

Tracy Lee Castl, Plaintiff *in proper person*
PO Box 35937
Las Vegas, NV 89133
(702) 739-4464

DISTRICT COURT
CLARK COUNTY NEVADA

Electronically Filed
Jan 08 2021 10:55 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

TRACY LEE CASTL,

Plaintiff,

CASE NO. A-16-742267-C

v.

Department XX

"PENNYMAC HOLDINGS, LLC and
DOES IX,"

Defendants.

PLAINTIFF'S NOTICE OF APPEAL –
NRAP 4

Notice is hereby given I appeal to the Supreme Court of Nevada from the
"FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT."

I expressly reserve the right to liberal construction according to NRAP 1(c), and
filing despite perceived deficiencies according to NRAP 3(a)(3),¹ and 3(f)(2).²

CERTIFICATE OF SERVICE – NRAP 3(d)

I certify on this date I am mailing a true copy of this Notice of Appeal to all
Defendants' attorneys at their mailing addresses of record.

MAURICE WOOD
9525 Hillwood Drive, Suite 140
Las Vegas, Nevada 89134

RECEIVED

DEC 31 2020

CLERK OF THE COURT

- 1 **"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. . ."**
- 2 **"When the appellant is not represented by counsel, the district court clerk shall complete and sign the case appeal statement."**

AKERMAN LLP
1635 Village Center Circle, Suite 200\

Las Vegas, Nevada 89134

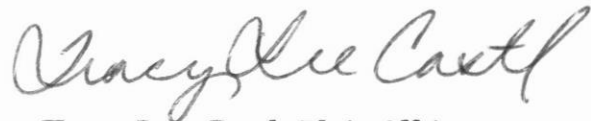
Subscribed with all rights reserved on December 30th, 2020,

A handwritten signature in cursive script, appearing to read "Tracy Lee Castl".

Tracy Lee Castl, Plaintiff in proper person

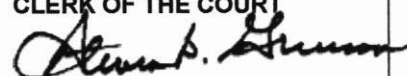
I certify on this date I did serve a true copy of this Notice on Defendant's counsel of record by regular mail to:

Submitted without prejudice on *November 30th*, 2020.

A handwritten signature in cursive script that reads "Tracy Lee Castl".

Tracy Lee Castl, Plaintiff *in proper person*

MAURICE WOOD
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NJUD

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PENNYMAC HOLDINGS

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

TRACY LEE CASTL,
Plaintiff,

vs.

PENNYMAC HOLDINGS, LLC and DOES I-
X,

Defendants.

CASE NO. A-16-742267-C

DEPT NO. XX

**NOTICE OF ENTRY OF
JUDGMENT**

MAURICE WOOD

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DATED this 4th day of December, 2020.

MAURICE WOOD

By /s/ *Brittany Wood*

AARON R. MAURICE, ESQ.
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PENNYMAC HOLDINGS**

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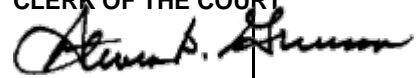
CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Maruice Wood, and that on the 4th day of December, 2020, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF JUDGMENT** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.

/s/ Brittany Wood

An Employee of MAURICE WOOD



1 ASTA

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5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 TRACY LEE CASTL,

11 Plaintiff(s),

12 vs.

13 PENNYMAC HOLDINGS, LLC,

14 Defendant(s),

Case No: A-16-742267-C

Dept No: XX

15
16
17 **CASE APPEAL STATEMENT**

18 1. Appellant(s): Tracy Lee Castl

19 2. Judge: Eric Johnson

20 3. Appellant(s): Tracy Lee Castl

21 Counsel:

22 Tracy Lee Castl
23 P.O. Box 35937
24 Las Vegas, NV 89133

25 4. Respondent (s): Pennymac Holdings, LLC

26 Counsel:

27 Aaron R. Maurice, Esq.
28 9525 Hillwood Dr., Suite 140
Las Vegas, NV 89134

1 5. Appellant(s)'s Attorney Licensed in Nevada: N/A
2 Permission Granted: N/A

3 Respondent(s)'s Attorney Licensed in Nevada: Yes
4 Permission Granted: N/A

5 6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

6 7. Appellant Represented by Appointed Counsel On Appeal: N/A

7 8. Appellant Granted Leave to Proceed in Forma Pauperis**: N/A

8 **Expires 1 year from date filed

9 Appellant Filed Application to Proceed in Forma Pauperis: No
10 Date Application(s) filed: N/A

11 9. Date Commenced in District Court: August 24, 2016

12 10. Brief Description of the Nature of the Action: REAL PROPERTY - Other

13 Type of Judgment or Order Being Appealed: Judgment

14 11. Previous Appeal: Yes

15 Supreme Court Docket Number(s): 71082, 71990

16 12. Child Custody or Visitation: N/A

17 13. Possibility of Settlement: Unknown

18 Dated This 4 day of January 2021.

19 Steven D. Grierson, Clerk of the Court

20 /s/ Heather Ungermann

21 Heather Ungermann, Deputy Clerk
22 200 Lewis Ave
23 PO Box 551601
24 Las Vegas, Nevada 89155-1601
25 (702) 671-0512

26 cc: Tracy Lee Castl
27
28

CASE SUMMARY**CASE NO. A-16-742267-C**

Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

§
§
§
§
§
§

Location: **Department 20**
 Judicial Officer: **Johnson, Eric**
 Filed on: **08/24/2016**
 Case Number History:
 Cross-Reference Case **A742267**
 Number:
 Supreme Court No.: **71990**

CASE INFORMATION**Statistical Closures**

11/18/2016 Motion to Dismiss by the Defendant(s)

Case Type: **Other Real Property**

Case Status: **08/01/2019 Reactivated**






DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-16-742267-C
 Court Department 20
 Date Assigned 07/02/2018
 Judicial Officer Johnson, Eric

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Castl , Tracy Lee	Pro Se
Defendant	Pennymac Holdings LLC	Maurice, Aaron R. <i>Retained</i> 702-463-7616(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

08/24/2016	 Complaint Filed By: Plaintiff Castl , Tracy Lee <i>Complaint to Determine Adverse Claims to Real Property NRS 40.010 for Damages for Trespass to Land and for Declaratory Judgment</i>
08/26/2016	 Notice of Appearance Party: Defendant Pennymac Holdings LLC <i>Notice of Appearance</i>
08/26/2016	 Initial Appearance Fee Disclosure Filed By: Defendant Pennymac Holdings LLC <i>Initial Appearance Fee Disclosure</i>
10/06/2016	 Motion to Dismiss Filed By: Defendant Pennymac Holdings LLC <i>Pennymac Holdings, LLC's Motion To Dismiss</i>
10/25/2016	 Notice of Change of Address Filed By: Plaintiff Castl , Tracy Lee <i>Notice of Change of Address</i>

CASE SUMMARY

CASE NO. A-16-742267-C

10/25/2016	 Opposition to Motion to Dismiss Filed By: Plaintiff Castl , Tracy Lee <i>Plaintiff's Opposition to Defendant's Motion to Dismiss</i>
10/31/2016	 Reply in Support Filed By: Defendant Pennymac Holdings LLC <i>Pennymac Holdings, LLC's Reply in Support of Motion To Dismiss</i>
11/18/2016	 Order Granting Motion Filed By: Defendant Pennymac Holdings LLC <i>Order Granting Pennymac Holdings, LLC's Motion To Dismiss With Prejudice</i>
11/21/2016	 Notice of Entry of Order for Dismissal With Prejudice Filed By: Defendant Pennymac Holdings LLC <i>Notice of Entry of Order Granting Pennymac Holdings, LLC's Motion to Dismiss With Prejudice</i>
12/16/2016	 Notice of Appeal Filed By: Plaintiff Castl , Tracy Lee <i>Notice of Appeal</i>
02/08/2017	 Substitution of Attorney Filed by: Plaintiff Castl , Tracy Lee <i>Substitution of Counsel</i>
02/22/2017	 Notice Filed By: Plaintiff Castl , Tracy Lee <i>Notice of Transcript Request</i>
03/23/2017	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Pennymac Holdings, LLC's Motion to Dismiss Monday, November 7, 2016</i>
06/12/2018	 NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part <i>Nevada Supreme Court Clerk's Certificate Judgment - Affirmed in Part, Reversed in Part and Remand</i>
07/02/2018	Case Reassigned to Department 20 <i>Reassigned From Judge Leavitt - Dept 12</i>
11/08/2018	 Notice of Hearing <i>Notice of Hearing</i>
12/28/2018	 Notice Filed By: Defendant Pennymac Holdings LLC <i>Notice of Association of Counsel</i>
01/10/2019	 Answer Filed By: Defendant Pennymac Holdings LLC <i>Defendant Pennymac Holdings, LLC's Answer to Complaint</i>
04/08/2019	 Notice of Early Case Conference Filed By: Plaintiff Castl , Tracy Lee

CASE SUMMARY

CASE NO. A-16-742267-C

Notice of Early Case Conference

05/29/2019



Joint Case Conference Report

Filed By: Plaintiff Castl , Tracy Lee

Joint Case Conference Report

08/13/2019



Order

Order to Appear for Mandatory Scheduling Conference

08/14/2019



Notice of Compliance

Party: Defendant Pennymac Holdings LLC

Notice of Compliance

09/13/2019



Scheduling and Trial Order

Scheduling Order

10/02/2019



Scheduling and Trial Order

Order Setting Civil Trial

01/14/2020



Motion for Partial Summary Judgment

Filed By: Defendant Pennymac Holdings LLC

Defendant's Motion for Partial Summary Judgment

01/14/2020



Clerk's Notice of Hearing

Notice of Hearing

01/14/2020



Appendix

Filed By: Defendant Pennymac Holdings LLC

Appendix of Exhibits in Support of Defendant's Motion for Partial Summary Judgment

01/23/2020



Opposition

Filed By: Plaintiff Castl , Tracy Lee

Plaintiff's Opposition to Defendant's Motion for Partial Summary Judgment

02/03/2020



Notice of Change of Hearing

Notice of Change of Hearing

02/12/2020



Supplement

Filed by: Plaintiff Castl , Tracy Lee

Supplement to Plaintiff's Opposition to Defendant's Motion for Partial Summary Judgment

02/12/2020



Reply in Support

Filed By: Defendant Pennymac Holdings LLC

Defendant's Reply in Support of its Motion for Partial Summary Judgment

03/03/2020



Motion for Summary Judgment

Filed By: Defendant Pennymac Holdings LLC

Motion for Summary Judgment as to Trespass Claim

03/04/2020



Clerk's Notice of Hearing

Notice of Hearing

03/04/2020



Motion in Limine

CASE SUMMARY

CASE NO. A-16-742267-C

	Filed By: Defendant Pennymac Holdings LLC <i>Motion in Limine to Exclude Evidence of Damages</i>
03/04/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/16/2020	 Opposition Filed By: Plaintiff Castl , Tracy Lee <i>Plaintiff's Opposition to Defendant's Motion for Summary Judgment as to Trespass Claim</i>
03/17/2020	 Stipulation and Order Filed by: Defendant Pennymac Holdings LLC <i>Stipulation and Order to Exclude Testimony and Exhibits</i>
03/18/2020	 Change of Address Filed By: Defendant Pennymac Holdings LLC <i>NOTICE OF CHANGE OF FIRM AND ADDRESS</i>
03/19/2020	 Notice of Entry of Order Filed By: Defendant Pennymac Holdings LLC <i>Notice of Entry of Order</i>
03/23/2020	 Ex Parte Motion Filed By: Plaintiff Castl , Tracy Lee <i>Ex-Parte Motion to Continue Trial</i>
03/25/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
04/01/2020	 Reply in Support Filed By: Defendant Pennymac Holdings LLC <i>Supplement and Reply Supporting Motion in Limine to Exclude Evidence of Damages</i>
04/01/2020	 Reply in Support Filed By: Defendant Pennymac Holdings LLC <i>Reply Supporting Motion for Summary Judgment as to Trespass Claim</i>
04/02/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
04/22/2020	 Substitution of Attorney Filed by: Plaintiff Castl , Tracy Lee <i>Substitution of Attorney for Tracy Castl</i>
04/27/2020	 Motion to Continue Trial Filed By: Plaintiff Castl , Tracy Lee <i>Motion to Continue Trial Date</i>
04/28/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
04/28/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>


CASE SUMMARY


CASE NO. A-16-742267-C


04/28/2020	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>
04/30/2020	 Motion for Order Filed By: Plaintiff Castl , Tracy Lee <i>Motion to Continue the Pretrial Memorandum Deadline</i>
05/01/2020	 Opposition to Motion <i>Defendant's Opposition to Plaintiff's Motion to Continue Trial Date</i>
05/04/2020	 Clerk's Notice of Nonconforming Document <i>Clerk's Notice of Nonconforming Document</i>
05/05/2020	 Clerk's Notice of Nonconforming Document and Curative Action <i>Clerk's Notice of Curative Action</i>
05/05/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/06/2020	 Order Granting Motion Filed By: Defendant Pennymac Holdings LLC <i>Order Granting Motion in Limine to Exclude Evidence of Damages for Trespass and Denying Motion for Summary Judgment As to Trespass Claim</i>
05/07/2020	 Notice of Entry of Order Filed By: Defendant Pennymac Holdings LLC <i>Notice of Entry of Order Granting Motion in limine to Exclude Evidence of Damages for Trespass and Denying Motion for Summary Judgment as to Trespass Claim</i>
08/31/2020	 Pre-trial Memorandum Filed by: Defendant Pennymac Holdings LLC <i>Defendant's Pretrial Memorandum</i>
09/01/2020	 Motion to Continue Trial Filed By: Plaintiff Castl , Tracy Lee <i>Motion to Continue Trial Date</i>
09/01/2020	 Pre-trial Memorandum Filed by: Plaintiff Castl , Tracy Lee <i>Plaintiff's Pretrial Memorandum</i>
09/02/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
09/02/2020	 Opposition to Motion Filed By: Defendant Pennymac Holdings LLC <i>Defendant's Opposition to Plaintiff's Motion to Continue Trial Date</i>
09/03/2020	 Request for Judicial Notice Filed By: Defendant Pennymac Holdings LLC <i>Defendant's Request for Judicial Notice</i>


CASE SUMMARY


CASE NO. A-16-742267-C


09/04/2020  Trial Brief
Filed By: Defendant Pennymac Holdings LLC
Defendant's Trial Brief

12/04/2020  Findings of Fact, Conclusions of Law and Judgment
Findings of Fact, Conclusions of Law and Judgment

12/04/2020  Notice of Entry of Judgment
Notice of Entry of Judgment

12/30/2020  Substitution of Attorney
Filed by: Plaintiff Castl , Tracy Lee
Substitution of Attorney

12/31/2020  Notice of Appeal
Filed By: Plaintiff Castl , Tracy Lee
Plaintiffs Notice of Appeal


01/04/2021  Case Appeal Statement
Filed By: Plaintiff Castl , Tracy Lee
Case Appeal Statement

DISPOSITIONS

11/18/2016 **Order of Dismissal With Prejudice** (Judicial Officer: Leavitt, Michelle)
Debtors: Tracy Lee Castl (Plaintiff)
Creditors: Pennymac Holdings LLC (Defendant)
Judgment: 11/18/2016, Docketed: 11/22/2016

12/04/2020 **Judgment** (Judicial Officer: Johnson, Eric)
Debtors: Pennymac Holdings LLC (Defendant)
Creditors: Tracy Lee Castl (Plaintiff)
Judgment: 12/04/2020, Docketed: 12/07/2020
Total Judgment: 1.00
Comment: Certain Claim

HEARINGS

11/07/2016  **Motion to Dismiss** (8:30 AM) (Judicial Officer: Leavitt, Michelle)
Pennymac Holdings, LLC's Motion To Dismiss
Granted With Prejudice;
Journal Entry Details:

Court TRAILED matter for Plaintiff's counsel to appear. CASE RECALLED. Mr. Ortiz is now present. Ms. Scaturro argued as to Plaintiff being in default on the loan, findings made in Department 25 on Petition for judicial review, and that matter pending on appeal. Further arguments as to fraud claims having been raised by Plaintiff, and standards not having been met on the pleading requirements. Mr. Ortiz argued as to NRS 40.010, Plaintiff seeking to go to trial, no discovery or evidence yet, all issues requiring determination, and Plaintiff having right to put her case on record. Additional arguments as to consent issues, and there needing determination in every lease or trust. Ms. Scaturro argued foreclosure is not taking place at this time. Court stated there is nothing preventing foreclosure, if the party is in default. Discussions as to quiet title and trespass claims. Further arguments by counsel as to declaratory relief, contractual relationship, and request being made to Court to determine what the duties are. Court stated just because the issue is on appeal does not mean that is what the Court found, and the bank has the right to foreclose. Court also noted it appears all issues were determined by a judge, there is a deed of trust, Plaintiff is in default, according to the written order, and the written order controls. Further arguments by Mr. Ortiz as to no valid assignment, no res adjudicata, and no valid signature. Court asked why Plaintiff was bringing a quiet title action; and further asked if Plaintiff is contending the signature is forged. Mr. Ortiz stated there is a deed of trust, and promissory note needs to be produced to foreclose.

