

FILED

AUG 09 2022

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

Third Judicial District Case No.: 18-CV-00663

**PETITIONERS' MOTION TO STRIKE NATIONAL DEFAULT
SERVICING CORPORATION'S JOINDER MOTION TO
BRECKENRIDGE PROPERTY FUND, 2016, LLC'S OPPOSITION TO
APPELLANTS/PETITIONERS' MOTION FOR REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF APPELLANTS/PETITIONERS' PETITION
FOR BILL OF REVIEW**

August 8, 2022

Leo Kramer and Audrey Kramer
Plaintiffs-Appellants, in Pro se
2364 Redwood Road
Hercules, CA 94547

TO THE HONORABLE JUSTICES OF THE SUPREME COURT OF
NEVADA:

Petitioners, Leo Kramer and Audrey Kramer, (“Petitioners”), hereby, file this their MOTION TO STRIKE NATIONAL DEFAULT SERVING CORPORATION’S JOINDER MOTION TO BRECKENRIDGE PROPERTY FUND, LLC’S OPPOSITION TO APPELLANTS/ PETITIONERS' MOTION FOR REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF APPELLANTS/ PETITIONERS' PETITION FOR BILL OF REVIEW, and in support of this motion to strike thereof show as follows:

I.
INTRODUCTION

On **July 12, 2022**, Petitioners filed their Post-Judgment Petition for Bill of Review (Dkt. # 22-21887), along with 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 (Dkt. # 22-21889) and Petitioners’ Motion for Request of Judicial Notice (Dkt. # 22-21890), both of the aforementioned motions were filed in Support of Appellants/Petitioners’ Petition For Bill of Review.

On **July 19, 2022**, Respondent Breckenridge Property Fund 2016, LLC, having no standing, wrongly filed Opposition to Appellants/Petitioners' Motion for Request for Judicial Notice in Support of Appellants/Petitioners' Petition For Bill of Review (Dkt. # 22-22719).

On **July 19, 2022**, Respondent Breckenridge Property Fund 2016, LLC, additionally, having no standing, wrongly filed 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 (Dkt. # 22-22718).

Untimely Filed

On **July 26, 2022**, (7) DAYS LATE, Respondent National Default Servicing Corporation untimely filed Joinder to Breckenridge Property Fund 2016, LLC's Opposition to Petitioner's Motion for Request for Judicial Notice. (Dkt, # 22-23521)

Untimely Filed

On **July 26, 2022**, (7) DAYS LATE, Respondent National Default Servicing Corporation also untimely filed Joinder to Breckenridge Property Fund 2016, LLC's Opposition to Petitioners' Motion for Admittance and Review of Transcripts of May 1, 2019 & September 8, 2020 (Dkt. # 22-23522).

Moreover, not only were the aforementioned Joinder Motions untimely, but Petitioners DID NOT receive service of NDSC's Joinder Motions, as required by Nev. R. Civ. P, 5 (a) (1) (D) and only discovered they had been untimely filed when checking the court docket on another matter.

Petitioners believe, and it's certainly reasonable to assert that Mr. Ace Van Patten, an officer of the court, and attorney for National NDSC, has no way to address nor defend the irrefutable facts that Mr. Van Patten proffered to the court

as evidence fraudulent fabricated assignment of deed of trust, fraudulent proof of claim, fraudulent fabricated Purchase & Assumption Agreement and Expired Limited Power of Attorney (LPOA) in support of his motion for summary judgment. 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

A. The Court should strike Ace Van Patten-National Default Servicing Corporation's Joinder Motion because it was untimely filed.

Nev. R. App. P. 27(3)(A) provides that in pertinent part that;

Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 7 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8 or 41 may be acted upon after reasonable notice to the parties that the court intends to act sooner. (Nev. R. App. P. 27(3)(A))

Here, Petitioner filed on July 12, 2022, their Motion for Judicial Notice in Support of Petitioners' Petition For Review, and while Mr. Van Patten was entitled to file an Opposition or a Joinder within 7 days of Petitioners' Motion, he failed to file his motion within the required 7 day period. Moreover, there is no evidence that Mr. Ace Van Patten requested an extension of time in which to file opposition or joinder, via written motion or telephonically, therefore his joinder is untimely and should be stricken.

Furthermore, Nevada's Eight Judicial District Court of Clark County, under Nev. R. Prac. Eight Jud. Dist. Ct. 2.20(d) provides in pertinent part that:

Within 7 days after service of the motion, a nonmoving party may file written joinder thereto, together with a memorandum of points and authorities and any supporting affidavits... Nev. R. Prac. Eight Jud. Dist. Ct. 2.20(d).

Here again Mr. Van Patten, an officer of the court and attorney for NDSC, failed to comply with Eight Judicial District Court of Clark County Nev. R. Prac. Eight Jud. Dist. Ct. 2.20(d)

The Court Should Deny National Default Servicing Corporation's Joinder Motion because it was UNTIMELY, notwithstanding, Ace Van Patten, an officer of the court and attorney for NDSC has wittingly and purposely continued to perpetuate fraud upon the court by proffering fabricated fraudulent documents to the court in support of obtaining summary judgment.

III.

CONCLUSION

For each of the foregoing reasons, Petitioners respectfully and humbly request that this Honorable Court dispense justice and Grant Petitioners' Motion To Strike National Default Servicing Corporation's Joinder Motion To Breckenridge Property Fund, 2016, LLC's Opposition to Appellants/Petitioners

Motion for Judicial Notice In Support of Appellants/Petitioners' Petition For Review.

Date: 8/08/22

Date: 8/8/2022

Leo Kramer
Leo Kramer, Appellant, Pro se

Audrey Kramer
Audrey Kramer, Appellant, Pro se

CASE NO.: 82379

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' MOTION TO STRIKE NATIONAL DEFAULT
SERVICING CORPORATION'S JOINDER MOTION TO
BRECKENRIDGE PROPERTY FUND, 2016, LLC'S OPPOSITION TO
APPELLANTS/PETITIONERS' MOTION FOR REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF APPELLANTS/PETITIONERS' PETITION
FOR REVIEW**

Were Served By UPS On The Following Counsel/s Of Record:

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Date: 8/09/22 Name: Leo Kramer
Leo Kramer, Pro se

Date: 8/8/2022 Name: Audrey Kramer
Audrey Kramer, Pro se