.
5 But one of the elements of civil conspiracy claim is that the
6 conspiracy has to have an aim of committing unlawful act.

7 Ms. Tobin is saying that we committed civil
8 conspiracy to simply purchase the house, or a breach of
9 contract that we are not parties to, or I don't even know, to
10 have an interest in the house if we don't have. And that's
11 why I believe this -- this claim should be dismissed.

12 And I want to state it on the record that they also
13 appear simply to be frivolous, because we had these
14 discussions and there is absolutely no claim that could have
15 been brought against Mr. Lucas.

16 THE COURT: Okay.

17 MR. MEDRALLA: Thank you.

18 THE COURT: Mr. Tobin -- Ms. Tobin, I mean -- do --
19 I didn't see a -- I mean, I will tell you, I'm inclined to
20 grant their Motion for Summary Judgment, just to let you know,
21 because I don't see a contract, that you even allege on your
22 Complaint. You haven't responded to their assertions that
23 there was a contract with this particular party.

24 The difference in what your allegations with regards
25 to other parties, but regards to this party, I didn't see that

1 you allege that there was a contract between that party that
2 you were a part of. They're not the quiet title, they're not
3 asserting any title, so they wouldn't be a party to that
4 aspect. And I really am not seeing that you really have put
5 anything -- now, theirs is a different standard. Theirs is a
6 summary judgment under Rule 56, that I've got to look at as a
7 different rubric.

8 They've brought forth -- I'm not seeing how you're
9 saying that they were even involved in anything. So I'm
10 inclined to grant it, just to give you a heads up. So please
11 tell me what I'm missing, if I'm missing anything.

12 MS. TOBIN: Well, technically, they're in default.
13 They didn't answer either the original Complaint that
14 Nationstar filed against them, or they didn't answer the
15 Complaint that --

16 THE COURT: I didn't see that you moved for default.

17 MS. TOBIN: Um, I turned it into the Court and they
18 -- to the Clerk and they said, well, he's filed a Motion for
19 Summary Judgment, so I didn't think that was okay, but I -- I
20 guess it was.

21 THE COURT: Okay.

22 MS. TOBIN: So he didn't answer the Complaint, mine
23 or Nationstar's, and since the only filing he's ever had is
24 this Motion for Summary Judgment. I -- I'm saying that they
25 are a required party.

1 But since he filed the Disclaimer of Interest and if
2 he's saying he doesn't have any -- any detriment to him if the
3 -- the sale is voided, then I don't have any problem.

4 THE COURT: Okay. So -- just so I'm clear, because
5 I appreciate that you're representing yourself -- are you
6 saying you do, or do not dispute the assertions raised in
7 their summary judgment as to you?

8 MS. TOBIN: As far as the contract --

9 THE COURT: Okay.

10 MS. TOBIN: -- you know?

11 THE COURT: So --

12 MS. TOBIN: I can -- I can see why they're saying
13 that. I mean, I know that they have information, and upon
14 discovery, it would come out. But it doesn't really matter in
15 the final analysis. For me, voiding the sale is the important
16 issue. And so if they're saying it doesn't matter to them,
17 well, it doesn't matter to me if they're -- if they're not a
18 required party to that transaction.

19 THE COURT: So then should this Court's ruling be
20 granting their Motion for Summary Judgment, or are you two
21 stipulating that you're dismissed from the case? I'm just
22 trying to understand what the parties are telling me, what you
23 want the Court --

24 MR. MEDRALLA: Okay. I will insist on having the
25 Motion granted, because we do intend to bring the Motion for

1 Attorney's Fees, for having to defend this action.

2 THE COURT: The Court takes no position with regards
3 to something that's not before it --

4 MR. MEDRALLA: Yes. And but --

5 THE COURT: -- on this day.

6 MR. MEDRALLA: -- that's why I'm saying --

7 THE COURT: Okay.

8 MR. MEDRALLA: -- that's why I want the Judgment to
9 allow me an opportunity to file a Motion for Attorney's Fees.

10 MS. TOBIN: Well, if he adds that, then it makes it
11 more difficult for me just to --

12 THE COURT: Well, the Court can't take into
13 consideration future pleadings. I mean, the Court takes into
14 consideration -- you've heard me say this every time you've
15 been here in all sorts of cases --

16 MS. TOBIN: Right.

17 THE COURT: -- the Court can only take into
18 consideration the pleadings before it, right, and rule on the
19 things before it. The Court cannot provide advisory opinions,
20 does not provide advisory opinions. And so the Court can only
21 look at what's before it.

22 I just didn't know if the parties were stipulating
23 and so I needed to know that, because -- or not.

24 MS. TOBIN: Well, I can't because of that. And
25 there are disputed material facts here so.

1 THE COURT: Counsel, you get the last word. It's
2 your motion. Go ahead.

3 MR. MEDRALLA: My last word would be that we already
4 tried to stipulate to dismiss this case. That didn't go
5 anywhere and that's why we're forced to file --

6 MS. TOBIN: Not with me.

7 MR. MEDRALLA: -- this motion.

8 THE COURT: Well, I didn't see that anywhere in the
9 record, but --

10 MR. MEDRALLA: We -- I proposed a settlement but
11 that --

12 THE COURT: I -- the Court can't hear that.

13 MR. MEDRALLA: -- should not be part of
14 consideration.

15 THE COURT: The Court's your trial court.

16 Okay. So the Court is going to grant the Motion for
17 Summary Judgment with regards to Ms. Tobin on the three claims
18 of quiet title, breach of contract, and civil conspiracy. The
19 Court finds that the movant has met their evidentiary burden
20 under NRCP 56, and the evidentiary burden in response that
21 would have then gone to the respondent was not met.

22 The parties acknowledge that there is no contract
23 between the parties. The parties acknowledge that there is a
24 disclaimer of interest. If there's no contract, then there
25 can't be a breach of contract claim. The parties agree on

1 that.

2 There is a disclaimer of interest, and so there
3 can't be -- there is nothing as a right controversy with
4 regards to a quiet title, and there has not been any
5 opposition of evidence that -- evidence that the Court can
6 take into consideration in response to the civil conspiracy
7 claim, so therefore, the Court is going to find it's
8 appropriate to grant that as well.

9 And its going to ask the movant, since you're the
10 prevailing party, to provide an Order in accordance with EDCR
11 7.21, back to the Court after you circulate it.

12 Now, your other Motion for Summary Judgment, go
13 ahead. I'll tell you, I'm inclined to deny it because I think
14 there's material issues of fact between the two parties, but
15 go ahead.

16 MR. MEDRALLA: Yes. The first issue is the same
17 thing as we had with Ms. Tobin, motions are filed, a motion
18 for quiet -- a Complaint for Quiet Title.

19 THE COURT: Um-hum.

20 MR. MEDRALLA: Of course, we don't have an interest
21 that has already been determined. So and I would ask to
22 dismiss that claim, based on the fact that it was simply moot,
23 even before the action was filed.

24 And the second thing I understand Your Honor's
25 position is that there is an issue of material fact with

1 regard to the claim for unjust enrichment --

2 THE COURT: Um-hum.

3 MR. MEDRALLA: -- but we have to keep in mind, even
4 if the evidence that was submitted to the Court was
5 admissible, this claim is only for \$6,000, or six -- \$6,500.
6 This is a matter for small claims, not for a District Court
7 case, especially if a claim -- additional claim had been
8 brought was moot even before it was filed.

9 So that's why I would simply ask to dismiss this
10 claim based on the lack of subject matter jurisdiction.

11 THE COURT: Okay. Go ahead, counsel. Your
12 response?

13 MR. KELLEY: Your Honor, on the quiet title, DEC
14 relief, our client has asked for either a ruling that the Deed
15 of Trust was not extinguished or that the HOA sale was void
16 and must be set aside.

17 Under Rule 19(a), Joinder of Parties, the Nevada
18 Supreme Court has stated that 19(a) requires that when a
19 plaintiff seeks to set aside a conveyance of property, the
20 person who received the property in the conveyance must be
21 joined as a party.

22 So part of that claim, we have joined Opportunity
23 Homes, who was the initial buyer, and the two subsequent
24 purchasers, including the current title holder. Under Rule
25 19(a), and Nevada Supreme Court case law, they are a proper

1 party to that.

2 With regard to the unjust enrichment claim, again,
3 my client has asserted that claim against Opportunity Homes
4 who was the initial buyer, and the following transferees,
5 including the current title holder. We submitted a
6 Declaration that authenticated the business record from
7 Nationstar. And so it is admissible evidence. That was
8 separately filed.

9 The document that was submitted attached to the
10 Declaration shows that my client paid a total of \$20,000 in
11 insurance and taxes. There may be only \$6,000, while
12 Opportunity Homes owned the property, but total is \$20,000,
13 and that claim wasn't asserted just against Opportunity Homes.
14 Like I said, it's asserted against the title holder.

15 And there's case law in Nevada that you can join
16 claims together if there is proper jurisdiction.

17 THE COURT: Okay.

18 MR. KELLEY: I'll submit on that, Your Honor.

19 THE COURT: Counsel, your last word. It's your
20 motion.

21 MR. MEDRALLA: Yes. With regards to the claim for
22 quiet title, the case the deciding from the Nevada Supreme
23 Court is Johnson versus Johnson which of course states that
24 the transfer of real property should be joined as a -- as a
25 required party to a quiet title action.

1 But the reason the Court upheld that was because the
2 transferee at the time was the actual owner of the property
3 who held and claimed adverse interest in that property. It
4 was a wife to whom the property was transferred, a new wife of
5 -- of a gentleman, to whom the property was transferred, and
6 the former wife was trying to reconvey the property back. And
7 that's why she was the required party because she held a best
8 interest in the property.

9 Unlike we here, we disclaim any and all interest
10 back in June of 2015. So their argument saying that a
11 transferee of property should always be joined as a required
12 party is first without legal basis, and second, it doesn't
13 make any sense, because if that was the case, we should be
14 joining each and every transferee at any time of point of this
15 particular property and that would be simply ridiculous to say
16 the least.

17 With regard to the claim for unjust enrichment, I
18 understand the argument that the claims can be joined, but
19 they have a claim against us. They're asking for unjust
20 enrichment in a case that's not against us, there are other
21 parties. And in front of you we have a Motion to Dismiss a
22 claim that is against us, not against any other party.

23 So on the claims against Mr. Lucas or Opportunity
24 Homes should be considered here, and I simply believe that
25 even if that -- well, exhibit or fact is Declaration that

1 counsel mentioned, I did not see a Declaration attached to the
2 Opposition. When I went back actually yesterday, I have not
3 seen the Declaration that was filed before even the motion was
4 filed.

5 And that Declaration referred to a different
6 exhibit, I believe, because the Opposition to our Motion to
7 Dismiss talks about Exhibit 13, and I have not seen a
8 Declaration that would authenticate his business records,
9 Exhibit 13.

10 So that's why I believe our Motion for Summary
11 Judgment at this time should be dismissed, even just for the
12 fact that they didn't come up with any admissible evidence to
13 counter our arguments that there is unjust enrichment claim.

14 THE COURT: Okay.

15 MR. MEDRALLA: Thank you very much.

16 THE COURT: Sure. The Court's appreciative of the
17 arguments and taking the totality of the pleadings into
18 account, and the record, and looking at the standard of NRCP
19 56 motion, the Court's going to deny without prejudice the
20 Motion for Summary Judgment with regards to Nationstar.

21 In so doing, the Court does not make any affirmative
22 determinations as requested by Nationstar as to what was, was
23 not voided, what was or is not party to that. The Court's
24 only looking at this as the movant appropriately set forth
25 their Motion for Summary Judgment, and denies it without

1 prejudice.

2 In light of the rulings, the Court's -- the Court's
3 now taken care of all the pending motions before it. The
4 Court's going to remind the parties of EDCR 7.21 to provide
5 the appropriate orders.

6 And the Court is going to set the Status Check that
7 we've talked about a moment ago under EDCR 7.42 for corporate
8 counsel, for the Trustee, 15 --

9 THE CLERK: May 18th.

10 THE COURT: May -- yeah, okay. My Clerk correctly
11 did say three weeks is May 18th. I'll just tell you, May 18th
12 is an extremely busy day. Would you all prefer me to put it
13 over to the following Tuesday, May 23rd, or do you want to
14 come join a large grouping of people on May 18th?

15 MS. TOBIN: That's fine.

16 THE COURT: Which do you want; May 18th or May 23rd?

17 MS. TOBIN: May 23rd's fine.

18 THE COURT: It's a little bit less.

19 MR. OCHOA: May 23rd is fine.

20 THE COURT: Huh? May 23rd is fine?

21 MR. OCHOA: That's fine with us.

22 THE COURT: Okay. May 23rd. We're going to put it
23 at 9:30 on May 23rd, Status Check on corporate counsel.

24 Okay. Thank you so very much.

25 MR. MEDRALLA: Your Honor, just one more

1 clarification. So I understand the motion; also with regards
2 to our claim for quiet title is denied?

3 THE COURT: That is denied without prejudice as
4 well.

5 MR. MEDRALLA: I'm just wondering, since we don't
6 know what else I can do to get this claim out, because we
7 already disclaimed interest in this property.

8 THE COURT: I appreciate it. But when I look at the
9 totality of the record, it's appropriate to deny it without
10 prejudice. Okay. I do appreciate it.

11 MR. MEDRALLA: Thank you.

12 THE COURT: Thank you so very much.

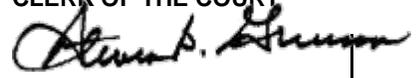
13 (Hearing concluded at 11:01 A.M.)

14 * * * * *

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



VERBATIM DIGITAL REPORTING, LLC



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

JOEL A. STOKES, et al.,)	
)	
Plaintiff,)	CASE NO. A-15-720032-C
)	CASE NO. A-16-730078-C
vs.)	
)	DEPT. NO. XXXI
BANK OF AMERICA, NA, et al.,)	
)	
Defendants.)	
)	
<u>And all related claims/cases.</u>		

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

TUESDAY, APRIL 23, 2019

**RECORDER'S TRANSCRIPT OF HEARING:
ALL PENDING MOTIONS**

APPEARANCES:

FOR THE PLAINTIFF:	JOSEPH Y. HONG, ESQ.
FOR THE COUNTER CLAIMANT NATIONSTAR MORTGAGE, LLC:	MELANIE D. MORGAN, ESQ.
FOR COUNTER CLAIMANT NONA TOBIN:	NO APPEARANCE

RECORDED BY: SANDRA HARRELL, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, TUESDAY, APRIL 23, 2019

2 (Case called at 9:53 A.M.)

3 THE COURT: -- 32.

4 MR. HONG: Good morning, Your Honor. Joseph Hong
5 for Joel Stokes. Ms. Morgan is in Department 16. But I
6 believe this is the one where a stip --

7 THE COURT: Just -- just one second.

8 MR. HONG: Yeah.

9 THE COURT: So do we know -- what's -- would you
10 mind sending an e-mail to Department 16 to see if Ms. Morgan,
11 her timing on this one?

12 THE CLERK: Yes.

13 THE COURT: Because I might call the other matter
14 and recall you in a moment because I'm aware of what you may
15 be saying but I want to make sure I have a full --

16 MR. HONG: Yeah, yeah.

17 THE COURT: -- opportunity to have -- make --

18 MR. HONG: Sure, sure.

19 THE COURT: -- sure if there's anybody else here on
20 the case, so let's find out.

21 MR. HONG: Okay, okay.

22 THE COURT: Because she did file a pleading. I did
23 not see one for you. So let's wait one moment. I want to see
24 what her timing is and then we'll see, because maybe I can
25 call page two in the intervening time.

1 MR. HONG: Okay.

2 (Case passed at 9:54 A.M., until 10:26 A.M.)

3 THE COURT: Thank you. I appreciate it. You were
4 in Department 16. I need Ms. Stokes' stuff. I don't see it
5 in here. I only saw the one.

6 (Pause in the proceedings)

7 THE COURT: Oh wait, here I have Stokes. Excuse me.
8 I have Stokes. So Stokes, as we said, was page 17200 -- 0032.
9 Counsel, I would appreciate appearances, please.

10 MR. HONG: Yes, Your Honor. Joseph Hong for Joe
11 Stokes and the JimiJack Trust.

12 MS. MORGAN: Melanie Morgan for Nationstar.

13 THE COURT: Okay. I just want to make sure. Is Ms.
14 Tobin here at all?

15 MR. HONG: She is not.

16 THE COURT: Is counsel for Ms. Tobin here?

17 MR. HONG: She's in pro per person, Your Honor.

18 THE COURT: Well, actually, that's an interesting
19 question. I heard you say that but, counsel, that's not what
20 the record shows and that's the reason why the Court's about
21 to say something.

22 MR. HONG: Oh, okay.

23 THE COURT: So feel free to sit down, if you wish,
24 or stand up, whatever is more comfortable for you.

25 So here's what the Court -- the Court left on

1 today's hearing for the mere purpose -- the Court needed to
2 find out what was going on in this case --

3 MR. HONG: Yes.

4 THE COURT: -- not that the Court really -- and
5 here's the reason why. Because from this Court's
6 understanding the only thing left in this case -- okay, the
7 Court made its rulings and there was a Notice of Entry of
8 Order.

9 And that was one of the issues here, is because Sun
10 City Anthem did not file their Notice of Entry of Order until
11 April 18th, so I did not have an effective order on a prior
12 ruling on a Motion for Summary Judgment, at the time the
13 documents for today's hearing. Turn in the reminder, folks,
14 even if your colleagues aren't getting things on time, makes
15 you not have to show in court, right? And notice that they're
16 not here. Anyway, non-sequitur.

17 But, so today technically was -- shows a Tobin
18 Opposition to Nationstar Motion for Summary Judgment against
19 JimiJack and Countermotion for Summary Judgment. This got a
20 Clerk's -- wait, did somebody take them off for today?

21 Samantha, can you see? Because somehow somebody
22 messed with my -- okay, so anyway, today was showing a Tobin
23 Opposition to Nationstar Motion for Summary Judgment against
24 JimiJack and a Countermotion. So somehow this got a -- well,
25 it was double-filed, okay. It got double-filed. But my point

1 is a little bit different. I don't see there's a hearing
2 that's why I started Madam Clerk, I just -- I didn't see any
3 hearing.

4 It came up -- so then it somehow got a -- "got" not
5 being my best choice of words -- but it received -- excuse me,
6 I'll phrase it that way -- somehow it then received a Notice
7 of Hearing.

8 Then we received a Notice of Appearance from Ms.
9 Tobin on 4/9. However, there is no Notice of Withdrawal of
10 Mr. Mushkin's firm on behalf of Ms. Tobin.

11 So there is no Notice of Withdrawal or any Order on
12 any Notice of Withdrawal or any -- any "O" because there's no
13 Motion. So whether -- so Ms. Tobin, noticed in pro per
14 person, appears to be a rogue document.

15 But then one would look to see how she said that she
16 potentially came in as a defendant in intervention cross-
17 claimant in pro per person but yet, at prior --

18 MR. HONG: I think I can kind of assist, Your Honor.
19 May I?

20 THE COURT: Feel free to do so.

21 MR. HONG: I've been in this from day one, so I
22 think I have a pretty good handle on this.

23 THE COURT: Which thought I was, but go ahead.

24 MR. HONG: Right.

25 THE COURT: Go ahead.

1 MR. HONG: Right. So, Mr. Mushkin's office
2 represents Tobin as the Trustee for the Hansen Trust. Because
3 what happened was, when Ms. Tobin came into this case
4 originally in pro per person, Your Honor, we were at this
5 hearing and said, you don't have standing, because --

6 THE COURT: Correct.

7 MR. HONG: -- you're not the Trustee. So that's
8 when she then came in as the Trustee and Mr. Mushkin
9 represented her.

10 Now, she has no standing in this case, because as an
11 individual, Ms. Tobin individually has nothing to do with this
12 case.

13 THE COURT: Which is why the Court was understanding
14 as Mr. Mushkin would only have the role as her counsel. The
15 Court didn't see that Ms. Tobin has any pro per person status
16 in this --

17 MR. HONG: Right.

18 THE COURT: -- case.

19 MR. HONG: And -- and Mr. Mushkin represents Tobin
20 as the Trustee of the Trust, not individually.

21 THE COURT: Correct. Okay.

22 MR. HONG: So what happened -- this is what counsel
23 and I are gathering -- what happened was, when Your Honor
24 granted the HOA's Motion for Summary Judgment against the
25 Estate, the Trust -- the Trust, that was over. They were

1 done. And so what -- what Ms. Tobin did then, she tried to go
2 do an end-around and file this Opposition Counter-motion in pro
3 per person individually.

4 So again, long story short, she has no standing in
5 this case, Your Honor. The only party that has standing is
6 the Trust, because they were theoretically the former owner;
7 right? They were -- they were the former owner when the
8 foreclosure happened --

9 THE COURT: Um-hum.

10 MR. HONG: -- right.

11 THE COURT: Right.

12 MR. HONG: Right.

13 THE COURT: Which is what -- thank you, I appreciate
14 where the Court was going because the document I was
15 referencing, the 4/9/2019 said Defendant in Intervention/Cross
16 Claimant. There is no Intervenor anywhere in this caption --

17 MR. HONG: Yeah.

18 THE COURT: -- that this Court saw. And I was going
19 to get clarification from the parties. That's why I needed to
20 have as many people who were going to be here on this case, to
21 confirm that that is everybody's understanding.

22 Is that your understanding?

23 MR. HONG: Well -- well --

24 THE COURT: There's no Intervenor --

25 MR. HONG: -- she did intervene in the other case

1 that was consolidated into this case.

2 THE COURT: But not in an individual capacity.

3 MR. HONG: No.

4 THE COURT: It was in a Trustee of the Trust --

5 MR. HONG: Correct.

6 THE COURT: -- which is the only role that Ms. Tobin
7 held, not as an individual; is that correct?

8 MR. HONG: Correct.

9 MS. MORGAN: Right.

10 MR. HONG: Correct.

11 THE COURT: Okay. Well -- okay.

12 MR. HONG: Well, yeah.

13 THE COURT: Which is what the Court saw. So --

14 MR. HONG: That's absolutely right.

15 THE COURT: Okay. So --

16 MR. HONG: Because title to the property prior to
17 the foreclosure was in the name of the Trust, not --

18 THE COURT: Nina Tobin, Trustee of the Gordon B.
19 Hansen Trust.

20 MR. HONG: There you go.

21 MS. MORGAN: Right.

22 MR. HONG: That's it.

23 MS. MORGAN: Right.

24 MR. HONG: That's it.

25 THE COURT: That's the only thing that this Court

1 saw.

2 MR. HONG: That's right.

3 MS. MORGAN: So a retitling, in portion, of a
4 caption on a document filed where she made herself an
5 individual was the first time this Court -- I've spent a long
6 time looking at this entire case again --

7 MR. HONG: Right.

8 THE COURT: -- no, it's perfectly fine. I'm just --

9 MR. HONG: Right.

10 THE COURT: -- the only time this Court saw Ms.
11 Tobin in a individual capacity was her placing herself as an
12 individual on a document that she filed is the way this Court
13 will phrase it.

14 MR. HONG: That's -- that's correct.

15 MS. MORGAN: Right.

16 THE COURT: I did not see that in any filing by
17 either A, any other party; or B, any other records.

18 MR. HONG: Right.

19 THE COURT: Is that consistent with everybody's
20 else's understanding?

21 MR. HONG: That is absolutely correct, Your Honor.

22 THE COURT: Okay.

23 MS. MORGAN: Yes.

24 THE COURT: So here's -- but the Court left today's
25 hearing on for the purpose of, I need to ensure that every

1 case has -- is correct, and any rogue documents don't exist.

2 MR. HONG: Right.

3 THE COURT: I also wanted to ensure that if Ms.
4 Tobin appeared, or Ms. Tobin's counsel appeared, that
5 everybody had a full opportunity to be heard. So here's where
6 the Court sees today's hearing.

7 The Court sees today hearing is that there is --
8 cannot be a inclination that I'm going to let anybody who's
9 here respond; okay?

10 Let me see what I've got. I've got a Notice of
11 Settlement that Nationstar, Joel Stokes and Sandra F. Stokes,
12 as Trustee of the JimiJack Irrevocable Trust, have reached an
13 Agreement on all material terms; right?

14 MR. HONG: Correct.

15 THE COURT: Does that then moot the 5/7 Motion for
16 Summary Judgment?

17 MS. MORGAN: It does. And we were going to withdraw
18 that motion. But then when we saw these filings from Tobin,
19 we thought it'd be cleaner just to leave it on.

20 THE COURT: That's why the Court's asking the
21 question.

22 Okay. So here's what the Court -- the Court really,
23 at the end of this morning, sees that there is nothing --
24 subject to anybody telling me differently -- the Court sees
25 that there is nothing from a -- left in this case, now that I

1 have an NEO from Sun City Anthem, left in this case other than
2 I need to do a Status Check on settlement documents between
3 the parties who filed the Notice of Settlement on 4/12.