CASE SUMMARY

CASE NO. A-16-742267-C

Court stated the order from Department 25's case shows the issues were decided, and findings were made by the judge. COURT ORDERED, Motion to dismiss GRANTED WITH PREJUDICE. Ms. Scaturro to prepare the order. Mr. Ortiz stated he will appeal the ruling. ;

12/05/2018



Status Check (8:30 AM) (Judicial Officer: Johnson, Eric)

Status Check: Court of Appeals Remand

Matter Heard;

Journal Entry Details:

Ms. Powell advised this was remanded from the Supreme Court and that Plaintiff is nor represented by counsel. It was her understanding that Plaintiff had a brain tumor and was having surgery, however, she has not heard anything further. Colloquy as to Ms. Powell filing a responsive pleading. Ms. Powell requested to have until January 15th to file either an answer or a Motion to Dismiss. Following colloquy, COURT ORDERED, matter SET for status check, however, as the Court is dark, matter CONTINUED one week. Ms. Powell to have until January 23rd to file which will also be the date for the Status Check. Ms. Powell to reach out to Plaintiff as to next date. 1/23/19 8:30 AM STATUS CHECK;

01/23/2019



Status Check (8:30 AM) (Judicial Officer: Johnson, Eric)

Matter Continued;

Journal Entry Details:

Conference at the Bench. Pursuant to that conference, COURT ORDERED, matter CONTINUED FORTY-FIVE (45) DAYS for Plaintiff to obtain counsel. 3/20/19 8:30 AM STATUS CHECK: COUNSEL;

03/20/2019



Status Check (8:30 AM) (Judicial Officer: Johnson, Eric)

Status Check: Counsel

Off Calendar;

Journal Entry Details:

Upon Court's inquiry, Mr. Michaelides advised he has been retained as counsel of record. Court so noted. Ms. Powell-Scaturro advised a Rule 16 Conference needs to be set up. Colloquy as to procedures. Following colloquy, COURT ORDERED, matter OFF CALENDAR as Plaintiff has counsel.;

08/28/2019



Mandatory Rule 16 Conference (10:30 AM) (Judicial Officer: Johnson, Eric)

Trial Date Set;

Journal Entry Details:

Court noted it has received the Joint Case Conference Report and the trial ready date is April 15, 2020. Mr. Michaelides advised some medical issues have arisen and they will have to see if Plaintiff can adhere to the schedule. Statements by Ms. Wood including that they had noticed a deposition set for 9/27 and then learned about the medical issue. Colloquy as to Mr. Michaelides putting the issue in the form of a Motion. Upon Court's inquiry, counsel feel the trial will take 1 week. Ms. Scaturro advised she will be gone from 4/30/20 to 5/4/20. Court so noted. Counsel agreed to the following dates: Discovery on or before 5/7/20; Motions to Amend Pleadings on or before: 11/8/19; Initial Expert disclosures on or before: 11/8/19; Rebuttal Expert disclosures on or before 12/9/19; Dispositive motions on or before: 3/9/20. COURT ORDERED, matter SET for trial after April 15, 2020. 4/1/20 8:30 AM CALENDAR CALL 4/20/20 9:00 AM JURY TRIAL;

02/19/2020



Motion for Partial Summary Judgment (10:30 AM) (Judicial Officer: Johnson, Eric)

Defendant's Motion for Partial Summary Judgment

Denied;

Journal Entry Details:

Arguments by Mr. Maurice and Mr. Michaelides in support of their respective positions. Following, COURT ORDERED, Motion DENIED as this will give Plaintiff a chance to put on their expert. Mr. Maurice advised he will probably file motions prior to trial. Court so noted, advised they are set for trial on the April 20 stack and expects it to go forward. Counsel feel the trial will be 1-2 days.;

03/31/2020






Calendar Call (8:30 AM) (Judicial Officer: Johnson, Eric)

Trial Date Set;



CASE SUMMARY

CASE NO. A-16-742267-C

	<p>Journal Entry Details:</p> <p><i>Mr. Michaelides, Mr. Maurice and Mr. Garner appeared by telephone via Blue Jeans. Court noted that due to COVID-19 and the Administrative Order, there will be no trials in April, however, as this is a bench trial, perhaps this might go forward in May. Statements by Mr. Michaelides as to Plaintiff's medical condition. Additionally, Mr. Michaelides stated this is a one day trial. Following colloquy, COURT ORDERED, trial date SET with a status check two weeks prior. 5/6/20 9:00 AM STATUS CHECK: TRIAL 5/18/20 9:00 AM BENCH TRIAL;</i></p>
04/07/2020	<p>Motion for Summary Judgment (8:30 AM) (Judicial Officer: Johnson, Eric)</p> <p>04/07/2020, 04/14/2020, 04/21/2020</p> <p><i>Defendant's Motion for Summary Judgment as to Tresspass Claim</i></p> <p>Matter Continued;</p> <p>Matter Continued;</p> <p>Denied;</p> <p>Matter Continued;</p> <p>Matter Continued;</p> <p>Denied;</p> <p>Matter Continued;</p> <p>Matter Continued;</p> <p>Denied;</p>
04/07/2020	<p>Motion in Limine (8:30 AM) (Judicial Officer: Johnson, Eric)</p> <p>04/07/2020, 04/14/2020, 04/21/2020</p> <p><i>Defendant's Motion in Limine to Exclude Evidence of Damages</i></p> <p>Matter Continued;</p> <p>Matter Continued;</p> <p>Granted;</p> <p>Matter Continued;</p> <p>Matter Continued;</p> <p>Granted;</p> <p>Matter Continued;</p> <p>Matter Continued;</p> <p>Granted;</p>
04/07/2020	<p> All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric)</p> <p>Matter Continued;</p> <p>Journal Entry Details:</p> <p><i>DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES...DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AS TO TRESSPASS CLAIM Mr. Maurice and Mr. Garner appeared by telephone via Blue Jeans. As Mr. Michaelides was ill and at request of counsel, COURT ORDERED, matter CONTINUED ONE (1) WEEK. ... CONTINUED 4/14/20 8:30 AM;</i></p>
04/14/2020	<p> All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric)</p> <p>Matter Heard;</p> <p>Journal Entry Details:</p> <p><i>DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AS TO TRESSPASS CLAIM...DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES Ms. Rasmussen appeared by video; Mr. Michaelides, Mr. Garner and Mr. Maurice appeared by telephone via Blue Jeans. Ms. Rasmussen requested to substitute in as counsel of record for Plaintiff. Upon Court's inquiry, Ms. Rasmussen advised she could be prepared for the bench trial on 5/18 but does have concerns as to COVID-19 and Plaintiff's medical condition. Ms. Rasmussen requested one week to respond to the motions set for today. Mr. Garner and Mr. Maurice had no objections. Statements by Mr. Michaelides. Following colloquy, COURT ORDERED, Ms. Rasmussen MAY substitute in as counsel of record and the Motions CONTINUED ONE (1) WEEK. ... CONTINUED 4/21/20 8:30 AM;</i></p>
04/20/2020	<p>CANCELED Bench Trial (9:00 AM) (Judicial Officer: Johnson, Eric)</p> <p><i>Vacated</i></p>
04/21/2020	<p> All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric)</p>

CASE SUMMARY

CASE NO. A-16-742267-C

	<p>Matter Heard; Journal Entry Details: <i>DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AS TO TRESSPASS CLAIM...DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES</i> <i>Ms. Rasmussen appeared by video, Mr. Maurice and Mr. Garner appeared by telephone via Blue Jeans. Arguments by Mr. Garner and Ms. Rasmussen in support of their respective positions. Following, COURT ORDERED, Motion for Summary Judgment is DENIED and Motion in Limine to Exclude Evidence of Damages is GRANTED. Mr. Garner to prepare the Order. Ms. Rasmussen advised Ms. Castl was supposed to go to Florida this month for brain surgery, however, due to COVID-19 she can't travel and as Ms. Rasmussen is concerned about the trial date, she will be filing a motion. Upon Court's inquiry, Mr. Maurice requested to see the Motion before he agrees to a continuance. Following colloquy, COURT ORDERED, the following briefing schedule: Ms. Rasmussen to file her motion by 4/27; Mr. Maurice/Mr. Garner to respond by 5/4 and matter will be discussed on the 5/6 status check date. ;</i></p>
05/05/2020	<p>Status Check (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Status Check: Trial</i> Reset;</p>
05/05/2020	<p>Motion to Continue Trial (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Plaintiff Motion to Continue Trial Date</i> Granted;</p>
05/05/2020	<p> All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric) Matter Heard; Journal Entry Details: <i>STATUS CHECK: TRIAL...PLAINTIFF'S MOTION TO CONTINUE TRIAL DATE</i> <i>Ms. Rasmussen appeared by video, Mr. Maurice and Mr. Garner appeared by telephone via Blue Jeans. Upon Court's inquiry, Mr. Maurice advised he has no objection to the continuance based on COVID-19. However, one of the reasons is that Plaintiff is "not feeling well" which he feels is a delaying tactic due to the tortured history of this case. Statements by Ms. Rasmussen including that Plaintiff's medical issue is a problem as she needs to go to Florida for surgery. Colloquy as to the surgery being done locally. Following additional arguments by counsel, COURT ORDERED, Motion GRANTED and trial date RESET. Additionally, Ms. Rasmussen requested additional time to file her Pre-trial Memo. Following statements by Mr. Maurice, COURT ORDERED, Ms. Rasmussen to file within the next 3 weeks and matter will be SET with calendar call. 8/19/20 8:30 AM STATUS CHECK: PRE-TRIAL MEMO 8/19/20 8:30 AM CALENDAR CALL 9/8/20 1:00 PM BENCH TRIAL;</i></p>
05/18/2020	<p>CANCELED Bench Trial - FIRM (9:00 AM) (Judicial Officer: Johnson, Eric) <i>Vacated</i></p>
06/02/2020	<p>CANCELED Motion to Continue Trial (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Vacated</i> <i>Motion to Continue Trial Date</i></p>
06/02/2020	<p>CANCELED Motion (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Vacated</i> <i>Plaintiff's Motion to Continue the Pretrial Memorandum Deadline</i></p>
08/19/2020	<p>Calendar Call (8:30 AM) (Judicial Officer: Johnson, Eric) Matter Heard;</p>
08/19/2020	<p>Status Check (8:30 AM) (Judicial Officer: Johnson, Eric) <i>Status Check: Pre-Trial Memo</i> Matter Heard;</p>
08/19/2020	<p> All Pending Motions (8:30 AM) (Judicial Officer: Johnson, Eric) Matter Heard; Journal Entry Details: <i>STATUS CHECK: PRE-TRIAL MEMO...CALENDAR CALL</i> <i>Ms. Rasmussen and Mr. Garner appeared by phone via Blue Jeans. Mr. Maurice appeared by video via Blue Jeans. Plaintiff</i></p>

CASE SUMMARY

CASE NO. A-16-742267-C

appeared by video via Blue Jeans. Arguments by Ms. Rasmussen and Mr. Maurice. Court indicated there was no reason this case can not move forward. Further argument by Ms. Rasmussen. Ms. Rasmussen stated the Pre-Trial Memorandum was completed yesterday and Mr. Maurice stated he had received it. Upon Court's inquiry, Ms. Rasmussen said there would be 2 witnesses and estimated the Bench Trial would take 1 to 2 days. COURT ORDERED, Bench Trial RESET to 9:00 AM, and at the request of counsel, matter SET for status check a week before the Bench Trial. Court Recorder to send counsel an e-mail with instructions regarding exhibits. 9/2/20 9:00 AM STATUS CHECK: BENCH TRIAL 9/8/20 9:00 AM BENCH TRIAL Clerk's Note: A copy of the foregoing minutes were distributed to Ms. Rasmussen, Mr. Garner, and Mr. Maurice via electronic e-mail, notifying counsel of the correct time for the Status Check as noted above. (8/21/2020 sa);

09/02/2020



Status Check (9:00 AM) (Judicial Officer: Johnson, Eric)

Status Check: Bench Trial

Matter Heard;

Journal Entry Details:

Ms. Rasmussen advised she filed a Motion to Continue Trial and Pre-trial Memorandum on 9/1/20. Mr. Maurice advised they would be filing an Opposition. Court advised Mr. Maurice to file Opposition no later than 9:30 am on 9/3/20. Mr. Maurice so noted. COURT ORDERED, Motion to Continue set for 10/7/20 RESCHEDULED to 9/3/20 at 3:15 pm. Colloquy regarding trial procedure. 9/3/20 3:15 PM - MOTION TO CONTINUE TRIAL DATE ;

09/03/2020



Motion to Continue Trial (3:15 PM) (Judicial Officer: Johnson, Eric)

Denied;

Journal Entry Details:

Ms. Rasmussen argued Ms. Castl doctor advised trial should be continued due to health issues. Mr. Maurice argued the Court previously mentioned it would not continued trial and Ms. Castl could appear remotely. COURT STATED ITS FINDINGS, AND ORDERED, Motion DENIED. Colloquy regarding exhibits. ;

09/08/2020



Bench Trial (9:00 AM) (Judicial Officer: Johnson, Eric)

Trial Continues;

Journal Entry Details:

Nicholas J. Schwegel present on behalf of Pennymac Holdings. Colloquy regarding Deft's Request for Judicial Notice. Tracy Lee Hurst-Castl SWORN and TESTIFIED. Exhibits presented. (See worksheets.) COURT ORDERED, matter CONTINUED. CONTINUED TO: 9/9/20 10:00 AM;

