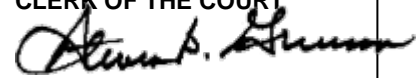


ROGER P. CROTEAU & ASSOCIATES, LTD.
• 2810 West Charleston Blvd, Suite 75 • Las Vegas, Nevada 89102 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

Electronically Filed
3/9/2021 1:36 PM
Steven D. Grierson
CLERK OF THE COURT



Electronically Filed
Mar 10 2021 03:44 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS
ROGER P. CROTEAU, ESQ.
Nevada Bar No. 4958
CHRISTOPHER L. BENNER, ESQ.
Nevada Bar No. 8963
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croteaulaw@croteaulaw.com
chris@croteaulaw.com
Attorneys for Plaintiff Daisy Trust

DISTRICT COURT

CLARK COUNTY, NEVADA

DAISY TRUST, a Nevada trust,

Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1 and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation,

Defendants.

Case No: A-19-791254-C
Dept No: 23

NOTICE OF APPEAL

///

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///

1 NOTICE IS HEREBY GIVEN that Plaintiff DAISY TRUST, by and through its attorneys,
2 Roger P. Croteau & Associates, Ltd., hereby appeals to the Supreme Court of Nevada the Findings
3 of Fact, Conclusions of Law and Order on Defendant Green Valley South Owner's Association's
4 Motion to Dismiss, or Alternatively, Motion for Summary Judgment, Nevada Association Services
5 Joinder thereto, and all rulings and interlocutory orders giving rise to or made appealable by the
6 final judgment.
7

8 Dated March 9, 2021.

9 ROGER P. CROTEAU & ASSOCIATES, LTD.

10 /s/ Christopher L. Benner

11 Roger P. Croteau, Esq.

12 Nevada Bar No. 4958

13 Christopher L. Benner, Esq.

14 Nevada Bar No. 8963

15 2810 W. Charleston Blvd., Suite 75

16 Las Vegas, Nevada 89102

17 Plaintiff Daisy Trust
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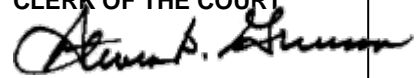
ROGER P. CROTEAU & ASSOCIATES, LTD.
• 2810 West Charleston Blvd, Suite 75 • Las Vegas, Nevada 89102 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2021, I served the foregoing document on all persons and parties in the E-Service Master List in the Eighth Judicial District Court E-Filing System, by electronic service in accordance with the mandatory electronic service requirements of Administrative Order 14-1 and the Nevada Electronic Filing and Conversion Rules.

/s/ Joe Koehle

An employee of ROGER P. CROTEAU & ASSOCIATES, LTD.



ASTA
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croteaulaw@croteaulaw.com
chris@croteaulaw.com
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

DAISY TRUST, a Nevada trust,

Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1 and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation,

Defendants.

Case No: A-19-791254-C
Dept No: 23

CASE APPEAL STATEMENT

Plaintiff Daisy Trust, by and through their attorneys, Roger P. Croteau & Associates, Ltd.,
submits its Case Appeal Statement.

1. Name of appellant filing this case appeal statement:

Daisy Trust

2. Identify the judge issuing the decision, judgment, or order appealed from:

The decision was made by the Honorable Christina D. Silva and Findings of Fact,
Conclusions of Law and Order was signed by the Honorable Jasmin Lilly-Spells after
department reassignment.

3. Set forth the name, law firm, address, and telephone number of all counsel on appeal and identify the party or parties whom they represent:

a. Daisy Trust

Roger P. Croteau, Esq.
Christopher L. Benner, Esq.
Roger P. Croteau & Associates, Ltd.
2810 West Charleston Blvd., #75
Las Vegas, Nevada 89102
(702) 254-7775

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

a. Green Valley South Owners Association No. 1 ("HOA")

Respondent's appellate counsel is unknown at this time but will presumably be Respondent's trial counsel.

J William Ebert, Esq.
Janeen V. Isaacson, Esq.
Lipson Nielson P.C.
9900 Covington Cross Dr, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500

b. Nevada Association Services

Respondent's appellate counsel is unknown at this time but will presumably be Respondent's trial counsel.

Brandon E. Wood, Esq.
Nevada Association Services, Inc.
6625 S. Valley View Blvd. Suite 300
Las Vegas, NV 89118
(702) 804-8885

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that

1 attorney permission to appear under SCR 42 (attach a copy of any district court order
2 granting such permission):

3 N/A

4
5 6. **Indicate whether appellant was represented by appointed or retained counsel in the**
6 **district court:**

7 Retained counsel.

8 7. **Indicate whether appellant is represented by appointed or retained counsel on appeal:**

9 Retained counsel.

10 8. **Indicate whether appellant was granted leave to proceed in forma pauperis, and the**
11 **date of entry of the district court order granting such leave:**

12 N/A

13
14 9. **Indicate the date the proceedings commenced in the district court, e.g., date complaint,**
15 **indictment, information, or petition was filed:**

16 The original Complaint in this matter was filed on March 15, 2019 in the Eighth
17 Judicial District Court of the State of Nevada in and for Clark County, Nevada, Case No. A-
18 19-791254-C

19
20 **Provide a brief description of the nature of the action and result in the district court,**
21 **including the type of judgment or order being appealed and the relief granted by the**
22 **district court:**

23 The instant action relates to real property that was the subject of a homeowners'
24 association lien foreclosure sale pursuant to NRS Chapter 116. Generally, based upon current
25 case law, absent some special circumstances, foreclosure trustees performing foreclosure
26 sales pursuant to NRS Chapter 107 have no duty to the bidders and/or purchasers of the
27 property being foreclosed upon. The body of common law has developed from the precept
28

that information exists in the public domain to conduct reasonable due diligence under the circumstances to properly inform a potential bidder; however, that information is not available under any circumstances to the bidder of all liens and their priority in a NRS Chapter 116 foreclosure sale.

This case focuses on the duties and obligations owed by a homeowners' association by and through its agent, the foreclosure trustee, to inform the bidders and purchasers at the NRS Chapter 116 foreclosure sale as to the bifurcated status of the homeowners' association's lien vis a vis the first deed of trust secured by the property, pursuant to NRS 116.3116. The question is, with or without inquiry from an NRS Chapter 116 bidder, and certainly with actual inquiry by the actual purchaser of the homeowner's foreclosure sale, does that homeowners' association and/or its foreclosure trustee have an obligation of good faith, honesty in fact, and candor pursuant to NRS 116.3116 to the NRS Chapter 116 foreclosure bidders to disclose any attempted and/or actual tender or payment of the superpriority lien amounts, thereby rendering the sale, and the purchaser's interest in the property, subject to the first deed of trust or not?

On October 25, 2020, the HOA filed a Motion to Dismiss, or alternatively, Motion for Summary Judgment (the "HOA's MSJ"), which Nevada Association Services joined on October 29, 2020. After briefing and argument, the district court granted the HOA's MSJ. Plaintiff contends that the district court erred as a matter of law. The Notice of Entry of Order granting the HOA's MSJ was filed on February 11, 2021.

10. **Indicate whether the case has previously been the subject of an appeal or an original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:**

N/A.

11. **Indicate whether this appeal involves child custody or visitation:**

N/A

12. **If this is a civil case, indicate whether this appeal involves the possibility of settlement:**

Appellant believes that the possibility of settlement exists.

Dated this 9th day of March, 2021.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Christopher L. Benner

Roger P. Croteau, Esq.

Nevada Bar No. 4958

Christopher L. Benner, Esq.

Nevada Bar No. 8963

2810 W. Charleston Blvd., Suite 75

Las Vegas, Nevada 89102

Attorneys for Plaintiff

ROGER P. CROTEAU & ASSOCIATES, LTD.
• 2810 West Charleston Blvd, Suite 75 • Las Vegas, Nevada 89102 •
Telephone: (702) 254-7775 • Facsimile (702) 228-7719

CERTIFICATE OF SERVICE

I hereby certify that on March 9th, 2021 I served the foregoing document on all persons and parties in the E-Service Master List in the Eighth Judicial District Court E-Filing System, by electronic service in accordance with the mandatory electronic service requirements of Administrative Order 14-1 and the Nevada Electronic Filing and Conversion Rules.

/s/ Joe Koehle

An employee of

ROGER P. CROTEAU & ASSOCIATES, LTD.

CASE SUMMARY**CASE NO. A-19-791254-C****Daisy Trust, Plaintiff(s)****vs.****Green Valley South Owners Association No. 1, Defendant
(s)**§
§
§
§
§Location: **Department 23**Judicial Officer: **Lilly-Spells, Jasmin**Filed on: **03/15/2019**

Case Number History:

Cross-Reference Case
Number: **A791254****CASE INFORMATION****Statistical Closures**

02/04/2021 Summary Judgment

Case Type: **Intentional Misconduct**Case
Status: **02/04/2021 Closed****DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number	A-19-791254-C
Court	Department 23
Date Assigned	01/04/2021
Judicial Officer	Lilly-Spells, Jasmin

PARTY INFORMATION

Plaintiff	Daisy Trust	<i>Lead Attorneys</i> Croteau, Roger P, ESQ <i>Retained</i> 702-254-7775(W)
Defendant	Green Valley South Owners Association No. 1	Ebert, John William <i>Retained</i> 702-382-1500(W)
	Nevada Association Services Inc	Wood, Brandon E. <i>Retained</i> 702-804-8885(W)
Arbitrator	Milne, Gary	Milne, Gary C. <i>Retained</i> 7025585357(W)
	Milne, Gary C.	

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

03/15/2019



Complaint

Filed By: Plaintiff Daisy Trust
Complaint

03/15/2019



Initial Appearance Fee Disclosure

Filed By: Plaintiff Daisy Trust
Initial Appearance Fee Disclosure

03/15/2019



Summons Electronically Issued - Service Pending

Party: Plaintiff Daisy Trust
Summons - HOA

CASE SUMMARY

CASE NO. A-19-791254-C

03/15/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Daisy Trust <i>Summons</i>
03/21/2019	 Affidavit of Service Filed By: Plaintiff Daisy Trust <i>Affidavit of Service</i>
03/21/2019	 Affidavit of Service Filed By: Plaintiff Daisy Trust <i>Affidavit of Service</i>
03/21/2019	 Affidavit of Service Filed By: Plaintiff Daisy Trust <i>Affidavit of Service</i>
04/05/2019	 Answer to Complaint Filed by: Defendant Green Valley South Owners Association No. 1 <i>GREEN VALLEY SOUTH OWNERS ASSOCIATION NO. 1 S ANSWER TO PLAINTIFF S COMPLAINT</i>
04/05/2019	 Initial Appearance Fee Disclosure Filed By: Defendant Green Valley South Owners Association No. 1 <i>Initial Appearance Fee Disclosure</i>
04/29/2019	Case Reassigned to Department 9 <i>Judicial Reassignment to Department 9 - Judge Cristina Silva</i>
05/28/2019	 Appointment of Arbitrator <i>Appointment of Arbitrator</i>
07/18/2019	 Notice of Early Arbitration Conference Filed By: Attorney Milne, Gary C. <i>Notice of Early Arbitration Conference</i>
07/24/2019	 Notice to Appear for Arbitration Hearing Filed by: Attorney Milne, Gary C. <i>Notice of Arbitration Hearing</i>
07/24/2019	 Arbitration Discovery Order Filed By: Attorney Milne, Gary C. <i>Arbitration Discovery Order</i>
09/20/2019	 Motion To Dismiss - Alternative Motion For Summary Judgment Filed By: Defendant Green Valley South Owners Association No. 1 <i>Defendant Green Valley South Owners' Association's Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment</i>
09/23/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
10/18/2019	 Joinder Filed By: Defendant Nevada Association Services Inc <i>Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners'</i>

CASE SUMMARY

CASE NO. A-19-791254-C

Association's Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment

10/29/2019



Opposition to Motion to Dismiss

Filed By: Plaintiff Daisy Trust

Plaintiff's Opposition to Green Valley South Owners Association's Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment and Nevada Association Services, Inc.'s Joinder Thereto

11/06/2019



Stipulation and Order

Filed by: Plaintiff Daisy Trust

Stipulation and Order to Extend Deadlines and Continue Hearing regarding Defendant Green Valley South Owners' Association's Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment

11/15/2019



Stipulation and Order

Filed by: Defendant Green Valley South Owners Association No. 1

Stipulation and Order to Extend Deadlines and Continue Hearing Regarding Defendant Green Valley South Owners' Association's Motion to Dismiss, or in the Alternatively, Motion for Partial Summary Judgment

11/18/2019



Notice of Entry of Stipulation and Order

Filed By: Defendant Green Valley South Owners Association No. 1

Notice of Entry of Order

12/03/2019



Reply to Opposition

Filed by: Defendant Green Valley South Owners Association No. 1

Defendant Green Valley South Owners' Association's Reply to Daisey Trust's Opposition to Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment

02/07/2020



Order Granting

Filed By: Plaintiff Daisy Trust

Order Granting In Part Defendant Green Valley South Homeowners Association's Motion to Dismiss

02/07/2020



Notice of Entry of Order

Filed By: Plaintiff Daisy Trust

Notice of Entry of Order Granting in part Defendant Green Valley South Homeowners Association's Motion to Dismiss

02/18/2020



ADR - Action Required - Arbitrator

ADR-Action Required-Arbitrator-Award

03/03/2020



Joint Request for Exemption

Filed by: Defendant Green Valley South Owners Association No. 1

Joint Request for Exemption from Arbitration

03/12/2020



Commissioners Decision on Request for Exemption - Granted

Commissioner's Decision on Request for Exemption - GRANTED

03/31/2020



Arbitrators Bill for Fees and Costs

Filed By: Attorney Milne, Gary C.

