

FILED

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JUN 21 2022
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY [Signature]
DEPUTY CLERK

NONA TOBIN, AN INDIVIDUAL,
APPELLANT,

vs.

BRIAN CHIESI, AN
INDIVIDUAL, DEBORA CHIESI,
AN INDIVIDUAL; QUICKEN
LOANS, INC.; JOEL A.
STOKES, AN INDIVIDUAL;
JOEL A. STOKES AND SANDRA
F. STOKES, AS TRUSTEES OF
JIMI JACK IRREVOCABLE
TRUST; JIMI JACK
IRREVOCABLE TRUST;
NATIONSTAR MORTGAGE LLC;
AND RED ROCK FINANCIAL
SERVICES,

RESPONDENTS

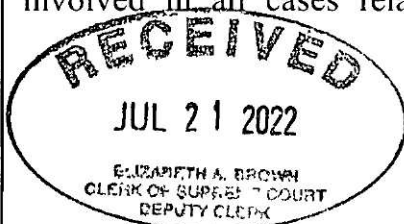
Court of Appeal Case No. 82294-COA

District Court Case A-19-799890-C

Appellant's Declaration in Support of
Motion to rehear Order of Affirmance
pursuant to NRAP 40; and motion for an
order to show cause why sanctions
should not be imposed pursuant to
NRCF 11(b); (NRS 18.010(2), and
EDCR 7.60(b)(1)& (3) NRS 42.005;
NRCF 60(b)(3)&(d)(3); NRPC 3.1, 3.3,
3.4, 3.5A, 4.1, 4.4, 5.1, 5.2, 8.3, &/or 8.4
and to support a motion for referral to the
Nevada Attorney General for criminal
investigation pursuant to NRS 205.330;
NRS 205.360; NRS 205.377; NRS
205.395; NRS 205.405; NRS 205.450;
NRS 205.455; NRS 207.360 (9) (28)
(30)(35); and/or NRS 207.470 (1) & (4)

I, Nona Tobin, declare and state, under penalty of perjury of the laws of the
State of Nevada, as follows:

I am personally familiar with the court records of all the related cases from
my date of entry as a Pro Se on 7/29/16. I am the only person who has been
involved in all cases related to the dispute. I also personally documented



1 everything that I am relating in this declaration as to what I did and what happened
2 to me during the ten years since my late fiancé's death on 1/14/12 since I became
3 the executor of his estate, and the sole successor trustee of the Gordon B. Hansen
4 Trust, date 8/22/08, ("Hansen Trust") that was the owner at the time of the 8/15/14
5 disputed HOA sale.
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7
8 This declaration is made under penalty of perjury to support three motions:

9 1. APPELLANT'S PETITION FOR REHEARING 6/30/22 ORDER OF
10 AFFIRMANCE 22-20634

11
12 2. Appellant's motion for an order to show cause why sanctions should not be
13 imposed pursuant to NRCPC 11(b) (1)(2)(3) &/or (4); NRS 18.010(2); and
14 EDCR 7.60(b)(1)&(3); NRS 42.005; NRCPC 60(b)(3)&(d)(3); NRPC 3.1,
3.3, 3.4, 3.5A, 4.1, 4.4, 5.1, 5.2, 8.3, &/or 8.4

15 3. Appellant's motion for an order to refer this matter to the Nevada
16 Attorney General or other appropriate legal authority, for civil and/or
17 criminal investigation pursuant to:

- 18
19 4. NCJC 2.9 (prohibited ex parte communications),
20 5. NRS 104.3301 (entitlement to enforce a promissory note);
21 6. NRS 205.330 (fraudulent conveyance);
22 7. NRS 205.360 (knowingly accepting fraudulent conveyance).
23 8. NRS 205.377 (multiple transactions involving deceit in enterprise).
24 9. NRS 205.395 (executing, acknowledging, or recording false claims to title);
25 10. NRS 205.405 (falsifying accounts);
26 11. NRS 205.450 (personating another in a false claim to title);
27 12. NRS 205.455 (personating another is same as stealing);
28 13. NRS 207.360 Racketeering defined as
14.(9) Taking property when not a robbery
15.(28) Taking property by false pretenses
16.(30) Presenting false evidence;

1 17 (35) Violations of NRS 205.377(multiple transactions involving deceit);
2 NRS 207 470(1)&(4) Treble damages as civil penalty for damages caused by
3 racketeering

4 This declaration is supported by 14 exhibits, and it relates to multiple appeal
5 cases 79295, 82234, 82294 and 82294-COA and a pending petition (84371).
6

