

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
THELMA AILENE SARGE AND THE
ESTATE OF EDWIN JOHN SARGE

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ESTATE OF THELMA AILENE
SARGE; ESTATE OF EDWIN JOHN
SARGE; AND JILL SARGE

Appellants,

vs.

ZACHARY PEDERSON; MICHELLE
PEDERSON; AND ROSEHILL, LLC

Respondents.

**RESPONDENTS' ANSWERING BRIEF IN APPEAL FROM
ORDER GRANTING SUMMARY JUDGMENT IN THE FIRST
JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR CARSON CITY: CASE NO. 16 RP 0009 1B**

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NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

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Michelle Pederson

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Dated this 8th day of October, 2021.

By: /s/ Patrick R. Millsap .

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

The Honorable James T. Russell, presiding over Department 1 of the First Judicial District Court of the State of Nevada, In and For the City of Carson, correctly granted summary judgment in favor of Zachary and Michelle Pederson by concluding the Pedersons are bona fide purchasers of the real property commonly known as 1636 Sonoma Street, Carson City, Nevada (the "Property"), which entitled the Pedersons to clear title and ownership of the Property. ER 16-23. The District Court correctly concluded the Pedersons are bona fide purchasers of the Property in accordance with NRS 14.017, because the Pedersons acquired title to the Property after the District Court expunged the Sarges'¹ Notice of Pendency of Action filed against the Property (the "Lis Pendens"). ER 16-23. Consequently, the Pedersons respectfully request the Court affirm the District Court's Order granting summary judgment in favor of the Pedersons and denying summary judgment in favor of the Sarges, thereby entitling the Pedersons to possession, ownership and clear title to the Property.

¹ The Estate of Thelma Ailene Sarge, The Estate of Edwin John Sarge, and Jill Sarge are collectively referred to herein as the "Sarges."

STATEMENT OF THE CASE

This an appeal of the District Court's Order granting summary judgment in favor of the Pedersons, and denying the Sarges' counter-motion for summary judgment. ER 565-566. Specifically, the Pedersons moved for summary judgment on November 13, 2020. ER 24-29. The Pedersons' Motion for Summary Judgment requested the Court conclude the Pedersons are bona fide purchasers of the Property. ER 24-29. As bona fide purchasers of the Property, the Pedersons moved the Court for an order entitling them to ownership of the Property with clear title, thereby eliminating the Sarges' claims against the Pedersons and Rosehill, LLC. ER 24-29.

Conversely, the Sarges counter-moved for summary judgment requesting the Court hold the Pedersons were not bona fide purchasers of the Property, in addition to the Sarges opposing the Pedersons' Motion for Summary Judgment. ER 69-79; 286-296. The Court considered the Parties' briefing and granted summary judgment in favor of the Pedersons and against the Sarges. ER 24-29. The Court held the Pedersons are bona fide purchasers of the Property who hold title free and clear of any claims made by the Sarges against the Property. ER 24-

29. Therefore, the Sarges claims against the Pedersons and Rosehill, LLC were dismissed by the Court via summary judgment. ER 24-29. The Sarges then appealed the District Court's Summary Judgment Order, giving rise to this Appellate proceeding before the Court.

STATEMENT OF RELEVANT FACTS

In 2006, Champion Mortgage Company ("CMC") recorded a Deed of Trust securing a loan the Sarges took out on the Property. ER 32-42. Thelma and Edwin Sarge, and/or their Estates, defaulted on the loan obligation to CMC. ER 44-51. Consequently, Quality Loan Services Corporation ("QLS"), CMC's trustee named in the Deed of Trust securing the loan to the Sarges, initiated foreclosure proceedings to sell the Property in satisfaction of the loan. *Id.* Specifically, QLS recorded a Notice of Default and Election to Sell the Property on September 2, 2015. *Id.* Thereafter, QLS recorded a Notice of Sale for the Property on August 29, 2016 (ER 53-55), and Rosehill, LLC purchased the Property at the October 6, 2016 foreclosure sale. ER 58-59.

Following Rosehill, LLC's purchase of the Property at the foreclosure sale, the Sarges filed a Complaint in the District Court on

October 31, 2016 to set aside the foreclosure. ER 534-537. The Sarges also recorded a Notice of Pendency of Action (the “Lis Pendens”) against the Property to encumber it from further sales or transferability. ER 541-543.