Arbitrator's Fees and Costs

04/30/2020



Three Day Notice of Intent to Default

Filed By: Plaintiff Daisy Trust

CASE SUMMARY

CASE NO. A-19-791254-C

Three Day Notice of Intent to Enter Default Against Nevada Association Services, Inc.

04/30/2020



Joint Case Conference Report

Filed By: Plaintiff Daisy Trust

Joint Case Conference Report

05/01/2020



Answer to Complaint

Filed by: Defendant Nevada Association Services Inc

Nevada Association Services, Inc.' Answer to Complaint

05/13/2020



Mandatory Rule 16 Conference Order

Order to Appear for Mandatory Scheduling Conference (Parties Have Reached Joint Case Conference Report)

06/01/2020



Individual Case Conference Report

Filed By: Defendant Nevada Association Services Inc

Individual Case Conference Report

06/05/2020



Scheduling and Trial Order

Scheduling Order and Order Setting Civil Non-Jury Trial and Calendar Call

10/06/2020



Stipulation and Order to Extend Discovery Deadlines

Filed By: Defendant Green Valley South Owners Association No. 1

STIPULATION AND ORDER EXTEND DISCOVERY DEADLINES AND TRIAL DATE PURSUANT TO EDCR 2.35

10/07/2020



Notice of Entry of Stipulation and Order

Filed By: Defendant Green Valley South Owners Association No. 1

NOTICE OF ENTRY OF ORDER OF STIPULATION AND ORDER TO EXTEND DISCOVERY DEADLINES AND TRIAL DATE PURSUANT TO EDCR 2.35 [FIRST REQUEST]

10/15/2020



Amended Order Setting Civil Non-Jury Trial

Amended Order Setting Civil Non- Jury Trial and Calendar Call

10/25/2020



Motion To Dismiss - Alternative Motion For Summary Judgment

Filed By: Defendant Green Valley South Owners Association No. 1

Defendant Green Valley South Owners' Association's Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment

10/26/2020



Clerk's Notice of Hearing

Notice of Hearing

10/29/2020



Joinder to Motion For Partial Summary Judgment

Filed By: Defendant Nevada Association Services Inc

Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Renewed Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment

11/09/2020



Opposition

Filed By: Plaintiff Daisy Trust

Plaintiff's Opposition to Renewed Motion to Dismiss

11/24/2020














Reply to Opposition

Filed by: Defendant Green Valley South Owners Association No. 1

CASE SUMMARY

CASE NO. A-19-791254-C

DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION S REPLY TO DAISEY TRUST S OPPOSITION TO MOTION TO DISMISS, OR ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT

11/24/2020	 Filing Fee Remittance <i>Filing Fee Remittance</i>
01/04/2021	Case Reassigned to Department 23 <i>Judicial Reassignment to Judge Jasmin Lilly-Spells</i>
01/07/2021	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
02/04/2021	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Green Valley South Owners Association No. 1 <i>Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owner's Association's Motion to Dismiss, or Alternatively Motion for Summary Judgment</i>
02/05/2021	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Green Valley South Owners Association No. 1 <i>(Duplicate See 2/4/21) Findings of Fact, Conclusions of Law and Order on Defendant Green Valley South Owner's Association's Motion to Dismiss, or Alternatively Motion for Summary Judgment</i>
02/11/2021	 Notice of Entry of Order Filed By: Defendant Green Valley South Owners Association No. 1 <i>NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION S MOTION TO DISMISS OR ALTERNATIVELY MOTION FOR SUMMARY JUDGMENT</i>
02/16/2021	 Notice of Entry Filed By: Defendant Green Valley South Owners Association No. 1 <i>NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION S MOTION TO DISMISS OR ALTERNATIVELY MOTION FOR SUMMARY JUDGMENT</i>
02/23/2021	 Motion for Attorney Fees and Costs Filed By: Defendant Green Valley South Owners Association No. 1 <i>Defendant Green Valley South Owner's Association's Motion for Attorney's Fees and Costs</i>
02/24/2021	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/09/2021	 Notice of Appeal Filed By: Plaintiff Daisy Trust <i>Notice of Appeal</i>
03/09/2021	 Case Appeal Statement Filed By: Plaintiff Daisy Trust <i>Case Appeal Statement</i>
03/09/2021	 Opposition Filed By: Plaintiff Daisy Trust <i>Opposition to Defendant Green Valley South Owners' Association's Motion for Attorney Fees and Costs and Motion to Retax</i>



CASE SUMMARY

CASE NO. A-19-791254-C

DISPOSITIONS

- 02/07/2020 **Order of Dismissal** (Judicial Officer: Silva, Cristina D.)
Debtors: Green Valley South Owners Association No. 1 (Defendant)
Creditors: Daisy Trust (Plaintiff)
Judgment: 02/07/2020, Docketed: 02/07/2020
Comment: Certain Cause
- 02/04/2021 **Summary Judgment** (Judicial Officer: Lilly-Spells, Jasmin)
Debtors: Daisy Trust (Plaintiff)
Creditors: Green Valley South Owners Association No. 1 (Defendant), Nevada Association Services Inc (Defendant)
Judgment: 02/04/2021, Docketed: 02/05/2021

HEARINGS

- 10/22/2019 **CANCELED Motion for Partial Summary Judgment** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
Vacated - Duplicate Entry
Defendant Green Valley South Owners' Association's Motion to Dismiss or Alternatively, Motion for Partial Summary Judgment
- 11/12/2019 **Motion to Dismiss** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
11/12/2019, 12/10/2019
Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment
Granted in Part;
Off Calendar;
Granted in Part;
Off Calendar;
- 11/12/2019 **Joinder** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
11/12/2019, 12/10/2019
Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment
Granted in Part;
Off Calendar;
Granted in Part;
Off Calendar;
- 11/12/2019  **All Pending Motions** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment . . . Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment
Matter Heard;
Journal Entry Details:
ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT . . . NEVADA ASSOCIATION SERVICES, INC.'S JOINDER TO DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT This is the time set for hearing on the above-named motions. Mr. Croteau advised that a Stipulation and Order to extend Deadlines and Continue the hearing was signed and circulated by counsel; the Court advised that the Stipulation and Order has not been submitted to the Court for consideration. Mr. Wong CONCURRED; it appears that the Motions have been continued to December 10, 2019. Therefore, COURT ORDERED, Motions OFF CALENDAR.;
- 12/10/2019  **All Pending Motions** (8:30 AM) (Judicial Officer: Silva, Cristina D.)
Matter Heard;
Journal Entry Details:
DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS

CASE SUMMARY

CASE No. A-19-791254-C

OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT....NEVADA ASSOCIATION SERVICES, INC.'S JOINDER TO DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT Upon Court's inquiry regarding misrepresentations Green Valley South made, Mr. Croteau stated both these complaints were drafted against both the HOA and HOA trustee. The agent of the HOA is the HOA trustee; the HOA trustee sold the property at the foreclosure sale. There were allegations of inquiry and attempts to ascertain whether or not a payment was made. The misrepresentation was they failed to disclose facts, pursuant to NRS 116.113. Upon Court's inquiry regarding the fact that there were no warranties on the property, Mr. Croteau stated basically the deed was without warranty as to many issues, but not things known by the HOA and HOA trustee. Colloquy regarding case law. Following arguments by counsel, Court advised it does not believe there is a basis to maintain an action for civil conspiracy between the HOA and the HOA trustee. For purposes of this argument, it was considering this as a Motion to Dismiss, not a Motion for Summary Judgement for the civil conspiracy. COURT ORDERED, Motion GRANTED. As to misrepresentations, Court stated the issue it has was proof of the misrepresentation. As to punitive damages, Court advised it does not see how it applies in this matter. Arguments by counsel. Court advised there was not enough information to say there was an intentional misrepresentation, which would rise to the level of fraud. Court advised it was going to allow the litigation to continue as to that issue, specifically, the misrepresentation. Mr. Croteau to submit a written order, approved as to form and content by opposing counsel. Ms. Isaacson stated they have an arbitration scheduled in January. COURT ORDERED, matter SET for status check regarding receipt of order. 1/6/20 (CHAMBERS) STATUS CHECK: RECEIPT OF ORDER (12/10/19) CLERK'S NOTE: The foregoing minute order was prepared by court clerk Louisa Garcia via review of the JAVS recording. /lg 12-16-19 ;

01/06/2020



Status Check (3:00 AM) (Judicial Officer: Silva, Cristina D.)

01/06/2020, 02/04/2020

Status Check: Receipt of Order (12/10/19)

Matter Continued; Receipt of Order (12/10/19)

Order filed 02-07-2020

Order Submitted

Matter Continued; Receipt of Order (12/10/19)

Journal Entry Details:

This is the time set for the Status Check on Receipt of the Order from December 10, 2019. Court noted that an Order was submitted yesterday (February 3); however, the Court has not had an opportunity to review it. Therefore, COURT ORDERED, matter CONTINUED. If the Order is sufficient, the matter will be VACATED. CONTINUED TO: 02/11/20 8:30 AM ;

Matter Continued; Receipt of Order (12/10/19)

Order filed 02-07-2020

Order Submitted

Matter Continued; Receipt of Order (12/10/19)

Journal Entry Details:

The Court heard oral argument on Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment and Joinder on December 10, 2019. At that hearing, the Court Ordered the matter to be status checked for the receipt of an Order from Mr. Croteau. To date, no Order has been submitted; therefore, COURT ORDERED, this matter shall be CONTINUED to this Court's Oral Calendar; if the Order has been received, the status check will be VACATED. CONTINUED TO: 02/04/20 8:30 AM CLERK S NOTE: Counsel is to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the listed Service Recipients in the Odyssey eFileNV system. ;

01/16/2020

Arbitration Hearing (7:00 AM)

06/01/2020



Mandatory Rule 16 Conference (11:00 AM) (Judicial Officer: Silva, Cristina D.)

Matter Heard;

Journal Entry Details:

Mr. Croteau and Ms. Isaacson appearing via BlueJeans. For the record, this Court's staff was notified by Brandon Wood, Esq., that he would not be present this morning as his flight was canceled. This is the time set for the Mandatory Rule 16 Conference. Court addressed the requirements of Rule 16. Counsel anticipate the trial will take two (2) to three (3) days; this action involves the recovery of monetary damages, punitive damages, attorney's fees, and interest related to the improper sale of property; no settlement conference has been requested.