7 As an initial matter, I am filing this declaration and these exhibits to
8 establish for the Court that, upon returning to my Pro Se status in December 2021,
9 I took heroic measures (Ex. 1, 2, 3, 4, 5, 8, 9, 10), to ensure that that errors or
10 omissions of my former counsel did not assist my opponents in obstructing my
11 case from being heard AGAIN on its merits (Ex. 3). I want to ensure that this Court
12 addresses my arguments, particularly that claims preclusion cannot apply to the
13 facts of this case as my opponents' fraud on the court (Ex. 1,3,7) prevented a full
14 and fair opportunity to litigate in the 1st and 2nd actions and in a 3rd action (A-21-
15 828840-C) still pending.
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19 **A. What the legal authorities and evidence In Exhibits Demonstrate**

20 1. The servicing banks (Nationstar after 12/1/13, Bank of America (BANA)
21 before 12/1/13) NEVER recorded a notice of default, as mandated by NRS 107,
22 as amended by AB 284 (2011) (Ex. 13), to initiate foreclosure on the 7/22/04 1st
23 deed of trust and therefore, 1) they had no standing to sell the property to collect
24 the \$389.000 balance remaining outstanding when the borrower, Gordon (Bruce)
25 Hansen died; or 2) be a party to a quiet title action after an HOA foreclosure sale
26 that could have been prevented by recording the mandatory notice of default (NRS
27 116.31162(6)(2013) (Ex. 13); or 3) to violate the PUD Rider Remedies Provision
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1 F. (Ex. 13) to confiscate the owner's property without foreclosure; 4) to release
2 the lien and record a reconveyance deed reconvey to someone other than me as
3 sole beneficiary of the estate of the deceased borrower, as Nationstar did, without
4 legal authority (NRS 104.3301) (Ex. 13), on 6/3/19;

5 2. BANA refused the deed in lieu of foreclosure when I offered it in July 2013
6 for ZERO consideration; or taken possession in July 2013 without foreclosing and
7 or accepting the offered deed in lieu; (NRS 104.3301) (Ex. 13)

8 3. BANA unlawfully (PUD Rider remedies provision of the 7/22/04 1st deed
9 of trust) circumvented me, the listing agent Doug Proudfit, and Ticor Title when
10 it tendered \$825 to cover the super-priority when the property went into escrow
11 on a \$395,000 sale to Mazzeo after I had instructed the escrow holder to pay the
12 HOA whatever was demanded.

13 4. Both servicing banks obstructed closing escrow four times on full-priced
14 sales where I had instructed escrow to pay the HOA whatever Red Rock
15 demanded at the close.

16 5. Red Rock unlawfully paid itself first (contrary to NRS 116A-640(8)) (Ex.
17 13) unauthorized fees and fines that unfairly created a default when specific
18 instructions stated that my \$300 check 142, made out to the HOA and dated
19 8/17/12, was for the \$275 delinquent assessments and the \$25 authorized late fee
20 to cure the delinquency of the 7/1/12-9/30/12 quarterly installment.

21 6. Red Rock covertly and unlawfully rejected the 5/8/13 Miles Bauer tender
22 of \$825 when \$825 covered the actual amount of assessments then delinquent, but
23 did not include the unauthorized fees that Red Rock demanded. NRS 116A.640(9)
24 (Ex. 13) prohibits an HOA manager from rejecting an assessment payment just
25 because other amounts may be due.

26 7. Red Rock covertly rejected Nationstar's \$1,100 offer of one year of
27 assessments made to close escrow on the 5/8/14 \$367,500 auction.com sale to
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1 MZK Properties, then covered it up by misrepresenting the more than super-
2 priority offer to the HOA Board as a nonexistent owner request for waiver and
3 then produces falsified documents in discovery to fake notices allegedly sent to
4 me that said the Board denied my non-existent waiver request.

5 8. The excess proceeds from the sale should have been distributed in 2014
6 when Red Rock instructed Steven Scow to remit a \$57,282.32 check to the Clark
7 County District Court; (**Ex. 9**).