4 MR. HONG: That's correct.

5 MS. MORGAN: Well --

6 THE COURT: Is there anything else left?

7 MS. MORGAN: -- I'm showing that --

8 THE COURT: Can you walk through your caption?

9 MS. MORGAN: -- Nona Tobin, an individual Trustee of
10 the Trust, still has claims against JimiJack.

11 MR. HONG: That's -- yeah, that -- that is true.

12 THE COURT: Wait. Nona Tobin, the Trustee, against
13 JimiJack. So that is left for trial.

14 MR. HONG: Okay. But if I may, Your Honor --

15 THE COURT: Hold -- hold on just a sec.

16 MR. HONG: Yeah, yeah.

17 THE COURT: Okay. No, that's -- thank you for that
18 point of clarification.

19 MR. HONG: Right.

20 THE COURT: So that was not -- because there's been
21 no -- but in that capacity that would be Mr. Mushkin as
22 counsel for the Trustee --

23 MR. HONG: Correct.

24 THE COURT: -- and Mr. Hong as counsel for JimiJack;
25 correct?

1 MR. HONG: Correct.

2 THE COURT: Is that --

3 MR. HONG: Correct.

4 THE COURT: Okay. So --

5 MR. HONG: And on that one, Your Honor, if that's
6 the only thing left, if that is -- and if they are actually
7 going to pursue that, based on this Court's previous Order for
8 Summary Judgment in favor of Opportunity homes, who was the
9 buyer, we would ask leave just to clean it up, because there's
10 no reason to go to trial if we can just do a simple motion
11 mirroring the Court's order, like a res judicata.

12 Because Opportunity Homes -- the claims alleged
13 against my clients by the Trust are identical to the claims
14 that were alleged against Opportunity Homes.

15 THE COURT: You can appreciate the Court cannot
16 grant any orally when I do not have a noticed hearing that
17 doesn't have --

18 MR. HONG: Oh, no, no.

19 THE COURT: -- all parties --

20 MR. HONG: Right, right.

21 THE COURT: -- the Court takes no position on
22 anything. I can't address anything that's --

23 MR. HONG: Right.

24 THE COURT: -- not before me today --

25 MR. HONG: Right.

1 THE COURT: -- because I don't have all parties
2 here.
3 MR. HONG: Right, right.
4 THE COURT: Okay.
5 MR. HONG: But we would ask a leave in a written
6 sense to file a written motion.
7 THE COURT: The Court can't --
8 MR. HONG: Okay, right, right. Okay.
9 THE COURT: -- address anything that's not
10 specifically --
11 MR. HONG: Right.
12 THE COURT: -- before it.
13 MR. HONG: Sure.
14 THE COURT: Particularly, when dates and deadlines
15 and everything --
16 MR. HONG: Sure.
17 THE COURT: -- have passed.
18 MR. HONG: Sure.
19 THE COURT: The Court was only asking for a point of
20 clarification so that we ensure --
21 MR. HONG: Okay.
22 THE COURT: -- that we have a clear --
23 MR. HONG: Right.
24 THE COURT: -- record. So let's do today's
25 purposes. Today's purpose, to the extent that there is an

1 Opposition to Nationstar's Motion for Summary Judgment, I'm
2 going to put that placeholder for two seconds. I'm dealing
3 with the second portion.

4 There is a Countermotion -- okay, first off -- let
5 me go back to the pleading. I'm sorry. I need to go to the
6 specific pleading.

7 First off, the Court is going to find that there is
8 a rogue document filed which is a Notice of Appearance on
9 4/9/2019, of Nona Tobin, in pro per person, because there is
10 nothing in this case that shows Ms. Tobin has any individual
11 capacity.

12 MR. HONG: That's right.

13 THE COURT: There's been no leave sought for Ms.
14 Tobin to have any individual capacity. The only portion of
15 this case in which there is Ms. Tobin in any capacity is as
16 Trustee of the Gordon B. Hansen Trust, dated 8/22/2008.

17 MR. HONG: That's correct.

18 THE COURT: And in that capacity, Ms. Tobin is
19 represented by counsel.

20 MR. HONG: That's correct.

21 THE COURT: That counsel has not filed any Motion to
22 Withdraw, is the simplest way of phrasing it. So any
23 pleadings on behalf of Ms. Tobin, as Trustee for the Gordon B.
24 Hansen Trust, need to be filed on behalf of counsel. There is
25 no Ms. Tobin in an individual capacity.

1 The Notice of Appearance of April 9th, 2019,
2 therefore, is -- must be viewed as a rogue document, and must
3 be stricken because there is nothing with Ms. Tobin in pro per
4 person.

5 Madam Clerk, please see that that gets stricken.

6 Okay. Next document. While the Court did see on
7 that same date, there was a Notice of Completion of Mediation
8 also filed by Ms. Tobin in her individual capacity, the Court
9 already had a prior document with regards to the mediation
10 being completed, since that also was filed by Ms. Tobin
11 individually, and not by Ms. Tobin's counsel, who is the only
12 party who can file on behalf of Ms. Tobin as Trustee for the
13 Gordon B. Hansen Trust, the Court was inclined to strike that
14 Notice of Completion of Mediation also filed on April 9th,
15 2019. Does anyone disagree?

16 MR. HONG: No.

17 MS. MORGAN: No.

18 MR. HONG: No.

19 THE COURT: I probably should have phrased that --
20 does anyone have -- I have a double negative there -- does
21 anyone feel that that document should remain on the docket?

22 MS. MORGAN: No.

23 THE COURT: Okay. So since that document also was
24 filed by Ms. Tobin improperly, because Ms. Tobin is not a
25 party to this case, Ms. Tobin is represented in her Trustee

1 capacity, which is the only capacity in which exists in this
2 case -- by counsel, she would not have had permission to have
3 filed a document on her own, the 4/9 Notice of Completion of
4 Mediation also needs to be stricken.

5 The Court now goes to the 4/10/2019 document. The
6 4/10/2019, at 11:17, there was another document filed by Nona
7 Tobin, individually, not filed by Mr. Mushkin as counsel for
8 Nona Tobin, as Trustee of the Gordon B. Hansen Trust. That
9 document was titled, Tobin Opposition to Nationstar Motion for
10 Summary Judgment against JimiJack and Countermotion Summary
11 Judgment, Hearing Requested in Conjunction with Hearing for
12 Nationstar MSJ Scheduled.

13 When the Court looked at that document there was two
14 issues. One, the same issue the Court just noted that was
15 filed by Ms. Tobin, individually, and she is represented by
16 counsel, and Ms. Tobin in not a Defendant Intervention Cross
17 Claimant in Pro Per Person, because her only role in this
18 case, as set forth based on the pleadings, is as Trustee of
19 the Gordon B. Hansen Trust, and in that capacity, she is
20 represented by counsel. That counsel has not withdrawn.

21 So the 4/10/2019 document filed at 11:17, similarly,
22 would be a rogue document. Does anyone have any position with
23 regards to that statement?

24 MR. HONG: No, actually, we -- we agree.

25 MS. MORGAN: We agree.

1 THE COURT: Okay. So the 4/10/2019, 11:17, also
2 needs to be stricken.

3 Now, contained therein, also -- even if the Court
4 were to look at the underlying arguments, which it can't, but
5 even independently, the Court's understanding is there is no
6 claims between Nationstar that currently exists with regards
7 to Nona Tobin as Trustee of the Gordon Hansen Trust; is that
8 correct?

9 MS. MORGAN: That's correct.

10 THE COURT: So there would be no Opposition that
11 would be appropriate, even if the Court could look behind the
12 fact that the document was improperly filed -- is that
13 correct, counsel -- for Nationstar?

14 MS. MORGAN: That is correct.

15 THE COURT: Okay. So there would be no opposition
16 basis anyway because you aren't on opposite sides of the -- in
17 any part of this consolidated caption; correct?

18 MS. MORGAN: That is correct.

19 THE COURT: Okay. So then the --

20 MS. MORGAN: We did file an Opposition just pointing
21 that out, that we -- that there are no claims. But I
22 understand that under those --

23 THE COURT: You -- actually you filed a very well --
24 what was your document titled? You titled your document -- I
25 think you actually -- yeah, however you titled your document,

1 I you titled it a little bit --

2 MR. HONG: Very -- very well.

3 THE COURT: Huh?

4 MS. MORGAN: I just -- yes, we filed that recently
5 just to say there are no claims.

6 THE COURT: Yeah. So as pointed out by Nationstar,
7 but I'm just confirming in open court, just so we have it
8 clean in one place.

9 MS. MORGAN: Yes.

10 THE COURT: Okay. So then the second portion was
11 something that was titled a -- once again, the Court can't
12 look at this, but I'm just giving you an independent basis
13 just so it's abundantly clear -- I'm going to the second point
14 -- it's unclear what portion would be viewed as its own
15 section as a Countermotion for Summary Judgment.

16 Because the Court, in looking at this, although --
17 and the Court takes -- okay, it says, did not meet the burden
18 against JimiJack. I mean, it's basically -- I didn't see any
19 portion that could even arguably be a section, even if the
20 Court could have looked at the underlying document for
21 purposes of preparing for today, that could go against --
22 well, the Court's just going to leave it at what it is.

23 Although, it's titled a countermotion, it wouldn't
24 have been a countermotion because -- I'll phrase it this way.
25 The Court's going to phrase it -- even to the extent that

1 somehow even though it's titled a countermotion for summary
2 judgment, it's an improper countermotion, independent of all
3 the other reasons, because a countermotion has to relate to
4 the same party and the same claims.

5 Since it doesn't go against Nationstar, because
6 Nationstar has no claims with regards to the Tobin as Trustee
7 for the Gordon B. Hansen Trust dated 8/22/2008, she can't file
8 a summary judgment against a different party in a different
9 role in a consolidated case and raise new issues.

10 So it would not be an appropriate countermotion in
11 and of itself would be -- to be a separate independent basis,
12 even if you could view it that way, to the extent that you
13 could even independently view the underlying motion, which the
14 Court can't take into consideration anyway, because it's a
15 rogue document that now has been stricken, it still would be
16 inappropriate, because even if it appears, even at best,
17 possibly, or maybe as a Motion for Reconsideration from a
18 ruling of a year or, I'm not really clear what it is. But
19 whatever it is, the Court can't consider it, it's not what it
20 is. So that would be stricken.

21 Now, then it was filed again on 4/12. On 4/12,
22 there was also three documents filed. Those same three
23 documents that were filed on 4/9 were refiled on 4/12: the
24 Notice of Appearance, the Notice of Completion of Mediation,
25 and the same Opposition and Countermotion.

1 For the same reasons that the Court just stated,
2 that the 4/9 documents that were rogue documents, and for the
3 same analysis on the Opposition and Countermotion, which truly
4 isn't an Opposition and Countermotion, those three documents
5 on 4/12 will be stricken.

6 Also, for the additional reason that they're
7 duplicative of the 4/9. But for all the underlying reasons,
8 for the 4/9, plus the additional ones, that those be stricken.

9 So then there is the Notice of Settlement, but then
10 there's a Stipulation and Order to extend a briefing schedule
11 that was filed after a Notice of Settlement. So now the Court
12 has to address those between the parties that are before me.

13 So Notice of Settlement; does that mean that you do
14 or do not wish, in light of what the Court's ruling is today,
15 clearing up the record with regards to the rogue documents, I
16 still have a Notice of Settlement. I have a Stipulation and
17 Order to extend a briefing schedule. I have a Reply to a
18 Motion for Summary Judgment and Countermotion for Summary
19 Judgment.

20 Oh excuse me, I'm sorry, I just -- strike one more
21 document. Sorry. On 4/17, Ms. Tobin also filed a document
22 called a Reply, 4/17, 8:37, saying Tobin's Reply in Support of
23 Joinder to Nationstar Mortgage's Motion for Summary Judgment,
24 and Reply in Support of Tobin's Motion for Summary Judgment,
25 rogue document, and for all the reasons that the Court said

1 with regards to the 4/9 documents, the 4/12 documents, other
2 than it's not duplicative because -- so that 4/17 Reply also
3 would be stricken on 4/17 as well.

4 So, sorry, and counsel for Nationstar, I knew you
5 didn't call it a Opposition, you called it a Response. I knew
6 you --

7 MS. MORGAN: Oh.

8 THE COURT: -- called it something more
9 appropriately to what it was.

10 Okay. The Court's not finding it appropriate to
11 strike the 4/19 Response by Nationstar because that was just a
12 clarification to enlighten the Court with regards to the
13 improper filing of documents. The Court did not view that as
14 viewing on the merits the underlying pleadings filed by Ms.
15 Tobin, so the Court was not inclined to strike the 4/19,
16 because it just clarified those underlying documents.

17 Unless Nationstar was requesting the Court do
18 something. Is Nationstar requesting the Court do anything?

19 MS. MORGAN: No, Your Honor.

20 THE COURT: Okay. So now I have a Stipulation to
21 Extend Briefing Schedules and a Notice of Settlement, and I
22 still have a pending Motion for Summary Judgment on May 7th.

23 Counsel, what would you like to do about those
24 underlying documents?

25 MR. HONG: Well, we could withdraw and vacate the

1 Stipulation to Extend the Briefing Schedule because, Your
2 Honor, that was actually prepared and submitted prior to the
3 Notice of Settlement.

4 THE COURT: Not submitted, but yeah. Yeah.

5 MR. HONG: Was submitted. I mean, so yeah. And by
6 the time it got filed we had already settled.

7 MS. MORGAN: Um-hum.

8 MR. HONG: So it's moot now. That document is moot.

9 THE COURT: Okay. So the Court can disregard that
10 Stipulation and Order on the briefing --

11 MR. HONG: Yes.

12 THE COURT: -- schedule.

13 MR. HONG: Yes.

14 THE COURT: So now I still have a pending Motion for
15 Summary Judgment on 5/7 at 9:30.

16 MS. MORGAN: Correct.

17 THE COURT: Is that --

18 MR. HONG: Let's vacate it.

19 THE COURT: -- going to be heard or not heard?

20 MS. MORGAN: That is not going to be heard. The
21 only claims involved --

22 THE COURT: Are you --

23 MS. MORGAN: -- with respect to that motion have
24 been resolved.

25 THE COURT: Okay. So are you --

1 MR. HONG: Right.

2 THE COURT: -- doing it in open court under EDCR
3 7.50, or are you filing a Notice of Withdrawal just so that in
4 case anybody else thought that maybe they were showing up on
5 that particular day --

6 MS. MORGAN: I'll file a Notice --

7 THE COURT: -- what are you planning to do?

8 MS. MORGAN: -- a Notice of Withdrawal so that
9 everybody has something in writing.

10 THE COURT: Okay. But for today's purposes, would
11 you like us to vacate it on the system today and then you'll
12 just file a Notice of Withdrawal --

13 MS. MORGAN: Yes, please.

14 THE COURT: -- or would you like us to leave it on?

15 MS. MORGAN: Yes. We can -- we can vacate it if
16 it's okay with you.

17 THE COURT: Okay. At the request of the movant, and
18 since the only party which could have filed any pleadings,
19 you're agreeable to --

20 MR. HONG: Oh, yes. Yes, Your Honor.

21 THE COURT: Okay. Then the 5/7/2019 Motion for
22 Summary Judgment hearing gets vacated and that gets taken care
23 of.

24 Now, I have to leave on the Calendar Call and the
25 Bench Trial because currently, in the light of everything that

1 everyone's told me -- and here's -- we currently have Nina
2 Tobin as Trustee for the Gordon B. Hansen Trust versus
3 JimiJack is the only remaining parties in these combined
4 cases, 720032, combined with 730078; is that correct?

5 MS. MORGAN: I think --

6 THE COURT: Is there somebody else?

7 MS. MORGAN: -- Tobin as Trustee also has pending
8 claims against Yuen K. Lee and --

9 MR. HONG: And -- and F. Bondurant.

10 MS. MORGAN: -- F. Bondurant, LLC.

11 MR. HONG: Right.

12 THE COURT: I do appreciate with that -- thank you
13 so very much. The Court will make a clarification. So the
14 only thing remaining in this case then would be Counter
15 Claimant Nona Tobin as Trustee of the Gordon B. Hansen Trust
16 dated 8/22/08, Counter Claimant, versus JimiJack Irrevocable
17 Trust, Yuen Lee and F. Bondurant; okay, and --

18 MR. HONG: I represent --

19 THE COURT: -- counsel for -- pardon?

20 MR. HONG: And I represent all three, obviously,
21 yeah.

22 THE COURT: And Mr. Hong represents all three of
23 those defendants.

24 MR. HONG: Right.

25 THE COURT: And counsel, for -- when you file your

1 next pleading, please do make sure that you're ensuring your
2 caption only shows in the Trustee, which is the correct
3 capacity.

4 MS. MORGAN: Okay. So take out "an individual"?

5 THE COURT: We understand that there is no
6 individual.

7 MR. HONG: Right.

8 THE COURT: There's only in the Trustee capacities.

9 MS. MORGAN: Okay.

10 THE COURT: Is that correct?

11 MR. HONG: That's correct.

12 MS. MORGAN: Yes.

13 THE COURT: So we just need to make sure our
14 captions are correct.

15 MS. MORGAN: Okay.

16 THE COURT: Right?

17 MR. HONG: Yes.

18 THE COURT: So, we just need -- because I had a
19 couple of different -- so -- and we understand that that was
20 just a typographical error, is that correct, counsel for
21 Nationstar?

22 MR. HONG: No, no --

23 MS. MORGAN: I don't really know. I --

24 MR. HONG: -- I think what happened is when Ms.
25 Tobin came into this case, before she got counsel, an

1 individual meant an individual as Trustee, not "individually".
2 Does that make sense, Your Honor?

3 She's never been in this case individually. She
4 can't be. She has no standing. And the Court ruled on that
5 at previous hearings early on.

6 THE COURT: Okay.

7 MR. HONG: And that's -- that's -- yeah.

8 MS. MORGAN: But this is how -- the way it's
9 reflected in the caption is how it's reflected in her cross
10 claim. That's how they worded it.

11 MR. HONG: Yeah.

12 THE COURT: I'm not sure if you're reaching out to
13 counsel for the Trustee, but there's a stipulation heading
14 this Court's way to ensure that we have --

15 MS. MORGAN: We can clarify that.

16 THE COURT: -- a clarification.

17 MS. MORGAN: I think?

18 MR. HONG: Yeah, we can --

19 THE COURT: Okay. But we just need to make sure we
20 have it clear before trial, right? Or anything else. Anyway,
21 but --

22 MR. HONG: Right.

23 THE COURT: -- but the Court's understanding, since
24 there is only the Trustee, Mr. Mushkin represents the only
25 party in that as the cross claimant, and that's the only

1 place, in the cross claimant.

2 Okay.

3 MR. HONG: Right.

4 THE COURT: So that is taken care of. So now the
5 only thing that -- the last thing I need to do is give a
6 Status Check on Settlement Documents with regards to the two
7 counsel and the parties they represent, they're standing here
8 in court today.

9 MR. HONG: Right.

10 THE COURT: Since I currently have a Calendar Call
11 date of 5/21, do you want me to make that your Status Check on
12 settlement documents since --

13 MS. MORGAN: Sure.

14 MR. HONG: Sure.

15 THE COURT: -- one of the two of you --

16 MR. HONG: Sure.

17 THE COURT: -- have to be here anyway?

18 MR. HONG: Sure.

19 THE COURT: That makes sense?

20 MR. HONG: That would be fine, Your Honor.

21 MS. MORGAN: Yes.

22 THE COURT: Okay. Well, I'll just make your Status
23 Check on settlement documents that same, 5/21. Oftentimes, I
24 do it on chambers, but I think this one, you're going to want
25 it all cleaned up anyway, so --

1 MR. HONG: Sure.

2 THE COURT: -- let's keep you at 5/21, the same day
3 as your Calendar Call, it's going to be a Status Check on
4 Settlement Documents with regards to the settled parties.
5 Okay?

6 MR. HONG: One more last matter, Your Honor. I
7 believe on Thursday --

8 MS. MORGAN: A Pretrial Conference.

9 MR. HONG: -- there's a Pretrial.

10 THE COURT: I need to keep that Pretrial Conference
11 on, you can appreciate, because I have parties remaining in
12 this case.

13 MR. HONG: Right. Can I -- and I've never asked
14 Your Honor this before -- but can I appear via court call for
15 that Pretrial?

16 THE COURT: I cannot, as you can particularly
17 appreciate, from A, we always have to have counsel present,
18 because we have to get things set on the trial stack. And
19 whoever's cell phone is vibrating --

20 MR. HONG: I'm sorry, that's -- that's --

21 THE COURT: Oh, that's yours?

22 MR. HONG: -- yeah, that's --

23 THE COURT: Oh, okay.

24 MR. HONG: -- that's mine.

25 THE COURT: The reason why we do it, is if we do it

1 for one, we have to do it for all, and you can --

2 MR. HONG: Right.

3 THE COURT: -- appreciate why we can't do it. Do
4 you have a co-counsel? You're normally --

5 MR. HONG: I don't have a co-counsel, but can I have
6 a colleague appear on my behalf? I'm not going to be in the
7 country. That's the problem.

8 THE COURT: You're not in the country.

9 MR. HONG: Yeah.

10 THE COURT: I've got to -- see, the challenge we
11 have here, you're going to have to put that -- well --

12 MR. HONG: I mean, I'll have a colleague here, Your
13 Honor.

14 THE COURT: I'm sure that colleague is going to be
15 your co-counsel for purposes of trial, if this case goes to
16 trial, right? You're telling me it's your co-trial counsel?

17 MR. HONG: Sure, sure.

18 THE COURT: And your -- your --

19 MR. HONG: Yes.

20 THE COURT: -- co-trial counsel is here?

21 MR. HONG: Yes.

22 THE COURT: Co-trial counsel is here, fully informed
23 on what dates this case can go to trial?

24 MR. HONG: Sure.

25 THE COURT: That's the requirement. Trial counsel

1 needs to be here. Okay?

2 MS. MORGAN: All right.

3 MR. HONG: Can I also --

4 THE COURT: And that would include co-trial counsel.

5 Now, if a second counsel wishes to appear telephonically --

6 MR. HONG: Right.

7 THE COURT: -- as long as co-trial counsel is here

8 in person --

9 MR. HONG: Okay, perfect.

10 THE COURT: -- then that's --

11 MR. HONG: Okay.

12 THE COURT: -- what it is.

13 MR. HONG: Okay.

14 MS. MORGAN: I was just wondering if Nationstar can
15 be excused from attending the Pretrial Conference on the basis
16 that we've settled the claims, or if we still need to appear?

17 THE COURT: Yeah.

18 MR. HONG: Yeah, that -- sure.

19 THE COURT: You don't -- well, just a sec. I'm walk
20 -- let me --

21 MS. MORGAN: Oh, sorry.

22 THE COURT: -- you don't owe me any orders, you
23 don't -- right? The only thing --

24 MS. MORGAN: I -- I owe the Court a notice
25 withdrawing our Motion for Summary Judgment.

1 THE COURT: So if you have that done on NEO then --
2 actually you don't even need an NEO on that because that's
3 just a Notice of Withdrawal. If you don't have a pending
4 motion before this Court because you've done a Notice of
5 Withdrawal, and I think I took care of it today, there's
6 nothing that you're in this case for any matter, are you?

7 MS. MORGAN: Just to get the Stip and Order for
8 Dismissal filed.

9 THE COURT: But that's just a Notice of Settlement.

10 MS. MORGAN: Right.

11 THE COURT: You wouldn't have to show up for a PTC
12 on that in any event.

13 MS. MORGAN: No.

14 THE COURT: No. I don't see any reason -- you're
15 more than welcome, but I don't see any reason why, from a
16 standpoint whether or not you want to file that Notice of
17 Withdrawal beforehand so that you're --

18 MS. MORGAN: Okay.

19 THE COURT: -- might make it clean. But I don't --
20 based on what you've represented to this Court, you're not in
21 any part of this case anymore.

22 MS. MORGAN: Correct.

23 THE COURT: And just having a Status Check on
24 Settlement Documents does not require a person to show up to a
25 Pretrial Conference, because you have all orders in showing

1 that you're not in this case; right?

2 MS. MORGAN: Right.

3 THE COURT: Is that -- yeah, sure. Yeah.

4 MR. HONG: Yeah.

5 MS. MORGAN: Okay.

6 THE COURT: Okay. Thank you so much.

7 MR. HONG: Yeah.

8 MS. MORGAN: Thank you.

9 MR. HONG: Okay. So, Your Honor, my co-counsel --

10 THE COURT: Your co-trial counsel --

11 MR. HONG: -- will appear.

12 THE COURT: -- will be here, and if you're
13 requesting court call, you need to get that in today --

14 MR. HONG: Today.

15 THE COURT: -- so that it can get set up; right?

16 MR. HONG: Right.

17 THE COURT: I appreciate it.

18 MR. HONG: Thank you.

19 THE COURT: Thank you so very much.

20 MS. MORGAN: Thank you.

21 (Hearing concluded at 10:55 A.M.)

22 * * * * *

23

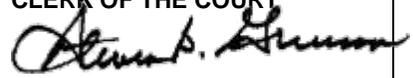
24

25

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

Julie Lord

VERBATIM DIGITAL REPORTING, LLC



1 TRAN

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

* * * * *

5

6 JIMI JACK IRREVOCABLE TRUST,)

7 Plaintiff,)

8 vs.)

9 BANK OF AMERICA, N.A., SUN)

10 CITY ANTHEM COMMUNITY)

11 ASSOCIATION,)

12 Defendants.)

13 AND ALL RELATED CASES.)

CASE NO. A-15-720032

DEPT. NO. XXXI

Transcript of Proceedings

14 BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

ALL PENDING MOTIONS

15

THURSDAY, MAY 25, 2017

16

17 APPEARANCES:

18 For Sun City: DAVID OCHOA, ESQ.

19 For Nona Tobin: LINVEL JOE COPPEDGE, ESQ.

20

21 RECORDED BY: SANDRA HARRELL, DISTRICT COURT

22 TRANSCRIBED BY: KRISTEN LUNKWITZ

23

24

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

25

AA 002641

1 THURSDAY, MAY 25, 2017 AT 9:33 A.M.

2
3 THE COURT: Today, do I have all parties on
4 *JimiJack versus Bank of America*, pages 3 and 4, 720032?