CASE SUMMARY

CASE NO. A-19-791254-C

	<p><i>The Court advised that it has reviewed the Joint Case Conference Report (JCCR) and inquired as to whether the dates set out in the JCCR were realistic due to the COVID-19 pandemic; both counsel believe the dates are fine. COURT ORDERED, the dates in the JCCR would remain as is; a Schedule and Trial Order shall issue. Court noted that counsel are requesting a Bench Trial; colloquy as to whether this is a matter that could possibly resolve. Mr. Crotrau advised that, as it stands now, there is no possibility of resolution. Ms. Isaacson CONCURRED; however, these issues are before the Nevada Supreme Court at this time and if, in the near future, counsel receive some guidance from them, that may open the door later. ;</i></p>
12/01/2020	<p>Motion to Dismiss (9:00 AM) (Judicial Officer: Silva, Cristina D.) <i>Defendant Green Valley South Owners' Association's Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment</i> Granted;</p>
12/01/2020	<p>Joinder (9:00 AM) (Judicial Officer: Silva, Cristina D.) Events: 10/29/2020 Joinder to Motion For Partial Summary Judgment <i>Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Renewed Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment</i> Granted;</p>
12/01/2020	<p> All Pending Motions (9:00 AM) (Judicial Officer: Silva, Cristina D.) Matter Heard; Journal Entry Details: <i>Defendant Green Valley South Owners' Association's Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment...Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Renewed Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment... Court noted matter is considered as a motion for Summary Judgment. Ms. Isaacson indicated the Court has determined that Plaintiff's arguments are invalid and they have no basis in law or fact. Upon Court's inquiry, Mr. Wood indicated he rests on the pleadings. Mr. Croteau argued in opposition of the motion. Following further arguments by counsel, Court stated its findings and ORDERED, motion GRANTED. Ms. Isaacson to draft a finding and facts and conclusions of law order and provide to Mr. Croteau for review prior to sending to chambers for review. FURTHER ORDERED, status check SET for chambers. 12/29/20 (CHAMBERS) STATUS CHECK: SUBMITTED DRAFT ;</i></p>
12/29/2020	<p> Status Check (3:00 AM) (Judicial Officer: Lilly-Spells, Jasmin) 12/29/2020, 02/04/2021 <i>Status Check: Submitted Draft of Order</i> Matter Continued; Status Check: Submitted Draft of Order Journal Entry Details: <i>The Status Check on the submission of a proposed order came before this Court on the December 29, 2020 Chambers Calendar. To date , no proposed order has been filed. Therefore, COURT ORDERED matter CONTNUED to this Court s Oral Calendar on January 19, 2021 for an Order To Show Cause Hearing as to why counsel should not be held in contempt for failing to file the order. CLERK S NOTE: Counsel are to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (12/29/2020 ks).;</i></p>
04/08/2021	<p>Motion for Attorney Fees and Costs (3:00 AM) (Judicial Officer: Lilly-Spells, Jasmin) <i>Defendant Green Valley South Owner's Association's Motion for Attorney's Fees and Costs</i></p>
04/13/2021	<p>CANCELED Calendar Call (9:00 AM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Stipulation and Order</i></p>
04/19/2021	<p>CANCELED Bench Trial (9:30 AM) (Judicial Officer: Silva, Cristina D.) <i>Vacated - per Stipulation and Order</i></p>
01/25/2022	<p>Pretrial/Calendar Call (9:30 AM) (Judicial Officer: Lilly-Spells, Jasmin)</p>

CASE SUMMARY**CASE NO. A-19-791254-C**02/07/2022 | **Jury Trial** (1:00 PM) (Judicial Officer: Lilly-Spells, Jasmin) |**DATE****FINANCIAL INFORMATION****Defendant** Green Valley South Owners Association No. 1

Total Charges

623.00

Total Payments and Credits

623.00

Balance Due as of 3/10/2021**0.00****Defendant** Nevada Association Services Inc

Total Charges

423.00

Total Payments and Credits

423.00

Balance Due as of 3/10/2021**0.00****Plaintiff** Daisy Trust

Total Charges

294.00

Total Payments and Credits

294.00

Balance Due as of 3/10/2021**0.00**

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No. _____
(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): <div style="text-align: center;">Daisy Trust</div> <div style="text-align: center;">c/o Roger P. Croteau & Associates, Ltd</div> <div style="text-align: center;">2810 W. Charleston Blvd., Ste. 75</div> <div style="text-align: center;">Las Vegas, NV 89102</div>	Defendant(s) (name/address/phone): <div style="text-align: center;">Green Valley South Owners Association No. 1</div> <div style="text-align: center;">Nevada Association Services</div>
Attorney (name/address/phone): <div style="text-align: center;">Roger P. Croteau, Esq. (SBN 4958)</div> <div style="text-align: center;">2810 W. Charleston Blvd., Ste. 75</div> <div style="text-align: center;">Las Vegas, NV 89148</div> <div style="text-align: center;">702-254-7775</div>	Attorney (name/address/phone):

CASE NO: A-19-791254-C
Department 8

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

Civil Case Filing Types

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

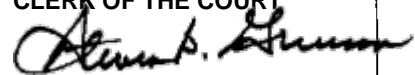
Business Court filings should be filed using the Business Court civil coversheet

3/15/19

Date

Signature of initiating party or representative

See other side for family-related case filings.



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*Attorneys for Defendant,
Green Valley South Owner's Association*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DAISEY TRUST, a Nevada trust
Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1, a Nevada non-
profit corporation; and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation;

Defendants.

Case No.: A-19-791254-C
Dept.: ~~XXXX~~ 23

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER ON DEFENDANT
GREEN VALLEY SOUTH OWNER'S
ASSOCIATION'S MOTION TO DISMISS,
OR ALTERNATIVELY MOTION FOR
SUMMARY JUDGMENT**

On October 25, 2020, Defendant Green Valley South Association ("Green Valley" or the "HOA") filed its Motion to Dismiss, Or Alternatively Motion for Summary Judgment ("Motion"). On October 29, 2020, Defendant Nevada Association Services, Inc. ("NAS" or "Trustee") filed its Joinder to Green Valley's Motion. On November 9, 2020, Plaintiff Daisey Trust ("Daisey Trust") filed its Opposition to the Motion. On November 24, 2020, Defendant Green Valley filed its Reply in Support of the Motion.

The Motion was heard on December 1, 2020 at 9:00 a.m. in the above captioned matter. Attorney Janeen V. Isaacson on behalf of Green Valley, attorney Brandon E. Wood on behalf of NAS, and attorney Roger Croteau appeared on behalf of Daisey Trust

1 participated by CourtCall conferencing and/or telephonic conference call.

2 The Court having reviewed the papers and pleadings, and having heard oral
3 argument, issues the following findings of fact, conclusions of law and order:

4 **FINDINGS OF FACT**

5 1. On June 5, 2008, Dennis L. Scott ("Borrower") obtained a loan to
6 purchase the real property located at 137 Elegante Way, Henderson, Nevada 89074
7 ("Property").

8 2. The property was subject to the HOA's Covenants, Conditions and
9 Restrictions "CC&Rs".

10 3. Sometime after purchasing the Property, Borrowers defaulted on their
11 homeowners' assessments.

12 4. On August 23, 2011, the HOA, through NAS recorded a notice of
13 delinquent assessment lien.

14 5. On November 18, 2011, the HOA, through its Trustee, recorded a notice
15 of default and election to sell.

16 6. On February 2, 2012, Miles Bauer sent NAS a letter offering to pay \$882
17 to discharge Green Valley's superpriority lien on the Property and included a check for
18 that amount.

19 7. NAS rejected the offer on Green Valley's behalf.

20 8. Between February 2, 2012 and August 31, 2012, NAS' phone log
21 indicates that it received no telephone inquiries from potential bidders asking if there
22 had been a tender of the super priority lien with respect to the Property [GVS000222].

23 9. On April 23, 2012, the HOA, through its Trustee, recorded a notice of
24 foreclosure sale.

25 10. On August 31, 2012, the HOA, through NAS, foreclosed on the Property
26 and sold the Property to Daisey Trust for \$3,555.

27 11. A foreclosure deed in favor Plaintiff Daisey Trust was recorded on
28 September 7, 2012.

12. On February 29, 2016, Bank of America, N.A., Successor By Merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing (."BANA") filed a Complaint against the HOA, NAS, and Daisey Trust, in the United States District Court, District of Nevada with case number 2:16-cv-00424-JCM-PAL (the "Federal Action").

13. The Federal Action found the Property was sold subject to the deed of trust.

14. On March 15, 2019, Daisey Trust filed the instant lawsuit against Green Valley and NAS alleging causes of action for Intentional/Negligent Misrepresentation, Breach of NRS 116, Conspiracy, and Violation of NRS 113.

15. Daisey Trust argues the instant case is separate and distinct from the prior federal case involving the same property. Specifically, the gravamen of its argument is the Defendants cannot misrepresent tender or attempted tender if asked or omit material facts regarding tender or attempted tender.

16. In his declaration attached to the opposition, manager Eddie Haddad ("Haddad") states that had he known that there was a tender or attempted tender on the property, he would not have placed a bid on the property. His claim is general in nature and the declaration fails to assert any specific representations made or questions asked with respect to the Property. Furthermore, NAS' call log demonstrates that Defendants were not contacted ahead of the foreclosure sale, which contradicts his declaration in the instant case.

17. Haddad does not allege that Defendants made any active misrepresentation; rather, he alleges only that Defendants were guilty of "material omission of the tender and/or attempted payment of the superpriority lien amount", upon inquiry, by Haddad.

CONCLUSIONS OF LAW

1. "The purpose of summary judgment is to pierce the pleading and to assess the proof in order to see whether there is a genuine need for trial." *Matsushita*

1 *Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). Summary judgment
2 is appropriate when pleadings, the discovery and disclosure materials on file, and any
3 affidavits show "there is no genuine disputes as to any material fact and the movant is
4 entitled to judgment as a matter of law." Nev. R. Civ. P. 56(b); see also *Celotex v.*
5 *Catrett*, 477 U.S. 317, 330 (1986); *Boland v. Nevada Rock & Sand Co.*, 111 Nev. 608,
6 610, 894 P.2d 988 (1995).

7 2. The nonmoving party "may not rest upon the mere allegations or denials
8 of [its] pleadings," *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986), nor may it
9 "simply show there is some metaphysical doubt as to the material facts." *Matsushita*
10 *Elec. Indus. Co.*, 475 U.S. at 586. It is the nonmoving party's burden to "come forward
11 with specific facts showing that there is a genuine issue for trial." *Id.* at 587; see also
12 *Wood v. Safeway, Inc.*, 121 Nev. 724 (2005), citing *Pegasus v. Reno Newspapers, Inc.*,
13 118 Nev. 706, 713, 57 P.3d 82 (2002)."

14 3. An issue is only genuine if there is a sufficient evidentiary basis for a
15 reasonable jury to return a verdict for the nonmoving party. *Anderson*, 477 U.S. at 248
16 (1986). Further, a dispute will only preclude the entry of summary judgment if it could
17 affect the outcome of the suit under governing law. *Id.* "The amount of evidence
18 necessary to raise a genuine issue of material fact is enough to require a judge or jury
19 to resolve the parties' differing versions of the truth at trial." *Id.* at 249. In evaluating a
20 summary judgment motion, a court views all facts and draws all inferences in a light
21 most favorable to the nonmoving party. *Kaiser Cement Corp. v. Fischbach & Moore,*
22 *Inc.*, 793 F.2d 100, 1103 (9th Cir. 1986). Where one "essential element of a claim for
23 relief is absent, the facts, disputed or otherwise, as to other elements are rendered
24 immaterial and summary judgment is proper." *Bulbman Inc. v. Nevada Bell*, 108 Nev.
25 105, 111, 825 P.2d at 592 (1992).

26 4. A party may move for summary judgment at any time and must be granted
27 if the pleadings and affidavits show that there is no genuine issue as to any material fact
28

1 and that the moving party is entitled to a judgment as a matter of law. *Villescas v. CAN,*
2 *Insurance Co.*, 109 Nev. 1075 (1993).

3 5. "As a general rule, the court may not consider matters outside the
4 pleading being attacked." *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858
5 P.2d 1258, 1261 (1993). "However, the court may take into account matters of public
6 record, orders, items present in the record of the case, and any exhibits attached to the
7 complaint when ruling on a motion to dismiss for failure to state a claim upon which
8 relief can be granted." *Id.*

9
10 6. NRCP 56(c)(1) provides, in pertinent part, "The judgment sought shall be
11 rendered forthwith if the pleadings, depositions, answers to interrogatories, and
12 admissions on file, together with the affidavits, if any, show that there is no genuine
13 issue as to any material fact and that the moving party is entitled to a judgment as a
14 matter of law." However, subsection (c)(2) further states that a party may object that the
15 material cited to support or dispute a fact cannot be presented in "a form that would be
16 admissible in evidence."

17
18 7. Summary judgment is "appropriate when the pleadings, depositions,
19 answers to interrogatories, admissions, and affidavits, if any, that are properly before
20 the court demonstrate that no genuine issue of material fact exists, and the moving
21 party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724,
22 731, 121 P.3d 1026 (2005). A factual dispute is genuine, and therefore summary
23 judgment is inappropriate, when the evidence is such that a rational trier of fact could
24 return a verdict for the nonmoving party. *Id.*

25
26 8. All pleadings and proof must be construed in a light most favorable to the
27 non-moving party, however, the non-moving party must do more than simply show that
28

1 there is some metaphysical doubt as to the operative facts in order to avoid summary
2 judgment being entered in the moving party's favor. The nonmoving party must, by
3 affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine
4 issue for trial or have summary judgment entered against him. The nonmoving party "is
5 not entitled to build a case on the gossamer threads of whimsy, speculation, and
6 conjecture." *Id.* (quoting *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713-14
7 (2002)).