8 9. In 2015, Joel A. & Sandra F. Stokes as trustees for Jimijack Irrevocable
9 Trust recorded a fraudulently notarized deed (NRS 111.345; (NRS 111.175) (**Ex.**
10 **13**), falsely claiming to have acquired the property on 6/8/15 when the HOA
11 Resident Transaction Report (RTR) shows that Jimijack Irrevocable Trust was the
12 2nd owner of the property as of 9/25/14, and the RTR has no record of Opportunity
13 Homes, LLC, the alleged purchaser at the 8/1514 sale, as ever owning the
14 property, and the RTR has no record of F. Bondurant LLC ever owning this
15 property, contradicting the fraudulent deed F. Bondurant executed to Jimijack);
16 (**Ex. 9 re Hong**)

17 10. The HOA Board and management failed to inform me in 2016 of the CC&R
18 XVI provision "Alternate Dispute Resolution Limits on Litigation", and left me
19 with no legal remedy but civil litigation.

20 11. Upon the advice of counsel, the HOA Board and management refused to
21 investigate my complaints about the HOA's agents usurping the authority of the
22 HOA Board (SCA bylaws 3.20/3.18), secretly selling the property without notice
23 to me or to ANY of the others with a known interest; (**Ex. 9 re Ochoa &**
24 **Clarkson**), and covertly retaining the excess proceeds of the multiple sales
25 conducted for Sun City Anthem.
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1 12. The litigation attorney, David Ochoa, unilaterally rejected my 3/22/17 offer
2 to settle at no cost to me or to the HOA without getting Board approval, forcing
3 me into litigation I did not want to pursue.

4 13. The HOA sale could have been voided in its entirety in 2017 simply by the
5 HOA filing a non-opposition to my 3/3/17 motion to void the sale (subject to the
6 otherwise extinguished security interests), FirstService Residential, LLC (FSR
7 dba Red Rock Financial Services, a partnership (EIN 88-0358132), instead of
8 deciding to cover up their agents' wrongdoing; (**Ex. 9, 12**)

9 14. Red Rock and the HOA did not participate in NRS 38.310 (**Ex. 13**),
10 mediation in good faith in 2018. Instead they concealed the HOA's official records
11 to cover up the fraudulent manner in which Red Rock had conducted the sale; (**Ex.**
12 **9 re Ochoa, Clarkson, & Scow**), and produced in discovery Red Rock's
13 unverified, uncorroborated, blatantly falsified foreclosure files and passed them
14 off as the HOA's official records.

15 15. In 2018 Steven Scow participated in NRS 38.310 mediation instead of any
16 of the unidentified Red Rock partners, but did not participate in good faith,. Scow
17 acknowledged that he had the undistributed excess proceeds, but he did not tell
18 me at that time that he had been instructed on 8/28/14 to remit the \$57,282.32
19 excess proceeds check to the court for interpleader.

20 16. Upon information and belief, Scow knew that he had no legal authority to
21 retain the proceeds of this sale, or to retain the proceeds of the other five properties
22 he was simultaneously instructed to interplead on 8/28/14, or to retain the
23 proceeds of the other dozen SCA foreclosures Red Rock conducted before being
24 fired by the HOA in 2015. Scow has failed to remit the excess proceeds to the
25 court to this day, now eight years later, despite the fact the that I have been the
26 sole claimant; (**Ex. 9 re Ochoa, Clarkson, & Scow**)
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1 17. In 2018, I attempted, through my attorney to get NSM's then attorney,
2 Karen Whelan, to join me in a motion for judgment against the HOA to void the
3 sale. She refused to agree, and Akerman removed her from the case.

4 18. Without good cause, Nationstar refused to join me in a motion for summary
5 judgment to void the sale (**Ex. 9 re Morgan**) in its entirety as was appropriate
6 given that when Red Rock rejected the Miles Bauer 5/8/13 tender of the \$825
7 super-priority, only nine months of assessments were then delinquent and so,
8 absent a sub-priority portion of the lien, the whole sale was void and both
9 Nationstar's and my interest would be 100% preserved. Instead, Nationstar chose
10 to make a fraudulent ex parte side deal with Jimijack in order to steal the property
11 from me without either of them being required to produce ANY evidence to
12 support their title claim against me.

13 19. In 2014 Red Rock also covertly rejected Nationstar's own 5/28/14 offer of
14 \$1,100 that was the \$367,500 auction.com sale I had approved on 5/8/14 and was
15 in escrow. This rejection also made the sale void in its entirety

16 20. Red Rock secretly sold the property for \$63,100 on 8/15/14; (**Ex. 9 re**
17 **Ochoa, Clarkson, & Scow**) after it had rejected three assessment payments that
18 cured the default: 1) misapplied my check 142 on 10/18/12, 2) rejected the Miles
19 Bauer 5/9/13 \$825 super-priority tender, and 3) rejected Nationstar's 5/28/14
20 \$1,100 more than super-priority offer.