09/09/2020



Bench Trial (10:00 AM) (Judicial Officer: Johnson, Eric)

Trial Continues;

Journal Entry Details:

Nicholas J. Schwegel present on behalf of Pennymac Holdings. Testimony by Tracy Lee Hurst-Castl continued. Exhibits presented. (See worksheets.) Mr. Maurice made an oral Motion on Partial Findings. Arguments by counsel regarding the quiet title action. Mr. Rex made an oral Motion to Strike Evidence. Arguments by counsel regarding itemization of damages. COURT ORDERED, ruling RESERVED on oral Motions. Nicholas J. Schwegel SWORN and TESTIFIED. COURT FURTHER ORDERED, matter CONTINUED. CONTINUED TO: 9/10/20 10:00 AM;

09/10/2020



Bench Trial (10:00 AM) (Judicial Officer: Johnson, Eric)

Decision Made;

Journal Entry Details:

Nicholas J. Schwegel present on behalf of Pennymac Holdings. Testimony by Nicholas J. Schwegel continued. Exhibits presented. (See worksheets.) Closing Arguments by counsel. COURT FINDS there was no significant difference in contested signatures. Court ruled in favor of Defendant regarding the quiet title action and forgery issues; as to the trespassing COURT FINDS the Plaintiff has meet the elements of an intentional tort of trespass. COURT ORDERED, both parties to prepare a draft Order as to the issue of nominal damages and Ms. Rasmussen as to her point of view as to the legal standing of Pennymac; Ms. Rasmussen to prepare a proposed Order as to the intentional trespass. COURT FURTHER ORDERED, proposed orders DUE by 10/8/2020.;

CASE SUMMARY**CASE NO. A-16-742267-C**

FINANCIAL INFORMATION

DATE

Defendant Pennymac Holdings LLC

Total Charges

623.00

Total Payments and Credits

623.00

Balance Due as of 1/4/2021**0.00****Plaintiff** Castl , Tracy Lee

Total Charges

318.00

Total Payments and Credits

318.00

Balance Due as of 1/4/2021**0.00****Plaintiff** Castl , Tracy Lee

Appeal Bond Balance as of 1/4/2021

500.00

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada A-16-742267-C
Case No. (Assigned by Clerk's Office) XII

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

Plaintiff(s) (name/address/phone): Tracy Lee Castl PO BOX 35937 LAS VEGAS, NV 89133 (702)739-4464	Defendant(s) (name/address/phone): PENNYMAC HOLDINGS, LLC 6101 CONDOR DR. SUITE 310 MOORPARK, CA 93021 N/A
Attorney (name/address/phone): David Ortiz 4915 Pearlite Avenue, Suite 100 Las Vegas, NV 89120 Phone: (702) 476-9200	Attorney (name/address/phone):

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

Civil Case Filing Types

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

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

8/24/16

Date

Signature of initiating party or representative

See other side for family-related case filings

**DISTRICT COURT
CLARK COUNTY, NEVADA**

*** * ***

TRACY LEE CASTL,
Plaintiff,

vs.

PENNYMAC HOLDINGS, LLC and DOES I-
X,

Defendants.

CASE NO. A-16-742267-C

DEPT NO. XX

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
JUDGMENT**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

The trial of this matter occurred on September 8-10, 2020. Plaintiff was represented by Lisa Rasmussen. Defendant was represented by Aaron Maurice and Rex Garner. The Court heard testimony from Plaintiff and from J. Schwegel, on behalf of PennyMac Holdings, LLC ("PennyMac"). The Court, having heard the testimony, reviewed the admitted exhibits and pleadings of the parties, and having heard argument, enters the following Findings of Fact, Conclusions of Law, and Judgment.

I.

FINDINGS OF FACTS

1. Plaintiff is the owner of real property commonly known as 3910 White Fir Way, Mount Charleston, Nevada, formerly known as 123 Rainbow Canyon Boulevard, Mount Charleston, Nevada ("Property").

2. Plaintiff has never owned the Property free and clear of any encumbrances.

3. In 2007, Plaintiff applied for a \$2,250,000 loan from Washington Mutual Bank ("WAMU").

4. On June 1, 2007, WAMU loaned Plaintiff \$2,250,000 ("Loan"), secured by a

1 Deed of Trust on the Property.

2 5. The Deed of Trust includes an Adjustable Rate Rider ("Rider").

3 6. Plaintiff admits the validity of her initials and signature on the Deed of Trust.

4 7. Plaintiff admits the validity of her signature on the Rider.

5 8. The Deed of Trust, including the Rider, was recorded in the Official Records of
6 Clark County, Nevada.

7 9. The Loan is evidenced by a promissory note ("Note").

8 10. The Note includes a Prepayment Fee Note Addendum ("Note Addendum").

9 11. Plaintiff does not dispute the validity of her signature on the Note Addendum.

10 12. Plaintiff admits she received the proceeds from the Loan.

11 13. Plaintiff used the proceeds from the Loan to pay off \$1,538,610.00 of her pre-
12 existing debt on the Property.

13 14. Plaintiff also received \$636,443.65 in cash from the Loan. The remaining balance
14 of the Loan paid various closing costs associated with the Loan and other creditors of Plaintiff.

15 15. Plaintiff defaulted on the loan in 2008.

16 16. After Plaintiff fell behind on her Loan payments, Plaintiff requested numerous
17 loan modifications in 2008, 2009, and 2015.

18 17. Plaintiff admitted that she presently seeks a loan modification.

19 18. Plaintiff filed for bankruptcy at least three times after she received the Loan (the
20 "Bankruptcy Actions").

21 19. In her two 2010 Bankruptcy Actions (Case Nos. 10-20635-bam; 10-28140-bam),
22 Plaintiff acknowledged the Loan in her Schedules and did not dispute the validity of the same
23 nor mention any alleged forgery.

24 20. Plaintiff asserts that she had concerns regarding her signature on the Note since
25 her 2010 Bankruptcy Actions; yet, Plaintiff never once disputed the validity of the Note in any of
26 the three Bankruptcy Actions.

27 21. In her 2012 Bankruptcy (Case No. 12-23874-btb), Plaintiff acknowledged the
28 Loan in her Schedules, without disputing the validity of the same or mentioning any alleged

1 forgery.

2 22. In the 2012 Bankruptcy, Plaintiff's only objection to PennyMac's Proof of Claim,
3 and Motion to Lift Stay/Motion for Adequate Protection was based on whether PennyMac had
4 standing to enforce the Note.

5 23. Plaintiff failed to make adequate protection payments in the 2012 Bankruptcy.
6 Accordingly, the Court issued an Order Terminating the Automatic Stay, permitting PennyMac
7 to foreclose on the Property.

8 24. The 2012 Bankruptcy was dismissed on May 16, 2014.

9 25. On June 25, 2015, PennyMac commenced non-judicial foreclosure proceedings
10 on the Property by recording a Notice of Default and Election to Sell.

11 26. On September 28, 2015, Plaintiff and PennyMac participated in an NRS Chapter
12 107 foreclosure mediation.

13 27. The mediator found that PennyMac complied with all of the mediation program's
14 requirements and that PennyMac could proceed with the foreclosure on the Property.

15 28. On September 14, 2015, Plaintiff filed a quiet title claim against PennyMac (Case
16 No. A-15-724525-C, ("2015 Quiet Title Action")) and did not dispute the validity of her
17 signature on the Note.

18 29. Plaintiff eventually voluntarily dismissed the 2015 Quiet Title Action.

19 30. On October 29, 2015, Plaintiff filed a Petition for Judicial Review related to the
20 foreclosure mediation ("Plaintiff's Petition").

21 31. Plaintiff's Petition did not dispute the validity of her signature on the Note.
22 Instead, Plaintiff's Petition asserted that her signature on the Deed of Trust was forged.

23 32. On November 18, 2015, Plaintiff filed a Motion to Amend her Petition for
24 Judicial Review, without disputing the validity of the Loan or raising any allegations of forgery
25 on the Note.

26 33. On April 6, 2016, Plaintiff filed a Revised Petition for Judicial Review
27 ("Plaintiff's Revised Petition") in the same matter. In her Revised Petition, Plaintiff admitted
28 that the Deed of Trust and the Note Addendum contained her valid signature.

34. On July 18, 2016, the district court issued an Order Denying Plaintiff's Petition for Judicial Review.

35. Plaintiff appealed the Order Denying her Petition for Judicial Review.

36. On June 12, 2018, the Nevada Court of Appeals affirmed the district court's denial of Plaintiff's Petition. Specifically, the Court of Appeals affirmed that PennyMac is the valid beneficiary and assignee under both the Note and Deed of Trust, PennyMac complied with all the FMP requirements, and that PennyMac may properly proceed with foreclosure on the Property.

37. On August 26, 2016, Plaintiff commenced the instant litigation.

38. On November 18, 2016, this Court granted PennyMac's Motion to Dismiss. Plaintiff appealed this Court's Order.

39. On June 12, 2018, the Court of Appeals affirmed the decision in part and remanded in part.

40. The Court of Appeals held that Plaintiff's forgery-based assertion was not subject to issue preclusion because the Order Denying Plaintiff's Petition for Judicial Review did not contain any findings of facts as to the alleged forgery.

41. The Court of Appeals found that PennyMac has the beneficial interest under the Loan and the legal authority to foreclose on the Property.

42. At trial, PennyMac's corporate designee testified that PennyMac currently holds the Note and is the beneficiary of record of the Deed of Trust. The trial testimony is consistent with the public record, including the Assignment of Deed of Trust, attached as Exhibit 49 to Defendant's Request for Judicial Notice.

II.

CONCLUSIONS OF LAW

Quiet Title Action-Forgery of Signature

1. A quiet title action is properly brought to determine interests in real property. See NRS 40.010.

2. In a quiet title action, the burden of proof rests with the plaintiff to prove good

1 title in herself. See Breliant v. Preferred Equities Corp., 112 Nev. 663, 669, 918 P.2d 314, 318
2 (Nev. 1996).

3 3. Here, Plaintiff failed to meet her burden of proof as Plaintiff admits she still owes
4 the debt from the Loan secured by the Property.

5 4. “An action to quiet title requires a plaintiff to allege that she has paid the debt
6 owed on the property.” Wensley v. First Nat. Bank of Nevada, 874 F. Supp. 2d 957, 966 (D.
7 Nev. 2012); see also Ensley v. LaSalle Bank, 2008 WL 6062193, at *1, 238 P.3d 809 (Nev.
8 2008) (unpublished) (summary judgment granted in a quiet title action when the plaintiff
9 “implicitly recognized the existence of a mortgage loan secured by [the plaintiff’s] residence . . .
10 and did not allege that the loan had been fully paid”).

11 5. Here, Plaintiff admits encumbering the Property with the Deed of Trust and does
12 not assert that she paid off the Loan. It is undisputed that Plaintiff is not current on her Loan
13 payments. Plaintiff acknowledges that she has “*never* owned the Property free and clear” of
14 encumbrances. In the three bankruptcy petitions Plaintiff filed after she received the Loan,
15 Plaintiff acknowledged the Loan in her Schedules and did not dispute the validity of the same.
16 In fact, Plaintiff has requested at least three loan modifications since she defaulted on the Loan
17 and acknowledged during her deposition that she still seeks a loan modification.

18 6. There is no dispute that: (1) Plaintiff received the proceeds from the Loan; (2)
19 Plaintiff used the proceeds from the Loan to pay off \$1,538,610.00 of her pre-existing debt on
20 the Property; (3) Plaintiff received \$636,443.65 in cash from the Loan; and (4) Plaintiff defaulted
21 on the loan in 2008. Because Plaintiff cannot meet her burden of proving that she paid the debt
22 secured by the Property, Plaintiff’s quiet title claim fails as a matter of law.

23 7. “A quiet title claim requires a plaintiff to allege that the defendant is *unlawfully*
24 *asserting* an adverse claim to title to real property.” Kemberling v. Ocwen Loan Servicing, No.
25 2:09-cv-00567-RC-JLRL, 2009 WL 5039495, at *2 (D. Nev. Dec. 15, 2009) (emphasis added).
26 Here, the validity of PennyMac’s interest in the Property was previously decided by the Court of
27 Appeals, which affirmed that all assignments related to the Note and Deed of Trust are valid and
28 PennyMac may foreclose on the Property. At trial, Plaintiff failed to establish that PennyMac

1 does not currently have legal authority to foreclose on the Property. The trial testimony
2 confirmed that PennyMac currently holds the Note and is the beneficiary of record of the Deed
3 of Trust, which is consistent with the public record. Notwithstanding the interim assignments of
4 the Deed of Trust, Defendant PennyMac maintained standing to defend the validity of the Note.
5 Accordingly, Plaintiff's quiet title action fails as a matter of law because there is no dispute that
6 Plaintiff still owes the debt secured by the Property and that PennyMac has the legal authority to
7 foreclose.

8 8. Equitable considerations further dictate that PennyMac is entitled to judgment on
9 Plaintiff's quiet title and declaratory relief claims. Both claims are equitable actions. See
10 Shadow Wood HOA v. N.Y. Cmty. Bancorp., 132 Nev. 49, 63, 366 P.3d 1105, 1114 (Nev.
11 2016). "When sitting in equity . . . courts must consider the entirety of the circumstances that
12 bear upon the equities." Id.

13 9. It is a well-settled principle that, while seeking equitable relief, a party is required
14 to do equity. See Overhead Door Co. of Reno, Inc. v. Overhead Door Corp., 103 Nev. 126, 734
15 P.2d 1233 (Nev. 1987). In other words, a party's own conduct should be considered when
16 deciding claims for equitable relief. See id.

17 10. Here, Plaintiff acknowledges that she applied for the Loan, executed the Deed of
18 Trust, *and* received and appreciated the benefits of the \$2,250,000 Loan. Further, Plaintiff did
19 not dispute the validity of the Loan, despite her multiple opportunities to do so. Even if Plaintiff
20 had overcome the presumption of the validity of her signature on the Note (which she did not),
21 equitable principles would dictate that PennyMac is entitled to judgment because Plaintiff is not
22 entitled to her requested equitable relief.

23 11. Plaintiff's admissions and allegations during the course of this litigation confirm
24 that judgment in favor of PennyMac is proper. Most significantly, Plaintiff acknowledges that
25 she executed the Deed of Trust and received the proceeds from the \$2,250,000 Loan secured by
26 the Deed of Trust.

27 12. Under basic equitable principles, Plaintiff cannot accept the benefits of the Loan,
28 pledge the Property as security for the Loan (as shown by the Deed of Trust), and simply decide

1 that she does not want to repay the Loan. See Moore v. Rochester Weaver Mining Co., 42 Nev.
2 164, 174 P. 1017, 1018 (Nev. 1918) (“Where one has an election either to ratify or disaffirm a
3 conveyance, he can either claim under or against, but he cannot do both. And having adopted one
4 course, he cannot afterwards pursue the other.”).

5 13. Nevada recognizes the “time-honored principle that states that he who keeps
6 property that he knows belongs to another must restore that property.” Maki v. Chong, 119 Nev.
7 390, 75 P.3d 376 (Nev. 2003) (applying equitable lien principles to disallow a debtor from using
8 the homestead exemption to exempt property that was purchased using fraudulently obtained
9 funds).