5 MR. COPPEDGE: Yes, Your Honor. Back again.

6 THE COURT: We're back. It looks like I have a
7 Notice of Appearance filed. Counsel, can I get your
8 appearances, please?

9 MR. OCHOA: David Ochoa for Sun City Anthem.

10 MR. COPPEDGE: And it's Joe Coppedge for Nona
11 Tobin and, also, as individually -- as trustee for the
12 trust as well, the Gordon Hansen Trust.

13 THE COURT: Okay. So, for today's purposes,
14 because you all were somewhat unclear on Tuesday whether
15 you wanted today to be the actual argument on the Motion or
16 whether you just wanted a status check for setting the
17 Motion. Because counsel for plaintiff is -- or been here a
18 couple of different times. So, what are we doing today?

19 MR. COPPEDGE: I talked to -- if I can?

20 MR. OCHOA: Go ahead.

21 MR. COPPEDGE: I talked to David yesterday, Your
22 Honor. And, also -- and, I apologize. I read the minutes
23 and I guess I was confused as to what we were here for on
24 Tuesday. So, I do apologize for that. But I've now reread
25 the motions and I think I can -- I think, pare them down a

AA 002642

1 little bit. It seems that there's motions to -- by -- Sun
2 City's asking to dismiss the claims that she filed as an
3 individual and as trustee.

4 THE COURT: Okay.

5 MR. COPPEDGE: I would concur that until such time
6 as there's a mediation, all of the claims for relief in the
7 Crossclaim, except for the quiet title claim, are probably
8 premature at this point in time. And I think those should
9 be dismissed without prejudice.

10 THE COURT: NRED remediation?

11 MR. COPPEDGE: Excuse me, Your Honor?

12 THE COURT: You said mediation. You mean --

13 MR. OCHOA: NRED mediation. Correct.

14 THE COURT: NRED mediation.

15 MR. COPPEDGE: Yes. Yes, Your Honor.

16 THE COURT: Okay. So, is -- okay. So, keep --
17 so, the quiet title claim --

18 MR. COPPEDGE: I think, under *McKnight*, I think
19 the quiet title claim survives. I think that as a
20 beneficiary, I think that Ms. Tobin has an interest and I
21 think that she's all -- she's a proper party to protect
22 that interest. I'm unclear -- and I didn't see anything in
23 the minutes about it, since it was a status check as to
24 maintaining for the trust to retain counsel, which has now
25 occurred, I didn't know if that was -- you know, again, I

1 think one of their issues is she could not represent the
2 trust regardless. And, so, my thought is is that, to kind
3 of cure things, and because I want the operative pleading
4 to be filed by --

5 [Colloquy at the bench]

6 THE COURT: Go ahead.

7 MR. COPPEDGE: I want the operative pleading to be
8 filed by counsel. I'm inclined to want to file an amended
9 crossclaim to resolve any issues that might -- that there
10 might be, Your Honor.

11 THE COURT: Counsel, does that make -- let's go
12 back a step just because, procedurally --

13 MR. COPPEDGE: Okay.

14 THE COURT: -- we have two things on today, a
15 status check and corporate counsel. Corporate counsel has
16 filed a Notice of Appearance as of yesterday. So, counsel
17 for the Gordon B. Hansen Trust has filed a Notice of
18 Appearance, a status check corporate counsel completed.
19 Notice of Appearance has been filed in compliance. Second
20 matter that was on is Sun City Anthem Community
21 Association's Motion to Dismiss Nona Tobin, an Individual,
22 and as Trustee of the Gordon B. Hansen Trust, their
23 crossclaims. Okay? With regards to that, that was the
24 question the Court was asking is whether that was going to
25 be heard on the merits today or just scheduled for hearing.

1 Counsel who just appeared on behalf of Nona Tobin and the
2 trust has clarified that their position is that, pretty
3 much, they would stipulate that most of it could go down to
4 the NRED and, then, the quiet title, I believe you're
5 saying, you wish to file a responsive pleading -- excuse
6 me. You wish to file an amended complaint, which would
7 moot the motions, and then determine where it's -- what the
8 next step is. Is that correct or incorrect?

9 MR. COPPEDGE: Yeah. And I -- in all fairness,
10 he's not heard that yet.

11 THE COURT: I haven't heard yet from your
12 position. I haven't heard from the Association. Yeah.

13 MR. COPPEDGE: But the fact is is that I am
14 concerned that the operative pleading was filed by a non-
15 attorney. And, I think, to resolve that, I think it's just
16 easier if I just file an amended crossclaim that resolves
17 everything, Your Honor.

18 THE COURT: Now I need to hear from the movants,
19 Sun City Anthem Community Association, to see what your
20 position is.

21 MR. OCHOA: It appears that we are arguing the
22 Motion today, Your Honor. My -- I -- we argue that we have
23 no claim to quiet title. So, therefore, that quiet title
24 claim should not keep us in the case, even if we are
25 agreeing that the remaining claims need to go to NRED. I

1 think you can rule on that today. You know, we have no
2 interest in title to the property. And that claim alone,
3 it really shouldn't be brought against us and it shouldn't
4 keep us in this case. I think you should dismiss
5 everything. Once we go to NRED, they can then file to
6 bring this back in. I mean, it's without prejudice. You
7 know, we don't need to be in the case pending NRED
8 mediation.

9 THE COURT: Just to be clear, from what I
10 understood from the pleadings and what you're stating here
11 today, is Sun City Anthem Community Association is not
12 making any claim to title. You were the foreclosing -- the
13 overseeing foreclosing entity. Is that correct?

14 MR. OCHOA: Correct.

15 THE COURT: So --

16 MR. COPPEDGE: I guess I can --

17 THE COURT: -- counsel, how does that impact your
18 -- what you're asking?

19 MR. COPPEDGE: They --

20 THE COURT: So, basically, I'm hearing the Motion
21 right now. We're doing it a little bit out of order
22 because of your request first. But, go ahead.

23 MR. COPPEDGE: And I want to try and clarify and
24 cut to it, Your Honor, if I could? Because I might be able
25 to make it faster if I did that. I guess my response to

1 that would be is that they're in effect asking for, like,
2 summary judgment, Your Honor. And, on a Motion to Dismiss,
3 when if you look at all of the facts, in the Crossclaim
4 that's currently plead, I mean, they raise issues, Your
5 Honor. And, so, I don't think it's appropriate to grant
6 them what would be akin to summary judgment on the
7 pleadings at this time. You know, again, I -- if we're
8 going to -- if they're going to disavow any interest in the
9 property and if we do -- we do the NRED mediation, Your
10 Honor, and can then come back, we can clean up the
11 pleadings at that pint in time. But, at this stage, I
12 believe what's with *McKnight* in terms of the *McKnight*
13 ruling, I think what's appropriate is the quiet title claim
14 may remain, Your Honor, the other claims be dismissed.

15 And, also, just to clarify, also, Your Honor, I
16 think that if -- you didn't raise this, but there is also
17 the pending cross-motion to void this sale. Under
18 *McKnight*, I think that also is premature against anybody at
19 this point in time. I think it should be withdrawn without
20 prejudice to refile that, Your Honor. And I acknowledge
21 that the pleadings are a little bit, at this point, messy.
22 And that's why I think it's appropriate for us to amend to
23 try and clean things up, Your Honor.

24 THE COURT: Okay. Let me tell you what the
25 Court's inclination is. And the Court was just double

1 checking, since this is a Motion to Dismiss, the Court has
2 to look at, on the face of the pleadings under *Buzz-Stew*
3 and *SFR*, whether or not there is any potential claim. And
4 I have to look at the pleadings as alleged. I can't look
5 at things outside the pleadings with limited exceptions
6 thereto that really don't apply in this case. And, so,
7 what the Court's inclination is, the Court's inclination is
8 that I would grant in part by stipulation that the Motion
9 to Dismiss to all claimed other than the quiet title claim,
10 would be dismissed without prejudice because it needs to go
11 to the NRED process, the claims involving the CC&Rs.

12 With regards to the quiet title crossclaim, the
13 Court's inclined to deny that without prejudice under a --
14 just a 12 standard because that's how this is brought. And
15 if I look at the pleadings as is and in the standard in
16 which I have to look at the pleading as is, a bunch of the
17 arguments on -- are really more of a summary judgment
18 standard and I can't. And, so, the Court would either have
19 to determine, a, if it was brought as a summary judgment.
20 It's not. It doesn't set forth everything that would be
21 appropriate under Rule 56. B, the Court then has to
22 determine whether or not it would sua sponte turn a Motion
23 to Dismiss into a summary judgment. The Court doesn't find
24 that it could appropriately do so in this case. Taking
25 into account, also, the fact that we had an issue about not

AA 002648

1 having counsel and having to take into account due process
2 aspects, etcetera. So, that's why the Court would be
3 inclined to deny without prejudice the quiet title under
4 the 12 standard.

5 With regards to the -- I was trying to look to see
6 because I think, inadvertently, the cross-motion did not
7 get shown as being on for today. And, so, I want to get
8 the correct titling of that motion. Let me try and find it
9 in this.

10 [Pause in proceedings]

11 THE COURT: Motion --- it was plain -- it was
12 Tobin's Motion to Void the Sale. But just one second. Let
13 me take the exact title of that so we can be clear on this.

14 MR. COPPEDGE: If I can, Your Honor, it's -- it is
15 -- it was entitled, Nona Tobin's Countermotion to Void the
16 Sale. It was in her filing on 3-31 when she opposed the --

17 THE COURT: All right.

18 MR. COPPEDGE: -- Motion to Dismiss.

19 MR. OCHOA: It looks like March 31st.

20 MR. COPPEDGE: Yeah. March 31st. Yes.

21 THE COURT: Right. And, then, your Opposition was
22 on April 10th. Okay. It looks like that portion of the
23 countermotion didn't get teed up, at least from the Clerk's
24 standpoint for today. So, then, the countermotion, Nina
25 Tobin's -- Nona Tobin's Countermotion to Void the Sale that

1 was filed on 3-31, which should have been teed up for today
2 as well, are you withdrawing that without prejudice?

3 MR. COPPEDGE: Under *McKnight*, Your Honor, if I
4 read *McKnight* correctly, I think it's not timely for that
5 yet, Your Honor. And, so, I would withdraw it without
6 prejudice, Your Honor.

7 THE COURT: That's going to be withdrawn without
8 prejudice. So, to the extent it should have been set for
9 today, to the extent it wasn't set for today, it would be
10 placed on for today by the agreement of the parties. Is
11 that right?

12 MR. OCHOA: Your Honor, just to clarify, I think
13 there -- she might have filed two counter motions. So, you
14 know, just procedurally, you might want to deal with both
15 of them. I think she filed a counter motion on March 3rd,
16 also.

17 THE COURT: That's -- okay.

18 MR. OCHOA: And I believe that's the same
19 argument.

20 MR. COPPEDGE: It's the same -- it's the same type
21 caption.

22 THE COURT: Okay. So, since you're counsel for --
23 since that was a defendant and intervention, cross-claimant
24 and proper person, it doesn't say whether that's in the
25 trustee role or the individual role. And you're counsel

1 now for both. You should come to court and view it as both
2 the countermotion filed on 3-3, Countermotion for Order
3 Voiding the Sale, as well as the countermotion filed on 3-
4 31, are both withdrawn?

5 MR. COPPEDGE: That's correct, Your Honor.
6 Without prejudice, I guess, I should tell.

7 THE COURT: Without prejudice to refile. Okay.
8 So, you've heard my inclination on your Motion to Dismiss
9 because now we've taken care of the Court -- status check
10 of corporate counsel has been taken care of.
11 Countermotions have been withdrawn. So now we're back to
12 your Motion to Dismiss. You've heard the Court's
13 inclination. Do you wish to argue further on the Court's
14 inclination?

15 MR. OCHOA: Just to clarify, your inclination was
16 to dismiss the quiet title without prejudice, also, in
17 addition to the stipulation of that?

18 THE COURT: I was to deny the Motion to Dismiss
19 with the quiet title because it's a Motion to Dismiss
20 standard. And I have to look at the Complaint under 12(b)
21 standard and that it wouldn't meet -- it does meet the
22 minimal threshold under *Buzz-Stew* for a State Court
23 pleading, as reaffirmed by *SFR*. So, it's granted in part
24 and denied in part was the Court's inclination. Granted
25 pursuant to the stipulation of all the parties with all

1 claims other than quiet title and denied without prejudice
2 as to the quiet title claim under *Buzz-Stew* and *SFR*.
3 That's the Court's inclination.

4 MR. OCHOA: you know, I think we can stipulate to
5 that at this time. I think I'd be fine with that ruling by
6 the Court. However, I would like to put on the record that
7 there's an issue with the status of her interest where she
8 says she has an individual claim. His refiling or his
9 amendment may correct it but I would like to put on the
10 record now that, you know, she initially alleges -- even
11 though she files it as an individual, that the property is
12 in the trust. She then took steps to remove the property
13 from the trust and transfer it to herself. And, therefore,
14 if I do have to address the trust's claims and her own
15 individual claims in the future, you know, where the
16 property stands now would have to be clarified. She filed
17 a quitclaim from the trust to herself, which I would, you
18 know, argue that's probably not the correct way to transfer
19 that interest, given that the suit is over title to the
20 property. It may have consequences that she didn't
21 anticipate and potentially even transferring the balance or
22 the debt to herself as an individual.

23 THE COURT: And part of the reason is -- as you
24 realize, the Court has to look at the Crossclaim as filed,
25 not all these subsequent information on a Rule 12 motion.

AA 002652

1 Hence my inclination to deny it without prejudice. But I
2 think counsel for defendant is going to state what his
3 position is and, then, I'm going to turn -- I'm going to
4 make a ruling. Go ahead, counsel.

5 MR. COPPEDGE: No. I think there is some issue,
6 Your Honor. It's not, I think, before the Court at this
7 point in time. I believe that Ms. Tobin does have an
8 interest as a beneficiary. She did try to fix, I guess,
9 the counsel issue by quitclaiming as trustee to herself.
10 But there's no consideration for that. And, so, I don't
11 know -- I mean, ask -- I don't know what that means at this
12 point in time.

13 And, again, I didn't think it was before the Court
14 today but there is an issue as to interest. At the time
15 these were filed, I believe that the trust had an interest
16 and I believe she did as well. We'll need to fix that,
17 Your Honor. And I'm not sure what the fix is and I'm not
18 sure the impact of what she did is either. So --

19 THE COURT: Okay. The Court agrees. But before
20 the Court today under the Motion to Dismiss standard is the
21 only thing that the Court can rule on. Okay? So, the
22 Court's ruling with regards to the Motion to Dismiss is
23 going to be granted pursuant to stipulation of the parties
24 to all claims other than the quiet title. Denied without
25 prejudice with regards to the quiet title claim. The Court

1 takes no position on the propriety of any actions that may
2 have happened after the Crossclaim. The Court's merely
3 looking at it on a 12(b) standard because it was not
4 requested to go change it into a Rule 56, nor did the Court
5 find it appropriate to change it sua sponte into a Rule 56
6 in light of the procedural posture of this case. Okay?
7 The Court takes no position on those intervening actions.

8 Now, you have stated that you wish to file an
9 amended crossclaim. Are you going to do a formal - was
10 that an oral motion? Was that a request for a stipulation
11 or was that just a heads up, Court, something's coming your
12 way?

13 MR. COPPEDGE: I think it's heads up, Court,
14 somethings coming your way, Your Honor.

15 THE COURT: Okay.

16 MR. COPPEDGE: Because, I mean, I think it
17 probably needs to be a formal motion to do it. I believe
18 it be, I think, more appropriate.

19 THE COURT: No worries. I just want to make sure
20 if there was something else before the Court that the Court
21 made sure to address all matters before the Court. But
22 since that's not noticed, just a heads up. And, for
23 today's purposes, I've made my ruling. It is so ordered.
24 Counsel for the movant, can you please prepare the Order
25 with regards to your Motion to Dismiss and the denial of --

1 excuse me. The withdrawal of the two Countermotions to
2 Void the Sale?

3 MR. OCHOA: I will prepare.

4 THE COURT: Does it make sense to put that all in
5 the -- one order and circulate it to all parties in
6 accordance with EDC --

7 MR. COPPEDGE: I believe it does, Your Honor.

8 THE COURT: -- EDCR 7.21? Thank you so very much.

9 MR. OCHOA: Thank you, Your Honor.

10 MR. COPPEDGE: Thank you, Your Honor.

11 THE COURT: Thank you.

12

13 PROCEEDING CONCLUDED AT 9:50 A.M.

14 * * * * *

15

16

17

18

19

20

21

22

23

24

25

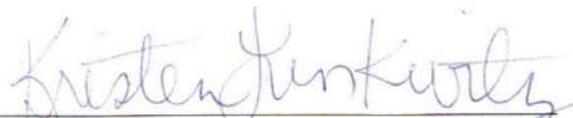
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

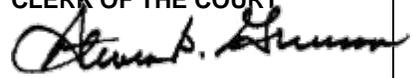
I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER



1 TRAN

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

* * * * *

5

6 JOEL STOKES, JIMI JACK)
7 IRREVOCABLE TRUST,)

CASE NO. A-15-720032

8

Plaintiffs,)

DEPT. NO. XXXI

9

vs.)

10

11 BANK OF AMERICA, N.A., SUN)
12 CITY ANTHEM COMMUNITY)
ASSOCIATION,)

Transcript of Proceedings

13

Defendants.)

14

AND ALL RELATED CASES.)

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

15

ALL PENDING MOTIONS

THURSDAY, JANUARY 10, 2019

16

APPEARANCES:

17

For Sun City: KALEB D. ANDERSON, ESQ.

18

For Nona Tobin: LINVEL J. COPPEDGE, ESQ.

19

For Nationstar: DONNA WITTIG, ESQ.

20

21 RECORDED BY: SANDRA HARRELL, DISTRICT COURT

22

TRANSCRIBED BY: KRISTEN LUNKWITZ

23

24

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

25

AA 002657

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THURSDAY, JANUARY 10, 2019 AT 9:00 A.M.

THE CLERK: Page 4 and 5. *Joel Stokes versus Bank of America*, 720032. Counsel, can I have your appearances, please?

MR. COPPEDGE: Yes. Joe Coppedge appearing for Nona Tobin, trustee of the Gordon Hansen Trust, Your Honor. It's our Motion to Amend.

MS. WITTIG: Donna Wittig for defendant Nationstar.

MR. ANDERSON: And Kaleb Anderson for defendant Sun City Anthem Community Association.

THE COURT: Okay, folks. I see it's an unopposed Motion to amend the Answer, Counterclaim, and Crossclaim. Where I have concerns is this is a 2015 case. And, so, can you walk me through? As you know, I've got EDCR 1.90 issues because of the age of the case. And the Court always has to take that into consideration. While I appreciate the low standard under --

MR. COPPEDGE: I don't think we're adding new claims, Your Honor. As the Court may recall a long time ago, Ms. Tobin appeared in proper person on behalf of the trust. You advised her to get counsel. And, so --

THE COURT: I don't advise people to get counsel.

MR. COPPEDGE: Well, she had to get counsel. We

1 appeared on the case on her behalf. The Complaint, I
2 think, it -- post Complaint, it really -- it merely
3 clarifies the claims. It doesn't, I don't think, add any
4 claims, Your Honor, it just clarifies them. And we thought
5 we -- it would -- we thought we should be the ones to sign
6 the pleading and not her, since she could not represent the
7 trust if that makes any sense.

8 THE COURT: But does this change -- why would this
9 change the bench trial date?

10 MR. COPPEDGE: It doesn't.

11 THE COURT: Does anyone think it does?

12 MS. WITTIG: I don't think that we would be
13 engaging in additional discovery or anything like that.

14 THE COURT: Okay. So, if that's it, I mean, if
15 this is just purely clerical, then the Court's not going to
16 have a concern. Where I was concerned is that sometimes if
17 it's late in the game and, then, it has to reopen up a lot
18 of things and I have to look at, you know, what's the --
19 you've got your HOA. You know what I mean?

20 MR. ANDERSON: Yeah. For us, no. There were no
21 new claims against the HOA. So --

22 MR. COPPEDGE: It's a quiet title action, Your
23 Honor. And it simply -- it was just meant to clarify what
24 she had done in proper person and clarify those claims.
25 That's it.

1 THE COURT: So, that work for everybody? Does
2 that really make this so that it actually can go to trial
3 with the proper parties and actually do what it needs to
4 get done?

5 MS. WITTIG: I would agree that that is accurate.
6 Yes.

7 THE COURT: Okay. So, does it impact anything
8 other than having the right parties on the title?

9 MR. COPPEDGE: In all candor, I think there's some
10 parties that are still on the caption, Your Honor, that we
11 have not removed that are, I think, the Court has -- I
12 think that they've dismissed. There's -- but I think the
13 ones that are here are still the active parties, Your
14 Honor. It's -- there's consolidation, there's multiple
15 claims back and forth.

16 THE COURT: Okay.

17 MR. COPPEDGE: It's really just a quiet title
18 action is what it really boils down to from the HOA
19 foreclosure sale. That's what it comes down to.

20 THE COURT: Okay. Let's go --

21 MR. COPPEDGE: I thought he -- I apologize, Your
22 Honor.

23 MR. ANDERSON: And we could take some time amongst
24 counsel to look at the caption and clean that up and remove
25 --

1 THE COURT: That's where I'm going.

2 MR. ANDERSON: -- anyone that might have been
3 dismissed, or consolidated, or misnamed.

4 THE COURT: Because when I looked at your Exhibit
5 1, which, a friendly reminder, you are required to give us
6 courtesy copies. You get it. And --

7 MR. COPPEDGE: I didn't realize, Your Honor --

8 THE COURT: And to spend the time to print out
9 your 27 pages. Okay? So, when I looked through it though.
10 Okay? There was still a lot of -- that's the reason why I
11 was asking the questions that I was asking from a confusion
12 standpoint because I see all these names still on the
13 caption. I was reading what you had and trying to place --
14 I have three parties here and it just wasn't adding up.

15 MR. COPPEDGE: I think we're all here with -- I
16 think counsel for the --

17 THE COURT: But it doesn't match -- the caption's
18 got a lot more names than I have --

19 MR. COPPEDGE: It does, Your Honor.

20 THE COURT: -- bodies here and parties. And,
21 then, that's why I was looking at what you have.

22 MR. COPPEDGE: And it might mean that -- what
23 counsel said is we might need to like get together and
24 clean the captions up because there's been some parties
25 that were, I think, dismissed or they denied any claim to

AA 002661

1 the property. And, so, therefore, they've not been active
2 in the case and, so, I think we should clean that up. But
3 the Complaint that we did, did not do that.

4 THE COURT: That's what I was pointing out when I
5 was asking my questions. Because I was comparing caption
6 to who I have here in court, to what I was looking in the
7 claims, to saying we have a trial. And I was going: I've
8 got missing parties. The Complaint caption wasn't adding
9 up to what I had here. Okay.

10 So, that's not before me today but do I have a
11 oral stipulation under the -- by the parties that truly
12 remain in the case under EDCR 7.50 that you are stipulating
13 that you're going to amend the case caption to accurately
14 reflect who are the actual parties in this case that are
15 going to trial?

16 MR. COPPEDGE: We can do that, Your Honor.

17 MR. ANDERSON: I think so. The actual plaintiffs
18 in the case, I don't see counsel for them and they just may
19 not have shown up because they didn't oppose the Motion.
20 And I'm not sure where they are but I think they're still
21 involved. So --

22 MR. COPPEDGE: That's --

23 MR. ANDERSON: I don't know. But the three of us
24 can stipulate --

25 THE COURT: That's what I'm trying to find out.

1 MR. ANDERSON: Yeah.

2 THE COURT: I'm trying to find out who is going to
3 trial in this case without having to do what,
4 unfortunately, the Court's not supposed to have to do, go
5 line by line in each and every one of my cases to figure
6 out --

7 MR. ANDERSON: Who's who and who's going forward
8 and who's not going forward.

9 THE COURT: Yeah. That's kind of like what the
10 attorneys are supposed to do in their own cases.

11 MR. COPPEDGE: I think that -- I mean, again,
12 plaintiff's counsel is still involved. It was -- they
13 field the initial action. And, so, they're still involved
14 in the case. They're not the only ones involved in the
15 case. And, so, we'll work together, I think, to clean the
16 caption up if that's okay with Your Honor.

17 THE COURT: Okay. Because it looks like you don't
18 have a status check until March 4th. Okay? So, here's what
19 I'm going to do. I'm going to grant the Motion to Amend
20 the Answer, Counterclaim, and Crossclaims as unopposed.
21 And based on your representation that the Motion to Amend
22 the Answer, Counterclaim, and Crossclaims and looking at
23 the Proposed Amended Answer, Counterclaim, and
24 Crossclaims, does not add any new parties, does not add any
25 new claims, crossclaims, or counterclaims. It does not

AA 002663

1 change any of the current deadlines. It does not change
2 the trial dates or any of the pretrial dates.

3 The Court is also going to put in minutes and tell
4 you all directly who are here that at the status check on
5 March 4th, 2019, if it has not been cleaned up before, the
6 Court is going to tell all parties that you must have a
7 case caption that accurately reflects within -- I'm going
8 to say it's going -- I'm going to recommend that the
9 parties get it done before the status check because it's
10 supposed to be.

11 MR. ANDERSON: We will make sure it gets done
12 before the status check, Your Honor.

13 THE COURT: You got, you know, until march 4th. If
14 not, I'm going to follow-up on March 4th that you have a
15 caption that accurately reflects who is in this case.
16 Okay? That --

17 MR. ANDERSON: Sounds good.

18 THE COURT: -- seem to meet everyone's needs,
19 gives you more than enough time to get everything done?

20 MS. WITTIG: Yes.

21 MR. ANDERSON: That works.

22 MR. COPPEDGE: That'll be fine, Your Honor.

23 THE COURT CLERK: The status check is March 13th.

24 THE COURT: I'm sorry. My -- I'm looking --

25 MR. ANDERSON: That gives us even more time. So -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

-

MR. COPPEDGE: We'll be there, Your Honor.