Rosehill, LLC moved to expunge the Lis Pendens. ER 508-512. Rosehill, LLC also moved to dismiss the Sarges' Complaint. ER 160-167. The District Court expunged and cancelled the Lis Pendens recorded against the Property. ER 541-543. The Order cancelling the Lis Pendens was then recorded on December 7, 2016, where the Sarges recorded their Lis Pendens in accordance with NRS 14.017(1). ER 18; ER 61-64.

After Rosehill, LLC recorded the Order Cancelling the Lis Pendens on December 7, 2016, Rosehill, LLC conveyed the Property to the Pedersons on December 13, 2016 by Grant, Bargain and Sale Deed. ER 66-68. The Deed was recorded on December 15, 2016. ER 66-68. The Pedersons were not parties to the District Court Litigation at the time they received and recorded title to the Property. ER 20; 534-537. Consequently, the Pedersons took title to the Property unencumbered by any lis pendens because the District Court expunged the Sarges' Lis Pendens *prior to* Rosehill, LLC conveying the Property to the Pedersons.

ER 61-68. In addition, Rosehill, LLC recorded the Order expunging the Lis Pendens prior to conveying the Property to the Pedersons. ER 61-68. And finally, when the Pedersons took title to the Property on December 13, 2016, there was no motion to for reconsideration or writ of mandamus filed against the Order expunging the Lis Pendens. ER 18. Ultimately, the Sarges only appealed the Order dismissing the Complaint, not the Order cancelling the Lis Pendens. *See* Notice of Appeal filed in Nevada Supreme Court Case No. 73286 on June 20, 2017, on file with this Court. To summarize, the Pedersons took title to the Property on December 13, 2016, after recordation of the Order cancelling the Lis Pendens and without any challenge to the Order cancelling the Lis Pendens on file before the District Court or any appellate court.

For ease of reference, the chronology of relevant events is presented in table form below:

<u>EVENT</u>	<u>DATE</u>
The Bank records a Deed of Trust against the Property (ER 32-42)	4-26-2006
The Bank records a notice of default and election to sell the Property under the Deed of Trust (ER 44-51)	9-2-2015
The Bank records notice of the Trustee's sale (ER 53-55)	8-29-2016

The Bank issues a deed to Rosehill, LLC who purchased the Property out of foreclosure (ER 57-59)	10-21-2016
The Sarges file their Complaint (ER 533-538)	10-31-2016
The Sarges record their Lis Pendens against the Property (ER 61-64)	10-31-2016
The District Court issues an order expunging the Lis Pendens (ER 61-64)	12-6-2016
The Order expunging the Lis Pendens is recorded (ER 61-64)	12-7-2016
Rosehill, LLC conveys title to the Pedersons (ER 66-68)	12-13-2016
The Sarges' file their Notice of Appeal of the Order Dismissing the Complaint	6-15-2017

In light of the above chronology of events, the Pedersons moved the District Court for summary judgment to hold they are bona fide purchasers of the Property entitled to clear title. ER 16. The Sarges opposed the Pedersons Motion for Summary Judgment and argued the District Court should not deem the Pedersons bona fide purchasers. ER 16. The Sarges also filed their own counter-motion for summary judgment requesting the District Court conclude the Pedersons are not bona fide purchasers of the Property. ER 16. The District Court

considered the briefings and arguments, then issued an order granting the Pedersons' summary judgment against the Sarges. ER 16-23.

Specifically, the District Court concluded the Sarges had actual notice of the foreclosure sale because they opted to participate in a loss mitigation program offered by the lender. ER 18-20. In other words, the foreclosure sale did not proceed absent actual notice to the Sarges. ER 18-20. The District Court further concluded the Sarges failed to exercise the remedy of enjoining the foreclosure sale, and allowed the sale to proceed. ER 20. As such, the foreclosure sale of the Property proceeded when the Sarges had actual notice of the sale and failed to enjoin the sale as allowed by law. ER 20.

