

IN THE SUPREME COURT OF THE STATE OF NEVADA

<p>DAISY TRUST, A NEVADA TRUST</p> <p style="text-align: center;">Appellant,</p> <p>v.</p> <p>GREEN VALLEY SOUTH OWNERS ASSOCIATION NO. 1, A NEVADA NON-PROFIT CORPORATION; AND NEVADA ASSOCIATION SERVICES, A DOMESTIC CORPORATION</p> <p style="text-align: center;">Respondents.</p>	<p>SUPREME COURT NO.: 82611</p> <p style="text-align: right;">Electronically Filed Mar 31 2021 12:13 p.m. Elizabeth A. Brown Clerk of Supreme Court</p> <p>DOCKETING STATEMENT CIVIL APPEALS</p>
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GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 23

County Clark Judge Cristina Silva/Jasmin Lilly-Spells

District Ct. Case No. A-19-791254-C

2. Attorney filing this docketing statement:

Attorney Christopher L. Benner Telephone (702) 254-7775

Firm Roger P. Croteau & Associates

Address: 2810 W. Charleston Blvd, Suite 75, Las Vegas, Nevada 89102

Client(s) Daisy Trust

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney J William Ebert, Esq.; Janeen Isaacson, Esq.

Telephone (702) 382-1500

Firm Lipson Nielson, P.C.

Address: 9900 Covington Cross Dr. Suite 120, Las Vegas NV 89144

Client(s) Green Valley South Owners Association No. 1

Attorney Brandon Wood, Esq.

Telephone 702-804-8885

Firm Nevada Association Services (In House Counsel)

Address: 6625 S. Valley View Blvd, Suite 300, Las Vegas, NV 89118

Client(s) Nevada Association Services

4. Nature of disposition below (check all that apply):

- Judgment after bench trial
- Judgment after jury verdict
- Summary judgment
- Default judgment
- Grant/Denial of NRCP 60(b) relief
- Grant/Denial of injunction
- Grant/Denial of declaratory relief
- Review of agency determination

- Other disposition (specify): _____
- Dismissal
 - Lack of jurisdiction
 - Failure to state a claim
 - Failure to prosecute
- Other (specify): _____
- Divorce Decree:
 - Original Modification

5. Does this appeal rise issues concerning any of the following? No

- Child Custody
- Venue
- Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.* bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

8. Nature of the action. Briefly describe the nature of the action and the result below:

The action relates to real property that was the subject of a homeowners' association lien foreclosure sale pursuant to NRS Chapter 116. Appellant's Complaint asserts four causes of action

against the HOA and Nevada Association Services (“NAS”): (1) intentional, or alternatively negligent misrepresentation; (2) breach of duty of good faith; (3) conspiracy; and (4) violation of NRS 113, *et seq.* Pursuant to its Complaint, Appellant seeks damages resulting from the HOA’s failure to disclose the fact that a secured lender had “tendered” and satisfied the superpriority portion of the HOA’s lien that was foreclosed upon.

The district court granted summary judgment in favor of the HOA on all of Appellant’s claims for relief. Appellant appeals from the district court’s 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 (the “FFCL”) and the NAS joinder thereto.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Pursuant to NRS Chapter 116 and NRS 116.1113, does the HOA by and through its agent, the HOA Trustee, owe a duty of good faith and candor in its conducting of the NRS Chapter 116 foreclosure sale? Specifically, are the HOA and HOA Trustee required to disclosed to interested bidders that a portion of the lien being foreclosed upon has been partially satisfied prior to the sale, either with or without inquiry from the bidders? If they do have any obligation of good faith and candor in their dealings at the HOA Foreclosure Sale, does that obligation extend to NRS Chapter 116 foreclosure sale bidders and purchasers? Did the HOA and/or HOA Trustee violate NRS Chapter 113 by failing to provide a Seller’s Real Property Disclosure Form indicating a tender and/or attempted payment that materially affects the value of the property?

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

- a) SATICOY BAY, LLC SER. 6132 PEGGOTTY VS. COPPERFIELD HOA, 82349
- b) SATICOY BAY LLC SER. 10717 REFECTORY VS. BANK OF AMERICA, N.A., 82153
- c) SATICOY BAY, LLC SER. 1330 CRYSTAL HILL VS. TRIPOLY AT STEPHANIE HOA, 79778
- d) 8680 FLORISSE CT TR. VS. AVIARA HOA, 81197
- e) SATICOY BAY LLC SER. 10007 LIBERTY VIEW VS. S. TERRACE HOA, 81264
- f) SATICOY BAY LLC SER. 8252 SETTLERS INN VS. U.S. BANK, NAT’L ASS’N, 81299
- g) SATICOY BAY, LLC SER. 9720 HITCHING RAIL VS. PECCOLE RANCH CMTY. ASS’N, 81446
- h) SATICOY BAY, LLC, SER. 6212 LUMBER RIVER VS. PECOS-PARK SUNFLOWER HOA, 81679

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

- N/A
- Yes
- No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

- Reversal of well-settled Nevada precedent (identify the case(s))
- An issue arising under the United States and/or Nevada Constitutions
- A substantial issue of first impression
- An issue of public policy
- An issue where en banc consideration is necessary to maintain uniformity of this court's decisions
- A ballot question

Is so, explain

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the court of Appeals, identify the specific issue(s) or circumstances(s) that warrant retaining the case, and include an explanation of their importance or significance:

The matter does not fall into any of the categories in NRCP 17(a) or (b).

14. Trial. If this action proceeded to trial, how many days did the trial last? _____ N/A _____

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in the appeal? If so, which Justice?

No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from: February 4, 2021

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

Date written notice of entry of judgment or order was served: February 16, 2021

Was service by:

- Delivery
- Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion and the date of filing.