THE COURT: Okay. Well, let's make sure we have the correct date. Thank you so much. I was looking at my bench when I went to the 4th. Let's go to the correct date. Thank you, madam -- Madam Clerk is correct. It is March 14th. So, my error in saying March 4th, it is March 14th. Let's look at my bench stack. Okay. So, March 14th, 9 a.m. is the cut -- is the status check, is when we're going to see you next unless we get something in the intervening time. Okay?

MR. COPPEDGE: Thank you very much, Your Honor.

MR. ANDERSON: Thanks, Your Honor.

THE COURT: I appreciate it. Thank you so much for your time.

PROCEEDING CONCLUDED AT 9:07 A.M.

* * * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

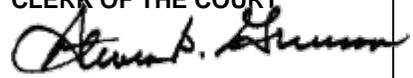
I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER



1 TRAN

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

* * * * *

5

6 JIMI JACK IRREVOCABLE TRUST,)

CASE NO. A-15-720032

7 Plaintiff,)

8 vs.)

DEPT. NO. XXXI

9 BANK OF AMERICA, N.A., SUN)

10 CITY ANTHEM COMMUNITY)

Transcript of Proceedings

11 ASSOCIATION,)

12 Defendants.)

13 AND ALL RELATED CASES.)

14 BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

ALL PENDING MOTIONS

15

TUESDAY, MARCH 26, 2019

16

17 APPEARANCES:

18 For the Stokes: JOSEPH Y. HONG, ESQ.

19 For Sun City Anthem: DAVID OCHOA, ESQ.

20 For Nona Tobin: LINVEL J. COPPEDGE, ESQ.

For Nationstar: MELANIE D. MORGAN, ESQ.

21 RECORDED BY: PATTI SLATTERY, DISTRICT COURT

22 TRANSCRIBED BY: KRISTEN LUNKWITZ

23

24 Proceedings recorded by audio-visual recording, transcript
25 produced by transcription service.

AA 002667

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TUESDAY, MARCH 25, 2019 AT 10:09 A.M.

MS. MORGAN: Good morning, Melanie Morgan for Nationstar.

MR. OCHOA: David Ochoa for Sun City Anthem. Good morning, Your Honor. Joseph Hong for the Stokes.

THE COURT: Okay.

MR. COPPEDGE: And Joe Coppedge for Nona Tobin as trustee of the Gordon B. Hansen Trust, Your Honor. We're defendants but I guess we will be over here. I guess it's okay.

THE COURT: Well, you can stand wherever you'd like because we've kind of got a lot of different procedural postures. Okay. I do appreciate one of the counsel needs to be somewhere else. As you can appreciate, I have to wait until I finish my 9 o'clock and I have to make sure stuff happens when I get counsel all here on time and things move -- trying to move it as quickly as possible but I want to make sure everyone has a full opportunity to be heard.

Okay. So, we got two different things going on here. First is -- and I've got to check on a couple of different things. This was to be continued because you all did some -- well --

1 MR. COPPEDGE: We corrected the caption, Your
2 Honor, I believe. And there was a stip to that effect.

3 THE COURT: Okay. But the documents I currently
4 have don't necessarily have the correct caption. So, we're
5 -- because the underlying pleadings were filed before the
6 caption was corrected.

7 MR. COPPEDGE: That's correct, Your Honor.

8 THE COURT: So, we're just calling it the way it
9 was and you have the correct caption now. Okay. So, for
10 today's -- the reason why I'm saying for today's purposes
11 is because there's a lot of pleadings that have gone back
12 and forth in this case. In fact, something was even filed
13 yesterday. But, for today's purposes, we have the motions
14 that -- Motion for Summary Judgment, the Joinder thereto,
15 and then the status check pursuant to the trial order is
16 what the Court shows on for today. Correct? Because
17 there's a different Nationstar's Motion for Summary
18 Judgment is not on for today. We show that's not on until
19 April. Is that correct?

20 MR. HONG: That's correct, Your Honor.

21 MR. OCHOA: That's correct, Your Honor.

22 MS. MORGAN: Yes.

23 MR. HONG: That's right.

24 THE COURT: That's what I showed and I just want
25 to make sure. Okay. And, then, Replies and Counterclaims.

1 So, I have Sun City Anthem's Motion for Summary Judgment; I
2 have Nationstar's Joinder, which has some substance to it
3 as it relates thereto; and we'll do the status check. So,
4 initially, the Court -- so, let me get this other point of
5 clarification since I don't have this in open court.
6 Initially, this was granted by the Court as unopposed
7 because there was no timely Opposition filed. Because the
8 Court looks at the record and if there's no timely
9 Opposition filed, then things get taken care of.

10 What the Court understands is, although nobody
11 told the Court, you all had some agreement that an
12 Opposition could be filed late. Is that correct? And, so,
13 at this juncture, the parties are requesting that the Court
14 vacate its prior minute order granting the Motion as being
15 unopposed and hear this Motion on its merits today. Is
16 that the -- all the parties' understanding and the Joinder
17 thereto?

18 MR. OCHOA: That's correct, Your Honor. We did
19 grant an extension to the Opposition. I actually believe
20 the Court was informed because I think we've contacted the
21 Court prior to that to move the hearing and I thought an
22 extension was part of that communication from opposing
23 counsel. But, obviously, you didn't get that.

24 THE COURT: No.

25 MR. OCHOA: So --

1 THE COURT: As you know, it needs -- counsel,
2 please read the rules. The rules require what? In
3 writing, all parties, if you're requesting any extension.
4 And it must get leave of Court. So, no, the Court was not
5 informed. The Court would not be doing a minute order and
6 spending the time going through the entire case and doing a
7 minute order if it had been informed. If you want
8 something changed, stipulation, please read the EDCR.

9 MR. OCHOA: My apologies, Your Honor. I granted
10 opposing counsel the extension. So --

11 THE COURT: So, it needs to be memorialized in a
12 written stipulation submitted to the Court, signed by all
13 parties, please. Okay? More than 24 hours in advance of
14 any hearing. EDCR is very clear on that. Thank you.

15 So, is it the request of the parties that the
16 Court vacate its prior minute order relating to granting in
17 pursuant to EDCR 2.20 and the Joinder thereto and hear this
18 case, Motion for Summary Judgment, on the merits?

19 MS. MORGAN: We have no opposition to that on
20 behalf of Nationstar. We weren't a part of the
21 communications with the extension. But, with that said, we
22 have no issue with vacating the prior ruling granting that
23 -- or, yes, granting as unopposed.

24 THE COURT: Which, in and of itself is a challenge
25 because you have to have all parties agree to any

1 stipulation. But I haven't heard from the other two
2 parties that that's what you want me to do. Presumably you
3 do because you are the person that didn't file the
4 Opposition.

5 MR. COPPEDGE: I did not, Your Honor. And, in all
6 candor, Your Honor, just so the Court understands what I
7 did -- and it's my mistake and I'll take full
8 responsibility for it, is I called your Clerk's office, I
9 asked if we could move the hearing to the same date as the
10 status check and I was told that just to send a letter
11 requesting that move. I assumed that -- my fault. I did -
12 - I just assumed incorrectly, Your Honor, that it would --
13 it did not need to advise the Court. I understand the
14 rule. I'm a rule guy, Your Honor. I don't need -- I
15 understand the rule. It's my fault. It's not counsel's
16 fault, it's my fault. And, so, I -- what -- yes, we want
17 to have it merit -- heard on its merits, Your Honor.

18 MR. OCHOA: Yes. I agree, Your Honor, that it
19 should be heard on the merits.

20 THE COURT: Okay. Go ahead.

21 MR. OCHOA: This is a --

22 THE COURT: And, counsel -- just a sec. Mr. Hong,
23 I didn't hear from you but you didn't seem like you had an
24 issue. And if you have another hearing and you don't have
25 a position in this, it's up -- are you wanting to stay or

1 you just want to do the status check? Because I can do the
2 status check first if that's the only portion you're here
3 for. Is that the only portion you're here for?

4 MR. HONG: That's what I'm here for, Your Honor.

5 THE COURT: Do the parties mind if I do the status
6 check portion to the extent that I may need to vacate it
7 depending on rulings on the Motion for Summary Judgment?
8 Because we've got --- counsel needs to go to another
9 hearing in federal court. Are you all okay with that part?

10 MR. COPPEDGE: That's fine, Your Honor.

11 MS. MORGAN: Yes.

12 MR. OCHOA: No objection, Your Honor.

13 THE COURT: Okay. And, then, someone will notify
14 Mr. Hong if it gets modified afterwards?

15 MS. MORGAN: Yes.

16 MR. HONG: Yes, Your Honor.

17 THE COURT: Is that what you're requesting?

18 MR. HONG: Yes, Your Honor.

19 THE COURT: Okay. So, let's do that part first.
20 Okay. Sorry, folks. It's going to make more sense because
21 Mr. Hong doesn't have a position on the summary judgment
22 and let's get that taken care of.

23 Okay. It's a status check portion. Sorry, Madam
24 Court Recorder and Madam Clerk, that I just changed that up
25 a little bit. So, the status check is pursuant to the

1 trial order of September 13th, 2018. You're on the five-
2 week stack, bench trial, May 28th, calendar call currently
3 May 21st, pretrial conference April 25th. And, so, subject
4 to any pendings [sic] Motions for Summary Judgment either
5 being heard today -- and the Court had to check on whether
6 I can hear the one on the 23rd. But any pending Motions for
7 Summary Judgment that may otherwise change the nature of
8 the case. How many days for trial? I'm going to just go
9 from the left to right and ask each of the four of you in
10 no particular order.

11 MR. COPPEDGE: I would say two or three, Your
12 Honor.

13 THE COURT: Okay.

14 MR. OCHOA: I would agree, Your Honor.

15 MS. MORGAN: I agree.

16 MR. HONG: Yes, Your Honor.

17 THE COURT: Okay. Anything special? Any
18 audio/visuals? No. No audio/visuals from Nationstar? You
19 sure?

20 MS. MORGAN: We'd like to use the Elmo. But
21 that's it.

22 THE COURT: No. I mean, you don't have -- no
23 audio/visual appearances? You're not having --

24 MS. MORGAN: No, Your Honor.

25 THE COURT: Okay. So, everyone's going to be here

1 live. No deposition -- people appearing by deposition,
2 people appearing by audio/visual, or anything unique?

3 MS. MORGAN: Nothing unique from us.

4 THE COURT: Okay. So, all live witnesses? Okay.

5 MS. MORGAN: Yes.

6 THE COURT: Two to three bench trial. Anything
7 else unique about this case? Okay. Presumably, you all
8 have done whatever you needed to do with regards to your
9 mediations, your settlement conferences, anything you've
10 chosen to do in this case. Right? Since it's a 2015 case
11 consolidated with a 2016 case. Yes?

12 MR. OCHOA: Correct, Your Honor.

13 THE COURT: It's been where it needed to be. Is
14 that right? From all parties? Yes, yes, yes, yes, and
15 yes?

16 MR. COPPEDGE: Yes, Your Honor.

17 MR. OCHOA: Yes.

18 THE COURT: Okay. The Court did not see but let
19 me make sure because in all these cases there's sometimes
20 other unique aspects. Is there anything pending any other
21 -- well, I'm just going to say, is there anything pending
22 elsewhere? I'll phrase it that way because I better --
23 meaning any administrative matters that the Court needs to
24 be aware of? Any bankruptcies? Any other federal cases
25 that may impact this? Any other appellate proceedings?

1 Any anything?

2 MS. MORGAN: Nationstar is not aware of anything
3 else.

4 MR. OCHOA: No, Your Honor.

5 THE COURT: You understand the whole
6 [indiscernible] of what I'm talking about?

7 MS. MORGAN: Yes.

8 MR. COPPEDGE: Yes, Your Honor.

9 THE COURT: Anything from foreclosure mediations -
10 -

11 MR. COPPEDGE: No, Your Honor.

12 THE COURT: -- to hearings in front of the Real
13 Estate board, to bankruptcy proceedings, to other federal
14 proceedings, to state proceedings, to anything, anything,
15 anything. No, no, no?

16 MR. OCHOA: The HOA is not aware of anything.

17 THE COURT: Nowhere? Okay. So, the Court's got
18 full jurisdiction of whatever is left at the time of trial.
19 Is that correct?

20 MR. OCHOA: Yes, Your Honor.

21 MS. MORGAN: Yes.

22 MR. OCHOA: Yes, Your Honor.

23 THE COURT: Yes, yes, yes, yes, yes. Okay. So,
24 two to three days and we're on that stack. Okay. You're
25 going to be one of the older cases on that stack. You know

1 we can -- we always kind of -- we always can make room so
2 it always works out well. Okay. Anything else the Court
3 needs to know from the status check purposes? Okay. So,
4 anyone who does not have a position with relationship to
5 the underlying Motion or Joinder on for today, if they wish
6 to leave, they're more than welcome to leave. If they wish
7 to stay, they're more than welcome to stay.

8 MR. HONG: A question, Your Honor, before I leave?

9 THE COURT: Sure.

10 MR. HONG: And thank you very much. Would the
11 Court be inclined to let my client orally join in on the
12 Motion?

13 THE COURT: I don't know. Am I going to have an
14 objection from anyone on an oral joinder here at the day at
15 the time of the hearing on a continued hearing date?

16 MR. COPPEDGE: I would, Your Honor. I guess, on
17 terms of I'm not sure what he would --

18 THE COURT: Well, then, I have an objection, then
19 I have an objection.

20 MR. HONG: Okay.

21 THE COURT: So, are you requesting that the Court
22 rule on your potential oral joinder? You've heard that
23 there's an objection. Or is that just a question of a
24 question? I just need to know, do I make --- am I making a
25 ruling? Is that a true request for an oral join?

1 MR. HONG: It is a true request, Your Honor. I
2 believe the -- my parties' interest are aligned with the
3 HOA's Motion, as well as the Bank's Joinder, as you said.

4 THE COURT: Well, then, are you staying for the
5 whole hearing?

6 MR. HONG: Why -- yeah. If the Court is going to
7 grant my Motion for an Oral Joinder.

8 THE COURT: Well, if the -- well, I can't --
9 plaintiff gets to go first on their Motion --

10 MR. HONG: Right.

11 THE COURT: -- before I'm going to address
12 anything --

13 MR. HONG: Right, right.

14 THE COURT: -- on any joinder stuff.

15 MR. HONG: Right.

16 THE COURT: I'm trying to just be cognizant. You
17 mentioned that you had a federal appearance.

18 MR. HONG: Right, right.

19 THE COURT: I'm not going to go segue into --

20 MR. HONG: Right, right.

21 THE COURT: --- procedural aspects that --

22 MR. HONG: Absolutely.

23 THE COURT: -- wouldn't give plaintiff the
24 opportunity -- I don't mean plaintiff. Excuse me. I mean
25 the movant.

1 MR. HONG: Right.

2 THE COURT: I just misspoke when I said plaintiff.

3 MR. HONG: Right.

4 THE COURT: But the movant has an opportunity to
5 go first --

6 MR. HONG: Sure. Gotcha.

7 THE COURT: -- and set forth their arguments.
8 And, then, I would deal with anybody who has a --

9 MR. HONG: Joinder.

10 THE COURT: -- filed Joinder.

11 MR. HONG: Okay.

12 THE COURT: Then I would deal with anybody else's
13 request.

14 MR. HONG: Okay.

15 THE COURT: And, then, I would let plaintiff
16 address both procedural and substantive so that I handle it
17 in a manner that everybody has an opportunity, I would say,
18 file their pleadings. Right? To do it. So, I can't
19 address your question right now.

20 MR. HONG: Okay. I'll just --

21 THE COURT: Okay. does that make sense?

22 MR. HONG: Yes. Absolutely, Your Honor. Thank
23 you.

24 THE COURT: But you heard that you're going to
25 have an objection. Okay?

AA 002679

1 MR. HONG: Right.

2 THE COURT: So, I'm not going into the procedural
3 substance right now. We're going to circle back. We've
4 been waiting to hear --

5 MR. COPPEDGE: I have one thing on the status,
6 Your Honor?

7 THE COURT: Sure.

8 MR. COPPEDGE: In terms of, I guess it's a five-
9 week stack beginning the 28th. Is that correct, Your Honor?

10 THE COURT: Five-week -- the stack that you are on
11 -- and the Court's not going to discuss specific dates
12 because those get discussed at the time of the pretrial
13 conference, we have a five-week stack and everybody has to
14 make sure that, you know, they're available the five-week
15 stack. And the five-week stack does start May 28th. It
16 goes through June 28th but this particular stack, because
17 the state bar conference, the Court's accommodating
18 parties. And, so, the stack technically is going to end on
19 June 26th, rather than June 28th because realizing lots of
20 people going to the state bar conference. And I'm sure you
21 all can appreciate that that's going to be the stack.

22 MR. COPPEDGE: The Court may not want to know now
23 but I was going to advise the Court I have a wedding to go
24 to out of state the week of that 28th, that entire week. I
25 just wanted to let the Court know, Your Honor.

AA 002680

1 THE COURT: Okay. Well, that will all be dealt
2 with at the time of the pretrial conference. Do you
3 realize your -- the age of this case. This case will be
4 going whatever is left because of the age of this case.
5 I'm sure you all are very, very familiar with EDCR 1.90.
6 I'm sure you are very, very familiar with the history of
7 this case and the various extensions. I'm sure you're
8 very, very familiar with the changes to Nevada Rules of
9 Civil Procedure, the fact that all those changes and what
10 is necessary for the courts to do and what they're directed
11 to do within those time periods. So, this case will be
12 going and I'm sure you all will coordinate among yourselves
13 to make sure you have times and there's some preferentials
14 on this. It overlaps on my CD stack and there's a med-mal.

15 So, you can easily check on the system to do
16 those. Okay? But you're two or three days, we can always
17 find some room to get you fit in. Okay? I appreciate it.

18 Counsel, you're the movant. Go ahead.

19 MR. OCHOA: Yes.

20 THE COURT: It's your Motion for Summary Judgment.

21 MR. OCHOA: This is a August 2014 foreclosure
22 sale, Your Honor. Nona Tobin and her sales agent were in
23 contact with Red Rock Financial, the collection company,
24 for about a two-year period that this foreclosure sale took
25 place. They were in communication because they were

1 attempting to short sale the home. Throughout that two-
2 year period, there was no allegation to Red Rock that a
3 payment had been misapplied. After the foreclosure sale,
4 as part of this crossclaim, the allegation is that Nona
5 Tobin's last payment for July 2012 assessments was untimely
6 applied. That application then affected Red Rock's
7 ledgers, their -- the allegation is their ledgers were
8 incorrect. That information was then transferred to the
9 notices. The notices were therefore incorrect and, so,
10 therefore there was an issue that impacted the foreclosure
11 sale.

12 However, that allegation in the crossclaim is
13 contradicted by Nona Tobin's own letter to Red Rock that's
14 in Red Rock's foreclosure file that's dated October of
15 2012. It's later in October. So, by October 1st, you have
16 another assessment owing to the HOA. In addition to that,
17 the July assessment not being paying -- not having been
18 paid, Red Rock then adds late fees and that's all in their
19 ledger. So, her own letter indicates that -- it basically
20 says, I'm sorry, here's my payment, it's two months late.
21 For whatever reasons, I'm just now sending it. So, her
22 allegation in the crossclaim that it was not timely applied
23 is contradicted by her own letter, dated October. And,
24 therefore, the -- Red Rock's ledgers are actually are
25 correct to those amounts and that there's no issues with

AA 002682

1 the notices.

2 The -- there is a Notice of Default that gets
3 rescinded. However, the -- Red Rock records a new Notice
4 of Default. The Notice of Sale references that Second
5 Notice of Default. So, there are no issues with the sale,
6 Your Honor. Based on that, we believe you should grant our
7 Motion for Summary Judgment and I'll let opposing counsel
8 address her Joinder.

9 THE COURT: Okay. Counsel for Nationstar?

10 MS. MORGAN: We filed the Joinder just as a
11 precautionary measure. We believe that there are no notice
12 issues and that, at least under 116, the sale was properly
13 conducted to the extent it was a subpriority sale because
14 we do have a Miles Bauer tender that I'm not going to go
15 into at this point. But we'll discuss when we get to our
16 Motion for Summary Judgment. But that was the reason we
17 joined. And, again, we see no notice issues, no issues
18 with the accounting with respect to the sale being a
19 subpriority sale.

20 THE COURT: Okay. Counsel?

21 MR. HONG: Yes, Your Honor.

22 THE COURT: So, proceed --- I got to deal with
23 your procedural first. Go ahead.

24 MR. HONG: Yes. Oral motion to join in on the
25 HOA's Motion for Summary Judgment.

1 THE COURT: Okay.

2 MR. HONG: My clients would be the Stokes, F.
3 Bondurant, and principal Yuen Lee.

4 THE COURT: Okay. With regards to your oral
5 motion, was there any reason why you could not have filed a
6 written motion? I mean, is there any good cause that the
7 Court should be taking into account?

8 MR. HONG: No. Other than -- other than workload,
9 Your Honor. I should have filed a joint motion.

10 THE COURT: Okay. So, counsel for plaintiff --
11 not plaintiff. Sorry.

12 MR. COPPEDGE: Not plaintiff.

13 THE COURT: Counsel for --

14 MR. COPPEDGE: Cross-claimant.

15 THE COURT: I misspoke. I'm so used to looking
16 at that table. So, counsel for -- you are the counter --

17 MR. COPPEDGE: We're the owner, I guess, Ms. Tobin
18 --

19 THE COURT: Well, I'm not going to phrase it that
20 way. I'm going to put it within its captioning. And I've
21 got -- since these pleadings don't have the correct
22 captioning, I'm trying to find the one that actually has
23 your correct captioning.

24 MR. COPPEDGE: I'm not certain, but I believe --

25 THE COURT: It should be ---

1 MR. COPPEDGE: -- Mr. Ochoa's may have it. We
2 didn't -- we did not change it until the stip was entered.
3 But I think Mr. Ochoa's may have it.

4 MR. OCHOA: Yeah. Our Motion predates but our
5 Reply may have it, Your Honor.

6 THE COURT: That's what I was trying to find.
7 That's why you probably saw me flipping through. So,
8 cross-defendants -- cross-claimant is -- the role was
9 cross-claimants. Cross-defendant Sun City Anthem against
10 cross-claimant Nona Tobin, individual and trustee for the
11 Gordon B. Hansen Trust. Correct?

12 MR. HONG: That's correct, Your Honor.

13 MR. OCHOA: I just know that our Reply I don't
14 think is accurate, also.

15 THE COURT: Your Reply is not accurate? I was
16 taking off page 2 of your Reply. Is that not your counter-
17 defendants?

18 MR. OCHOA: I believe some of those entries may
19 have been taken out of the caption.

20 THE COURT: Okay. So, let's go -- okay. Let's
21 just say Nona Tobin. Okay? And the roles in which are
22 subject to the pending motion today. Does that work for
23 you, counsel?

24 MR. COPPEDGE: That's fine, Your Honor.

25 THE COURT: Perfect. Okay. Go ahead.

1 MR. COPPEDGE: So, am I still objecting to his
2 oral joinder or do you want to hear my --

3 THE COURT: If you'd like to do that one
4 procedurally first, I can rule on that first if you'd like.
5 And, then, we can --

6 MR. COPPEDGE: Your Honor, it's just not timely,
7 Your Honor in terms of that. And, so, I would object on
8 that basis, Your Honor.

9 THE COURT: and what prejudice would your client
10 have?

11 MR. COPPEDGE: I guess, Your Honor, if we had
12 known that they were going to join in the Motion, we may
13 have made additional argument. I can't think now what it
14 might have been but, I mean, we may have done that, Your
15 Honor.

16 THE COURT: Okay. The Court is going to deny the
17 request for an oral joinder, purely on a procedural basis.

18 MR. HONG: Thank you.

19 THE COURT: The Court takes no basis with regards
20 to any potential merits because the Court doesn't even feel
21 its reached the merits --

22 MR. HONG: Sure.

23 THE COURT: -- because it's in the midst of a
24 hearing. It's also in the midst of a continued hearing.

25 MR. HONG: Right, right, right, right.

1 THE COURT: So, you really would have even
2 potentially that extra option. So, I appreciate it. Thank
3 you.

4 MR. HONG: Thank you, Your Honor.

5 THE COURT: If you need to go, feel free. You
6 don't need to stay. If you wish to stay, you're more than
7 welcome to stay. Okay? So, counsel, substantively, go
8 ahead.

9 MR. COPPEDGE: Yes, Your Honor. This is somewhat
10 a unique HOA, I guess, lender foreclosure case because the
11 owner, the Gordon B Hansen Trust, is involved in the case,
12 Your Honor. And, as counsel mentioned, they knew that Ms.
13 Tobin as the trustee was trying to do a short sale of the
14 property. There is one comment about -- in the crossclaim
15 in terms of when she paid the then pending HOA dues. And
16 when she saw documents produced in the case, she realized
17 that it refreshed her memory and that she did send it back
18 in October.

19 But that does not eliminate their obligation to do
20 certain things, Your Honor. And, so, if you think -- if,
21 in terms of this, they still have certain requirements to
22 provide notice. In this case, they did not do certain
23 things. They did not provide a notice of the schedule of
24 fees except for when they charged. They did not offer a
25 payment plan. They did not offer Ms. Tobin as the trustee

1 a chance to appeal before the Board itself. And, so, and
2 to say that they follow all the rules is -- in terms of
3 notice, that's not correct, Your Honor.