Thereafter, Rosehill, LLC purchased the property out of foreclosure, and then conveyed the Property to the Pedersons when the Pedersons were not Parties to the District Court Action and after the District Court cancelled the Lis Pendens. ER 17-18. As such, the District Court concluded the Pedersons are bona fide purchasers of the Property pursuant to NRS 14.017, who hold title free and clear of any encumbrances filed by the Sarges. ER 22. The District Court further concluded the Sarges may pursue remedies against the lender, but not

Rosehill, LLC and the Pedersons who were dismissed from this case as defendants via summary judgment. ER 22. This appeal ensued.

SUMMARY OF THE ARGUMENT

The Sarges' argument requires the Court to disregard the plain language of NRS 14.017 and render that statute moot in its intended application to the expungement of lis pendens. Contrary to the Sarges' argument, a fundamental statutory maxim requires the Court to apply the most specific statute to an issue as opposed to applying a general or generic statute to the exclusion of a more specific statute. Here, the issue before the Court is whether the Pedersons can rely on NRS 14.017 to deem them bona fide purchasers of the Property after they took title to the Property following cancellation of the Sarges' Lis Pendens. The most specific statute to determine whether the Pedersons are bona fide purchasers of the Property following expungement of the Sarges' Lis Pendens is NRS 14.017, which statutorily dictates the effect of expunging the Lis Pendens.

After the District Court properly concluded NRS 14.017 applies to whether the Pedersons are bona fide purchasers of the Property, the

District Court then correctly held the Pedersons are bona fide purchasers of the Property since they took title to the Property following recordation of the Order cancelling the Lis Pendens, thereby entitling the Pedersons to clear title on the Property. This conclusion is further supported by the fact that at the time the Pedersons took title to the Property, there was no motion for reconsideration of the Order cancelling the Lis Pendens on file with the District Court, and no writ seeking review of the Order cancelling the Lis Pendens on file with any court of appeal. Consequently, the Pedersons are bona fide purchasers of the Property entitled to clear title because at the time the Pedersons took title to the Property, the District Court had expunged the Lis Pendens and Rosehill, LLC recorded the Order expunging the Lis Pendens to provide notice of its termination to all purchasers, including the Pedersons.

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THE ARGUMENT

- I. The District Court correctly granted summary judgment in favor of the Pedersons because there is no genuine dispute about the fact the Pedersons took title to the Property following recordation of the Order cancelling the Lis Pendens, thereby entitling the Pedersons to judgment as a matter of law under NRS 14.017.**

NRCP 56(a) states "[t]he court shall² grant summary judgment if the movant shows...there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." When construing the summary judgment standard, the Nevada Supreme Court adopted the United States Supreme Court's holdings in *Liberty Lobby*, *Celotex*, and *Matsushita* dictating when summary judgment is required. *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005).

In *Celotex*, the United States Supreme Court held "summary judgment procedure is properly regarded...as an integral part of the...Rules as a whole, which are designed to secure the just, speedy and inexpensive determination of every action." *Celotex Corp. v. Catrett*, 477 U.S. 317, 327, 106 S. Ct. 2548, 2555, 91 L. Ed. 2d 265 (1986). Therefore,

² "The word 'shall' is generally regarded as mandatory." *Markowitz v. Saxon Special Servicing*, 129 Nev. 660, 665, 310 P.3d 569, 572 (2013).

Rule 56 must be construed with due regard for the rights of persons opposing claims and defenses with no factual basis. *Id.*

In order to dispose of baseless claims, the Court held summary judgment is mandatory against a claimant who cannot establish an essential element of the claim he or she must prove at trial. *Id.* at 322, 2552. "[A] summary judgment motion may properly be made in reliance solely on the pleadings, depositions, answers to interrogatories, and admissions on file." *Id.* at 324, 2553. In response, if the claimant fails to demonstrate an essential element of its claim, there is no genuine issue of material fact regarding the claim, because a complete failure of proof concerning an essential element of the claim renders all other facts immaterial. *Id.* at 322-323, 2552. As such, the moving party is entitled to a judgment as a matter of law whenever the claimant fails to make a sufficient showing on an essential element of a claim on which he or she has the burden of proof at trial. *Id.* at 323. Interpreting Rule 56 in this fashion serves Rule 56's principal purpose to isolate and dispose of factually unsupported claims. *Id.* at 323-324, 2553.