21 21. In 2019, all of the parties/attorneys concealed inculpatory material facts
22 from the court or withheld documents requested in discovery. (**Ex. 9 re Ochoa,**
23 **Clarkson, Hong, Morgan & Scow**)

24 22. In 2019 attorneys Melanie Morgan, Akerman LLP, for Nationstar, and
25 Joseph Hong for Joel A. & Sandra F. Stokes as trustees for Jimijack Irrevocable
26 Trust, ("Jimijack") orchestrated an ex parte meeting with Judge Kishner (NCJC
27 2.9) (**Ex. 9 re Morgan & Hong**) that derailed my case and unfairly removed me
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1 as a necessary party in the 1st action (NRCP 19; NRS 30.130; NRS 12.130; NRCP
2 24) (**Ex. 13**).

3 23. In 2019 the HOA filed a meritless, partial motion for summary judgment
4 vs. the Hansen Trust for quiet title when neither the HOA nor the Hansen Trust
5 had any interest in the title to protect (Kress); (**Ex. 9 re Ochoa, Clarkson, &**
6 **Scow**), that was solely supported by the falsified records produced by Red Rock
7 and was completely contradicted by evidence I filed , but which was stricken.

8 24. The statement in the order, granting the HOA's 2/5/19 motion, entered on
9 4/18/19, is provably false:

10 "The totality of the facts evidence that the HOA properly followed the
11 processes and procedures in foreclosing upon the Property." (4/18/19 NEFF)

12 25. Without holding the required (NRS 40.110(1) (**Ex. 13**) evidentiary hearing
13 and without considering ANY of my evidence, the court in the 1st action granted
14 quiet title to Jimijack by granting the HOA's meritless, unwarranted partial
15 motion for summary judgment, by relying entirely on Red Rock's unverified,
16 uncorroborated, blatantly falsified foreclosure files after the HOA attorney
17 misrepresented Appellant's verified evidence, and the State of Nevada's notice of
18 HOA sale compliance records, and concealed the HOA's official Board meeting
19 records and enforcement and compliance records and accounts. (**Ex. 8, volume**
20 **16, 17, 18; Ex. 9 Ochoa, Clarkson, & Scow, 10**)

21 26. The court records (**Ex. 12**) show that my claims have NEVER been heard
22 on their merits and that the evidentiary hearing mandated for a court to determine
23 adverse interests in a title dispute (**Ex. 13**) has NEVER been held.

24 27. The evidence and legal authorities do NOT show is that there was EVER
25 any judicial scrutiny of the verified evidence I filed or any appropriate application
26 of the relevant legal authority.
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1 28. A partial list of some of the falsified Red Rock collection and foreclosure
2 documents that Steven Scow for Red Rock and David Ochoa produced in
3 discovery in the 1st action that served as the sole basis for the order entered on
4 4/18/19, can be accessed, along with excruciating detail of the misrepresentations
5 of counsels, via the hyperlinks to volumes of the 84371 petitioner's appendix that
6 relate to my uninvestigated complaint to the Nevada State Bar and the Nevada
7 Commission on Judicial Discipline. (**Ex. 8, 9, 10**).

8 29. The Appellant's Appendix (**AA volume 17, 3368 – 3543**) contains the
9 HOA's motion for summary judgment that has 19 supporting exhibits, virtually
10 all of which misrepresent the facts and defame me.

11 30. I attempted to dispute the HOA's MSJ and Nationstar's joinder in the 1st
12 action by filing on 4/24/19, (**Ex. 8, volume 16, 2121- 2299**), a motion to vacate
13 the order entered on 4/18/19 as there were many disputed material facts.
14 Simultaneously, I filed a counter motion for summary judgment vs. all parties and
15 fictitious defendants, that alleged it had been obtained by fraud. (**Ex. 8, volume**
16 **7, 829-946**).

17 31. My motion to vacate the 4/18/19 order and counter-MSJ were never heard
18 or decided as, unbeknownst to me, the 1st Court had met ex parte the day before
19 with the attorneys for Jimijack and Nationstar. At that ex parte meeting, the judge
20 and the opposing counsels had decided among themselves that I was really NOT a
21 party in the case as an individual, and that all my pro se filings were therefore
22 rogue and were stricken by ex parte bench order. (**Ex. 8, volumes 5, 6, 9, 10, 11,**
23 **12, 13, 14**).