4 But, really, the key is -- the key, I think, Your
5 Honor, is that if you go to the big *Nationstar* case, that,
6 I think, is the case that helps us in this matter. And the
7 law is --

8 THE COURT: And, for clarity, just -- you might
9 want to pop a cite on. Because the term *Nationstar* case
10 these days is the -- well, several dozen.

11 MR. COPPEDGE: It's the *Nationstar* at 133 Nevada
12 Advanced Opinion 91.

13 THE COURT: Sure.

14 MR. COPPEDGE: It is, I think, a 2000 -- no. I
15 think a '17 case, Your Honor. In any event, the court said
16 when you have a wide disparity between the value of the
17 property and the foreclosure sale price, you don't have to
18 have -- I mean, at that point in time, you have slight --
19 they just want evidence of an unfairness or an irregularity
20 can set aside the foreclosure sale.

21 And, so, what do you have in this case? And,
22 again, I mentioned that they didn't comply with the --
23 those requirements themselves. But if you look at our
24 exhibit, Your Honor -- and it's number 14, it is the
25 documents produced, Tobin 000080. And it shows that, at

1 this time, it shows that the sale as of -- the property was
2 sold on August 15, 2014 and, in this one, it shows that the
3 sale -- the trustee sale was canceled, Your Honor. And,
4 so, what we have in this case is we have a -- we have an
5 owner who is trying to conduct a short sale on the
6 property. We have a Notice of Sale that was canceled, Your
7 Honor, we out notice her and, then, the sale takes place.
8 That smacks of fairness. At the very least, Your Honor, we
9 have an issue of fact on whether or not the sale was
10 canceled -- or the Notice of Sale was canceled, which
11 prohibits this Court from granting summary judgment, Your
12 Honor.

13 And if you need to look at that, you can see that
14 it's been -- it was canceled -- I believe it was canceled
15 on 5-15-2014. The sale took place August 15, 2014, Your
16 Honor. And that's the screenshot from the ombudsman's
17 compliance review screen.

18 THE COURT: Okay.

19 MR. COPPEDGE: And that's all I have, Your Honor.

20 THE COURT: No worries. Okay. Thank you.

21 MR. OCHOA: I'll first address the payment plan
22 and hearing before the Board. Once it's sent to
23 collections, Your Honor, there's no requirement that the
24 Board has to have a hearing. They did notice a hearing
25 about canceling membership but that's different. It has to

1 go to assessments. So, there was actually a hearing about
2 potentially canceling membership access to the facilities
3 for not paying assessments. And there -- I believe there
4 was a hearing on that.

5 There were communications throughout the entire
6 process with Red Rock, the agent for the HOA, regarding
7 payments. Her October letter says, I'm not paying anymore,
8 but the HOA still works with her because they're requiring
9 -- they were requesting a short sale and they discuss a
10 waiver. The HOA actually does approve a waiver of interest
11 but, to hard costs, the HOA wasn't willing to do that
12 because they were --- obviously, they'd have to eat those
13 hard costs. But the interest in other things, they were
14 willing to waive those. So, there are -- it was
15 communication throughout the entire process with Red Rock.

16 And, so, there was no request for a payment plan,
17 she was attempting to short sale, and her request was to do
18 a waiver. Those aren't things that should prevent the sale
19 from going forward. Obviously, there was communication
20 there. They -- he just admitted that there was no -- that
21 the payment was actually made in October so that, you know,
22 Red Rock's ledgers are accurate to that point.

23 The final thing is the -- he talked about the
24 screenshot from the ombudsman. I don't know if that's been
25 authenticated but it's just a screenshot. The HOA has a

1 right to foreclose nonjudicially. The ombudsman can't just
2 make a note in its computer that a sale is canceled and not
3 communicate that to the HOA and have -- you know, and cause
4 conflict with the sale. There's nothing in the recorded
5 documents that cancel the sale or rescind the Notice of
6 Sale. It's a valid Notice of Sale and the sale goes
7 forward, Your Honor.

8 THE COURT: Okay. I got a couple questions for
9 all the different parties. Okay. Real quickly. First
10 off, I want to make sure we're dealing with the operative
11 pleading in this case. Because, as pointed out in the
12 footnote, there was a Motion to Amend that was granted.

13 MR. COPPEDGE: Yes, Your Honor.

14 THE COURT: But that new pleading was never filed.
15 So, we're -- right? Part --

16 MS. MORGAN: The order was never -- as far as I've
17 seen, last time I looked, the order was never filed and the
18 pleading was never filed. And it's our position that, at
19 this point, it's too late. That hearing was a long time
20 ago.

21 THE COURT: Right. I'm just trying to make sure
22 everyone's in -- this is the operative pleading at issue.

23 MR. COPPEDGE: It is, Your Honor. It doesn't
24 change any of the facts, it just -- at the time that Ms.
25 Tobin filed her crossclaim and counterclaims, she didn't

1 have counsel. So, we just -- and I thought it was filed so
2 I'll double check, Your Honor, because I thought it was.

3 THE COURT: Okay.

4 MR. COPPEDGE: I'll double check, Your Honor.

5 MS. MORGAN: Well --

6 THE COURT: Were --

7 MR. OCHOA: If I could?

8 THE COURT: The record is what the record is.

9 MR. OCHOA: Yes.

10 THE COURT: The Court's just being --

11 MR. OCHOA: I would agree that I don't believe
12 it's been filed, Your Honor. The issue for the HOA is I
13 think that the claim was still in the prior pleading. And,
14 so, for us to wait for it to be filed, it would have
15 prejudiced my client to not be able to file this Motion on
16 time. So, you know, whether it's addressing the prior
17 claim or the Amended Complaint, I think, you know, our
18 Motion is still valid today. Thank you.

19 THE COURT: Well, the Court's question was just
20 making sure -- because I'm sure all parties can appreciate.

21 MR. COPPEDGE: And just -- the Amended Complaint
22 does not change the claim --

23 THE COURT: Well, Amended Complaint doesn't exist.

24 MR. COPPEDGE: Okay.

25 THE COURT: If -- unless somebody is telling me

1 that -- where the Court wants to make sure, the Court
2 appreciates that sometimes pleadings could possibly have
3 gotten filed in an incorrect case by somebody putting in an
4 incorrect case number. Okay? And I wouldn't know because
5 the Court can't guess if somebody put an incorrect case
6 number on a case. I'm sure you can appreciate that.
7 Right? Okay. You can't go on a fishing expedition and
8 look into every single case. There would be no way to find
9 it. Okay? So, the way to address that issue is just to
10 confirm that all parties agree that the operative pleading
11 at issue is the last operative pleading. Because the Court
12 does see that there was a request of a Motion to Amend.

13 The Court doesn't see that there is any order.
14 The Court doesn't see that there's any pleading, any order,
15 or any Notice of Entry of Order, or any substantive
16 pleading thereafter. But, once again, it would be the
17 party's responsibility, whether unrepresented to an
18 individual or ones represented through their counsel, to
19 ensure that all documents are appropriately filed in the
20 appropriate case, all orders appropriately filed in the
21 appropriate case, all Notice of Entry of Orders, etcetera.

22 So, just making sure, nobody's contending that
23 they filed it and they inadvertently filed it in the wrong
24 case or something like that? Is that correct?

25 MR. COPPEDGE: No, Your Honor.

1 THE COURT: Okay. So, looking at where we're at,
2 okay, that was the first question the Court had. The
3 second question the Court had is are the parties familiar
4 with *Resources Group versus Nevada Association Services*,
5 which came down on March 14th, 2019, 135 Nevada Advanced Opp
6 8, from the Nevada Supreme Court? And do the parties --
7 since that's after the pleadings had closed but since it's
8 a Nevada Supreme Court case, are any of the parties
9 contending that the Court should or should not be taking
10 that case into account? Or the parties maybe haven't read
11 the case so maybe nobody has a position.

12 MR. OCHOA: I haven't read it yet, Your Honor.

13 MR. COPPEDGE: Nor have I, Your Honor.

14 MS. MORGAN: I've read it. But, to the extent if
15 affects our Joinder, I think it -- we can address it at the
16 time of hearing on our Motion for Summary Judgment.

17 THE COURT: Okay. Well, since it's only a Joinder
18 party and saying it needs to be deferred to a different
19 one, then the Court's not going to address that case.
20 Although, what it says is what it says and it's current
21 case law so the Court's not in any way saying that -- not
22 taking into account the correct case law. But since nobody
23 is requesting that the Court specifically address it, then
24 the Court's not going to specifically address it.
25 Although, the analysis set forth therein is applicable case

1 law that the Court has to follow.

2 Okay. So, the last question the Court has is do I
3 have authentication of that screenshot? Because I looked
4 through the Opposition and I didn't -- well, I saw that
5 there was an affidavit. I didn't see any authentication
6 from the ombudsman's office or anything like that. So, I
7 saw it was a screenshot but I didn't see -- is there
8 anything that authenticates that from an entity that can
9 authenticate it?

10 MR. COPPEDGE: Well, Your Honor, it's a screenshot
11 taken by Ms. Tobin. So, she can authenticate that it is a
12 true and correct copy of the screenshot itself. And the
13 screen -- I mean, and -- I apologize. Ms. Tobin got that
14 as a public records request from the ombudsman. It's --
15 herself.

16 THE COURT: Do I have that anywhere in the
17 pleadings before me that that's the case? I looked through
18 this, I didn't see that --

19 MR. COPPEDGE: I don't have it, Your Honor. No.

20 MS. TOBIN: I can provide it.

21 THE COURT: -- in the pleadings before the Court.
22 that's what I have -- I can only --

23 MR. COPPEDGE: No, Your Honor.

24 THE COURT: -- look at the pleadings before the
25 Court. That's why I'm asking. I didn't see that. That's

1 why I was asking. So, I need to know whether I can take it
2 into account as evidence under NRCP 56 or not. But I
3 can't.

4 Okay. So, looking at what I can take into account
5 -- and the Court's going to have to grant the Motion for
6 Summary Judgment. The Court grants Cross-defendant Sun
7 City Anthem's Motion for Summary Judgment. The Court,
8 looking at the undisputed facts, finds that as a matter of
9 law, that there has not -- well, that the processes for
10 purposes of the narrow issue in the HOA's Motion for
11 Summary Judgment with regards to the claims asserted -- and
12 I'm looking at the March 7th stipulation of the parties too
13 conform the caption.

14 So, I'm looking that that is the operative
15 stipulation of the correct caption. And looking at the
16 operative crossclaim in this regard, that you all have
17 agreed is the one that the Court is supposed to be looking
18 at, that the claims of Ms. Tobin vis a vi the HOA, the
19 movant in this case, Sun City Anthem Community Association,
20 she -- whereas Sun City Anthem has met their burden under
21 Rule 56, Ms. Tobin has not met her burden in response to
22 raise a material issue of fact in dispute that all notices
23 and the procedures and processes that are required by law
24 were not followed. Even if the Court -- and there's two
25 bases for that. One would be looking at the evidence

1 presented to the Court. Okay? The Court doesn't see that
2 looking at the -- okay. Even if the Court -- and that
3 would be without taking into consideration the screenshot.
4 Okay? because the Court shouldn't take that into account
5 because it's not appropriately authenticated as evidence
6 under NRC 56.

7 Even if, in light of the statement that that was
8 pursuant to a public records request, the Court were to
9 take judicial notice of it based on the representation,
10 that still wouldn't change the Court's viewpoint. So,
11 that's two alternative bases. Even if I'm taking into
12 account -- because the screenshot is not saying that that
13 screenshot was in effect and noticed at the time of, versus
14 just an interpretation of an ombudsman or something that
15 was filed after the fact. I'm not saying that it was in
16 effect at the time of the notice sales that took place.

17 And, looking at the totality of the evidence, the
18 Court taking into account Tobin acknowledges she was behind
19 on the payments, acknowledged that the notices were sent,
20 while I appreciate that after the fact there's a assertion
21 that the cross-claimant asserts that there wasn't unpaid
22 balances. But, looking at the contemporaneous
23 documentation that has been indicated, it shows that there
24 was unpaid balances, shows that the notices were properly
25 sent in accordance with law. And, so, therefore, the

1 appropriate adopting the undisputed facts set forth in the
2 Motion and the Reply, the Court grants the Motion for
3 Summary Judgment. It is so ordered.

4 The Court's going to ask for detailed Findings of
5 Fact and Conclusions of Law to be presented by the movant.
6 And the Court joins not only obviously the Motion but the
7 Joinder thereto, only to the extent the Joinder relates to
8 the HOA's claim, not in any way in matters that are not yet
9 before the Court. It is so ordered. Do you need the 10
10 days or do you need more than 10 days, counsel?

11 MR. OCHOA: Ten days would be fine, Your Honor. I
12 had a question about whether or not you would like to have
13 in the Order that the caption should be amended further now
14 that the HOA is out of the case?

15 THE COURT: You can't on this Order. This Order
16 has to have the HOA in the caption.

17 MS. MORGAN: After the Order is entered, we can
18 deal with -- we can enter into a stipulation further
19 reforming the caption.

20 THE COURT: Yeah. Right.

21 MR. OCHOA: Okay.

22 THE COURT: Right. But you've got to -- this
23 Order has got to have you in it, otherwise it's not going
24 to be effective. Because you won't be --

25 MR. OCHOA: Understood, Your Honor.

1 THE COURT: Right. You won't be out of it until
2 after you file your Notice of Entry of Order. So, I do
3 need it. But thank you so much for asking but I do need
4 you in the caption. At the time you submit the Order, do
5 make sure it's circulated to all parties and provided back
6 to the Court in accordance with EDCR 7.21. I do appreciate
7 you time. Thank you so very much.

8 MR. OCHOA: Thank you.

9 MS. MORGAN: Thank you.

10 THE COURT: Okay.

11 MR. COPPEDGE: Your Honor, I have one question on
12 this, Your Honor. On the screenshot, Your Honor --

13 THE COURT: I'm sorry?

14 MR. COPPEDGE: On the screenshot, I had one
15 question, Your Honor?

16 THE COURT: Sure.

17 MR. COPPEDGE: Does the Court have a question as
18 to when that was created or when it was -- is it -- what
19 did you say, Your Honor?

20 THE COURT: The first thing is it's not a -- it
21 doesn't meet NRCP 56 --

22 MR. COPPEDGE: I understand. I understand.

23 THE COURT: -- standards. So, it shouldn't be
24 considered as evidence. That was the alternative one.
25 Okay? So, it would be granted that even taking into

1 account based on your finds, representation to you as
2 communicated to the Court, that that was provided pursuant
3 to a public records request, it still would not be
4 sufficient to establish a material issue of fact in dispute
5 to overcome the evidence presented by the movant. The
6 Joinder joined but it's --- really, it's the movant's
7 evidence. Okay? And to overcome that they have met their
8 burden under Rule 56. Okay?

9 MR. OCHOA: And I will include all of that in the
10 Order.

11 THE COURT: I do appreciate it. Thank you so very
12 much.

13 MS. MORGAN: Thank you.

14

15 PROCEEDING CONCLUDED AT 10:44 A.M.

16

* * * * *

17

18

19

20

21

22

23

24

25

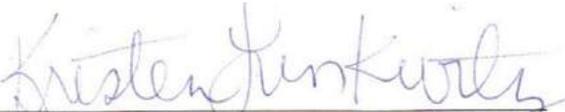
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

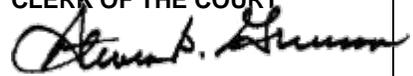
I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER



1 TRAN

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

* * * * *

5

6

JOEL STOKES, JIMI JACK)
IRREVOCABLE TRUST,)

CASE NO. A-15-720032

7

8

Plaintiffs,)

DEPT. NO. XXXI

9

vs.)

10

BANK OF AMERICA, N.A., SUN)
CITY ANTHEM COMMUNITY)
ASSOCIATION,)

Transcript of Proceedings

11

12

Defendants.)

13

AND ALL RELATED CASES.)

14

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

15

PRETRIAL CONFERENCE

THURSDAY, APRIL 25, 2019

16

APPEARANCES:

17

For the Stokes: JOSEPH Y. HONG, ESQ.
(Via CourtCall)

18

19

For Nationstar: MELANIE D. MORGAN, ESQ.
For Nona Tobin: LINVEL J. COPPEDGE, ESQ.

20

21

RECORDED BY: SANDRA HARRELL, DISTRICT COURT
TRANSCRIBED BY: KRISTEN LUNKWITZ

22

23

24

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

25

AA 002702

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THURSDAY, APRIL 25, 2019 AT 10:16 A.M.

THE COURT: *Stokes versus Bank of America*. Now, let me call this correctly because that's -- the case currently is pages 1 and 2, 720032. Now, it says *Joel Stokes versus Bank of America* but, currently, we only have a couple entities left in this case. And, so, what we're supposed to have in court, the only entities left -- and let me get this correct, just one second, is we have the trust. Just one second. So, let me get this one second. Let me get to a caption page. One second, please. Thank you so much.

[Pause in proceedings]

THE COURT: The only parties left in this case is the counter-claimant, Nona Tobin trustee of the Gordon Hansen Trust, is my understanding; JimiJack irrevocable Trust; Yuen K. Lee --

MR. COPPEDGE: Your Honor, if I --

THE COURT: -- and F. Bondurant. So, counsel for Nona Tobin, trustee for the Gordon Hansen Trust, would be whom?

MR. COPPEDGE: Joe Coppedge, Your Honor. But there's also -- Ms. Tobin has a claim as an individual as well. It's just as an individual and as trustee.

THE COURT: No.

1 MR. COPPEDGE: Yeah.

2 THE COURT: There is nothing that has been ever
3 provided to this Court that any ownership of the property
4 ever was in anything else other than as trustee of the
5 Gordon Hansen Trust. And, so, that's why the captioning --

6 MR. COPPEDGE: The --

7 THE COURT: The Court -- I -- let's just -- that's
8 what the Court understands and from the hearing. So, let's
9 walk through real quickly. So, here, we have to have --
10 first off, so, counsel, you are with what law firm?

11 MR. COPPEDGE: It's Mushkin, Cica, Coppedge.

12 THE COURT: Okay.

13 MR. COPPEDGE: Joe Coppedge, bar number 4954, Your
14 Honor.

15 THE COURT: Okay. So, then we needed to have
16 somebody here -- I know we have counsel. We're supposed to
17 have co-counsel -- co-trial counsel on behalf of JimiJack,
18 Yuen Lee, and F. Bondurant. Is somebody here as co-trial
19 counsel?

20 MR. HONG: Your Honor, Joseph -- this is Joseph
21 Hong on the phone. Co-counsel is Hong. So, Tom Grover
22 should be there shortly. He's in another department.

23 THE COURT: That's -- counsel --

24 MR. HONG: He's not -- if he's not there, I am.
25 But he will be there.

1 THE COURT: Okay. The -- co-trial counsel needed
2 to be here. We knew this case was being called first
3 because of its age. And nobody told us that anyone was
4 going to be late. So, now I'm going to have to recall this
5 case and it's going to have to get set after other cases.
6 Okay. I'm going to have to recall this case because I
7 don't have other trial counsel here yet. So, I only have -
8 -

9 MS. Tobin: Your Honor, may I --

10 THE COURT: -- so, I'll have to recall it after I
11 call come other cases. I'll recall you in just a few
12 moments. Thank you so very much. I guess I have to recall
13 that one. Thank you.

14 [Case trailed at 10:19 a.m.]

15 [Hearing recalled at 10:35 a.m.]

16 THE COURT: Do I now have counsel? I'm going to
17 try and circle back if I have counsel for *Joel Stokes*
18 *versus Bank of America*, pages 1 and 2, 720032. I still was
19 waiting for co-counsel with regards to some of the parties.
20 Mr. Hong, I don't still have co-trial counsel here. Mr.
21 Hong?

22 MR. HONG: I'm contacting him now, Your Honor. He
23 should be there. He clearly knows it was -- I spoke with
24 him even yesterday.

25 THE COURT: Okay. I'm going to have to call

1 another case because I can't keep everybody else waiting.
2 But, Mr. Hong, as you can appreciate, all trial counsel
3 needed to be here by 10:15.

4 MR. HONG: No. I understand that, Your Honor. I
5 apologize. And --

6 THE COURT: Okay. So, I'm going to -- I --

7 MR. HONG: He had one matter at 10 o'clock and he
8 was going to come up.

9 THE COURT: Okay. Appreciate it. Thank you. I'm
10 going to keep moving on. But it does impact your trial
11 dates. Okay. I'm moving on. Thank you so very much.

12 [Case trailed at 10:36 a.m.]

13 [Hearing recalled at 10:40 a.m.]

14 THE COURT: So, we are now -- counsel, we do not
15 have plaintiff's counsel, co-trial counsel in *Stokes versus*
16 *Bank of America*. And we have taken care of every other
17 pretrial conference other than we're waiting for one more
18 counsel to appear. So, what department is he in, sir, so
19 we can find out --

20 MR. HONG: He -- Your Honor, he's in the probate
21 department, the Probate Commissioner.

22 THE COURT: You've got to be kidding, sir. You --
23 with Judge Sturman or the Probate Commissioner?

24 MR. HONG: Well, it's in the Regional Justice
25 Center. So, I would imagine it would be -- well, it would

1 be the Commissioner, I believe, Your Honor.

2 THE COURT: That can be all day. And there was --

3 MR. HONG: No, no. I just -- I'm texting him now
4 and I said you need to be here, you were supposed to be
5 here at 10:15. So, I apologize, Your Honor. I mean, he
6 was -- it was very -- I clearly -- he and I were on the
7 same page. He was supposed to be there at 10:15.

8 THE COURT: Okay. Counsel, we cannot hold this up
9 any longer. I'm going to set this case. And you
10 understand there's going to be sanctions imposed. Okay?
11 There was a clear expressed agreement, 10:15, co-trial
12 counsel had to be here, counsel. You understood that. You
13 understood that.

14 MR. HONG: Okay. I -- Your Honor, I understand
15 that. I have to be responsible for my co-counsel. If he
16 didn't show up on time then I understand on the sanctions.
17 There's nothing I can do about that.

18 THE COURT: And we waited and went through
19 everybody else. Okay? It's --

20 MR. HONG: No, no. I understand. Your Honor, I
21 completely understand. And I know I'm disappointed with my
22 co-counsel for doing this. So, yes, I completely
23 understand.

24 THE COURT: And did not notify the Court either
25 that was going to be late. So, we're going to need to

AA 002707

1 recall, which was pages 1 and 2, 720032, which is *Stokes*
2 *versus Bank of America*. Okay. Can I have appearances
3 again, please?

4 MR. COPPEDGE: Joe Coppedge, appearing for Ms.
5 Tobin as trustee and as an individual, Your Honor. And Ms.
6 Tobin's also present.

7 MR. MUSHKIN: Melanie Morgan for Nationstar.

8 THE COURT: Mr. Hong is co-trial counsel. Are you
9 going to make your appearance?

10 MR. HONG: Yes, Your Honor. Joseph Hong for the
11 JimiJack irrevocable Trust, F. Bondurant, and Yuen Lee.

12 THE COURT: Okay. Before Ms. Morgan -- when we
13 first started to call this case, I don't think you were
14 here. Let me have counsel -- you represent both Ms. Tobin.
15 You said that she has a claim as a cross-claimant in an
16 individual capacity? Because the Court --

17 MR. COPPEDGE: She filed a crossclaim as an
18 individual and as trustee, Your Honor, as I understand it.

19 THE COURT: Because that's --

20 MR. COPPEDGE: She was the beneficial.

21 THE COURT: Because that's not what Mr. Mushkin --
22 and, remember the prior -- okay. Couldn't find anywhere in
23 this case that there was any individual claims. Now,
24 understand that caption may have that but you're
25 representing both. Is that correct?

1 MR. COPPEDGE: That's correct, Your Honor. At
2 this time, we do. I mean, and to advise the Court, Ms.
3 Tobin has requested that we withdraw as counsel for her as
4 an individual so she can do her own filings, Your Honor.

5 THE COURT: Okay. Well, but, as of today, April
6 25th, 2019, you are counsel of record for Ms. Tobin as
7 trustee of the Gordon Hansen Trust. Correct?

8 MR. COPPEDGE: That's correct, Your Honor.

9 THE COURT: As also to the extent that you assert
10 that she may have a claim in her individual capacity?

11 MR. COPPEDGE: As of today, that's correct, Your
12 Honor.

13 THE COURT: Okay. So, let's -- the Court, in
14 trying to evaluate whether there is or is not an individual
15 claims, is not going to revisit that issue today. But let
16 me be clear about something. Because, on Tuesday, there
17 was hearings and documents had to be stricken because Ms.
18 Tobin filed documents under her name, which it's completely
19 improper, as you know, because she's represented by
20 counsel. So, this Court did strike a series of documents
21 that were filed by Ms. Tobin. Because an individual cannot
22 file documents when they are represented by counsel. Only
23 counsel who represents, whether it's an individual -- and
24 when I use the term individual, individual party,
25 corporation, entity, trust, etcetera. You understand? Any

1 --

2 MR. COPPEDGE: And I told Ms. Tobin that until we
3 withdrew, she could not file documents in her own
4 individual name, Your Honor. And that's why she's asked
5 that we withdraw as her counsel as an individual.

6 THE COURT: I'm just being clear; the Court did
7 strike -- there was a series of documents --

8 MR. COPPEDGE: I understood, Your Honor.

9 THE COURT: -- that were filed, I believe -- and
10 I'm doing this by memory, I believe it was April 9th, I
11 believe it was April 12th. There was duplicative documents.
12 I think April 9th, April 12th, and -- that were stricken
13 because they could not have been filed because your firm
14 showed as counsel of record and those were filed under Ms.
15 Tobin's individual name.