9 9. A party cannot defeat summary judgment by contradicting itself. See
10 *Aldabe v. Adams*, 81 Nev. 280, 284–85, 402 P.2d 34, 36–37 (1965) (refusing to credit
11 sworn statement made in opposition to summary judgment that was in direct conflict
12 with an earlier statement of the same party).

14 10. Under the new NRCP 56(d), which is similar to old subsection (f), if the
15 moving party fails to properly support facts necessary, the court may deny the motion or
16 stay the motion to allow the parties to conduct discovery.

17 11. The Court FINDS because the motion involves evidence outside of the
18 complaint, the motion must be treated as a motion for summary judgment.

19 **Intentional/Negligent Misrepresentation**

20 12. Haddad does not allege that Defendants made any active
21 misrepresentation; rather, he alleges only that Defendants were guilty of "material
22 omission of the tender and/or attempted payment of the superpriority lien amount", upon
23 inquiry, by Haddad. However, under NRS 116.3116 at the time, Defendants do not
24 have a duty to disclose tender. See *Noonan v. Bayview Loan Servicing, LLC*, 2019
25 Nev. Unpub. LEXIS 428, 438 P.3d 335, 2019 WL 1552690, citing: "See *Halcrow, Inc. v.*
26 *Eighth Judicial Dist. Court*, 129 Nev. 394, 400, 302 P.3d 1148, 1153 (2013) (providing
27
28

1 the elements for a negligent misrepresentation claim); *Nelson v. Heer*, 123 Nev. 217,
2 225, 163 P.3d 420, 426 (2007) ("[T]he suppression or omission of a material fact which
3 a party is bound in good faith to disclose is equivalent to a false representation."
4 (internal quotation marks omitted)). Compare NRS 116.31162(1)(b)(3)(II) (2017)
5 (requiring an HOA to disclose if tender of the superpriority portion of the lien has been
6 made), with NRS 116.31162 (2013) (not requiring any such disclosure)." See also *A*
7 *Oro, LLC v. Ditech Financial LLC*, 2019 WL 913129, 434 P.3d 929 (Nev. 2019)
8 (unpublished). See *Saticoy Bay, LLC, Series 11339 Colinward, A Nevada Limited*
9 *Liability Company vs. Travata and Montage at Summerlin Centre Homeowners*
10 *Association, et. al.* (Case No. 80162) (October 16, 2020) *Unpublished Disposition*; See
11 *Saticoy Bay, LLC, Series 3123 Inlet Bay vs. Genevieve Court Homeowners Association,*
12 *et. al.* (Case No. 80135) (October 16, 2020) *unpublished disposition*; See *Saticoy Bay,*
13 *LLC, Series 8320 Bermuda Beach, A Nevada Limited Liability Company vs. South*
14 *Shores Community Homeowners Association, et. al.* (Case No. 80165) (October 16,
15 2020) *Unpublished Disposition*; See *Saticoy Bay, LLC, Series 6408 Hillside Brook, A*
16 *Nevada Limited Liability Company vs. Mountain Gate Homeowners Association, et. al.*
17 (Case No. 80134) (October 16, 2020) *Unpublished Disposition*; See *Saticoy Bay, LLC,*
18 *Series 8920 El Diablo, A Nevada Limited Liability Company vs. Silverstone Ranch*
19 *Homeowners Association, et. al.* (Case No. 80039) (October 16, 2020) *Unpublished*
20 *Disposition.*

21
22
23
24 13. Although the HOA or HOA agent does not have to disclose tender under
25 the statute, as a misrepresentation claim the HOA or HOA Agent could have taken
26 actions which created the duty to disclose tender. However, Haddad relies on the
27 omission during bidding at the sale. Even though discovery had not concluded, there
28

1 appears to be no genuine issue of material fact. Haddad's declaration, which attempts
2 to raise genuine issues of material fact appears to be based "on the gossamer threads
3 of whimsy, speculation, and conjecture". See *Wood v. Safeway, Inc.* Additionally, NAS'
4 call log demonstrate that Haddad did not contact them prior to sale to inquire as to any
5 tender.
6

7 14. Plaintiff fails to allege what evidence, if any, can be obtained in discovery
8 to raise genuine issues of material fact. Thus, NRCP 56(d) relief is not appropriate.
9 Thus, Plaintiff cannot show that there is any genuine issue of material fact and thus,
10 Defendants are entitled to summary judgment as a matter of law.

11 **Breach of NRS 116**

12 15. For similar reasons Defendants are entitled to summary judgment on the
13 Breach of NRS 116 claim. To establish a claim for misrepresentation, the plaintiff
14 carries the burden of proving each of the following elements: (1) a false representation
15 was made by the defendant; (2) defendant's knowledge or belief that its representation
16 was false or that defendant has an insufficient basis of information for making the
17 representation; (3) defendant intended to induce plaintiff to act or refrain from acting
18 upon the misrepresentation; and (4) damage to the plaintiff as a result of relying on the
19 misrepresentation. *Barmettler v. Reno Air, Inc.*, 956 P.2d 1382, 1386, 114 Nev. 441,
20 447 (Nev.,1998). The HOA or HOA's Agent are not required to announce tender at the
21 HOA foreclosure sale. See *Noonan (Comparing NRS 116.31162(1)(b)(3)(II) (2017),*
22 *with NRS 116.31162 (2013))*, and see *A Oro. See Saticoy Bay, LLC, Series 11339*
23 *Colinward, A Nevada Limited Liability Company vs. Travata and Montage at Summerlin*
24 *Centre Homeowners Association, et. al. (Case No. 80162) (October 16, 2020)*
25 *Unpublished Disposition; See Saticoy Bay, LLC, Series 3123 Inlet Bay vs. Genevieve*
26
27
28

1 *Court Homeowners Association, et. al.* (Case No. 80135) (October 16, 2020)
2 *unpublished disposition; See Saticoy Bay, LLC, Series 8320 Bermuda Beach, A Nevada*
3 *Limited Liability Company vs. South Shores Community Homeowners Association, et.*
4 *al.* (Case No. 80165) (October 16, 2020) *Unpublished Disposition; See Saticoy Bay,*
5 *LLC, Series 6408 Hillside Brook, A Nevada Limited Liability Company vs. Mountain*
6 *Gate Homeowners Association, et. al.* (Case No. 80134) (October 16, 2020)
7 *Unpublished Disposition; See Saticoy Bay, LLC, Series 8920 El Diablo, A Nevada*
8 *Limited Liability Company vs. Silverstone Ranch Homeowners Association, et. al.* (Case
9 No. 80039) (October 16, 2020) *Unpublished Disposition.* Further, neither Green Valley
10 or NAS made any misrepresentations to Plaintiff or otherwise violate any duties to
11 Plaintiff in conducting the sale.
12

13
14 16. NRS 116.1113 imposes a duty of good faith in the performance of every
15 contract or duty governed by the statute. Nev. Rev. Stat. § 116.1113. The HOA
16 complied with these duties by complying with all notice and recording requirements set
17 forth in NRS 116 as it existed at the time of the sale. The HOA was not required to
18 disclose the existence of a pre-sale tender of the superpriority portion of the lien.
19 Further, it was specifically prohibited from giving any purchaser at auction a so-called
20 warranty deed. The only type of deed it could give to any purchaser was one made
21 "without warranty" pursuant to NRS 116.31164(3)(a).
22

23 **Violation of NRS 113**

24 17. Defendants are entitled to summary judgment on Plaintiff's claim for
25 violation of NRS 113. Plaintiff asserts in its Complaint that the HOA or HOA Agent
26 needed to complete a Seller's Real Property Disclosure Form ("SRPDF").
27
28

1 18. The bank's pre-sale tender does not fit into any of the disclosure
2 categories contemplated by NRS 113. See generally *id.* It is not a water or sewage
3 service, nor does it involve open range liability, zoning classifications, gaming enterprise
4 districts, or transfer fee obligations. See Nev. Rev. Stat. §§ 113.060 through 113.085. It
5 also does not qualify as the discovery or worsening of a defect subject to disclosure
6 under NRS 113.130.
7

8 19. A "defect" is defined as "a condition that materially affects the value or use
9 of residential property in an adverse manner." See Nev. Rev. Stat. § NRS 113.100(1).
10 The key to disclosure under this section is the seller's realization, perception, and
11 knowledge of the alleged defect. See *Nelson v. Heer*, 123 Nev. at 224; see also Nev.
12 Rev. Stat. §113.140(1). A seller is not required to disclose defects of which he is
13 unaware. *Id.*
14

15 20. Furthermore, nowhere in either NRS 113 or NRS 116 do the statutes
16 suggest the Seller's Real Property Disclosure Form ("SRPDF") should be supplied in
17 NRS 116 foreclosure sales. Plaintiff further alleges that the "Residential Disclosure
18 Guide (the "Guide") suggests Defendants should supply the SRPDF. However, the
19 actual Guide does not ever refer to the HOA or HOA Agent as possible sellers for which
20 the SRPDF might apply or refer to a HOA foreclosure sale, or suggest the SRPDF
21 applies to NRS 116 Foreclosure Sales.
22

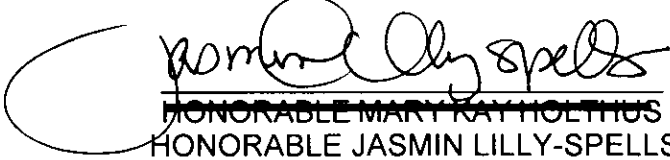
23 25. The Guide suggests to protect oneself from a faulty SRPDF in buying a
24 home, "[t]he Buyer is advised to obtain an independent inspection performed by a
25 properly licensed home inspector." NRS 116 foreclosure properties are not open for
26 inspection prior to sale, and NRS 116 foreclosure homes may be occupied, for which
27 the buyer assumes the responsibility.
28

26. A recent unpublished decision from the Nevada Supreme Court appears
to support that NRS 113.130 ^{does not} requires a seller to disclose superpriority tenders, ~~or that~~
~~the Seller's Real Property Disclosure Form would require disclosure of a superpriority~~
~~tender.~~ See *Saticoy Bay, LLC, Series 3123 Inlet Bay vs. Genevieve Court*
Homeowners Association, et. al. (Case No. 80135) (October 16, 2020) (Unpublished).

ORDER

The Court GRANTS Defendant's Motion for Summary Judgment and Joinder
thereto.

Dated this 5th February &
day of ~~January~~, 2021.


HONORABLE MARY KAY HOLTHUS
HONORABLE JASMIN LILLY-SPILLS

Submitted by:

LIPSON NEILSON P.C.

/s/ Janeen V. Isaacson

Janeen V. Isaacson, Esq. (Bar No. 6429)
9900 Covington Cross Drive, Suite 120
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Attorneys for Defendant
Green Valley Ranch South Owner's
Association

Approved as to form and Content

ROGER P. CROTEAU & ASSOCATES

/s/ Roger P. Croteau

Roger P. Croteau, Esq. (Bar No. 4958)
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Attorneys for Plaintiff, Daisy Trust

Approved as to form and content

NEVADA ASSOCIATION SERVICES,
INC.

/s/ Brandon E. Wood

Brandon E. Wood, Esq.
6625 S. Valley View Blvd., Suite 300
Las Vegas, Nevada 89118
Attorneys for Nevada Association
Services, Inc.

Renee Rittenhouse

From: Chris Benner <chris@croteaulaw.com>
Sent: Wednesday, January 27, 2021 1:39 PM
To: Janeen Isaacson
Cc: Renee Rittenhouse
Subject: RE: MSJorder_NAS REVISED (002)

Agreed, Brandon's changes look fine.

Christopher L. Benner, Esq.
Roger P. Croteau & Associates
2810 Charleston Boulevard, No. H-75
Las Vegas, NV 89102
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From: Janeen Isaacson <JIsaacson@lipsonneilson.com>
Sent: Wednesday, January 27, 2021 1:37 PM
To: Chris Benner <chris@croteaulaw.com>
Cc: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>
Subject: MSJorder_NAS REVISED (002)

Brandon had a few changes. I forgot he joined so he has to be added. His changes do not impact yours. If issue, let me know. Otherwise sending to Court with Brandon's changes.

Renee Rittenhouse

From: Janeen Isaacson
Sent: Wednesday, January 27, 2021 1:29 PM
To: Renee Rittenhouse
Subject: FW: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)
Attachments: MSJorder_NAS REVISED.DOC

From: Brandon Wood <brandon@nas-inc.com>
Sent: Wednesday, January 27, 2021 1:24 PM
To: Janeen Isaacson <JIsaacson@lipsonneilson.com>
Cc: Susan Moses <susanm@nas-inc.com>
Subject: [MACRO WARNING] FW: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Janeen,

Please see attached. Susan informed me you could not open the attachment. Let me know if you have any questions.

Due to the recent Nevada State Government directive, all visitors will be required to wear mask to enter our office front lobby. Our office is open during normal business hours Monday – Thursday 9-5, Friday 9-4:30 and closed for lunch from 12-1 daily. There is a drop-box available in front of our office during normal business hours and lunch. Should you want to meet with any team member to discuss your account please contact our office to make an appointment. Appointments are required.

Best,

Brandon E. Wood, Esq.

Nevada Association Services, Inc.
6625 S. Valley View Blvd. Suite 300
Las Vegas, NV 89118
702-804-8885 Office
702-804-8887 Fax



PERSONAL AND CONFIDENTIAL: Nevada Association Services, Inc. is a debt collector. Nevada Association Services, Inc. is attempting to collect a debt. Any information obtained will be used for that purpose. This message originates from Nevada Association Services, Inc. This message and any file(s) or attachment(s) transmitted with it are confidential, intended only for the named recipient, and may contain information that is a trade secret, proprietary, or is otherwise protected against unauthorized use or disclosure. Any disclosure, distribution, copying, or use of this information by anyone other than the intended recipient, regardless of address or routing, is strictly prohibited. Personal messages express only the view of the sender and are not attributable to Nevada Association Services, Inc.

From: Brandon Wood
Sent: Friday, January 22, 2021 2:11 PM

To: Janeen Isaacson <JIsaacson@lipsonneilson.com>

Subject: RE: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Janeen,

Please find NAS' minor revisions. Please let me know if acceptable.

Due to the recent Nevada State Government directive, all visitors will be required to wear mask to enter our office front lobby. Our office is open during normal business hours Monday – Thursday 9-5, Friday 9-4:30 and closed for lunch from 12-1 daily. There is a drop-box available in front of our office during normal business hours and lunch. Should you want to meet with any team member to discuss your account please contact our office to make an appointment. Appointments are required.

Best,

Brandon E. Wood, Esq.

Nevada Association Services, Inc.
6625 S. Valley View Blvd. Suite 300
Las Vegas, NV 89118
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From: Janeen Isaacson [<mailto:JIsaacson@lipsonneilson.com>]

Sent: Friday, January 22, 2021 12:58 PM

To: Roger Croteau <rcroteau@croteaulaw.com>; 'Chris Benner' <chris@croteaulaw.com>; croteaulaw@croteaulaw.com;

Brandon Wood <brandon@nas-inc.com>; Susan Moses <susanm@nas-inc.com>

Cc: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>

Subject: FW: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Everyone,

Can both Plaintiff and NAS send an email affirmatively approving the revised Order and agreeing to affix your signature. We will send to the Court for signature.

Sincerely,

Lipson|Neilson

Janeen V. Isaacson, Esq.
Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144-7052
(702) 382-1500
(702) 382-1512 (fax)
E-Mail: jisaacson@lipsonneilson.com
Website: www.lipsonneilson.com

OFFICES IN NEVADA, COLORADO, ARIZONA & MICHIGAN

CONFIDENTIALITY NOTICE

This message is confidential, intended only for the named recipient(s) and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you are not the intended recipient(s), you are notified that any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on the contents of this information is prohibited and may be unlawful. If you receive this message in error, or are not the named recipient(s), please notify the sender, delete this e-mail from your computer, and destroy any copies in any form immediately. Receipt by anyone other than the named recipient(s) is not a waiver of any attorney-client, work product, or other applicable privilege.

From: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>
Sent: Friday, January 22, 2021 12:01 PM
To: Janeen Isaacson <JIsaacson@lipsonneilson.com>
Subject: RE: Daisy Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Please see attached order with the addition of counsel for NAS.

Thank you,

From: Janeen Isaacson <JIsaacson@lipsonneilson.com>
Sent: Thursday, January 21, 2021 12:15 PM
To: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>
Cc: Susan Moses <susanm@nas-inc.com>
Subject: FW: Daisy Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Renee, can you take our approved draft from Roger, add NAS to it so they can sign it for approval as well. Then submit it as instructed to the Court. Thanks.

From: Roberson, Anise <Dept23LC@clarkcountycourts.us>
Sent: Thursday, January 21, 2021 12:09 PM
To: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>
Cc: Anderson, Glenn <Dept18LC@clarkcountycourts.us>; Janeen Isaacson <JIsaacson@lipsonneilson.com>; rcroteau@croteaulaw.com
Subject: RE: Daisy Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Good afternoon,

Thank you for submitting the Findings of Fact, Conclusions of Law and Order on Green Valley South's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment.

All documents submitted for Judge Lilly-Spells' signature should be sent to DC23Inbox@clarkcountycourts.us for proper review and signature; please resubmit and we will review and get it signed.

Thank you again,

Anise Roberson
Law Clerk to the Honorable Jasmin Lilly-Spells
Eighth Judicial District Court Dept. 23
Telephone: 702-671-0585
Fax: 702-671-0589
Email: Dept23lc@clarkcountycourts.us

PLEASE NOTE:

- The DC23Inbox@clarkcountycourts.us email is to be used **ONLY** for the purpose of submitting documents for Judge Lilly-Spells' signature.
- All documents submitted must be attached in both Word and .pdf format, with an email from counsel approving the use of their electronic signature.
- The email subject line must contain the full case number, filing event code, and the name of the document (i.e. "A-20-123456-C – ORDR – Smith v. Doe")

If you need to email Department 23 regarding a calendar issue, or any matter other than submitting a document for Judge Lilly-Spells' signature, your email must be sent to BoyerD@clarkcountycourts.us and Dept23LC@clarkcountycourts.us.

From: Renee Rittenhouse [<mailto:RRittenhouse@lipsonneilson.com>]
Sent: Monday, January 18, 2021 11:44 AM
To: Roberson, Anise
Cc: Anderson, Glenn; Janeen Isaacson; rcroteau@croteaulaw.com
Subject: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

[NOTICE: This message originated outside of Eighth Judicial District Court -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

To all:

On behalf of Janeen Isaacson, please find attached the Findings of Fact, Conclusions of Law and Order on Green Valley South's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment with reference to the above-captioned matter.

Also, please confirm that the Order to Show Cause Hearing originally set for Tuesday, January 19, 2021 at 9:00 a.m. has been moved to Thursday, January 28, 2021 at 3:00 a.m.

Should you have any questions, please feel free to contact Ms. Isaacson directly.

Thank you,

LAW OFFICES

Lipson | Neilson

Attorneys and Counselors at Law

Renee M. Rittenhouse

Paralegal

Lipson Neilson

9900 Covington Cross Drive, Suite 120

Las Vegas, NV 89144

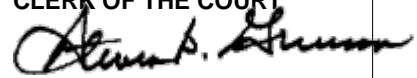
(702) 382-1500

(702) 382-1512 (fax)

E-Mail: rrittenhouse@lipsonneilson.com

Website: www.lipsonneilson.com

OFFICES IN NEVADA, MICHIGAN, ARIZONA & COLORADO



LIPSON NEILSON P.C.
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(702) 382-1500 - Telephone
(702) 382-1512 - Facsimile
bebert@lipsonneilson.com
jisaacson@lipsonneilson.com

*Attorneys for Defendant,
Green Valley South Owner's Association*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DAISEY TRUST, a Nevada trust
Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1, a Nevada non-
profit corporation; and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation;

Defendants.

Case No.: A-19-791254-C
Dept.: XVIII

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER ON DEFENDANT GREEN
VALLEY SOUTH OWNERS
ASSOCIATION'S MOTION TO DISMISS
OR ALTERNATIVELY MOTION FOR
SUMMARY JUDGMENT**

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1 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law and Order
2 on Defendant Green Valley South Owners Association's Motion to Dismiss, or
3 Alternatively Motion for Summary Judgement was filed with the court this 5th day of
4 February, 2021, a copy of which is attached.

5 DATED this 11th day of February 2021.

6 LIPSON NEILSON P.C.

7 */s/ Janeen Isaacson*

8 By:

J. William Ebert, Esq. (Bar No. 2697)
Janeen V. Isaacson, Esq. (Bar No. 6429)
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

11 *Attorneys for Defendant,*
12 *Green Valley South Owners Association*

CERTIFICATE OF SERVICE

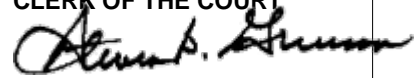
Pursuant to NRCP 5(b) and Administrative Order 14-2, on the 11th day of February, 2021, I electronically transmitted the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR ALTERNATIVELY MOTION FOR SUMMARY JUDGMENT** to the Clerk's Office using the Odyssey eFileNV & Serve system for filing and transmittal to the following Odyssey eFileNV& Serve registrants addressed to:

Brandon D. Wood, Esq.
NEVADA ASSOCIATION SERVICES,
INC.
6625 S. Valley View Blvd., Suite 300
Las Vegas, Nevada 89118
*Attorney for Nevada Association Services,
Inc.*

Roger P. Croteau, Esq.
Timothy E. Rhoda, Esq.
ROGER P. CROTEAU & ASSOCIATES,
LTD.
2810 W. Charleston Blvd., Suite 75
Las Vegas, NV 89148
Attorneys for Plaintiff Daisy Trust

/s/ Renee M. Rittenhouse

An Employee of LIPSON NEILSON P.C.



LIPSON NEILSON P.C.
J. WILLIAM EBERT, ESQ.
Nevada Bar No. 2697
JANEEN V. ISAACSON, ESQ.
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bebert@lipsonneilson.com
jisaacson@lipsonneilson.com

*Attorneys for Defendant,
Green Valley South Owner's Association*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DAISEY TRUST, a Nevada trust
Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1, a Nevada non-
profit corporation; and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation;

Defendants.

Case No.: A-19-791254-C
Dept.: XVIII

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW AND
ORDER ON DEFENDANT GREEN
VALLEY SOUTH OWNERS
ASSOCIATION'S MOTION TO DISMISS
OR ALTERNATIVELY MOTION FOR
SUMMARY JUDGMENT**

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1 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law and Order
2 on Defendant Green Valley South Owners Association's Motion to Dismiss, or
3 Alternatively Motion for Summary Judgement was filed with the court this 5th day of
4 February, 2021, a copy of which is attached.

5 DATED this 16th day of February 2021.

6 LIPSON NEILSON P.C.

7 */s/ Janeen Isaacson*

8 By:

J. William Ebert, Esq. (Bar No. 2697)
Janeen V. Isaacson, Esq. (Bar No. 6429)
9900 Covington Cross Drive, Suite 120
10 Las Vegas, Nevada 89144

11 *Attorneys for Defendant,*
12 *Green Valley South Owners Association*

CERTIFICATE OF SERVICE

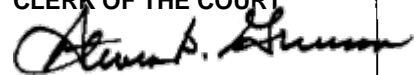
Pursuant to NRCP 5(b) and Administrative Order 14-2, on the 16th day of February, 2021, I electronically transmitted the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR ALTERNATIVELY MOTION FOR SUMMARY JUDGMENT** to the Clerk's Office using the Odyssey eFileNV & Serve system for filing and transmittal to the following Odyssey eFileNV& Serve registrants addressed to:

Brandon D. Wood, Esq.
NEVADA ASSOCIATION SERVICES,
INC.
6625 S. Valley View Blvd., Suite 300
Las Vegas, Nevada 89118
*Attorney for Nevada Association Services,
Inc.*

Roger P. Croteau, Esq.
Timothy E. Rhoda, Esq.
ROGER P. CROTEAU & ASSOCIATES,
LTD.
2810 W. Charleston Blvd., Suite 75
Las Vegas, NV 89148
Attorneys for Plaintiff Daisy Trust

/s/ Renee M. Rittenhouse

An Employee of LIPSON NEILSON P.C.



LIPSON NEILSON P.C.
J. WILLIAM EBERT, ESQ.
Nevada Bar No. 2697
JANEEN V. ISAACSON, ESQ.
Nevada Bar No. 6429
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Las Vegas, Nevada 89144
(702) 382-1500 - Telephone
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bebert@lipsonneilson.com
jisaacson@lipsonneilson.com

*Attorneys for Defendant,
Green Valley South Owner's Association*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DAISEY TRUST, a Nevada trust
Plaintiff,

vs.

GREEN VALLEY SOUTH OWNERS
ASSOCIATION NO. 1, a Nevada non-
profit corporation; and NEVADA
ASSOCIATION SERVICES, INC., a
domestic corporation;

Defendants.

Case No.: A-19-791254-C
Dept.: ~~XXXX~~ 23

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER ON DEFENDANT
GREEN VALLEY SOUTH OWNER'S
ASSOCIATION'S MOTION TO DISMISS,
OR ALTERNATIVELY MOTION FOR
SUMMARY JUDGMENT**

On October 25, 2020, Defendant Green Valley South Association ("Green Valley" or the "HOA") filed its Motion to Dismiss, Or Alternatively Motion for Summary Judgment ("Motion"). On October 29, 2020, Defendant Nevada Association Services, Inc. ("NAS" or "Trustee") filed its Joinder to Green Valley's Motion. On November 9, 2020, Plaintiff Daisey Trust ("Daisey Trust") filed its Opposition to the Motion. On November 24, 2020, Defendant Green Valley filed its Reply in Support of the Motion.

The Motion was heard on December 1, 2020 at 9:00 a.m. in the above captioned matter. Attorney Janeen V. Isaacson on behalf of Green Valley, attorney Brandon E. Wood on behalf of NAS, and attorney Roger Croteau appeared on behalf of Daisey Trust

1 participated by CourtCall conferencing and/or telephonic conference call.

2 The Court having reviewed the papers and pleadings, and having heard oral
3 argument, issues the following findings of fact, conclusions of law and order:

4 **FINDINGS OF FACT**

5 1. On June 5, 2008, Dennis L. Scott ("Borrower") obtained a loan to
6 purchase the real property located at 137 Elegante Way, Henderson, Nevada 89074
7 ("Property").

8 2. The property was subject to the HOA's Covenants, Conditions and
9 Restrictions "CC&Rs".

10 3. Sometime after purchasing the Property, Borrowers defaulted on their
11 homeowners' assessments.

12 4. On August 23, 2011, the HOA, through NAS recorded a notice of
13 delinquent assessment lien.

14 5. On November 18, 2011, the HOA, through its Trustee, recorded a notice
15 of default and election to sell.

16 6. On February 2, 2012, Miles Bauer sent NAS a letter offering to pay \$882
17 to discharge Green Valley's superpriority lien on the Property and included a check for
18 that amount.

19 7. NAS rejected the offer on Green Valley's behalf.

20 8. Between February 2, 2012 and August 31, 2012, NAS' phone log
21 indicates that it received no telephone inquiries from potential bidders asking if there
22 had been a tender of the super priority lien with respect to the Property [GVS000222].

23 9. On April 23, 2012, the HOA, through its Trustee, recorded a notice of
24 foreclosure sale.

25 10. On August 31, 2012, the HOA, through NAS, foreclosed on the Property
26 and sold the Property to Daisey Trust for \$3,555.

27 11. A foreclosure deed in favor Plaintiff Daisey Trust was recorded on
28 September 7, 2012.

12. On February 29, 2016, Bank of America, N.A., Successor By Merger to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing (."BANA") filed a Complaint against the HOA, NAS, and Daisey Trust, in the United States District Court, District of Nevada with case number 2:16-cv-00424-JCM-PAL (the "Federal Action").

13. The Federal Action found the Property was sold subject to the deed of trust.

14. On March 15, 2019, Daisey Trust filed the instant lawsuit against Green Valley and NAS alleging causes of action for Intentional/Negligent Misrepresentation, Breach of NRS 116, Conspiracy, and Violation of NRS 113.

15. Daisey Trust argues the instant case is separate and distinct from the prior federal case involving the same property. Specifically, the gravamen of its argument is the Defendants cannot misrepresent tender or attempted tender if asked or omit material facts regarding tender or attempted tender.

16. In his declaration attached to the opposition, manager Eddie Haddad ("Haddad") states that had he known that there was a tender or attempted tender on the property, he would not have placed a bid on the property. His claim is general in nature and the declaration fails to assert any specific representations made or questions asked with respect to the Property. Furthermore, NAS' call log demonstrates that Defendants were not contacted ahead of the foreclosure sale, which contradicts his declaration in the instant case.

17. Haddad does not allege that Defendants made any active misrepresentation; rather, he alleges only that Defendants were guilty of "material omission of the tender and/or attempted payment of the superpriority lien amount", upon inquiry, by Haddad.

CONCLUSIONS OF LAW

1. "The purpose of summary judgment is to pierce the pleading and to assess the proof in order to see whether there is a genuine need for trial." *Matsushita*

1 *Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). Summary judgment
2 is appropriate when pleadings, the discovery and disclosure materials on file, and any
3 affidavits show "there is no genuine disputes as to any material fact and the movant is
4 entitled to judgment as a matter of law." Nev. R. Civ. P. 56(b); see also *Celotex v.*
5 *Catrett*, 477 U.S. 317, 330 (1986); *Boland v. Nevada Rock & Sand Co.*, 111 Nev. 608,
6 610, 894 P.2d 988 (1995).

7 2. The nonmoving party "may not rest upon the mere allegations or denials
8 of [its] pleadings," *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986), nor may it
9 "simply show there is some metaphysical doubt as to the material facts." *Matsushita*
10 *Elec. Indus. Co.*, 475 U.S. at 586. It is the nonmoving party's burden to "come forward
11 with specific facts showing that there is a genuine issue for trial." *Id.* at 587; see also
12 *Wood v. Safeway, Inc.*, 121 Nev. 724 (2005), citing *Pegasus v. Reno Newspapers, Inc.*,
13 118 Nev. 706, 713, 57 P.3d 82 (2002)."

14 3. An issue is only genuine if there is a sufficient evidentiary basis for a
15 reasonable jury to return a verdict for the nonmoving party. *Anderson*, 477 U.S. at 248
16 (1986). Further, a dispute will only preclude the entry of summary judgment if it could
17 affect the outcome of the suit under governing law. *Id.* "The amount of evidence
18 necessary to raise a genuine issue of material fact is enough to require a judge or jury
19 to resolve the parties' differing versions of the truth at trial." *Id.* at 249. In evaluating a
20 summary judgment motion, a court views all facts and draws all inferences in a light
21 most favorable to the nonmoving party. *Kaiser Cement Corp. v. Fischbach & Moore,*
22 *Inc.*, 793 F.2d 100, 1103 (9th Cir. 1986). Where one "essential element of a claim for
23 relief is absent, the facts, disputed or otherwise, as to other elements are rendered
24 immaterial and summary judgment is proper." *Bulbman Inc. v. Nevada Bell*, 108 Nev.
25 105, 111, 825 P.2d at 592 (1992).

26 4. A party may move for summary judgment at any time and must be granted
27 if the pleadings and affidavits show that there is no genuine issue as to any material fact
28

1 and that the moving party is entitled to a judgment as a matter of law. *Villescas v. CAN,*
2 *Insurance Co.*, 109 Nev. 1075 (1993).

3 5. "As a general rule, the court may not consider matters outside the
4 pleading being attacked." *Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858
5 P.2d 1258, 1261 (1993). "However, the court may take into account matters of public
6 record, orders, items present in the record of the case, and any exhibits attached to the
7 complaint when ruling on a motion to dismiss for failure to state a claim upon which
8 relief can be granted." *Id.*

9
10 6. NRCP 56(c)(1) provides, in pertinent part, "The judgment sought shall be
11 rendered forthwith if the pleadings, depositions, answers to interrogatories, and
12 admissions on file, together with the affidavits, if any, show that there is no genuine
13 issue as to any material fact and that the moving party is entitled to a judgment as a
14 matter of law." However, subsection (c)(2) further states that a party may object that the
15 material cited to support or dispute a fact cannot be presented in "a form that would be
16 admissible in evidence."

17
18 7. Summary judgment is "appropriate when the pleadings, depositions,
19 answers to interrogatories, admissions, and affidavits, if any, that are properly before
20 the court demonstrate that no genuine issue of material fact exists, and the moving
21 party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724,
22 731, 121 P.3d 1026 (2005). A factual dispute is genuine, and therefore summary
23 judgment is inappropriate, when the evidence is such that a rational trier of fact could
24 return a verdict for the nonmoving party. *Id.*

25
26 8. All pleadings and proof must be construed in a light most favorable to the
27 non-moving party, however, the non-moving party must do more than simply show that
28

1 there is some metaphysical doubt as to the operative facts in order to avoid summary
2 judgment being entered in the moving party's favor. The nonmoving party must, by
3 affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine
4 issue for trial or have summary judgment entered against him. The nonmoving party "is
5 not entitled to build a case on the gossamer threads of whimsy, speculation, and
6 conjecture." *Id.* (quoting *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713-14
7 (2002)).

9 9. A party cannot defeat summary judgment by contradicting itself. See
10 *Aldabe v. Adams*, 81 Nev. 280, 284–85, 402 P.2d 34, 36–37 (1965) (refusing to credit
11 sworn statement made in opposition to summary judgment that was in direct conflict
12 with an earlier statement of the same party).

14 10. Under the new NRCP 56(d), which is similar to old subsection (f), if the
15 moving party fails to properly support facts necessary, the court may deny the motion or
16 stay the motion to allow the parties to conduct discovery.

17 11. The Court FINDS because the motion involves evidence outside of the
18 complaint, the motion must be treated as a motion for summary judgment.

19 Intentional/Negligent Misrepresentation

20 12. Haddad does not allege that Defendants made any active
21 misrepresentation; rather, he alleges only that Defendants were guilty of "material
22 omission of the tender and/or attempted payment of the superpriority lien amount", upon
23 inquiry, by Haddad. However, under NRS 116.3116 at the time, Defendants do not
24 have a duty to disclose tender. See *Noonan v. Bayview Loan Servicing, LLC*, 2019
25 Nev. Unpub. LEXIS 428, 438 P.3d 335, 2019 WL 1552690, citing: "See *Halcrow, Inc. v.*
26 *Eighth Judicial Dist. Court*, 129 Nev. 394, 400, 302 P.3d 1148, 1153 (2013) (providing
27
28

1 the elements for a negligent misrepresentation claim); *Nelson v. Heer*, 123 Nev. 217,
2 225, 163 P.3d 420, 426 (2007) ("[T]he suppression or omission of a material fact which
3 a party is bound in good faith to disclose is equivalent to a false representation."
4 (internal quotation marks omitted)). Compare NRS 116.31162(1)(b)(3)(II) (2017)
5 (requiring an HOA to disclose if tender of the superpriority portion of the lien has been
6 made), with NRS 116.31162 (2013) (not requiring any such disclosure)." See also *A*
7 *Oro, LLC v. Ditech Financial LLC*, 2019 WL 913129, 434 P.3d 929 (Nev. 2019)
8 (unpublished). See *Saticoy Bay, LLC, Series 11339 Colinward, A Nevada Limited*
9 *Liability Company vs. Travata and Montage at Summerlin Centre Homeowners*
10 *Association, et. al.* (Case No. 80162) (October 16, 2020) *Unpublished Disposition*; See
11 *Saticoy Bay, LLC, Series 3123 Inlet Bay vs. Genevieve Court Homeowners Association,*
12 *et. al.* (Case No. 80135) (October 16, 2020) *unpublished disposition*; See *Saticoy Bay,*
13 *LLC, Series 8320 Bermuda Beach, A Nevada Limited Liability Company vs. South*
14 *Shores Community Homeowners Association, et. al.* (Case No. 80165) (October 16,
15 2020) *Unpublished Disposition*; See *Saticoy Bay, LLC, Series 6408 Hillside Brook, A*
16 *Nevada Limited Liability Company vs. Mountain Gate Homeowners Association, et. al.*
17 (Case No. 80134) (October 16, 2020) *Unpublished Disposition*; See *Saticoy Bay, LLC,*
18 *Series 8920 El Diablo, A Nevada Limited Liability Company vs. Silverstone Ranch*
19 *Homeowners Association, et. al.* (Case No. 80039) (October 16, 2020) *Unpublished*
20 *Disposition.*

21
22
23
24 13. Although the HOA or HOA agent does not have to disclose tender under
25 the statute, as a misrepresentation claim the HOA or HOA Agent could have taken
26 actions which created the duty to disclose tender. However, Haddad relies on the
27 omission during bidding at the sale. Even though discovery had not concluded, there
28

1 appears to be no genuine issue of material fact. Haddad's declaration, which attempts
2 to raise genuine issues of material fact appears to be based "on the gossamer threads
3 of whimsy, speculation, and conjecture". See *Wood v. Safeway, Inc.* Additionally, NAS'
4 call log demonstrate that Haddad did not contact them prior to sale to inquire as to any
5 tender.
6

7 14. Plaintiff fails to allege what evidence, if any, can be obtained in discovery
8 to raise genuine issues of material fact. Thus, NRCP 56(d) relief is not appropriate.
9 Thus, Plaintiff cannot show that there is any genuine issue of material fact and thus,
10 Defendants are entitled to summary judgment as a matter of law.

