

Form 1. Notice of Appeal to the Supreme Court From a Judgment or Order of a District Court

No. 18-CV-00663

IN THE THIRD JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR
THE COUNTY OF LYON

LEO KRAMER, Plaintiff, in pro se
AUDREY KRAMER, Plaintiff, in pro se

v.

NATIONAL DEFAULT SERVICING
CORPORATION, ET AL, Defendants

NOTICE OF APPEAL

Notice is hereby given that LEO KRAMER and AUDREY KRAMER, Plaintiffs, in pro se, above named, hereby appeals to the Supreme Court of Nevada (from the final judgment) (from the order (Summary Judgment) entered in this action

on the ¹⁶~~14~~ day of December, 2020 (AK)

1/12/21 Leo Kramer
Leo Kramer, Plaintiff, in pro se

1/12/2021 Audrey Kramer
Audrey Kramer, Plaintiff, in pro se

Address:
2364 Redwood Road
Hercules, CA 94547

* Please see attached orders.

Dept. No. 1
Electronically Filed
Jan 26 2021 10:31 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

TANYA SOEJINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

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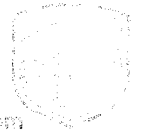
PROOF OF SERVICE

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Hercules, CA 94547

store2796@theupsstore.com



STATE OF CALIFORNIA)
) SS:
CONTRA COSTA COUNTY)

I am employed in the County of Contra Costa, State of California. I am over the age of 18 and not a party to the within action; my business address is _____
On 01.13.2021, I served the foregoing document entitled:

NOTICE OF APPEAL TO THE SUPREME COURT FROM A JUDGMENT OR ORDER OF A DISTRICT COURT.

on all parties in this action as follows:

PLEASE SEE ATTACHED SERVICE LIST

☒ **Mail.** By placing a true copy thereof enclosed in a sealed envelope. I am "readily familiar" with the firm's practice of collection and processing for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with first class postage thereon fully paid at Alameda, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or the postage meter is more than one day after day of deposit for mailing in this Proof of Service.

☐ **By Telefax.** I transmitted said document by telefax to the offices of the addressees at the telefax numbers on the attached Service List.

☐ **By Personal Service.** I delivered such envelope by hand to the addressee(s).

☒ **By Overnight Courier.** I caused the above-referenced document(s) to be delivered to an overnight courier service for next day delivery to the addressee(s) on the attached Service List.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 01.13.2021, at Hercules, California.

Corina DiGrazia

Name of Declarant


Signature of Declarant

SERVICE LIST

Kevin S. Soderstrom
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Attorneys for Defendant:
NATIONAL DEFAULT SERVICE CORPORATION

John T. Steffen
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Attorneys for Defendants:
BRECKENRIDGE PROPERTY FUND 2016, LLC

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TANYA SCHEIRING
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Kathy Thomas

1 ACE C. VAN PATTEN, ESQ.
Nevada Bar No. 11731
2 **TIFFANY & BOSCO, P.A.**
10100 W. Charleston Blvd., Ste. 220
3 Las Vegas, NV 89135
4 Tel: (702) 258-8200
5 Fax: (702) 258-8787
TB #18-72716
6 *Attorneys for Defendant*
7 *National Default Serving Corporation*

8 **THIRD JUDICIAL DISTRICT COURT**

9 **LYON COUNTY, NEVADA**

10
11 LEO KRAMER,
12 AUDREY KRAMER,

13 Plaintiffs,

14 vs.

15 NATIONAL DEFAULT SERVICING
16 CORPORATION, ALYSSA MC DERMOTT,
17 WEDGWOOD INC., BRECKENRIDGE
18 PROPERTY FUND 2016 LLC, and DOES 1
THROUGH 50 INCLUSIVE,

19 Defendants.

Case No.: 18-CV-00663

Dept. No.: I

**ORDER GRANTING NATIONAL
DEFAULT SERVICING
CORPORATION'S MOTION IN LIMINE
TO EXCLUDE AND DISQUALIFY
WILLIAM J. PAATALO**

20
21 This matter having come before this Court on Defendant, National Default Servicing
22 Corporation's ("NDSC"), Motion in Limine to Exclude and Disqualify William J. Paatalo, on
23 the 8th day of September, 2020; and the Court having reviewed the pleadings and papers filed
24 herein, having considered the arguments of counsel and the parties at the hearing on September
25 8, 2020, and good cause appearing therefore, enters the following order:
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Las Vegas, NV 89135
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Las Vegas, NV 89135
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1 **IT IS HEREBY ORDERED** that, for the reasons stated on the record, National Default
2 Servicing Corporation's Motion in Limine to Exclude and Disqualify William J. Paatalo is
3 GRANTED.

4 DATED this 14th day of ~~October~~ December 2020.

5
6 
DISTRICT COURT JUDGE

7 Respectfully submitted by:

8 TIFFANY & BOSCO, P.A.

9
10 /s/ Ace C. Van Patten, Esq.
11 ACE C. VAN PATTEN, ESQ.
12 Attorneys for Defendant National
13 Default Servicing Corporation
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6 TB #18-72716
7 *Attorneys for Defendant*
8 *National Default Serving Corporation*

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COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Ruthy Thomas

THIRD JUDICIAL DISTRICT COURT

LYON COUNTY, NEVADA

11 LEO KRAMER,
12 AUDREY KRAMER,
13
14 Plaintiffs,

14 vs.

15 NATIONAL DEFAULT SERVICING
16 CORPORATION, ALYSSA MC DERMOTT,
17 WEDGWOOD INC., BRECKENRIDGE
18 PROPERTY FUND 2016 LLC, and DOES 1
THROUGH 50 INCLUSIVE,

19 Defendants.


Case No.: 18-CV-00663

Dept. No.: I

**ORDER GRANTING NATIONAL
DEFAULT SERVICING
CORPORATION'S MOTION IN LIMINE
TO EXCLUDE AND DISQUALIFY
WILLIAM J. PAATALO**

21 This matter having come before this Court on Plaintiffs,, Leo Kramer and Audrey
22 Kramer's ("Plaintiffs"), Motion for Leave to Amend Complaint to Include Fraud Cause of
23 Action Due to Newly Discovered Material Evidence, on the 8th day of September, 2020; and the
24 Court having reviewed the pleadings and papers filed herein, having considered the arguments
25 of counsel and the parties at the hearing on September 8, 2020, and good cause appearing
26 therefore, enters the following order:

TIFFANY & BOSCO, P.A.
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Las Vegas, NV 89135
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1 IT IS HEREBY ORDERED that for the reasons stated on the record, Plaintiffs'
2 Motion for Leave to Amend Complaint to Include Fraud Cause of Action Due to Newly
3 Discovered Material Evidence is DENIED.
4 DATED this 14th day of December, 2020.
5
6 
DISTRICT COURT JUDGE
7 Respectfully submitted by:
8 TIFFANY & BOSCO, P.A.
9
10 /s/ Ace C. Van Patten, Esq.
11 ACE C. VAN PATTEN, ESQ.
12 Attorneys for Defendant National
13 Default Servicing Corporation
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TANYA SCHEIRING
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Kathy Thomas DEPUTY

1 ACE C. VAN PATTEN, ESQ.
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6 *Attorneys for Defendant*
National Default Serving Corporation

8 **THIRD JUDICIAL DISTRICT COURT**

9 **LYON COUNTY, NEVADA**

10
11 LEO KRAMER,
12 AUDREY KRAMER,

13 Plaintiffs,

14 vs.

15 NATIONAL DEFAULT SERVICING
16 CORPORATION, ALYSSA MC DERMOTT,
17 WEDGWOOD INC., BRECKENRIDGE
18 PROPERTY FUND 2016 LLC, and DOES 1
THROUGH 50 INCLUSIVE,

19 Defendants.
20

Case No.: 18-CV-00663

Dept. No.: I

ORDER

21 This matter having come before this Court on Plaintiffs, Leo and Audrey Kramer's
22 ("Plaintiffs") Motion for Summary Judgment, Defendant, National Default Servicing
23 Corporation's ("NDSC"), Motion for Summary Judgment, and Defendant, Breckenridge
24 Property Fund 2016, LLC's ("Breckenridge") Joinder to NDSC's Motion for Summary
25 Judgment on the 8th day of September, 2020; and the Court having reviewed the pleadings and
26 papers filed herein, having considered the arguments of counsel and the parties at the hearing on
27 September 8, 2020, and good cause appearing therefore, enters the following findings of fact
28 and conclusions of law in this matter.

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I. FINDINGS OF FACT

1. On or about April 4, 2008, Leo Kramer executed an Agreement and Disclosure (the "Note") reflecting a home equity line of credit provided by Washington Mutual ("WAMU").

2. On or about April 4, 2008, Leo Kramer and Audrey Kramer (collectively, the "Plaintiffs" or the "Kramers") executed a Deed of Trust reflecting that the debt referenced in the Note was secured by the real property located at 1740 Autumn Glen Street, Fernley, NV 89408 (the "Property").

3. The Deed of Trust was recorded with the Lyon County Recorder's Office on or about May 1, 2008, as Document No. 425436.

4. The Deed of Trust encumbers the Property and secures repayment of the Note (collectively, the Note and Deed of Trust are hereafter "the Loan").

5. The Note was subsequently endorsed in blank.

JPMorgan Chase Bank, N.A. becomes the note holder and beneficiary

6. On September 25, 2008, the Federal Deposit Insurance Corporation ("FDIC") placed WaMu into receivership.

7. Concurrent with the inception of the FDIC's receivership of WaMu, JP Morgan Chase Bank, N.A. ("Chase") acquired certain assets and liabilities of WaMu from the FDIC pursuant to that certain "Purchase and Assumption Agreement, Whole Bank, Among Federal Deposit Insurance Corporation, Receiver of Washington Mutual Bank, Henderson, Nevada, Federal Deposit Insurance Corporation and JPMorgan Chase Bank, National Association," dated as of September 25, 2008 (the "PAA").

8. As part of the acquisition by Chase of certain assets and liabilities of WaMu from the FDIC, acting as Receiver, Chase acquired the rights of WaMu, as lender and beneficiary, respectively, arising under all of the loan assets of WaMu — including the Loan.

Leo Kramer's bankruptcy filings acknowledge Chase's status as noteholder and beneficiary

9. On April 8, 2010, Leo Kramer filed a Chapter 11 bankruptcy petition in Case 10-43951, in the United States Bankruptcy Court, Northern District of California and included, in

1 his schedules, acknowledgment that (i) Chase held a security interest in the Property; and (ii)
2 the amount of Chase's claim was \$175,274.00 (without deducting the value of the collateral).
3 Leo Kramer then received a discharge on or about June 16, 2011.

4 10. On September 1, 2011, Leo Kramer filed a Chapter 13 bankruptcy petition in
5 Case 11-49493, in the United States Bankruptcy Court, Northern District of California. Chase
6 filed a Proof of Claim regarding the Loan, attaching a copy of the Note and Deed of Trust, and
7 objected to the proposed Chapter 13 Plan, but the case was ultimately dismissed as Leo Kramer
8 failed to make the required plan payments.

9 11. On December 5, 2013, a Substitution of Trustee was recorded in the Official
10 Records of the Lyon County, Nevada Recorder reflecting that National Default Servicing
11 Corporation was substituted in by Chase as the trustee under the Deed of Trust.

12 12. On July 3, 2014, Leo Kramer filed a third bankruptcy petition in the United
13 States Bankruptcy Court, Northern District of California, which was a Chapter 13 petition,
14 assigned Case 14-42866 and in which Leo Kramer filed his schedules whereby he again
15 acknowledged again that (i) Chase held a security interest in the Property; and (ii) the amount of
16 Chase's claim was \$176,000.00 (without deducting the value of the collateral).

17 13. Chase again filed a proof of claim regarding the Loan in Case 14-42866 on
18 October 29, 2014 which included a copy of the Note and DOT.

19 14. On or about December 22, 2014, Leo Kramer confirmed a Chapter 13 Plan in
20 Case 14-42866, wherein Chase was recognized as a Class 3 creditor, and no payments were to
21 be made to Chase under the Plan, but that expressly called for Leo Kramer to surrender his
22 interest in the Property to Chase upon plan confirmation.

23 *The foreclosure sale*

24 15. On October 6, 2017, a non-judicial foreclosure of the Property was initiated by
25 the recording of a Notice of Default ("NOD" or "Notice of Default") in the Official Records of
26 the Lyon County, Nevada Recorder.

27 16. On or about October 16, 2017, the Notice of Default was mailed via Certified
28 Mail to the Plaintiffs at:

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Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

1 i. 1740 Autumn Glen St., Fernley, Nevada 89408

2 ii. 1229 Ballena Blvd., Alameda, California 94501

3 and via first class mail to Parties in Possession at 1740 Autumn Glen St., Fernley, NV 89408-
4 7204.

5 17. These were the only addresses in NDSC's possession.

6 18. A Copy of the Notice of Default, along with a Danger Notice was also posted on
7 the Property on or about October 12, 2017.

8 19. The Notice of Default was received by the tenant at the time, Daniel Starling
9 ("Starling").

10 20. On or about October 16, 2017, Starling advised the property management
11 company, Chaffin Real Estate Services ("Chaffin") that the Notice of Default had been posted
12 and provided a copy of the same to Chaffin.

13 21. Chaffin advised the Plaintiffs on October 16, 2017, that the Notice of Default
14 had been posted on the Property and provided a copy of the same to the Plaintiffs, which the
15 Plaintiffs confirmed receipt of.

16 22. On or about January 27, 2018, Home Means Nevada, Inc. issued a State of
17 Nevada Foreclosure Mediation Program Certificate, which was recorded thereafter on or about
18 March 22, 2018.

19 23. An Assignment of the DOT from WaMu to Chase was recorded in the Official
20 Records of the Lyon County, Nevada Recorder on or about April 10, 2018.

21 24. On or about April 19, 2018, a Notice of Trustee's Sale was recorded in the
22 Official Records of the Lyon County, Nevada Recorder, advising that foreclosure sale would
23 occur on May 18, 2018.

24 25. On or about April 19, 2018, the Notice of Sale was mailed via Certified Mail to
25 the Plaintiffs at:

26 i. 1740 Autumn Glen St., Fernley, Nevada 89408

27 ii. 1229 Ballena Blvd., Alameda, California 94501

28 iii. 2364 Redwood Road, Hercules, California 94547

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1 and via first class mail to Parties in Possession at 1740 Autumn Glen St., Fernley, NV 89408-
2 7204.

3 26. Plaintiffs acknowledge receipt of the Notice of Sale.

4 27. The Notice of Sale was also posted on the Property on April 19, 2018, and again
5 on April 20, 2018.

6 28. The Notice of the Sale was also published in the Reno Gazette-Journal, and
7 Mason Valley news/Leader Courier on April 25, 2018, May 2, 2018, and May 9, 2018.

8 29. Starling also provided a copy of the Notice of Sale to Chaffin, who in turn
9 provided the Notice of Sale to the Plaintiffs.

10 30. On or about June 1, 2018, a Trustee's Deed Upon Sale was recorded in the
11 Official Records of the Lyon County, Nevada Recorder, reflecting that on May 18, 2018, the
12 foreclosure sale of the Property occurred, and that Breckenridge Property Fund 2016, LLC
13 provided the highest bid in the amount of \$211,000.

14 *The Federal Court Case and subsequent appeal*

15 31. Plaintiffs filed a Complaint in case 3:18-cv-0001-MMD (the "Federal Court
16 Case" or "Federal Court Action") in the United States District Court for the District of Nevada
17 on or about January 2, 2018, naming Chase, NDSC, WAMU, and Mortgage Electronic
18 Registration Systems, Inc. ("MERS") challenging the foreclosure and asserting many of the
19 same allegations contained in the instant Complaint.

20 32. Plaintiffs initiated the Federal Court Case in response to the Notice of Default.

21 33. Subsequently, on May 17, 2018, the Federal Court entered an Order finding that
22 Plaintiffs were judicially estopped from asserting the claims asserted against Chase, WAMU
23 and NDSC "to avoid foreclosure on the [Property]."

24 34. The Plaintiffs appealed the Order to the United States Court of Appeals for the
25 Ninth Circuit and, on May 29, 2019, the Ninth Circuit entered a Memorandum affirming the
26 lower court's decision.

27 35. Plaintiffs subsequently petitioned for a panel rehearing, and when that was
28 denied in September 6, 2019, by the Ninth Circuit, filed a Motion for Relief on December 23,

1 2019, in the District Court; that Motion was denied on December 27, 2019, by the District
2 Court. Plaintiffs subsequently appealed the same on January 21, 2020.

3 ***The instant litigation***

4 36. The Plaintiffs filed their Complaint in this action on June 8, 2018, naming NDSC
5 among other parties.

6 37. On or about October 24, 2018, this Court entered an Order Granting Motion to
7 Dismiss Plaintiff's Complaint, dismissing the entirety of the Complaint without prejudice and
8 finding that all claims, except for those relating to the procedural notice of the sale, were
9 precluded from being re-litigated as a result of res judicata.

10 38. Plaintiffs subsequently amended their Complaint and the Court, in turn, entered
11 a second order on May 24, 2019, granting in part and denying in part NDSC's motion to
12 dismiss the First Amended Complaint which further confirmed that the only remaining claim
13 relates to the procedural requirements as it relates to the foreclosure sale conducted by NDSC.

14 39. Any Finding of Fact which should be a conclusion of law shall be construed as
15 such.

16 **II. CONCLUSIONS OF LAW**

17 ***Standard of Review***

18 1. Summary judgment is appropriate if, when viewed in the light most favorable to
19 the nonmoving party, the record reveals there are no genuine issues of material fact and the
20 moving party is entitled to judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S.
21 317, 322, 106 S.Ct. 2548, 2552 (1986); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d
22 1026, 1031 (2005)(adopting the federal standard for summary judgment).

23 2. Summary judgment must be granted unless "the nonmoving party [can]
24 transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts
25 that show a genuine issue of material fact." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123
26 Nev. 598, 603, 172 P.3d 131, 134 (Nev. 2007).

27

28

1 3. A genuine issue of fact is one that could be reasonable be resolved in favor of
2 either party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48, 106 S.Ct. 2505, 2510
3 (1986).

4 *NDSC substantially complied with the notice requirements of NRS 107.080 and NRS*
5 *107.087.*

6 4. The foreclosure sale was completed in a manner which satisfies at least
7 substantial compliance with the requisite statutes.

8 5. NRS 107.080(5)(a) confirms that for a valid foreclosure sale to occur, the
9 foreclosure trustee need only "substantially comply" with the provisions of NRS 107.080, a
10 fact which the Nevada Supreme Court has repeatedly recognized. *See e.g., Schleining v. Cap*
11 *One, Inc.*, 130 Nev. 323, 329, 326 P.3d 4, 8 (Nev. 2014)("the Legislature had expressly
12 imposed a substantial-compliance standard with regard to a lender's duty to provide a borrower
13 with notice of a loan's default and the lender's election to foreclose.")(internal emphasis
14 omitted).

15 6. Moreover, substantial compliance with the notice requirements is achieved
16 where actual notice occurs and there is no prejudice to the party entitled to notice. *Id.*; *see also,*
17 *Dayco Funding Corp. v. Mona*, 427 P.3d 1038 (Nev. 2018).

18 7. Mailing the notices to all the addresses NDSC had in its possession, along with
19 posting physical copies on the Property itself, is sufficient to establish substantial compliance
20 with NRS 107.080.

21 8. Indeed, Plaintiffs had actual notice of the Notice of Default and the Notice of
22 Sale. Plaintiffs concede that received the Notice of Default through the tenant and Chaffin and
23 Plaintiffs personally received the Notice of Sale as required by the statute. Plaintiffs' actual
24 notice is sufficient to satisfy any notice requirements provided in NRS 107.080 and 107.087.

25 9. Further, Plaintiffs were not prejudiced by receipt of the Notice of Default
26 through the tenant and property management company. The Plaintiffs received their copy of
27 the Notice of Default on October 16, 2017, the same date the notices were sent to the other
28 addresses and the date upon which the Notice of Default was posted. Plaintiffs acknowledge

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1 that they filed the Federal Court Case as a result of receiving the Notice of Default, and
2 Plaintiffs enjoyed the benefit of the Property since the foreclosure sale occurred. Plaintiffs,
3 then, not only were aware of the Notice of Default, but took steps to initiate litigation that
4 acknowledged and referenced the foreclosure. Consequently, the Plaintiffs suffered no
5 prejudice with regard to receipt of the Notice of Default.

6 10. The totality of the evidence and facts in this case confirm that NDSC
7 substantially complied with NRS 107.080 and NRS 107.087, and indeed, completely complied
8 with NRS 107.087.

9 11. Further, Breckenridge is a bona fide purchaser. As the foreclosure sale was a
10 validly conduct sale, Breckenridge's interest in the Subject Property is also valid.

11 ***The Plaintiffs are not entitled to receipt of the Notice of Default under NRS 107.090.***

12 12. Plaintiffs' assertion that they were entitled to receipt of the Notice of Default
13 pursuant to NRS 107.090 fails and is inapplicable to the facts at hand.

14 13. Under NRS 107.090(2), within 10 days of recording the Notice of Default and
15 within 20 days of the sale, the foreclosure trustee has to deposit in the mail a copy of the notice
16 of default or sale, sent registered or certified to a) any party who has recorded in the county
17 records a request for a copy of the notice of default and b) any other person "with an interest
18 whose interest or claimed interest is subordinate to the deed of trust."

19 14. Plaintiffs' interpretation that NRS 107.090(2)(b) includes borrowers also
20 renders superfluous the other notice requirements in NRS 107. This is especially true when the
21 legislature's actions in defining "Borrower" in NRS 107.410 and references to grantor and
22 trustor throughout NRS 107 confirms they recognized the parties participating in the
23 transaction

24 15. Plaintiffs neither recorded a request for a copy of the Notice of Default nor have
25 an interest subordinate to the Deed of Trust, as such, NRS 107.090 is inapplicable to the instant
26 proceeding. Even if it were applicable, however, the Plaintiffs' actual notice of the Notice of
27 Default and Notice of Sale would satisfy the notice requirements of NRS 107.090.

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1 *The Property was not owner occupied and so NRS 107.500 and NRS 107.086 were*
2 *inapplicable.*

3 16. Plaintiffs' assertions that the foreclosure process was defective pursuant to NRS
4 107.500 and NRS 107.086 are irrelevant as Plaintiffs were not residing in the Property at the
5 time of any of the foreclosure actions taken by any party.

6 17. Both NRS 107.500 and NRS 107.086 apply to situations where the owner
7 resides in the Property. For example, NRS 107.500 requires a pre-default letter to be sent
8 where a foreclosure sale is based upon "a failure to make a payment required by a residential
9 mortgage loan." Plaintiffs ignore that NRS 107.450 defines "residential mortgage loan" as a
10 loan secured by a "deed of trust on owner-occupied housing." The Foreclosure Mediation
11 Program, codified in NRS 107.086(1) has a similar limitation for owner-occupied property,
12 noting that the only exercise of a power of sale subject to that statute is for "any deed of trust
13 which concerns owner-occupied housing."

14 18. For either NRS 107.500 or NRS 107.086 to be applicable then, the Property
15 would have to have been owner-occupied. That is not the case here, and the foreclosure actions
16 relating to the Property were not required to comply with the same. There is no obligation,
17 then, for NDSC to comply with NRS 107.500 and no basis for the Plaintiffs to challenge the
18 sale on the same, as a matter of law. This is further supported by the fact that NDSC, as a
19 foreclosure trustee, is not a party upon which a duty is imposed under NRS 107.500.

20 19. Any Conclusion of Law which should be a finding of fact shall be construed as
21 such.

22 **III. ORDER**

23 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that NDSC's Motion
24 for Summary Judgment and Breckenridge's Joinder is GRANTED.

25 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion for Summary Judgment is DENIED.

27 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that judgment is
28 hereby entered in favor of NDSC and Breckenridge, and against Leo Kramer and Audrey
Kramer.

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1 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that any Lis Pendens
2 recorded with the Lyon County Recorder by any party in relation to this case, is hereby
3 expunged, removed, released, and of no further effect.

4 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Amended
5 Complaint and this action is dismissed in its entirety, with prejudice.

6 DATED this 14th day of ^{December}~~October~~, 2020.

7
8 
DISTRICT COURT JUDGE

9 Respectfully submitted by:

10 TIFFANY & BOSCO, P.A.

11
12 /s/ Ace C. Van Patten, Esq.
ACE C. VAN PATTEN, ESQ.
13 *Attorneys for Defendant National*
14 *Default Servicing Corporation*
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Case No. 18-CV-00663

Dept. No. 1

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TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Hindus Noble DEPUTY

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

* * *

LEO KRAMER and AUDREY KRAMER

Appellants

vs

CASE APPEAL STATEMENT

NATIONAL DEFAULT SERVICING

CORPORATION, ALYSSA MCDERMOTT,

WEDGWOOD INC., BRECKENRIDGE

PROPERTY FUND 2016 LLC, and DOES 1

THROUGH 50 INCLUSIVE,

Respondents

1. **LEO KRAMER** and **AUDREY KRAMER** are the names of the appellant filing this case appeal statement.
2. Honorable **JOHN P. SCHLEGELMILCH** issued the order being appealed.
3. **LEO KRAMER** and **AUDREY KRAMER** are the Appellants in this case.
Leo Kramer and Audrey Kramer, 2364 Redwood Road, Hercules, California 94547 are in Proper Person on this appeal.
4. **NATIONAL DEFAULT SERVICING COPORATION** is a respondent in this case.
Kevin S. Soderstrom, Esq. 10100 W. Charleston Blvd., Ste 20, Las Vegas, NV 89135 represents this respondent in this case.

1 ALYSSA MCDERMOTT is a respondent in this case.

2 John T. Steffen, Esq., 10080 West Alta Dr., Suite 200, Las Vegas, NV 89145 represents this
3 respondent in this case.

4 BRECKENRIDGE PROPERTY FUND 2016 LLC is a respondent in this case.

5 John T. Steffen, Esq., 10080 West Alta Dr., Suite 200, Las Vegas, NV 89145 represents this
6 respondent in this case.

7 5. KEVIN S. SODERSTROM, Esq. is licensed to practice in the State of Nevada.

8 JOHN T. STEFFEN, Esq. is licensed to practice in the State of Nevada.

9 6. Appellant was in Proper Person in District Court proceedings.

10 7. Appellant is filing appeal in Proper Person.

11 8. No request to proceed in forma pauperis has been filed.

12 9. The proceedings commenced in District Court on a Complaint filed June 8, 2018.

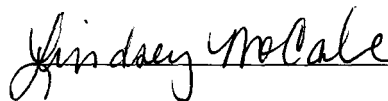
13 10. This is a civil case for Other Title to Property. Judge John P. Schlegelmilch entered an Order
14 Granting National Default Servicing Corporation's Motion in Limine to Exclude and
15 Disqualify William J. Paatalo filed on December 16, 2020, an Order Granting National
16 Default Servicing Corporation's Motion in Limine to Exclude and Disqualify William J.
17 Paatalo on December 16, 2020, and an Order filed on December 16, 2020.

18 11. This matter has been the subject of appeals in the Supreme Court in case number 81915.

19 12. This case does not involve child custody/visitation.

20 13. N/A

21 Dated this 15th day of January, 2021.

22 

23 Lindsey McCabe, Deputy

24 Lyon County Clerk

25 911 Harvey Way #4

26 Yerington, NV 89447

27 (775)463-6503

Case Summary

NATIONAL DEFAULT SERVICING CORPORATION, LEO KRAMER, AUDREY KRAMER, ALYSSA MC DERMOTT, WEDGWOOD INC., BRECKENRIDGE PROPERTY FUND 2016 LLC ~ COMPLAINT

Case Number: 18-CV-00663

Agency: Third Judicial District Court

Type: Other Title to Property Case

Received Date: 6/8/2018

Status: Closed

Status Date: 12/16/2020

Involvements

Primary Involvements

KRAMER, LEO Plaintiff

KRAMER, AUDREY Plaintiff

NATIONAL DEFAULT SERVICING CORPORATION Defendant

MC DERMOTT, ALYSSA Defendant

WEDGWOOD INC. Defendant

BRECKENRIDGE PROPERTY FUND 2016 LLC Defendant

Other Involvements

Steffen, John T. Esq. Defendant's Attorney

Soderstrom, Kevin S. Esq. Defendant's Attorney

KRAMER, LEO Pro Per

KRAMER, AUDREY Pro Per

Third Judicial District Court (18-CV-00663)

Schlegelmilch, John P. - JPS Dept I - TJDC

[7. REOPEN ~ Reopened Charge](#)

Notes: AMENDED COMPLAINT FILED

Lead/Active: False

Other Title to Property Case

[1. NRCP 3 ~ COMPLAINT](#)

Lead/Active: True

[2. NRCP 3 ~ COMPLAINT](#)

Lead/Active: False

[3. NRCP 5 ~ ANSWER](#)

Lead/Active: False

[4. NRCP 5 ~ ANSWER](#)

Lead/Active: False

Case Summary

5. NRCP 5 ~ ANSWER

Lead/Active: False

6. NRCP 5 ~ ANSWER

Lead/Active: False

Case Status History

6/8/2018 12:31:00 PM | Open
10/24/2018 | Closed
10/29/2018 | Reopened
12/16/2020 9:41:00 AM | Closed

Documents

6/8/2018 Complaint .pdf - Filed
Notes: For: 1. Unlawful Foreclosure 2. Quiet Title 3. Preliminary Injunction 4. Slander of Title 5. Constructive Fraud
6. Declaratory Relief
6/8/2018 Summons- Issued.pdf - Issued
6/8/2018 Civil Cover Sheet.pdf - Filed
6/20/2018 Affidavit of Service - Breckenridge Property.pdf - Filed
6/20/2018 Proof of Service National Default Service Corp.pdf - Filed
6/25/2018 National Default Servicing Corporation's Motion to Dismiss.pdf - Filed
7/2/2018 Motion to Dismiss.pdf - Filed
7/2/2018 Joinder to National Default Servicing Corporation's Motion to Dismiss.pdf - Filed
7/5/2018 Ptf's Oppo to Deft National Default Servicing Corp's.pdf - Filed
Notes: Mtn to Dismiss Ptf's Complaint; Declaration of Audrey Kramer filed Concurrent Herewith; Memorandum of Points & Authorities in Support Thereof
7/17/2018 Plaintiffs' Opposition to Defendants Motion to Dismiss Plaintiffs Complaint.pdf - Filed
Notes: Memorandum of Points and Authorities in Support Thereof, Declaration of Daniel Starrling; Declaration of Lee Anne Chaffin; and Declaration of Audrey Kramer Filed Concurrently Herewith
8/2/2018 Request for Submission.pdf - Filed
8/2/2018 Reply in Support of Motion to Dismiss.pdf - Filed
8/3/2018 Notice of Errata Regarding Certificate of Service Attached to Request for Submission of Motion to Dismiss.pdf - Filed
Notes: Filed and Served on August 2, 2018
8/20/2018 Request for Submission of National Default Servicing Corporation's Motion to Dismiss (2).pdf - Filed
8/30/2018 Setting Memo (10-5-18).pdf - Filed
10/5/2018 Request for Telephonic Appearance and Approval for 10-5-18 Hearing.pdf - For Court Use Only
SEALED
10/24/2018 Order Granting Motion to Dismiss Pltf's Complaint.pdf - Filed
10/29/2018 First Amended Complaint.pdf - Filed
11/19/2018 Motion to Dismiss First Amended Complaint.pdf - Filed
12/21/2018 Plaintiff's Request for Production of Documents Set One (Breckenridge Property Fund 2016).pdf - Filed
12/21/2018 Plaintiffs, Audrey Kramer & Leo Kramer's Special Interrogatories Set Once (National Default Servicing).pdf - Filed
12/21/2018 Plaintiffs, Audrey Kramer & Leo Kramer's Special Interrogatories Set One (Breckenridge).pdf - Filed
12/21/2018 Plaintiffs, Audrey Kramer & Leo Kramer's Request for Admissions Set One (Breckenridge).pdf - Filed
12/21/2018 Plaintiffs' Oppo to Def, Alyssa Mc Dermott, Wedgwood Inc. & Breckenridge Property Fund 2016 LLC's Motion to Dismiss.pdf - Filed
12/21/2018 Request to Submit Motion to Dismiss First Amended Complaint.pdf - Filed
12/21/2018 Notice of Non-Oppo to Deft's Motion to Dismiss 1st Amended Complaint.pdf - Filed
12/21/2018 Plaintiff's Request for Production of Documents Set One (National Default Servicing).pdf - Filed
12/21/2018 Plaintiffs, Audrey Kramer & Leo Kramer's Request for Admissions Set One (National Default Servicing).pdf - Filed
1/4/2019 Reply in Support of Motion to Dismiss First Amended Complaint.pdf - Filed
1/4/2019 Pltf's Objection to Notice of Non-oppo Filed by Defts.pdf - Filed
1/17/2019 National Default Servicing Corporation's Motion to Dismiss First Amended Complaint.pdf - Filed
1/18/2019 Setting Memo (2-22-19).pdf - Filed

Case Summary

2/1/2019 Ex Parte Motion for Continuance (2-22-19).pdf - Filed
2/4/2019 Plaintiff's Opposition to Defendant's Motion to Dismiss Plaintiff's First Amended Complaint.pdf - Filed
3/6/2019 Stipulation and Order to Continue Hearing (2-22-19 to 5-1-19).pdf - Filed
3/18/2019 Notice of Entry of Stipulation & Order to Continue Hearing.pdf - Filed
3/29/2019 Early Case Conference Report Pursuant to NRCP 16.1(b).pdf - Filed
4/22/2019 Objection to Plaintiff's Early Case Conference Report (McDermott, Wedgewood Inc., & Breckenridge).pdf - Filed
5/2/2019 Opposition to Plaintiff's Motion for Summary Judgment.pdf - Filed
5/2/2019 Opposition to Plaintiffs' Motion for Summary Judgment (National Default).pdf - Filed
5/2/2019 Declaration of Counsel in Support of Opposition to Plaintiffs' Motion for Summary Judgment (National Default).pdf - Filed
5/17/2019 Answer to First Amended Complaint - Natt'l Default.pdf - Filed
5/21/2019 Opposition to Plaintiff's Motion for Summary Judgment (McDermott, Wedgewood Inc and Breckenridge Property).pdf - Filed
5/22/2019 Rejection of Unconscionable Offer of Judgment.pdf - Filed
5/24/2019 Letter to Plaintiffs Re- Proposed Default.pdf - For Court Use Only

SEALED

5/24/2019 Order Granting in Part & Denying in Part Defendants' Motion to Dismiss.pdf - Filed
5/24/2019 Email From Plaintiffs Regarding Proposed Order.pdf - For Court Use Only

SEALED

5/28/2019 Notice of Intent to Take Default.pdf - Filed
5/28/2019 Amended Certificate of Service.pdf - Filed
5/29/2019 Answer to First Amended Complaint- Breckenridge Property Fund 2016 LLC.pdf - Filed
6/6/2019 Plaintiffs, Leo Kramer, and Audrey Kramer's Notice of Motion and Motion to Strike.pdf - Filed
Notes: National Default Servicing Corporation's Answer to First Amended Complaint and/or in the Alternative to Strike Defendant's Affirmative Defenses
6/10/2019 Plaintiffs' Objections to Judge's Order Granting in Part & Denying in Part Defendants' Motions to Dismiss.pdf - Filed
6/11/2019 Plaintiffs, Leo Kramer, & Audrey Kramer's Notice of Motion & Motion to Strike Breckenridge Property Fund.pdf - Filed
Notes: 2016 LLC's Answer in Its Entirety for Failure to Timely File an Answer or in the Alternative to Strike Portions of Defendant's Answer
6/12/2019 Plaintiffs, Leo Kramer, & Audrey Kramer's Notice of Motion & Motion to Strike Opposition to Summary Judgment.pdf - Filed
Notes: Filed by Breckenridge Property Fund 2016 LLC, Alyssa McDermott, & Wedgwood Inc
6/19/2019 Opposition to Plaintiffs' Notice of Motion and Motion to Strike National Default Servicing Corp's Answer to First.pdf - Filed
Notes: Amended Complaint and/or in the Alternative to Strike Defendant's Affirmative Defenses; Memorandum of Points and Authorities in Support Thereof
6/24/2019 Opposition to Pt's Notice of Mtn & Mtn to Strike Breckenridge.pdf - Filed
Notes: Property Fund 2016 LLC's Answer in its Entirety for Failure to Timely File an Answer or in the Alternative to Strike Portions of Deft's Answer & All Affirmative Defenses
6/24/2019 Opposition to Ptf's Notice of Motion & Mtn to Strike.pdf - Filed
Notes: Opposition to Summary Judgment Filed by Breckenridge Property Fund 2016 LLC, Alyssa McDermott, and Wedgwood Inc.
7/5/2019 Plaintiff's Reply to Oppositon -Motion to Strike.pdf - Filed
7/15/2019 Plaintiffs, Leo Kramer & Audrey Kramer's Initial Disclosure of Witnesses & Documents.pdf - Filed
7/15/2019 Joint Case Conference Report.pdf - Filed
7/16/2019 Letter to Plaintiffs From Court.pdf - For Court Use Only

SEALED

7/22/2019 Individulal Case Conferece Report - Plaintiffs.pdf - Filed
7/30/2019 Demand for Jury Trial.pdf - Filed
7/30/2019 Copy of Ck for Jury Demand Pd by Audrey Kramer.pdf - For Court Use Only
8/1/2019 Defendant's Joint Case Conference Report.pdf - Filed
8/8/2019 Case Management and Trial Scheduling Order.pdf - Filed
8/22/2019 Notice of Taking Deposition of Daniel Starling.pdf - Filed
8/22/2019 Notice of Taking Deposition of Deborah Taylor.pdf - Filed
8/22/2019 Notice of Taking Deposition of Lee Anne Chaffin.pdf - Filed
8/22/2019 Notice of Taking Deposition of Person Most Knowledgeable for Chaffin Rel Estate Services.pdf - Filed
8/22/2019 Notice of Taking Deposition of Leo Kramer.pdf - Filed
8/22/2019 Notice of Taking Deposition of Audrey Kramer.pdf - Filed
12/23/2019 National Default Servicing Coporation's Motion in Limine To Exclude and Disqualify William J. Paatalo.pdf - Filed
1/7/2020 Plaintiffs' Opposition to Defendant National Default Servicing Corp's Motion in Limine to Exclude and Disqualify.pdf - Filed
Notes: William Paatalo; Declaration of Updated Curriculum Vitae of William Pataalo Filed Concurrently Herewith;

Case Summary

Memorandum of Points and Authorities in Support Thereof
1/9/2020 Plaintiff's Notice of Motion & Mtn to Amend Complaint.pdf - Filed
1/9/2020 PROPOSED 2nd Amended Complaint (2).pdf - Filed
1/9/2020 Plt's Requet for Judicial Notice.pdf - Filed
1/15/2020 Plaintiffs' Notice and Motion to Strike Portions of Defendant, National Default Servicing Corp's First Supplemental.pdf - Filed
Notes: Disclosure of Documents and Witnesses; Memorandum of Points and Authorities in Support Thereof; Declaration of Audrey Kramer Filed Concurrent Herewith
1/16/2020 National Default Servicing Corporation's Reply to Plaintiff's Opposition.pdf - Filed
1/23/2020 National Default Servicing Corporation's Objection to the Plaintiffs' Request for Judicial Notice.pdf - Filed
Notes: of: Expert/Fact Witness, William J. Paatalo's 'Amended Updated' Curriculum Vitae, Executed Declaration & Forensic Report & Exhibits & Judicial Notice of: Widely Publicized Government Documents
1/23/2020 National Default Servicing Corporation's Opposition to Motion for Leave to Amend Complaint.pdf - Filed
Notes: to Include Fraud Cause of Action Due to Newly Discovered Material Evidence
1/29/2020 National Default Servicing Corporation's Opposition to Motion to Strike.pdf - Filed
1/30/2020 Plaintiff's Corrected (Proposed) Second Amended Complaint.pdf - Filed
2/3/2020 Breckenridge Property Fund 2016 LLC's Joinder to National Default Ser Corp Opposition to Mtn for Leave to Amend Complaint.pdf - Filed
2/5/2020 Order.pdf - For Court Use Only
2/5/2020 Order Denying Plaintiff's Motion for Leave to Amend Plaintiffs' First Amended Complaint.pdf - For Court Use Only
Notes: to Include Fraud Cause of Action Due to Newly Discovered Material Evidence
2/5/2020 Order Granting Defendant's Motion in Limine to Exclude and Disqualify William J. Paatalo.pdf - For Court Use Only
2/5/2020 Stipulation and Order.pdf - Filed
2/5/2020 Plaintiffs' Reply to Defendant, National Default Servicing Corp Oppositin to Motion for Leave to Amend Complaint.pdf - Filed
2/5/2020 Plaintiffs' Response to Def, National Default Servicing Corp's Objection to Plaintiffs' Request for Ducial Notice.pdf - Filed
2/10/2020 Plaintiffs' Reply to National Default Servicing Cor's Opposition to Plaintiffs' Motion to Strike Portions of Def.pdf - Filed
2/20/2020 National Default Servicing Corporation's Motion for Summary Judgment.pdf - Filed
2/20/2020 National Default Servicing Corporation's Request for Judicial Notice.pdf - Filed
2/20/2020 Declaration of Ace C. Van Patten, Esq. .pdf - Filed
2/21/2020 Breckenridge Property Fund 2016 LLC's Joinder to National Default Servicing.pdf - Filed
Notes: Corporation's Motion for Summary Judgment
2/25/2020 Plaintiffs' Objection to Defendant, National Default Servicing Corp's SEcond Supplemental Disclosure of Documents.pdf - Filed
Notes: and Witnesses and Notice of Motion and Motion to Strike Portions of the Second Supplemental Disclosure of Documents and Witnesses; Memorandum of Points and Authorities in Support Thereof
2/26/2020 Proposed Order Granting Plaintiffs' Motions to Strike and Sustaining Plaintiffs' Objection.pdf - Submitted
3/5/2020 Declaration of Audrey Kramer in Support of Plaintiffs, Leo Kramer, & Audrey Kramer's Opposition.pdf - Filed
Notes: to National Default Servicing Corporation's Motion for Summary Judgment
3/5/2020 Plaintiffs, Leo Kramer, & Audrey Kramer's Opposition to National Default Servicing Corporation's.pdf - Filed
Notes: Motion for Summary Judgment, Memorandum of Points & Authorities in Support Thereof; Declaration of Audrey Kramer
3/18/2020 Reply in Support of Motion for Summary Jdgmt.pdf - Filed
3/20/2020 Breckenridge Property Fund 2016 LLC's Joinder to National Default Servicing Co.'s Reply.pdf - Filed
Notes: in Support of Motion for Summary Judgment
3/24/2020 Plaintiffs, Leo Kramer and Audrey Kramer's Motion for Summary Judgment.pdf - Filed
Notes: Memorandum of Points & Authorities in Support Thereof; Declaration of Audrey Kramer
3/24/2020 Declaration of Audrey Kramer in Support of Plaintiffs, Leo Kramer, & Audrey Kramer's Motion for Summary Judgment.pdf - Filed
3/26/2020 Setting Memo (6-10-20).pdf - Filed
4/6/2020 Objection to Reply in Support of Motion for Summary Judgment.pdf - Filed
4/8/2020 Breckenridge-Opposition to Motion for Summary Judgment.pdf - Filed
4/8/2020 Oppo to Plt's Late Filed MTN for Summary Jdgmnt.pdf - Filed
4/17/2020 Response to Plaintiffs' Objection to Breckenridge Property Fund 2016 LLC;s Joinder to National Default.pdf - Filed
Notes: Servicing Corporation's Reply in Support of Motion
4/21/2020 Plaintiffs, Leo Kramer, and Audrey Kramer's Reply to Breckenridge Property Fund 2016.pdf - Filed
Notes: LLC's Opposition to Plaintiffs' Motion for Summary Judgment; Memorandum of Points and Authorities in Support Thereof
4/21/2020 Plaintiffs, Leo Kramer, and Audrey Kramer's Reply to National Default Servicing.pdf - Filed
Notes: Corporation's Opposition to Plaintiffs' Motion for Summary Judgment; Memorandum of Points and Authorities in Support Thereof
4/28/2020 Plaintiffs, Leo Kramer, & Audrey Kramer's Motion for Leave to File Motion.pdf - Filed
Notes: for Summary Judgment; Memorandum of Points & Authorities in Support Thereof; Declaration of Audrey

Case Summary

Kramer
4/28/2020 Declaration of Audrey Kramer in Support of Plaintiffs' Motion for Leave.pdf - Filed
Notes: to File Motion for Summary Judgment
5/6/2020 Response to Ptf's MTN for Leave to File MTN for Sum Jdgmt.pdf - Filed
6/8/2020 Ptf's Mtn to Cont. & Rescheduel 6-10-20 hearing.pdf - Filed
6/8/2020 Ptf's Ex parte or in Alernative Shortening Time to Continue Hearing.pdf - Filed
6/8/2020 Request for Submission (Plaintiff's Motion to Continue).pdf - Filed
6/8/2020 Proposed Order Granting Rescheuling 6-10-20 Hearing.pdf - Submitted
6/8/2020 Opposition to Plaintiff's Motion to Continue Hearing.pdf - Filed
6/9/2020 Order Granting Continuance (From 6-10-2020 to 9-8-2020).pdf - Filed
6/18/2020 Order Denying Motion to Strike Portions of NDSC;s 1st Sup Disclosures.pdf - Filed
10/9/2020 Notice of Appeal.pdf - Filed
10/9/2020 Case Appeal Statement.pdf - Filed
10/9/2020 Certificate of Mailing.pdf - Filed
10/9/2020 Copy of Ck #0048508202 for Appeal Bond (Notice of Appeal filed 10-9-2020).pdf - For Court Use Only
10/12/2020 Ptf's Objection to Ord Granting MTN in Limine.pdf - Filed
10/12/2020 Ptf's Objection to Ord on MTN For Summary Jdgmnt.pdf - Filed
10/12/2020 Ptf's Objection to Ord Granting MTN In Limine to Exclude.pdf - Filed
Notes: & Disqualify William Paatalo by Mr. Ace Van Patten and National Default Servicing
10/15/2020 Receipt for Documents (S.C.).pdf - Filed
10/19/2020 Memorandum of Costs and Disbursements.pdf - Filed
10/22/2020 NOE - Supreme Court - 10-22-20.pdf - For Court Use Only
10/26/2020 Receipt for Documents (S.C.) (Re Appeal filed 10-9-2020).pdf - Filed
11/9/2020 Order Dismissing Appeal - S.C..pdf - Filed
11/10/2020 Plaintiff's Objection to National Default Servicing Corporation's Memorandum of Costs and Disbursements.pdf - Filed
11/16/2020 Plaintiff's Objection to Breckenridge Property Fund 2016 LLC's Memorandum of Costs and Disbursements.pdf - Filed
11/19/2020 Plaintiff's Respectfully Request That the \$320 Jury Fee Deposit be Returned to Plaintiffs.pdf - Filed
12/3/2020 Remittitur- S.C..pdf - Filed
12/3/2020 Clerk's Certificate- S.C..pdf - Filed
12/16/2020 Order (2).pdf - Filed
12/16/2020 Order Denying MTN to Amend Complaint to Include Fraud.pdf - Filed
12/16/2020 Order Granting MTN in Limine to Exclude & Disqualify William Paatalo.pdf - Filed
1/11/2021 Notice of Entry of Order.pdf - Filed
1/11/2021 Notice of Entry of Order (2-16-20 Order).pdf - Filed
1/11/2021 Amended Memorandum of Costs & Disbursements.pdf - Filed
1/12/2021 Plaintiff's Objection to Order Granting Def. National Default's Motion in Limine.pdf - Filed
Notes: to Exclude Fraud Cause of Action on Plaintiffs' Motion for Leave to Amend to Include JPMorgal Chase Bank, Based on Newly Discovered Evidence of Fraud
1/12/2021 Plaintiff's Objection to Order Granting National Default Servicing (2).pdf - Filed
Notes: Corp's Motion in Limine to Exclude and Disqualify William J. Paatalo
1/14/2021 Notice of Appeal (1-14-21).pdf - Filed
1/15/2021 Case Appeal Statement (1-15-21).pdf - Filed
1/15/2021 Amended Order re Motion to Amend.pdf - Submitted

FILED

2020 DEC 16 PM 4:28

TANYA SCORING
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Kathy Thomas

1 ACE C. VAN PATTEN, ESQ.
Nevada Bar No. 11731
2 **TIFFANY & BOSCO, P.A.**
3 10100 W. Charleston Blvd., Ste. 220
Las Vegas, NV 89135
4 Tel: (702) 258-8200
5 Fax: (702) 258-8787
TB #18-72716
6 *Attorneys for Defendant*
7 *National Default Serving Corporation*

8 **THIRD JUDICIAL DISTRICT COURT**
9
10 **LYON COUNTY, NEVADA**

11 LEO KRAMER,
12 AUDREY KRAMER,

13 Plaintiffs,

14 vs.

15 NATIONAL DEFAULT SERVICING
16 CORPORATION, ALYSSA MC DERMOTT,
17 WEDGWOOD INC., BRECKENRIDGE
18 PROPERTY FUND 2016 LLC, and DOES 1
THROUGH 50 INCLUSIVE,

19 Defendants.

Case No.: 18-CV-00663

Dept. No.: I

**ORDER GRANTING NATIONAL
DEFAULT SERVICING
CORPORATION'S MOTION IN LIMINE
TO EXCLUDE AND DISQUALIFY
WILLIAM J. PAATALO**

20
21 This matter having come before this Court on Defendant, National Default Servicing
22 Corporation's ("NDSC"), Motion in Limine to Exclude and Disqualify William J. Paatalo, on
23 the 8th day of September, 2020; and the Court having reviewed the pleadings and papers filed
24 herein, having considered the arguments of counsel and the parties at the hearing on September
25 8, 2020, and good cause appearing therefore, enters the following order:
26
27
28

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

1 **IT IS HEREBY ORDERED** that, for the reasons stated on the record, National Default
2 Servicing Corporation's Motion in Limine to Exclude and Disqualify William J. Paatalo is
3 GRANTED.

4 DATED this 14th day of ^{December}~~October~~, 2020.

5
6 
DISTRICT COURT JUDGE

7 Respectfully submitted by:

8 TIFFANY & BOSCO, P.A.

9
10 /s/ Ace C. Van Patten, Esq.
11 ACE C. VAN PATTEN, ESQ.
12 Attorneys for Defendant National
13 Default Servicing Corporation
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TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

1 ACE C. VAN PATTEN, ESQ.
Nevada Bar No. 11731
2 **TIFFANY & BOSCO, P.A.**
3 10100 W. Charleston Blvd., Ste. 220
Las Vegas, NV 89135
4 Tel: (702) 258-8200
5 Fax: (702) 258-8787
6 TB #18-72716
7 *Attorneys for Defendant*
8 *National Default Serving Corporation*

FILED

2020 DEC 16 PM 4:28

TANYA SOLIBINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Kathy Thomas

THIRD JUDICIAL DISTRICT COURT
LYON COUNTY, NEVADA

11 LEO KRAMER,
12 AUDREY KRAMER,

13 Plaintiffs,

14 vs.

15 NATIONAL DEFAULT SERVICING
16 CORPORATION, ALYSSA MC DERMOTT,
17 WEDGWOOD INC., BRECKENRIDGE
18 PROPERTY FUND 2016 LLC, and DOES 1
THROUGH 50 INCLUSIVE,

19 Defendants.

Case No.: 18-CV-00663

Dept. No.: I

**ORDER GRANTING NATIONAL
DEFAULT SERVICING
CORPORATION'S MOTION IN LIMINE
TO EXCLUDE AND DISQUALIFY
WILLIAM J. PAATALO**

21 This matter having come before this Court on Plaintiffs,, Leo Kramer and Audrey
22 Kramer's ("Plaintiffs"), Motion for Leave to Amend Complaint to Include Fraud Cause of
23 Action Due to Newly Discovered Material Evidence, on the 8th day of September, 2020; and the
24 Court having reviewed the pleadings and papers filed herein, having considered the arguments
25 of counsel and the parties at the hearing on September 8, 2020, and good cause appearing
26 therefore, enters the following order:

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

1 **IT IS HEREBY ORDERED** that for the reasons stated on the record, Plaintiffs'
2 Motion for Leave to Amend Complaint to Include Fraud Cause of Action Due to Newly
3 Discovered Material Evidence is DENIED.

4 DATED this 14th day of ^{December}~~October~~, 2020.

5
6 
DISTRICT COURT JUDGE

7 Respectfully submitted by:

8 TIFFANY & BOSCO, P.A.

9
10 /s/ Ace C. Van Patten, Esq.
ACE C. VAN PATTEN, ESQ.
11 Attorneys for Defendant National
12 Default Servicing Corporation
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FILED

2020 DEC 16 PM 4:28

TANYA SCURIN
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Kathy Thomas DEPUTY

1 ACE C. VAN PATTEN, ESQ.
Nevada Bar No. 11731
2 **TIFFANY & BOSCO, P.A.**
3 10100 W. Charleston Blvd., Ste. 220
Las Vegas, NV 89135
4 Tel: (702) 258-8200
5 Fax: (702) 258-8787
TB #18-72716
6 *Attorneys for Defendant*
7 *National Default Serving Corporation*

8 **THIRD JUDICIAL DISTRICT COURT**

9 **LYON COUNTY, NEVADA**

10
11 LEO KRAMER,
12 AUDREY KRAMER,
13 Plaintiffs,

14 vs.

15 NATIONAL DEFAULT SERVICING
16 CORPORATION, ALYSSA MC DERMOTT,
17 WEDGWOOD INC., BRECKENRIDGE
18 PROPERTY FUND 2016 LLC, and DOES 1
THROUGH 50 INCLUSIVE,

19 Defendants.

Case No.: 18-CV-00663

Dept. No.: I

ORDER

20
21 This matter having come before this Court on Plaintiffs, Leo and Audrey Kramer's
22 ("Plaintiffs") Motion for Summary Judgment, Defendant, National Default Servicing
23 Corporation's ("NDSC"), Motion for Summary Judgment, and Defendant, Breckenridge
24 Property Fund 2016, LLC's ("Breckenridge") Joinder to NDSC's Motion for Summary
25 Judgment on the 8th day of September, 2020; and the Court having reviewed the pleadings and
26 papers filed herein, having considered the arguments of counsel and the parties at the hearing on
27 September 8, 2020, and good cause appearing therefore, enters the following findings of fact
28 and conclusions of law in this matter.

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

I. FINDINGS OF FACT

1. On or about April 4, 2008, Leo Kramer executed an Agreement and Disclosure (the "Note") reflecting a home equity line of credit provided by Washington Mutual ("WAMU").

2. On or about April 4, 2008, Leo Kramer and Audrey Kramer (collectively, the "Plaintiffs" or the "Kramers") executed a Deed of Trust reflecting that the debt referenced in the Note was secured by the real property located at 1740 Autumn Glen Street, Fernley, NV 89408 (the "Property").

3. The Deed of Trust was recorded with the Lyon County Recorder's Office on or about May 1, 2008, as Document No. 425436.

4. The Deed of Trust encumbers the Property and secures repayment of the Note (collectively, the Note and Deed of Trust are hereafter "the Loan").

5. The Note was subsequently endorsed in blank.

JPMorgan Chase Bank, N.A. becomes the note holder and beneficiary

6. On September 25, 2008, the Federal Deposit Insurance Corporation ("FDIC") placed WaMu into receivership.

7. Concurrent with the inception of the FDIC's receivership of WaMu, JP Morgan Chase Bank, N.A. ("Chase") acquired certain assets and liabilities of WaMu from the FDIC pursuant to that certain "Purchase and Assumption Agreement, Whole Bank, Among Federal Deposit Insurance Corporation, Receiver of Washington Mutual Bank, Henderson, Nevada, Federal Deposit Insurance Corporation and JPMorgan Chase Bank, National Association," dated as of September 25, 2008 (the "PAA").

8. As part of the acquisition by Chase of certain assets and liabilities of WaMu from the FDIC, acting as Receiver, Chase acquired the rights of WaMu, as lender and beneficiary, respectively, arising under all of the loan assets of WaMu — including the Loan.

Leo Kramer's bankruptcy filings acknowledge Chase's status as noteholder and beneficiary

9. On April 8, 2010, Leo Kramer filed a Chapter 11 bankruptcy petition in Case 10-43951, in the United States Bankruptcy Court, Northern District of California and included, in

1 his schedules, acknowledgment that (i) Chase held a security interest in the Property; and (ii)
2 the amount of Chase's claim was \$175,274.00 (without deducting the value of the collateral).
3 Leo Kramer then received a discharge on or about June 16, 2011.

4 10. On September 1, 2011, Leo Kramer filed a Chapter 13 bankruptcy petition in
5 Case 11-49493, in the United States Bankruptcy Court, Northern District of California. Chase
6 filed a Proof of Claim regarding the Loan, attaching a copy of the Note and Deed of Trust, and
7 objected to the proposed Chapter 13 Plan, but the case was ultimately dismissed as Leo Kramer
8 failed to make the required plan payments.

9 11. On December 5, 2013, a Substitution of Trustee was recorded in the Official
10 Records of the Lyon County, Nevada Recorder reflecting that National Default Servicing
11 Corporation was substituted in by Chase as the trustee under the Deed of Trust.

12 12. On July 3, 2014, Leo Kramer filed a third bankruptcy petition in the United
13 States Bankruptcy Court, Northern District of California, which was a Chapter 13 petition,
14 assigned Case 14-42866 and in which Leo Kramer filed his schedules whereby he again
15 acknowledged again that (i) Chase held a security interest in the Property; and (ii) the amount of
16 Chase's claim was \$176,000.00 (without deducting the value of the collateral).

17 13. Chase again filed a proof of claim regarding the Loan in Case 14-42866 on
18 October 29, 2014 which included a copy of the Note and DOT.

19 14. On or about December 22, 2014, Leo Kramer confirmed a Chapter 13 Plan in
20 Case 14-42866, wherein Chase was recognized as a Class 3 creditor, and no payments were to
21 be made to Chase under the Plan, but that expressly called for Leo Kramer to surrender his
22 interest in the Property to Chase upon plan confirmation.

23 *The foreclosure sale*

24 15. On October 6, 2017, a non-judicial foreclosure of the Property was initiated by
25 the recording of a Notice of Default ("NOD" or "Notice of Default") in the Official Records of
26 the Lyon County, Nevada Recorder.

27 16. On or about October 16, 2017, the Notice of Default was mailed via Certified
28 Mail to the Plaintiffs at:

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

1 i. 1740 Autumn Glen St., Fernley, Nevada 89408

2 ii. 1229 Ballena Blvd., Alameda, California 94501

3 and via first class mail to Parties in Possession at 1740 Autumn Glen St., Fernley, NV 89408-
4 7204.

5 17. These were the only addresses in NDSC's possession.

6 18. A Copy of the Notice of Default, along with a Danger Notice was also posted on
7 the Property on or about October 12, 2017.

8 19. The Notice of Default was received by the tenant at the time, Daniel Starling
9 ("Starling").

10 20. On or about October 16, 2017, Starling advised the property management
11 company, Chaffin Real Estate Services ("Chaffin") that the Notice of Default had been posted
12 and provided a copy of the same to Chaffin.

13 21. Chaffin advised the Plaintiffs on October 16, 2017, that the Notice of Default
14 had been posted on the Property and provided a copy of the same to the Plaintiffs, which the
15 Plaintiffs confirmed receipt of.

16 22. On or about January 27, 2018, Home Means Nevada, Inc. issued a State of
17 Nevada Foreclosure Mediation Program Certificate, which was recorded thereafter on or about
18 March 22, 2018.

19 23. An Assignment of the DOT from WaMu to Chase was recorded in the Official
20 Records of the Lyon County, Nevada Recorder on or about April 10, 2018.

21 24. On or about April 19, 2018, a Notice of Trustee's Sale was recorded in the
22 Official Records of the Lyon County, Nevada Recorder, advising that foreclosure sale would
23 occur on May 18, 2018.

24 25. On or about April 19, 2018, the Notice of Sale was mailed via Certified Mail to
25 the Plaintiffs at:

26 i. 1740 Autumn Glen St., Fernley, Nevada 89408

27 ii. 1229 Ballena Blvd., Alameda, California 94501

28 iii. 2364 Redwood Road, Hercules, California 94547

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

1 and via first class mail to Parties in Possession at 1740 Autumn Glen St., Fernley, NV 89408-
2 7204.

3 26. Plaintiffs acknowledge receipt of the Notice of Sale.

4 27. The Notice of Sale was also posted on the Property on April 19, 2018, and again
5 on April 20, 2018.

6 28. The Notice of the Sale was also published in the Reno Gazette-Journal, and
7 Mason Valley news/Leader Courier on April 25, 2018, May 2, 2018, and May 9, 2018.

8 29. Starling also provided a copy of the Notice of Sale to Chaffin, who in turn
9 provided the Notice of Sale to the Plaintiffs.

10 30. On or about June 1, 2018, a Trustee's Deed Upon Sale was recorded in the
11 Official Records of the Lyon County, Nevada Recorder, reflecting that on May 18, 2018, the
12 foreclosure sale of the Property occurred, and that Breckenridge Property Fund 2016, LLC
13 provided the highest bid in the amount of \$211,000.

14 ***The Federal Court Case and subsequent appeal***

15 31. Plaintiffs filed a Complaint in case 3:18-cv-0001-MMD (the "Federal Court
16 Case" or "Federal Court Action") in the United States District Court for the District of Nevada
17 on or about January 2, 2018, naming Chase, NDSC, WAMU, and Mortgage Electronic
18 Registration Systems, Inc. ("MERS") challenging the foreclosure and asserting many of the
19 same allegations contained in the instant Complaint.

20 32. Plaintiffs initiated the Federal Court Case in response to the Notice of Default.

21 33. Subsequently, on May 17, 2018, the Federal Court entered an Order finding that
22 Plaintiffs were judicially estopped from asserting the claims asserted against Chase, WAMU
23 and NDSC "to avoid foreclosure on the [Property]."

24 34. The Plaintiffs appealed the Order to the United States Court of Appeals for the
25 Ninth Circuit and, on May 29, 2019, the Ninth Circuit entered a Memorandum affirming the
26 lower court's decision.

27 35. Plaintiffs subsequently petitioned for a panel rehearing, and when that was
28 denied in September 6, 2019, by the Ninth Circuit, filed a Motion for Relief on December 23,

1 2019, in the District Court; that Motion was denied on December 27, 2019, by the District
2 Court. Plaintiffs subsequently appealed the same on January 21, 2020.

3 ***The instant litigation***

4 36. The Plaintiffs filed their Complaint in this action on June 8, 2018, naming NDSC
5 among other parties.

6 37. On or about October 24, 2018, this Court entered an Order Granting Motion to
7 Dismiss Plaintiff's Complaint, dismissing the entirety of the Complaint without prejudice and
8 finding that all claims, except for those relating to the procedural notice of the sale, were
9 precluded from being re-litigated as a result of res judicata.

10 38. Plaintiffs subsequently amended their Complaint and the Court, in turn, entered
11 a second order on May 24, 2019, granting in part and denying in part NDSC's motion to
12 dismiss the First Amended Complaint which further confirmed that the only remaining claim
13 relates to the procedural requirements as it relates to the foreclosure sale conducted by NDSC.

14 39. Any Finding of Fact which should be a conclusion of law shall be construed as
15 such.

16 **II. CONCLUSIONS OF LAW**

17 ***Standard of Review***

18 1. Summary judgment is appropriate if, when viewed in the light most favorable to
19 the nonmoving party, the record reveals there are no genuine issues of material fact and the
20 moving party is entitled to judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S.
21 317, 322, 106 S.Ct. 2548, 2552 (1986); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d
22 1026, 1031 (2005)(adopting the federal standard for summary judgment).

23 2. Summary judgment must be granted unless "the nonmoving party [can]
24 transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts
25 that show a genuine issue of material fact." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123
26 Nev. 598, 603, 172 P.3d 131, 134 (Nev. 2007).

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1 3. A genuine issue of fact is one that could be reasonable be resolved in favor of
2 either party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48, 106 S.Ct. 2505, 2510
3 (1986).

4 ***NDSC substantially complied with the notice requirements of NRS 107.080 and NRS***
5 ***107.087.***

6 4. The foreclosure sale was completed in a manner which satisfies at least
7 substantial compliance with the requisite statutes.

8 5. NRS 107.080(5)(a) confirms that for a valid foreclosure sale to occur, the
9 foreclosure trustee need only "substantially comply" with the provisions of NRS 107.080, a
10 fact which the Nevada Supreme Court has repeatedly recognized. *See e.g., Schleining v. Cap*
11 *One, Inc.*, 130 Nev. 323, 329, 326 P.3d 4, 8 (Nev. 2014)("the Legislature had expressly
12 imposed a substantial-compliance standard with regard to a lender's duty to provide a borrower
13 with notice of a loan's default and the lender's election to foreclose.")(internal emphasis
14 omitted).

15 6. Moreover, substantial compliance with the notice requirements is achieved
16 where actual notice occurs and there is no prejudice to the party entitled to notice. *Id.*; *see also,*
17 *Dayco Funding Corp. v. Mona*, 427 P.3d 1038 (Nev. 2018).

18 7. Mailing the notices to all the addresses NDSC had in its possession, along with
19 posting physical copies on the Property itself, is sufficient to establish substantial compliance
20 with NRS 107.080.

21 8. Indeed, Plaintiffs had actual notice of the Notice of Default and the Notice of
22 Sale. Plaintiffs concede that received the Notice of Default through the tenant and Chaffin and
23 Plaintiffs personally received the Notice of Sale as required by the statute. Plaintiffs' actual
24 notice is sufficient to satisfy any notice requirements provided in NRS 107.080 and 107.087.

25 9. Further, Plaintiffs were not prejudiced by receipt of the Notice of Default
26 through the tenant and property management company. The Plaintiffs received their copy of
27 the Notice of Default on October 16, 2017, the same date the notices were sent to the other
28 addresses and the date upon which the Notice of Default was posted. Plaintiffs acknowledge

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1 that they filed the Federal Court Case as a result of receiving the Notice of Default, and
2 Plaintiffs enjoyed the benefit of the Property since the foreclosure sale occurred. Plaintiffs,
3 then, not only were aware of the Notice of Default, but took steps to initiate litigation that
4 acknowledged and referenced the foreclosure. Consequently, the Plaintiffs suffered no
5 prejudice with regard to receipt of the Notice of Default.

6 10. The totality of the evidence and facts in this case confirm that NDSC
7 substantially complied with NRS 107.080 and NRS 107.087, and indeed, completely complied
8 with NRS 107.087.

9 11. Further, Breckenridge is a bona fide purchaser. As the foreclosure sale was a
10 validly conduct sale, Breckenridge's interest in the Subject Property is also valid.

11 ***The Plaintiffs are not entitled to receipt of the Notice of Default under NRS 107.090.***

12 12. Plaintiffs' assertion that they were entitled to receipt of the Notice of Default
13 pursuant to NRS 107.090 fails and is inapplicable to the facts at hand.

14 13. Under NRS 107.090(2), within 10 days of recording the Notice of Default and
15 within 20 days of the sale, the foreclosure trustee has to deposit in the mail a copy of the notice
16 of default or sale, sent registered or certified to a) any party who has recorded in the county
17 records a request for a copy of the notice of default and b) any other person "with an interest
18 whose interest or claimed interest is subordinate to the deed of trust."

19 14. Plaintiffs' interpretation that NRS 107.090(2)(b) includes borrowers also
20 renders superfluous the other notice requirements in NRS 107. This is especially true when the
21 legislature's actions in defining "Borrower" in NRS 107.410 and references to grantor and
22 trustor throughout NRS 107 confirms they recognized the parties participating in the
23 transaction

24 15. Plaintiffs neither recorded a request for a copy of the Notice of Default nor have
25 an interest subordinate to the Deed of Trust, as such, NRS 107.090 is inapplicable to the instant
26 proceeding. Even if it were applicable, however, the Plaintiffs' actual notice of the Notice of
27 Default and Notice of Sale would satisfy the notice requirements of NRS 107.090.

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1 *The Property was not owner occupied and so NRS 107.500 and NRS 107.086 were*
2 *inapplicable.*

3 16. Plaintiffs' assertions that the foreclosure process was defective pursuant to NRS
4 107.500 and NRS 107.086 are irrelevant as Plaintiffs were not residing in the Property at the
5 time of any of the foreclosure actions taken by any party.

6 17. Both NRS 107.500 and NRS 107.086 apply to situations where the owner
7 resides in the Property. For example, NRS 107.500 requires a pre-default letter to be sent
8 where a foreclosure sale is based upon "a failure to make a payment required by a residential
9 mortgage loan." Plaintiffs ignore that NRS 107.450 defines "residential mortgage loan" as a
10 loan secured by a "deed of trust on owner-occupied housing." The Foreclosure Mediation
11 Program, codified in NRS 107.086(1) has a similar limitation for owner-occupied property,
12 noting that the only exercise of a power of sale subject to that statute is for "any deed of trust
13 which concerns owner-occupied housing."

14 18. For either NRS 107.500 or NRS 107.086 to be applicable then, the Property
15 would have to have been owner-occupied. That is not the case here, and the foreclosure actions
16 relating to the Property were not required to comply with the same. There is no obligation,
17 then, for NDSC to comply with NRS 107.500 and no basis for the Plaintiffs to challenge the
18 sale on the same, as a matter of law. This is further supported by the fact that NDSC, as a
19 foreclosure trustee, is not a party upon which a duty is imposed under NRS 107.500.

20 19. Any Conclusion of Law which should be a finding of fact shall be construed as
21 such.

22 **III. ORDER**

23 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that NDSC's Motion
24 for Summary Judgment and Breckenridge's Joinder is GRANTED.

25 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion for Summary Judgment is DENIED.

27 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that judgment is
28 hereby entered in favor of NDSC and Breckenridge, and against Leo Kramer and Audrey
Kramer.

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1 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that any Lis Pendens
2 recorded with the Lyon County Recorder by any party in relation to this case, is hereby
3 expunged, removed, released, and of no further effect.

4 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Amended
5 Complaint and this action is dismissed in its entirety, with prejudice.

6 DATED this 14th day of ^{December}~~October~~, 2020.

7
8 
DISTRICT COURT JUDGE

9 Respectfully submitted by:

10 TIFFANY & BOSCO, P.A.

11
12 /s/ Ace C. Van Patten, Esq.
13 ACE C. VAN PATTEN, ESQ.
14 *Attorneys for Defendant National*
15 *Default Servicing Corporation*
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TANYA SOEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Kathy Thomas

1 ACE C. VAN PATTEN, ESQ.
2 Nevada Bar No. 11731
3 **TIFFANY & BOSCO, P.A.**
4 10100 W. Charleston Blvd., Ste. 220
5 Las Vegas, NV 89135
6 Tel: (702) 258-8200
7 Fax: (702) 258-8787
8 TB #18-72716
9 *Attorneys for Defendant*
10 *National Default Serving Corporation*

THIRD JUDICIAL DISTRICT COURT

LYON COUNTY, NEVADA

11 LEO KRAMER,
12 AUDREY KRAMER,
13
14 Plaintiffs,

15 vs.

16 NATIONAL DEFAULT SERVICING
17 CORPORATION, ALYSSA MC DERMOTT,
18 WEDGWOOD INC., BRECKENRIDGE
19 PROPERTY FUND 2016 LLC, and DOES 1
20 THROUGH 50 INCLUSIVE,

21 Defendants.

Case No.: 18-CV-00663

Dept. No.: I

**NOTICE OF ENTRY OF ORDER
GRANTING NATIONAL DEFAULT
SERVICING CORPORATION'S
MOTION IN LIMINE TO EXCLUDE
AND DISQUALIFY WILLIAM J.
PAATALO**

21 PLEASE TAKE NOTICE that an Order Granting Defendant's Motion to Exclude and
22 Disqualify William J. Paatalo was entered in the above-captioned matter on the 16th day of
23 December, 2020. A true and correct copy of said Order is attached hereto.

24 DATED January 5, 2021.

25 TIFFANY & BOSCO, P.A.

ACE C. VAN PATTEN

26
27 ACE C. VAN PATTEN, ESQ.
28 *Attorneys for Defendant National Default
Serving Corporation*

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787


CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2021, I placed a copy of the above **NOTICE OF ENTRY OF ORDER GRANTING NATIONAL DEFAULT SERVICING CORPORATION'S MOTION IN LIMINE TO EXCLUDE AND DISQUALIFY WILLIAM J. PAATALO** into a sealed envelope and mailed it via regular mail, postage prepaid, addressed to:

Leo Kramer
Audrey Kramer
2364 Redwood Road
Hercules, CA 94547
Plaintiffs in Proper Person

Casey J. Nelson, Esq.
2320 Potosi Street, Suite 130
Las Vegas, NN 89146

Matthew Schriever, Esq.
Hutchison & Steffen
Peccole Professional Park
10080 W. Alta Drive, Ste. 200
Las Vegas, Nevada 89145
Attorneys for Alyssa McDermott, Wedgewood
Inc. and Breckenridge Property Fund 2016


An employee of Tiffany & Bosco, P.A.

TIFFANY & BOSCO, P.A.
10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

1 ACE C. VAN PATTEN, ESQ.
Nevada Bar No. 11731
2 **TIFFANY & BOSCO, P.A.**
3 10100 W. Charleston Blvd., Ste. 220
Las Vegas, NV 89135
4 Tel: (702) 258-8200
Fax: (702) 258-8787
5 TB #18-72716
6 *Attorneys for Defendant*
7 *National Default Servicing Corporation*

8 **THIRD JUDICIAL DISTRICT COURT**

9 **LYON COUNTY, NEVADA**

11 LEO KRAMER,
12 AUDREY KRAMER,

13 Plaintiffs,

14 vs.

15 NATIONAL DEFAULT SERVICING
16 CORPORATION, ALYSSA MC DERMOTT,
17 WEDGWOOD INC., BRECKENRIDGE
18 PROPERTY FUND 2016 LLC, and DOES 1
THROUGH 50 INCLUSIVE,

19 Defendants.

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TANYA SCHEINER
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

KATHY THOMAS

Case No.: 18-CV-00663

Dept. No.: I

**ORDER GRANTING NATIONAL
DEFAULT SERVICING
CORPORATION'S MOTION IN LIMINE
TO EXCLUDE AND DISQUALIFY
WILLIAM J. PAATALO**

21 This matter having come before this Court on Defendant, National Default Servicing
22 Corporation's ("NDSC"), Motion in Limine to Exclude and Disqualify William J. Paatalo, on
23 the 8th day of September, 2020; and the Court having reviewed the pleadings and papers filed
24 herein, having considered the arguments of counsel and the parties at the hearing on September
25 8, 2020, and good cause appearing therefore, enters the following order:

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10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

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IT IS HEREBY ORDERED that, for the reasons stated on the record, National Default
Servicing Corporation's Motion in Limine to Exclude and Disqualify William J. Paatalo is
GRANTED.

DATED this 14th day of December, 2020.


DISTRICT COURT JUDGE

Respectfully submitted by:

TIFFANY & BOSCO, P.A.

/s/ Ace C. Van Patten, Esq.
ACE C. VAN PATTEN, ESQ.
Attorneys for Defendant National
Default Servicing Corporation

ORIGINAL

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TANYA SCIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Guthy Thomas

1 ACE C. VAN PATTEN, ESQ.
2 Nevada Bar No. 11731
3 **TIFFANY & BOSCO, P.A.**
4 10100 W. Charleston Blvd., Ste. 220
5 Las Vegas, NV 89135
6 Tel: (702) 258-8200
7 Fax: (702) 258-8787
8 TB #18-72716
9 *Attorneys for Defendant*
10 *National Default Serving Corporation*

THIRD JUDICIAL DISTRICT COURT

LYON COUNTY, NEVADA

11 LEO KRAMER,
12 AUDREY KRAMER,
13
14 Plaintiffs,

15 vs.

16 NATIONAL DEFAULT SERVICING
17 CORPORATION, ALYSSA MC DERMOTT,
18 WEDGWOOD INC., BRECKENRIDGE
19 PROPERTY FUND 2016 LLC, and DOES 1
20 THROUGH 50 INCLUSIVE,

21 Defendants.

Case No.: 18-CV-00663

Dept. No.: I

NOTICE OF ENTRY OF ORDER

22 PLEASE TAKE NOTICE that an Order was entered in the above-captioned matter on
23 the 16th day of December, 2020. A true and correct copy of said Order is attached hereto.

24 DATED January 5, 2021.

25 **TIFFANY & BOSCO, P.A.**

26 ACE C. VAN PATTEN, ESQ.
27 *Attorneys for Defendant National Default*
28 *Servicing Corporation*

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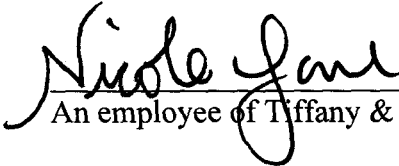
CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2021, I placed a copy of the above **NOTICE OF ENTRY OF ORDER** into a sealed envelope and mailed it via regular mail, postage prepaid, addressed to:

Leo Kramer
Audrey Kramer
2364 Redwood Road
Hercules, CA 94547
Plaintiffs in Proper Person

Casey J. Nelson, Esq.
2320 Potosi Street, Suite 130
Las Vegas, NN 89146

Matthew Schriever, Esq.
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Peccole Professional Park
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Las Vegas, Nevada 89145
Attorneys for Alyssa McDermott, Wedgewood
Inc. and Breckenridge Property Fund 2016


An employee of Tiffany & Bosco, P.A.

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1 ACE C. VAN PATTEN, ESQ.
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4 Tel: (702) 258-8200
5 Fax: (702) 258-8787
TB #18-72716
6 Attorneys for Defendant
National Default Servicing Corporation
7

8 **THIRD JUDICIAL DISTRICT COURT**

9 **LYON COUNTY, NEVADA**

11 LEO KRAMER,
12 AUDREY KRAMER,

13 Plaintiffs,

14 vs.

15 NATIONAL DEFAULT SERVICING
16 CORPORATION, ALYSSA MC DERMOTT,
17 WEDGWOOD INC., BRECKENRIDGE
18 PROPERTY FUND 2016 LLC, and DOES 1
THROUGH 50 INCLUSIVE,

19 Defendants.
20

Case No.: 18-CV-00663

Dept. No.: I

ORDER

FILED

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TANYA SCHEIDT
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

KATHY THOMAS

21 This matter having come before this Court on Plaintiffs, Leo and Audrey Kramer's
22 ("Plaintiffs") Motion for Summary Judgment, Defendant, National Default Servicing
23 Corporation's ("NDSC"), Motion for Summary Judgment, and Defendant, Breckenridge
24 Property Fund 2016, LLC's ("Breckenridge") Joinder to NDSC's Motion for Summary
25 Judgment on the 8th day of September, 2020; and the Court having reviewed the pleadings and
26 papers filed herein, having considered the arguments of counsel and the parties at the hearing on
27 September 8, 2020, and good cause appearing therefore, enters the following findings of fact
28 and conclusions of law in this matter.

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I. FINDINGS OF FACT

1. On or about April 4, 2008, Leo Kramer executed an Agreement and Disclosure (the "Note") reflecting a home equity line of credit provided by Washington Mutual ("WAMU").

2. On or about April 4, 2008, Leo Kramer and Audrey Kramer (collectively, the "Plaintiffs" or the "Kramers") executed a Deed of Trust reflecting that the debt referenced in the Note was secured by the real property located at 1740 Autumn Glen Street, Fernley, NV 89408 (the "Property").

3. The Deed of Trust was recorded with the Lyon County Recorder's Office on or about May 1, 2008, as Document No. 425436.

4. The Deed of Trust encumbers the Property and secures repayment of the Note (collectively, the Note and Deed of Trust are hereafter "the Loan").

5. The Note was subsequently endorsed in blank.

JPMorgan Chase Bank, N.A. becomes the note holder and beneficiary

6. On September 25, 2008, the Federal Deposit Insurance Corporation ("FDIC") placed WaMu into receivership.

7. Concurrent with the inception of the FDIC's receivership of WaMu, JP Morgan Chase Bank, N.A. ("Chase") acquired certain assets and liabilities of WaMu from the FDIC pursuant to that certain "Purchase and Assumption Agreement, Whole Bank, Among Federal Deposit Insurance Corporation, Receiver of Washington Mutual Bank, Henderson, Nevada, Federal Deposit Insurance Corporation and JPMorgan Chase Bank, National Association," dated as of September 25, 2008 (the "PAA").

8. As part of the acquisition by Chase of certain assets and liabilities of WaMu from the FDIC, acting as Receiver, Chase acquired the rights of WaMu, as lender and beneficiary, respectively, arising under all of the loan assets of WaMu — including the Loan.

Leo Kramer's bankruptcy filings acknowledge Chase's status as noteholder and beneficiary

9. On April 8, 2010, Leo Kramer filed a Chapter 11 bankruptcy petition in Case 10-43951, in the United States Bankruptcy Court, Northern District of California and included, in

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1 his schedules, acknowledgment that (i) Chase held a security interest in the Property; and (ii)
2 the amount of Chase's claim was \$175,274.00 (without deducting the value of the collateral).
3 Leo Kramer then received a discharge on or about June 16, 2011.

4 10. On September 1, 2011, Leo Kramer filed a Chapter 13 bankruptcy petition in
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7 objected to the proposed Chapter 13 Plan, but the case was ultimately dismissed as Leo Kramer
8 failed to make the required plan payments.

9 11. On December 5, 2013, a Substitution of Trustee was recorded in the Official
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11 Corporation was substituted in by Chase as the trustee under the Deed of Trust.

12 12. On July 3, 2014, Leo Kramer filed a third bankruptcy petition in the United
13 States Bankruptcy Court, Northern District of California, which was a Chapter 13 petition,
14 assigned Case 14-42866 and in which Leo Kramer filed his schedules whereby he again
15 acknowledged again that (i) Chase held a security interest in the Property; and (ii) the amount of
16 Chase's claim was \$176,000.00 (without deducting the value of the collateral).

17 13. Chase again filed a proof of claim regarding the Loan in Case 14-42866 on
18 October 29, 2014 which included a copy of the Note and DOT.

19 14. On or about December 22, 2014, Leo Kramer confirmed a Chapter 13 Plan in
20 Case 14-42866, wherein Chase was recognized as a Class 3 creditor, and no payments were to
21 be made to Chase under the Plan, but that expressly called for Leo Kramer to surrender his
22 interest in the Property to Chase upon plan confirmation.

23 *The foreclosure sale*

24 15. On October 6, 2017, a non-judicial foreclosure of the Property was initiated by
25 the recording of a Notice of Default ("NOD" or "Notice of Default") in the Official Records of
26 the Lyon County, Nevada Recorder.

27 16. On or about October 16, 2017, the Notice of Default was mailed via Certified
28 Mail to the Plaintiffs at:

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10100 W. Charleston Boulevard, Suite 220
Las Vegas, NV 89135
Tel 702-258-8200 Fax 702-258-8787

1 i. 1740 Autumn Glen St., Fernley, Nevada 89408
2 ii. 1229 Ballena Blvd., Alameda, California 94501
3 and via first class mail to Parties in Possession at 1740 Autumn Glen St., Fernley, NV 89408-
4 7204.

5 17. These were the only addresses in NDSC's possession.

6 18. A Copy of the Notice of Default, along with a Danger Notice was also posted on
7 the Property on or about October 12, 2017.

8 19. The Notice of Default was received by the tenant at the time, Daniel Starling
9 ("Starling").

10 20. On or about October 16, 2017, Starling advised the property management
11 company, Chaffin Real Estate Services ("Chaffin") that the Notice of Default had been posted
12 and provided a copy of the same to Chaffin.

13 21. Chaffin advised the Plaintiffs on October 16, 2017, that the Notice of Default
14 had been posted on the Property and provided a copy of the same to the Plaintiffs, which the
15 Plaintiffs confirmed receipt of.

16 22. On or about January 27, 2018, Home Means Nevada, Inc. issued a State of
17 Nevada Foreclosure Mediation Program Certificate, which was recorded thereafter on or about
18 March 22, 2018.

19 23. An Assignment of the DOT from WaMu to Chase was recorded in the Official
20 Records of the Lyon County, Nevada Recorder on or about April 10, 2018.

21 24. On or about April 19, 2018, a Notice of Trustee's Sale was recorded in the
22 Official Records of the Lyon County, Nevada Recorder, advising that foreclosure sale would
23 occur on May 18, 2018.

24 25. On or about April 19, 2018, the Notice of Sale was mailed via Certified Mail to
25 the Plaintiffs at:

26 i. 1740 Autumn Glen St., Fernley, Nevada 89408
27 ii. 1229 Ballena Blvd., Alameda, California 94501
28 iii. 2364 Redwood Road, Hercules, California 94547

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1 and via first class mail to Parties in Possession at 1740 Autumn Glen St., Fernley, NV 89408-
2 7204.

3 26. Plaintiffs acknowledge receipt of the Notice of Sale.

4 27. The Notice of Sale was also posted on the Property on April 19, 2018, and again
5 on April 20, 2018.

6 28. The Notice of the Sale was also published in the Reno Gazette-Journal, and
7 Mason Valley news/Leader Courier on April 25, 2018, May 2, 2018, and May 9, 2018.

8 29. Starling also provided a copy of the Notice of Sale to Chaffin, who in turn
9 provided the Notice of Sale to the Plaintiffs.

10 30. On or about June 1, 2018, a Trustee's Deed Upon Sale was recorded in the
11 Official Records of the Lyon County, Nevada Recorder, reflecting that on May 18, 2018, the
12 foreclosure sale of the Property occurred, and that Breckenridge Property Fund 2016, LLC
13 provided the highest bid in the amount of \$211,000.

14 *The Federal Court Case and subsequent appeal*

15 31. Plaintiffs filed a Complaint in case 3:18-cv-0001-MMD (the "Federal Court
16 Case" or "Federal Court Action") in the United States District Court for the District of Nevada
17 on or about January 2, 2018, naming Chase, NDSC, WAMU, and Mortgage Electronic
18 Registration Systems, Inc. ("MERS") challenging the foreclosure and asserting many of the
19 same allegations contained in the instant Complaint.

20 32. Plaintiffs initiated the Federal Court Case in response to the Notice of Default.

21 33. Subsequently, on May 17, 2018, the Federal Court entered an Order finding that
22 Plaintiffs were judicially estopped from asserting the claims asserted against Chase, WAMU
23 and NDSC "to avoid foreclosure on the [Property]."

24 34. The Plaintiffs appealed the Order to the United States Court of Appeals for the
25 Ninth Circuit and, on May 29, 2019, the Ninth Circuit entered a Memorandum affirming the
26 lower court's decision.

27 35. Plaintiffs subsequently petitioned for a panel rehearing, and when that was
28 denied in September 6, 2019, by the Ninth Circuit, filed a Motion for Relief on December 23,

1 2019, in the District Court; that Motion was denied on December 27, 2019, by the District
2 Court. Plaintiffs subsequently appealed the same on January 21, 2020.

3 *The instant litigation*

4 36. The Plaintiffs filed their Complaint in this action on June 8, 2018, naming NDSC
5 among other parties.

6 37. On or about October 24, 2018, this Court entered an Order Granting Motion to
7 Dismiss Plaintiff's Complaint, dismissing the entirety of the Complaint without prejudice and
8 finding that all claims, except for those relating to the procedural notice of the sale, were
9 precluded from being re-litigated as a result of res judicata.

10 38. Plaintiffs subsequently amended their Complaint and the Court, in turn, entered
11 a second order on May 24, 2019, granting in part and denying in part NDSC's motion to
12 dismiss the First Amended Complaint which further confirmed that the only remaining claim
13 relates to the procedural requirements as it relates to the foreclosure sale conducted by NDSC.

14 39. Any Finding of Fact which should be a conclusion of law shall be construed as
15 such.

16 **II. CONCLUSIONS OF LAW**

17 *Standard of Review*

18 1. Summary judgment is appropriate if, when viewed in the light most favorable to
19 the nonmoving party, the record reveals there are no genuine issues of material fact and the
20 moving party is entitled to judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S.
21 317, 322, 106 S.Ct. 2548, 2552 (1986); *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d
22 1026, 1031 (2005)(adopting the federal standard for summary judgment).

23 2. Summary judgment must be granted unless "the nonmoving party [can]
24 transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts
25 that show a genuine issue of material fact." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123
26 Nev. 598, 603, 172 P.3d 131, 134 (Nev. 2007).

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1 3. A genuine issue of fact is one that could be reasonable be resolved in favor of
2 either party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48, 106 S.Ct. 2505, 2510
3 (1986).

4 *NDSC substantially complied with the notice requirements of NRS 107.080 and NRS*
5 *107.087.*

6 4. The foreclosure sale was completed in a manner which satisfies at least
7 substantial compliance with the requisite statutes.

8 5. NRS 107.080(5)(a) confirms that for a valid foreclosure sale to occur, the
9 foreclosure trustee need only "substantially comply" with the provisions of NRS 107.080, a
10 fact which the Nevada Supreme Court has repeatedly recognized. *See e.g., Schleining v. Cap*
11 *One, Inc.*, 130 Nev. 323, 329, 326 P.3d 4, 8 (Nev. 2014)("the Legislature had expressly
12 imposed a substantial-compliance standard with regard to a lender's duty to provide a borrower
13 with notice of a loan's default and the lender's election to foreclose.")(internal emphasis
14 omitted).

15 6. Moreover, substantial compliance with the notice requirements is achieved
16 where actual notice occurs and there is no prejudice to the party entitled to notice. *Id.*; *see also,*
17 *Dayco Funding Corp. v. Mona*, 427 P.3d 1038 (Nev. 2018).

18 7. Mailing the notices to all the addresses NDSC had in its possession, along with
19 posting physical copies on the Property itself, is sufficient to establish substantial compliance
20 with NRS 107.080.

21 8. Indeed, Plaintiffs had actual notice of the Notice of Default and the Notice of
22 Sale. Plaintiffs concede that received the Notice of Default through the tenant and Chaffin and
23 Plaintiffs personally received the Notice of Sale as required by the statute. Plaintiffs' actual
24 notice is sufficient to satisfy any notice requirements provided in NRS 107.080 and 107.087.

25 9. Further, Plaintiffs were not prejudiced by receipt of the Notice of Default
26 through the tenant and property management company. The Plaintiffs received their copy of
27 the Notice of Default on October 16, 2017, the same date the notices were sent to the other
28 addresses and the date upon which the Notice of Default was posted. Plaintiffs acknowledge

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1 that they filed the Federal Court Case as a result of receiving the Notice of Default, and
2 Plaintiffs enjoyed the benefit of the Property since the foreclosure sale occurred. Plaintiffs,
3 then, not only were aware of the Notice of Default, but took steps to initiate litigation that
4 acknowledged and referenced the foreclosure. Consequently, the Plaintiffs suffered no
5 prejudice with regard to receipt of the Notice of Default.

6 10. The totality of the evidence and facts in this case confirm that NDSC
7 substantially complied with NRS 107.080 and NRS 107.087, and indeed, completely complied
8 with NRS 107.087.

9 11. Further, Breckenridge is a bona fide purchaser. As the foreclosure sale was a
10 validly conduct sale, Breckenridge's interest in the Subject Property is also valid.

11 *The Plaintiffs are not entitled to receipt of the Notice of Default under NRS 107.090.*

12 12. Plaintiffs' assertion that they were entitled to receipt of the Notice of Default
13 pursuant to NRS 107.090 fails and is inapplicable to the facts at hand.