24 32. Despite not holding the evidentiary hearing required by NRS 40.110(1)
25 (**Ex. 13**), the 1st court denied the Hansen Trust/Tobin motion for reconsideration,
26 by order entered on 5/31/19, that contained another provably false, case-
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1 concluding statement that utterly misconstrued the evidence in favor of my
2 opponents:

3 “even if the Court reviews the substance of the pleadings before the court and
4 in the record, reconsideration is not warranted. The substantial exhibits that
5 have been submitted in the case demonstrate that Nona Tobin as Trustee of
6 the Trust was aware of the foreclosure and did not seek to stop the foreclosure.
The May 2, 2019 (sic) Order, without addressing super-priority, establishes
the HOA had a valid lien and properly noticed the foreclosure sale.”

7 33. No facts or evidence support this statement in the order. The 1st Court made
8 after disregarded or misconstrued the evidence I prepared, and my attorney filed,
9 that included: four new declarations under penalty of perjury that supported my
10 claim that I had no notice whatsoever of the sale I was not aware that Red Rock
11 planned an 8/15/14 sale until after it was over.

12 34. There was nothing I could do to stop it. However, the evidence is very clear
13 that there was plenty Nationstar could have done to stop the HOA sale, but, in
14 provable fact, did nothing to stop it, and then Nationstar came back years later to
15 falsely claim that it was the beneficiary of the 1st deed of trust (not just the servicer
16 as it provably was) and without providing any evidentiary support, to claim that
17 the HOA sale was valid to extinguish my title claims (even though there was
18 provably no sub-priority portion of the lien when Red Rock rejected the Miles
19 Bauer 5/9/13 super-priority tender) interests, but invalid to extinguish the interest
20 Nationstar was lying about owning.

21 35. What the evidence actually shows is that between 2012 and 2014, I accepted
22 and opened escrow on four full-market-price offers from bona fide purchasers,
23 and I instructed escrow to pay the HOA whatever was demanded at close of
24 escrow. None of these full-value, arms-length sales closed escrow because they
25 were rejected by the loan servicers, Nationstar and its predecessor BANA,
26 allegedly on behalf of the beneficiary whom they refused to identify, and then
27 intermittently, falsely claimed to be. (**Ex. 8, volumes 12 & 14**)

1 36. On 5/8/14, I accepted the \$367,500 high bid on auction.com from MZK
2 Properties, LLC, and the sale was in escrow until 7/25/14 when Nationstar
3 instructed my listing agent to put the property back on the market at a higher list
4 price (\$390,000) and instructed me to make a \$375,000 counter-offer to Yvonne
5 Blum whose earlier offer had been rejected by my agent after I had accepted a
6 2/25/14 \$340,000 cash offer from Red Rock Regional Investors, LLC.

7 **(Appellant's Appendix volumes 12 & 14)**

8 37. Further, what the evidence actually shows is that I contacted Red Rock in
9 September 2014 in order to make a claim for the excess proceeds, but I was told
10 falsely that they had been given to the court for interpleader and that I would get
11 a notice to make a claim. No such notice ever came, and eventually I filed my first
12 claim for the excess proceeds in 2017. **(Ex. 9 re Scow)**

13 38. Further, what the evidence actually shows is that Red Rock did not have
14 ANY valid authorization from the HOA Board to sell this property, or to sell any
15 of a dozen other Sun City Anthem properties, that it secretly sold in 2014 before
16 the HOA terminated Red Rock's 4/27/12 debt collection contract. **(Ex. 9 re Scow,**
17 **Ochoa & Clarkson)**

18 **B. About my multiple claims for the excess proceeds from my personal**
19 **contact with Red Rock in 2014 to my 100% unsuccessful civil claims**
20 **for the still undistributed excess proceeds, plus interest and penalties,**
21 **filed as the sole claimant, on 1/31/17, 8/7/19, 6/30/20, 3/8/21, 4/12/21,**
and 5/30/22.

22 39. All the evidence indicates that Steven Scow's refusal to distribute the
23 proceeds to me as the sole claimant is not a one-off, upon information and belief,
24 it is a corrupt business practice. **(Ex. 9 re Scow)**

25 40. There is no evidence that Steven Scow ever distributed any of the excess
26 proceeds after any of the HOA sales Red Rock conducted for Sun City Anthem
27 before it was terminated in 2015. **(Ex. 9 re Scow)**

1 41. There is every reason to believe that if I had died, or just quit trying my
2 claim the proceeds after my claims were dismissed, that Steven Scow, and his
3 unidentified partners, would continue to keep them in an unaudited, co-mingled
4 account with no one the wiser. **(Ex. 9 re Scow)**