16 MR. COPPEDGE: Understood.

17 THE COURT: So, those were stricken as rogue
18 documents. Okay?

19 MR. COPPEDGE: Since Ms. Tobin is here today, Your
20 Honor, would the Court -- and would confirm this, would the
21 Court entertain a -- an oral motion to allow us to withdraw
22 as her counsel as an individual, entered today?

23 THE COURT: Okay. Today is only teed up for
24 purposes of --

25 MR. COPPEDGE: Understood, Your Honor.

AA 002710

1 THE COURT: -- pretrial conferences for the very -
2 - a lot of very good reasons. Okay? Including the fact
3 that the Court is starting a jury trial at 11 o'clock.
4 Okay? So, you can appreciate that we need to ensure that
5 everybody has a full opportunity for their scheduled
6 matters to get heard. As you can appreciate, the rules
7 specifically require at least a judicial day's notice with
8 regards to different issues. The Court takes no position
9 on anything. But we have to get trial set today --

10 MR. COPPEDGE: Understood, Your Honor.

11 THE COURT: -- as scheduled. So, that is what we
12 have for today.

13 I did -- the Court was just making you aware since
14 no one appeared at the hearing, there -- that those
15 documents were stricken for the reason that they were
16 stricken. That's, of course, publicly available on the
17 minutes when they get posted. But no one was here and no
18 one from your firm was here, Ms. Tobin wasn't here, it was
19 a regularly noticed hearing that was left on just in case
20 anyone was going to appear, even though those pleadings
21 were not proper. But just in case so that everyone could
22 be informed --

23 MR. COPPEDGE: Understood, Your Honor.

24 THE COURT: -- when I did have counsel from
25 Nationstar here and Mr. Hong on behalf of the various

1 parties he represented were here as well. And, so, the
2 Court, on the record, did strike those various documents
3 that had been filed by an individual who was represented by
4 counsel, as would be in any case because an individual --
5 whether it's an individual or corporation, entity, when
6 they're represented by counsel, only counsel can file
7 documents on behalf of -- on -- in a case. So, that was
8 taken care of.

9 So, that all being said, today is the day we need
10 to set this case for trial. This case needs to be set for
11 trial and it's going to be set in the appropriate stack,
12 which is the stack --- some of you may or may not have
13 heard that cases have already been set. Now, what this
14 Court shows is the only parties left in this case -- and I
15 appreciate Nationstar's counsel is currently here because
16 while there is a resolution, there is not Notice of Entry
17 of Order or with regards to that. Is that correct?

18 MR. MUSHKIN: That's correct. And I also came
19 because I had circulated a stipulation to conform the
20 caption to remove the remaining claim against the HOA and
21 to clarify Ms. Tobin's role, as I understood it, was only
22 as trustee for the trust. Mr. Coppedge and I spoke
23 yesterday. That's not their understanding. Apparently,
24 they understand Ms. Tobin to have claims in both her
25 individual capacity and in a capacity as trustee. So, we

AA 002712

1 didn't get that stipulation signed due to the ongoing
2 confusion about that. But, as far as Nationstar is
3 concerned, correct, we're out of the case, so we don't have
4 a position on when it goes to trial. We'll get the stip
5 filed in advance of the --

6 THE COURT: Okay.

7 MR. MUSHKIN: -- all of that.

8 THE COURT: So, I appreciate that. So, for
9 purposes of Nationstar, you're more than welcome to stay,
10 you're more than welcome not to be here. You're complaint
11 because you're -- technically have not filed a stipulation
12 to formally have you out of the case. But since you've set
13 forth your position and there is no claims remaining in the
14 caption as is that involves Nationstar -- and I'm going to
15 confirm that. Looking at the caption, we went over this on
16 Tuesday. But, looking at the caption again, you have
17 settled with -- resolved or settled with all parties. Is
18 that correct?

19 MR. MUSHKIN: That's correct.

20 THE COURT: Does anyone disagree that there's any
21 Nationstar claim? Counsel --

22 MR. HONG: No, Your Honor.

23 THE COURT: Okay. So, that's all of JimiJack
24 entities. And there's nothing with regards to anything in
25 the way that the current caption reads based on the rulings

1 of this Court with any other parties. So, Nationstar is
2 out of this as the case currently sets.

3 MR. COPPEDGE: Based on the Court's ruling, that's
4 correct, Your Honor.

5 THE COURT: Okay. So, Nationstar, you're welcome
6 to stay and you're welcome not to be here. It is
7 completely your choice.

8 MR. MUSHKIN: I think, since this one has a lot of
9 moving parts and I'm here already, I'll just stay.

10 THE COURT: That's perfectly fine.

11 MR. MUSHKIN: All right.

12 THE COURT: Some people are always welcome to
13 stay. I just -- sometimes people have other places they
14 need to go. So, if they're not required if they don't need
15 to be there.

16 Okay. So -- and, counsel, I will note your co-
17 trial counsel is still not here. So, we are going to get
18 this set. Pick how many days. So, the only remaining
19 parties in this case, I'm just going to call it, is the
20 Tobin party's -- potential parties, I'm just going to say.

21 MR. COPPEDGE: That's one, Your Honor. That's --

22 THE COURT: And, then, it is the parties
23 represented in the counter-claimant role, represented by
24 you, Mr. Hong. Correct?

25 MR. COPPEDGE: Correct. Correct.

1 THE COURT: And with co-trial --

2 THE COURT: Right. So, how many days --

3 MR. HONG: That is correct. And, now, as counter-
4 defendants. Your Honor.

5 THE COURT: Right.

6 MR. HONG: As counter-defendants.

7 THE COURT: Only in the counter-defendant roles.
8 That's what I'm saying. Only in the counter-defendant
9 roles. That's the only thing that we show is the counter -
10 -

11 MR. HONG: That's correct.

12 THE COURT: Okay. So, without getting into the
13 distinction about whether or not -- there's only the
14 counter-claimant versus counter-defendant. So, it is --
15 whether it's --

16 MR. HONG: That's correct.

17 THE COURT: -- Tobin individual and Tobin as
18 trustee or whether it's just Tobin as trustee, the Court's
19 not going to address that right now. I'm just going to
20 call it Tobin --

21 MR. COPPEDGE: Okay.

22 THE COURT: -- for ease. Tobin, like I said, just
23 for ease, and not to take any verbiage from that, anything
24 else, versus JimiJack irrevocable Trust, Yuen Lee, and F.
25 Bondurant. That's the only thing that this Court --

1 MR. HONG: Correct.

2 THE COURT: -- well, technically, there's does and
3 roes but the time to amend is way past. So, there really
4 isn't does and roes at this juncture. Is that correct,
5 counsel?

6 MR. COPPEDGE: That's correct, Your Honor.

7 THE COURT: Okay. So, that's the only thing
8 that's left at this juncture that needs to be set for
9 trial. That is a bench trial. How many days?

10 MR. COPPEDGE: Does the Court afford full days,
11 Your Honor? Or do you star, like, at 10:30 or 11 o'clock?

12 THE COURT: You may not have heard what I said a
13 moment ago.

14 MR. COPPEDGE: I --

15 THE COURT: Mondays and Fridays are 9 o'clock,
16 sometimes 8:30 if the parties specifically request it.
17 Tuesdays and Thursday, we have a motion calendar. Usually
18 we start by 10:30 or 11, depending on the breadth of the
19 motion calendar, depending on the attorneys getting here on
20 time. Wednesdays, sometime 9:30 or 10, depending on the
21 breadth of my CD calendar and when -- and I have CD
22 calendars three of the four Wednesdays a month. So, on a
23 non-CD Wednesday, I can start at 9. Okay? So, that's --

24 MR. HONG: Your Honor, if I can chime in? I don't
25 find -- or I don't believe -- and I'll defer to counsel,

AA 002716

1 but I don't believe it's going to be more than half a day.
2 I can't fathom it being possibly more than half a day.

3 THE COURT: Okay. Well, I'll ask you, on behalf
4 of your client, how many witnesses do you anticipate, sir?
5 Mr. Hong?

6 MR. HONG: Zero.

7 THE COURT: Zero? Okay. So, on behalf of
8 counter-claimant, how many witnesses?

9 MR. COPPEDGE: At least four, Your Honor.

10 THE COURT: Okay. So, four. Okay. I don't know
11 if you all are waiving openings or not. But -- so, how
12 many days do you think? One, two?

13 MR. COPPEDGE: I would have said two full days.
14 But I -- maybe two and a half days, Your Honor. It may
15 linger over. Two days, Your Honor.

16 THE COURT: With four witnesses?

17 MR. COPPEDGE: Ms. Tobin is going to be on the
18 stand for a long time, Your Honor.

19 THE COURT: Okay. Well, so, two days. So, two
20 days, you know where I can actually put you? I can put you
21 at the very beginning of the stack, Wednesday, Thursday,
22 number 2, May 29th and 30th, or May 30th, May 31st if you
23 want.

24 MR. COPPEDGE: When we were here before, Your
25 Honor, I advised the Court that I am out of town for a

1 wedding May 25 through June 2.

2 THE COURT: Okay.

3 MR. COPPEDGE: I --

4 THE COURT: I appreciate you bringing that back to
5 the Court's attention because you can appreciate it's been
6 a lot of hearings in between the time. And --

7 THE COURT: You would not recall that, Your Honor.
8 But it's the only conflict I have is that.

9 THE COURT: No worries. Okay. Then we can put
10 you right -- number -- or I could put you -- I'm not going
11 to -- I'm not going to do that to myself.

12 [Colloquy at the bench]

13 THE COURT: Okay. How about -- you said you're
14 back on the 2nd?

15 MR. COPPEDGE: Yes, Your Honor.

16 THE COURT: How about if I put you a little bit
17 later in that week? Put you number 3, starting on either
18 the 4th or 5th of that week?

19 MR. COPPEDGE: That's fine, Your Honor.

20 THE COURT: I mean, I can start you on the 3rd. I
21 just didn't know if you want to start on the --

22 MR. COPPEDGE: I would prefer not, Your Honor.

23 THE COURT: That's why I was saying a little bit
24 later in the week. But since you're only going to be two
25 days, I can start you the 4th or the 5th of that week.

AA 002718

1 MR. COPPEDGE: The 5th would be fine, Your Honor, I
2 think.

3 THE COURT: The 5th? Put you number 3 on the 5th?
4 Okay. Does that work for you, Mr. Hong?

5 MR. HONG: The number -- on the 5th of June, Your
6 Honor?

7 THE COURT: Fifth of June, number 3.

8 MR. HONG: Fifth of June. Yes, that's fine, Your
9 Honor.

10 THE COURT: Okay. And since that's a Wednesday,
11 we could probably start you -- it probably would start --
12 that's a CD Wednesday. Is it not, Madam Clerk?

13 THE COURT CLERK: Yes.

14 THE COURT: I just didn't see if I have any CD
15 matters already on that Wednesday or not. I can just leave
16 it.

17 [Colloquy at the bench]

18 THE COURT: There's only five. Okay. So, I can
19 say 10 o'clock on June 5th. Okay?

20 MR. HONG: Thank you, Your Honor.

21 THE COURT: Ten o'clock on June 5th.

22 Now, in light of that, would you like me to move -
23 - realize it does not open up anything, but I could move
24 your calendar call to that preceding -- it's not going to
25 be the Tuesday. I'm going to have to do it on special

1 setting on Wednesday the 29th. Okay?

2 MR. COPPEDGE: I'm out of town.

3 THE COURT: Oh no. You're not there. You're not
4 here.

5 MR. COPPEDGE: I'm out of town. But Mr. Mushkin -
6 -

7 THE COURT: I was going to say, someone else can
8 carry it, it's just bringing in exhibits and everything.
9 Right?

10 MR. COPPEDGE: Yeah.

11 THE COURT: Okay. So, on the 29th, special
12 setting. I'd have to do a calendar call because I'm not --
13 we're going to be dark on the 28th. Okay? The 29th at 9
14 a.m. will be your calendar call. That does not reopen up
15 anything. It's just as a date when you would bring
16 everything. Would you like that so that you're not doing
17 the first week? or I can leave your calendar call as
18 scheduled or I can put you on the 29th. What would you
19 prefer?

20 MR. COPPEDGE: What's the current calendar?

21 THE COURT: Pardon?

22 MR. COPPEDGE: What's the current date, Your
23 Honor, of the calendar call?

24 THE COURT CLERK: May 21st.

25 THE COURT: It's just a matter of --

1 MR. COPPEDGE: I prefer the 21st, Your Honor.

2 THE COURT: It's just bringing your exhibits and
3 stuff. The 21st, you're all set anyway.

4 So, Mr. Hong, did -- should we just leave you on
5 the 21st and make life easy?

6 MR. HONG: Actually, Your Honor, if we can do it
7 on the 29th? On the 21st --

8 THE COURT: Counsel, your co-counsel's not here
9 today. I think what you'd like me to do is do the 21st
10 because since your co-counsel is not here today, we're
11 leaving it on the 21st at the request of plaintiff's
12 counsel. Aren't we? Yes, we are.

13 MR. HONG: Well, the reason I was going to say is
14 I'm scheduled to be at my son's graduation in New York City
15 on the 21st, Your Honor. But, I guess, if my co-counsel can
16 appear. Right? Your Honor, my co-counsel can --

17 THE COURT: No. Your co-counsel is not going to
18 have the opportunity to appear because he's not here today.
19 And it's already been 40 minutes --

20 MR. HONG: Okay.

21 THE COURT: -- 45 minutes. No, we're not
22 providing that opportunity again.

23 MR. HONG: Right. No, no, no, no. What I was
24 asking is if my co-counsel can appear on May 21st, if --

25 THE COURT: Counsel, he's not here today. We're

1 not going to leave that open --

2 MR. HONG: Okay. Okay.

3 THE COURT: -- for him not to appear again.

4 MR. HONG: Then, can we appear on the 29th? Can we
5 do it the 29th, Your Honor? Because I'm scheduled to be in
6 New York City for my son's graduation.

7 THE COURT: What day do you leave and what day do
8 you come back, sir?

9 MR. HONG: I leave on Monday and I come back on
10 Thursday, Your Honor. The graduation is the 21st and the
11 22nd.

12 THE COURT: I'm sorry. You come back on what day?

13 MR. HONG: I come back on Thursday.

14 THE COURT: You'll be back in town on Thursday or
15 you won't be back in town on Thursday?

16 MR. HONG: I will be in town on Thursday. But,
17 most likely, I will be landing in the afternoon on
18 Thursday, Your Honor.

19 THE COURT: Do you already have your flight back,
20 counsel?

21 MR. HONG: Yes, Your Honor.

22 THE COURT: What time is your flight back,
23 counsel?

24 MR. HONG: Well, I don't have it in front of me.
25 My wife scheduled that, Your Honor. But I imagine I'm

1 going to be on the morning flight on Thursday because I did
2 tell her I need to be back in Las Vegas on Thursday. So,
3 if I'm on the morning flight, New York time, I believe I
4 should be back, landing maybe 1 or 12 noon, right around
5 there. That's what I'm thinking, Your Honor.

6 THE COURT: So, let's -- you're here on Thursday.
7 Are you? The 23rd, counsel?

8 MR. COPPEDGE: Yes, Your Honor.

9 THE COURT: So, let's do it at 3:30. I'll take a
10 break from my trial. It's a perfect time to take a break
11 from my trial. Okay?

12 MR. COPPEDGE: May 23 at 3:30, Your Honor?

13 MR. HONG: Okay. That will work, Your Honor.

14 THE COURT: Does that work? I'll be in trial
15 anyway. Okay. At 3:30, we'll do the calendar call then?

16 MR. COPPEDGE: That's fine, Your Honor.

17 THE COURT: That meets both your needs. Right?
18 Before one leaves and after one gets back. Three-thirty on
19 the 23rd, then. Okay? Thank you so very much.

20 MR. HONG: Thank you, Your Honor.

21 THE COURT: Okay.

22 MR. COPPEDGE: So, we grab the orange copy, Your

23 ...

24 ...

25 ...

1 Honor?

2

THE COURT: Bench trials are orange. Yes.

3

4

PROCEEDING CONCLUDED AT 10:59 A.M.

5

* * * * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

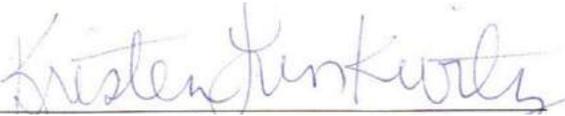
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

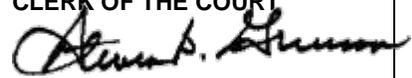
I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER



1 TRAN

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

* * * * *

5

6 JOEL STOKES, JIMI JACK)
7 IRREVOCABLE TRUST,)

CASE NO. A-15-720032

8

Plaintiffs,)

DEPT. NO. XXXI

9

vs.)

10

10 BANK OF AMERICA, N.A., SUN)
11 CITY ANTHEM COMMUNITY)
12 ASSOCIATION,)

Transcript of Proceedings

13

Defendants.)

14

AND ALL RELATED CASES.)

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

15

STATUS CHECK: SETTLEMENT DOCUMENTS

TUESDAY, MAY 21, 2019

16

APPEARANCES:

17

For the Stokes: JOSEPH Y. HONG, ESQ.
(Via CourtCall)

18

For Sun City: DAVID OCHOA, ESQ.

19

For Nationstar: DONNA WITTIG, ESQ.

20

For Nona Tobin: LINVEL J. COPPEDGE, ESQ.

21

RECORDED BY: SANDRA HARRELL, DISTRICT COURT

22

TRANSCRIBED BY: KRISTEN LUNKWITZ

23

24

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

25

AA 002726

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TUESDAY, MAY 21, 2019 AT 10:02 A.M.

THE COURT: Now I need to circle back to pages 18 and 19, *Stokes versus Bank of America*, 720032. We had counsel in court and we also hopefully have counsel on CourtCall now. Do we now have counsel on CourtCall?

MR. HONG: Yes, Your Honor. Joe Hung for plaintiffs.

THE COURT: Okay. So, we heard that. Now we need in court, please.

MR. COPPEDGE: And Joe Coppedge for Nona Tobin as an individual and as trustee of the Hansen Trust, Your Honor.

MS. WITTIG: Donna Wittig for defendant Nationstar.

MR. OCHOA: David Ochoa for Sun City Anthem.

THE COURT: Okay. So, here's what we have, is today was the day for the status check on the settlement documents. And, then, we're going to walk through the Court received something different. I received a proposed motion on order shortening time. But since I was going to have all the parties here, it made more sense to mention it to you all then to address it and, then, have issues happen.

So, first, settlement documents. What's up?

1 Please.

2 MS. WITTIG: Settlement. So, we were going along
3 with settlement and, then, there was a reconsideration
4 motion filed on the HOA's Motion for Summary Judgment. And
5 --

6 THE COURT: Hold on. Okay.

7 MS. WITTIG: -- we think that we are going to need
8 to wait for that ruling in order to finish the settlement.
9 The settlement agreement is finally drafted. I believe
10 it's executed. We're just waiting on funds. But we now
11 decided to wait for the transfer of funds until after that
12 reconsideration motion is heard because it could possibly
13 affect our settlement.

14 THE COURT: Okay. Is that other parties'
15 agreement? Understanding as well? Anybody else wish to
16 chime in on that?

17 MR. OCHOA: Sun City Anthem is not a party to the
18 settlement agreement.

19 THE COURT: Okay. Mr. Hong, on what -- on
20 CourtCall, do you wish to chime in on this -- bless you.

21 MR. HONG: Sorry. That's actually correct, Your
22 Honor. The settlement docs have been signed between
23 Nationstar and my clients. But, in terms of effectuation
24 with payment and whatnot, we're waiting for the Court's
25 ruling on the Motion for Reconsideration.

AA 002728

1 THE COURT: Well, you're not waiting for the
2 Court's ruling because it's not even scheduled until May
3 30th. And you all are set for your calendar call on May
4 23rd, which presents an interesting challenge. Doesn't it?
5 Because the Court, in no way taking any opinion on the
6 timing or the lack of timeliness on that Motion for
7 Reconsideration and whether the Court could or could not
8 even address it, the Court's merely looking for purposes of
9 its statements that I'm only looking at calendaring. I'm
10 not saying is properly filed. I'm not taking any position
11 on anything. I'm just looking at calendaring. When I look
12 at calendaring, I see calendar call May 23rd. I see Motion
13 for Reconsideration May 30th, which would mean at the
14 calendar call, everyone would have to have everything ready
15 for trial. Is that all the parties' intention?

16 MR. COPPEDGE: I guess -- I think, Your Honor,
17 maybe perhaps that's our motion on the OST that was set,
18 that was submitted. I suspect it might be. Ms. Tobin has
19 requested that we withdraw. And, so, we submitted on
20 Thursday or Friday a Motion to Withdraw on Order Shortening
21 Time.

22 THE COURT: Friday at 4:10 we got it.

23 MR. COPPEDGE: And that's when you got it, Your
24 Honor.

25 THE COURT: Okay. But that's not before me today.

1 MR. COPPEDGE: I understand, Your Honor.

2 THE COURT: But -- okay. But what this Court
3 needs to know, okay, is purely do you all want to appear on
4 May 23rd with everything that's due at a calendar call?
5 It's -- that's the way things are currently -- the way that
6 you all have set this up, everyone needs to appear on May
7 23rd at the calendar call. Is that the intention of the
8 parties? The Court's fine with it.

9 MR. OCHOA: Your Honor, I would request that the
10 Motion for Reconsideration is heard first because --

11 THE COURT: Are you a party to that? And have you
12 opposed it? And do you have any basis? Are you involved
13 in that?

14 MR. OCHOA: It was our order --

15 THE COURT: Yeah.

16 MR. OCHOA: -- that they filed the reconsideration
17 for. And we have since filed an objection to the Motion
18 for Reconsideration. My understanding is that the other
19 parties are attempting to settle. That would resolve all
20 issues if the Motion for Reconsideration is denied. So, I
21 would request that the calendar call gets pushed out until
22 after that hearing if everything is potentially going to be
23 resolved at that hearing date.

24 THE COURT: You know it's currently set for
25 chambers. Right? Motions for Reconsideration as a matter

AA 002730

1 of due course are set on chambers unless somebody requests
2 that it be in open court or the Court resets it.

3 MR. HONG: Your Honor, if I may? That's fine
4 being in chambers.

5 THE COURT: No, no, no.

6 MR. HONG: But I think what counsel just -- sorry.

7 THE COURT: It's not going to be in chambers. If
8 it's opposed -- first thing I'm going to tell you is it's
9 not going to be in chambers.

10 MR. HONG: Okay.

11 THE COURT: But it's a matter of scheduling. When
12 I have an Opposition --

13 MR. HONG: But I think --

14 THE COURT: -- and I have a pending other issues
15 going on. And I have multiple party issues, the more
16 appropriate thing is to take it off my chambers calendar
17 and put it on for hearing unless I have an objection by
18 somebody who says that you specifically want it to be on
19 chambers. And, then, I have explicit waivers from everyone
20 with regards to any issues that get addressed what's fully
21 in waivers with regards to that Motion for Reconsideration,
22 for any party that is a part of that Motion for
23 Reconsideration. So, the only Opposition I have is Sun
24 City Anthem. We just heard counsel's -- by the way, sorry.
25 For Madam Court Recorder and Madam Clerk's standpoint, as

1 much as I know who you all represent, when you do speak,
2 can you just say on behalf of which party.

3 MR. OCHOA: Okay.

4 THE COURT: So, counsel, you just were speaking on
5 behalf of Sun City Anthem. Or, excuse me. Since I have
6 Mr. Hong in the intervening, Mr. Hong, can you restate you
7 were speaking on behalf of which parties?

8 MR. HONG: Yes, Your Honor. The Stokes parties,
9 the plaintiffs.

10 THE COURT: You've got to be clearer than that,
11 counsel. Remember, we have unique aspect in this case that
12 you're -- you have clients that are -- so, are you JimiJack
13 Irrevocable Trust as well or just the Stokes?

14 MR. HONG: It's the JimiJack Irrevocable Trust
15 through its trustees, Joe and Sandra Stokes, the Stokes,
16 Your Honor.

17 THE COURT: I do appreciate it. Thank you so very
18 much. And counsel who previously who filed the Opposition,
19 you were speaking on behalf of Sun City Anthem. Is that
20 correct?

21 MR. OCHOA: That is correct, Your Honor.

22 THE COURT: Okay. And, since I didn't have you
23 say your name again, would you mind saying it again?

24 MR. OCHOA: David Ochoa for Sun City Anthem. I
25 would also like to point out, Your Honor, I believe you

1 said our Opposition was the only thing filed. But I
2 believe both the Bank and Mr. Hong who is on the phone, I
3 think they both filed Joinders to my Opposition.

4 THE COURT: I probably should have phrased it as
5 the only --

6 MR. HONG: That's correct.

7 THE COURT: -- the only courtesy copy the Court
8 got. So, the only thing the Court's aware of because the
9 Court's not aware of things until we get courtesy copies.
10 Right? Would be from Sun City Anthem.

11 Now, we've got five days before the hearing so I'm
12 not saying that other documents aren't otherwise yet due.
13 But, when I look at my goody package of what we currently
14 have, that's what I was basing it on. So, Bank, you filed
15 a Joinder. Is that correct?