10 14. The doctrine of ratification by conduct operates to make a contract legally valid
11 rather than simply preventing a party from challenging the contract’s validity. Merrill v.
12 DeMott, 113 Nev. 1390, 1397, 951 P.2d 1040, 1043 (Nev. 1997). “Generally, contract
13 ratification is the adoption of a previously formed contract, notwithstanding a quality that
14 rendered it relatively void and by the very act of ratification the party affirming becomes bound
15 by it and entitled to all proper benefits from it.” Merrill, 113 Nev. at 1397, 951 P.2d at 1043
16 (quoting Schagun v. Scott Mfg. Co., 162 F. 209, 219 (8th Cir. 1908)).

17 15. Here, Plaintiff’s conduct ratified the Loan. Plaintiff admits that she applied for
18 the Loan. Plaintiff also admits she received the proceeds from the \$2,250,000 Loan.
19 Specifically, Plaintiff admits that \$1,538,610.00 of the Loan was used to pay off Plaintiff’s pre-
20 existing debt secured by the Property. Plaintiff further admits that she received the balance of
21 the Loan in cash and then used a portion of the \$636,443.65 to remodel her Property.¹

22 16. Plaintiff acknowledges that she signed the Deed of Trust and Rider, pledging the
23 Property as security for the Note. Finally, Plaintiff does not dispute that she signed the Note
24 Addendum, executed on the same day as the Note, the Deed of Trust, and the Rider.

25
26
27 ¹ The remaining balance of the Loan was used to pay Plaintiff’s numerous other creditors (with debts that were not
28 secured by the Property) and the closing costs associated with the Loan.

1 17. After Plaintiff defaulted on the Loan, Plaintiff requested numerous loan
2 modifications. Indeed, Plaintiff admitted she still sought a loan modification, even during this
3 litigation.

4 18. By accepting and realizing the benefits of the \$2,250,000 Loan, executing the
5 Deed of Trust, and requesting multiple loan modifications, Plaintiff ratified the Note and her
6 obligations therein. Merrill, 113 Nev. at 1397, 951 P.2d at 1043.

7 19. Plaintiff has initiated numerous legal actions in an attempt to avoid repaying the
8 Loan after she defaulted on the Loan in 2008. However, despite ample opportunities to do so,
9 Plaintiff did not assert that a signature on the Note was the product of a forgery until filing her
10 Complaint in this action.

11 20. On September 14, 2015, Plaintiff filed a quiet title action against PennyMac after
12 non-judicial foreclosure proceedings were commenced. Although Plaintiff eventually
13 voluntarily dismissed the 2015 Quiet Title Action, Plaintiff did not dispute the validity of the
14 Loan or allege that any of her signatures on the Note were the product of a forgery.

15 21. Next, on September 28, 2015, during the foreclosure mediation, while Plaintiff
16 disputed the validity of the Note *assignment*, Plaintiff never disputed the validity of her signature
17 on the Note. Plaintiff has had the opportunity to dispute the validity of her signature on the Note
18 in her Petition for Judicial Review, her Motion to Amend, and in her Revised Petition. Yet,
19 Plaintiff failed to do so. Instead, Plaintiff attempted to avoid her obligations to pay back the
20 Loan by asserting in her Petition that her signature on the Deed of Trust – not the Note – was
21 forged.

22 22. In addition, Plaintiff filed three Bankruptcy Actions after defaulting on her Loan.
23 Plaintiff identified the Loan in all of her bankruptcy schedules, without disputing the validity of
24 the same or raising any forgery allegations. Plaintiff's failure to dispute the validity of the Loan
25 and Note under penalty of perjury in her Bankruptcy Actions must be treated as a judicial
26 admission and further demonstrates to this Court that Plaintiff's equitable claims fail as a matter
27 of law.

28 23. "Statements made in bankruptcy schedules are executed under penalty of perjury

1 and, when offered against the debtor, ‘are eligible for treatment as [evidentiary] admissions.’”
2 Suter v. Goedert, 396 B.R. 535, 541 (D. Nev. 2008) (internal citations omitted); Fed. R. Bankr.
3 P. 1008. Further, “the listing of an asset on a bankruptcy schedule may be given preclusive
4 effect” by a court. Id. at 542; see also In re Ingram Family, LLC, 2019 WL 2524246, at *5
5 (B.A.P. 9th Cir. June 18, 2019) (“[S]tatements in bankruptcy schedules carry evidentiary weight,
6 and there exists a substantial body of case law holding that statements in schedules amount to
7 binding judicial admissions.”).

8 24. Moreover, courts may bar a debtor from pursuing claims that should have been
9 brought in the bankruptcy proceedings. See Hamilton v. State Farm Fire & Cas. Co., 270 F.3d
10 778, 784 (9th Cir. 2001) (judicial estoppel is proper when debtor had knowledge of claims but
11 did not disclose the claims during the bankruptcy proceedings); see also Suter, 396 B.R. at 541-
12 42 (debtor who did not raise malpractice claim in bankruptcy was barred from bringing
13 subsequent claim); In re Superior Crewboats, 374 F.3d 330, 335-36 (5th Cir.2004) (debtor was
14 judicially estopped from bringing personal injury claim because the claim was not listed in
15 bankruptcy schedule); Barger v. City of Cartersville, 348 F.3d 1289, 1295-97 (11th Cir. 2003)
16 (debtor was judicially estopped from bringing discrimination claim because the claim was not
17 listed in bankruptcy schedule).

18 25. Here, Plaintiff never challenged the validity of the Loan in her *three* Bankruptcy
19 Actions. On the contrary, Plaintiff acknowledged the Loan as a valid debt in all three of her
20 bankruptcy schedules. Plaintiff only raised an issue with the Loan in the 2012 Bankruptcy.
21 Even then, Plaintiff’s only challenge to the Loan was whether PennyMac had standing under the
22 Note – not whether she was liable under the Note as a result of her failure to pay.

23 26. Moreover, as a result of PennyMac’s Motion for Adequate Protection in the 2012
24 Bankruptcy, Plaintiff agreed to make payments under the Note. The 2012 Bankruptcy was
25 eventually dismissed because of Plaintiff’s refusal to make the agreed-upon Loan payments.
26 Plaintiff now asserts that she purportedly had concerns about her signature on the Note from the
27 time of her 2010 Bankruptcy petition; yet, in all three Bankruptcy Actions, Plaintiff never
28 asserted that her signature on the Note was the product of forgery.

27. Moreover, Plaintiff never disputed that she was required to make payments under the Loan in any of her Bankruptcy Actions. Accordingly, this Court must treat Plaintiff's failure to dispute the validity of the Loan or raise forgery allegations in her Bankruptcy Actions as a judicial admission. See Suter, 396 B.R. at 541 (D. Nev. 2008).

28. Under the UCC and Nevada law, a signature on a promissory note is presumed valid. See NRS 104.3308; Leyva v. Nat'l Default Servicing Corp., 127 Nev. 470, 255 P.3d 1275, 1279-80 (2011) (explaining that UCC applies to claims involving promissory notes). “The presumption rests upon the fact that in ordinary experience forged or unauthorized signatures are very uncommon. . . .” NRS 104.3308, cmt. 1 (UCC § 3-308(a)) (emphasis added).

43. The Court reviewed signatures that Plaintiff agrees are her signature and has reviewed the disputed signature and does not find that they are substantially different. From the Court's review the disputed signature appears to be Plaintiff's signature. Plaintiff failed to overcome the presumption of validity of her signature on the Note.

44. Plaintiff's assertion that a single signature on the Note was forged is not credible and is insufficient to overcome the statutory presumption that her signature is valid. See Picetti v. Orcio, 57 Nev. 52, 67 P.2d 315 (1937) (holding that a statutory presumption can only be overcome with clear, cogent and convincing evidence; and the uncorroborated testimony of an interested party is not of such character). There is no distinction between the true signatures and alleged forged signature that could overcome the presumption under Nevada law that Plaintiff's signature on the Note is valid.

29. Given the overwhelming evidence, including Plaintiff's admissions that: (1) Plaintiff received the proceeds from the Loan; (2) Plaintiff used the proceeds from the Loan to pay off \$1,538,610.00 of her pre-existing debt on the Property; (3) Plaintiff received \$636,443.65 in cash from the Loan; (4) Plaintiff's inconsistent positions taken in prior judicial proceedings; and (5) the cCourt's own observation of the signatures, this Court finds Plaintiff's assertion that a single signature on the Note was forged is not credible and that Plaintiff failed to overcome the statutory presumption at trial.

Trespass Claim

1 30. In June and July 2016, while Plaintiff was in default on the loan, PennyMac sent
2 an independent contractor to the Property for inspections.

3 31. During his testimony, Jay Schwegel, PennyMac's agent, stated he had reviewed
4 the file and the vendor, Assurant, who had inspected the property reported the property appeared
5 to be vacant. Based on the inspector's opinion, PennyMac asked its vendor to winterize the
6 Property. Mr. Schwegel had no first-hand knowledge of the property at the time of the vendor's
7 abandonment determination. He did not testify as to how or on what basis the vendor had
8 reached the decision that the property was abandoned other than the vendor indicated the water
9 was off. Indeed, absent perhaps application of the business record exception, such testimony
10 would have been hearsay. The report of the vendor as to the abandonment determination was not
11 attempted to be offered into evidence.

12 32. PennyMac's agent testified that its vendor further subcontracted with another
13 company to handle the winterization, which company left a note at the Property for its owners
14 that winterization had been done.

15 33. Plaintiff testified she has had continuous possession of the subject property since
16 she originally purchased it in 1997. She stated she is there intermittently and has continuously
17 maintained the property. She testified that at the time PennyMac ordered the winterizing of the
18 property her personal possessions were located inside the property, the property was furnished,
19 food was in the pantry and clothing, personal items and artwork were located and observable
20 throughout the property. Plaintiff expressed that any inspector would have been able to observe
21 into the home as many windows of the property do not have window coverings,

22 34. Plaintiff also testified PennyMac posted notices on the subject property and she
23 communicated with PennyMac when she received these notices. Consequently, Plaintiff asserted
24 PennyMac would have known that Plaintiff continued to occupy the property.

25 45. Plaintiff's trespass claim required her to prove an unpermitted and unprivileged
26 entry onto the land of another. Allied Props. v. Jacobsen, 75 Nev. 369, 343 P.2d 1016, 1021
27 (1959).

28 46. The Deed of Trust provides that "Lender or its agent may make reasonable entries

1 upon and inspections of the Property." Ex. 28 at ¶ 7. The Deed of Trust also provides that the
2 lender may protect its interest in the property and its rights under the Deed of Trust if "(a)
3 Borrower fails to perform the covenants and agreements contained in this Security Instrument,
4 (b) there is a legal proceeding that might significantly affect Lender's interest in the Property
5 and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for
6 condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security
7 Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property." Id.
8 at ¶ 9. PennyMac argues the Deed of Trust authorized its entry onto the Property at least in part
9 because its inspector concluded the Property appeared abandoned and winterizing was needed to
10 preserve its interest.

11 47. However, the deed of trust limits lender's right to entry to reasonable entries.
12 Consequently, the lender to enter the Property to take affirmative action to preserve it must have
13 a reasonable basis for making the entry. PennyMac failed to provide a factual basis for the Court
14 to conclude it had a reasonable basis to enter the property and engage in substantial affirmative
15 acts to winterize it. PennyMac's inspector reported the Property appeared abandoned. Such a
16 conclusion, if reasonably founded, provided a sufficient basis to enter the Property to winterize
17 it. However, Mr. Schwegel provided only the conclusion of the inspector and none of the
18 underlying factual basis for his or her conclusion. Plaintiff, on the other hand, testified as to the
19 existence of certain conditions on the Property which would not suggest it was abandoned or
20 requiring winterizing. The Court believes Plaintiff has met her burden that PennyMac's agent
21 intentionally entered her property without permission and PennyMac has failed to show its entry
22 was reasonably necessary to maintain the Property and was thus privileged. Plaintiff has shown
23 PennyMac intentionally trespassed on the Property.

24 48. Plaintiff offered testimony as to the damage PennyMac's vendor caused in
25 entering the property to winterize it. Plaintiff testified the PennyMac agents caused damage to
26 her property, stole personal property and caused her to spend money to mitigate plumbing and
27 other structural repairs.

28 35. Under NRCP 16.1(a)(1)(C), a party is required to produce a computation of any

1 category of damages claimed "without awaiting a discovery request." Clark County Sch. Dist. v.
2 Richardson Const., Inc., 123 Nev. 39, 168 P.3d 87, 97 (2007) ("plaintiff has the burden to prove
3 the amount of damages it is seeking."); Gibellini v. Klindt, 110 Nev. 1201, 1206, 885 P.2d 540,
4 543 (1994) (the "party seeking damages has the burden of proving the fact that he was damaged
5 and the amount thereof."). None of Plaintiff's disclosures identified damages.

6 36. In addition, Plaintiff failed to respond to PennyMac's requests for admission in a
7 timely manner, so they are deemed admitted under NRCP 36(a)(3), which include admissions
8 that Plaintiff has no evidence that PennyMac caused damage to the property and no evidence that
9 PennyMac stole any of Plaintiff's personal property. See also Smith v. Emery, 109 Nev. 737,
10 742, 856 P.2d 1386, 1390 (1993) (failure to respond to requests for admissions results in those
11 matters being deemed conclusively established).

12 37. Because Plaintiff did not disclose any damages, evidence or calculation of
13 damages during discovery as required, the Court granted PennyMac's pre-trial unopposed motion
14 in limine precluding any new evidence, so the Court will not award Plaintiff any actual damages
15 under her trespass claim.

16 38. While Plaintiff provided no evidence of actual damages, Plaintiff did establish
17 defendant engaged in an intentional trespass and is entitled to nominal damages. Reeves v.
18 Meridian S. Ry., LLC, 61 So. 3d 964 (Miss. Ct. App. 2011) (error not to award nominal damages
19 for trespass despite no showing of actual damages; "where there is a trespass to land, the
20 landowner has a right to at least nominal damages"). Plaintiff claims in the alternative nominal
21 damages and requested the court award such in the amount of \$5,000. Individuals may recover
22 nominal damages for trespass to land, even though the trespasser's "presence on the land causes
23 no harm to the land [or] its possessor...." Restatement (Second) of Torts § 163 & cmts. d, e
24 (1965). "Nominal damages are a trivial sum of money awarded to a litigant who has established
25 a cause of action but has not established that he is entitled to compensatory damages."
26 Restatement (Second) of Torts § 907 (1979). In *Green v. Study*, 286 S.W.3d 236, 242 (Mo. Ct.
27 App. 2009), nominal damages of \$1000 was found excessive, as "nominal damages are fixed at
28 a trifling sum, usually no more than \$1.00, sometimes less." Id. (quoting *Simpkins v. Ryder*

1 *Freight Sys., Inc.*, 855 S.W.2d 416, 423 (Mo. Ct. App. 1993)). *See also Thomas v. Harrah's*
2 *Vicksburg Corp.*, 734 So. 2d 312, 319 (Miss. Ct. App. 1999) (Nominal damages are “small or
3 trivial in nature, awarded for a technical injury due to a violation of some legal right, a
4 consequence of which requires an award of some damage to determine that right.”).

5 39. Nevada's pattern jury instruction on nominal damages suggests the appropriate
6 amount is one dollar. The court will award \$1 as nominal damages. Nev. JI 17.2.²

7 **III.**

8 **COURT FINDINGS AND CONCLUSIONS**

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered in
10 favor of Defendant and against Plaintiff with respect to each of Plaintiff's forgery-based claims,
11 including Plaintiff's claims for: (1) Action to Determine Adverse Claims to Real Property; (2)
12 Common Law Quiet Title; (3) Declaratory Judgment; and (4) Application for Preliminary
13 Injunction.

14 IT IS HEREBY FURTHER ORDERED that, pursuant to NRS 14.017, the Notice of
15 Pendency of Action, recorded by Plaintiff in the Office of the Clark County Recorder as
16 Instrument Number 201609060001894, shall be cancelled and expunged. Said cancellation shall
17 have the same effect as an expungement of the original notice.

18
19 _____
20
21 ² Additionally at trial Plaintiff established PennyMac during the litigation transferred the servicing of the loan on the
22 Property to a third party who was not a party to the litigation. However, several months prior to trial, PennyMac had
23 reacquired servicing rights to the loan and was the servicer of the loan at the time of trial. Plaintiff argued
24 PennyMac lost its standing to litigate against Plaintiff when it transferred the loan to the third party. Significantly,
25 Plaintiff chose to sue PennyMac over the loan in the instant litigation and PennyMac had an interest in establishing
26 the value of the loan it serviced and transferred. The Court invited Plaintiff to provide further briefing on the
27 standing issue. Plaintiff did not provide any legal analysis that PennyMac as the sued party could not litigate its
28 interest in the loan and the interest it transferred. *Bank of Am., NA v. Fid. Nat. Title Ins. Co.*, 316 Mich. App. 480,
517, 892 N.W.2d 467, 488 (2016)(party identified no basis requiring bank to retain its loans to bring certain claims).
However, to the degree there may have been some issue of standing during the period the note was transferred to a
third party for servicing, PennyMac in reacquiring the loan also clearly had standing to defend it at the time of trial.
Id.(bank in repurchasing loan reacquired right to pursue claims). The Court finds PennyMac had standing to litigate
and defend its interest in the Property in this action.

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered in
2 favor of Plaintiff with respect to Plaintiff's trespass claim and awarded \$1.00.

Dated this 4th day of December, 2020

3 IT IS SO ORDERED this _____ day of _____ 2020.

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5 _____
6 DISTRICT COURT JUDGE

7 549 07D 0FDD C924
8 Eric Johnson
9 District Court Judge
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Tracy Castl , Plaintiff(s)

CASE NO: A-16-742267-C

7 vs.

DEPT. NO. Department 20

8 Pennymac Holdings LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

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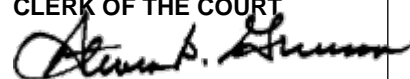
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DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

TRACY LEE CASTL,
Plaintiff,

vs.

PENNYMAC HOLDINGS, LLC and DOES I-
X,

Defendants.

CASE NO. A-16-742267-C

DEPT NO. XX

**NOTICE OF ENTRY OF
JUDGMENT**

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Please take notice that a Judgment was entered with the above Court on the 4th day of December 2020, a copy of which is attached hereto.

DATED this 4th day of December, 2020.

By /s/ Brittany Wood

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PENNYMAC HOLDINGS

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Maruice Wood, and that on the 4th day of December, 2020, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF JUDGMENT** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.

/s/ Brittany Wood
An Employee of MAURICE WOOD

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * *

TRACY LEE CASTL,
Plaintiff,

CASE NO. A-16-742267-C

vs.

DEPT NO. XX

PENNYMAC HOLDINGS, LLC and DOES I-
X,

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
JUDGMENT**

Defendants.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

The trial of this matter occurred on September 8-10, 2020. Plaintiff was represented by Lisa Rasmussen. Defendant was represented by Aaron Maurice and Rex Garner. The Court heard testimony from Plaintiff and from J. Schwegel, on behalf of PennyMac Holdings, LLC ("PennyMac"). The Court, having heard the testimony, reviewed the admitted exhibits and pleadings of the parties, and having heard argument, enters the following Findings of Fact, Conclusions of Law, and Judgment.

I.

FINDINGS OF FACTS

1. Plaintiff is the owner of real property commonly known as 3910 White Fir Way, Mount Charleston, Nevada, formerly known as 123 Rainbow Canyon Boulevard, Mount Charleston, Nevada ("Property").

2. Plaintiff has never owned the Property free and clear of any encumbrances.

3. In 2007, Plaintiff applied for a \$2,250,000 loan from Washington Mutual Bank ("WAMU").

4. On June 1, 2007, WAMU loaned Plaintiff \$2,250,000 ("Loan"), secured by a

1 Deed of Trust on the Property.

2 5. The Deed of Trust includes an Adjustable Rate Rider ("Rider").

3 6. Plaintiff admits the validity of her initials and signature on the Deed of Trust.

4 7. Plaintiff admits the validity of her signature on the Rider.

5 8. The Deed of Trust, including the Rider, was recorded in the Official Records of
6 Clark County, Nevada.

7 9. The Loan is evidenced by a promissory note ("Note").

8 10. The Note includes a Prepayment Fee Note Addendum ("Note Addendum").

9 11. Plaintiff does not dispute the validity of her signature on the Note Addendum.

10 12. Plaintiff admits she received the proceeds from the Loan.

11 13. Plaintiff used the proceeds from the Loan to pay off \$1,538,610.00 of her pre-
12 existing debt on the Property.

13 14. Plaintiff also received \$636,443.65 in cash from the Loan. The remaining balance
14 of the Loan paid various closing costs associated with the Loan and other creditors of Plaintiff.

15 15. Plaintiff defaulted on the loan in 2008.

16 16. After Plaintiff fell behind on her Loan payments, Plaintiff requested numerous
17 loan modifications in 2008, 2009, and 2015.

18 17. Plaintiff admitted that she presently seeks a loan modification.

19 18. Plaintiff filed for bankruptcy at least three times after she received the Loan (the
20 "Bankruptcy Actions").

21 19. In her two 2010 Bankruptcy Actions (Case Nos. 10-20635-bam; 10-28140-bam),
22 Plaintiff acknowledged the Loan in her Schedules and did not dispute the validity of the same
23 nor mention any alleged forgery.

24 20. Plaintiff asserts that she had concerns regarding her signature on the Note since
25 her 2010 Bankruptcy Actions; yet, Plaintiff never once disputed the validity of the Note in any of
26 the three Bankruptcy Actions.

27 21. In her 2012 Bankruptcy (Case No. 12-23874-btb), Plaintiff acknowledged the
28 Loan in her Schedules, without disputing the validity of the same or mentioning any alleged

1 forgery.

2 22. In the 2012 Bankruptcy, Plaintiff's only objection to PennyMac's Proof of Claim,
3 and Motion to Lift Stay/Motion for Adequate Protection was based on whether PennyMac had
4 standing to enforce the Note.

5 23. Plaintiff failed to make adequate protection payments in the 2012 Bankruptcy.
6 Accordingly, the Court issued an Order Terminating the Automatic Stay, permitting PennyMac
7 to foreclose on the Property.

8 24. The 2012 Bankruptcy was dismissed on May 16, 2014.

9 25. On June 25, 2015, PennyMac commenced non-judicial foreclosure proceedings
10 on the Property by recording a Notice of Default and Election to Sell.

11 26. On September 28, 2015, Plaintiff and PennyMac participated in an NRS Chapter
12 107 foreclosure mediation.

13 27. The mediator found that PennyMac complied with all of the mediation program's
14 requirements and that PennyMac could proceed with the foreclosure on the Property.

15 28. On September 14, 2015, Plaintiff filed a quiet title claim against PennyMac (Case
16 No. A-15-724525-C, ("2015 Quiet Title Action")) and did not dispute the validity of her
17 signature on the Note.

18 29. Plaintiff eventually voluntarily dismissed the 2015 Quiet Title Action.

19 30. On October 29, 2015, Plaintiff filed a Petition for Judicial Review related to the
20 foreclosure mediation ("Plaintiff's Petition").

21 31. Plaintiff's Petition did not dispute the validity of her signature on the Note.
22 Instead, Plaintiff's Petition asserted that her signature on the Deed of Trust was forged.

23 32. On November 18, 2015, Plaintiff filed a Motion to Amend her Petition for
24 Judicial Review, without disputing the validity of the Loan or raising any allegations of forgery
25 on the Note.

26 33. On April 6, 2016, Plaintiff filed a Revised Petition for Judicial Review
27 ("Plaintiff's Revised Petition") in the same matter. In her Revised Petition, Plaintiff admitted
28 that the Deed of Trust and the Note Addendum contained her valid signature.

34. On July 18, 2016, the district court issued an Order Denying Plaintiff's Petition for Judicial Review.

35. Plaintiff appealed the Order Denying her Petition for Judicial Review.

36. On June 12, 2018, the Nevada Court of Appeals affirmed the district court's denial of Plaintiff's Petition. Specifically, the Court of Appeals affirmed that PennyMac is the valid beneficiary and assignee under both the Note and Deed of Trust, PennyMac complied with all the FMP requirements, and that PennyMac may properly proceed with foreclosure on the Property.

37. On August 26, 2016, Plaintiff commenced the instant litigation.

38. On November 18, 2016, this Court granted PennyMac's Motion to Dismiss. Plaintiff appealed this Court's Order.

39. On June 12, 2018, the Court of Appeals affirmed the decision in part and remanded in part.

40. The Court of Appeals held that Plaintiff's forgery-based assertion was not subject to issue preclusion because the Order Denying Plaintiff's Petition for Judicial Review did not contain any findings of facts as to the alleged forgery.

41. The Court of Appeals found that PennyMac has the beneficial interest under the Loan and the legal authority to foreclose on the Property.

42. At trial, PennyMac's corporate designee testified that PennyMac currently holds the Note and is the beneficiary of record of the Deed of Trust. The trial testimony is consistent with the public record, including the Assignment of Deed of Trust, attached as Exhibit 49 to Defendant's Request for Judicial Notice.

II.

CONCLUSIONS OF LAW

Quiet Title Action-Forgery of Signature

1. A quiet title action is properly brought to determine interests in real property. See NRS 40.010.

2. In a quiet title action, the burden of proof rests with the plaintiff to prove good

1 title in herself. See Breliant v. Preferred Equities Corp., 112 Nev. 663, 669, 918 P.2d 314, 318
2 (Nev. 1996).

3 3. Here, Plaintiff failed to meet her burden of proof as Plaintiff admits she still owes
4 the debt from the Loan secured by the Property.

5 4. “An action to quiet title requires a plaintiff to allege that she has paid the debt
6 owed on the property.” Wensley v. First Nat. Bank of Nevada, 874 F. Supp. 2d 957, 966 (D.
7 Nev. 2012); see also Ensley v. LaSalle Bank, 2008 WL 6062193, at *1, 238 P.3d 809 (Nev.
8 2008) (unpublished) (summary judgment granted in a quiet title action when the plaintiff
9 “implicitly recognized the existence of a mortgage loan secured by [the plaintiff’s] residence . . .
10 and did not allege that the loan had been fully paid”).

11 5. Here, Plaintiff admits encumbering the Property with the Deed of Trust and does
12 not assert that she paid off the Loan. It is undisputed that Plaintiff is not current on her Loan
13 payments. Plaintiff acknowledges that she has “*never* owned the Property free and clear” of
14 encumbrances. In the three bankruptcy petitions Plaintiff filed after she received the Loan,
15 Plaintiff acknowledged the Loan in her Schedules and did not dispute the validity of the same.
16 In fact, Plaintiff has requested at least three loan modifications since she defaulted on the Loan
17 and acknowledged during her deposition that she still seeks a loan modification.

18 6. There is no dispute that: (1) Plaintiff received the proceeds from the Loan; (2)
19 Plaintiff used the proceeds from the Loan to pay off \$1,538,610.00 of her pre-existing debt on
20 the Property; (3) Plaintiff received \$636,443.65 in cash from the Loan; and (4) Plaintiff defaulted
21 on the loan in 2008. Because Plaintiff cannot meet her burden of proving that she paid the debt
22 secured by the Property, Plaintiff’s quiet title claim fails as a matter of law.

23 7. “A quiet title claim requires a plaintiff to allege that the defendant is *unlawfully*
24 *asserting* an adverse claim to title to real property.” Kemberling v. Ocwen Loan Servicing, No.
25 2:09-cv-00567-RC-JLRL, 2009 WL 5039495, at *2 (D. Nev. Dec. 15, 2009) (emphasis added).
26 Here, the validity of PennyMac’s interest in the Property was previously decided by the Court of
27 Appeals, which affirmed that all assignments related to the Note and Deed of Trust are valid and
28 PennyMac may foreclose on the Property. At trial, Plaintiff failed to establish that PennyMac

1 does not currently have legal authority to foreclose on the Property. The trial testimony
2 confirmed that PennyMac currently holds the Note and is the beneficiary of record of the Deed
3 of Trust, which is consistent with the public record. Notwithstanding the interim assignments of
4 the Deed of Trust, Defendant PennyMac maintained standing to defend the validity of the Note.
5 Accordingly, Plaintiff's quiet title action fails as a matter of law because there is no dispute that
6 Plaintiff still owes the debt secured by the Property and that PennyMac has the legal authority to
7 foreclose.

8 8. Equitable considerations further dictate that PennyMac is entitled to judgment on
9 Plaintiff's quiet title and declaratory relief claims. Both claims are equitable actions. See
10 Shadow Wood HOA v. N.Y. Cmty. Bancorp., 132 Nev. 49, 63, 366 P.3d 1105, 1114 (Nev.
11 2016). "When sitting in equity . . . courts must consider the entirety of the circumstances that
12 bear upon the equities." Id.

13 9. It is a well-settled principle that, while seeking equitable relief, a party is required
14 to do equity. See Overhead Door Co. of Reno, Inc. v. Overhead Door Corp., 103 Nev. 126, 734
15 P.2d 1233 (Nev. 1987). In other words, a party's own conduct should be considered when
16 deciding claims for equitable relief. See id.

17 10. Here, Plaintiff acknowledges that she applied for the Loan, executed the Deed of
18 Trust, *and* received and appreciated the benefits of the \$2,250,000 Loan. Further, Plaintiff did
19 not dispute the validity of the Loan, despite her multiple opportunities to do so. Even if Plaintiff
20 had overcome the presumption of the validity of her signature on the Note (which she did not),
21 equitable principles would dictate that PennyMac is entitled to judgment because Plaintiff is not
22 entitled to her requested equitable relief.

23 11. Plaintiff's admissions and allegations during the course of this litigation confirm
24 that judgment in favor of PennyMac is proper. Most significantly, Plaintiff acknowledges that
25 she executed the Deed of Trust and received the proceeds from the \$2,250,000 Loan secured by
26 the Deed of Trust.

27 12. Under basic equitable principles, Plaintiff cannot accept the benefits of the Loan,
28 pledge the Property as security for the Loan (as shown by the Deed of Trust), and simply decide

1 that she does not want to repay the Loan. See Moore v. Rochester Weaver Mining Co., 42 Nev.
2 164, 174 P. 1017, 1018 (Nev. 1918) (“Where one has an election either to ratify or disaffirm a
3 conveyance, he can either claim under or against, but he cannot do both. And having adopted one
4 course, he cannot afterwards pursue the other.”).

5 13. Nevada recognizes the “time-honored principle that states that he who keeps
6 property that he knows belongs to another must restore that property.” Maki v. Chong, 119 Nev.
7 390, 75 P.3d 376 (Nev. 2003) (applying equitable lien principles to disallow a debtor from using
8 the homestead exemption to exempt property that was purchased using fraudulently obtained
9 funds).

10 14. The doctrine of ratification by conduct operates to make a contract legally valid
11 rather than simply preventing a party from challenging the contract’s validity. Merrill v.
12 DeMott, 113 Nev. 1390, 1397, 951 P.2d 1040, 1043 (Nev. 1997). “Generally, contract
13 ratification is the adoption of a previously formed contract, notwithstanding a quality that
14 rendered it relatively void and by the very act of ratification the party affirming becomes bound
15 by it and entitled to all proper benefits from it.” Merrill, 113 Nev. at 1397, 951 P.2d at 1043
16 (quoting Schagun v. Scott Mfg. Co., 162 F. 209, 219 (8th Cir. 1908)).

17 15. Here, Plaintiff’s conduct ratified the Loan. Plaintiff admits that she applied for
18 the Loan. Plaintiff also admits she received the proceeds from the \$2,250,000 Loan.
19 Specifically, Plaintiff admits that \$1,538,610.00 of the Loan was used to pay off Plaintiff’s pre-
20 existing debt secured by the Property. Plaintiff further admits that she received the balance of
21 the Loan in cash and then used a portion of the \$636,443.65 to remodel her Property.¹

22 16. Plaintiff acknowledges that she signed the Deed of Trust and Rider, pledging the
23 Property as security for the Note. Finally, Plaintiff does not dispute that she signed the Note
24 Addendum, executed on the same day as the Note, the Deed of Trust, and the Rider.

25
26
27 ¹ The remaining balance of the Loan was used to pay Plaintiff’s numerous other creditors (with debts that were not
28 secured by the Property) and the closing costs associated with the Loan.

1 17. After Plaintiff defaulted on the Loan, Plaintiff requested numerous loan
2 modifications. Indeed, Plaintiff admitted she still sought a loan modification, even during this
3 litigation.

4 18. By accepting and realizing the benefits of the \$2,250,000 Loan, executing the
5 Deed of Trust, and requesting multiple loan modifications, Plaintiff ratified the Note and her
6 obligations therein. Merrill, 113 Nev. at 1397, 951 P.2d at 1043.

7 19. Plaintiff has initiated numerous legal actions in an attempt to avoid repaying the
8 Loan after she defaulted on the Loan in 2008. However, despite ample opportunities to do so,
9 Plaintiff did not assert that a signature on the Note was the product of a forgery until filing her
10 Complaint in this action.

11 20. On September 14, 2015, Plaintiff filed a quiet title action against PennyMac after
12 non-judicial foreclosure proceedings were commenced. Although Plaintiff eventually
13 voluntarily dismissed the 2015 Quiet Title Action, Plaintiff did not dispute the validity of the
14 Loan or allege that any of her signatures on the Note were the product of a forgery.

15 21. Next, on September 28, 2015, during the foreclosure mediation, while Plaintiff
16 disputed the validity of the Note *assignment*, Plaintiff never disputed the validity of her signature
17 on the Note. Plaintiff has had the opportunity to dispute the validity of her signature on the Note
18 in her Petition for Judicial Review, her Motion to Amend, and in her Revised Petition. Yet,
19 Plaintiff failed to do so. Instead, Plaintiff attempted to avoid her obligations to pay back the
20 Loan by asserting in her Petition that her signature on the Deed of Trust – not the Note – was
21 forged.

22 22. In addition, Plaintiff filed three Bankruptcy Actions after defaulting on her Loan.
23 Plaintiff identified the Loan in all of her bankruptcy schedules, without disputing the validity of
24 the same or raising any forgery allegations. Plaintiff's failure to dispute the validity of the Loan
25 and Note under penalty of perjury in her Bankruptcy Actions must be treated as a judicial
26 admission and further demonstrates to this Court that Plaintiff's equitable claims fail as a matter
27 of law.

28 23. "Statements made in bankruptcy schedules are executed under penalty of perjury

1 and, when offered against the debtor, ‘are eligible for treatment as [evidentiary] admissions.’”
2 Suter v. Goedert, 396 B.R. 535, 541 (D. Nev. 2008) (internal citations omitted); Fed. R. Bankr.
3 P. 1008. Further, “the listing of an asset on a bankruptcy schedule may be given preclusive
4 effect” by a court. Id. at 542; see also In re Ingram Family, LLC, 2019 WL 2524246, at *5
5 (B.A.P. 9th Cir. June 18, 2019) (“[S]tatements in bankruptcy schedules carry evidentiary weight,
6 and there exists a substantial body of case law holding that statements in schedules amount to
7 binding judicial admissions.”).

8 24. Moreover, courts may bar a debtor from pursuing claims that should have been
9 brought in the bankruptcy proceedings. See Hamilton v. State Farm Fire & Cas. Co., 270 F.3d
10 778, 784 (9th Cir. 2001) (judicial estoppel is proper when debtor had knowledge of claims but
11 did not disclose the claims during the bankruptcy proceedings); see also Suter, 396 B.R. at 541-
12 42 (debtor who did not raise malpractice claim in bankruptcy was barred from bringing
13 subsequent claim); In re Superior Crewboats, 374 F.3d 330, 335-36 (5th Cir.2004) (debtor was
14 judicially estopped from bringing personal injury claim because the claim was not listed in
15 bankruptcy schedule); Barger v. City of Cartersville, 348 F.3d 1289, 1295-97 (11th Cir. 2003)
16 (debtor was judicially estopped from bringing discrimination claim because the claim was not
17 listed in bankruptcy schedule).

18 25. Here, Plaintiff never challenged the validity of the Loan in her *three* Bankruptcy
19 Actions. On the contrary, Plaintiff acknowledged the Loan as a valid debt in all three of her
20 bankruptcy schedules. Plaintiff only raised an issue with the Loan in the 2012 Bankruptcy.
21 Even then, Plaintiff’s only challenge to the Loan was whether PennyMac had standing under the
22 Note – not whether she was liable under the Note as a result of her failure to pay.

23 26. Moreover, as a result of PennyMac’s Motion for Adequate Protection in the 2012
24 Bankruptcy, Plaintiff agreed to make payments under the Note. The 2012 Bankruptcy was
25 eventually dismissed because of Plaintiff’s refusal to make the agreed-upon Loan payments.
26 Plaintiff now asserts that she purportedly had concerns about her signature on the Note from the
27 time of her 2010 Bankruptcy petition; yet, in all three Bankruptcy Actions, Plaintiff never
28 asserted that her signature on the Note was the product of forgery.

27. Moreover, Plaintiff never disputed that she was required to make payments under the Loan in any of her Bankruptcy Actions. Accordingly, this Court must treat Plaintiff's failure to dispute the validity of the Loan or raise forgery allegations in her Bankruptcy Actions as a judicial admission. See Suter, 396 B.R. at 541 (D. Nev. 2008).

28. Under the UCC and Nevada law, a signature on a promissory note is presumed valid. See NRS 104.3308; Leyva v. Nat'l Default Servicing Corp., 127 Nev. 470, 255 P.3d 1275, 1279-80 (2011) (explaining that UCC applies to claims involving promissory notes). “The presumption rests upon the fact that in ordinary experience forged or unauthorized signatures are very uncommon. . . .” NRS 104.3308, cmt. 1 (UCC § 3-308(a)) (emphasis added).

43. The Court reviewed signatures that Plaintiff agrees are her signature and has reviewed the disputed signature and does not find that they are substantially different. From the Court's review the disputed signature appears to be Plaintiff's signature. Plaintiff failed to overcome the presumption of validity of her signature on the Note.

44. Plaintiff's assertion that a single signature on the Note was forged is not credible and is insufficient to overcome the statutory presumption that her signature is valid. See Picetti v. Orcio, 57 Nev. 52, 67 P.2d 315 (1937) (holding that a statutory presumption can only be overcome with clear, cogent and convincing evidence; and the uncorroborated testimony of an interested party is not of such character). There is no distinction between the true signatures and alleged forged signature that could overcome the presumption under Nevada law that Plaintiff's signature on the Note is valid.

29. Given the overwhelming evidence, including Plaintiff's admissions that: (1) Plaintiff received the proceeds from the Loan; (2) Plaintiff used the proceeds from the Loan to pay off \$1,538,610.00 of her pre-existing debt on the Property; (3) Plaintiff received \$636,443.65 in cash from the Loan; (4) Plaintiff's inconsistent positions taken in prior judicial proceedings; and (5) the eCourt's own observation of the signatures, this Court finds Plaintiff's assertion that a single signature on the Note was forged is not credible and that Plaintiff failed to overcome the statutory presumption at trial.

Trespass Claim

1 30. In June and July 2016, while Plaintiff was in default on the loan, PennyMac sent
2 an independent contractor to the Property for inspections.

3 31. During his testimony, Jay Schwegel, PennyMac's agent, stated he had reviewed
4 the file and the vendor, Assurant, who had inspected the property reported the property appeared
5 to be vacant. Based on the inspector's opinion, PennyMac asked its vendor to winterize the
6 Property. Mr. Schwegel had no first-hand knowledge of the property at the time of the vendor's
7 abandonment determination. He did not testify as to how or on what basis the vendor had
8 reached the decision that the property was abandoned other than the vendor indicated the water
9 was off. Indeed, absent perhaps application of the business record exception, such testimony
10 would have been hearsay. The report of the vendor as to the abandonment determination was not
11 attempted to be offered into evidence.

12 32. PennyMac's agent testified that its vendor further subcontracted with another
13 company to handle the winterization, which company left a note at the Property for its owners
14 that winterization had been done.

15 33. Plaintiff testified she has had continuous possession of the subject property since
16 she originally purchased it in 1997. She stated she is there intermittently and has continuously
17 maintained the property. She testified that at the time PennyMac ordered the winterizing of the
18 property her personal possessions were located inside the property, the property was furnished,
19 food was in the pantry and clothing, personal items and artwork were located and observable
20 throughout the property. Plaintiff expressed that any inspector would have been able to observe
21 into the home as many windows of the property do not have window coverings,

22 34. Plaintiff also testified PennyMac posted notices on the subject property and she
23 communicated with PennyMac when she received these notices. Consequently, Plaintiff asserted
24 PennyMac would have known that Plaintiff continued to occupy the property.

25 45. Plaintiff's trespass claim required her to prove an unpermitted and unprivileged
26 entry onto the land of another. Allied Props. v. Jacobsen, 75 Nev. 369, 343 P.2d 1016, 1021
27 (1959).

28 46. The Deed of Trust provides that "Lender or its agent may make reasonable entries

1 upon and inspections of the Property." Ex. 28 at ¶ 7. The Deed of Trust also provides that the
2 lender may protect its interest in the property and its rights under the Deed of Trust if "(a)
3 Borrower fails to perform the covenants and agreements contained in this Security Instrument,
4 (b) there is a legal proceeding that might significantly affect Lender's interest in the Property
5 and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for
6 condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security
7 Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property." Id.
8 at ¶ 9. PennyMac argues the Deed of Trust authorized its entry onto the Property at least in part
9 because its inspector concluded the Property appeared abandoned and winterizing was needed to
10 preserve its interest.

11 47. However, the deed of trust limits lender's right to entry to reasonable entries.
12 Consequently, the lender to enter the Property to take affirmative action to preserve it must have
13 a reasonable basis for making the entry. PennyMac failed to provide a factual basis for the Court
14 to conclude it had a reasonable basis to enter the property and engage in substantial affirmative
15 acts to winterize it. PennyMac's inspector reported the Property appeared abandoned. Such a
16 conclusion, if reasonably founded, provided a sufficient basis to enter the Property to winterize
17 it. However, Mr. Schwegel provided only the conclusion of the inspector and none of the
18 underlying factual basis for his or her conclusion. Plaintiff, on the other hand, testified as to the
19 existence of certain conditions on the Property which would not suggest it was abandoned or
20 requiring winterizing. The Court believes Plaintiff has met her burden that PennyMac's agent
21 intentionally entered her property without permission and PennyMac has failed to show its entry
22 was reasonably necessary to maintain the Property and was thus privileged. Plaintiff has shown
23 PennyMac intentionally trespassed on the Property.

24 48. Plaintiff offered testimony as to the damage PennyMac's vendor caused in
25 entering the property to winterize it. Plaintiff testified the PennyMac agents caused damage to
26 her property, stole personal property and caused her to spend money to mitigate plumbing and
27 other structural repairs.

28 35. Under NRCP 16.1(a)(1)(C), a party is required to produce a computation of any

1 category of damages claimed "without awaiting a discovery request." Clark County Sch. Dist. v.
2 Richardson Const., Inc., 123 Nev. 39, 168 P.3d 87, 97 (2007) ("plaintiff has the burden to prove
3 the amount of damages it is seeking."); Gibellini v. Klindt, 110 Nev. 1201, 1206, 885 P.2d 540,
4 543 (1994) (the "party seeking damages has the burden of proving the fact that he was damaged
5 and the amount thereof."). None of Plaintiff's disclosures identified damages.

6 36. In addition, Plaintiff failed to respond to PennyMac's requests for admission in a
7 timely manner, so they are deemed admitted under NRCP 36(a)(3), which include admissions
8 that Plaintiff has no evidence that PennyMac caused damage to the property and no evidence that
9 PennyMac stole any of Plaintiff's personal property. See also Smith v. Emery, 109 Nev. 737,
10 742, 856 P.2d 1386, 1390 (1993) (failure to respond to requests for admissions results in those
11 matters being deemed conclusively established).

12 37. Because Plaintiff did not disclose any damages, evidence or calculation of
13 damages during discovery as required, the Court granted PennyMac's pre-trial unopposed motion
14 in limine precluding any new evidence, so the Court will not award Plaintiff any actual damages
15 under her trespass claim.

16 38. While Plaintiff provided no evidence of actual damages, Plaintiff did establish
17 defendant engaged in an intentional trespass and is entitled to nominal damages. Reeves v.
18 Meridian S. Ry., LLC, 61 So. 3d 964 (Miss. Ct. App. 2011) (error not to award nominal damages
19 for trespass despite no showing of actual damages; "where there is a trespass to land, the
20 landowner has a right to at least nominal damages"). Plaintiff claims in the alternative nominal
21 damages and requested the court award such in the amount of \$5,000. Individuals may recover
22 nominal damages for trespass to land, even though the trespasser's "presence on the land causes
23 no harm to the land [or] its possessor...." Restatement (Second) of Torts § 163 & cmts. d, e
24 (1965). "Nominal damages are a trivial sum of money awarded to a litigant who has established
25 a cause of action but has not established that he is entitled to compensatory damages."
26 Restatement (Second) of Torts § 907 (1979). In Green v. Study, 286 S.W.3d 236, 242 (Mo. Ct.
27 App. 2009), nominal damages of \$1000 was found excessive, as "nominal damages are fixed at
28 a trifling sum, usually no more than \$1.00, sometimes less." Id. (quoting Simpkins v. Ryder

1 *Freight Sys., Inc.*, 855 S.W.2d 416, 423 (Mo. Ct. App. 1993)). *See also Thomas v. Harrah's*
2 *Vicksburg Corp.*, 734 So. 2d 312, 319 (Miss. Ct. App. 1999) (Nominal damages are “small or
3 trivial in nature, awarded for a technical injury due to a violation of some legal right, a
4 consequence of which requires an award of some damage to determine that right.”).

5 39. Nevada's pattern jury instruction on nominal damages suggests the appropriate
6 amount is one dollar. The court will award \$1 as nominal damages. Nev. JI 17.2.²

7 **III.**

8 **COURT FINDINGS AND CONCLUSIONS**

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered in
10 favor of Defendant and against Plaintiff with respect to each of Plaintiff's forgery-based claims,
11 including Plaintiff's claims for: (1) Action to Determine Adverse Claims to Real Property; (2)
12 Common Law Quiet Title; (3) Declaratory Judgment; and (4) Application for Preliminary
13 Injunction.

14 IT IS HEREBY FURTHER ORDERED that, pursuant to NRS 14.017, the Notice of
15 Pendency of Action, recorded by Plaintiff in the Office of the Clark County Recorder as
16 Instrument Number 201609060001894, shall be cancelled and expunged. Said cancellation shall
17 have the same effect as an expungement of the original notice.

18
19 _____
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21 ² Additionally at trial Plaintiff established PennyMac during the litigation transferred the servicing of the loan on the
22 Property to a third party who was not a party to the litigation. However, several months prior to trial, PennyMac had
23 reacquired servicing rights to the loan and was the servicer of the loan at the time of trial. Plaintiff argued
24 PennyMac lost its standing to litigate against Plaintiff when it transferred the loan to the third party. Significantly,
25 Plaintiff chose to sue PennyMac over the loan in the instant litigation and PennyMac had an interest in establishing
26 the value of the loan it serviced and transferred. The Court invited Plaintiff to provide further briefing on the
27 standing issue. Plaintiff did not provide any legal analysis that PennyMac as the sued party could not litigate its
28 interest in the loan and the interest it transferred. *Bank of Am., NA v. Fid. Nat. Title Ins. Co.*, 316 Mich. App. 480,
517, 892 N.W.2d 467, 488 (2016)(party identified no basis requiring bank to retain its loans to bring certain claims).
However, to the degree there may have been some issue of standing during the period the note was transferred to a
third party for servicing, PennyMac in reacquiring the loan also clearly had standing to defend it at the time of trial.
Id.(bank in repurchasing loan reacquired right to pursue claims). The Court finds PennyMac had standing to litigate
and defend its interest in the Property in this action.

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered in
favor of Plaintiff with respect to Plaintiff's trespass claim and awarded \$1.00.
Dated this 4th day of December, 2020

IT IS SO ORDERED this _____ day of _____ 2020.



DISTRICT COURT JUDGE

549 07D 0FDD C924
Eric Johnson
District Court Judge

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Tracy Castl , Plaintiff(s)

CASE NO: A-16-742267-C

7 vs.

DEPT. NO. Department 20

8 Pennymac Holdings LLC,
9 Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
case as listed below:

15 Service Date: 12/4/2020

16 Thomas Michaelides

info@tcmlawgroup.com

17 Sheri Gupton

nvdistrict@klnevada.com

18 "Ariel E. Stern, Esq." .

ariel.stern@akerman.com

19 Akerman Las Vegas Office .

akermanlas@akerman.com

20 Susan Owens

sowens@klnevada.com

21 Natalie Winslow

natalie.winslow@akerman.com

22 Rex Garner

rex.garner@akerman.com

23 Samantha Almazan

samantha@tcmlawgroup.com

24 Jacob Hafter

jhafter@hafterlaw.com

25 Eric Tucker

eric@tcmlawgroup.com

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Aaron Maurice	amaurice@mauricewood.com
Brittany Wood	bwood@mauricewood.com
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Lisa Rasmussen	Lisa@Veldlaw.com
Michelle Sorensen	Michelle@Veldlaw.com
Kristina Wildeveld	Kristina@veldlaw.com
Jessica Secretary	Jessica@veldlaw.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property**COURT MINUTES****November 07, 2016**

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

November 07, 2016 8:30 AM Motion to Dismiss

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Susan Botzenhart

RECORDER: Kristine Santi

REPORTER:

PARTIES

PRESENT:	Castl , Tracy Lee	Plaintiff
	Ortiz, David	Attorney
	Scaturro, Tenesa S.	Attorney

JOURNAL ENTRIES

- Court TRAILED matter for Plaintiff's counsel to appear. CASE RECALLED. Mr. Ortiz is now present. Ms. Scaturro argued as to Plaintiff being in default on the loan, findings made in Department 25 on Petition for judicial review, and that matter pending on appeal. Further arguments as to fraud claims having been raised by Plaintiff, and standards not having been met on the pleading requirements. Mr. Ortiz argued as to NRS 40.010, Plaintiff seeking to go to trial, no discovery or evidence yet, all issues requiring determination, and Plaintiff having right to put her case on record. Additional arguments as to consent issues, and there needing determination in every lease or trust. Ms. Scaturro argued foreclosure is not taking place at this time. Court stated there is nothing preventing foreclosure, if the party is in default. Discussions as to quiet title and trespass claims. Further arguments by counsel as to declaratory relief, contractual relationship, and request being made to Court to determine what the duties are. Court stated just because the issue is on appeal does not mean that is what the Court found, and the bank has the right to foreclose. Court also noted it appears all issues were determined by a judge, there is a deed of trust, Plaintiff is in default, according to the written order, and the written order controls. Further arguments by Mr. Ortiz as to no valid assignment, no res adjudicata, and no valid signature. Court asked why Plaintiff was bringing a quiet title action; and further asked if Plaintiff is contending the signature is forged. Mr.

Ortiz stated there is a deed of trust, and promissory note needs to be produced to foreclose. Court stated the order from Department 25's case shows the issues were decided, and findings were made by the judge.

COURT ORDERED, Motion to dismiss GRANTED WITH PREJUDICE. Ms. Scaturro to prepare the order. Mr. Ortiz stated he will appeal the ruling.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

December 05, 2018

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

December 05, 2018 8:30 AM Status Check

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Scaturro, Tenesa S. Attorney

JOURNAL ENTRIES

- Ms. Powell advised this was remanded from the Supreme Court and that Plaintiff is nor represented by counsel. It was her understanding that Plaintiff had a brain tumor and was having surgery, however, she has not heard anything further. Colloquy as to Ms. Powell filing a responsive pleading. Ms. Powell requested to have until January 15th to file either an answer or a Motion to Dismiss. Following colloquy, COURT ORDERED, matter SET for status check, however, as the Court is dark, matter CONTINUED one week. Ms. Powell to have until January 23rd to file which will also be the date for the Status Check. Ms. Powell to reach out to Plaintiff as to next date.

1/23/19 8:30 AM STATUS CHECK

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

January 23, 2019

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

January 23, 2019 8:30 AM Status Check

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Castl , Tracy Lee Plaintiff
Winslow, Natalie L Attorney

JOURNAL ENTRIES

- Conference at the Bench. Pursuant to that conference, COURT ORDERED, matter CONTINUED FORTY-FIVE (45) DAYS for Plaintiff to obtain counsel.

3/20/19 8:30 AM STATUS CHECK: COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

March 20, 2019

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

March 20, 2019 8:30 AM Status Check

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Michaelides, Thomas C Attorney
 Scaturro, Tenesa S. Attorney
 Wood, Brittany Attorney

JOURNAL ENTRIES

- Upon Court's inquiry, Mr. Michaelides advised he has been retained as counsel of record. Court so noted. Ms. Powell-Scaturro advised a Rule 16 Conference needs to be set up. Colloquy as to procedures. Following colloquy, COURT ORDERED, matter OFF CALENDAR as Plaintiff has counsel.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

August 28, 2019

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

**August 28, 2019 10:30 AM Mandatory Rule 16
Conference**

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Michaelides, Thomas C Attorney
 Scaturro, Tenesa S. Attorney
 Wood, Brittany Attorney

JOURNAL ENTRIES

- Court noted it has received the Joint Case Conference Report and the trial ready date is April 15, 2020. Mr. Michaelides advised some medical issues have arisen and they will have to see if Plaintiff can adhere to the schedule. Statements by Ms. Wood including that they had noticed a deposition set for 9/27 and then learned about the medical issue. Colloquy as to Mr. Michaelides putting the issue in the form of a Motion. Upon Court's inquiry, counsel feel the trial will take 1 week. Ms. Scaturro advised she will be gone from 4/30/20 to 5/4/20. Court so noted. Counsel agreed to the following dates:

Discovery on or before 5/7/20;
Motions to Amend Pleadings on or before: 11/8/19;
Initial Expert disclosures on or before: 11/8/19;
Rebuttal Expert disclosures on or before 12/9/19;
Dispositive motions on or before: 3/9/20.

COURT ORDERED, matter SET for trial after April 15, 2020.

4/1/20 8:30 AM CALENDAR CALL

4/20/20 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

February 19, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

**February 19, 2020 10:30 AM Motion for Partial
Summary Judgment**

HEARD BY: Johnson, Eric

COURTROOM: RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Castl , Tracy Lee Plaintiff
Maurice, Aaron R. Attorney
Michaelides, Thomas C Attorney
Scaturro, Tenesa S. Attorney

JOURNAL ENTRIES

- Arguments by Mr. Maurice and Mr. Michaelides in support of their respective positions. Following, COURT ORDERED, Motion DENIED as this will give Plaintiff a chance to put on their expert. Mr. Maurice advised he will probably file motions prior to trial. Court so noted, advised they are set for trial on the April 20 stack and expects it to go forward. Counsel feel the trial will be 1-2 days.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

March 31, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

March 31, 2020 8:30 AM Calendar Call

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney
 Maurice, Aaron R. Attorney
 Michaelides, Thomas C Attorney

JOURNAL ENTRIES

- Mr. Michaelides, Mr. Maurice and Mr. Garner appeared by telephone via Blue Jeans.

Court noted that due to COVID-19 and the Administrative Order, there will be no trials in April, however, as this is a bench trial, perhaps this might go forward in May. Statements by Mr. Michaelides as to Plaintiff's medical condition. Additionally, Mr. Michaelides stated this is a one day trial. Following colloquy, COURT ORDERED, trial date SET with a status check two weeks prior.

5/6/20 9:00 AM STATUS CHECK: TRIAL

5/18/20 9:00 AM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

April 07, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

April 07, 2020 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney
Maurice, Aaron R. Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES...DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT AS TO TRESPASS CLAIM

Mr. Maurice and Mr. Garner appeared by telephone via Blue Jeans.

As Mr. Michaelides was ill and at request of counsel, COURT ORDERED, matter CONTINUED ONE
(1) WEEK.

... CONTINUED 4/14/20 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

April 14, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

April 14, 2020 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney
Maurice, Aaron R. Attorney
Michaelides, Thomas C Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AS TO TRESPASS
CLAIM...DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES

Ms. Rasmussen appeared by video; Mr. Michaelides, Mr. Garner and Mr. Maurice appeared by telephone via Blue Jeans.

Ms. Rasmussen requested to substitute in as counsel of record for Plaintiff. Upon Court's inquiry, Ms. Rasmussen advised she could be prepared for the bench trial on 5/18 but does have concerns as to COVID-19 and Plaintiff's medical condition. Ms. Rasmussen requested one week to respond to the motions set for today. Mr. Garner and Mr. Maurice had no objections. Statements by Mr. Michaelides. Following colloquy, COURT ORDERED, Ms. Rasmussen MAY substitute in as counsel of record and the Motions CONTINUED ONE (1) WEEK.

... CONTINUED 4/21/20 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

April 21, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

April 21, 2020 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney
Maurice, Aaron R. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AS TO TRESSPASS
CLAIM...DEFENDANT'S MOTION IN LIMINE TO EXCLUDE EVIDENCE OF DAMAGES

Ms. Rasmussen appeared by video, Mr. Maurice and Mr. Garner appeared by telephone via Blue Jeans.

Arguments by Mr. Garner and Ms. Rasmussen in support of their respective positions. Following, COURT ORDERED, Motion for Summary Judgment is DENIED and Motion in Limine to Exclude Evidence of Damages is GRANTED. Mr. Garner to prepare the Order.

Ms. Rasmussen advised Ms. Castl was supposed to go to Florida this month for brain surgery, however, due to COVID-19 she can't travel and as Ms. Rasmussen is concerned about the trial date, she will be filing a motion. Upon Court's inquiry, Mr. Maurice requested to see the Motion before he agrees to a continuance. Following colloquy, COURT ORDERED, the following briefing schedule:

Ms. Rasmussen to file her motion by 4/27;

Mr. Maurice/Mr. Garner to respond by 5/4 and matter will be discussed on the 5/6 status check

date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

May 05, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

May 05, 2020 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Linda Skinner

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney
Maurice, Aaron R. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- STATUS CHECK: TRIAL...PLAINTIFF'S MOTION TO CONTINUE TRIAL DATE

Ms. Rasmussen appeared by video, Mr. Maurice and Mr. Garner appeared by telephone via Blue Jeans.

Upon Court's inquiry, Mr. Maurice advised he has no objection to the continuance based on COVID-19. However, one of the reasons is that Plaintiff is "not feeling well" which he feels is a delaying tactic due to the tortured history of this case. Statements by Ms. Rasmussen including that Plaintiff's medical issue is a problem as she needs to go to Florida for surgery. Colloquy as to the surgery being done locally. Following additional arguments by counsel, COURT ORDERED, Motion GRANTED and trial date RESET. Additionally, Ms. Rasmussen requested additional time to file her Pre-trial Memo. Following statements by Mr. Maurice, COURT ORDERED, Ms. Rasmussen to file within the next 3 weeks and matter will be SET with calendar call.

8/19/20 8:30 AM STATUS CHECK: PRE-TRIAL MEMO

A-16-742267-C

8/19/20 8:30 AM CALENDAR CALL

9/8/20 1:00 PM BENCH TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

August 19, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

August 19, 2020 8:30 AM All Pending Motions

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Samantha Albrecht

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Castl , Tracy Lee Plaintiff
Garner, Rex D. Attorney
Maurice, Aaron R. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- STATUS CHECK: PRE-TRIAL MEMO...CALENDAR CALL

Ms. Rasmussen and Mr. Garner appeared by phone via Blue Jeans. Mr. Maurice appeared by video via Blue Jeans. Plaintiff appeared by video via Blue Jeans.

Arguments by Ms. Rasmussen and Mr. Maurice. Court indicated there was no reason this case can not move forward. Further argument by Ms. Rasmussen. Ms. Rasmussen stated the Pre-Trial Memorandum was completed yesterday and Mr. Maurice stated he had received it. Upon Court's inquiry, Ms. Rasmussen said there would be 2 witnesses and estimated the Bench Trial would take 1 to 2 days. COURT ORDERED, Bench Trial RESET to 9:00 AM, and at the request of counsel, matter SET for status check a week before the Bench Trial. Court Recorder to send counsel an e-mail with instructions regarding exhibits.

9/2/20 9:00 AM STATUS CHECK: BENCH TRIAL

9/8/20 9:00 AM BENCH TRIAL

Clerk's Note: A copy of the foregoing minutes were distributed to Ms. Rasmussen, Mr. Garner, and Mr. Maurice via electronic e-mail, notifying counsel of the correct time for the Status Check as noted above. (8/21/2020 sa).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

September 02, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

September 02, 2020 9:00 AM Status Check

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Grecia Snow

RECORDER: Angie Calvillo

REPORTER:

PARTIES

PRESENT: Garner, Rex D. Attorney
Maurice, Aaron R. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- Ms. Rasmussen advised she filed a Motion to Continue Trial and Pre-trial Memorandum on 9/1/20. Mr. Maurice advised they would be filing an Opposition. Court advised Mr. Maurice to file Opposition no later than 9:30 am on 9/3/20. Mr. Maurice so noted. COURT ORDERED, Motion to Continue set for 10/7/20 RESCHEDULED to 9/3/20 at 3:15 pm. Colloquy regarding trial procedure.

9/3/20 3:15 PM - MOTION TO CONTINUE TRIAL DATE

September 03, 2020

Minutes Date: November 07, 2016

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

September 08, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

September 08, 2020 9:00 AM Bench Trial

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Grecia Snow

RECORDER: Gail Reiger

REPORTER:

PARTIES

PRESENT: Castl , Tracy Lee Plaintiff
Garner, Rex D. Attorney
Maurice, Aaron R. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- Nicholas J. Schwegel present on behalf of Pennymac Holdings.

Colloquy regarding Deft's Request for Judicial Notice. Tracy Lee Hurst-Castl SWORN and TESTIFIED. Exhibits presented. (See worksheets.) COURT ORDERED, matter CONTINUED.

CONTINUED TO: 9/9/20 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

September 09, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

September 09, 2020 10:00 AM Bench Trial

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Grecia Snow

RECORDER: Gail Reiger

REPORTER:

PARTIES

PRESENT: Castl , Tracy Lee Plaintiff
Garner, Rex D. Attorney
Maurice, Aaron R. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- Nicholas J. Schwegel present on behalf of Pennymac Holdings.

Testimony by Tracy Lee Hurst-Castl continued. Exhibits presented. (See worksheets.) Mr. Maurice made an oral Motion on Partial Findings. Arguments by counsel regarding the quiet title action. Mr. Rex made an oral Motion to Strike Evidence. Arguments by counsel regarding itemization of damages. COURT ORDERED, ruling RESERVED on oral Motions. Nicholas J. Schwegel SWORN and TESTIFIED. COURT FURTHER ORDERED, matter CONTINUED.

CONTINUED TO: 9/10/20 10:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Real Property

COURT MINUTES

September 10, 2020

A-16-742267-C Tracy Castl , Plaintiff(s)
vs.
Pennymac Holdings LLC, Defendant(s)

September 10, 2020 10:00 AM Bench Trial

HEARD BY: Johnson, Eric **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Grecia Snow

RECORDER: Deloris Scott

REPORTER:

PARTIES

PRESENT: Castl , Tracy Lee Plaintiff
Garner, Rex D. Attorney
Maurice, Aaron R. Attorney
Rasmussen, Lisa A. Attorney

JOURNAL ENTRIES

- Nicholas J. Schwegel present on behalf of Pennymac Holdings.

Testimony by Nicholas J. Schwegel continued. Exhibits presented. (See worksheets.) Closing Arguments by counsel.

COURT FINDS there was no significant difference in contested signatures. Court ruled in favor of Defendant regarding the quiet title action and forgery issues; as to the trespassing COURT FINDS the Plaintiff has met the elements of an intentional tort of trespass.

COURT ORDERED, both parties to prepare a draft Order as to the issue of nominal damages and Ms. Rasmussen as to her point of view as to the legal standing of Pennymac; Ms. Rasmussen to prepare a proposed Order as to the intentional trespass. COURT FURTHER ORDERED, proposed orders DUE by 10/8/2020.

EXHIBITS LIST

Case No. A-16-742267-C

Trial Date: September 8, 2020

Department No. XX

Judge: Hon. Eric Johnson

Plaintiff: Tracy Castl, aka Tracy Hurst

Court Clerk: Grecia Snow

vs.

Counsel for Plaintiff:

Defendant: PennyMac Holdings, LLC

Lisa Rasmussen

Counsel for Defendant:

Rex Garner

Aaron Maurice

Brittany Wood

Exhibit Number	Description	Date Offered	Objection	Date Admitted
1	Rushmore Loan Management Services	9/8/20	yes	9/8/20
2	PennyMac Loan Documents	9/8/20	yes	9/8/20
3	REMOVED PER STIPULATION 3/17/20		REMOVED	
4	Supreme Court Order	9/8/20	NO	9/8/20
5	Documents in support of trespass claim, Previously produced on 11/13/19 as "Exhibit 1."			
6	Photos in support of trespass			

5a page 80-82 of Exhibit 5 9/8/20

yes

9/8/20 wt

6a page 86-88 & 91 of Exhibit 6 9/8/20

yes

9/8/20 wt

	claim, previously produced on 11/13/19 as "Exhibit 2."			
7	Rushmore Servicing Documents	9/8/20	yes	9/8/20 u
8	Plaintiff's Notice of Objection to Assignment	9/8/20	yes	
9	Purchase and Assumption Agreement			
10	Letter from Plaintiff's Doctor			
11	Plaintiff's Complaint, with Baggett Report Redacted Per Stipulation and Order			
78	Pro Se Docket	9/9/20	yes	9/9/20
79	2010 Docket	9/9/20	yes	9/9/20
80	Amesbury AP Docket	9/9/20	NO	9/9/20
81	2012 Docket	9/9/20	yes	9/9/20
83	Morgage Statement	9/10/20	yes	9/10/20

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DEFENDANT'S EXHIBITS

EXHIBIT	DOCUMENT	BATES NO.	OFFERED	OBJECTED TO	ADMITTED	
Ø 12	Declaration of Tracy Lee Castl	Filed August 24, 2016				WA
Ø 13	Mechanic Lien	PMAC 0002				WA
Ø 14	Notice of Pendency of Action	PMAC 0003-PMAC 0004				WA
Ø 15	Notice of Default and Election to Sell under DOT (2001)	PMAC 0005-PMAC 0007				WA
Ø 16	Mechanic's Lien	PMAC 0018				WA
Ø 17	Notice of Interest	PMAC 0019-PMAC 0021				WA
Ø 18	Mechanic's Lien	PMAC 0022-PMAC 0023				WA
Ø 19	Lien	PMAC 0024-PMAC 0025				WA
Ø 20	Satisfaction of Judgment	PMAC 0026-PMAC 0029				WA
Ø 21	Grant, Bargain and Sale Deed	PMAC 0030-PMAC 0032				WA
Ø 22	Deed of Trust (\$1.5M)	PMAC 0033-PMAC 0062	9/8/20	NO	9/8/20	WA
Ø 23	Substitution of Trustee and Full Reconveyance	PMAC 0063-PMAC 0064				WA
Ø 24	Amended Release of Lien	PMAC 0065-PMAC 0066				WA
Ø 25	Substitution of Trustee and Full Reconveyance	PMAC 0067-PMAC 0069				WA
Ø 26	Quit Claim Deed	PMAC 0072-PMAC 0074	9/8/20	NO	9/8/20	WA
Ø 27	Grant, Bargain and Sale Deed	PMAC 0075-PMAC 0078	9/8/20	NO	9/8/20	WA
Ø 28	Deed of Trust (\$2.25M)	PMAC 0079-PMAC 0100	9/8/20	NO	9/8/20	WA
Ø 29	Notice of Trustee's Sale	PMAC 0105-PMAC 0106				WA
Ø 30	Right-of-entry-license	PMAC 0107-PMAC 0110				WA
Ø 31	Notice of Trustee's Sale	PMAC 0111-PMAC 0112				WA
Ø 32	Substitution of Trustee and Full Reconveyance	PMAC 0113-PMAC 0115	9/9/20	NO	9/9/20	WA

EXHIBIT	DOCUMENT	BATES NO.	OFFERED	OBJECTED TO	ADMITTED	
D 33	Notice of Trustee's Sale	PMAC 0119- PMAC 0120				WA
D 34	Substitution of Trustee	PMAC 0135				WA
D 35	Assignment of Deed of Trust	PMAC 0136- PMAC 0137				WA
D 36	Assignment of Deed of Trust	PMAC 0139- PMAC 0140				WA
D 37	Grant, Bargain, Sale Deed	PMAC 0147- PMAC 0150				WA
D 38	Notice of Rescission of Notice of Default and Election to Sell under DOT	PMAC 0154- PMAC 0155	9/10/20	NO	9/10/20	WA
D 39	Notice of Default and Election to Sell under DOT	PMAC 0157- PMAC 0165	9/9/20	NO	9/9/20	WA
D 40	Uniform Residential Loan Application	PMAC 0170- PMAC 0173	9/8/20	yes	9/8/20	WA
D 41	HUD – Settlement Statement	PMAC 0174- PMAC 0176	9/9/20	yes	9/9/20	WA
D 42	November 19, 2015 Letter from PennyMac to Tracy L. Hurst	PMAC 0192- PMAC 0193				WA
D 43	Demand on Your Presentment	PMAC 0194- PMAC 0195				WA
D 44	October 23, 2015 Letter from PennyMac to Tracy L. Hurst	PMAC 0196- PMAC 0197				WA
D 45	Adjustable Rate Note	PMAC 0198- PMAC 0205	9/8/20	NO	9/8/20	WA
D 46	Assignment of Deed of Trust	PMAC 0228- PMAC 0229				WA
D 47	September 23, 2015 – Letter to PennyMac – Re: Billing Statement Errors and Debt Validation Dispute	PMAC 0230- PMAC 0235				WA
D 48	Request for Statement, Note, Mortgage and All Assignments	PMAC 0236- PMAC 0239				WA
D 49	February 11, 2015 Letter to PennyMac	PMAC 0240- PMAC 0242	9/9/20	NO	9/9/20	WA
D 50	Affidavit of Federal Deposit Insurance Corporation	PMAC 0256- PMAC 0259				WA

EXHIBIT	DOCUMENT	BATES NO.	OFFERED	OBJECTED TO	ADMITTED	
D 51	October 31, 2008 Letter to WAMU Cares Dept.	PMAC 0260	9/9/20	NO	9/9/20	WA
D 52	December 8, 2009 – Letter to WAMU Loan Modification Dept.	PMAC 0261- PMAC 0265	9/9/20	NO	9/9/20	WA
D 53	Complaint in Case No. A-15-724525-C	PMAC 0287- PMAC 0293	9/8/20	NO	9/8/20	WA
D 54	Voluntary Dismissal in Case No. A-15- 724525-C	PMAC 0294- PMAC 0296				WA
D 55	Petition for Judicial Review in Case No. A- 15-726907-J	PMAC 0297- PMAC 0368	9/9/20	NO	9/9/20	WA
D 56	Revised Petition for Judicial Review in Case No. A-15- 726907-J	PMAC 0369- PMAC 0376				WA
D 57	Docket No. 1 in Case No. 10-20635-BAM	PMAC 0377- PMAC 0388	9/9/20	NO	9/9/20	WA
D 58	Docket No. 18 in Case No. 10-28140-bam	PMAC 0389- PMAC 0428	9/9/20	NO	9/9/20	WA
D 59	Docket No. 17 in Case No. 12-23874-btb	PMAC 0429- PMAC 0489	9/9/20	NO	9/9/20	WA
D 60	Docket No. 50 in Case No. 12-23874-btb	PMAC 0490- PMAC 0493				WA
D 61	Docket No. 71 in Case No. 12-23874-btb	PMAC 0494- PMAC 0500				WA
D 62	Docket No. 177 in Case No. 12-23874-btb	PMAC 0501- PMAC 0508				WA
D 63	Docket No. 179 in Case No. 12-23874-btb	PMAC 0509- PMAC 0510				WA
D 64	Docket No. 187 in Case No. 12-23874-btb	PMAC 0511- PMAC 0514				WA
D 65	Docket No. 190 in Case No. 12-23874-btb	PMAC 0515- PMAC 0516				WA
D 66	Docket No. 241 in Case No. 12-23874-btb	PMAC 0517- PMAC 0518				WA
D 67	Motion to Amend Petition for Judicial Review in Case No. A- 15-726907-J	PMAC 0519- PMAC 0520				WA

EXHIBIT	DOCUMENT	BATES NO.	OFFERED	OBJECTED TO	ADMITTED
D 68	Findings of Facts, Conclusions of Law, and Order in Case No. A-15-726907-J	PMAC 0521- PMAC 0525			
D 69	Docket No. 214 in Case No. 12-23874-btb	PMAC 0526- PMAC 0530			
D 70	Order Denying Debtor's Motion to Set Aside the Judgment; United States Bankruptcy Court, District of Nevada Case 12-23874, <i>In re Tracy Lee Rouse-Hurst</i> (Filed February 13, 2014)	PMAC 0531- PMAC 0532			
D 71	Grant, Bargain and Sale Deed (Recorded May 12, 1995)	PMAC 0533	9/8/20	NO	9/8/20
D 72	Deed of Trust (Recorded May 12, 1995)	PMAC 0534- PMAC 0539	9/8/20	NO	9/8/20
D 73	Department of Development Services Letter to Tracy Lee Hurst (Dated November 30, 2009)	PMAC 0540			
D 74	PennyMac's First Set of Interrogatories to Plaintiff Tracy Lee Castl				
D 75	PennyMac's First Set of Requests for Production to Plaintiff Tracy Lee Castl				
D 76	PennyMac's First Set of Requests for Admissions to Plaintiff Tracy Lee Castl				
D 77	Assignment of Deed of Trust		9/8/20	yes	9/8/20
D 82	Adversary Complaint		9/9/20	NO	9/9/20

EXHIBITS LIST

Case No. A-16-742267-C

Department No. XX

Plaintiff: Tracy Castl, aka Tracy Hurst

vs.

Defendant: PennyMac Holdings, LLC

Trial Date: September 8, 2020

Judge: Hon. Eric Johnson

Court Clerk: Grecia Snow

Counsel for Plaintiff:

Lisa Rasmussen

Counsel for Defendant:

Rex Garner

Aaron Maurice

Brittany Wood

Certification of Copy

State of Nevada }
County of Clark } SS:

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

PLAINTIFF'S NOTICE OF APPEAL – NRAP 4; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT; NOTICE OF ENTRY OF JUDGMENT; DISTRICT COURT MINUTES; EXHIBITS LIST

TRACY LEE CASTL,

Plaintiff(s),

vs.

PENNYMAC HOLDINGS, LLC,

Defendant(s),

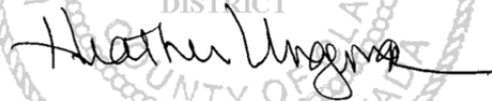
Case No: A-16-742267-C

Dept No: XX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 4 day of January 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

THIS DOCUMENT CONTAINS A TRUE WATERMARK - HOLD UP TO LIGHT TO VIEW

WesternUnion WU

WESTERN UNION FINANCIAL SERVICES INC. ISSUED - Englewood, Colorado

Payable at Wells Fargo Bank Grand Junction - Downtown, N.A., Grand Junction, Colorado

**MONEY
ORDER**

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\$ 250.00

PAY EXACTLY

TWO HUNDRED FIFTY DOLLARS AND NO CENTS

PAY TO THE
ORDER OF

Supreme Court

A-16-74226-7

P.O. Box 35937 LUNV 89133

Hilling file

PURCHASER'S SIGNATURE

PURCHASER BY SIGNING YOU AGREE TO THE TERMS ON THE REVERSE SIDE

⑆102100400⑆ 40192068710255⑈