- NRCP 50(b) Date of filing _____
- NRCP 52(b) Date of filing _____
- NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was Service by:

- Delivery
- Mail/Electronic/Fax

19. Date notice of appeal filed: March 9, 2021

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other: NRAP 4(a)(1).

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- NRAP 3A(b)(1) NRS 38.205

NRAP 3A(b)(2) NRS 233B.150

NRAP 3A(b)(3) NRS 703.376

Other (specify) _____

(b) Explain how each authority provides a basis for appeal from the judgment or order.

Appellant is appealing from the granting of the Respondents' Motions for Dismissal.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Plaintiff/Appellant: Daisy Trust

Defendant/Respondent: Green Valley South Owners Association No 1

Defendant/Respondent: Nevada Association Services

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in the appeal, e.g. formally dismissed, not served, or other:

N/A

23. Give a brief description (3 or 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

(1) intentional, or alternatively negligent misrepresentation; (2) breach of duty of good faith; (3) conspiracy; and (4) and violation of NRS 113, *et seq.* Each of these claims were formally disposed on February 4, 2021 via FFCL.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

Yes

No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

Yes

No

26. If you answered “No” to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

N/A

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Daisy Trust
Name of appellant

Christopher L. Benner
Name of counsel of record

March 31, 2021
Date

/s/Christopher L. Benner, Esq
Signature of counsel of record

Clark County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on March 31, 2021, I served a copy of this completed docketing statement upon all counsel of record:

- By personally serving it upon him/her; or
- By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

J William Ebert, Esq.
Janeen V. Isaacson, Esq.
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NRAP 16 Settlement Judge

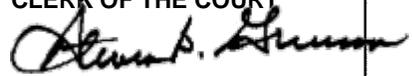
March 31, 2021,

/s/ Joe Koehle

An employee of Roger P. Croteau & Associates

EXHIBIT 1

EXHIBIT 1



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

1 **COMP**
2 ROGER P. CROTEAU, ESQ.
3 Nevada Bar No. 4958
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5 Nevada Bar No. 7878
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12 *Attorney for Plaintiff*

DISTRICT COURT
CLARK COUNTY, NEVADA

11 DAISY TRUST, a Nevada trust,
12 Plaintiff,

Case No.:
Dept. No.:

13 vs.

14 GREEN VALLEY SOUTH OWNERS
15 ASSOCIATION NO. 1 and NEVADA
16 ASSOCIATION SERVICES, INC., a domestic
17 corporation;

18 Defendants.

19 **COMPLAINT**

20 COMES NOW, Plaintiff, Daisy Trust, by and through its attorneys, ROGER P. CROTEAU
21 & ASSOCIATES, LTD., and hereby complains and alleges against Defendants as follows:

22 **PARTIES AND JURISDICTION**

- 23
- 24 1. Plaintiff, Daisy Trust (“Trust”), is a Nevada trust, authorized to do business and doing
25 business in the County of Clark, State of Nevada.
 - 26 2. Daisy Trust is the current owner of real property located at 137 Elegante Way, Henderson,
27 Nevada 89074 (APN 177-13-214-086) (the “Property”).
- 28

- 1 3. Daisy Trust acquired title to the Property by Foreclosure Deed dated September 7, 2012, by
2 and through a homeowners association lien foreclosure sale conducted on August 31, 2012
3 (“*HOA Foreclosure Sale*”), by Nevada Association Services, Inc., a Nevada corporation,
4 authorized to do business and doing business in Clark County, State of Nevada (“*HOA*
5 *Trustee*”), on behalf of Green Valley South Owners Association No. 1, a Nevada domestic
6 non-profit corporation (“*HOA*”). The HOA Foreclosure Deed was recorded in the Clark
7 County Recorder’s Office on September 7, 2012 (“*HOA Foreclosure Deed*”).
- 8 4. Upon information and belief, HOA is a Nevada common interest community association or
9 unit owners’ association as defined in NRS 116.011, is organized and existing under the laws
10 of the State of Nevada, and transacts business in the State of Nevada.
- 11 5. Upon information and belief, HOA Trustee is a debt collection agency doing business in the
12 State of Nevada, and is organized and existing under the laws of the State of Nevada.
- 13 6. Venue is proper in Clark County, Nevada pursuant to NRS 13.040.
- 14 7. The exercise of jurisdiction by this Court over the parties in this civil action is proper
15 pursuant to NRS 14.065.

16 **GENERAL ALLEGATIONS**

- 17 8. Under Nevada law, homeowner’s associations have the right to charge property owners
18 residing within the community assessments to cover the homeowner’s associations’ expenses
19 for maintaining or improving the community, among other things.
- 20 9. When the assessments are not paid, the homeowner’s association may impose a lien against
21 real property which it governs and thereafter foreclose on such lien.
- 22 10. NRS 116.3116 makes a homeowner’s association’s lien for assessments junior to a first deed
23 of trust beneficiary’s secured interest in the property, with one limited exception; a
24 homeowner’s association’s lien is senior to a deed of trust beneficiary’s secured interest “to
25 the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312
26 and to the extent of the assessments for common expenses based on the periodic budget
27
28

1 adopted by the association pursuant to NRS 116.3115 which would have become due in the
2 absence of acceleration during the 9 months immediately preceding institution of an action to
3 enforce the lien.” NRS 116.3116(2)(c).

4 11. In Nevada, when a homeowners association properly forecloses upon a lien containing a
5 super-priority lien component, such foreclosure extinguishes a first deed of trust.

6 12. On or about June 5, 2008, Dennis L. Scott, an unmarried man, (“*the Former Owner*”)
7 purchased the Property and obtained a purchase money loan secured by the Property from
8 CTX Mortgage Company, LLC, a Delaware corporation (“*Lender*”), that is evidenced by a
9 deed of trust between the Former Owner and Lender, recorded against the Property on June
10 27, 2008, for the loan amount of \$179,188.00 (“*Deed of Trust*”). The Deed of Trust provides
11 that Mortgage Electronic Registration Services (“*MERS*”) is beneficiary, as nominee for
12 Lender and Lender’s successors and assigns. The Deed of Trust was in the amount of
13 \$179,188.00, and the Deed of Trust was recorded in the Clark County Recorder’s Office on
14 June 27, 2008.

15 13. The Former Owner executed Planned Unit Development Riders along with the Deed of
16 Trust, effective as of June 23, 2008.

17 14. On September 26, 2011, MERS, on behalf of Lender, assigned its beneficial interest by
18 Assignment of Deed of Trust to Bank of America, N.A. (“*BANA*”) and recorded the
19 document in Clark County Recorder’s Office on October 5, 2011.

20 **The HOA Lien and Foreclosure**

21 15. Upon information and belief, the Former Owner of the Property failed to pay to HOA all
22 amounts due to pursuant to HOA’s governing documents.

23 16. Accordingly, on August 23, 2011, HOA Trustee, on behalf of HOA, recorded a Notice of
24 Delinquent Assessment Lien (“*HOA Lien*”). The HOA Lien stated that the amount due to the
25 HOA was \$818.70, as of August 18, 2011, plus interest, late charges, costs, fees and other
26 charges.

27 17. On November 18, 2011, HOA, through HOA Trustee, recorded a Notice of Default and
28 Election to Sell Under Homeowners Association Lien (“*NOD*”) against the Property. The

- 1 NOD stated the amount due to the HOA was \$1,819.50 as of November 16, 2011. plus
2 accruing assessments, interest, costs and attorney's fees.
- 3 18. Upon information and belief, after the NOD was recorded, on December 19, 2011, BANA,
4 through Miles, Bauer, Bergstrom & Winters ("*Miles Bauer*") contacted the HOA Trustee and
5 requested a ledger identifying the Super-Priority Lien Amount, comprising of up to 9 months
6 of delinquent assessments that were owed to the HOA as of the HOA Lien ("*Super Priority*
7 *Lien Amount*").
- 8 19. Upon information and belief, Miles Bauer requested the HOA arrears in an attempt to pay the
9 Super-Priority Lien Amount of the HOA Lien.
- 10 20. In an Affidavit of Adam Kendis of Miles Bauer, he provided that he could not locate a
11 response from the HOA and HOA Trustee to the "December 19, 2011, Miles Bauer letter to
12 the HOA, care of the HOA Trustee."
- 13 21. The Affidavit stated that Miles Bauer used a Statement of Account from Nevada Association
14 Services, Inc., for a different property in the same HOA to determine a good faith payoff.
- 15 22. On February 2, 2012, BANA, through Miles Bauer, provided a payment of \$882.00 to the
16 HOA Trustee, which included payment of up to nine months of delinquent assessments (the
17 "*Attempted Payment*").
- 18 23. HOA Trustee, on behalf of the HOA, rejected BANA's Attempted Payment of \$882.00.
- 19 24. On April 23, 2012, HOA Trustee, on behalf of the HOA, recorded a Notice of Sale against
20 the Property ("*NOS*"). The NOS provided that the total amount due the HOA was \$2,946.17
21 and set a sale date for the Property of May 18, 2012, at 10:00 A.M., to be held at Nevada
22 Legal News, 930 So. Fourth Street, Las Vegas, Nevada.
- 23 25. On August 31, 2012, HOA Trustee then proceeded to non-judicial foreclosure sale on the
24 Property and recorded the HOA Foreclosure Deed on September 7, 2012, which stated that
25 the HOA Trustee sold the HOA's interest in the Property to the Plaintiff at the Foreclosure
26 Sale for the highest bid amount of \$3,555.00.
- 27 26. The Foreclosure Sale created excess proceeds.
- 28

- 1 27. After the Notice of Default was recorded, BANA, the purported holder of the Deed of Trust
2 recorded against the Property, through its counsel, Miles Bauer, contacted HOA Trustee and
3 HOA and requested all amounts due the HOA by the Former Owner, upon information and
4 belief, Miles Bauer requested the sums due to the HOA by the Former Owner so it could
5 calculate the breakdown of up to nine (9) months of common HOA assessments in order for
6 BANA to calculate the Super Priority Lien Amount in an ostensible attempt to determine the
7 amount of the HOA Lien entitled to super-priority over the Deed of Trust.
- 8 28. In none of the recorded documents, nor in any other notice recorded with the Clark County
9 Recorder's Office, did HOA and/or HOA Trustee specify or disclose that any individual or
10 entity, including but not limited to BANA, had attempted to pay any portion of the HOA Lien
11 in advance of the HOA Foreclosure Sale.
- 12 29. Plaintiff appeared at the HOA Foreclosure Sale and presented the prevailing bid in the
13 amount of \$3,555.00, thereby purchasing the Property for said amount.
- 14 30. Neither HOA nor HOA Trustee informed or advised the bidders and potential bidders at the
15 HOA Foreclosure Sale, either orally or in writing, that any individual or entity had attempted
16 to pay the Super-Priority Lien Amount.
- 17 31. Upon information and belief, the debt owed to Lender by the Former Owner of the Property
18 pursuant to the loan secured by the Deed of Trust significantly exceeded the fair market value
19 of the Property at the time of the HOA Foreclosure Sale.
- 20 32. Upon information and belief, Lender alleges that its Attempted Payment of the Super-Priority
21 Lien Amount served to satisfy and discharge the Super-Priority Lien Amount, thereby
22 changing the priority of the HOA Lien vis a vis the Deed of Trust.
- 23 33. Upon information and belief, Lender alleges that as a result of its Attempted Payment of the
24 Super-Priority Lien Amount, the purchaser of the Property at the HOA Foreclosure Sale
25 acquired title to the Property subject to the Deed of Trust.
- 26 34. Upon information and belief, if the bidders and potential bidders at the HOA Foreclosure
27 Sale were aware that an individual or entity had attempted to pay the Super-Priority Lien
28 Amount and/or by means of the Attempted Payment prior to the HOA Foreclosure Sale and

- 1 that the Property was therefore ostensibly being sold subject to the Deed of Trust, the bidders
2 and potential bidders would not have bid on the Property.
- 3 35. Had the Property not been sold at the HOA Foreclosure Sale, HOA and HOA Trustee would
4 not have received payment, interest, fees, collection costs and assessments related to the
5 Property would have remained unpaid.
- 6 36. HOA Trustee acted as an agent of HOA.
- 7 37. HOA is responsible for the actions and inactions of HOA Trustee pursuant to the doctrine of
8 respondeat superior.
- 9 38. HOA and HOA Trustee conspired together to hide material information related to the
10 Property: the HOA Lien; the Attempted Payment of the Super-Priority Lien Amount; the
11 rejection of such payment or Attempted Payment; and the priority of the HOA Lien vis a vis
12 the Deed of Trust, from the bidders and potential bidders at the HOA Foreclosure Sale.
- 13 39. The information related to any Attempted Payment or payments made by Lender, BANA, the
14 homeowner or others to the Super Priority Lien Amount was not recorded and would only be
15 known by BANA, Lender, the HOA and HOA Trustees.
- 16 40. Upon information and belief, HOA and HOA Trustee conspired to withhold and hide the
17 aforementioned information for their own economic gain and to the detriment of the bidders
18 and potential bidders at the HOA Foreclosure Sale.
- 19 41. BANA first disclosed the Attempted Payment by BANA/Lender to the HOA Trustee in
20 BANA's Complaint, filed on February 29, 2016, but not served on the Plaintiff until March
21 16, 2016 ("*Discovery*") in the United States District Court Case No. 2:16-CV-00424 (the
22 "*Case*").

23 **FIRST CAUSE OF ACTION**

24 **(Intentional, or Alternatively Negligent, Misrepresentation**

25 **Against the HOA and HOA Trustee)**

- 26 42. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 41
27 hereof as if set forth fully herein.
- 28

- 1 43. At no point in time did HOA or HOA Trustee disclose to the bidders and potential bidders at
2 the HOA Foreclosure Sale the fact that any individual or entity had attempted to pay the
3 Super-Priority Lien Amount or provided the Attempted Payment.
- 4 44. By rejecting the Attempted Payment of the Super-Priority Lien Amount from Lender and/or
5 Miles Bauer, HOA Trustee provided itself with the opportunity to perform and profit from
6 many additional services on behalf of HOA related to the Property and proceedings related to
7 the HOA Foreclosure Sale.
- 8 45. By rejecting the Attempted Payment of the Super-Priority Lien Amount from Lender and/or
9 Miles Bauer, HOA received funds in satisfaction of the entire HOA Lien, rather than only the
10 Super-Priority Lien Amount.
- 11 46. Consequently, HOA and HOA Trustee received substantial benefit as a result of their
12 rejection of the Attempted Payment of the Super-Priority Lien Amount from Lender and
13 intentionally failing to disclose that information to the Plaintiff or the other bidders.
- 14 47. Neither HOA nor HOA Trustee recorded any notice nor provided any written or oral
15 disclosure to the bidders and potential bidders at the HOA Foreclosure Sale regarding any
16 Attempted Payment of the Super-Priority Lien Amount by Lender or any individual or entity.
- 17 48. HOA and HOA Trustee desired that the bidders and potential bidders at the HOA Foreclosure
18 Sale believe that the HOA Lien included amounts entitled to super-priority over the Deed of
19 Trust and that the Deed of Trust would thus be extinguished as a result of the HOA
20 Foreclosure Sale for their own economic gain.
- 21 49. As a result of their desire that the bidders and potential bidders at the HOA Foreclosure Sale
22 believe that the HOA Lien included amounts entitled to super-priority over the Deed of Trust
23 and that the Deed of Trust would thus be extinguished as a result of the HOA Foreclosure
24 Sale, HOA and HOA Trustee intentionally failed to disclose material information related to
25 the Attempted Payment of the Super-Priority Lien Amount by Lender and did so for their
26 own economic gain.
- 27 50. Alternatively, HOA and HOA Trustee were grossly negligent by failing to disclose material
28 information related to the Attempted Payment of the Super-Priority Lien Amount.