Of note, "the mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported

motion for summary judgment; the requirement is...there be no *genuine* issue of *material* fact." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48, 106 S. Ct. 2505, 2510, 91 L. Ed. 2d 202 (1986). As to materiality, the substantive law will identify which facts are material. *Id.* at 248. A fact is only material if it might affect the outcome of the suit under the governing substantive law. *Id.* Irrelevant or unnecessary factual disputes do not preclude summary judgment because they are immaterial. *Id.* The substantive law governs which facts are material and which facts are irrelevant. *Id.*

In addition to the requirement of materiality, factual disputes must be "genuine" or else summary judgment is mandatory. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586, 106 S. Ct. 1348, 1356, 89 L. Ed. 2d 538 (1986). Consequently, when the moving party has carried its burden under Rule 56, the nonmoving party must do more than show there is some metaphysical doubt as to the material facts. *Id.* The language of Rule 56 requires the nonmoving party to come forward with specific facts showing there is a "genuine" issue for trial or else have summary judgment entered against it. *Id.* at 587. As such, "[w]here the

record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no genuine issue for trial." *Id.*

In consideration of the United States Supreme Court's holdings in *Liberty Lobby*, *Celotex*, and *Matsushita*, the Nevada Supreme Court required entry of summary judgment whenever "the pleadings, depositions, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. at 731, 121 P.3d at 1031. Nevada substantive law controls which factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant. *Id.* A factual dispute is only genuine if a rational trier of fact could return a verdict for the nonmoving party when considering the evidence. *Id.* "The nonmoving party is not entitled to build a case on the gossamer threads of whimsy, speculation, and conjecture." *Id.* at 732.

Procedurally, the "party moving for summary judgment bears the initial burden of production to show the absence of a genuine issue of material fact." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007). "If such a showing is made, then the

party opposing summary judgment assumes a burden of production to show the existence of a genuine issue of material fact." *Id.* The manner in which each party may satisfy its burden of production depends on which party will bear the burden of persuasion on the challenged claim at trial." *Id.*

If the moving party will bear the burden of persuasion at trial, that party must present evidence that would entitle it to a judgment as a matter of law in the absence of contrary evidence. *Id.* However, if the nonmoving party will bear the burden of persuasion at trial, the party moving for summary judgment may satisfy its burden of production by either (1) submitting evidence that negates an essential element of the nonmoving party's claim, or (2) pointing out there is an absence of evidence to support the nonmoving party's case. *Id.* at 602-603. The nonmoving party must then transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact for trial or else summary judgment is mandatory. *Id.* at 603.

Here, there is no dispute about the fact the Pedersons took title to the Property following recordation of the Order cancelling the Lis

Pendens. In light of this undisputed fact, the Pedersons were entitled to judgment as a matter of law because **a)** NRS 14.017 applies to determine whom is a bona fide purchaser of property following cancellation of a lis pendens; **b)** when applying NRS 14.017 to the Pedersons' ownership of the Property, they are bona fide purchasers because the Pedersons assumed title to the Property after the recordation of the Order cancelling the Lis Pendens; **c)** when reading NRS 14.017 in harmony with NRS 111.180, the Pedersons are bona fide purchasers of the Property because they are statutorily deemed to be without knowledge of any ongoing dispute over the Property after taking title to the Property subsequent to cancellation of the Lis Pendens; and **d)** the Pedersons alleged agreement to purchase the Property in October 2016 did not create an interest in the Property prior to the District Court cancelling the Lis Pendens as the Sarges erroneously claim.

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- a. The Pedersons are entitled to judgment as a matter of law because NRS 14.017 applies to determine whether the Pedersons are bona fide purchasers of the Property, not NRS 111.180 as the Sarges' erroneously claim.**

It is a fundamental maxim of statutory interpretation that "[a] specific statute controls over a general statute." *State Dep't of Tax'n v. Masco Builder*, 129 Nev. 775, 778, 312 P.3d 475, 478 (2013). The Sarges argue NRS 14.017 does not apply to the Pedersons purchase of the Property, because NRS 111.180 defines whom is a bona fide purchaser of real property. However, NRS 111.180 provides a general definition of a bona fide purchaser, which is not specific to the scenario in which a buyer assumes title to property following recordation of an order cancelling a lis pendens. Conversely, NRS 14.017 *specifically* addresses whom is a bona fide purchaser of property when assuming title to the property after cancellation of a lis pendens. Since NRS 14.017 specifically addresses bona fide purchasers in the context of a cancelled lis pendens, and NRS 111.180 is a general statute unspecific to the cancellation of lis pendens, NRS 14.017 controls over NRS 111.180 to determine whether the Pedersons are bona fide purchasers of the Property when the Pedersons

assumed title to the Property *after* recordation of the Order cancelling the Lis Pendens.