14 13. Under NRS 107.090(2), within 10 days of recording the Notice of Default and
15 within 20 days of the sale, the foreclosure trustee has to deposit in the mail a copy of the notice
16 of default or sale, sent registered or certified to a) any party who has recorded in the county
17 records a request for a copy of the notice of default and b) any other person "with an interest
18 whose interest or claimed interest is subordinate to the deed of trust."

19 14. Plaintiffs' interpretation that NRS 107.090(2)(b) includes borrowers also
20 renders superfluous the other notice requirements in NRS 107. This is especially true when the
21 legislature's actions in defining "Borrower" in NRS 107.410 and references to grantor and
22 trustor throughout NRS 107 confirms they recognized the parties participating in the
23 transaction

24 15. Plaintiffs neither recorded a request for a copy of the Notice of Default nor have
25 an interest subordinate to the Deed of Trust, as such, NRS 107.090 is inapplicable to the instant
26 proceeding. Even if it were applicable, however, the Plaintiffs' actual notice of the Notice of
27 Default and Notice of Sale would satisfy the notice requirements of NRS 107.090.

28

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1 *The Property was not owner occupied and so NRS 107.500 and NRS 107.086 were*
2 *inapplicable.*

3 16. Plaintiffs' assertions that the foreclosure process was defective pursuant to NRS
4 107.500 and NRS 107.086 are irrelevant as Plaintiffs were not residing in the Property at the
5 time of any of the foreclosure actions taken by any party.

6 17. Both NRS 107.500 and NRS 107.086 apply to situations where the owner
7 resides in the Property. For example, NRS 107.500 requires a pre-default letter to be sent
8 where a foreclosure sale is based upon "a failure to make a payment required by a residential
9 mortgage loan." Plaintiffs ignore that NRS 107.450 defines "residential mortgage loan" as a
10 loan secured by a "deed of trust on owner-occupied housing." The Foreclosure Mediation
11 Program, codified in NRS 107.086(1) has a similar limitation for owner-occupied property,
12 noting that the only exercise of a power of sale subject to that statute is for "any deed of trust
13 which concerns owner-occupied housing."

14 18. For either NRS 107.500 or NRS 107.086 to be applicable then, the Property
15 would have to have been owner-occupied. That is not the case here, and the foreclosure actions
16 relating to the Property were not required to comply with the same. There is no obligation,
17 then, for NDSC to comply with NRS 107.500 and no basis for the Plaintiffs to challenge the
18 sale on the same, as a matter of law. This is further supported by the fact that NDSC, as a
19 foreclosure trustee, is not a party upon which a duty is imposed under NRS 107.500.

20 19. Any Conclusion of Law which should be a finding of fact shall be construed as
21 such.

22 **III. ORDER**

23 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that NDSC's Motion
24 for Summary Judgment and Breckenridge's Joinder is GRANTED.

25 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Plaintiffs'
26 Motion for Summary Judgment is DENIED.

27 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that judgment is
28 hereby entered in favor of NDSC and Breckenridge, and against Leo Kramer and Audrey
Kramer.

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1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any Lis Pendens
2 recorded with the Lyon County Recorder by any party in relation to this case, is hereby
3 expunged, removed, released, and of no further effect.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Amended
5 Complaint and this action is dismissed in its entirety, with prejudice.

6 DATED this 14th day of ^{December}~~October~~, 2020.

7
8 
DISTRICT COURT JUDGE

9 Respectfully submitted by:

10 TIFFANY & BOSCO, P.A.

11 /s/ Ace C. Van Patten, Esq.
12 ACE C. VAN PATTEN, ESQ.
13 Attorneys for Defendant National
14 Default Servicing Corporation
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Case Summary

NATIONAL DEFAULT SERVICING CORPORATION, LEO KRAMER, AUDREY KRAMER, ALYSSA MC DERMOTT, WEDGWOOD INC., BRECKENRIDGE PROPERTY FUND 2016 LLC ~ COMPLAINT

Case Number: 18-CV-00663

Agency: Third Judicial District Court

Type: Other Title to Property Case

Received Date: 6/8/2018

Status: Closed

Status Date: 12/16/2020

Involvements

Primary Involvements

KRAMER, LEO Plaintiff

KRAMER, AUDREY Plaintiff

NATIONAL DEFAULT SERVICING CORPORATION Defendant

MC DERMOTT, ALYSSA Defendant

WEDGWOOD INC. Defendant

BRECKENRIDGE PROPERTY FUND 2016 LLC Defendant

Other Involvements

Steffen, John T. Esq. Defendant's Attorney

Soderstrom, Kevin S. Esq. Defendant's Attorney

KRAMER, LEO Pro Per

KRAMER, AUDREY Pro Per

Third Judicial District Court (18-CV-00663)

Schlegelmilch, John P. - JPS Dept I - TJDC

[7. REOPEN ~ Reopened Charge](#)

Notes: AMENDED COMPLAINT FILED

Lead/Active: False

Other Title to Property Case

[1. NRCP 3 ~ COMPLAINT](#)

Lead/Active: True

[2. NRCP 3 ~ COMPLAINT](#)

Lead/Active: False

[3. NRCP 5 ~ ANSWER](#)

Lead/Active: False

[4. NRCP 5 ~ ANSWER](#)

Lead/Active: False

Case Summary

5. NRCP 5 ~ ANSWER

Lead/Active: False

6. NRCP 5 ~ ANSWER

Lead/Active: False

Case Status History

6/8/2018 12:31:00 PM | Open
10/24/2018 | Closed
10/29/2018 | Reopened
12/16/2020 9:41:00 AM | Closed

Events

10/5/2018 10:00:00 AM | Motion Hearing | DEPT I 18-CV-00663 | Court Room B

Andersen, Andrea Deputy Clerk -
AANDERSEN

Staff - STAFF

Court Room B - CourtRmB

lawclerk1 - LAW1

Aaron Richter

Dayton, Matthew D. Esq.

Telephonic, obo National Default Servicing Corporation

Warner, Eric Esq.

obo Defendants, Alyssa McDermott, Wedgewood, Inc., and Breckenridge Property Fund 2016 LLC

Schlegelmilch, John P. - JPS (Dept I -
TJDC)

KRAMER, LEO (Pro Per)

Plaintiff, in Pro Per

KRAMER, AUDREY (Pro Per)

Plaintiff, in Pro Per

Notes: Mr. Dayton, Mr. Warner and Ms. Kramer argued the Motion to Dismiss and the res judicata matter. Plaintiff requested leave to file an amended complaint and discovery. Court finds Judge Du's previously found there was an ability to foreclose upon the property and therefore precludes that matter from being brought up in this court. In the event that ruling is reversed, it would then be addressed in the United States District Court. Court granted the Motion to Dismiss without prejudice against all defendant. Court granted Plaintiff's the ability to file an Amended Complaint that is not based upon Judge Du's rulings. Amended Complaint is to be filed within twenty (20) calendar days. Mr. Dayton and Mr. Warner are willing to accept service of the Amended Complaint on behalf of their client(s). Court permitted service of the Amended Complaint on counsel. Court directed plaintiff to provide an Acceptance of Service for counsel to sign. Mr. Dayton to prepare Order and email the order to the court, Plaintiff's and Mr. Warner. Parties will have five (5) days to object to the proposed order. Plaintiff's email address is audreykramer55@yahoo.com. Proposed Order is to be submitted to the court in Word or Word Perfect.

5/1/2019 10:30:00 AM | Motion Hearing | DEPT I 18-CV-00663 | Court Room B

lawclerk1 - LAW1

CHING, KEITH S.K.

GEURTS, PATRICK JAMES J.

VanPatten, Ace C. Esq.

obo NDSC w/Tiffany & Bosco

Thomas, Kathy Dep. Clerk - KTHOMAS

Staff - STAFF

Court Room B - CourtRmB

Case Summary

Schlegelmilch, John P. - JPS (Dept I - TJDC)

Notes: Plaintiff's appeared in Proper Person. Mr. Ching appeared on behalf of McDermott, Wedgewood, Inc., and Breckenridge Property. Mr. Van Patten, appearing on behalf of NDSC. Counsel argued the motions. Court Found McDermott and Wedgewood are not owners in the property. Motion to Dismiss as to McDermott and Wedgewood is granted. Breckenridge will remain as a party in the case. Court dismissed the quiet title action, does not fit the proper requirements. Cause of Action 2 & 3 in the complaint is Dismissed. Cause of action 1 & 4 does exist, case will go forward on those 2 causes. In regards to the Discovery motion, court found the early case conference doesn't take place until after first answer is filed. Defendant to file answer within 20 days of today's date. Parties are to co-operate with the rules of 16.1 which also applies to parties in proper person. The opposition to the early case conference is granted. Mr. Ching to prepare Order and email within 10 days to the court and other parties. Parties have 5 days after the receipt to file any objection to the order.

3/25/2020 12:00:00 PM | Telephonic Conference | DEPT I 18-CV-00663 | Judge's Chambers

Andersen, Andrea Deputy Clerk - AANDERSEN

Staff - STAFF

lawclerk1 - LAW1

Hawah Ahmad

Schriever, Matthew K. Esq.

Telephonic, obo Breckenridge Property Fund

VanPatten, Ace C. Esq.

Telephonic, obo National Default Servicing Corporation

Velto, Alex Esq.

Telephonic, obo Breckenridge Property Fund

Schlegelmilch, John P. - JPS (Dept I - TJDC)

KRAMER, AUDREY (Pro Per)

Plaintiff, in Pro Per, Telephonic

Notes: Court confirmed the Jury Trial previously set for May 12, 2020 is vacated. Court confirmed there are several outstanding Motions and a Motion hearing needs to be set. No other hearing dates will be set until pending Motions are resolved. Ms. Kramer requested the Motion hearing be in person. Counsel did not object to video conference for the Motion Hearing. Court set Motion Hearing for June 10, 2020 for one (1) day. If the restrictions are not lifted, at least three (3) weeks prior to the Motion Hearing Court will hold another telephone conference. Mr. Schriever addressed the court regarding the timeliness of Plaintiff's Motion for Summary Judgment filed March 24, 2020. Court heard statements from Mr. Van Patten and Mrs. Kramer regarding the timeliness of Plaintiff's Motion for Summary Judgment. Court will determine if Plaintiff's Motion for Summary Judgment can be heard at the Motion Hearing, based upon filings and argument.

6/9/2020 10:00:00 AM | Telephonic Conference | DEPT I 18-CV-00663 | Judge's Chambers

VanPatten, Ace C. Esq.

obo Defendant, National Default Servicing, Telephonic

Andersen, Andrea Deputy Clerk - AANDERSEN

Staff - STAFF

lawclerk1 - LAW1

Schriever, Matthew K. Esq.

obo Defendant, Breckenridge Property, Telephonic

Schlegelmilch, John P. - JPS (Dept I - TJDC)

KRAMER, LEO (Pro Per)

Plaintiff, in Pro Per, Telephonic

KRAMER, AUDREY (Pro Per)

Plaintiff, in Pro Per, Telephonic

Notes: Ms. Kramer requested the June 10, 2020 hearing be vacated due to the pandemic and she would prefer to appear for court live, otherwise she felt as if she would be at a disadvantage. Mr. VanPatten did not object to the continuance so long as it is the final continuance. Mr. Schriever objected to the continuance if the hearing would be continued to September. Ms. Kramer advised the court the September date is due to the expert witness's availability. Prior to the court ruling on the Motion to Exclude Mr. Paatalo, court needs to hear Mr. Paatalo's testimony either live or by deposition. Court denied Plaintiff's Motion to Strike Supplement Discovery. Court to issue Order on procedural matters. Court ordered matter be continued to September 8, 2020 @ 9:00 am for one (1) day. Court will not continue the matter again. All parties are required to appear in person.

9/8/2020 9:00:00 AM | Motion Hearing | DEPT I 18-CV-00663 | Court Room B

Andersen, Andrea Deputy Clerk -

Case Summary

AANDERSEN

Staff - STAFF

Court Room B - CourtRmB

Geurts, Patrick Bailiff - X004896

VanPatten, Ace C. Esq.

obo Defendant National Default Servicing Corporation

Velto, Alex Esq.

obo Defendant, Alyssa McDermott, Wedgwood Inc. and Breckenridge Property Fund 2016 LLC

lawclerk1 - LAW1

Hawah Ahmad

Schlegelmilch, John P. - JPS (Dept I - TJDC)

KRAMER, LEO (Pro Per)

Plaintiff, in Pro Per

KRAMER, AUDREY (Pro Per)

Plaintiff, in Pro Per

Notes: Ms. Kramer, Mr. VanPatten and Mr. Velto argued the Motion to Amend Complaint. Court heard sworn testimony from William Paatalo. Court denied the Motion to Amend Complaint. Mr. VanPatten requested the court address the Motion to Disqualify Mr. Paatalo. Based upon previous order, court find the motion in irrelevant. Court granted the Motion to Disqualify in part. Mr. VanPatten, Mr. Velto and Ms. Kramer argued National Default Servicing Corporation's Motion for Summary Judgment. Court finds the trustee complied with the notice provision. Court finds the parties received the notice. Court finds the notice of default was properly made. Court granted the Motion for Summary Judgment. Court dismissed the matter as to all parties on Summary Judgment due to substantial compliance. Mr. VanPatten to prepare Order on all matters.