5 42. Here is a list of Sun City Anthem properties for which there is no record
6 that the excess proceeds were ever distributed. There is every reason to believe
7 that there are tens of thousands of other properties that Red Rock acquired and
8 sold, sometimes in bulk or directly to speculators, like a debt buyer and not at a
9 public auction as required by NRS 116 as is required of a fiduciary agent for the
10 HOA. **(Ex. 9 re Scow; Ex. 13)**

11 190-06-214-036	1382 Couperin Dr
12 190-06-410-083	2532 Granville Ave
13 190-17-310-002	2227 Shadow Canyon Dr
14 190-18-312-003	2175 Clearwater Lake Dr
15 190-18-613-021	2416 Idaho Falls
16 190-18-713-093	2115 Sandstone Cliffs
17 190-18-812-053	2260 Island City
18 191-12-210-030	2842 Forest Grove
19 191-12-512-023	2721 Evening Sky
20 191-13-113-050	2078 Wildwood Lake St
21 191-13-213-005	2921 Hayden Creek Terrace
22 191-13-313-003	986 Olivia Heights Ave
23 191-13-411-023	2273 Garden City Ave
24 191-13-811-052	2763 White Sage Dr
25 191-14-511-001	2167 Maple Heights
26 191-18-113-004	2584 Pine Prairie

27 43. If Red Rock had distributed the excess proceeds to me after the 8/14/15
28 surprise sale of my late fiancé's house, as required by law, I probably never would
have entered a Nevada court room in my life.

1 44. In September 2014 I contacted Red Rock and asked to make a claim for the
2 excess proceeds, and I was told that Red Rock had given the excess proceeds to
3 the Court for interpleader and that I would get a notice to file a claim, but no such
4 notice ever came.

5 45. In November 2018 after unsuccessful NRS 38.310(2) mediation, Steven
6 Scow told me he had the excess proceeds, but that he would not release them until
7 all the litigation was over. In his response to my 2019 subpoena to Red Rock,
8 Scow produced documents that showed that he had personally been instructed by
9 his client to interplead the proceeds in 2014, but, as he had told me himself, he
10 had those funds, and so obviously, he had not followed his client's instructions to
11 remit the \$57,282.32 check to the Payee Clark County District Court. **(Ex. 9 re**
12 **Scow)**

13 46. In June 2020, Scow filed an improper motion to dismiss my claim for the
14 excess proceeds with prejudice on the grounds of NRCP 12(b)(6) failure to join
15 the HOA as a necessary party to protect its interest. This was improper because
16 the Scow knew that the law (NRS 116.31164(3)(c)(2013)) required Red Rock to
17 distribute ALL the proceeds in 2014 "after the sale", and also because Scow knew,
18 and disclosed in 2019 discovery, that the HOA was paid in full on 8/21/14, and
19 therefore had no interest in the excess proceeds that would make it a necessary
20 party in 2020 when Scow filed his motion to dismiss my 6/3/20 claim for the
21 excess proceeds. **(Ex. 9 re Scow)**

22 47. Further, Scow's motion to dismiss my claim for the excess proceeds was
23 improper because he filed it allegedly on behalf of his client Red Rock who did
24 not have, and would not have had, the proceeds after 8/28/14 when Red Rock
25 instructed Scow to remit the check to the court for interpleader.

1 48. (Red Rock Financial Services, a partnership EIN 88-0358132, was an entity
2 that was an unregistered subsidiary of the HOA's managing agent FSR who was
3 simultaneously dba the HOA's debt collector (2006 to 2015)).

4 49. Red Rock would have breached its fiduciary duty to the HOA had it retained
5 the proceeds when the HOA bylaws specifically prohibit the HOA Board from
6 delegating any proprietary control over funds collected for the HOA.

7 50. Red Rock specifically instructed Scow to interplead the proceeds on
8 8/28/14 so what possible interest could Red Rock assert that it had in the
9 undistributed proceeds that would give it standing to oppose my filing a civil claim
10 to get them distributed. (**Ex. 9 re Scow**) Further, Red Rock avoided whatever
11 "multiple liabilities" it might have had by telling Scow to promptly distribute all
12 of the exceeds proceeds after the sale.

13 51. The Court misapprehended that Red Rock's motion to dismiss my claims
14 for the excess proceeds was on the grounds of NRCP 12(b)(5) when, in fact, the
15 excess proceeds were not distributed after the sale and are still undistributed, and
16 therefore, can't be precluded per the doctrine of res judicata.

17 52. Red Rock's motion was that the Court couldn't hear my claim for the excess
18 proceeds because my claim for the undistributed proceeds was precluded for
19 failing to join a necessary party pursuant to NRCP 12(b)(6), i.e., my failure to join
20 the HOA as a necessary party under Rule 19 to protect its non-existent interest in
21 the excess proceeds).