b. Applying NRS 14.017 to the Pedersons' receipt of title to the Property, the Pedersons are entitled to judgment as a matter of law as bona fide purchasers of the Property, because the Pedersons took title to the Property following recordation of the Order cancelling the Lis Pendens.

NRS 14.017(1) deems each person who acquires an interest in real property to be without knowledge of any matter, claim, or allegation affecting the real property provided the person: 1) acquired the real property after recordation of an order cancelling the lis pendens, and 2) the person was not a party to the litigation affecting the real property at the time the person acquired their interest in the real property. The purpose of NRS 14.017(1) "is to provide for the absolute and complete transferability of real property after the withdrawal or cancellation of a notice of the pendency of an action affecting the property." NRS 14.017(2) (emphasis added). Additionally, "once a notice of lis pendens is cancelled a new one cannot be filed upon the same property and same cause of action." *Coury v. Tran*, 111 Nev. 652, 656, 895 P.2d 650, 652 (1995) *citing Deerfield Bldg. Corp. v. Yorkstate Indus.*, 77 Misc.2d 302, 353 N.Y.S.2d

331, 337 (N.Y.Sup.Ct.1974). NRS 14.017 indicates the Legislature's intent to relieve a prospective buyer of the possibility of continuing litigation over ownership of property once a lis pendens has been withdrawn or cancelled. *Id.* at 657, 653 fn. 9.

In this case, the Pedersons are bona fide purchasers of the Property because they acquired their deeded interest in the Property on December 13, 2016 after Rosehill, LLC recorded the District Court Order cancelling the Lis Pendens on December 7, 2016. Specifically, the Pedersons acquired their ownership interest in the Property via Grant, Bargain and Sale Deed dated December 13, 2016. The Grant, Bargain and Sale Deed was recorded December 15, 2016. The Order cancelling the Sarges' Lis Pendens was recorded December 7, 2016. Therefore, the Pedersons acquired and recorded their deeded interest in the Property *after* December 7, 2016, the date on which the Order cancelling the Lis Pendens was recorded. In addition, the Pedersons were not Parties to this lawsuit on December 13, 2016 when they acquired their deeded ownership interest in the Property. Consequently, NRS 14.017(1) required the District Court to declare the Pedersons bona fide purchasers of the Property without knowledge of the District Court Action affecting

the Property, because the Pedersons were not Parties to the lawsuit at the time they acquired title to the Property, in addition to the dispositive fact that the Pedersons acquired their deeded interest in the Property *after* the Order cancelling the Lis Pendens was recorded.

- c. Even assuming *arguendo* NRS 111.180 applied to the determination of whether the Pedersons are bona fide purchasers, when reading NRS 111.180 in harmony with NRS 14.017, the Pedersons are bona fide purchasers because they are statutorily deemed to be without knowledge of a dispute regarding the Property following recordation of the Order cancelling the Lis Pendens.**

Whenever possible, courts should interpret a statute in harmony with other rules and statutes. *Barney v. Mt. Rose Heating & Air Conditioning*, 124 Nev. 821, 827, 192 P.3d 730, 734 (2008). As stated above, NRS 14.017 controls whether the Pedersons are bona fide purchasers of the Property because NRS 14.017 is specific to bona fide purchaser status as it relates to the acquisition of property following cancellation of a lis pendens. However, even if the court considered NRS 111.180 in the context of whether the Pedersons are bona fide purchasers, NRS 111.180 must be read in harmony with NRS 14.017. NRS 14.017 statutorily deems the Pedersons to be without knowledge of the Sarges'

claim to the Property since the Pedersons acquired their deeded interest in the Property *after* recordation of the Order cancelling the Lis Pendens, irrespective of whether the Pedersons had actual knowledge of the Sarges' claim. Construing NRS 14.017 and NRS 111.180 harmoniously, the Pedersons would be bona fide purchasers of the Property under NRS 111.180 because the Pedersons purchased the Property for valuable consideration after NRS 14.017 statutorily deemed them to be without knowledge of the Sarges' claim to the Property, irrespective of the Pedersons' actual knowledge of the Sarges' claim. In other words, NRS 111.180 states a purchaser of real property is bona fide if they have no actual or constructive knowledge of an adverse claim to the Property, and in this case, NRS 14.017(1) deems the Pedersons to be without knowledge of the Sarges' claim to the Property following recordation of the Order cancelling the Sarges' Lis Pendens. Consequently, the District Court's Summary Judgment Order should be affirmed.

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d. The Pedersons did not acquire their interest in the Property prior to recordation of the Order cancelling the Lis Pendens because the Pedersons' interest in the Property was conveyed by deed on December 13, 2016.

The Sarges mistakenly argue the Court should deem the Pedersons equitable owners of the Property sometime in October 2016. The Sarges allege the Pedersons were equitable owners of the Property in October 2016 because they supposedly agreed to purchase the Property from Rosehill, LLC in that timeframe, which was before the Court cancelled the Lis Pendens. Therefore, the Sarges claim the Pedersons are not bona fide purchasers of the Property because they purportedly acquired their interest in the Property as equitable owners prior to cancellation of the Lis Pendens by supposedly agreeing to purchase the Property in October 2016.

There is no need to belabor a response to this argument in the interest of judicial economy, because the Sarges' argument fundamentally fails to distinguish between a contract right and an interest in real property, which are different. An agreement to purchase real property creates in the buyer an enforceable contract right. For example, the contract right to purchase real property may be enforced by

the remedy of specific performance of the contract if the seller reneges on the agreement to sell the land. *See generally Mayfield v. Koroghli*, 124 Nev. 343, 351, 184 P.3d 362, 368 (2008); *see also Carcione v. Clark*, 96 Nev. 808, 810, 618 P.2d 346, 347 (1980). However, the actual interest in the land itself may be conveyed by deed, which is what occurred in this case when Rosehill, LLC deeded the Property to the Pedersons. *See* NRS 111.105 (stating "[c]onveyances of lands, or of any estate or interest therein, may be made by deed, signed by the person from whom the estate or interest is intended to pass...") Therefore, even assuming *arguendo* the Sarges' contention is true, the Pedersons merely acquired a contractual right to purchase the Property in October of 2016. Thereafter, they acquired their actual interest in the Property itself via the Grant, Bargain and Sale Deed on December 13, 2016 in accordance with NRS 111.105. Consequently, the Pedersons are bona fide purchasers of the Property because they acquired their interest in the Property via deed on December 13, 2016, *after* the Order cancelling the Lis Pendens was recorded on December 7, 2016. As such, the Pedersons respectfully request the Court affirm the District Court's Summary

Judgment Order because they are indeed bona fide purchasers of the Property under NRS 14.017.

CONCLUSION AND RELIEF SOUGHT

The Pedersons respectfully request the Court affirm the District Court's Order granting summary judgment in their favor and against the Sarges.

DATED this 8th day of October, 2021

By: /s/ Patrick R. Millsap .

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ATTORNEY'S RULE 28.2 CERTIFICATE

I hereby certify this Answering Brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type style requirements of NRAP 32(a)(6) because this Brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14 point Century Schoolbook font.

I further certify this Brief complies with the length limitations of NRAP 32(a)(7) because this Brief is less than 30 pages.

Finally, I hereby certify I have read this Brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this Brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the Brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.

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I understand that I may be subject to sanctions in the event that the accompanying Brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 8th day of October, 2021.

By: /s/ Patrick R. Millsap.
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CERTIFICATE OF SERVICE

The undersigned certifies the foregoing document was served upon the Estate of Thelma Ailene Sarge, Estate of Edwin John Sarge and Jill Sarge by mailing this Answering Brief by first class mail with sufficient postage prepaid to the following addresses:

Estate of Thelma Ailene Sarge
Estate of Edwin John Sarge
Jill Sarge
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DATED this 8th day of October 2021.

/s/ Caroline Carter.
Caroline Carter, Paralegal