- 1 51. Upon information and belief, if HOA Trustee and/or HOA had disclosed the Attempted
2 Payment of the Super-Priority Lien Amount to the bidders and potential bidders at the HOA
3 Foreclosure Sale, such bidders and potential bidders would not have bid upon the Property at
4 the HOA Foreclosure Sale.
- 5 52. Given the facts of this case now known to Plaintiff, Plaintiff would not have bid on the
6 Property.
- 7 53. Upon information and belief, if the Property had not been sold at the HOA Foreclosure Sale,
8 HOA would not have received funds in satisfaction of the HOA Lien.
- 9 54. Upon information and belief, if the Property had not been sold at the HOA Foreclosure Sale,
10 HOA Trustee would not have received payment for the work that it performed on behalf of
11 HOA in association with the HOA Foreclosure Sale and related proceedings.
- 12 55. Plaintiff attended the sale as a ready, willing and able buyer without knowledge of the
13 Attempted Payment.
- 14 56. Plaintiff would not have purchased the Property if it had been informed that any individual or
15 entity had paid or attempted to pay the Super-Priority Lien Amount in advance of the HOA
16 Foreclosure Sale.
- 17 57. As a direct result of HOA and HOA Trustee's rejection of the Attempted Payment of the
18 Super-Priority Lien Amount and their subsequent intentional or grossly negligent failure to
19 advise the bidders and potential bidders at the HOA Foreclosure Sale of the facts related
20 thereto, Plaintiff presented the prevailing bid at the HOA Foreclosure Sale and thereby
21 purchased the Property.
- 22 58. HOA and HOA Trustee each profited from their intentional and/or negligent
23 misrepresentations and material omissions at the time of the HOA Foreclosure Sale by failing
24 and refusing to disclose the Attempted Payment of the Super-Priority Lien Amount.
- 25 59. HOA and HOA Trustee materially misrepresented the facts by hiding and failing to advise
26 bidders and potential bidders at the HOA Foreclosure Sale of information known solely to the
27 HOA and/or HOA Trustee that was not publicly available which ostensibly changed the
28 priority of Deed of Trust vis a vis the HOA Lien.

- 1 60. HOA and HOA Trustee solely possessed information related to the Attempted Payment of the
2 Super-Priority Lien Amount prior to and at the time of the HOA Foreclosure Sale, and
3 intentionally withheld such information for their own economic gain.
- 4 61. Alternatively, HOA and HOA Trustee were gross negligently when it withheld information
5 related to the Attempted Payment of the Super-Priority Lien Amount.
- 6 62. Plaintiff reasonably relied upon HOA and HOA Trustee's intentional or grossly negligent
7 failure to disclose the Attempted Payment of the Super-Priority Lien Amount.
- 8 63. HOA and HOA Trustee intended that bidders and potential bidders at the HOA Foreclosure
9 Sale would rely on the lack of notice of the Attempted Payment of the Super-Priority Lien
10 Amount at the time of the HOA Sale and that their failure to disclose such information
11 promoted the sale of the Property.
- 12 64. HOA and HOA Trustee further intended that their failure of refusal to inform bidders and
13 potential bidders at the HOA Foreclosure Sale of the Attempted Payment of the Super-
14 Priority Lien Amount would lead such bidders and potential bidders to believe that the Deed
15 of Trust was subordinate to the HOA Lien and not being sold subject to the Deed of Trust.
- 16 65. The HOA and the HOA Trustee had a duty to disclose the Attempted Payment of the Super-
17 Priority Lien Amount.
- 18 66. The HOA and the HOA Trustee breached that duty to disclose the Attempted Payment to
19 Plaintiff.
- 20 67. As a result of the HOA and HOA Trustee's breach of its duty of care, duty of good faith and
21 its duty of candor to bidders at the HOA Foreclosure Sale for its own economic gain, Plaintiff
22 has been economically damaged in many aspects.
- 23 68. If the Property is subject to the Deed of Trust, the funds paid by Plaintiff to purchase,
24 maintain, operate, litigate various cases and generally manage the Property would be lost
25 along with the lost opportunity of purchasing other available property offered for sale where a
26 super priority payment had not been attempted, thereby allowing Plaintiff the opportunity to
27 purchase a property free and clear of the deed of trust and all other liens.
- 28

1 69. As a direct and proximate result of the actions of the Defendants, it has become necessary for
2 Plaintiff to retain the services of an attorney to protect its rights and prosecute this Claim.

3 70. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
4 Procedure as further facts become known.

5 **SECOND CAUSE OF ACTION**

6 **(Breach of the Duty of Good Faith Against the HOA and HOA Trustee)**

7 71. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 70
8 as if set forth fully herein.

9 72. NRS 116.1113 provides that every contract or duty governed by NRS 116, et seq., Nevada's
10 version of the Common-Interest Ownership Uniform Act, must be performed in good faith in
11 its performance or enforcement.

12 73. A duty of good faith includes within that term a duty of candor in its dealings.

13 74. Prior to the HOA Foreclosure Sale of the Property, Lender purports to have obtained
14 evidence detailing the Super-Priority Lien Amount.

15 75. Thereafter, Lender, by and through Miles Bauer attempted to pay the Super-Priority Lien
16 Amount to HOA or HOA Trustee by the Attempted Payment.

17 76. Upon information and belief, HOA Trustee, acting on behalf of HOA, rejected the Attempted
18 Payment.

19 77. HOA and HOA Trustee's rejection of the Attempted Payment and subsequent failure and
20 refusal to inform the bidders and potential bidders at the HOA Foreclosure Sale served to
21 breach their duty of good faith, fair dealings and candor pursuant to NRS 116, et seq. to
22 Plaintiff.

23 78. HOA and the HOA Trustee owed a duty of good faith, fair dealings, and candor to Plaintiff.

24 79. By virtue of its actions and inactions, HOA and HOA Trustee substantially benefitted to the
25 detriment of the Plaintiff.

26 80. As a direct and proximate result of the actions of the Defendants, it has become necessary for
27 Plaintiff to retain the services of an attorney to protect its rights and prosecute this Claim.
28

1 81. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
2 Procedure as further facts become known.

3 **THIRD CAUSE OF ACTION**

4 **(Conspiracy)**

5 82. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through
6 81 as if set forth fully herein.

7 83. HOA and HOA Trustee knew or should have known of BANA's Attempted Payment of the
8 Super-Priority Lien Amount.