16 MS. WITTIG: That's correct.

17 THE COURT: And that would be?

18 MR. HONG: Yes, Your Honor.

19 THE COURT: Sorry. Counsel, name?

20 MS. WITTIG: Sorry. Donna Wittig for Bank --
21 Nationstar.

22 THE COURT: I appreciate it. Counsel for the
23 Stokes as trustees for JimiJack, did you also file a
24 Joinder?

25 MR. HONG: Yes, Your Honor.

1 THE COURT: Okay. Well, so, what do the parties
2 want with regards to the Motion for Reconsideration?

3 MR. COPPEDGE: It's our Motion, Your Honor. It's
4 Ms. Tobin's Motion. And, so, I think that Mr. Ochoa --
5 wait, it's Joe Coppedge for --

6 THE COURT: Thank you.

7 MR. COPPEDGE: -- Ms. Tobin as an individual and
8 as trustee of the Hansen Trust. I think Mr. Ochoa is
9 correct, Your Honor, that it makes sense to have the
10 calendar call after the hearing on the 30th, I think, from a
11 timing standpoint.

12 THE COURT: Well -- has everyone -- when -- you
13 have not yet filed a Reply. Have you?

14 MR. COPPEDGE: We have not. It's due on Thursday,
15 Your Honor.

16 THE COURT: Thursday. Okay. So, okay, Thursday.
17 Due the day of the calendar call. So you all filed that --
18 well, so, what -- but you've got a bench trial on June 5th,
19 which presents a challenge. I can move the calendar call
20 to the week before the bench trial but I can't move it any
21 later than that. Can I? I can't is the answer. So, it
22 seems to me, what I can do is I can do -- yours is
23 Thursday. One second.

24 [Pause in proceedings]

25 THE COURT: The bench trial, which pending on any

1 ruling, in its current status, the bench trial current
2 status is between Mr. Hong, your clients. Correct? And
3 Ms. Tobin in her role --

4 MR. HONG: Correct.

5 THE COURT: -- as individual and as trustee. Is
6 that correct?

7 MR. COPPEDGE: That's correct, Your Honor.

8 THE COURT: That's the only thing that's remaining
9 currently, subject to any future rulings the Court that may
10 or may not occur. Is that correct?

11 MS. WITTIG: That is correct.

12 MR. HONG: That's correct.

13 MR. OCHOA: So, can you repeat that, Your Honor,
14 about what issues are remaining?

15 THE COURT: Currently, as you all are standing,
16 sitting here today. Right? Is that what is left in this
17 case, pursuant to what you all informed the Court the last
18 time you were here, was the only remaining claims were
19 between -- I'm just going to informally call Stokes as
20 trustee for JimiJack, Ms. Tobin and Ms. Tobin. Ms.
21 Tobin/Ms. Tobin trustee, with the Court taking no position
22 on the propriety of those designations or anything. But
23 just purely nomenclature wise. That's the current status,
24 subject to any future rulings of the Court.

25 MR. OCHOA: David Ochoa for Sun City Anthem. I

AA 002735

1 agree, Your Honor.

2 THE COURT: Okay. And that's what you all told me
3 a couple weeks ago. So, unless there's something
4 different, that's what the current status is, as of right
5 now. Right? Okay.

6 MR. HONG: That's correct.

7 THE COURT: And, so, that's why you all said bench
8 trial short time frame. So, for the parties that are
9 involved in that aspect, if I were to do the following --
10 but things still move forward because we're -- I'm not
11 moving the trial. Okay? Is if I put your -- if I move the
12 Motion for Reconsideration, you've got your Reply not until
13 Thursday. Right? Okay.

14 If I did the Motion for Reconsideration at 8:30 on
15 the 29th and, then, I did your calendar call on Monday, June
16 3rd at 9 a.m. And I would only do that if I need to know
17 how many documents we're talking about in the current
18 status of the case. And this is all subject to different
19 rulings, could result in different things. The Court has
20 to deal with what the case is currently. How many
21 documents on behalf of Tobin parties first, counsel?

22 MR. COPPEDGE: Exhibits, Your Honor?

23 THE COURT: Well, I assume you've done your 2.67
24 on this case? Because --

25 MR. COPPEDGE: We've met -- we've -- Mr. Hong, we

AA 002736

1 did it on the phone because he's out of town. And we've --
2 I don't have a precise number finalized yet.

3 THE COURT: A number of four inch each binders.
4 Is it going to fill up more than one four-inch binder?

5 MR. COPPEDGE: No, Your Honor. I think one's
6 fine.

7 THE COURT: Okay. You understand, I'm just trying
8 to get a ballpark. You know? You see the binders behind
9 Madam Clerk. It's going to -- is there more exhibits than,
10 you know, pieces of paper that are there?

11 MR. COPPEDGE: Maybe two, Your Honor. Maybe two.

12 THE COURT: Okay. So, it's actually another four
13 inches. Okay.

14 So, on behalf of the Stokes as JimiJack, how many
15 exhibits would you have separate and apart from plaintiff's
16 exhibit -- from --

17 MR. HONG: We have none, Your Honor.

18 THE COURT: None? Okay. Well, that makes life
19 easy. Okay. With that limited number exhibits, the reason
20 why I'm trying to say is that we could do this, since it's
21 a bench trial, to still keep your date because the age of
22 this case being in 2015. I'm trying to balance everything,
23 realizing that, once again, if my other trial goes forward,
24 I either may be blending you in since it's a bench trial or
25 I maybe going to overflow, we're not sure yet. But -- or

1 there may be some third option.

2 But where things stand today, which is what I need
3 to address, it looks like I can do the following. I can
4 move the Motion for Reconsideration to the 29th at 8:30.
5 Because, then, no one would be prejudiced because you're
6 just moving it from Friday to Thursday and you're putting
7 it in open court, which allows parties, since there's
8 Oppositions and Joinders, to address what they need to
9 address. I can put your calendar call, presuming all
10 parties will be -- are the exhibits, the short number of
11 exhibits, since I have none from defendant -- I mean, none
12 from the Stokes parties --- I'm not going to say your
13 actual party designations, then that would allow us still
14 to have that happen. Because you still would have your
15 Proposed Finding of Fact and Conclusions of Laws, basically
16 making it due then, too, so you got that taken care of.

17 So, that seems like it makes everything work for
18 the parties. Does it not?

19 MR. COPPEDGE: So, the calendar call is what day?

20 MR. HONG: That --- Joe Hong, Your Honor. That
21 would work.

22 THE COURT: June 3rd at 9 a.m. I would have to do
23 a special setting on June -- actually, June 3rd at 8:45
24 because I'm going to be in trial no matter what trial I'm
25 in. So, June 3rd at 8:45. You all heard me say 8:45.

AA 002738

1 Right? Everybody heard me say 8:45?

2 MR. HONG: Yes.

3 MR. OCHOA: Yes.

4 MR. COPPEDGE: Yes, Your Honor.

5 MR. HONG: 8:45.

6 THE COURT: Sharp. Yes. Everybody heard 8:45

7 a.m.?

8 MR. OCHOA: Yes, Your Honor.

9 THE COURT: Okay.

10 THE COURT: June 3rd. Does that work?

11 MR. COPPEDGE: Yes, Your Honor.

12 THE COURT: Okay. So, Madam Clerk, can you please

13 move the Motion for Reconsideration to the 29th at 8:30?

14 Please move the calendar call and everything that's due at

15 the calendar call, June 3rd at 8:45. Okay. That's what was

16 pending for today. So, the status check on settlement

17 documents is complete because, based on the party's

18 request, the Court finds good cause for not providing what

19 you needed to provide.

20 Now, the Court received, pursuant to OST as I

21 mentioned, 4:10 on Friday, a Motion to Substitute Real

22 Party in interest and to Withdraw as Counsel of Record for

23 Counter-claimant Nona Tobin on Order Shortening Time. The

24 Court, since you all were coming in, it made more sense.

25 And since this motion covered -- requested motion covered a

AA 002739

1 lot of different things, it made more sense to hear what
2 the parties' opinion are for the Court setting this on an
3 order shortening time while I have you here in court or, at
4 least telephonically in court.

5 MS. WITTIG: I'm sorry. Donna for Nationstar.
6 Did -- Ms. Wittig for Nationstar. Can you repeat the
7 motion again because I didn't receive --

8 THE COURT: Did you provide it to opposing counsel
9 before you filed it?

10 MR. COPPEDGE: We -- it's not filed. It's
11 submitted to --

12 THE COURT: Submitted to -- submitted to the
13 Court.

14 MR. COPPEDGE: -- it's submitted to the Court.
15 They have not seen this yet, Your Honor.

16 THE COURT: Okay. So --

17 MR. COPPEDGE: I can explain what's in the motion
18 though if it's helpful. That was Joe Coppedge.

19 THE COURT: Here -- why don't I say -- sure. Give
20 the two second version because I got a courtroom full of
21 people, if you don't mind?

22 MR. COPPEDGE: Fine.

23 MS. WITTIG: Just the title.

24 MR. COPPEDGE: It's to substitute Ms. Tobin as an
25 individual for Ms. Tobin as trustee of the Hansen Trust,

1 Your Honor, because we learned -- I learned recently that
2 Ms. Tobin had deeded the property from herself as trustee
3 to herself as an individual and closed the trust. And, so,
4 the real party in interest, Your Honor, under Rule 17, is
5 Ms. Tobin as an individual. She also asked that we
6 withdraw as counsel for her to let her proceed as an -- in
7 pro se. And, so, that's the purpose of the motion is to
8 substitute her as an individual and, also, to allow her to
9 proceed pro se with the hearing on Motion to Reconsider,
10 the calendar call, and the trial of this matter on June 5.
11 And she has told us that she will be ready to do all those
12 things, Your Honor, timely.

13 THE COURT: Okay. And you know -- and, then, just
14 to let you know, there was nothing attached to this Motion
15 showing any transfers or anything like that. So, the Court
16 just saw the OST. The Court takes no position one way or
17 another. But, I mean, if you -- so, the Court was inclined
18 -- well, I'll tell you, the Court was inclined to set this
19 for the same day as the 29th, that I would be doing the
20 Motion for Reconsideration. Because the Court's concern
21 about so many different things on a pending motion that's
22 been filed by counsel, to take it over at the last minute
23 with a trial on June 5th, could have so many different
24 issues be outstanding, and to have it substituted
25 regardless of who would be substituted in.

1 And because this could have been filed way back
2 when and it's got no -- nothing attached to it to show any
3 transfers or anything, the Court was not inclined to --
4 well, I've got an intervening holiday. It looks like when
5 you all decided to file it, you kind of put yourselves in a
6 situation of when it can be heard. Because if you filed it
7 months ago, I could have heard it months ago. Right? But
8 you choosed [sic] when you filed it so you chose when you
9 filed it, which means the Court has to set it out, can't
10 hear it this week anyway because of all the other pending
11 matters that are going on so it'd have to be next week with
12 the first possible date anyway. Do I have a position from
13 any of the other parties?

14 MS. WITTIG: Donna Wittig for Nationstar. I
15 really have no position on that, either the hearing date or
16 the existence of the order shortening time.

17 MR. OCHOA: David Ochoa for Sun City Anthem. I
18 would be opposed to setting the motion at that time. And
19 there's been assertions by Nona Tobin in the past that
20 she's made transfers --

21 THE COURT: Counsel, I can't get into any
22 substance. Purely -- since I have you all here, it made
23 sense, if somebody's going to object to an order shortening
24 time versus me setting this out 30 some odd days. Right?
25 That's really the question the Court's asking. I was

1 giving an inclination where I'm inclined to go. I'm
2 hearing if anyone has any opposition purely from a
3 scheduling standpoint, not going into any merits. Because,
4 in fairness, merits get addressed when parties respond to
5 motions. That's why I was making it clear what the Court's
6 question was. Thank you, counsel. Timing only question.

7 MR. OCHOA: David Ochoa for Sun City Anthem. You
8 know, if we set it on shortened time, we're still going to
9 have to file a response to it, Your Honor. So, I have to
10 take that into consideration about what I might potentially
11 do and what -- once we see the documents, like you said,
12 there's no attachments to what's proposed currently. So,
13 you know, I would still like to file an Opposition,
14 potentially, once I see that, so I have to take that in
15 consideration so that's why I'm opposed to the timing of
16 it, currently.

17 THE COURT: Well, just another reason why I said
18 I'm not going to hear it this week. Right? Which is why I
19 said next Wednesday, which is -- as parties who file lots
20 of order shortening times in other cases, you know that
21 that's giving -- that's one of the things the Court was
22 taking into account in saying next Wednesday. Because they
23 chose to file it when they chose to file it and not do it
24 months ago, then asking for it to be heard -- well, it
25 doesn't even say when it -- it just says before the trial.

AA 002743

1 So, I would accommodate that before the trial but
2 still give the maximum amount of time without putting it at
3 the time of the calendar call while all parties would need
4 to have everything available to it. I was trying to
5 balance everybody's needs. You, of course, would have an
6 opportunity to oppose it and an appropriate date would be
7 my next question. If I did the 29th, what date people need
8 for Oppositions? With that clarification, any opposition
9 to setting it on the 29th? Same day as the Motion for
10 Reconsideration. I have to set it before the trial.

11 MR. OCHOA: David Ochoa for Sun City Anthem. It's
12 fine, Your Honor. You can set it for the 29th.

13 THE COURT: Counsel for Stokes, on behalf of
14 JimiJack, do you have a position?

15 MR. HONG: Yes, Your Honor. Just on a
16 procedurally -- I mean, if Your Honor is going to set it
17 for the 29th, then we're going to file an Opposition, of
18 course. But, procedurally, I respectfully believe it's
19 just way too late in the game for such motions to be filed.
20 I just think it's unfair --

21 THE COURT: But counsel, isn't that --

22 MR. HONG: -- to the parties. But --

23 THE COURT: Counsel, I'm going to stop you the
24 same way as I stopped counsel for Sun City.

25 MR. HONG: Okay. Okay.

1 THE COURT: Were talking purely procedural. And
2 you can't have the advantage of seeing how many people are
3 waiting in our gallery to have their matters heard. We're
4 trying to balance everybody's needs. The parties have more
5 than --

6 MR. HONG: Okay.

7 THE COURT: -- have an opportunity just like when
8 other parties who are speaking in this case have filed
9 their OSTs. Everybody gets a chance to respond, it's just
10 a matter of what you pick as an Opposition date. Right? So
11 --

12 MR. HONG: How about next Tuesday, Your Honor?

13 THE COURT: No. Not the day before. The Court
14 has to read it and be prepared --

15 MR. HONG: Well --

16 THE COURT: -- think it through, too.

17 MR. HONG: Well, my --

18 THE COURT: Counsel, you're going to --

19 MR. HONG: Monday is a holiday.

20 THE COURT: Monday's a holiday. So, I was
21 thinking Friday. Today is only Tuesday. Now, the Court's
22 appreciative --

23 MR. HONG: Okay. You're right. You're right.

24 THE COURT: -- and have been very accommodating
25 with everyone's schedule. But, counsel, my other choice to

1 do it this week -- and I thought one of the counsel was not
2 available this week.

3 MR. HONG: That's true, Your Honor. Friday fine
4 for --

5 THE COURT: I thought Friday sounded great.

6 MR. HONG: -- the Opposition.

7 THE COURT: Okay. Great. Okay. So, here's what
8 we're doing. The OST set at 9 a.m. on the 29th, same date.
9 Okay? You all are here --- I'm not going to fill this in
10 right now because, first off, you all put the wrong
11 department, even, on this. Yeah. It says 24, I'm 31, but
12 it's okay. So, we've got to do a little bit of edits here,
13 we've got to do the dates. So, it's going to be heard at 9
14 a.m. on the 29th. You're all here or on the phone so you
15 all hear the date and time. Yes?

16 MS. WITTIG: Yes.

17 MR. HONG: Yes.

18 MR. OCHOA: David Ochoa. Yes.

19 THE COURT: Okay.

20 MR. COPPEDGE: Yes, Your Honor.

21 THE COURT: Okay. So, here, now we need an
22 Opposition date and time. The Opposition date and time,
23 the farthest that the Court can do it seems to be the
24 request of the parties, it seems to be I can do it on this
25 Friday, May 24th by 3 p.m. Because you got to give the

1 Court a little bit of time to actually read everything.

2 Right? Seems to me, if I'm accommodating --

3 MR. HONG: Yes.

4 THE COURT: -- you all, that you're not really
5 going to have a chance to do a Reply, counsel. But that
6 really is because you chose to file when you chose to file.

7 MR. COPPEDGE: I understand, Your Honor.

8 THE COURT: Right?

9 MR. COPPEDGE: Understood, Your Honor.

10 THE COURT: So, I need to give everyone the
11 maximum amount of time to get everything taken care of.
12 And the Court takes no position on anything other than I'm
13 just doing scheduling. So, May 24th at 3 p.m. is the
14 Oppositions. Everybody who -- understand? And when I
15 include the term Oppositions, I include the term
16 Oppositions and joinders to Oppositions. Because no one
17 gets --- you know, I can't call something a Joinder and,
18 then, file it later. So, 3 p.m. Whatever I have by 3 p.m.
19 with a courtesy copy to the Court as well so I can take it
20 home for my weekend reading, which I'm not leaving at 3
21 p.m. But, anyway, got it?

22 And we'll get this -- I'm not going to sign
23 everything right now in a courtroom full of people. I need
24 to take care of everybody else. So, you can pick this up
25 by end of day. And you're going to need to -- do you have

AA 002747

1 extra copies by chance with you that you can hand to
2 counsel?

3 MR. COPPEDGE: I will have them e-mailed within
4 the hour, Your Honor.

5 THE COURT: Okay. E-mail work okay within the
6 hour versus -- because, otherwise, I'm going to have to put
7 postal service on this.

8 MS. WITTIG: We'll accept by e-mail. For
9 Nationstar, Donna Wittig.

10 MR. OCHOA: David Ochoa for Sun City Anthem.
11 We'll accept by e-mail.

12 THE COURT: Mr. Hong, you probably want e-mail,
13 too. Don't you?

14 MR. HONG: Yes. Yes, Your Honor. That's fine.

15 THE COURT: Won't you get it quicker? Okay. So,
16 e-mail. And just make sure with your e-mail that you
17 provide a copy of the confirmation because the Court, if it
18 gets raised as an issue next week, then I'm going to have
19 to ask. So, make sure you have the e-mail confirmations.
20 Okay? Counsel --

21 MR. COPPEDGE: So, I'm clear, Your Honor. So I'm
22 clear as to the dates, Your Honor, this is Joe Coppedge.
23 We have on 5-29 at 8:30 --

24 THE COURT: Sorry. Both are at 8:30. I'm sorry -
25 -

1 MR. COPPEDGE: 8:30.

2 THE COURT: -- you were about to tell me the
3 motion to -- the OST is going to be 8:30, as well. Thank
4 you for that point of clarification. I routinely say 9
5 o'clock, I should have said 8:30. So, both will be at
6 8:30. And I interrupted you. My apologies. So, please go
7 ahead.

8 MR. COPPEDGE: And, then, June 3 at 8:45, Your
9 Honor?

10 THE COURT: Correct. So, we'll see you at 8:30 on
11 the 29th and 8:45 on June 3rd, subject to things that may or
12 may not happen on the 29th. Okay?

13 MR. OCHOA: Thank you, Your Honor.

14 THE COURT: Appreciate it. Thank you so very
15 much.

16

17 PROCEEDING CONCLUDED AT 10:27 A.M.

18 * * * * *

19

20

21

22

23

24

25

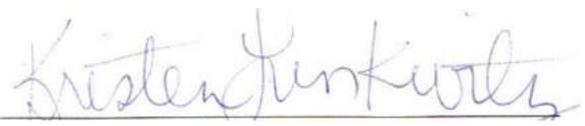
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

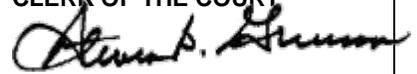
I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER



1 TRAN

DISTRICT COURT

2

CLARK COUNTY, NEVADA

3

4

* * * * *

5

6 JOEL STOKES, JIMI JACK)
7 IRREVOCABLE TRUST,)

CASE NO. A-15-720032

8

Plaintiffs,)

DEPT. NO. XXXI

9

vs.)

10 BANK OF AMERICA, N.A., SUN)
11 CITY ANTHEM COMMUNITY)
ASSOCIATION,)

Transcript of Proceedings

12

Defendants.)

13

AND ALL RELATED CASES.)

14

BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

15

ALL PENDING MOTIONS

WEDNESDAY, MAY 29, 2019

16

17

APPEARANCES:

18

For the Stokes: JOSEPH Y. HONG, ESQ.

19

For Sun City: DAVID OCHOA, ESQ.

20

For Nationstar: DONNA WITTIG, ESQ.

For Nona Tobin: MICHAEL R. MUSHKIN, ESQ.

21

RECORDED BY: SANDRA HARRELL, DISTRICT COURT

22

TRANSCRIBED BY: KRISTEN LUNKWITZ

23

24

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

25

AA 002751

1 WEDNESDAY, MAY 29, 2019 AT 8:45 A.M.

2
3 THE COURT: Okay. It's 8:20 -- it depends on if
4 you go on our clock or you go to our computers. So, I'll
5 say 8:25, 8:26ish, depending on which document you're --
6 which item you're looking at. *Stokes versus Bank of*
7 *America*, page 1 and 2 at 8:30, 720032. I'll let you start
8 making your appearances but, then, I will tell you that my
9 Law Clerk just got a call a moment ago that the one
10 remaining counsel is stuck in traffic. And, as you all
11 know, we have to do it specifically at 8:30 because, well,
12 you can see the rest of this. I've got 110 motions on my
13 CD. So, we'll -- you know, anyway, can I have your
14 appearances who's here?

15 MS. WITTIG: Yes. Donna Wittig for Nationstar.

16 MR. OCHOA: David Ochoa for Sun City Anthem.

17 MR. HONG: Joseph Hong for the Stokes parties.

18 THE COURT: Okay. Well, I'm not sure what to do
19 because you all knew specifically that in order to
20 accommodate -- and I have all counsel here, that this was
21 specifically requested at 8:30. You all knew we were doing
22 a special setting on a Wednesday --

23 MR. HONG: Right.

24 THE COURT: -- which is my construction defect
25 day, because you all promised -- I appreciate it I'm

AA 002752

1 preaching to the people who are -- I'm not even preaching.
2 I'm sorry. I was about to use a cliché. I am speaking to
3 the counsel that are here. But it was only under the
4 specific statement that you all would be here on time at
5 8:30. So, I'm going to wait four minutes and, then, I'm
6 moving to see what you all want the Court to do. So, feel
7 free to have a seat.

8 MR. HONG: Thank you.

9 THE COURT: And I can see I already have some of
10 my counsel already here for my 9 o'clock because they know
11 about the 110 motions that we need to get through. Thank
12 you so much. So, we'll go off the record. I appreciate
13 it. You might get a better estimate. I don't know how
14 long.

15 [Case trailed at 8:27 a.m.]

16 [Hearing resumed at 8:31 a.m.]

17 THE COURT: Okay. It's after the 8:30 hour.
18 *Stokes versus Bank of America*, pages 1 and 2 on my 8:30,
19 720032. Counsel, I haven't done anything in the
20 intervening, there's no one new here. So, did any of you
21 get any update by chance on counsel for Glen [sic] Hansen
22 Trust?

23 MR. HONG: No, Your Honor. Joseph Hong for the
24 Stokes parties. Counsel and I, we spoke over here, and as
25 the Court is aware, we're very, very accommodating in all

1 of these HOA cases. But, frankly, this Motion was filed
2 extremely late and the Court accommodated that side by
3 setting it at this 8:30 session on OST.

4 THE COURT: You mean, because it was filed after
5 the time trial was supposed to commence?

6 MR. HONG: Yes. So, the Court made it very, very
7 clear -- and I think, like, firm was like in capitals, at
8 8:30. So, we want to move forward. With or without oral
9 argument, the Court could rule. But our side here, we'd
10 like to move forward, Your Honor.

11 THE COURT: Okay.

12 MR. HONG: And I also have a 9 o'clock hearing
13 somewhere else.

14 THE COURT: Well, as you can appreciate, as I told
15 everyone, this Wednesday is my construction defect and the
16 only way -- I was trying to balance the fact that I have
17 untimely, last minute OSTs when you all are -- and the
18 Court was taking no position. But, remember, your bench
19 trial, whether it's in this department or it gets
20 overflowed over to another department as I've told you,
21 June 5th. Calendar call, June 3rd. We even pushed the
22 calendar call to try and accommodate this particular date
23 with all this new last-minute things on a 2015 case that
24 has been closed, reopened, set for trial on multiple
25 occasions. And, then, parties requesting all sorts of

1 different things.

2 So, Ms. Tobin is here. Do you know when your
3 counsel is going to be here? I don't need you -- if you
4 don't wish to speak, it's perfectly fine. I'm just trying
5 to get a heads up.

6 MS. TOBIN: I would like to speak. I do not know
7 --

8 THE COURT: Then come -- feel free to come forward
9 and just need you to at least state your name. I'm not
10 saying that you're a party or anything because that's going
11 to be my first question to your counsel was showing me
12 somewhere where you are a party to this case. But do you
13 happen to know when your counsel is planning on getting
14 here?

15 MS. TOBIN: No. I don't.

16 THE COURT: Okay. Well, this Court, as you know,
17 is incredibly accommodating to people to try and meet
18 everyone's needs, which is why we will set things early and
19 we will set things in the middle. I have a wonderful team
20 that helps making sure everyone gets accommodated. It
21 seems to me I can wait a few moments.

22 MS. TOBIN: Your Honor, may I speak?

23 THE COURT: You're represented by counsel so the
24 only reason I could ask you the procedural question if you
25 happen to know when your counsel is here. I can't have you

1 on anything substantively because my first question based
2 on pleading -- and I'm not going to go into anything
3 substantive. I'm just explaining what my first question
4 was going to be after appearances, is based on an
5 Opposition that was filed by -- I'll call it the Stokes
6 party, where it re-asked the Court to go back and see who
7 the, quote, parties were in this case. The first question
8 of this Court was going to ask to see if any way you, Ms.
9 Tobin, are here in any individual capacity.

10 When -- I will say this because I will repeat it
11 again, is after -- based on a prior hearing where everyone
12 said that it was only Ms. Tobin as trustee, back to 2016 --
13 and the Court's not taking any position, I went back and
14 looked in this case. I looked in the consolidated case
15 and, so, my first question was going to be of your counsel,
16 is there anything he could show me where you are here in an
17 individual capacity based on any ruling of the Court. I'm
18 not asking that question yet because I need to have counsel
19 here.

20 But that's why -- I'm just trying to explain to
21 you why I can't go on anything substantively because
22 there's a question that has been raised about whether you,
23 Ms. Tobin, are in this case in any matter, in any
24 individual capacity, or only as a trustee, and as a trustee
25 of a trust represented by counsel. So, that's just my two

1 second explanation of why I can't go any farther at this
2 juncture. We'll wait a few moments to see if counsel is
3 going to be here. And, then, I will take this case if
4 counsel gets here until the time I need to move on to my
5 CD, which you can see by the -- this is only part of it.
6 There's a whole cart. Is the cart in here yet? The cart's
7 about to get in here. There's a whole cart full of
8 motions. There's approximately about 110, including
9 joinders, etcetera, that we need to start on time with,
10 with the parties that properly had this day set aside for
11 them.

12 So, that's the challenge I told you all existed,
13 which is why we said everyone needed to be here ready to go
14 at 8:30. And I appreciate traffic happens. But I got a
15 whole courtroom full of people that seemed to have made it
16 through. And that just means leave your house a little bit
17 earlier. So, let's wait a few moments, see if we have
18 plaintiff's counsel, and, then, we'll see what I can move
19 forward.

20 In the intervening time, you feel -- you can feel
21 free to sit down. I'm just going to see if one of mine --
22 my really quick 9 o'clock matter could possibly is here and
23 maybe I could address that. Is by chance anyone here on
24 the *Henning versus D. R. Horton*, which is also on my 9
25 o'clock?

1 [Case trailed at 8:37 a.m.]

2 [Hearing resumed at 8:44 a.m.]

3 THE COURT: I'm sorry. My apologies. So, for
4 anyone on *Sun City*, feel free to sign in. For *Stokes*, we
5 are going to wait a few more moments and, then, I'm going
6 to take care of my *Sun City* matter, which was the properly
7 noticed matter. So, we'll wait a few more moments to see
8 if anyone shows up on *Stokes*. And, if not, you all are set
9 for trial and I can't hear -- well, I will see what the
10 parties want to do on any parties that are here on their
11 motions. But I do have all the papers and we do not have
12 an update.

13 Counsel, I'm not yet on *Sun City*. Do you need me
14 to go to *Sun City*?

15 [Colloquy on a separate matter]

16 THE COURT: Okay. Now we can go off the record
17 and we'll wait a few more moments and see what -- if anyone
18 shows up on -- if the last remaining party shows up on
19 *Stokes*.

20 [Case trailed at 8:45 a.m.]

21 [Hearing resumed at 8:49 a.m.]

22 THE COURT: Okay. We're back on the record. Ms.
23 Tobin, it's up to you if you want to come to counsel table,
24 stand back there, wherever you want to be. I'm going to
25 have appearances made because I did an intervening case.

AA 002758

1 *Joel Stokes versus Bank of America*, pages 1 and 2, 720032.
2 This was supposed to be the 8:30, it's now 8:50. While the
3 Court understands that around 8:20ish, within a few moments
4 here and there, somewhere between 8:20, 8:24, I guess there
5 was a call by plaintiffs' counsel that he was running late
6 but no estimation of time. As you can see, I've got a
7 courtroom full of people for a trial that's starting.
8 Today is the first day of trial, even though it's CD we're
9 doing 100 -- I said 110, I guess it's really 115 motions.

10 So, we can't keep them waiting. We know when we
11 set this, everyone was here. It was under the specific
12 agreement everyone would make sure they were on time.
13 We've waited 20 minutes. Counsel, can I have your
14 appearances or anybody who's presently here -- and maybe
15 I've paused enough but it looks like somebody's coming.
16 Okay. We need your appearances.

17 MR. MUSHKIN: My apologies, Your Honor.

18 THE COURT: I know. You've got nine minutes. You
19 get nine minutes for this case. It was 8:30 sharp.
20 Everyone had to be here. I've got a courtroom full of -- a
21 special setting on a CD case. Can I have appearances,
22 please, on *Stokes*?

23 MR. MUSHKIN: Mike Mushkin on behalf of the trust.

24 MS. WITTIG: Donna Wittig for defendant
25 Nationstar.

1 MR. OCHOA: David Ochoa for Sun City Anthem.

2 MR. HONG: And Joseph Hong for the Stokes parties.

3 THE COURT: Okay. So, we're going to have about
4 eight minutes because we waited. Everyone knew we had a
5 CD, 115 motions.

6 MR. MUSHKIN: I'm sorry, Your Honor. I didn't
7 know I was appearing on behalf to Mr. Coppedge. I got
8 caught in traffic.

9 THE COURT: Right. I appreciate Mr. Coppedge was
10 here and there was this specific agreement everyone had to
11 be here before 8:30, ready to go at 8:30 because of doing
12 the special setting to accommodate. You all were the ones
13 that filed the incredibly late motions for the trial
14 starting on June 5th.

15 But -- so, the first question the Court has is, is
16 Ms. Tobin anywhere in this case as an individual currently?
17 The Court did not see it by looking at either this case or
18 the consolidated '16 case that got consolidated into this
19 case. I'm calling this case as the '15 case. It started
20 in 2015 and, then, it goes to '16 -- 2016 case that was
21 consolidated into this case. The issue was raised in the
22 briefing. It had also previously been raised. But you're
23 counsel, is there any place at all that you see Ms. Tobin
24 who, in the individual capacity, in this case whatsoever?
25 And the reason why I have to ask that question is because I

AA 002760

1 have to know who is speaking.

2 MR. MUSHKIN: Your Honor, my understanding coming
3 here today is that I was here to appear on a Motion to
4 Withdraw. The Motion to Reconsider was to be heard by --
5 argued by Ms. Tobin, who is now representing herself.

6 THE COURT: That's not --

7 MR. MUSHKIN: I was --

8 THE COURT: -- correct. That's why I need to ask
9 --

10 MR. MUSHKIN: I understand.

11 THE COURT: Yeah.

12 MR. MUSHKIN: And, so my understanding is that,
13 yes, she was named individually.

14 THE COURT: Where? Can you --

15 MR. MUSHKIN: I don't have the entire file in
16 front of me, Judge. I was not prepared to answer that
17 question.

18 THE COURT: Okay. That's a question that's --

19 MR. MUSHKIN: And the motion that you've seen is
20 to substitute the real party at interest because there was
21 a quitclaim deed filed that we learned about 12, 14 days
22 ago.

23 THE COURT: Which raises a whole bunch of
24 different issues. But --

25 MR. MUSHKIN: Exactly.

1 THE COURT: -- the Court has to do this step by
2 step. Okay? So, I'm going to go to the trio table, the
3 Bank, the third-party, HOA. Okay? You all have previously
4 said in a prior hearing that Ms. Tobin was not in the case.
5 At that hearing, you had the Court go and look. You've
6 raised it -- counsel for Stokes, you raised it in your
7 Opposition, you raised the order from 2016 on the Motion to
8 Intervene. Is anyone aware of any place in this case or
9 the consolidated case that Ms. Tobin anywhere as an
10 individual? I appreciate that some captioning has happened
11 that way. I'm trying to look at the case itself.

12 MR. HONG: No, Your Honor. Ms. Tobin has never
13 been in this case individually. What is -- or, my
14 Opposition, my clients' Opposition, it was just an
15 ambiguous caption when the Tobin trustee captioned it Nona
16 Tobin, an individual and trustee. So, she's never been.
17 And I attached a copy of the underlying Motion to
18 Intervene, which was as the trustee, and the order, which
19 was as the trustee. That's it. And that makes sense
20 because Ms. Tobin would never have standing individually
21 because the trust -- the Hansen Trust was the owner at the
22 time of the HOA foreclosure sale.

23 MR. OCHOA: I agree, Your Honor.

24 THE COURT: In 2014 --

25 MR. OCHOA: I'm not aware of any of the -- yeah.

1 THE COURT: Okay. And since there's three of you
2 all, once again, can we just make sure as much as I --

3 MR. OCHOA: David Ochoa for Sun City Anthem. I
4 agree with that representation, Your Honor. I'm not aware
5 of any place that she appears as an individual.

6 THE COURT: We thought you would appreciate
7 scheduling this on the same day. Okay. Counsel for Bank?

8 MS. WITTIG: Sure, Your Honor. I was just going
9 to add that we had this issue looked at closely awhile
10 back. We had -- when we had amend the caption and all
11 parties agreed that parties in the case caption are the
12 parties that are represented and the trust was the proper
13 party to be in the case.

14 THE COURT: So, the reason why the Court had to go
15 through that first preliminary -- and that's why I was
16 asking as counsel, if there's something that's missed, I --
17 you know, no one's perfect. I did look in '15 case, '16
18 cases, because it was raised in the pleadings. So, it's
19 appropriate for the Court -- well, not only -- we got to
20 make sure we have the right parties anyway, sua sponte.
21 But it was specifically re-raised again. The Court read
22 the order. It's attached to the Opposition, I was just
23 grabbing it. So, the order back in 2016 -- well, was --
24 the [indiscernible] the applicant -- okay. Was as the
25 trustee. Okay? And it's even signed and submitted by --

1 now, at that juncture, unfortunately, the issue of who was
2 the proper party was Tobin. While she filed the pleading,
3 says respectfully submitted Nona Tobin, trustee, Gordon B.
4 Hansen Trust, dated 8-22-08. The motion was to intervene
5 as trustee. The order was only as intervening as trustee.

6 So, the Court is going to order stricken anywhere
7 in the record that shows as of this moment, prior to any
8 pleading process that is maybe happening, any motion
9 practice, that -- and this is why we talked about and this
10 is why the Court struck back in April when there was
11 pleadings filed by Ms. Tobin is because there was nothing
12 showing that Ms. Tobin herself was a party in this case,
13 which is why some pleadings were stricken when they were
14 filed by Ms. Tobin back in April. So, consistent with
15 that, this -- no one has demonstrated that Ms. Tobin is a
16 individual party in this case. The Motion to Intervene was
17 on behalf of Ms. Tobin as trustee of the Gordon B. Hansen
18 Trust, dated 8-22-08, is the way that order read back in
19 2000 -- motion filed in 2016, order filed January 11, 2017,
20 NEO filed January 12th, 2017. Okay.

21 So, that being the case, there is the next issue
22 raised in the pleadings is that there was motions -- and
23 this has been previously raised and discussed at prior
24 hearings. Mr. Mushkin, I'm just repeating a couple things
25 because you don't have the benefit of being here at some

1 prior ones. Okay? So, I'm reiterating some things. When
2 I said a moment ago the reason why the Court had to strike,
3 I'm sure you realized in April, that means things that were
4 filed by somebody who is not a party can't be considered by
5 the Court. Okay? Which raises some of the pleadings that
6 are set for today. Okay? Two different issues.

7 So, the next question this Court has -- and, in
8 reading through everything and the various motion practice,
9 is the reason why the Court was first going address, as I
10 said the Motion for Reconsideration, because the motion for
11 Reconsideration would address who the parties are in here.
12 And part of that Motion for Reconsideration addresses the
13 underlying issue as to -- you all should feel free to sit
14 down, stand up, whatever's comfortable for you. Yu know I
15 say that all the time. But is addressed is the underlying
16 issue with respect to who is the real party in interest,
17 who has standing, and the additional issue raised in the
18 pleadings is some of these newest documents filed in the
19 2019 time frame mention a whole different trust name.
20 Okay? Which is a different issue because the motion was
21 granted in 2016 for the -- and that's why I was trying to
22 be very clear, what was represented to be the Gordon B.
23 Hansen Trust, dated 8-22-08. There is new pleadings filed
24 that say Gordon B. Hansen Trust, dated 8-22-08, with an
25 amendment or a revision in 2011.

1 So, that makes a difference, as we all know under
2 trust law. Right? Is that a separate trust? Is it a full
3 revised trust? Is it an amended trust? It also may or may
4 not make a difference as to who are the beneficiaries. the
5 Court does not have the benefit of that information, which
6 was another question this Court was going to ask. Because,
7 separate and apart from the fact there was an untimely
8 supplement, which is unauthenticated, that was filed in
9 this case, which the Court may or may not be even able to
10 consider.

11 But, going beyond that, even if the Court were to
12 potentially consider, which you referenced, found out 14
13 days ago, presumably you're talking about a quitclaim deed
14 that was filed in a supplement untimely. It -- can't file
15 supplements without court permission. After --
16 particularly, after Oppositions. Particularly when there's
17 OST dates with specific dates filed. That being a separate
18 and distinct other issue --

19 MR. MUSHKIN: She's talking about the date of the
20 filing, not the date of the trial -- of the --

21 THE COURT: Well, the date ---

22 MR. MUSHKIN: The --

23 THE COURT: -- of 2017 with an operative
24 foreclosure in 2014, and a case filed in 2015, and the
25 second case consolidated in 2016 presents its own other

1 unique challenges, which I had not yet gotten to.

2 MR. MUSHKIN: That's --

3 THE COURT: But --

4 MR. MUSHKIN: You're absolutely correct, Judge.

5 THE COURT: That's -- I haven't even got to that
6 one yet. I was really going on pure nomenclature.

7 Because, going back to the order and going back to the
8 Motion to Intervene, when you go back to those documents
9 specifically raised in the Opposition -- and I've only got
10 a moment here because you know where this is going. Right?
11 Is -- in those underlying documents, when that Motion to
12 Intervene was first filed, two beneficiaries specifically
13 stated in the affidavit, Hansen's son and Ms. Tobin. So,
14 the Court then was going to -- even if I could consider a
15 potential quitclaim deed from a trustee to one of the
16 beneficiaries of a different trust named than the trust
17 that originally came into this case in 2016, there would be
18 a question about how a trustee could transfer a quitclaim
19 deed to only one of two beneficiaries when the two
20 beneficiaries, under a prior pleading, are stating that
21 there's two beneficiaries.

22 So, whether the Court could even: A, consider
23 that because it's timeliness issue; B, the inconsistencies
24 with prior pleadings submitted in this Court; and what this
25 Court should be considering anyway. That would be part of

1 the questions that this Court was going to have before I
2 could even -- that's why I was going to have to address the
3 Motion for Reconsideration first because I can't consider a
4 Motion to Withdraw to replace a individual while you
5 potentially could withdraw. You have an EDCR 7.42 problem
6 because until the issue of the trust is resolved, there
7 will be no representation.

8 The Court has to take into consideration with any
9 Motion to Withdraw -- you are set for trial, as you know,
10 June 5th. So, the Court has to take into consideration with
11 regards to any Motion to Withdraw and a calendar call of
12 June 3rd and that June 3rd was only to accommodate two days.
13 And while I appreciate I have the other trial, everybody
14 knew this was going to get sent to overflow. And, so, it
15 still was going to go forward so that's not an issue here.

16 But, as you know, counsel, issue on withdrawing,
17 if it's going to impact a case, and impact a trial, and
18 doing all those other things that the Court has to consider
19 on a withdrawal, and how the Court grant a withdrawal when
20 there is a trust, which has to be represented in an EDCR
21 7.42, with a calendar call on June 3rd and a trial on June
22 5th presents other challenges that this Court was going to
23 have to ask, I can't ask.

24 It's now after the 9 o'clock hour and I think
25 you're going to tell me Mr. -- well, Mr. Mushkin, do you

1 know the answer to all those questions that the Court was
2 going to have to ask before I even got to the motions
3 themselves?

4 MR. MUSHKIN: No, Your Honor. I do not.

5 THE COURT: Because you said you were filling in
6 for somebody else.

7 MR. MUSHKIN: Yes, ma'am.

8 THE COURT: Which that presents the challenge.
9 So, it seems to me from today's purpose, I cannot -- the
10 Motion for Reconsideration was filed by Ms. Tobin -- let me
11 make sure I am -- my recollection because I was writing.
12 Because you raised in your Opposition the Reply should be
13 stricken because it was not filed.

14 MR. HONG: Right.

15 THE COURT: But I have to go back to the
16 underlying motion. Let's go back to the underlying Motion
17 for Reconsideration. Without even taking into account
18 whether or not -- a Motion for Reconsideration was filed by
19 your firm as attorney to Nona Tobin, an individual and as
20 trustee of the Gordon B. Hansen Trust. But, once again,
21 the trust -- it's unclear because there's a 2008 and, then,
22 it also says it's also 2011 revised. So, I don't even have
23 the same trust number. So, it's your motion. Counsel,
24 that's why I have to address this first. I -- what's your
25 position on whether or not I can even address any of these?

1 MR. MUSHKIN: Your Honor, I believe that there is
2 but one trust, even though there might be an amendment to
3 the trust. The Court's inquiry is proper but I think that
4 the party as a trust is proper. There are two trusts.

5 THE COURT: Okay. And --

6 MR. MUSHKIN: So, to that extent, I don't think
7 that's an issue that stops us. The Motion to Reconsider is
8 lengthy and the Court can address it as it sees fit.

9 THE COURT: But you told me you weren't prepared
10 to argue it today because you were -- right?

11 MR. MUSHKIN: I've read it. I just don't have the
12 background in the case. And, frankly, Your Honor, I'm not
13 sure I'm the proper person to argue it, given that the
14 quitclaim deed, whatever interest it may have existed in
15 the trust, is now transferred. The individual before you
16 that claims ownership, the real party at interest, is here.

17 So, I'll do whatever the Court wants, including
18 submit it on the pleadings.

19 THE COURT: I'm sure you can appreciate that I --
20 the questions in the underlying trust have to be answered.
21 Do they not? Because you may or may not recall that if you
22 look into this case historically, the case initially, the
23 first intervention motion included two parties, Ms. Tobin
24 and Mr. Hansen, the son, not the deceased Mr. Hansen.

25 MR. MUSHKIN: I understand, Judge.

1 THE COURT: And, then, there was an
2 unauthenticated document that there was a new motion that
3 came before the Court. And, so when the Court's looking at
4 the record, it says two benes, two beneficiaries. And yet,
5 a 2017 transfer in the name of only one beneficiary with no
6 trust document to support that the trustee can do that,
7 there's nothing that's been provided to this Court that
8 gives any of that background or information. So, how can
9 this Court move --

10 MR. MUSHKIN: And nothing was provided to us,
11 Judge. The only thing that I would suggest is if you'd
12 like us to supplement the pleadings, we can do that. And,
13 then, the Court can rule.

14 THE COURT: How do I do that when I have a trial?
15 You're set for trial next week, folks. That's -- that is
16 the challenge of the timing of all this as well. Right?
17 Because you all did the OST and you did what you did when
18 you did it, which I appreciate your filling in today, which
19 is why I'm trying to get it --

20 MR. MUSHKIN: My -- our problem, Judge, is we
21 didn't know of the transfer.

22 THE COURT: Well, that's a --

23 MR. MUSHKIN: But for that transfer --

24 THE COURT: I can't go into attorney-client
25 communications, as you know. And, so, that's why I'm

1 stopping you right there.

2 MR. MUSHKIN: No, no. I'm -- but we have to
3 disclose to the Court what we know and what we don't know.

4 THE COURT: Well, that's too --

5 MR. MUSHKIN: Thus, we're in that position that we
6 had to file the Motion to Withdraw. So, we'll do what the
7 Court instructs.

8 THE COURT: I want to hear you all's position but,
9 I will tell you, this is -- seems like I'm going to hear
10 this at the calendar call and, then, everyone has to be
11 prepared for trial and start two days later. And I'm going
12 to have to get this transferred to a different department.
13 Counsel?

14 MS. WITTIG: Sure, Your Honor. Donna Wittig for
15 Nationstar. Nationstar has a limited interest in that
16 reconsideration motion. Our interest is that there was a
17 tender. We believe that preserved the Deed of Trust. So,
18 as far as the HOA and the Tobin trust individual, whatever
19 that is, our position is, again, what was in our limited
20 Joinder to that motion.

21 That being said, just looking at the
22 reconsideration motion, it sounds like they haven't met
23 their burden in seeking reconsideration and convincing the
24 Court that they even have standing to bring that. And, so,
25 on that basis, it should result in a denial.

1 THE COURT: Sun City, it's your Opposition because
2 it was your Motion for Summary Judgment that got granted.
3 Go ahead, counsel.

4 MR. OCHOA: Are we arguing the Opposition right
5 now, Your Honor?

6 THE COURT: I'm asking what the parties are asking
7 this Court to do in light of all these issues that you all
8 raised in your various pleadings, which is why the Court
9 had to give a long introduction.

10 MR. OCHOA: We believe that the trust is the
11 proper party and that's who she proceeded as. That's, I
12 think, what the order is against. And we believe you
13 should deny the Motion for Reconsideration.

14 MR. HONG: Yes, Your Honor. Joseph Hung for the
15 Stokes parties. We filed a Joinder to that and we agree
16 the Motion for Reconsideration should be denied. The
17 burden had not been met.

18 THE COURT: So, counsel, I guess I'm going to ---
19 sorry for *Sun City*, I'm going to take five minutes, I got
20 to deal with this Motion for Reconsideration because
21 they're set for trial, too. And, sorry, as you know, we
22 were here ready to go.

23 So, I guess I'll hear the Motion for
24 Reconsideration. You all teed it up for today. I signed
25 the OST. Your -- counsel, I can't address the withdraw

AA 002773

1 aspect when I don't have anything that shows that a trust -
2 - and I said -- I told everyone I was doing the Motion for
3 Reconsideration first anyway when this hearing got set.
4 So, Motion for Reconsideration, if you wish to argue it,
5 you can argue it, Mr. Mushkin. If you wish to submit it on
6 the papers, you can submit it on the papers.

7 MR. MUSHKIN: Your Honor, --

8 THE COURT: If you wish to know the Court's
9 inclination, I can tell you all the Court's inclination on
10 the Motion for Reconsideration. What would you like?

11 MR. MUSHKIN: We'd certainly like to hear the
12 Court's inclination.

13 THE COURT: The Court's inclination is I need to
14 deny it. I need to deny it for two different bases, both
15 procedurally. When you look at any Motion for
16 Reconsideration, you have an evidentiary burden to show
17 that there's new facts, laws, etcetera. After reading the
18 totality of the motion, even in the most generous sense and
19 taking into account the Reply as well, subject to the
20 Motion to Strike, but even taking into account the totality
21 of all the pleadings presented to this Court, the Court
22 doesn't see that there's any new facts, any new law, any
23 new error by this Court. So, I look at it procedurally.

24 Then, if the Court were to go past that first
25 aspect of a Motion for Reconsideration, then its

1 inclination then would be, looking at even substantively,
2 taking the totality and, then, even going through this
3 entire case, doesn't see that the parties that have raised
4 the issues meet for independent reasons. You could go
5 simply to the prior e-mails from Ms. Tobin submitted where
6 she says that she pretty much just wanted a finder's fee
7 afterwards. Okay? I think those are some September 2014
8 e-mails that were attached to prior motions, even not even
9 taking into that.

10 So, giving the benefit of the doubt of looking at
11 the totality of everything to see if there was some basis,
12 it would be no. Not taking the totality, only going on the
13 specific pleadings in the Motion for Reconsideration, that
14 everything was attached in the 500-page -- plus pages.
15 Right? And not even taking into account the fact that much
16 of it's unauthenticated so the Court shouldn't consider it,
17 even giving the full benefit of the doubt if I could
18 consider everything.

19 So, procedurally, I can't consider a lot of it
20 because it's not authenticated, no affidavit, can't
21 consider it. Okay? But even if I -- reading every single
22 thing in the benefit the most light -- most favorable to
23 the party moving for reconsideration regarding those
24 procedural things, looking at it substantively, it doesn't
25 meet the burden. And the Court would reaffirm. That's the

1 Court's inclination.

2 MR. MUSHKIN: Submitted, Your Honor.

3 THE COURT: Does anyone want to be heard on this
4 side?

5 MR. OCHOA: No.

6 MS. WITTIG: Nothing further from Nationstar.

7 THE COURT: Okay. Well, then, it'll be nothing
8 further than the Court's going to turn its inclination into
9 an order. So, the Motion for Reconsideration is denied.
10 Counsel, what do you want me to do about the Motion to
11 Withdraw in light of the questions about proper party?

12 MR. MUSHKIN: We'll take it off calendar, Judge.
13 I -- you're not going to grant it. It's too close to trial
14 anyway.

15 THE COURT: Okay. Motion to Withdraw is taken off
16 calendar. The Court need not rule. Thank you so very
17 much. See you at the calendar call, folks. Whoever is
18 left in the case.

19 MR. MUSHKIN: Thank you, Your Honor.

20 THE COURT: Make sure you get me an order. Right?
21 with an NEO. Otherwise, you're showing up to calendar
22 call.

23 ...

24 ...

25 ...

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. WITTIG: Yes.

MR. OCHOA: Okay.

THE COURT: Thank you so much.

PROCEEDING CONCLUDED AT 9:12 A.M.

* * * * *

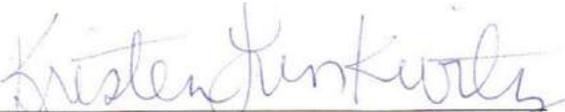
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.



KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER