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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

CASE NO.: 82379

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEO KRAMER and AUDREY KRAMER, PRO SE

Plaintiffs-Appellants

v.

NATIONAL DEFAULT SERVICING CORPORATION, et al.,

Defendants-Appellees

ON APPEAL FROM THE JUDGMENT OF THE THIRD JUDICIAL DISTRICT
COURT IN AND FOR THE COUNTY OF LYON, STATE OF NEVADA

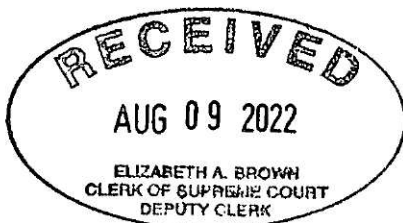
JOHN P. SCHLEGELMILCH, Judge Presiding

Case No. 18-CV-00663

**PETITIONERS' REPLY TO BRECKENRIDGE PROPERTY FUND 2016,
LLC'S OPPOSITION TO APPELLANTS/PETITIONERS' MOTION
REQUESTING ADMITTANCE AND REVIEW OF TRANSCRIPTS FROM
MAY 1, 2019 & SEPTEMBER 8, 2020 MOTION HEARINGS IN THE THIRD
JUDICIAL DISTRICT COURT OF LYON COUNTY**

August 8, 2022

Leo Kramer and Audrey Kramer
Petitioners-Appellants, in Pro se
2364 Redwood Road
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22-24859

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**TO THE HONORABLE SUPREME COURT JUSTICES OF THE
SUPREME COURT OF NEVADA:**

Petitioners, Leo Kramer and Audrey Kramer, (“Petitioners”), hereby, file this their Reply to Breckenridge Property Fund 2016, LLC’s opposition to Appellants/Petitioners’ Motion requesting admittance and review of transcripts from May 1, 2019 & September 8, 2020 Motion Hearings in the Third Judicial District Court of Lyon County and in support thereof show as follows:

I. INTRODUCTION

In granting Respondents summary judgment, the lower court erred because as evidenced in the transcript, there is genuine issue of material fact that precludes the entry of summary judgment in favor of the Defendants/Respondents. The Transcript shows *inter alia*, disputed issues that remain to be litigated, and also evidenced that the district court erroneously granted Respondent motion to exclude William Paatalo, a private investigator, and Petitioners’ Expert witness who upon diligent inquiry, discovered that the “Assignment of Deed of Trust”, **Expired** Limited Power of Attorney and the “Purchase and Assumption Agreement” which were proffered as evidence by Ace Van Patten, an officer of the court, were all false and fabricated documents and that FDIC did not convey Petitioners’ Deed of Trust or any interest in the Petitioners’ Revolving Line of Credit Agreement with Washington Mutual Bank to JPMorgan Chase Bank.

Order of Affirmance re: Transcript

In its Order of Affirmance, the Court of Appeals erred in failing to consider the transcript of the proceeding in the Nevada District court. The contents in the transcript illuminate irrefutable facts that Ace Van Patten, an officer of the court, and National Default Servicing Corporation offered in evidence, false and fabricated “Assignment of Deed of Trust”, **Expired** Limited Power of Attorney and the “Purchase and Assumption Agreement” on behalf of JPMorgan Chase Bank, and that the Court of Appeals committed substantial and prejudicial error when it held that: “...we note that at the time Chase purportedly acquired the Kramers’ line of Credit from FDIC in 2008...” (**Order of Affirm. at. p.7., ¶ 1.**). Petitioners argue that the contents in the transcript which the court of Appeals failed to consider unambiguously refutes the Court of Appeals implication that Chase acquired Petitioners’ line of Credit from FDIC in 2008.

Petitioners contend that they are mindful of the fact that the determination of error is not itself sufficient to justify a reversal of the judgment, of course. However, that reversal is mandated here because the Court of Appeals error of not considering the contents of the Transcript has resulted in miscarriage of justice. Had the Court of Appeals considered the contents of the transcript, the outcome of the Order of Affirmance would have been favorable to the Petitioners. To justify failure to consider the contents of the transcript, the Court of Appeals concluded that

Petitioners complied with their duty under the Nevada Rules of Appellate Procedure to request a transcript of the September 8, 2020, hearing on the motion, they failed to file a copy of the transcript with the clerk of the Nevada Supreme Court.

Petitioners did timely file request for Transcripts from May 1, 2019 & September 8, 2020 motion proceedings in the Third Judicial District Court of Lyon County. The transcripts contains information within it that is material to Petitioners' case and would assist this court in the truth-finding process as applied to the case at bar. Further, Petitioners paid **Michel Loomis of Capitol Reporters (\$769.90)** for transcription of Motion Hearings for May 1, 2019 & September 8, 2020. Additionally, Petitioner, Ms. Kramer, as a pro se litigant, specifically inquired with Capitol Reporters as to who was responsible for the delivery of the transcripts to the court and to opposing parties once the transcripts were completed. Ms. Kramer was informed by a Capitol Reporters' employee (who is no longer with Capitol Reporters) that Capitol Reporters is responsible for sending the transcripts to the courts and to defendants in order to ensure the integrity of the transcripts. ***Please See Exhibit: B-(Documentation From Capitol Reporters)***

Breckenridge Property Fund 2016, LLC lack standing to challenge admittance of Petitioners' Transcript.

Breckenridge Property Fund 2016, LLC lack standing to challenge admittance of Petitioners' Transcript. Breckenridge Property Fund 2016, LLC failed to demonstrate particularized injury in fact that can be fairly traceable to the conduct

of Petitioners in seeking the admittance of Transcript. *Please See, Lujan v. Defenders of Wildlife*, 500 U.S. 915 (1991). Petitioners contend that the contents of the transcript is necessary so that this court can have complete record on Appeal and in rendering its decision on Petitioners' petition for Bill of Review in this court.

Furthermore, Breckenridge Property Fund 2016, LLC cannot have lawful interest which fraudulent and fabricated Assignment of Deed of Trust, **Expired** Limited Power of Attorney and fabricated purchase and Assumption cannot convey; nor can the fraudulent Deed of Trust, **Expired** Limited Power of Attorney and fabricated Purchase and Assumption agreement form the basis of a lawful "Notice of Default" Notice of Trustee's Sale or Trustees' Deed Upon Sale.

Unless Breckenridge Property Fund 2016, LLC participated in the production of the fraudulent and fabricated Assignment of Deed of Trust, **Expired** Limited Power of Attorney and fabricated purchase and Assumption, Breckenridge Property Fund 2016, LLC lacks standing to challenge Petitioners' Motion requesting admittance and review of transcripts from May 1, 2019 & September 8, 2020 Motion Hearings in the Third Judicial District Court of Lyon County. Petitioners further contend that Breckenridge Property Fund 2016, LLC is neither a bonafide purchaser of Petitioners' home for value nor a bonafide encumbrancer of Petitioners' home in the States of Nevada.

Moreover, there is no evidence that Breckenridge Property Fund 2016, LLC purchased Petitioners' home in a public auction in a non-judicial foreclosure sale as mandated by Nevada law for non-judicial foreclose of real property. Further, Breckenridge Property Fund 2016, LLC proffered no evidence in the District Court or in any court to date, to demonstrate that it lawfully purchased Petitioners' home in a public auction in a non-judicial foreclosure sale to wit, Breckenridge Property Fund 2016 was the highest bidder. Petitioners contend that any purported interest Respondent thought it may have had in Petitioners' retirement home, is vitiated by fraud; as such, Breckenridge Property Fund 2016, lacks standing to challenge the Admittance of Petitioners' Motion Requesting Admittance And Review Of Transcripts From May 1, 2019 & September 8, 2020 Motion Hearings in the Third Judicial District Court of Lyon County. As such, there remain genuine disputed issue of material fact pertaining the false and fabricated "Assignment of Deed of Trust, **Expired** Limited Power of Attorney and the false and fabricated Purchase and Assumption Agreement that remain to be ligated before the jury who are the conscience of the community. Noteworthy: *(The expired LPOA states within the body of the document [and also in the lower left hand corner of every page] that the document was specific and applied to sold/paid off WAMU loans. Which included the Kramers' loan.)*

II. ARGUMENT

B. The Court Should Deny Breckenridge Property Fund 2016, LLC's Opposition To Petitioners' Motion Requesting Admittance And Review Of Transcripts From May 1, 2019 & September 8, 2020 Motion Hearings In The Third Judicial District Court Of Lyon County Because The Contents Of The Transcript Are Necessary For Adequate Record On Appeal And Bill Of Review.

NRAP 9(b) provides that "[a] pro se appellant in a civil appeal shall identify and request all necessary transcripts"), (b)(1)(B) (providing that, upon receiving the transcript from the court reporter, the requesting party "shall file a copy of the transcript with the clerk of the Supreme Court").

Here, Petitioners paid **Michel Loomis of Capitol Reporters (\$769.90)** for transcription of Motion Hearings for May 1, 2019 & September 8, 2020. Additionally, Petitioner, Ms. Kramer, as a pro se litigant, specifically inquired with Capitol Reporters as to who was responsible for the delivery of the transcripts to the court and to opposing parties once the transcripts were completed. Ms. Kramer was informed by a Capitol Reporters' employee (who is no longer with Capitol Reporters) that Capitol Reporters is responsible for sending the transcripts to the courts and to defendants in order to ensure the integrity of the transcripts. ***Please See Exhibit: B-(Documentation From Capitol Reporters)***

Additionally, Petitioners relied on the Supreme Court Order which provided in pertinent part:

‘ORDER DIRECTING TRANSMISSION OF RECORD’

Having reviewed the documents on file in this pro se appeal, this court concludes that review of the **complete record** is warranted. NRAP 10(a)(1). Accordingly, within 30 days from the date of this order, the clerk of the district court shall transmit to the clerk of this court a certified copy of the trial court record in District Court Case No. 18-CV-00663. See NRAP 11(a)(2) (providing that the complete "record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court," as well as "**any previously prepared transcripts of the proceedings in the district court**"). The record shall not include any exhibits filed in the district court. NRAP 11(a)(1).
It is so ORDERED

Petitioners contend that they reasonably believed that the court's unambiguous order *Ibid*, evinces that the Transcript of the proceeding will be filed with the Clerk of Nevada Supreme court and that nothing was left for the Petitioners to do concerning transmitting a duplicate copy of transcript to Nevada Supreme Court and that Due Process required consideration of the contents of the Transcript on "Bill of Review" pending adjudication in this Honorable Court.