9 84. Upon information and belief, acting together, Defendants reached an implicit or express
10 agreement amongst themselves whereby they agreed to withhold the information concerning
11 the Attempted Payment of the Super-Priority Lien Amount from bidders and potential bidders
12 at the HOA Foreclosure Sale.

13 85. Defendants knew or should have known that their actions and omissions would injure the
14 successful bidder and purchaser of the Property and benefit HOA and HOA Trustee. To
15 further their conspiracy, upon information and belief, Defendants rejected the Attempted
16 Payment for the purpose of obtaining more remuneration than they would have otherwise
17 obtained at a sale of the subpriority portion of the HOA Lien.

18 86. As a direct and proximate result of the actions of the Defendants, it has become necessary for
19 Plaintiff to retain the services of an attorney to protect its rights and prosecute this Claim.

20 87. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil
21 Procedure as further facts become known.

22 **FOURTH CAUSE OF ACTION**

23 **(Violation of NRS 113, et seq.)**

24 89. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 87
25 as if set forth fully herein.

26 90. Pursuant to NRS 113, et seq., the HOA and the HOA Trustee must disclose the Attempted
27 Payment and/or any payments made or attempted to be made by BANA, the Former Owner,
28 or any agents of any other party to the bidders and Plaintiff at the HOA Foreclosure Sale.

1 91. The HOA and HOA Trustee are required to and must provide a Seller's Real Property
2 Disclosure Form ("SRPDF") to the "Purchaser" as defined in NRS 116, et seq., at the time of
3 the HOA Foreclosure Sale.

4 92. NRS 116 et seq. foreclosure sales are not exempt from the mandates of NRS 113 et seq.

5 93. The HOA and HOA Trustee must complete and answer the questions posed in the SRPDF in
6 its entirety, but specifically, Section 9, Common Interest Communities, disclosures (a) - (f),
7 and Section 11, that provide as follows:

8 9. Common Interest Communities: Any "common areas" (facilities
9 like pools, tennis courts, walkways or other areas co-owned with
10 others) or a homeowner association which has any authority over the
11 property?

- 12 (a) Common Interest Community Declaration and Bylaws
13 available?
- 14 (b) Any periodic or recurring association fees?
- 15 (c) Any unpaid assessments, fines or liens, and any warnings or
16 notices that may give rise to an assessment, fine or lien?
- 17 (d) Any litigation, arbitration, or mediation related to property or
18 or common areas?
- 19 (e) Any assessments associated with the property (excluding
20 property tax)?
- 21 (f) Any construction, modification, alterations, or repairs made
22 without required approval from the appropriate Common
23 Interest Community board or committee?

24 11. Any other conditions or aspects of the [P]roperty which materially affect
25 its value or use in an adverse manner? (Emphasis added)

26 See SRPDF, Form 547, attached hereto as Exhibit 1.

27 94. Section 11 of the SRPDF relates directly to information known to the HOA and the HOA
28 Trustee that materially affects the value of the Property, and in this case, if the Super Priority
Lien Amount is paid, or if the Attempted Payment is rejected, it would have a material
adverse affect on the overall value of the Property, and therefore, must be disclosed in the
SRPDF by the HOA and the HOA Trustee when the SRPDF is completed and disclosed to
the purchaser/the Trust.

95. The HOA Responses to Section 9(c) - (e) of the SRPDF would provide notice to the Plaintiff
of any payments made by BANA or others on the HOA Lien.

1 96. The HOA Responses to Section 11 of the SRPDF generally deal with the disclosure of the
2 condition of the title to the Property related to the status of the Deed of Trust and Attempted
3 Payment that would only be known by the HOA and the HOA Trustee.

4 97. Pursuant to Nevada Real Estate Division's ("NRED"), Residential Disclosure Guide (the
5 "Guide"), the Guide provides at page 20 that the HOA and HOA Trustee shall provide even
6 in an NRS 107, et seq. sale, the following to the purchaser/the Trust at the HOA Foreclosure
7 Sale:

8 The content of the disclosure is based on what the seller is aware of at
9 the time. If, after completion of the disclosure form, the seller
10 discovers a new defect or notices that a previously disclosed condition
11 has worsened, the seller must inform the purchaser, in writing, as soon
12 as practicable after discovery of the condition, or before conveyance of
13 the property.

14 The buyer may not waive, and the seller may not require a buyer to
15 waive, any of the requirements of the disclosure as a condition of sale
16 or for any other purpose.

17 In a sale or intended sale by foreclosure, the trustee and the beneficiary
18 of the deed of trust shall provide, not later than the conveyance of the
19 property to, or upon request from, the buyer:

- written notice of any defects of which the trustee or beneficiary is aware

...

20 98. If the HOA and/or HOA Trustee fails to provide the SRPDF to the Plaintiff/purchaser at the
21 time of the HOA Foreclosure Sale, the Guide explains that:

22 A Buyer may rescind the contract without penalty if he does not
23 receive a fully and properly completed Seller's Real Property
24 Disclosure form. If a Buyer closes a transaction without a completed
25 form or if a known defect is not disclosed to a Buyer, the Buyer may
26 be entitled to treble damages, unless the Buyer waives his rights under
27 NRS 113.150(6).

28 99. Pursuant to NRS 113.130(4), the HOA and HOA Trustee are required to provide the
information set forth in the SRPDF to Plaintiff at the HOA Foreclosure Sale.

100. The HOA and the HOA Trustee did not provide an SRPDF to the Plaintiff at the HOA
Foreclosure Sale.

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- 101. As a result of the HOA and HOA Trustee’s failure to provide Plaintiff with the mandated SRPDF and disclosures required therein that were known to the HOA and HOA Trustee, Plaintiff has been economically damaged.
- 102. As a direct and proximate result of the actions of the Defendants, it has become necessary for Plaintiff to retain the services of an attorney to protect its rights and prosecute this Claim.
- 103. Plaintiff reserves the right to amend this Complaint under the Nevada Rules of Civil Procedure as further facts become known.

WHEREFORE, Plaintiff prays for relief as follows:

- 1. For damages to be proven at trial in excess of \$15,000;
- 2. For punitive damages in an amount to be determined at trial;
- 3. For an award of reasonable attorneys’ fees as special damages, and otherwise under Nevada law;
- 4. For pre-judgment and post-judgment interest at the statutory rate of interest; and
- 5. For such other and further relief that the Court deems just and proper.

DATED this _____ day of March, 2019.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Roger P. Croteau

ROGER P. CROTEAU, ESQ.
Nevada Bar No. 4958
2810 W. Charleston, Ste. 75
Las Vegas, Nevada 89102
(702) 254-7775
Attorney for Plaintiff

EXHIBIT 1

SELLER'S REAL PROPERTY DISCLOSURE FORM

In accordance with Nevada Law, a seller of residential real property in Nevada must disclose any and all known conditions and aspects of the property which materially affect the value or use of residential property in an adverse manner (see NRS 113.130 and 113.140).

Date _____

Do you currently occupy or have you ever occupied this property? YES NO

Property address _____

Effective October 1, 2011: A purchaser may not waive the requirement to provide this form and a seller may not require a purchaser to waive this form. (NRS 113.130(3))

Type of Seller: Bank (financial institution); Asset Management Company; Owner-occupier; Other: _____

Purpose of Statement: (1) This statement is a disclosure of the condition of the property in compliance with the Seller Real Property Disclosure Act, effective January 1, 1996. (2) This statement is a disclosure of the condition and information concerning the property known by the Seller which materially affects the value of the property. Unless otherwise advised, the Seller does not possess any expertise in construction, architecture, engineering or any other specific area related to the construction or condition of the improvements on the property or the land. Also, unless otherwise advised, the Seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. This statement is not a warranty of any kind by the Seller or by any Agent representing the Seller in this transaction and is not a substitute for any inspections or warranties the Buyer may wish to obtain. Systems and appliances addressed on this form by the seller are not part of the contractual agreement as to the inclusion of any system or appliance as part of the binding agreement.

Instructions to the Seller: (1) ANSWER ALL QUESTIONS. (2) REPORT KNOWN CONDITIONS AFFECTING THE PROPERTY. (3) ATTACH ADDITIONAL PAGES WITH YOUR SIGNATURE IF ADDITIONAL SPACE IS REQUIRED. (4) COMPLETE THIS FORM YOURSELF. (5) IF SOME ITEMS DO NOT APPLY TO YOUR PROPERTY, CHECK N/A (NOT APPLICABLE). EFFECTIVE JANUARY 1, 1996, FAILURE TO PROVIDE A PURCHASER WITH A SIGNED DISCLOSURE STATEMENT WILL ENABLE THE PURCHASER TO TERMINATE AN OTHERWISE BINDING PURCHASE AGREEMENT AND SEEK OTHER REMEDIES AS PROVIDED BY THE LAW (see NRS 113.150).

Systems / Appliances: Are you aware of any problems and/or defects with any of the following:

	<u>YES</u>	<u>NO</u>	<u>N/A</u>		<u>YES</u>	<u>NO</u>	<u>N/A</u>
Electrical System	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shower(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plumbing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sink(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer System & line	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sauna / hot tub(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Septic tank & leach field	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Built-in microwave	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Well & pump	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Range / oven / hood-fan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Yard sprinkler system(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Dishwasher	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fountain(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Garbage disposal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heating system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trash compactor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cooling system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Central vacuum	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Solar heating system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Alarm system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fireplace & chimney	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	owned.. <input type="checkbox"/> leased.. <input type="checkbox"/>			
Wood burning system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Smoke detector	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Garage door opener	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Intercom	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water treatment system(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Data Communication line(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
owned.. <input type="checkbox"/> leased.. <input type="checkbox"/>				Satellite dish(es)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water heater	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	owned.. <input type="checkbox"/> leased.. <input type="checkbox"/>			
Toilet(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bathtub(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

EXPLANATIONS: Any "Yes" must be fully explained on page 3 of this form.

Seller(s) Initials

Buyer(s) Initials

Property conditions, improvements and additional information: YES NO N/A

Are you aware of any of the following?:

1. Structure:

- (a) Previous or current moisture conditions and/or water damage?
- (b) Any structural defect?
- (c) Any construction, modification, alterations, or repairs made without required state, city or county building permits?
- (d) Whether the property is or has been the subject of a claim governed by NRS 40.600 to 40.695 (construction defect claims)?

(If seller answers yes, FURTHER DISCLOSURE IS REQUIRED)

2. Land / Foundation:

- (a) Any of the improvements being located on unstable or expansive soil?
- (b) Any foundation sliding, settling, movement, upheaval, or earth stability problems that have occurred on the property?
- (c) Any drainage, flooding, water seepage, or high water table?
- (d) The property being located in a designated flood plain?
- (e) Whether the property is located next to or near any known future development?
- (f) Any encroachments, easements, zoning violations or nonconforming uses?
- (g) Is the property adjacent to "open range" land?

(If seller answers yes, FURTHER DISCLOSURE IS REQUIRED under NRS 113.065)

3. Roof: Any problems with the roof?

4. Pool/spa: Any problems with structure, wall, liner, or equipment.....

5. Infestation: Any history of infestation (termites, carpenter ants, etc.)?

6. Environmental:

- (a) Any substances, materials, or products which may be an environmental hazard such as but not limited to, asbestos, radon gas, urea formaldehyde, fuel or chemical storage tanks, contaminated water or soil on the property?
- (b) Has property been the site of a crime involving the previous manufacture of Methamphetamine where the substances have not been removed from or remediated on the Property by a certified entity or has not been deemed safe for habitation by the Board of Health?

7. Fungi / Mold: Any previous or current fungus or mold?

8. Any features of the property shared in common with adjoining landowners such as walls, fences, road, driveways or other features whose use or responsibility for maintenance may have an effect on the property?

9. Common Interest Communities: Any "common areas" (facilities like pools, tennis courts, walkways or other areas co-owned with others) or a homeowner association which has any authority over the property?

(a) Common Interest Community Declaration and Bylaws available?

(b) Any periodic or recurring association fees?

(c) Any unpaid assessments, fines or liens, and any warnings or notices that may give rise to an assessment, fine or lien?

(d) Any litigation, arbitration, or mediation related to property or common area?

(e) Any assessments associated with the property (excluding property taxes)?

(f) Any construction, modification, alterations, or repairs made without required approval from the appropriate Common Interest Community board or committee?

10. Any problems with water quality or water supply?

11. Any other conditions or aspects of the property which materially affect its value or use in an adverse manner?

12. Lead-Based Paint: Was the property constructed on or before 12/31/77?

(If yes, additional Federal EPA notification and disclosure documents are required)

13. Water source: Municipal Community Well Domestic Well Other

If Community Well: State Engineer Well Permit # _____ Revocable Permanent Cancelled

Use of community and domestic wells may be subject to change. Contact the Nevada Division of Water Resources for more information regarding the future use of this well.

14. Conservation Easements such as the SNWA's Water Smart Landscape Program: Is the property a participant?.....

15. Solar panels: Are any installed on the property?

If yes, are the solar panels: Owned Leased or Financed

16. Wastewater disposal: Municipal Sewer Septic System Other

17. This property is subject to a Private Transfer Fee Obligation?

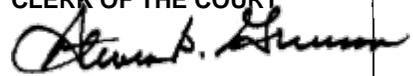
EXPLANATIONS: Any "Yes" must be fully explained on page 3 of this form.

Seller(s) Initials

Buyer(s) Initials

EXHIBIT 2

EXHIBIT 2



1 LIPSON NEILSON P.C.
2 J. WILLIAM EBERT, ESQ.
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11 iisaacson@lipsonneilson.com

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

14
15 DISTRICT COURT
16 CLARK COUNTY, NEVADA
17

18 DAISEY TRUST, a Nevada trust
19 Plaintiff,
20

21 vs.

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

27 Defendants.
28

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**

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

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

Lipson Neilson P.C.

9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 FAX: (702) 382-1512

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.

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)).
8

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).
13

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

18 11. The Court FINDS because the motion involves evidence outside of the
19 complaint, the motion must be treated as a motion for summary judgment.
20

Intentional/Negligent Misrepresentation

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

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

The information contained in this email message is intended for the personal and confidential use of the intended recipient(s) only. This message may be an attorney/client communication and therefore privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that any review, use, dissemination, forwarding, or copying of this message is strictly prohibited. If you have received this message in error, please notify us immediately by reply email or telephone and delete the original message and any attachments from your system. Please note that nothing in the accompanying communication is intended to qualify as an "electronic signature."

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

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EXHIBIT 3

EXHIBIT 3

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

DATED this 16th day of February 2021.

LIPSON NEILSON P.C.

/s/ Janeen Isaacson

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

*Attorneys for Defendant,
Green Valley South Owners Association*

Lipson Neilson P.C.
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 FAX: (702) 382-1512

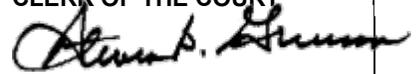
CERTIFICATE OF SERVICE

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 <i>Attorney for Nevada Association Services, Inc.</i>	Roger P. Croteau, Esq. Timothy E. Rhoda, Esq. ROGER P. CROTEAU & ASSOCIATES, LTD. 2810 W. Charleston Blvd., Suite 75 Las Vegas, NV 89148 <i>Attorneys for Plaintiff Daisy Trust</i>
---	---

/s/ Renee M. Rittenhouse

An Employee of LIPSON NEILSON P.C.



1 LIPSON NEILSON P.C.
2 J. WILLIAM EBERT, ESQ.
3 Nevada Bar No. 2697
4 JANEEN V. ISAACSON, ESQ.
5 Nevada Bar No. 6429
6 9900 Covington Cross Drive, Suite 120
7 Las Vegas, Nevada 89144
8 (702) 382-1500 - Telephone
9 (702) 382-1512 - Facsimile
10 bebert@lipsonneilson.com
11 iisaacson@lipsonneilson.com
12
13 *Attorneys for Defendant,*
14 *Green Valley South Owner's Association*

15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 DAISEY TRUST, a Nevada trust
18 Plaintiff,

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

19 vs.

20 GREEN VALLEY SOUTH OWNERS
21 ASSOCIATION NO. 1, a Nevada non-
22 profit corporation; and NEVADA
23 ASSOCIATION SERVICES, INC., a
24 domestic corporation;
25 Defendants.

**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**

Lipson Neilson P.C.

9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
(702) 382-1500 FAX: (702) 382-1512

26 On October 25, 2020, Defendant Green Valley South Association ("Green Valley"
27 or the "HOA") filed its Motion to Dismiss, Or Alternatively Motion for Summary Judgment
28 ("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.

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)).
8

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).
13

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

18 11. The Court FINDS because the motion involves evidence outside of the
19 complaint, the motion must be treated as a motion for summary judgment.
20

Intentional/Negligent Misrepresentation

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

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



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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
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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

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