11 **Breach of NRS 116**

12 15. For similar reasons Defendants are entitled to summary judgment on the
13 Breach of NRS 116 claim. To establish a claim for misrepresentation, the plaintiff
14 carries the burden of proving each of the following elements: (1) a false representation
15 was made by the defendant; (2) defendant's knowledge or belief that its representation
16 was false or that defendant has an insufficient basis of information for making the
17 representation; (3) defendant intended to induce plaintiff to act or refrain from acting
18 upon the misrepresentation; and (4) damage to the plaintiff as a result of relying on the
19 misrepresentation. *Barmettler v. Reno Air, Inc.*, 956 P.2d 1382, 1386, 114 Nev. 441,
20 447 (Nev.,1998). The HOA or HOA's Agent are not required to announce tender at the
21 HOA foreclosure sale. See *Noonan (Comparing NRS 116.31162(1)(b)(3)(II) (2017),*
22 *with NRS 116.31162 (2013))*, and see *A Oro. See Saticoy Bay, LLC, Series 11339*
23 *Colinward, A Nevada Limited Liability Company vs. Travata and Montage at Summerlin*
24 *Centre Homeowners Association, et. al. (Case No. 80162) (October 16, 2020)*
25 *Unpublished Disposition; See Saticoy Bay, LLC, Series 3123 Inlet Bay vs. Genevieve*
26
27
28

1 *Court Homeowners Association, et. al.* (Case No. 80135) (October 16, 2020)
2 *unpublished disposition; See Saticoy Bay, LLC, Series 8320 Bermuda Beach, A Nevada*
3 *Limited Liability Company vs. South Shores Community Homeowners Association, et.*
4 *al.* (Case No. 80165) (October 16, 2020) *Unpublished Disposition; See Saticoy Bay,*
5 *LLC, Series 6408 Hillside Brook, A Nevada Limited Liability Company vs. Mountain*
6 *Gate Homeowners Association, et. al.* (Case No. 80134) (October 16, 2020)
7 *Unpublished Disposition; See Saticoy Bay, LLC, Series 8920 El Diablo, A Nevada*
8 *Limited Liability Company vs. Silverstone Ranch Homeowners Association, et. al.* (Case
9 No. 80039) (October 16, 2020) *Unpublished Disposition.* Further, neither Green Valley
10 or NAS made any misrepresentations to Plaintiff or otherwise violate any duties to
11 Plaintiff in conducting the sale.
12

13 16. NRS 116.1113 imposes a duty of good faith in the performance of every
14 contract or duty governed by the statute. Nev. Rev. Stat. § 116.1113. The HOA
15 complied with these duties by complying with all notice and recording requirements set
16 forth in NRS 116 as it existed at the time of the sale. The HOA was not required to
17 disclose the existence of a pre-sale tender of the superpriority portion of the lien.
18 Further, it was specifically prohibited from giving any purchaser at auction a so-called
19 warranty deed. The only type of deed it could give to any purchaser was one made
20 "without warranty" pursuant to NRS 116.31164(3)(a).
21
22

23 **Violation of NRS 113**

24 17. Defendants are entitled to summary judgment on Plaintiff's claim for
25 violation of NRS 113. Plaintiff asserts in its Complaint that the HOA or HOA Agent
26 needed to complete a Seller's Real Property Disclosure Form ("SRPDF").
27
28

1 18. The bank's pre-sale tender does not fit into any of the disclosure
2 categories contemplated by NRS 113. See generally *id.* It is not a water or sewage
3 service, nor does it involve open range liability, zoning classifications, gaming enterprise
4 districts, or transfer fee obligations. See Nev. Rev. Stat. §§ 113.060 through 113.085. It
5 also does not qualify as the discovery or worsening of a defect subject to disclosure
6 under NRS 113.130.
7

8 19. A "defect" is defined as "a condition that materially affects the value or use
9 of residential property in an adverse manner." See Nev. Rev. Stat. § NRS 113.100(1).
10 The key to disclosure under this section is the seller's realization, perception, and
11 knowledge of the alleged defect. See *Nelson v. Heer*, 123 Nev. at 224; see also Nev.
12 Rev. Stat. §113.140(1). A seller is not required to disclose defects of which he is
13 unaware. *Id.*
14

15 20. Furthermore, nowhere in either NRS 113 or NRS 116 do the statutes
16 suggest the Seller's Real Property Disclosure Form ("SRPDF") should be supplied in
17 NRS 116 foreclosure sales. Plaintiff further alleges that the "Residential Disclosure
18 Guide (the "Guide") suggests Defendants should supply the SRPDF. However, the
19 actual Guide does not ever refer to the HOA or HOA Agent as possible sellers for which
20 the SRPDF might apply or refer to a HOA foreclosure sale, or suggest the SRPDF
21 applies to NRS 116 Foreclosure Sales.
22

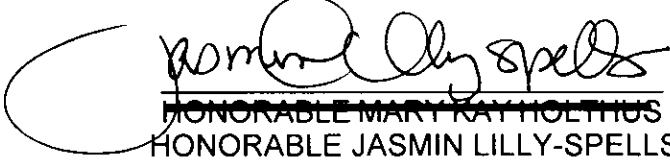
23 25. The Guide suggests to protect oneself from a faulty SRPDF in buying a
24 home, "[t]he Buyer is advised to obtain an independent inspection performed by a
25 properly licensed home inspector." NRS 116 foreclosure properties are not open for
26 inspection prior to sale, and NRS 116 foreclosure homes may be occupied, for which
27 the buyer assumes the responsibility.
28

26. A recent unpublished decision from the Nevada Supreme Court appears
to support that NRS 113.130 ^{does not} requires a seller to disclose superpriority tenders, ~~or that~~
~~the Seller's Real Property Disclosure Form would require disclosure of a superpriority~~
~~tender.~~ See *Saticoy Bay, LLC, Series 3123 Inlet Bay vs. Genevieve Court*
Homeowners Association, et. al. (Case No. 80135) (October 16, 2020) (Unpublished).

ORDER

The Court GRANTS Defendant's Motion for Summary Judgment and Joinder
thereto.

Dated this 5th February &
day of ~~January~~, 2021.


HONORABLE MARY KAY HOLTHUS
HONORABLE JASMIN LILLY-SPELLS

Submitted by:

LIPSON NEILSON P.C.

/s/ Janeen V. Isaacson

Janeen V. Isaacson, Esq. (Bar No.6429)
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144

Attorneys for Defendant
Green Valley Ranch South Owner's
Association

Approved as to form and Content

ROGER P. CROTEAU & ASSOCATES

/s/ Roger P. Croteau

Roger P. Croteau, Esq. (Bar No. 4958)
2810 W. Charleston Blvd., Suite 75
Las Vegas, Nevada 89102
Attorneys for Plaintiff, Daisy Trust

Approved as to form and content

NEVADA ASSOCIATION SERVICES,
INC.

/s/ Brandon E. Wood

Brandon E. Wood, Esq.
6625 S. Valley View Blvd., Suite 300
Las Vegas, Nevada 89118
Attorneys for Nevada Association
Services, Inc.

Renee Rittenhouse

From: Chris Benner <chris@croteaulaw.com>
Sent: Wednesday, January 27, 2021 1:39 PM
To: Janeen Isaacson
Cc: Renee Rittenhouse
Subject: RE: MSJorder_NAS REVISED (002)

Agreed, Brandon's changes look fine.

Christopher L. Benner, Esq.
Roger P. Croteau & Associates
2810 Charleston Boulevard, No. H-75
Las Vegas, NV 89102
(702) 254-7775
chris@croteaulaw.com

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From: Janeen Isaacson <JIsaacson@lipsonneilson.com>
Sent: Wednesday, January 27, 2021 1:37 PM
To: Chris Benner <chris@croteaulaw.com>
Cc: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>
Subject: MSJorder_NAS REVISED (002)

Brandon had a few changes. I forgot he joined so he has to be added. His changes do not impact yours. If issue, let me know. Otherwise sending to Court with Brandon's changes.

Renee Rittenhouse

From: Janeen Isaacson
Sent: Wednesday, January 27, 2021 1:29 PM
To: Renee Rittenhouse
Subject: FW: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)
Attachments: MSJorder_NAS REVISED.DOC

From: Brandon Wood <brandon@nas-inc.com>
Sent: Wednesday, January 27, 2021 1:24 PM
To: Janeen Isaacson <JIsaacson@lipsonneilson.com>
Cc: Susan Moses <susanm@nas-inc.com>
Subject: [MACRO WARNING] FW: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Janeen,

Please see attached. Susan informed me you could not open the attachment. Let me know if you have any questions.

Due to the recent Nevada State Government directive, all visitors will be required to wear mask to enter our office front lobby. Our office is open during normal business hours Monday – Thursday 9-5, Friday 9-4:30 and closed for lunch from 12-1 daily. There is a drop-box available in front of our office during normal business hours and lunch. Should you want to meet with any team member to discuss your account please contact our office to make an appointment. Appointments are required.

Best,

Brandon E. Wood, Esq.

Nevada Association Services, Inc.
6625 S. Valley View Blvd. Suite 300
Las Vegas, NV 89118
702-804-8885 Office
702-804-8887 Fax



PERSONAL AND CONFIDENTIAL: Nevada Association Services, Inc. is a debt collector. Nevada Association Services, Inc. is attempting to collect a debt. Any information obtained will be used for that purpose. This message originates from Nevada Association Services, Inc. This message and any file(s) or attachment(s) transmitted with it are confidential, intended only for the named recipient, and may contain information that is a trade secret, proprietary, or is otherwise protected against unauthorized use or disclosure. Any disclosure, distribution, copying, or use of this information by anyone other than the intended recipient, regardless of address or routing, is strictly prohibited. Personal messages express only the view of the sender and are not attributable to Nevada Association Services, Inc.

From: Brandon Wood
Sent: Friday, January 22, 2021 2:11 PM

To: Janeen Isaacson <JIsaacson@lipsonneilson.com>

Subject: RE: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Janeen,

Please find NAS' minor revisions. Please let me know if acceptable.

Due to the recent Nevada State Government directive, all visitors will be required to wear mask to enter our office front lobby. Our office is open during normal business hours Monday – Thursday 9-5, Friday 9-4:30 and closed for lunch from 12-1 daily. There is a drop-box available in front of our office during normal business hours and lunch. Should you want to meet with any team member to discuss your account please contact our office to make an appointment. Appointments are required.

Best,

Brandon E. Wood, Esq.

Nevada Association Services, Inc.
6625 S. Valley View Blvd. Suite 300
Las Vegas, NV 89118
702-804-8885 Office
702-804-8887 Fax



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From: Janeen Isaacson [<mailto:JIsaacson@lipsonneilson.com>]

Sent: Friday, January 22, 2021 12:58 PM

To: Roger Croteau <rcroteau@croteaulaw.com>; 'Chris Benner' <chris@croteaulaw.com>; croteaulaw@croteaulaw.com;

Brandon Wood <brandon@nas-inc.com>; Susan Moses <susanm@nas-inc.com>

Cc: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>

Subject: FW: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Everyone,

Can both Plaintiff and NAS send an email affirmatively approving the revised Order and agreeing to affix your signature. We will send to the Court for signature.

Sincerely,

Lipson|Neilson

Janeen V. Isaacson, Esq.
Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144-7052
(702) 382-1500
(702) 382-1512 (fax)
E-Mail: jisaacson@lipsonneilson.com
Website: www.lipsonneilson.com

OFFICES IN NEVADA, COLORADO, ARIZONA & MICHIGAN

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From: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>
Sent: Friday, January 22, 2021 12:01 PM
To: Janeen Isaacson <JIsaacson@lipsonneilson.com>
Subject: RE: Daisy Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Please see attached order with the addition of counsel for NAS.

Thank you,

From: Janeen Isaacson <JIsaacson@lipsonneilson.com>
Sent: Thursday, January 21, 2021 12:15 PM
To: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>
Cc: Susan Moses <susanm@nas-inc.com>
Subject: FW: Daisy Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Renee, can you take our approved draft from Roger, add NAS to it so they can sign it for approval as well. Then submit it as instructed to the Court. Thanks.

From: Roberson, Anise <Dept23LC@clarkcountycourts.us>
Sent: Thursday, January 21, 2021 12:09 PM
To: Renee Rittenhouse <RRittenhouse@lipsonneilson.com>
Cc: Anderson, Glenn <Dept18LC@clarkcountycourts.us>; Janeen Isaacson <JIsaacson@lipsonneilson.com>; rcroteau@croteaulaw.com
Subject: RE: Daisy Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

Good afternoon,

Thank you for submitting the Findings of Fact, Conclusions of Law and Order on Green Valley South's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment.

All documents submitted for Judge Lilly-Spells' signature should be sent to DC23Inbox@clarkcountycourts.us for proper review and signature; please resubmit and we will review and get it signed.

Thank you again,

Anise Roberson
Law Clerk to the Honorable Jasmin Lilly-Spells
Eighth Judicial District Court Dept. 23
Telephone: 702-671-0585
Fax: 702-671-0589
Email: Dept23lc@clarkcountycourts.us

PLEASE NOTE:

- The DC23Inbox@clarkcountycourts.us email is to be used **ONLY** for the purpose of submitting documents for Judge Lilly-Spells' signature.
- All documents submitted must be attached in both Word and .pdf format, with an email from counsel approving the use of their electronic signature.
- The email subject line must contain the full case number, filing event code, and the name of the document (i.e. "A-20-123456-C – ORDR – Smith v. Doe")

If you need to email Department 23 regarding a calendar issue, or any matter other than submitting a document for Judge Lilly-Spells' signature, your email must be sent to BoyerD@clarkcountycourts.us and Dept23LC@clarkcountycourts.us.

From: Renee Rittenhouse [<mailto:RRittenhouse@lipsonneilson.com>]
Sent: Monday, January 18, 2021 11:44 AM
To: Roberson, Anise
Cc: Anderson, Glenn; Janeen Isaacson; rcroteau@croteaulaw.com
Subject: Daisey Trust v. Green Valley South Owners Association No. 1, et al (A-19-791254-C)

[NOTICE: This message originated outside of Eighth Judicial District Court -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

To all:

On behalf of Janeen Isaacson, please find attached the Findings of Fact, Conclusions of Law and Order on Green Valley South's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment with reference to the above-captioned matter.

Also, please confirm that the Order to Show Cause Hearing originally set for Tuesday, January 19, 2021 at 9:00 a.m. has been moved to Thursday, January 28, 2021 at 3:00 a.m.

Should you have any questions, please feel free to contact Ms. Isaacson directly.

Thank you,

LAW OFFICES

Lipson | Neilson

Attorneys and Counselors at Law

Renee M. Rittenhouse

Paralegal

Lipson Neilson

9900 Covington Cross Drive, Suite 120

Las Vegas, NV 89144

(702) 382-1500

(702) 382-1512 (fax)

E-Mail: rrittenhouse@lipsonneilson.com

Website: www.lipsonneilson.com

OFFICES IN NEVADA, MICHIGAN, ARIZONA & COLORADO

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

November 12, 2019

A-19-791254-C Daisy Trust, Plaintiff(s)
vs.
Green Valley South Owners Association No. 1, Defendant(s)

November 12, 2019 8:30 AM

All Pending Motions

HEARD BY: Silva, Cristina D.

COURTROOM: RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Croteau, Roger P, ESQ Attorney
 Wong, Jonathan K. Attorney

JOURNAL ENTRIES

- ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT . . . NEVADA ASSOCIATION SERVICES, INC.'S JOINDER TO DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT

This is the time set for hearing on the above-named motions. Mr. Croteau advised that a Stipulation and Order to extend Deadlines and Continue the hearing was signed and circulated by counsel; the Court advised that the Stipulation and Order has not been submitted to the Court for consideration. Mr. Wong CONCURRED; it appears that the Motions have been continued to December 10, 2019. Therefore, COURT ORDERED, Motions OFF CALENDAR.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

December 10, 2019

A-19-791254-C	Daisy Trust, Plaintiff(s)
	vs.
	Green Valley South Owners Association No. 1, Defendant(s)

December 10, 2019 8:30 AM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT:	Croteau, Roger P, ESQ	Attorney
	Isaacson, Janeen V.	Attorney

JOURNAL ENTRIES

- DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT....NEVADA ASSOCIATION SERVICES, INC.'S JOINDER TO DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR, ALTERNATIVELY, MOTION FOR PARTIAL SUMMARY JUDGMENT

Upon Court's inquiry regarding misrepresentations Green Valley South made, Mr. Croteau stated both these complaints were drafted against both the HOA and HOA trustee. The agent of the HOA is the HOA trustee; the HOA trustee sold the property at the foreclosure sale. There were allegations of inquiry and attempts to ascertain whether or not a payment was made. The misrepresentation was they failed to disclose facts, pursuant to NRS 116.113. Upon Court's inquiry regarding the fact that there were no warranties on the property, Mr. Croteau stated basically the deed was without warranty as to many issues, but not things known by the HOA and HOA trustee. Colloquy regarding case law. Following arguments by counsel, Court advised it does not believe there is a basis to maintain an action for civil conspiracy between the HOA and the HOA trustee. For purposes of this argument, it was considering this as a Motion to Dismiss, not a Motion for Summary Judgement for the civil conspiracy. COURT ORDERED, Motion GRANTED.

As to misrepresentations, Court stated the issue it has was proof of the misrepresentation. As to punitive damages, Court advised it does not see how it applies in this matter. Arguments by counsel. Court advised there was not enough information to say there was an intentional misrepresentation, which would rise to the level of fraud. Court advised it was going to allow the litigation to continue as to that issue, specifically, the misrepresentation. Mr. Croteau to submit a written order, approved as to form and content by opposing counsel. Ms. Isaacson stated they have an arbitration scheduled in January. COURT ORDERED, matter SET for status check regarding receipt of order.

1/6/20 (CHAMBERS) STATUS CHECK: RECEIPT OF ORDER (12/10/19)

CLERK'S NOTE: The foregoing minute order was prepared by court clerk Louisa Garcia via review of the JAVS recording. /lg 12-16-19

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

January 06, 2020

A-19-791254-C	Daisy Trust, Plaintiff(s) vs. Green Valley South Owners Association No. 1, Defendant(s)
---------------	---

January 06, 2020	3:00 AM	Status Check	Receipt of Order (12/10/19)
-------------------------	----------------	---------------------	--

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court heard oral argument on Defendant Green Valley South Owners Association's Motion to Dismiss or, Alternatively, Motion for Partial Summary Judgment and Joinder on December 10, 2019. At that hearing, the Court Ordered the matter to be status checked for the receipt of an Order from Mr. Croteau.

To date, no Order has been submitted; therefore, COURT ORDERED, this matter shall be CONTINUED to this Court's Oral Calendar; if the Order has been received, the status check will be VACATED.

CONTINUED TO: 02/04/20 8:30 AM

CLERK S NOTE: Counsel is to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the listed Service Recipients in the Odyssey eFileNV system.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

February 04, 2020

A-19-791254-C Daisy Trust, Plaintiff(s)
vs.
Green Valley South Owners Association No. 1, Defendant(s)

**February 04, 2020 8:30 AM Status Check Receipt of Order
(12/10/19)**

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- This is the time set for the Status Check on Receipt of the Order from December 10, 2019. Court noted that an Order was submitted yesterday (February 3); however, the Court has not had an opportunity to review it. Therefore, COURT ORDERED, matter CONTINUED. If the Order is sufficient, the matter will be VACATED.

CONTINUED TO: 02/11/20 8:30 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

June 01, 2020

A-19-791254-C Daisy Trust, Plaintiff(s)
vs.
Green Valley South Owners Association No. 1, Defendant(s)

**June 01, 2020 11:00 AM Mandatory Rule 16
Conference**

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Carol Donahoo

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Croteau, Roger P, ESQ Attorney
Isaacson, Janeen V. Attorney

JOURNAL ENTRIES

- Mr. Croteau and Ms. Isaacson appearing via BlueJeans. For the record, this Court's staff was notified by Brandon Wood, Esq., that he would not be present this morning as his flight was canceled.

This is the time set for the Mandatory Rule 16 Conference. Court addressed the requirements of Rule 16. Counsel anticipate the trial will take two (2) to three (3) days; this action involves the recovery of monetary damages, punitive damages, attorney's fees, and interest related to the improper sale of property; no settlement conference has been requested.

The Court advised that it has reviewed the Joint Case Conference Report (JCCR) and inquired as to whether the dates set out in the JCCR were realistic due to the COVID-19 pandemic; both counsel believe the dates are fine.

COURT ORDERED, the dates in the JCCR would remain as is; a Schedule and Trial Order shall issue. Court noted that counsel are requesting a Bench Trial; colloquy as to whether this is a matter that could possibly resolve. Mr. Crotrau advised that, as it stands now, there is no possibility of resolution. Ms. Isaacson CONCURRED; however, these issues are before the Nevada Supreme Court at this time and if, in the near future, counsel receive some guidance from them, that may open the

door later.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct

COURT MINUTES

December 01, 2020

A-19-791254-C Daisy Trust, Plaintiff(s)
vs.
Green Valley South Owners Association No. 1, Defendant(s)

December 01, 2020 9:00 AM All Pending Motions

HEARD BY: Silva, Cristina D. **COURTROOM:** RJC Courtroom 11B

COURT CLERK: Nylasia Packer

RECORDER: Gina Villani

REPORTER:

PARTIES

PRESENT: Croteau, Roger P, ESQ Attorney
Isaacson, Janeen V. Attorney
Wood, Brandon E. Attorney

JOURNAL ENTRIES

- Defendant Green Valley South Owners' Association's Renewed Motion to Dismiss, or Alternatively, Motion for Summary Judgment...Nevada Association Services, Inc.'s Joinder to Defendant Green Valley South Owners Association's Renewed Motion to Dismiss, or Alternatively, Motion for Partial Summary Judgment...

Court noted matter is considered as a motion for Summary Judgment. Ms. Isaacson indicated the Court has determined that Plaintiff's arguments are invalid and they have no basis in law or fact. Upon Court's inquiry, Mr. Wood indicated he rests on the pleadings. Mr. Croteau argued in opposition of the motion. Following further arguments by counsel, Court stated its findings and ORDERED, motion GRANTED. Ms. Isaacson to draft a finding and facts and conclusions of law order and provide to Mr. Croteau for review prior to sending to chambers for review. FURTHER ORDERED, status check SET for chambers.

12/29/20 (CHAMBERS) STATUS CHECK: SUBMITTED DRAFT

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Intentional Misconduct**COURT MINUTES****December 29, 2020**

A-19-791254-C

Daisy Trust, Plaintiff(s)

vs.

Green Valley South Owners Association No. 1, Defendant(s)

December 29, 2020**3:00 AM****Status Check**

**Status Check:
Submitted Draft of
Order**

HEARD BY: Silva, Cristina D.**COURTROOM:** Chambers**COURT CLERK:** Kory Schlitz**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- The Status Check on the submission of a proposed order came before this Court on the December 29, 2020 Chambers Calendar. To date, no proposed order has been filed. Therefore, COURT ORDERED matter CONTNUED to this Court s Oral Calendar on January 19, 2021 for an Order To Show Cause Hearing as to why counsel should not be held in contempt for failing to file the order.

CLERK S NOTE: Counsel are to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (12/29/2020 ks).



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

ROGER P. CROTEAU, ESQ.
2810 W. CHARLESTON BLVD., STE. 75
LAS VEGAS, NV 89102

DATE: March 10, 2021
CASE: A-19-791254-C

RE CASE: DAISY TRUST vs. GREEN VALLY SOUTH OWNERS ASSOCIATION NO. 1; NEVADA ASSOCIATION SERVICES, INC.

NOTICE OF APPEAL FILED: March 9, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

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

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNER'S ASSOCIATION'S MOTION TO DISMISS, OR ALTERNATIVELY MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR ALTERNATIVELY, MOTION FOR SUMMARY JUDGMENT; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ON DEFENDANT GREEN VALLEY SOUTH OWNERS ASSOCIATION'S MOTION TO DISMISS OR ALTERNATIVELY MOTION FOR SUMMARY JUDGMENT; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

DAISY TRUST,

Plaintiff(s),

vs.

GREEN VALLY SOUTH OWNERS
ASSOCIATION NO. 1; NEVADA
ASSOCIATION SERVICES, INC.,

Defendant(s),

Case No: A-19-791254-C

Dept No: XXIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 10 day of March 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk