

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>SUNRISE RIDGE MASTER HOMEOWNERS ASSOCIATION; AND NEVADA ASSOCIATION SERVICES, INC., A NEVADA NON-PROFIT CORPORATION,</p> <p style="text-align: center;">Respondents.</p>	<p>No.: 83798</p> <p style="text-align: center;">DOCKETING STATEMENT CIVIL APPEALS</p>
---	---

Electronically Filed
Dec 13 2021 02:41 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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 18

County Clark Judge Hon. Mary Kay Holthus

District Ct. Case No. A-19-790395-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; Jonathan K. Wong, Esq.

Telephone (702) 382-1500

Firm Lipson Nielson P.C.

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

Client(s) Sunrise Ridge Master Homeowner's Association ("HOA")

Attorney Brandon E. Wood, Esq.

Telephone (702) 804-8885

Firm In-House Counsel, Nevada Association Services, INC ("NAS")

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

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 instant action relates to real property that was the subject of a homeowners' association lien foreclosure sale pursuant to NRS Chapter 116, which occurred on August 24 2012. The district court dismissed all claims against Defendants, with prejudice, pursuant to NRCP 12(b)(5).

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, NAS, owe a duty of good faith and candor in its conducting of the NRS Chapter 116 foreclosure sale, especially if the bidders at the sale have inquired, or attempted to inquire, as to any payments to the underlying lien? Specifically, are the HOA and NAS required to disclosed to interested bidders, upon inquiry by a bidder prior to the sale, that a portion of the lien being foreclosed upon has been partially satisfied prior to the sale, with 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?

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) DAISY TR. VS. GREEN VALLEY S. OWNERS ASS'N NO. 1, 83477
- b) DAISY TR. VS. EL CAPITAN RANCH LANDSCAPE MAINT. ASS'N, 83404
- c) OLIVER SAGEBRUSH DR. TR. VS. NEV. ASS'N SERVS., INC, 83238
- d) DAISY TR. VS. GREEN VALLEY S. OWNERS ASS'N NO. 1, 82611
- e) SATICOY BAY LLC SERIES 6387 HAMILTON GROVE V. SUNRISE, 83669
- f) RIVER GLIDER VS. HARBOR COVE, 83689
- g) SATICOY BAY LLC SERIES 2920 BAYLINER AVE v. SANDSTONE, 83782

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? No

- ☐ 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: October 12, 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: October 12, 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: November 10, 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 Respondent's Motion to Dismiss alternatively Summary Judgment, which was granted pursuant to NRCP 12(b)(5).

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

(a) Parties:

Plaintiff/Appellant: DAISY TRUST, A NEVADA TRUST

Defendant/Respondents: SUNRISE RIDGE MASTER HOMEOWNERS ASSOCIATION;

AND NEVADA ASSOCIATION SERVICES, INC., A NEVADA NON-PROFIT CORPORATION,

(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.

Appellant's Amended Complaint sought damages for (I) intentional and/or negligent misrepresentation, (II) breach of the duty of good faith under NRS 116.1113, (III) civil conspiracy, (IV) Violation of NRS Chapter 113 and (V) Unjust Enrichment. All claims were dismissed by Order granting the HOA's Motion to Dismiss (alternatively Motion for Summary judgment), and NAS' Joinder thereto, on October 12, 2021. No other claims by any other party were made.

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

December 13, 2021
Date

Clark County, Nevada
State and county where signed

Christopher L. Benner
Name of counsel of record

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

CERTIFICATE OF SERVICE

I certify that on December 13, 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.)

BRANDON E. WOOD, ESQ.
6625 S. Valley View Blvd, Suite 300
Las Vegas, Nevada 89118
Attorney for Nevada Association Services, INC

J. WILLIAM EBERT, ESQ.
Nevada Bar No. 2697
JONATHAN K. WONG, ESQ.
Nevada Bar No. 13621
9900 Covington Cross Drive, Suite 120
Las Vegas, Nevada 89144
Attorneys for Sunrise Ridge Master Homeowners Association

John Walter Boyer
5345 Golden Gossamer
Las Vegas, NV 89149
Nevada Supreme Court Settlement Judge

December 13, 2021,

/s/ Joe Koehle

An employee of Roger P. Croteau & Associates