22 53. NRCP 12(b)(6) as grounds to dismiss with prejudice of my unheard claims
23 for the excess proceeds is not supported by the facts.

24 54. Red Rock paid the HOA in full for its lien for delinquent assessments with
25 interest and the authorized late fee penalties, by a \$2,701.04 payment dated
26 8/21/14, and therefore, absent any interest in the excess proceeds to protect, the
27 HOA was not a necessary party under Rule 19.
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1 55. Red Rock did not have standing to file a motion to dismiss my claim for the
2 excess proceeds because it failed to ensure that “the person conducting the sale”
3 performed the ministerial duty of distributing ALL proceeds from the 8/15/14 sale
4 “after the sale” in 2014 (NRS 116.31164(3)(c)(1)(2)(3)(4)(5) (2013)). (Ex. 13)

5 56. Red Rock could have argued, but did not, that it had complied with NRS
6 116.31164(3)(c) provisions (1) and (2) by retaining its fees and the costs of the
7 sale prior to declaring what portion of the proceeds were “excess”; that it complied
8 on 8/21/14 with provision (3) by paying off on 8/21/14 the HOA’s lien including
9 all delinquent HOA assessments with all authorized late fines plus interest
10 (\$2,701.04); and that it complied with provision (5) by transmitting to Steven
11 Scow a “Red Rock Financial Services Trust” account \$57, 282.32 check for
12 “excess proceeds”, made Payable to the Clark County District Court, dated
13 8/21/14, with the 8/28/14 instructions to interplead the \$57, 282.32. (Note that the
14 “Red Rock Financial Services Trust” account is a co-mingled account with
15 signatories that were employees or collection agents of NRS 649 debt collection
16 licensee FirstService Residential, Nevada LLC (“FSR”) dba Red Rock Financial
17 Services, a partnership (EIN 88-0358132). “Red Rock Financial Services Trust”
18 account is not an IOLTA attorney trust account, and even if it were, the bylaws of
19 the HOA that both FSR and Red Rock were fiduciary agents for, prohibit any
20 funds collected under the authority of the HOA for the benefit of the HOA to be
21 under the proprietary control of anyone other of the HOA Board.)

22 57. Steven Scow (“Scow”) filed the motion to dismiss with prejudice in bad
23 faith in that he knew, or should have known,

24 58. that he had no legal authority to retain funds that he was instructed to
25 interplead in 2014;

26 59. that the HOA had been paid in full and was not a necessary party to protect
27 a non-existent interest;
28

1 60. that Tobin had approached Red Rock in September 2014 to claim the excess
2 proceeds, but had been rebuffed and told that they had already given the funds to
3 the court for interpleader;

4 61. that the Tobin/Hansen Trust 1/31/17 claim for the excess proceeds was
5 never heard in the 1st or 2nd action, and there are no other claimants;

6 62. that Red Rock would not have faced any “multiple liabilities” had Scow
7 remitted Red Rock’s check to the court as instructed in 2014;

8 63. that I have been the sole civil claimant for the excess proceeds (1/31/17,
9 8/7/19, and 6/3/20) before this appeal;

10 64. Red Rock’s complaint for interpleader (A-21-828840-C Red Rock vs.
11 Tobin et al.) while the order granting Red Rock’s motion to dismiss with prejudice
12 my claims for the excess proceeds was under appeal in cases 82094, 82234 and
13 82294 was filed for no proper purpose but to burden me.

14 65. Scow’s duplicity is obvious if the Court considers that Red Rock instructed
15 Scow to remit to the court the excess proceeds for interpleader in 2014, and had
16 Scow done as instructed, Red Rock could not face any “multiple liabilities” as it
17 would have been dismissed from the action with prejudice the minute the money
18 was deposited with the court.

19 66. Scow’s improper purposes were vividly on display in the interpleader
20 action when he changed the captions to misidentify the Plaintiff and Counter-
21 Defendant to be “Red Rock Financial Services LLC” (that has never been a party
22 in this dispute and never had any contractual relationship with the HOA) instead
23 of the actual Plaintiff and Counter-Defendant “Red Rock Financial Services” a
24 partnership with partners Scow refused to identify in discovery in the 1st action,
25 that was on contract (4/27/12 concealed in in discovery by Scow) to be Sun City
26 Anthem’s (“SCA” or “HOA”) NRS 649 debt collection agent as a subsidiary of
27 SCA’s managing agent FSR dba Red Rock. Non-party Red Rock LLC opposed
28

1 the distribution of the interpleaded proceeds to me as the sole claimant on the
2 specious grounds that the Red Rock partnership could be exposed to multiple
3 liabilities if I didn't drop my compulsory A-21-828840-C counterclaims.

4 67. The significance of this duplicity is that Red Rock, as the trustee who
5 conducted the sale, had the duty to distribute ALL proceeds after the sale, and it
6 was Scow, who is possibly one of the undisclosed partners, who failed to do so.

7 **About my unheard claim for quiet title**

8 68. If Nationstar hadn't filed a lawsuit and recorded a lis pendens in 2016,
9 falsely claiming to be the beneficiary of the 1st deed of trust that had been
10 extinguished by the 2014 HOA sale, I would not have filed a motion to intervene,
11 I would have just filed my own lawsuit like I eventually was forced to do in 2019.

12 69. If the court had heard and granted my 3/3/17 pro se motion to void the
13 statutorily-noncompliant sale, subject to the 1st deed of trust, before I was forced
14 to get an attorney, none of the next six years of litigation in four district court
15 cases, four appeals, petition for writs of mandamus for the enforcement of the
16 judicial and professional codes of conduct, or the petition for a writ of prohibition
17 that I am about to file, would have been necessary.

18 70. The quiet title dispute would have been over in 2017 if the court had voided
19 the defective sale in its entirety due to Red Rock's unlawful rejection of
20 assessments that cured the default, as it would have reinstated Nationstar, who
21 claimed, albeit falsely, to be the 1st deed of trust beneficiary, and the Hansen Trust,
22 who was the deeded owner at the time of the HOA sale, to our respective positions
23 on day before that sale.

24 71. If in 2017 if the court had voided the defective sale, Nationstar would not
25 have been prejudiced in any way because voiding the sale was subject to the
26 security interest. Nationstar simply would have to have complied with NRS
27 Chapter 107, as amended by Nevada's anti-foreclosure fraud law AB 284 (2011),
28

1 to foreclose, or we could have negotiated a loan modification suitable to the
2 circumstances.

3 72. Because Nationstar knew that I knew Nationstar did not have standing to
4 foreclose on me because it had no evidentiary proof that it was the beneficiary,
5 and it had no proof that it even knew who had legal standing to enforce the 7/15/04
6 Hansen promissory note pursuant to NRS 104.3301.

7 73. In fact, no lender possessed the original 7/15/04 Hansen promissory note
8 (that was secured by the disputed 7/22/04 Hansen 1st deed of trust that was
9 extinguished by the 8/15/14 HOA s

10 74. Given that there is no unbroken chain of endorsements to BANA,
11 Nationstar or Wells Fargo, no lender has standing to enforce the note. Everything
12 Nationstar has recorded and filed in court to fake that it was owed the outstanding
13 \$389,000 debt on the Hansen 7/15/04 promissory note, secured by the 7/22/04
14 deed of trust, was fraudulent.

15 75. Nationstar's confiscated my property without foreclosing and then
16 misrepresented its standing to foreclose to the court. Nationstar covered this up
17 by misrepresenting my standing as an individual to the court. Nationstar
18 obstructed my ability to assert an NRS 40.010 civil claim for quiet title, despite
19 the fact that as a holder of a 3/8/17 deed I was a necessary party under Rule 19.

20 76. Nationstar and Jimijack got the court's blessing on a fraudulent side deal at
21 their 4/23/19 ex parte meeting and concealed the settlement documents from the
22 court t the 5/21/19 status check hearing.

23 77. The evidence shows that NSM knew that it did not have standing to
24 foreclose and therefore did everything it could to prevent the sale being voided in
25 its entirety, notwithstanding that it knew, or should have known, that the PUD
26 Rider Remedies provision provides that the lender's only remedy is to add the
27
28

1 amount paid to the outstanding balance of the loan with interest at the note rate,
2 absent a specific agreement with the Borrower.

3 78. Obviously, a dead borrower did not agree to let Nationstar confiscate his
4 heir's property without foreclosure, and I, as his personal representative here on
5 earth, certainly did not agree to any such thing.

6 79. I declare under penalty of perjury under the laws of the State of Nevada that
7 the foregoing is true and correct and that I personally acquired by lawful means,
8 or I personally wrote and prepared, all the documents in the exhibits and that they
9 are all true and correct.

10 Dated this 18th day of July 2022,

11 
12

13 NONA TOBIN

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18 *In Proper Person*
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