The Requirements of Due Process.

Although due process tolerates variances in procedure "appropriate to the nature of the case," *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950). it is nonetheless possible to identify its core goals and requirements. First, "[p]rocedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." *Carey v. Piphus*, 435 U.S. 247, 259 (1978). "[P]rocedural due process

rules are shaped by the risk of error inherent in the truth-finding process as applied to the generality of cases.” *Mathews v. Eldridge*, 424 U.S. 319, 344 (1976). Thus, the required elements of due process are those that “minimize substantively unfair or mistaken deprivations” by enabling persons to contest the basis upon which a state proposes to deprive them of protected interests. Here, Petitioners are entitled to due process to prevent unfair or mistaken deprivations of their constitutionally protected interests in the real property because Petitioners’ real property is unique.

In its opposition Respondent contends that:

Petitioners’ motion Admittance and Review of Transcript as there is no rule of Appellate procedure to allow for such a request after the Court of Appeals issued its decision on May 6, 2022. Pursuant to NRAP 9(b) Appellants were to request all transcript within 14 days of the docketing of the appeal. (**Opp. at. p. 2., ¶ 2.**).

Petitioners argue that Respondent ignores this court order directing transmission of record which states:

‘ORDER DIRECTING TRANSMISSION OF RECORD’

Having reviewed the documents on file in this pro se appeal, this court concludes that review of the **complete record** is warranted. NRAP 10(a)(1). Accordingly, within 30 days from the date of this order, the clerk of the district court shall transmit to the clerk of this court a certified copy of the trial court record in District Court Case No. 18-CV-00663. See NRAP 11(a)(2) (providing that the complete “record shall contain each and every paper, pleading and other document filed, or submitted for filing, in the district court,” as well as **“any previously prepared transcripts of the proceedings in the district court”**). The record shall not include any exhibits filed in the district court. NRAP 11(a)(1).
It is so ORDERED

Petitioners contend that they reasonably believed that the court unambiguous order Ibid, evinces that the Transcript of the proceeding will be filed with the Clerk of Nevada Supreme court and that was nothing left for the Petitioners to do concerning transmitting a duplicate copy of transcript.

Additionally, notwithstanding Respondent's contention that "Petitioners' motion Admittance and Review of Transcript as there is no rule of Appellate procedure to allow for such a request after the Court of Appeals issued its decision on May 6, 2022." (**Opp. at. p. 2., ¶ 2.**), Petitioners contend that nothing in the rules of Appellate procedure appears to prohibit a motion such as this one. "An application for an order or other relief is made by motion unless these Rules prescribe another form. A motion must be in writing and be accompanied by proof of service." Nev. R. App. P. 27. Further, A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. The motion shall contain or be accompanied by any matter required by a specific provision of these Rules governing such a motion. If a motion is supported by affidavits or other papers, they shall be served and filed with the motion. Nev. R. App. P. 27. Petitioners are in compliance with Nev. R. App. P. 27 and have made an application for an order and relief in writing and accompanied by proof of service. Furthermore, NRAP 1(c) provides that these Rules shall be liberally construed to

secure the proper and efficient administration of the business and affairs of the courts and to promote and facilitate the administration of justice by the courts. Petitioners contend that the Request for Judicial Notice is relevant to this Court's disposition of this pending Petition.

III- Conclusion

For the foregoing reasons Petitioners Respectfully request that this Honorable Court deny Breckenridge Property Fund 2016's opposition to petitioners' motion requesting admittance and review of transcripts from May 1, 2019 & September 8, 2020 motion hearings in the third judicial district court of Lyon county because the contents of the transcript are necessary for adequate record on appeal and **Bill of Review.**

Date: 8/08/22

Date: 8/8/2022

Leo Kramer
Leo Kramer, Appellant, Pro se

Audrey Kramer
Audrey Kramer, Appellant, Pro se

CERTIFICATE OF SERVICE

Leo Kramer and Audrey Kramer, as Appellants/Petitioners in pro se, Hereby
Certify Under Penalty of Perjury that on August 8, 2022, that the foregoing for:

**PETITIONERS' REPLY TO BRECKENRIDGE PROPERTY FUND 2016,
LLC'S OPPOSITION TO APPELLANTS/PETITIONERS' MOTION
REQUESTING ADMITTANCE AND REVIEW OF TRANSCRIPTS FROM
MAY 1, 2019 & SEPTEMBER 8, 2020 MOTION HEARINGS IN THE THIRD
JUDICIAL DISTRICT COURT OF LYON COUNTY**

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